

General Permit POA-2006-00215 (RGP-06)
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 (a map of the project area is attached):

Block:	59B	60	61	63A	63B	64	65	66
Lot:	X	X	5A, 6A	X	X	X	X	7-13

All activities must be performed in accordance with the conditions of the GP, a copy of which is attached. Failure to comply with the terms and conditions of the permit 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 carefully review these conditions. 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. Both plan and cross-section views shall include dimensions of the fill to be discharged. The drawing must include stream locations, drainage patterns, and topography. Plans must show the location and size of culverts or other water bodies/drainage crossing structures;
4. The type and source of 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 15 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 other interested parties. No fill placement activities can begin until the applicant has received written verification from the U.S. Army Corps of Engineers (USACE) 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.

TIME PERIOD TO COMPLETE PROJECTS AND PROJECT TIME EXTENSIONS

The permittee has two years from the date of the verification letter from the District Engineer to construct the project. If the verification letter is dated within the last two years the GP is in effect (between 3 and 5 years from the signature date), the project must be completed by the GP expiration date (5 years from signature date). If any permittee, whose work is already underway, requires additional time to complete a project, a request may be made to the USACE. The USACE will grant up to 12 months of additional time to complete the project. The permittee's time extension request must be received 30 days prior to the GP expiration date.

PROJECT MODIFICATIONS

If changes to the verified project are necessary for any reason, revised plans should be submitted to the USACE promptly. Federal law requires approval before construction is begun; if the modification is unobjectionable, approval will be issued without delay.

GENERAL CONDITIONS

1. No work shall be done under this GP without first obtaining a GP verification from the Alaska District Corps.
2. The fill area shall be minimized by consolidating activities and uses of the fill. For example utility lines (water, electrical, telephone, sewer, etc.) shall be located within the road or driveway fill when practicable.
3. Natural drainage patterns shall be maintained in the project area using appropriate ditching, culverts, storm drain systems, and/or other measures, without introducing ponding or drying. Excessive ponding and/or dewatering of areas adjacent to fills 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. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

6. No fill or construction materials shall be stockpiled in wetlands, outside of the project boundary which shall be staked, or otherwise delineated, prior to any mechanized land clearing or fill placement.
7. Temporary storage of excavated and/or excess material on-site must be managed to prevent sediment from being carried into adjacent wetlands and waters. Unusable or excess material must be disposed of at an approved disposal site.
8. 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.
9. All disturbed areas not covered with rock shall be stabilized immediately after construction to prevent erosion. Re-vegetation of the disturbed areas shall begin as soon as site conditions allow. Species to be used for seeding and planting shall follow this order of preference: a) Species native to the site, b) Species native to the area, c) Species native to the state. Active sloughing, increased water turbidity and sediment in drainage ditches, streams, sloughs, and/or adjacent wetlands shall be evidence of insufficient stabilization.
10. No cultural resources shall be adversely affected by activities authorized by this GP. If the permittee discovers any previously undiscovered archeological, paleontological, or historic resource, while conducting activities authorized by this GP, the DC must be immediately notified by calling (800) 478-2712. The Corps will notify the SHPO, and the coastal district (if within a coastal district), of what has been found. The Corps or the appropriate federal land manager 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.
11. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance. The permittee must maintain the lands and facilities subject to this GP in good condition and in conformance with the terms and conditions of this GP. The permittee is not relieved of this requirement even if the activity is abandoned. The permittee may transfer the permit to a third party. Should the permittee cease to maintain the authorized activity or should they desire to abandon the project without a transferee, then the permittee must obtain approval from this office, which may require restoration of the area.
12. The permittee shall allow the DC or their authorized representative(s) to inspect authorized work at any time deemed necessary to assure that on-going and completed work is in compliance with the terms and conditions of this GP.
13. Measures should be implemented to prevent the introduction and spread of invasive plant and animal species, such as washing equipment to remove dirt and debris that might harbor invasive seeds before entering the jobsite, using weed-free fill, disposing of spoil and vegetation contaminated with invasive species appropriately, and revegetation with local native plant species.

14. 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.
15. The State of Alaska Department of Environmental Conservation (ADEC) issued a Section 401 Water Quality Certificate of Reasonable Assurance (Certificate), for this Regional General Permit on May 9, 2019. All alternative measures (conditions) listed in the Certificate must be complied with, and are fully enforceable conditions of this GP. A copy of the ADEC Certificate 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. Section 309 of the Clean Water Act (33 U.S.C. 1319), provides penalties of up to 25,000 per day for negligent violations and/or by imprisonment for up to 1 year, and penalties of up to \$50,000 per day for knowing violations and/or imprisonment for up to three years for any person who knowingly violates Section 301 of the Clean Water Act.

