



Special Public Notice

**US Army Corps
of Engineers**

Alaska District
Regulatory Division (1145b)
Post Office Box 898
Anchorage, Alaska 99506-0898

Date: March 12, 2010

Identification No: **SPN-POA-1993-10**

In reply refer to above Identification Number
PN Expiration Date: April 12, 2010

SPECIAL PUBLIC NOTICE

**PROPOSED REISSUANCE OF ANCHORAGE GENERAL PERMITS (GPs)
93-10-M2, 93-11-M2, 93-12-M2, 93-13-M2, and 93-14-M2;**

**PREVIOUSLY IDENTIFIED AS GPs 1993-10-N, 1993-11-N, 1993-12-N,
1993-13-N, and 1993-14-N**

The public is hereby notified that the Alaska District, U.S. Army Corps of Engineers (Corps) is proposing to modify and reissue the five General Permits (GP) valid within the Municipality of Anchorage (93-10-M3, 93-11-M3, 93-12-M3, 93-13-M3, 93-14-M3), previously issued under authority of Section 404 of the Clean Water Act (PL 95-217, 33 U.S.C. 1344). GP-93-10-M3 is for residential fill pads, site preparation, and driveways; GP-93-11-M3 is for roads and other linear developments; GP 93-12-M3 is for commercial, institutional, and community development and parking lots; GP 93-13-M3 is for industrial developments; and GP 93-14-M3 is for wetland, habitat, and water quality enhancement. These GPs were renewed with modifications on April 15, 2005, and expire on April 15, 2010. Note that these GPs are for use only in wetlands designated "C" in the Anchorage Wetlands Management Plan (AWMP) Revision, April 1996, and as further revised in the Department of the Army (DA) public notice, dated April 15, 2005, and this public notice.

GPs are considered appropriate for activities which are substantially similar in nature, because only minimal adverse environmental impacts when performed separately, would have only minor cumulative effect on water quality, and would provide more effective administration of the Clean Water Act without creating an undue burden on the public.

If reissued, these GPs will be in effect for five more years. We are soliciting and accepting comments on our intent to reissue these GPs for the next 30 days. Comments on the proposed revisions 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 Mary Lee Plumb-Mentjes at (907) 753-2789, by fax at (907) 279-0064, or by email at Mary.Plumb-Mentjes@usace.army.mil, if further information is desired concerning this notice.

The Corps has completed Preliminary Determinations that the proposed activities are in compliance with the requirements for issuance of a general permit. A copy of these Preliminary Determinations are available upon request.

BACKGROUND: The main change proposed in this revision is to the 13 formerly unmapped wetlands ("U" designated) that were added to the GPs in 2005; these have been reduced in number and size to include more precisely the lower value wetlands eligible for GPs. These "U" designated sites are shown on Attachment 1, Table 1: Eligible Unmapped Wetlands; and Attachment 1, Table 2: Site Restrictions Design Criteria - Unmapped Wetlands. A list of substantive changes from the existing GPs is given in Attachment 2. In general, these changes focus on including the general conditions found on Nationwide Permits, as appropriate. The current GPs are available for reference on the Alaska District website www.poa.usace.army.mil/reg/default.htm. Anyone needing a paper copy of the current GPs may contact the Anchorage Field Office of the Alaska District at 753-2789. A complete copy of the text and attachments for the proposed GPs is available on the Alaska District website <http://www.poa.usace.army.mil/reg/SPNNew.htm>.

CUMULATIVE USE OF THESE GENERAL PERMITS:

A preliminary review has been done of the distribution of GP verifications by watershed between January 1, 2005, and January 1, 2010: the acreages described are those that were permitted; the entire authorized acreage may not have been filled at this time.

GP 93-10-M2: Residential fill pads, site preparation, and driveways. Total: 6.358 acres

GP 93-11-M2: Roads and other linear developments. Total: 0.38-acre

GP 93-12-M2: Commercial, institutional, and community development. Total: 12.909 acres

GP 93-13-M2: Industrial developments. Total: 8.72 acres

GP 93-14-M2: Wetland, habitat, and water quality enhancement. Total: none

Cumulative Total GPs: 41; Total Acreage: approximately 28.357 acres

The following is a breakdown by watersheds:

ANCHORAGE BOWL: Total 29 GPs, 26.437 acres.

Campbell Creek: 7 GPs, 19.45 total acres. Note: 2 were for use of residential GP 93-10-M2, 1 was for use of roads and linear developments GP 93-11-M2, 3 were for use of commercial/institutional GP 93-12-M2, and 1 was for use of industrial GP 93-13-M2.

