



US Army Corps
of Engineers
Alaska District

Special Public Notice

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

ISSUANCE DATE: DECEMBER 29, 2017

EXPIRATION DATE: JANUARY 28, 2018

REFERENCE NUMBER: POA-2006-215-M4

SUBJECT: ISSUANCE of RGP-02, WRANGELL INDUSTRIAL PARK SUBDIVISION

PURPOSE OF THIS NOTICE: The Alaska District Corps of Engineers Regulatory Branch (Corps) is soliciting comments on the reissuance of Regional General Permit (RGP) 2006-214-M3, as RGP-02 (enclosed). RGP 2006-214-M3 will expire on February 10, 2018.

PROPOSED ACTION: The Alaska District, United States (U.S.) Army Corps of Engineers (Corps), in accordance with regulations pursuant to Section 404 of the Clean Water Act is proposing to modify and reissue RGP 2006-215-M3 as RGP-02, which would be used to permit the discharge of dredged and/or fill material into a maximum of 6.65 acres of waters of the U.S. within specific pre-identified areas Wrangell Industrial Park Subdivision. Eligible activities would include construction and maintenance of foundation pads, driveways, parking areas, streets, and utilities.

The Corps is not proposing substantive changes from the current version of the RGP. The most prominent change is the approach to identifying the RGP eligible areas. As opposed to previous versions of the RGP that identified specific eligible areas by block and lot numbers, the proposed RGP-02 eligible area would comprise the entire subdivision minus the excluded areas of compensatory mitigation. Other changes include reformatting and updating the general conditions.

The text of the proposed RGP-02 outlines criteria that would have to be met in order for work to be authorized under this RGP. All authorized activities must be in accordance with the conditions of the RGP-02. Failure to comply with the terms and conditions of the permit could result in suspension, modification, or revocation of the permit, and/or imposition of penalties as provided by law.

The RGP-02 would be re-issued for a period of five (5) years. At the end of this period, an evaluation will be made, and at that time it will be decided whether or not this RGP should be renewed. The District Engineer may at any time alter, modify, suspend, or revoke this permit, if he/she determines such action is in the public interest.

BACKGROUND: 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.

WATER QUALITY CERTIFICATION: Valid Section 404 permits cannot be issued for any activity unless water quality certification for the activity is granted or waived pursuant to Section 401 of the Clean Water Act (Section 401). The State of Alaska, Department of Environmental Conservation, will evaluate this proposal for water quality certification pursuant to Section 401.

CULTURAL RESOURCES: By receipt of this public notice, the State Historic Preservation Officer has been provided notification regarding the Corps proposed action and is invited to comment or consult as appropriate. Re-issuance of the RGP would not affect the Corps responsibility to ensure that all Section 404 authorizations comply with Section 106 of the National Historic Preservation Act.

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 resources that could be significantly affected by a proposed Federal action have the right to consult with the Alaska District on a government-to-government basis. Views of each Tribe regarding Tribal 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 Tribal resource. Consultation may be initiated by the affected Tribe upon written request to the District Engineer during the public comment period.

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 National Marine Fisheries Service (NMFS) on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). We have determined the re-issuance of the RGP would not adversely affect EFH in the project area. Any comments the NMFS may offer concerning essential fish habitat will be considered in our final assessment of the described work.

ENDANGERED SPECIES: We have determined the proposed re-issuance of the RGP would have no effect on any listed or proposed threatened or endangered species, and would have no effect on any designated or proposed critical habitat, under the Endangered Species Act of 1973 (87 Stat. 844). Therefore, no consultation with the U.S. Fish and Wildlife Service or the NMFS is required. However, any comments they may offer concerning endangered or threatened wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

PUBLIC HEARING: Any person may request, in writing, within the comment period specified above, that a public hearing be held to consider this proposal. Requests for public hearings shall state, in detail, the reasons for holding a public hearing. A request may be denied if substantive reasons for holding a hearing are not provided or if there is otherwise no valid interest to be served.

