



US Army Corps  
of Engineers  
Alaska District

# Special Public Notice

**Date:** January 13, 2012

**Comment Period Expiration Date:** February 13, 2012

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

**Reference Number:** POA-2006-215

*(In reply refer to Reference Number above)*

**SPECIAL PUBLIC NOTICE SPN-2006-215  
Notice of Intent to Re-issue General Permit 98-01-M3  
Wrangell Industrial Park Subdivision  
(Formally General Permit 98-01-N)**

The public is hereby notified that the Alaska District, U.S. Army Corps of Engineers (USACE) is proposing to re-issue General Permit (GP) 98-01, Wrangell Industrial Park Subdivision, for an additional five years. The activities covered under GP 98-01 and the GP general and special conditions remain the same. A copy of the GP 98-01-M3 is attached.

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 **Serena Sweet** by email at [serena.e.sweet@usace.army.mil](mailto:serena.e.sweet@usace.army.mil), by phone at (907) 753-2819, toll free from within Alaska at (800) 478-2712, or if further information is desired concerning this notice.

GP 98-01 was issued under authority of Section 404 of the Clean Water Act (Public Law 95-217, 33 U.S.C. 1344 et. Seq) and authorizes the discharge of fill material into waters of the U.S., including wetlands, within certain lots in the Wrangell Industrial Park Subdivision. The Subdivision is located within Section 24, T. 62 E., R. 83 S., Copper River Meridian; Latitude 56.475° N., Longitude -132.375° W.; on the northeast edge of the City of Wrangell, Alaska.

**PURPOSE:** The GP was developed to streamline the permitting process for industrial development on certain lots within the Wrangell Industrial Park Subdivision.

**AUTHORIZED ACTIVITIES:** 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):

<b>Block</b>	61	63B	64	65	66
<b>Lot</b>	3A, 7A, 8A, 9	8	3, 8A	3	7-13

**WATER QUALITY CERTIFICATION:** The GP 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 (ADEC). ADEC issued a Certificate of Reasonable Assurance for GP 98-01 to the USACE on August 5, 1998, (amended on August 2, 2000) and included seven stipulations. That certification expired on January 22, 2006. On July 6, 2006, ADEC issued a new Certificate of Reasonable Assurance to accompany the reissued GP that included eight stipulations. That certification expired on January 22, 2006, with the expiration of the reissued GP.

**MITIGATION:** Mitigation for the initial unauthorized development included preserving a 485-foot by 50-foot greenbelt south of Howell Avenue. Issuance of the original GP 98-01 included preserving a 300-foot by 100-foot area near Fourth Avenue as green space. Modification of the GP in January 2001 included putting 18 additional lots and portions of 3 other lots and the area designated as Mission Street into a "Restrictive Covenant" with the intent of retaining the area in its natural, wetland condition.

**BACKGROUND:** Development in the Wrangell Industrial Park Subdivision began in 1997 by the City of Wrangell under DA permit POA-1997-702 which authorized existing infrastructure as well as road construction and utility work. General Permit 98-01 was subsequently developed and issued to the City of Wrangell on December 10, 1998. The GP was later transferred from the City to "other private or public entities" to direct administration of the GP from the City back to the USACE. On January 22, 2001 the GP was modified to create a vegetated buffer on the west side of the subdivision by putting several lots into a Restrictive Covenant. Table 1 summarizes the type of actions and associated acreage authorized by this GP during the thirteen years the GP was in effect. GP 98-01-N expired on July 19, 2011.

**TABLE 1:** Summary of actions authorized by this GP during the past thirteen years

<b>Permit Number</b>	<b>Acreage of Impacts Authorized</b>
POA-2006-1189	0.27
POA-2007-1722	0.36
POA-2009-1030	0.30
POA-2011-158	0.38

**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 Wrangell Industrial Park. Consultation of the AHRS constitutes the extent of cultural resource investigations by the District Engineer 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 GP 98-01 project area. It was previously determined that the described activity would not affect threatened or endangered species, or their critical habitat designated as endangered or threatened, under the Endangered Species Act of 1973 (87 Stat. 844).

**ESSENTIAL FISH HABITAT:** GP 98-01 was evaluated for possible effects to Essential Fish Habitat (EFH) pursuant to the Magnuson Stevens Fishery Conservation and Management Act of 1996 (MSFCMA), 16 U.S.C. et seq and associated federal regulations found at 50 CFR 600 Subpart K. It was determined that the described activity within the proposed area would not adversely affect EFH, including anadromous fish and federally managed fishery resources.

**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: 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 and a Notice of Application for State Water Quality Certification are enclosed with this Special 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

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 Corps of Engineers intends to re-issue Department of the Army (Department) General Permit 98-01, Wrangell Industrial Park Subdivision, for an additional five years. The GP re-issuance is described in Special Public Notice POA-2006-215 and 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.

**General Permit 98-01-M3**  
**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:	60	61	63B	64	65	66
Lot:	5	7A, 8A, 9	8	3, 7A, 8A	3, 4	7, 8, 9-13

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 of 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. The drawing must include stream locations, drainage patterns and topography. Plans must show location and size of culverts or other water body/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

- DRAFT**
1. You must maintain the work authorized by this GP 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 cease to maintain the authorized activity or 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 archaeological remains while accomplishing the work authorized by this GP, you must immediately phone this office of what you have found at 1-800-478-2712. 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 GP, you must contact the USACE to validate the transfer of this authorization.
  4. You must allow representatives from this office to inspect the authorized work at any time deemed necessary to ensure that it is in compliance with the terms and conditions of this GP.