Little Campbell Creek: 1 GP, 0.92-acre. Note: 1 was for use of commercial/institutional GP 93-12-M2.

Furrow Creek: 3 GPs, 0.82-acre. Note: 2 were for use of residential GP 93-10-M2, 1 was for use of roads and linear developments GP 93-11-M2.

Airport Area and Along Knik Arm: No use of GPs.

Hood Creek: 1 GP, 0.27-acre. Note: 1 was for use of residential GP 93-10-M2.

Chester Creek: 4 GPs, 0.37-acre. Note: 1 was for use of residential GP 93-10-M2, 2 were for use of roads and linear developments GP 93-11-M2, 1 was for use of commercial/institutional GP 93-12-M2.

Rabbit Creek and Little Rabbit Creek: 7 GPs, 1.337 acres. Note: 7 were for use of residential GP 93-10-M2.

Fish Creek: 2 GPs, 2.87 acres. Note: 2 were for use of commercial/institutional GP 93-12-M2.

Little Survival Creek: 3 GPs, 0.39-acre. Note: 3 were for use of residential GP 93-10-M2.

Elmore Creek: 1 GP, 0.01-acre. Note: 1 was for use of residential GP 93-10-M2.

OUTSIDE ANCHORAGE BOWL:

EAGLE RIVER AREA: Total 7 GPs, 1.74 acres.

Eagle River: None.

Fire Creek: 1 GP, 0.019-acre. Note: 1 was for use of commercial/institutional GP 93-12-M2.

Mink Creek: None.

Mirror Lake: 1 GP, 0.1-acre. Note: 1 was for use of residential GP 93-10-M2,

Parks Creek: 2 GPs, 1.07 acres. Note: 1 was for use of residential GP 93-10-M2, 1 was for use of commercial/institutional GP 93-12-M2.

Peter's Creek: 3 GPs, 0.551-acre. Note: 3 were for use of residential GP 93-10-M2.

GIRDWOOD AREA: Total: 5 GPs, 0.18-acre.

Alyeska Creek: none.

Glacier Creek: 3 GPs, 0.16-acre. Note: 3 were for use of residential GP 93-10-M2.

California Creek: 2 GPs, .02-acre. Note: 2 were for use of residential GP 93-10-M2.

WATER QUALITY CERTIFICATION: The GPs will not be reissued 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: These General Permits were found consistent via AK0502-05AA. The changes proposed are generally more restrictive than those that were reviewed in AK0502-05AA, and therefore do not require further Alaska Coastal Management Program consistency review at this time.

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. The wetland units covered by the revised GPs do not include a registered or eligible property.

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.

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 GPs.

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 revised GPs within the proposed area.

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 re-issue these GPs will be based on an evaluation of the probable impacts including cumulative impacts of the proposed activity and their intended use on the public interest. Evaluation of the probable impacts, which the GPs 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 the revision of the GPs, and if so, the conditions under which they 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, the GPs will be denied if the discharge that would be authorized by such GPs 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), the GPs 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 re-issuance of the GPs. 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).

Notice of Application for State Water Quality Certification is enclosed with this Public Notice.

District Commander
U.S. Army, Corps of Engineers

Enclosures

STATE OF ALASKA

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

ANCHORAGE

DEPARTMENT OF ENVIRONMENTAL CONSERVATION
WQM/401 CERTIFICATION
555 CORDOVA STREET
ANCHORAGE, ALASKA 99501-2617
PHONE: (907) 269-7564/FAX: (907) 334-2415

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 on **PROPOSED REISSUANCE OF ANCHORAGE GENERAL PERMITS (GPs) 93-10-M2, 93-11-M2, 93-12-M2, 93-13-M2, and 93-14-M2** 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.

Attachment 1 -- Table 1

Anchorage GPs--Revised Areas Eligible for GPs of Previously Unmapped Wetlands

Anchorage		
Wetland Unit	Map #	Site Description/Location
U-2	36	Muldoon Road: E. 36th to Pioneer Dr.
U-3	29	Woodland Park: 34th to 36th Ave.
U-6	45	SW Tudor and Elmore Rd.
U-7	56	SE 69th and Rosewood St.
U-8	89	Moose Road: NE Birch Rd and Huffman ROW
U-10	108	Bear Valley: Marino, Byron, Diane Dr.
U-10a	112, 29A	Kings Way ROW, South of Paine Rd.
U-10b	107	Shangrila East, Views of Prominence Subdivisions
U-11	102	NE Goldenview Dr. at 156th St
U-12	110	Legacy Pointe Subdivision

Attachment 1--Table 2 Anchorage GPS--Site Restrictions Design Criteria--Unmapped Wetlands

Note: The following Table outlines the Site Restrictions and Design Criteria applicable to each wetland unit covered by the GPS. Attachment C identifies Project-specific and General Conditions that may be applicable to an individual activity during construction and operation. Additional conditions may result from agency review of proposed projects.