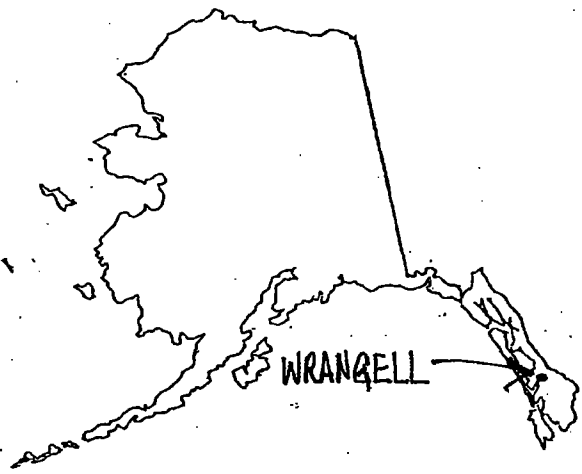
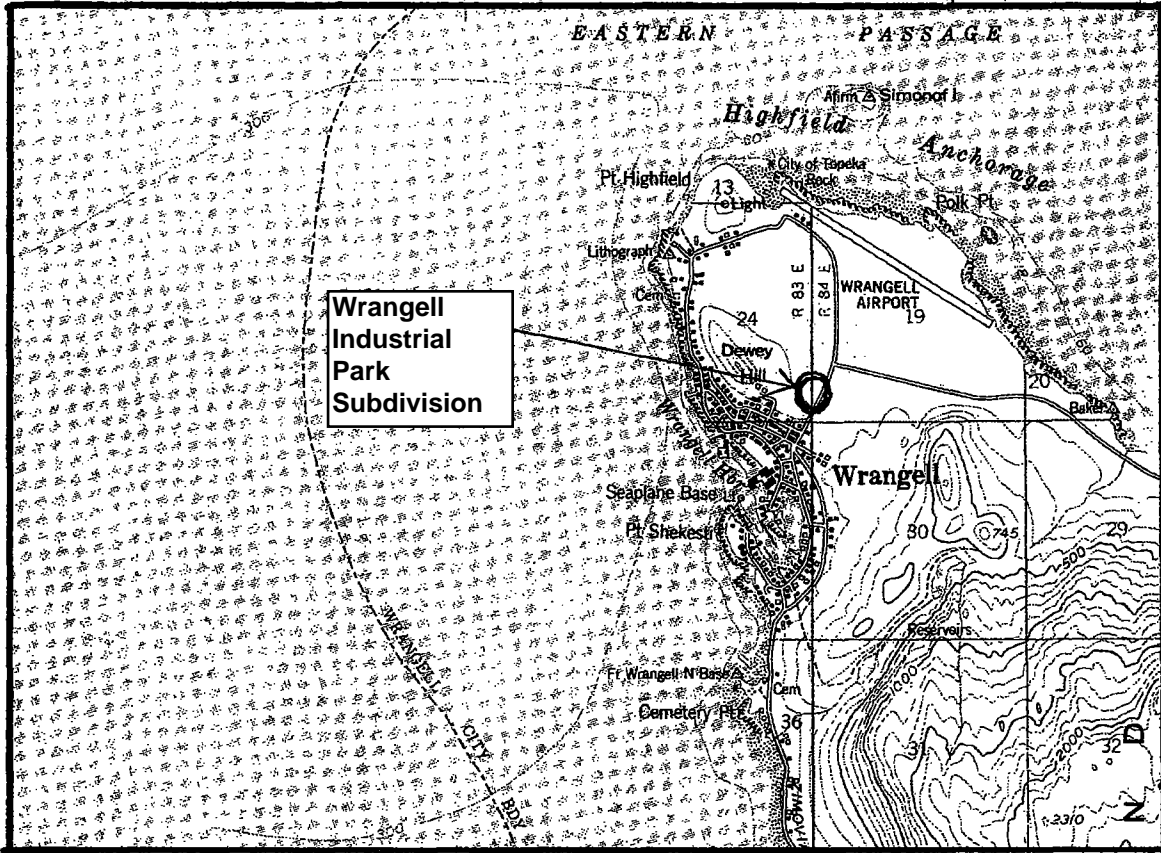
PUBLIC INTEREST REVIEW: The decision to re-issue the RGP will be based on an evaluation of the probable impact, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects.