## SPECIAL CONDITIONS

1. Prior to beginning construction, the limits of the proposed excavation and fill areas must be staked and/or flagged to prevent the inadvertent encroachment of fill material into adjacent wetlands.
2. 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.
3. Site preparation, excavation, and fill placement must 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 will 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. Dredged or fill material must not consist of unsuitable material (e.g. trash, metal debris, overburden material, wood waste, etc.) and must be free from petroleum products. All material discharged must 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.

6. Temporary storage of excavated and/or excess material on-site must be managed to prevent sediment from being carried into adjacent wetlands and waters, and to prevent leachate from causing odor problems or degradation of water quality.
7. Excavated areas must 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. 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.
9. Unusable or excess material must be disposed of at an approved disposal site.
10. 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.
11. The State of Alaska Department of Environmental Conservation (ADEC) has issued a Section 401 Water Quality Certificate of Reasonable Assurance (Certificate), for this General Permit. All alternative measures and 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 in accordance with Section 09 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 GENERAL PERMIT

GP 98-01-M3 may be revoked by 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. 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.

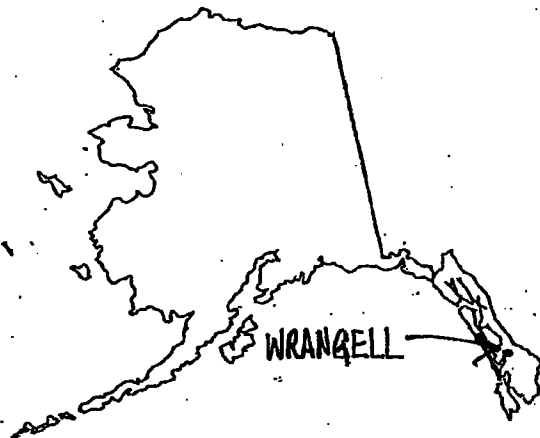
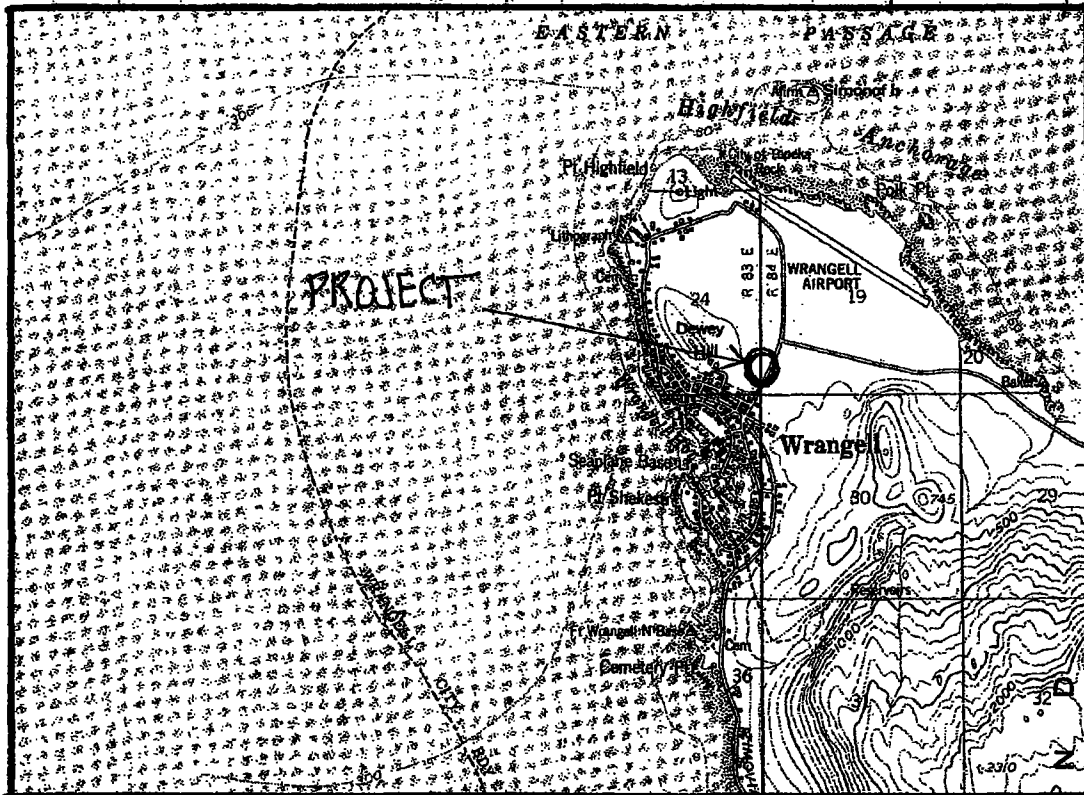
FOR THE DISTRICT ENGINEER

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Steve Meyers, Chief  
South Branch, Regulatory Division

Date





**GENERAL PERMIT 98-01-M3**  
 SPN-2011-1029  
 Wrangell Industrial Park Subdivision  
 Re-issue for five years  
 Location Map  
 September 2011 Sheet 1 of 2

