

Preliminary Jurisdictional Determination Form

This preliminary JD find that there "may be" waters of the United States on the subject project site that could be affected by the proposed activity based on the following information:

District Office Anchorage Office File/ORM # POA-2012-875 PJD Date Feb 20, 2013

State AK City/County Prudhoe Bay

Nearest Waterbody Prudhoe Bay Name/Address of Person Requesting PJD Ms. Suzanne Kennedy Spectrum Alaska, LLC 8505 S. Elwood Bldg 123 Tulsa, Oklahoma 74132

Project Location Section 3 Township 10 N Meridian Umiat Range 14 E

USGS Quad Map Beechey Pt A-3 Latitude 70.24685 N Longitude 148.566283 W

Subdivision Name, Block, Lot, Directions to Project Site Four miles northwest of the Deadhorse Airport

Identify (Estimate) Amount of Waters in the Review Area Non-Wetland Waters: Stream Flow

810 Linear ft 975 Width 15.56 Acres N/A Name of Any Water Bodies on the Site Identified as Section 10 Waters: Tidal: Non-Tidal:

Wetlands 15.56 Acres Cowardin Class: Palustrine, emergent Office (Desk) Determination Date of Site Visit: Field Determination

SUPPORTING DATA: Data Review for Preliminary JD (check all that apply - checked items should be included in case file and, where checked and requested, appropriately reference sources below)

Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: Spectrum Alaska, LLC

Data sheets prepared/submitted by or on behalf of the applicant/consultant. Office concurs with data sheets/delineation report. Office does not concur with data sheets/delineation report.

Data Sheet prepared by the Corps

Corps navigable waters' study: USGS NHD Data. USGS 8 and 12 digit HUC maps.

U.S. Geological Survey map(s) Cite quad name: Beechey Pt A-3

USDA Natural Resources Conservation Service Soil Survey. Citation:

National Wetlands Inventory map(s): Google Earth layer downloaded 19Feb13

State/Local Wetland Inventory map(s):

FEMA/FIRM map(s):

100-year Floodplain Elevation:

Photographs: Aerial (Name & Date) Corps GIS BDL and Google Earth downloaded 19Feb13

Other (Name & Date)

Previous determination(s). File # and date of response letter:

Other Information:

IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.

 20 Feb 2013
Signature and Date of Regulatory Project Manager
(REQUIRED)

Signature and Date of Person Requesting Preliminary JD
(REQUIRED, unless obtaining the signature is impracticable)

EXPLANATION OF PRELIMINARY AND APPROVED JURISDICTIONAL DETERMINATIONS: 1. The Corps of Engineers believes that there may be jurisdictional waters of the United States on the subject site, and the permit applicant or other affected party who requested this preliminary JD is hereby advised of his or her option to request and obtain an approved jurisdictional determination (JD) for that site. Nevertheless, the permit applicant or other person who requested this preliminary JD has declined to exercise the option to obtain an approved JD in this instance and at this time. 2. In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "preconstruction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an approved JD for the activity, the permit applicant is hereby made aware of the following: (1) the permit applicant has elected to seek a permit authorization based on a preliminary JD, which does not make an official determination of jurisdictional waters; (2) that the applicant has the option to request an approved JD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an approved JD could possibly result in less compensatory mitigation being required or different special conditions; (3) that the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) that the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) that undertaking any activity in reliance upon the subject permit authorization without requesting an approved JD constitutes the applicant's acceptance of the use of the preliminary JD, but that either form of JD will be processed as soon as is practicable; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a preliminary JD constitutes agreement that all wetlands and other water bodies on the site affected in any way by that activity are jurisdictional waters of the United States, and precludes any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an approved JD or a preliminary JD, that JD will be processed as soon as is practicable. Further, an approved JD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331, and that in any administrative appeal, jurisdictional issues can be raised (see 33 C.F.R. 331.5(a)(2)). If, during that administrative appeal, it becomes necessary to make an official determination whether CWA jurisdiction exists over a site, or to provide an official delineation of jurisdictional waters on the site, the Corps will provide an approved JD to accomplish that result, as soon as is practicable.