REPLIES/COMMENTS: 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 action. Interested parties are invited to submit to this office written facts, arguments, or objections within 30 days of the date of this notice. These statements should bear upon the suitability and the

adequacy of RGP-02 and should, if appropriate, suggest any changes believed to be desirable. Written replies may be addressed to the Alaska District, Corps of Engineers, Regulatory Division, Post Office Box 6898, JBER, Alaska 99506-0898. Questions about RGP-02 may also be directed to Jason Berkner at (907) 360-9056, or toll free in Alaska at (800) 478-2712, or by email at Jason.R.Berkner@usace.army.mil.

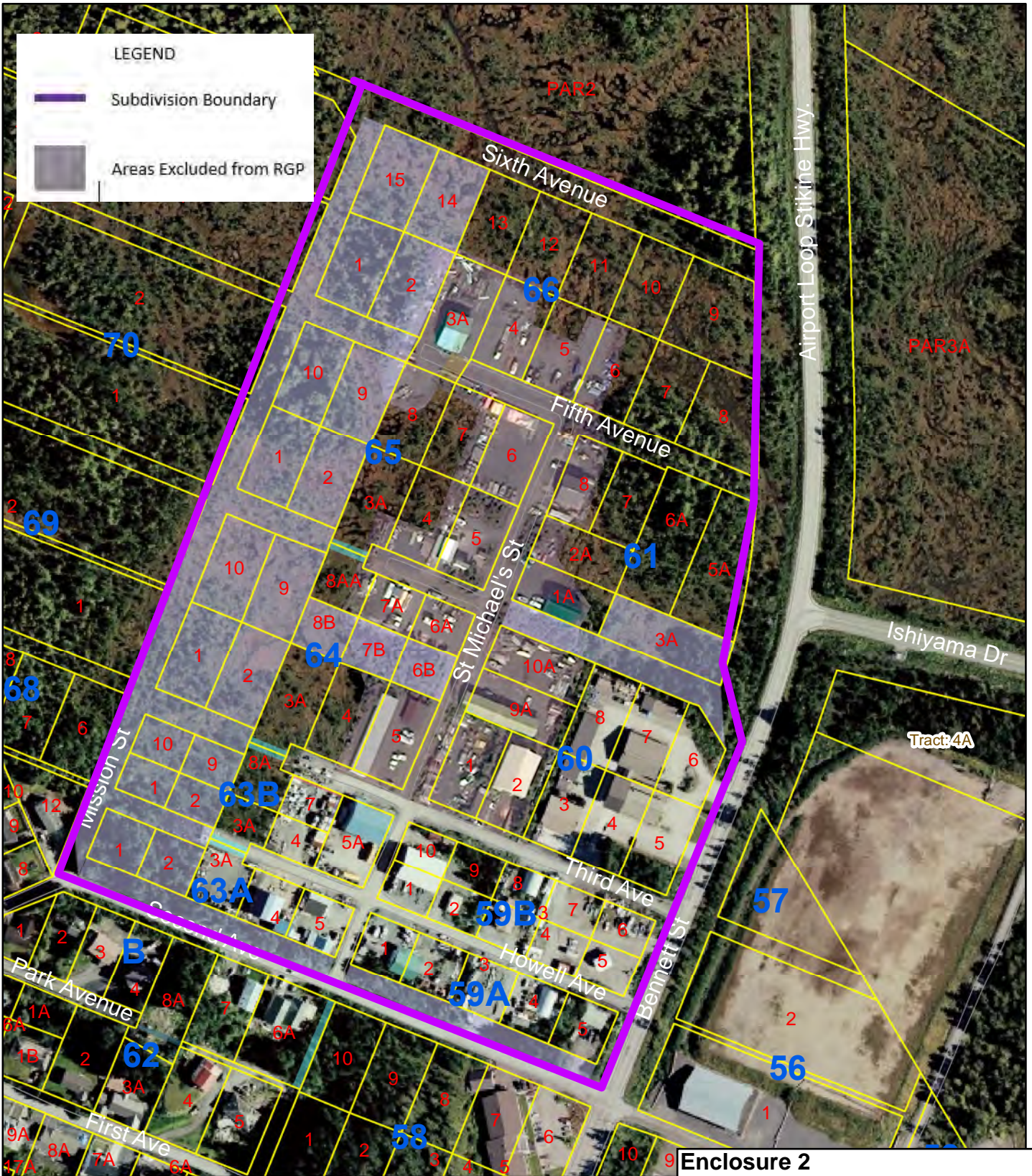
FOR THE DISTRICT ENGINEER:

Shane McCoy
Acting Chief, South
Branch
Regulatory Division
Alaska District Corps of Engineers



Enclosure 1
RGP-02 (2006-215-M4)
Wrangell Industrial Park Subdivision
Location Map

Wrangell Industrial Park Subdivision RGP-02 (2006-215-M4)



LEGEND

- Subdivision Boundary
- Areas Excluded from RGP

DISCLAIMER: PROPERTY LINES ARE APPROXIMATE.

Enclosure 2
RGP-02 (2006-215-M4)
Wrangell Industrial Park Subdivision
DRAFT RGP Boundary Map



1 inch = 250 feet
 Date: 12/19/2017

**U.S. Army Corps of Engineers, Alaska District
PRECONSTRUCTION NOTIFICATION FORM
For RGP-02, Wrangell Industrial Park Subdivision**

May be used instead of Form ENG 4345 to request verification under the Regional General Permit (RGP-02) for the Wrangell Industrial Park Subdivision. To ensure your project meets the requirements for the RGP, read all of the terms and conditions of the RGP, which may be found on our website at <http://www.poa.usace.army.mil/Missions/Regulatory/Permits/Regional-General-Permits/>.

Applicant:	Phone:
Address:	Fax:
City, State, Zip:	Cell/Direct Line:
Point of Contact:	e-mail:

Agent:	Phone:
Address:	Fax:
City, State, Zip:	Cell/Direct Line:
Point of Contact:	e-mail:

Location of the Proposed Project Site:

Project address:
Section, Township, Range, and Meridian (if known):
Latitude and Longitude (Decimal Degrees, NAD-83):
Subdivision Block and Lot Number:
Driving Directions to Site:

Project Description:

<p>Description of the proposed project, including the area (square feet or acres) of proposed wetland impacts and the volume (cubic yards), type, and source of fill material proposed to be used. Use additional sheets if necessary.</p>

**Enclosure 3
RGP-02 (2006-215-M4)
Wrangell Industrial Park Subdivision
DRAFT Preconstruction Notification**

Project Purpose:

Does the proposed activity involve an expansion to or work on or adjacent to an existing fill?

YES or NO

Will any or all components of the overall single and complete project be located in an area(s) excluded from GP coverage?

YES or NO

Have any permits been issued for this site or project in the past (if known)?

YES or NO

Jurisdictional Determination

The Corps has received new guidance (Regulatory Guidance Letter 16-01) which states that the Corps will only complete a jurisdictional determination (JD) form if the applicant requests it. In other words, if the applicant does not request a JD, we can proceed straight into our permit evaluation, without completing a JD form.

If you wish to obtain a JD there are two types you may request:

An Approved Jurisdictional Determination (AJD) is completed when we can state definitively that we do or do not have authority over the aquatic resource in question. Approved JDs often require a site visit during the growing season. An AJD is appealable and expires after five years.

A preliminary jurisdictional determination (PJD) is when the Corps determines that we may have authority over the aquatic resources in the project area. A PJD often doesn't require a site visit and is expedited. It is not appealable and does not expire. Applicants who want a JD may request a PJD because it is often more expedient than an AJD.

Please indicate which you prefer:

NO JD REQUESTED or **AJD** or **PJD**

Application is hereby made for a permit or permits to authorize the work described in this preconstruction notification form. I certify the information in this preconstruction notification form is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.