TERM, EXTENSION, AND REVOCATION OF THE GENERAL PERMIT

GP 98-01-M4 may be revoked by the 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 signature date. 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. A 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



FOR (DISTRICT COMMANDER)

Colonel Phillip J. Borders

Bryan A. Herczeg, Chief

South Section, Regulatory Division

August 22, 2019

(DATE)



THE STATE
of **ALASKA**

GOVERNOR MICHAEL J. DUNLEAVY

Department of Environmental
Conservation

DIVISION OF WATER
Wastewater Discharge Authorization Program

555 Cordova Street
Anchorage, Alaska 99501-2617
Main: 907.269.6285
Fax: 907.334.2415
www.dec.alaska.gov/water/wwdp



May 9, 2019

US Army Corps of Engineers, Alaska District (USACE)
Attn: Ms. Shannon Johnson, South Branch Chief
Regulatory Division
P.O. Box 6898
JBER, AK 99506-0898

Re: Issuance of RGP-02, Wrangell Industrial Park Subdivision
POA-2006-215-M4, Wrangell Narrows

Dear Ms. Johnson:

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 (DEC) is reissuing the enclosed Certificate of Reasonable Assurance for placement of dredged and/or fill material in waters of the U.S., including wetlands and streams, associated with the Regional General Permit (RGP) 2006-215-M4 for construction and maintenance activities at the Wrangell Industrial Park Subdivision.

DEC regulations provide that any person who disagrees with this decision may request an informal review by the Division Director in accordance with 18 AAC 15.185 or an adjudicatory hearing in accordance with 18 AAC 15.195 – 18 AAC 15.340. An informal review request must be delivered to the Director, Division of Water, 555 Cordova Street, Anchorage, AK 99501, within 20 days of the permit decision. Visit <http://dec.alaska.gov/commish/Review-Guidance/> for information on Administrative Appeals of Department decisions.

An adjudicatory hearing request must be delivered to the Commissioner of the Department of Environmental Conservation, 410 Willoughby Avenue, Suite 303, PO Box 111800, Juneau, AK 99811-1800, within 30 days of the permit decision. If a hearing is not requested within 30 days, the right to appeal is waived.

By copy of this letter we are advising the U.S. Army Corps of Engineers of our actions and enclosing a copy of the certification for their use.

Sincerely,

James Rypkema
Program Manager, Storm Water and Wetlands

Enclosure: 401 Certificate of Reasonable Assurance

cc: (with encl.)
Michael Gala, USACE, Anchorage
Kate Kanouse, ADF&G

USFWS Field Office Juneau
Matt LaCroix, EPA Operations, Anchorage

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

In accordance with Section 401 of the Federal Clean Water Act (CWA) and the Alaska Water Quality Standards (18 AAC 70), a Certificate of Reasonable Assurance, is reissued to USACE, Alaska District, Attention: Ms. Shannon Johnson, South Branch Chief, at P.O. Box 6898, JBER, AK 99506, for placement of dredged and/or fill material in waters of the U.S. including wetlands and streams in association with the Regional General Permit (RGP) 2006-215-M4 for construction and maintenance activities at the Wrangell Industrial Park Subdivision.

General permits (GPs) are intended to streamline the authorization process for activities that will result in no more than minimal individual and cumulative adverse environmental effects, thereby expediting the Corps review process while also increasing clarity and certainty for the regulated public. GPs provide an incentive for project proponents to minimize project impacts to jurisdictional waters and wetlands to qualify for the more readily obtained GP authorization. By encouraging avoidance and minimization by offering a streamlined permitting process for project proposals with minimal impacts, GPs are an important tool in protecting the aquatic environment.

Development in the Wrangell Industrial Park Subdivision began in 1997 by issuance of a Department of Army (DA) standard permit to the City of Wrangell, which authorized infrastructure as well as road construction and utility work. An RGP was subsequently developed and issued on December 10, 1998, with four versions having since been reauthorized. Compensatory wetland mitigation efforts for the initial 1997 development and subsequent RPGs resulted in creation of a "Restrictive Covenant" with the intent of preserving certain wetland areas in perpetuity. The compensatory mitigation areas include 7.13 acres where no development would be allowed, and 9.99 acres of mitigation land that would allow underground utilities to be installed with the intent of only temporary construction impacts.

This 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.