* LCC = Little Campbell Creek LRC = Little Rabbit Creek Trib = tributary to a stream

Anchorage Bowl													
Wetland Unit	Location	Construction Timing Window				Design Criteria							
		Setback width	Buffer width	Construction Timing Window	Wetland Delineation	Srffc water Features	Local Flooding	Dewatering of Adj. Wetlands	Stormwater Functions	Visual Screening			
U-2	Muldoon Rd: E. 36th to Pioneer Dr.			X		X							
U-3	Woodland Park: 34th to 36th Ave.			X		X					X		X
U-6	SW Tudor and Elmore Rd.			X		X					X		
U-7	SE 69th and Rosewood St.	100'	LCC*	X		X					X		
U-8	Moose Road: NE Birch Rd and Huffman			X		X					X		
U-10	Bear Valley: Marino, Byron, Diane Dr			X		X					X		
U-10a	Kings Way ROW, South of Paine Rd.	100'	LRC*	X		X					X		
U-10b	Shangrila East, Views of Prominence	85'	trib LRC*	X		X					X		
U-11	NE Goldenview Drive at 156th St.	85'	trib LRC*	X		X					X		
U-12	Legacy Pointe Subdivision	85'	trib 's	X		X					X		

Attachment 2

Proposed Changes to Anchorage General Permits, GPs 93-10-M2, 93-11-M2, 93-12-M2, 93-13-M2, 93-14-M2

1. All changes being proposed would apply to all five GPs.
2. All references to a 25-foot Municipality of Anchorage (MOA) setback in the GP tables shall be changed to a 50-foot MOA setback if and when the Municipal Assembly passes the new Title 21.
3. When the Anchorage Wetlands Management Plan (1996) is revised, the Corps will consider the eligibility for the GPs of previously unmapped wetlands that are proposed to be designated "C" in the further revision. It is anticipated that most additions would be in Eagle River and Chugiak. The Corps would solicit comments on the addition of any sites. It is anticipated that the designations of sites now designated "C" (AWMP 1996) that are no longer eligible for the GPs (Attachment A) will be changed in the upcoming AWMP revision.
4. Sites U1-U13 have been further delineated and mapped. The Anchorage Wetland Assessment Methodology was employed to categorize the functions and values of each site. Those sites that were deemed appropriate for development under the GPs remain in Attachment B, Table 5; appropriate site restrictions and design criteria are shown for each. Maps showing the reduced areas still eligible for the GPs are attached.
5. **Stormwater Functions** (page B3, under **General Permit Site Restrictions and Site Criteria**): The applicant shall demonstrate that the project's plans include sufficient measures to effectively replace the site's pre-project stormwater retention and filtration capacity. The stormwater system shall retain to the maximum extent practicable the runoff from the first 0.5 inch of rainfall of a 1-year, 24-hour storm event. The post-development peak flow from a site shall not exceed 1.05 times the pre-development peak flow for the 10-year, 24-hour storm event. Treatment measures for pollutants shall be provided for all stormwater runoff from the site. Verification that the project's stormwater design meets this criterion must be obtained from the Municipality of Anchorage's Planning Department or its designee, and must be included with the GP application package before it will be considered complete.

This is a change from: "The applicant shall demonstrate that the project plans include sufficient measures to effectively replace the site's pre-project stormwater retention and filtration capacity. The measures shall be sufficient to approximate zero net runoff increase for storms with a 2-year frequency, 6-hour duration, and no more than two times net runoff increase for storms with a 10-year frequency, 3-hour duration, including flows from subdrains."

6. **Construction Window** (page C1) addition:

In cases of a late spring, the developer may consult with USFWS as to whether continuing ground-disturbing activities between April 15 and May 1 would disrupt breeding and nesting; USFWS shall provide the results of this consultation to the Anchorage Field Office (Corps) in

writing (e-mail acceptable) before work can be continued between April 15 and May 1.

7. **Mitigation** (Add before Offset Unavoidable Impacts on page C2)

No Speculative Fills: These GPs do not apply to speculative fills. For activities to comply with these GPs they must meet clearly demonstrated needs. When the stated purpose is building construction, the applicant shall include a copy of the Municipal Building Permit Application and grade/fill permit application or Land Use Permit Application.

Fill Area Must be Minimized: The applicant must design his proposed project so as to minimize the area of wetlands needed to be filled. Any proposal shall be clearly justified based on need.