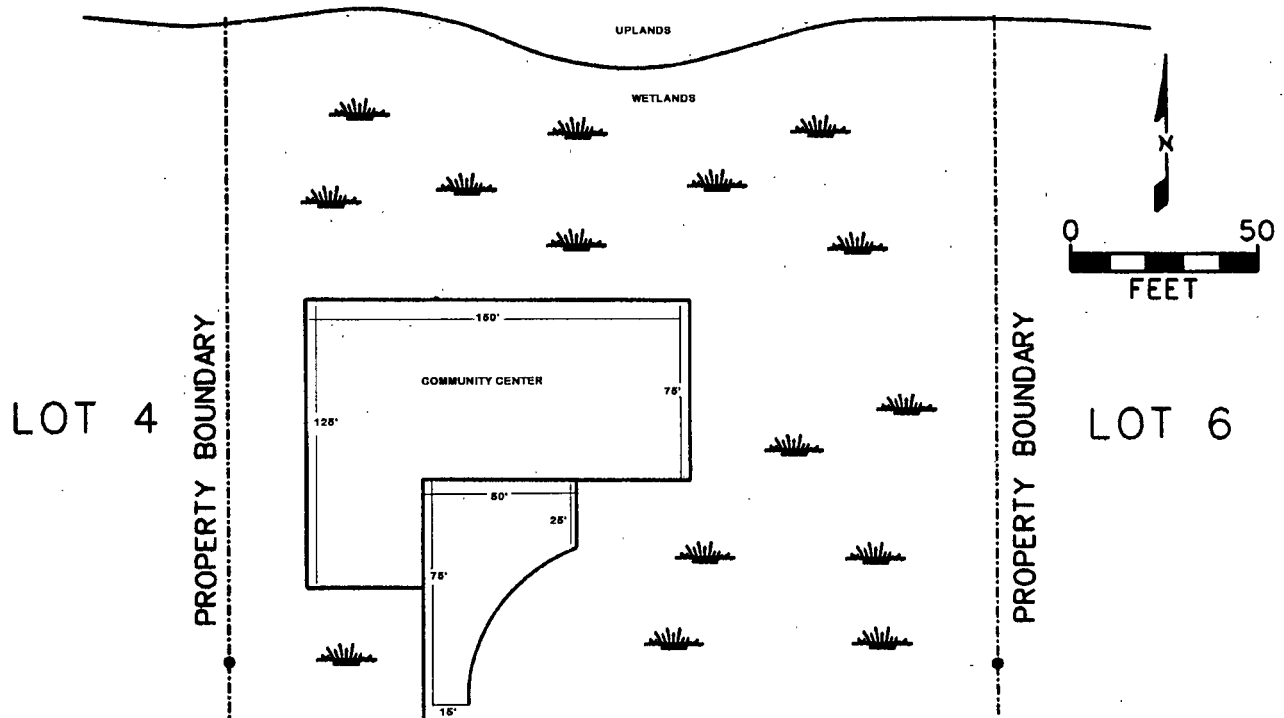
SIGNATURE OF APPLICANT

DATE

SIGNATURE OF AGENT

DATE

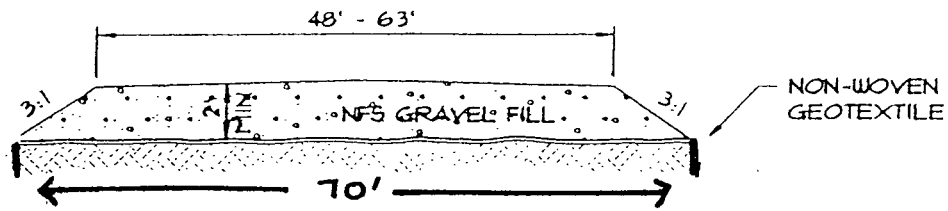
Plan View Example



- Plan view shows the proposed activity as if you were looking down on it.
- Show project size and layout of proposed work such as buildings, driveways, and roads in relation to other features such as wetlands and creeks.
- Include existing and proposed structures such as culverts and utilities.

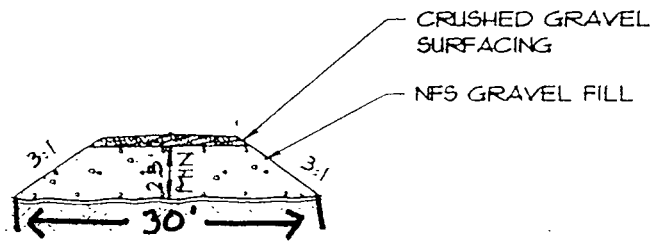
Enclosure 4
RGP-02 (2006-215-M4)
Wrangell Industrial Park Subdivision
Plan View Example

CROSS SECTION EXAMPLE



TYPICAL PAD SECTION

HORIZONTAL SCALE: 1" = 20'
VERTICAL SCALE: 1" = 10'



