



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: September 16, 2008

EXPIRATION DATE: October 15, 2008

REFERENCE NUMBER: GP-2006-1546

WATERWAY: Wrangell Narrows

**GENERAL PERMIT (GP) 2006-1546
PREVIOUSLY IDENTIFIED AS GP-2001-01, TLINGIT/HAIDA SUBDIVISION
PROPOSED FOR REAUTHORIZATION**

Notice is hereby given that the Alaska District, U.S. Army Corps of Engineers (Corps), under 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 re-issuance of this GP for the discharge of fill material into waters of the United States, including wetlands, within the Tlingit/Haida Subdivision. We are soliciting and accepting comments on our intent to re-issue this GP for the next 30 days.

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 **Shannon Morgan** at (907) 753-5555, toll free from within Alaska at (800) 478-2712, by fax at (907) 753-5567, or by email at **Shannon.r.morgan@usace.army.mil** if further information is desired concerning this notice.

This GP, which expired on September 19, 2006, previously authorized the placement of clean fill material within as much as 3.1 acres of muskeg wetlands associated with the development of 24 lots within the Tlingit/Haida Subdivision in Petersburg, Alaska. No work was done under that GP authorization.

If re-issued, this GP will be in effect for five more years and will be re-named GP 2006-1546. The activities intended for re-authorization under this GP are the same as those previously authorized. A copy of the Draft Proposed GP is attached.

INTRODUCTION: The Corps issued an Individual Permit and subsequent modification (identified as 4-1996-0031, and M-1996-0031, Wrangell Narrows 478) to Tlingit/Haida Regional Housing Authority (THRHA) on July 15, 1996, and November 20, 1997, to excavate and fill approximately 4.5 acres of wetlands to construct house pads for 20 homes and attendant roads, driveways, and utilities. Those houses have been constructed, and the subdivision infrastructure is in place. The City of Petersburg (COP) owns a number of lots within this subdivision, which were not

included in those permits. GP 2001-01 was issued on September 28, 2001, to authorize placement of clean fill material in as much as 3.1 acres of wetlands for construction of driveways, house pads and yards in the 24 City-owned lots. GP 2001-01 expired on September 19, 2006, and no work was done. The subdivision is located at Petersburg, Alaska, within section 26, T. 58 S., R 79 E., Copper River Meridian; Latitude 56.811°N, Longitude -132.935°W.

PROPOSED ACTION: The Corps proposes to re-issue GP 2001-01 and change the administrative identification number to GP 2006-1546. See the attached Draft Proposed GP 2006-1546 for additional information. This GP would authorize proposed discharges, provided the District Commander (DC), or his designee, determines that the proposed class of activities: are substantially similar in nature; would cause only minimal adverse environmental impacts when performed separately; would have only minor cumulative effect on water quality; would provide more effective administration of the Clean Water Act without creating an undue burden on the public; and the DC has conducted consultation with appropriate Federal and State regulatory agencies.

PURPOSE: The purpose of the GP is to authorize fill placement for development of 24 housing driveways and house pads, for use as single-family homes.

MITIGATION: During the original project review for the Tlingit/Haida Subdivision, several different site locations were evaluated, and higher value habitats were avoided. Additionally, the COP has designated Open Space and Community Park areas to the west and east of the subdivision, respectively, which consisted of larger drainage areas within the subdivision. Those areas would not be developed for housing purposes. Lastly, development of each lot would be limited to 35% of the lot size in area.

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.

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 the applicant to certify the described activity affecting land or water uses in the Coastal Zone complies with the Alaska Coastal Management Program. A permit will not be issued until the Division of Coastal and Ocean Management, Department of Natural Resources has concurred with the applicant's certification.

CULTURAL RESOURCES: The latest published version of the Alaska Heritage Resources Survey (AHRs) has been consulted for the presence or absence of historic properties, including those listed in or eligible for inclusion in the National Register of Historic Places. There are no listed or eligible properties in the vicinity of the worksite. Consultation of the AHRs constitutes the extent of cultural resource investigations by the District Commander 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.

ENDANGERED SPECIES: No threatened or endangered species are known to use the project area. Preliminarily, the described activity will not affect 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 described work.

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 in the project area. This Public Notice initiates EFH consultation with the NMFS. Any comments or recommendations they may have concerning EFH will be considered in our final assessment of the described work.

TRIBAL CONSULTATION: The Alaska District fully supports tribal self-governance and government-to-government relations between Federally recognized Tribes and the Federal government. Tribes with protected rights or resources that could be significantly affected by a proposed Federal action (e.g., a permit decision) have the right to consult with the Alaska District on a government-to-government basis. Views of each Tribe regarding protected rights and resources will be accorded due consideration in this process. This Public Notice serves as notification to the Tribes within the area potentially affected by the proposed work and invites their participation in the Federal decision-making process regarding the protected Tribal right or resource. Consultation may be initiated by the affected Tribe upon written request to the District Commander during the public comment period.