This RGP does not authorize any activities in the areas subject to the Wrangell Industrial Park Restrictive Covenant. This restrictive covenant is depicted on Enclosure 2 as "Areas Excluded from RGP", and described as follows: Mission Street right-of-way between Second Avenue and Sixth Avenue; the platted green belt along Second Avenue between Mission Street and St. Michael's street; Lots 1 and 2, Block 63A; Lots 1, 2, 9, 10, Block 63B; Lots 1, 2, 9, 10 Block 64; Lots 1, 2, 9, 10 Block 65; Lots 1, 2, 14, 15, Block 66; a portion of Howell Avenue, Third Avenue, Fourth Avenue and Fifth Avenue just east of Mission Street adjacent to the preceding lots described above; Lots 6B, 7B, 8B, Block 64; Lot 3A, Block 61; Fourth Avenue right-of-way between St. Michael's Street and Bennett Street right-of-ways.

Notwithstanding, RGP-02 may authorize discharges of dredged material associated with the placement of utilities in road right-of-ways, provided the affected wetlands be restored in accordance with all applicable general permit conditions. Activities that are denied any required local, state or federal authorization are not authorized by this RGP. Activities that the Corps determines may result in more than minimal adverse impacts on aquatic resources or other public interest factors. The District will

notify the applicant that the project does not qualify for the RGP and instruct the applicant on the procedures to seek authorization under a standard DA permit.

A state issued water quality certification is required under Section 401 because the proposed activity will be authorized by a U.S. Army Corps of Engineers permit (POA-2006-215-M4) and a discharge of pollutants to waters of the U.S. located in the State of Alaska may result from the proposed activity. Public notice of the application for this certification was given as required by 18 AAC 15.180 in the Corps Public Notice POA-2006-215-M4 posted from December 29, 2017 to January 28, 2018.

The General Permit area includes the following lots within the Wrangell Industrial Park Subdivision: Block(s) 60 (Lot 5), 61 (Lots 7A, 8A, 9), 63B (Lot 8), 64 (Lots 3, 7A, 8A), 65 (Lots 3, 4), and 66 (Lots 7, 8, 9-13).


The Department of Environmental Conservation (DEC) reviewed the application and 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 CWA and the Alaska Water Quality Standards, 18 AAC 70, provided that the following additional measures are adhered to:

1. Reasonable precautions and controls must be used to prevent incidental and accidental discharge of petroleum products or other hazardous substances. Fuel storage and handling activities for equipment must be sited and conducted so there is no petroleum contamination of the ground, subsurface, or surface waterbodies.
2. During construction, spill response equipment and supplies such as sorbent pads shall be available and used immediately to contain and cleanup oil, fuel, hydraulic fluid, antifreeze, or other pollutant spills. Any spill amount must be reported in accordance with Discharge Notification and Reporting Requirements (AS 46.03.755 and 18 AAC 75 Article 3). The applicant must contact by telephone the DEC Area Response Team for Southeast Alaska (907) 465-5340 during work hours or 1-800-478-9300 after hours. Also, the applicant must contact by telephone the National Response Center at 1-800-424-8802.
3. Runoff discharged to surface water (including wetlands) from a construction site disturbing one or more acres must be covered under Alaska's General Permit for Storm Water Discharges from Large and Small Construction Activities in Alaska (AKR100000). This permit requires a Storm Water Pollution Prevention Plan (SWPPP). For projects that disturb more than five acres, this SWPPP must also be submitted to DEC (William Ashton, 907-269-6283) prior to construction.
4. Construction equipment shall not be operated below the ordinary high water mark if equipment is leaking fuel, oil, hydraulic fluid, or any other hazardous material. Equipment shall be inspected on a daily basis for leaks. If leaks are found, the equipment shall not be used and pulled from service until the leak is repaired.
5. All work areas, material access routes, and surrounding wetlands involved in the construction project shall be clearly delineated and marked in such a way that equipment operators do not operate outside of the marked areas.
6. Natural drainage patterns shall be maintained, to the extent practicable, without introducing ponding or drying.

7. Excavated or fill material, including overburden, shall be placed so that it is stable, meaning after placement the material does not show signs of excessive erosion. Indicators of excess erosion include: gullyng, head cutting, caving, block slippage, material sloughing, etc. The material must be contained with siltation best management practices (BMPs) to preclude reentry into any waters of the U.S., which includes wetlands.
8. Fill material (including dredge material) must be clean sand, gravel or rock, free from petroleum products and toxic contaminants in toxic amounts.
9. Any disturbed ground and exposed soil not covered with fill must be stabilized and re-vegetated with endemic species, grasses, or other suitable vegetation in an appropriate manner to minimize erosion and sedimentation, so that a durable vegetative cover is established in a timely manner.

This certification expires five (5) years after the date the certification is signed. If your project is not completed by then and work under U.S. Army Corps of Engineers Permit will continue, you must submit an application for renewal of this certification no later than 30 days before the expiration date (18 AAC 15.100).

Date: May 9, 2019


James Rypkema, Program Manager
Storm Water and Wetlands