TYPICAL ROADWAY/DRIVEWAY SECTION

Enclosure 5
RGP-02 (2006-215-M4)
Wrangell Industrial Park Subdivision
Cross Section View Example

**DEPARTMENT OF THE ARMY
GENERAL PERMIT**

Permittee: The General Public

Permit No. RGP-02, Wrangell Industrial Park Subdivision (POA-2006-215-M4)

Issuing Office: U.S. Army Engineer District, Alaska

Issuance Date: Pending

Expiration Date: Pending + 5 years

NOTE: The term "wetlands", as used in this general permit, refers to jurisdictional wetlands, a category of waters of the United States (WOUS). The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the Alaska District of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the District Commander.

GENERAL PERMIT AUTHORIZATIONS

Upon the recommendation of the Chief of Engineers, and under the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344), the Secretary of the Army hereby reauthorizes the U.S. Army Engineer District Regional General Permit Number 02 (RGP-02). Under the RGP-02, the general public is authorized to discharge dredged and fill material into certain wetlands within the Wrangell Industrial Park Subdivision, in accordance with all applicable terms and conditions specified below.

AUTHORIZED ACTIVITIES

The RGP-02 authorizes the discharge of dredged and/or fill material into a total of 6.65 acres of wetlands for the purpose of completing work associated with development of lots within the exterior boundaries of the Wrangell Industrial Park Subdivision. Authorized activities include construction and maintenance of foundation pads, driveways, parking areas, streets, and utilities.

Excluded Areas and Activities:

1. 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.
 - a. 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.
2. Activities that are denied any required local, state or federal authorization are not authorized by this RGP.
3. 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.

APPLICATION PROCEDURES

Individuals wishing to perform work under this RGP must submit a Pre-Construction Notification (PCN) Form (Enclosure 3) to this office.

The PCN (Enclosure 3) must contain the following information at minimum:

1. Name, address, and phone number of the applicant.
2. Location of the proposed work to include the Block and Lot number of the proposed activity;
3. A detailed description of the project, its purpose, the dimensions including the size of the or the fill area (square feet), fill quantity (cubic yards), and the source and type of fill being used;
4. 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. Drawings do not have to be prepared by a professional, but should be clear and easily understood (see plan and cross section view examples in enclosures 4-5);
5. The PCN must be sent this office at: U.S. Army Corps of Engineers, Regulatory Division, CEPOA-RD, Post Office Box 6898, JBER, Alaska, 99506-0898.

CORPS VERIFACATION PROCESS

The information provided will be reviewed by this office for compliance with the terms and conditions of the RGP. Normally, within 30 days of receiving the required information, a letter will be sent from this office to the applicant verifying whether or not the proposed project meets the terms and conditions of this RGP and is authorized by the RGP-02.

RESTRICTIONS

The work authorized by this RGP is also subject to the following general conditions, and any special conditions necessary, to reduce impacts to ensure that the activity will not result in more than minimal individual or cumulative adverse effects to the aquatic environment or other public interest factors.

General Conditions:

1. **Permit Expiration.** The RGP-02 expires on [PENDING]. Unless activities authorized under the RGP-02 have commenced construction or are under contract to commence construction by [PENDING+5 years] the time limit for completing work ends upon the expiration date of RGP-02. Activities authorized under RGP-02 which have commenced construction or are under contract to commence construction by [PENDING+5 years], will have until [PENDING+6 years], to be completed under the terms and conditions of RGP-02, unless the District Engineer's discretionary authority is exercised on a case-by-case basis to modify, suspend, or revoke the authorization.
2. **Notification.** The prospective permittee must submit the required PCN form (Enclosure 3) to the Corps as described under "Application Procedures." Written verification that the project may proceed under RGP-02 must be received from the Corps prior to commencing construction.
3. **Avoidance and Minimization.** To the maximum extent practicable, you must design and construct the activity to avoid and minimize adverse effects, both temporary and permanent, to wetlands on the project site (i.e., on site).
4. **Water Quality Certification.** You must comply with all conditions specified as part of the Alaska Department of Environmental (ADEC) Conservation Water Quality Certification, which is part of this RGP.
5. **Maintenance of Hydrology Patterns.** Site preparation, excavation, and fill placement must be conducted in a manner that prevents adverse hydrologic effects. Natural drainage patterns must be

maintained using appropriate ditching, culverts, storm drain systems and other measures to prevent ponding or drying. Excessive ponding and/or dewatering of areas adjacent to fill areas shall indicate non-compliance with this condition. "Excessive" is defined as a measurable change in site hydrology or drainage from the pre-project condition.