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

EVALUATION: The decision whether to issue a permit 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 outcome of the general balancing process would determine whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur. The 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 Commander 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.

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).

Project drawings, Notice of Application for Certification of Consistency with the Alaska Coastal Management Program, and Notice of Application for State Water Quality Certification are enclosed with this Public Notice.

District Commander
U.S. Army, Corps of Engineers

Enclosures

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF COASTAL AND OCEAN MANAGEMENT

DIVISION OF COASTAL AND OCEAN MANAGEMENT
POST OFFICE BOX 111030, MS 1030
JUNEAU, ALASKA 99811-1030
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 Division of Coastal and Ocean Management 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 Public Notice No. **GP 2006-1546, Wrangell Narrows**, will comply with the Alaska Coastal Management Program and that the project will be conducted in a manner consistent with that program.

This project is being reviewed for consistency with the Alaska Coastal Management Program. Written comments about the consistency of the project with the applicable ACMP statewide standards and district policies must be submitted to the Division of Coastal and Ocean Management (DCOM). For information about this consistency review, contact DCOM at the address or phone number above, or visit the ACMP web site at <http://www.alaskacoast.state.ak.us//Projects/projects.html>.

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION
DIVISION OF WATER
401 Certification Program
Non-Point Source Water Pollution Control Program

DEPARTMENT OF ENVIRONMENTAL CONSERVATION
WQM/401 CERTIFICATION
410 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801-1795
PHONE: (907) 465-5321/FAX: (907) 465-5274

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 application for a Department of the Army Permit described in the Corps of Engineers' Public Notice No. **GP 2006-1546, Wrangell Narrows**, serves as application for State Water Quality Certification from the Department of Environmental Conservation.

After reviewing the application, the Department may certify there is reasonable assurance 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 to the address above by the expiration date of the Corps of Engineer's Public Notice.



Public Notice

US Army Corps
of Engineers
Alaska District
Regulatory Division (1145)
Post Office Box 6898
Anchorage, Alaska 99506-0898
(907) 753-2712
(800) 478-2712 (AK Toll Free)

Date: September 16, 2008
Identification No: GP 2006-1546
In reply refer to above Identification Number

**DRAFT PROPOSED GENERAL PERMIT (GP) 2006-1546
PREVIOUSLY IDENTIFIED AS GP 2001-01
PROPOSED FOR REAUTHORIZATION
TLINGIT-HAIDA SUBDIVISION**

INTRODUCTION

Pursuant to Section 404 of the Clean Water Act (Public Law 95-217, 33 U.S.C. 1344 et seq.), the District Commander, Alaska District, U.S. Army Corps of Engineers (Corps) proposes to reissue General Permit 2001-01 to authorize Federal, State, local, or Native/tribal governmental organizations to place fill material into waters of the United States, including wetlands, for activities associated with the construction of approximate 20 foot wide by 30 foot long driveways (utilities within this corridor) and house pads/yards within as much as 35% of each lot, within 24 City-owned lots. The project area includes the area within the boundaries of the following lots: Block 302, lots 3, 6, 10, 11, 13, 15, 17, 19, and 20; Block 303, lots 1A, 3, 5, 7, 9, 11, 12, 15, 17, and 19; Block 304, lots 12, 14, 16, 18, and 20A. The subdivision utilities and road infrastructure were permitted under an individual permit and subsequent modification (4-1996-0031, and M-1996-0031, Wrangell Narrows 478), and are already in place. A map of the project area, and plan view drawings of the existing infrastructure and proposed development are attached.

All activities will be performed in accordance with the conditions of the GP, a copy of which is attached. Failure to comply with the terms and condition 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 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 view 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 water-

- body-crossing structures.
- 4) The type and source of material used. The disposal site for any excavated material must 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 shall 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 the Alaska Department of Natural Resources, Division of Coastal and Ocean Management, 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 representative 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. 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.
2. During excavation and fill placement heavy equipment shall not be operated on wetlands outside the authorized excavation and fill area.
3. 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 prior to commencing construction.
4. 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.

5. Excess material shall be disposed at an approved disposal site.
6. No discharge of 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.
7. That 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.
8. Site preparation, excavation, and fill placement shall 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 introducing ponding or drying. Excessive ponding and/or dewatering of areas adjacent to fill areas shall indicate non-compliance with this condition.
9. 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.
10. 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.

LIMITATIONS

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.

REEVALUATION 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 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 GP

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 your request for a time extension to this office for consideration at least one month before the expiration date.

FOR THE DISTRICT COMMANDER:

Glen E. Justis
Chief, East Branch
Regulatory Division
Alaska District, Corps of Engineers