The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent to waters of the United States to the maximum extent practicable at the project site (i.e., on site). Mitigation in all its forms (avoiding, minimizing, rectifying, reducing or compensating) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal. Compensatory mitigation will be required as necessary to ensure the project complies with the Federal Rule on Compensatory Mitigation: Compensatory Mitigation for Losses of Aquatic Resources; Final Rule (33 CFR Parts 325 and 332), dated April 10, 2008.

Compensatory Mitigation: (Add to Offset Unavoidable Impacts, second paragraph concerning provision of an In-Lieu Fee, page C2): "Great Land Trust (www.greatlandtrust.org) updates the amount each year in February to reflect the annual percent change in the Consumer Price Index, as determined by the Alaska Department of Labor." Thus, no dollar amount will be specified in revised GPs. Except for inclusions in a few sites specifically indicated in GP [ref.ATTACHMENT B-TABLE 4] under "Other," for example, Wetland Unit 25: 32nd/Wisconsin, sites eligible for GPs will be treated as having a uniformly low Relative Ecological Value (REV). Thus, no site-specific mitigation debit/credit analysis is generally required for sites eligible for the GPs. For those few sites with inclusions having higher relative ecological value, an applicant may provide a mitigation project or conservation easement for review instead of paying a fee in lieu of mitigation for the higher value site. Given that these sites except for inclusions are eligible for GPs, no fee will be charged for buffers around the inclusions. The applicant must demonstrate an effort to avoid and minimize impacts to these inclusions with higher ecological values.

8. Add after Limits on Work Area (page C4):

Equipment: To minimize soil disturbance in wetlands, heavy equipment must be placed on mats or utilize other measures, such as working only on frozen ground.

9. **Fill Material:** Add before "Contaminated Soil" (page C4):

Not for Disposal of Excess Material: The GPs do not apply to projects whose primary purpose is the disposal of excess material, such as from road projects. Projects whose stated purpose is building construction

must use fill of a quality and height that complies with the Muni building safety standards in the Municipality of Anchorage Title 23 Building Codes, 2006, and associated amendments, 2009.

Suitable Material: Detrimental amounts of frozen, organics, peat, trees, stumps, lumber, large rocks, concrete and pavement, metals, plastics, glass and other deleterious inorganic materials are expressly prohibited. Fill must be free of toxic materials and contaminants. No rock or similar irreducible material with a maximum dimension greater than twelve inches shall be buried or placed in fills.

Not as Source of Borrow Material: No borrow material may be obtained from estuarine, riverine, "A" designated or "B" designated wetlands for activities covered under these GPs.

Removal of Temporary Fills: Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated with native species found in the immediate area.

10. Additions to General Conditions of Authorization (pages C5):

Tribal Rights: No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

Modification by Other Authorizations: If the work proposed under these GPs is subsequently modified by any other Federal, State, or local governmental authorization, a modification of the GPs, Municipality's opinion of compliance, and any verification by the Corps to perform activities under these GPs may need to be obtained.

Use of Multiple General Permits, including Nationwide Permits: The use of more than one GP or Nationwide Permit (NWP) for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the GPs and/or NWPs does not exceed the acreage limit of the GP/NWP with the highest specified acreage limit.

Obtain GP Prior to Filling: No work shall be done under these GPs without first obtaining an Opinion of Compliance from the Municipality of Anchorage Planning Department or General Permit Verification from the Alaska District Corps of Engineers. All fees including mitigation must be paid before proceeding.

No Adverse Impact to Adjacent Waters of U.S.: For activities to comply with these GPs they shall not adversely impact adjacent estuarine, riverine, or "A" and "B" wetlands by causing ponding, drainage, siltation or inadvertent fill. Culverting, buffer zones, or other methods may be required to ensure compliance with this condition.

Compliance with Chapter 6 of AWMP: The permittee agrees to execute the construction or operation of the work authorized herein in a manner that complies with the enforceable policies of Chapter 6 of the AWMP Revision, dated January 1994, to ensure that any adverse impacts to fish, wildlife, and natural environmental values are minimized, and in

accordance with any additional measures imposed by the Municipal Planning Department to reduce the adverse impacts of the work.

11. LIMITS OF FEDERAL LIABILITY (add after General Conditions of Authorization, page C6)

In issuing this GP, 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 non-permitted 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 which are not contrary to the public interest.
- 3) Damages to persons, property, or to other permitted or nonpermitted activities or structures caused by an activity authorized by this GP.
- 4) Design or construction deficiencies associated with the permitted work.
- 5) Damage claims associated with any future modification, suspension, or revocation of this permit.