6. **Soil Erosion and Sediment Controls.** Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills must be permanently stabilized at the earliest practicable date.
7. **Flagging.** The boundaries of the fill area in wetlands must be staked and/or flagged prior to construction to prevent inadvertent encroachment into additional wetland areas beyond the authorized area of fill placement.
8. **Suitable Fill Material.** 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).
9. **Contaminated Sites.** A soil remediation plan must be approved by the ADEC prior to commencing any work on a site containing contaminated soil as defined by the Toxic Pollutant List referred to as Table 1 in Section 307 of the Clean Water Act and by Alaska State Law, i.e. 18 AAC 70 Alaska Water Quality Standards, 18 AAC Oil and Hazardous Substance Pollution Control, and 18 AAC 78 Underground Storage Tanks. If contaminated soils are discovered during the activity, all work shall cease in the area of the contamination; ADEC must be contacted, and work must commence only upon receiving ADEC approval.
10. **Cultural Resources.** This RGP does not authorize activities, including the use of material borrow sites, in cases where the district engineer determines that the activity may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.
11. **Inadvertent Discoveries.** If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found by calling (800) 478-2712, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
12. **Maintenance.** You must maintain the authorized activity in good state, and in conformance with the terms and conditions of this RGP.
13. **Inspections.** You must allow the District Engineer, or his designated representatives, 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 this RGP.

MITIGATION

This RGP includes conditions requiring best management practices to minimize impacts to wetlands. For the unavoidable impacts to wetlands, compensatory mitigation was required in the previous RGP authorizations for the Wrangell Industrial Park Subdivision. The compensatory wetland mitigation area includes 7.13 acres where no development would be allowed and 9.99 acres of mitigation land that would only allow underground utilities to be installed with the intent of limiting these construction impacts to temporary disturbances. The compensatory mitigation is depicted on Enclosure 2 as "Areas Excluded from RGP."

COMPLIANCE

Compliance with the RGP requires strict adherence to the terms and conditions specified both herein and any special conditions within the verification. Corps representatives may inspect sites to determine whether the work is being, or has been, performed in conformance with the terms and conditions of this RGP.

Should the Corps determine that an activity is not in compliance with this RGP, the permittee may be required—at their expense—to implement corrective measures, remove fill and/or restore any areas affected by the noncompliance, in accordance with 33 CFR Part 326 and Section 309 of the Clean Water Act. Noncompliance could also result in suspension, revocation or modification of the RGP authorization (pursuant to 33 CFR 325.7), initiation of legal action by the Federal Government, issuance of a monetary penalty ranging up to \$52,414 per day of violation, and/or imprisonment for up to one year.

FURTHER INFORMATION:

1. Congressional Authorities. Authorization to undertake the activities described above is pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344). Work that also requires authorization under Section 10 of the Rivers and Harbors Act must be authorized separately through nationwide or individual permits.

2. Limits of this Authorization.

- a. This permit does not obviate the need to obtain other Federal, State, or local authorization required by law.
- b. This permit does not grant any property rights or exclusive privileges.
- c. This permit does not authorize any injury to the property or rights of others.
- d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. 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.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data. The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information provided by the applicant.

5. Reevaluation of Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. The permittee fails to comply with the terms and conditions of this permit.
- b. The information provided by the applicant in support of the permit application proves to have been false, incomplete, or inaccurate (See 4 above).
- c. 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 the permittee to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate.

6. **Reevaluation this RGP.** This office may also reevaluate its decision to issue the RGP-02 at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following: 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.

This General Permit becomes effective when the federal official, designated to act for the Secretary of the Army, has signed below.

FOR THE DISTRICT COMMANDER:

Shane McCoy
Acting Chief, South Branch
Regulatory Division
Alaska District Corps of Engineers

Date