

DRAFT PROPOSED GENERAL PERMIT 2007-541-M1

DISCHARGE OF FILL MATERIAL INTO WETLANDS FOR
PART I: DEVELOPMENT OF RESIDENTIAL AND COMMUNITY DEVELOPMENTS
AND
PART II: PRIVATE/COMMERCIAL RESIDENTIAL DEVELOPMENTS AND SUBDIVISIONS

INTRODUCTION

Under the authority of Section 404 of the Clean Water Act (Public Law 95-217, 33 U.S.C. 1344 et seq.), the District Commander (DC), Alaska District, U.S. Army Corps of Engineers (Corps) proposes to reauthorize and expand General Permit (GP) 2007-541.

All activities are contingent upon meeting the terms and conditions listed herein. Failure to comply with the terms and conditions of this GP could result in suspension, modification or revocation of the permit and/or imposition of penalties as provided by law. The placement of fill material in waters of the U.S. which does not fall within the scope of this GP, or which fails to meet this GP terms and conditions, would not be authorized by this GP and a Department of the Army nationwide permit or individual permit would be required. This GP does not supersede local wetland management plans, or other general permits such as those that occur in Bethel and Nome. This GP may be applied only where it does not conflict with an existing policy.

This GP is valid for a period of five years from the date of issuance. The DC of the Corps could, at any time during this period, alter, modify, or revoke the permit if he deems such action to be in the public interest.

PART I: DEVELOPMENT OF RESIDENTIAL AND COMMUNITY DEVELOPMENTS

Part I of this GP, DEVELOPMENT OF RESIDENTIAL AND COMMUNITY DEVELOPMENTS, authorizes the placement of dredged and/or fill material into waters of the U.S. for non-commercial residential and community construction projects in rural Alaska. Excluded areas are within the city and municipal boundary limits of Anchorage, Palmer, Wasilla, Fairbanks, Juneau/Douglas, Homer, Seward, Kenai, Soldotna and the coastal boundary of the Aleutians West Coastal Resource Service Area. The Aleutians West Coastal Resource Service area extends from Unalga Pass in the east to Attu Island in the west, encompassing all land and water areas to the three mile offshore territorial limit. This includes the communities of Unalaska, Atka, and Nikolski, but does not include Adak Island. Only a Federal (e.g., Department of Housing and Urban Development, Bureau of Indian Affairs), state, or city agency; Native Village/tribal organization; or local housing authority may apply for authorization under this GP

Residential/community construction is defined as housing and community buildings, such as schools, day care centers, utility buildings, health clinics, multi-use centers and the driveways, utilities, yards, and access roads associated with these projects.

LIMITATIONS specific to Part I of this GP

1) Project limitations are:

- a) Individual house fill pads and associated development will not exceed a footprint size of 0.30 acres in waters of the U.S. (i.e., total fill for the house pad, parking area, utility lines, and driveway will not exceed 0.30 acres in wetlands).
- b) Access roads will not cumulatively exceed 2,000 feet long by 30 feet wide footprint dimensions in waters of the U.S. including wetlands. Residential access roads shall be defined as any road constructed primarily to access two or more residential lots or a community project.
- c) Individual community development projects such as schools and health clinics will not exceed a footprint size of one acre in waters of the U.S. (i.e., total fill for the building pad, parking area, utility lines, and driveway will not exceed one acre in wetlands).
- d) Driveways will be limited to a maximum footprint dimension of 200 feet long by 30 feet wide and defined as a connecting link of fill between a road and an individual house or community development pad.

2) Only non-commercial residential and community development is authorized under this GP.

3) Specific activities excluded from this GP are power generation plants, fuel storage areas (i.e., fuel tank farms), sewage treatment facilities; and material sites.

4) Fill material shall not be placed into or within 100 feet horizontally, of the Ordinary High Water mark or High Tide Line of any open water body, including streams, sloughs, rivers, ponds, lakes, estuaries, marine waters, and permanently flooded emergent wetlands.

**PART II: PRIVATE/COMMERCIAL & RESIDENTIAL DEVELOPMENTS
AND SUBDIVISIONS THROUGHOUT THE STATE OF ALASKA**

Part II of this GP, **PRIVATE/COMMERCIAL RESIDENTIAL DEVELOPMENTS AND SUBDIVISIONS**, authorizes the placement of dredged and/or fill material into waters of the U.S. for private or commercial residential developments and subdivision projects in rural Alaska. Excluded areas include the Anchorage Municipality and the City and Borough of Juneau.

Private Residential development is defined as the construction of a dwelling; a place of residence; or a person's fixed, permanent, and principal home for legal purposes. Residential development also includes work performed in association with site preparation such as fill pads, the installation of underground utilities, or on-site septic/sewer systems, and driveway construction.

Private Commercial development is defined as the construction of private facilities for the exchange or buying and selling of commodities. Commercial development includes a range of uses such as movie theaters, pool halls, arcades, videotape rentals, bingo halls, hotels, restaurants, hair and tanning salons, fabric/dress shops, laundry facilities, daycare facilities, and lumber and hardware stores. Other similar projects would need to be approved by the DC.

LIMITATIONS specific to Part II of this GP

1) Project limitations are:

- a) Individual house fill pads and associated development will not exceed a footprint size of 0.30 acres in waters of the U.S. (i.e., total fill for the house pad, parking area, utility lines, and driveway will not exceed 0.30 acres in wetlands).
- b) Access roads will not cumulatively exceed five acres of impacts (i.e. roads in combination with house or commercial pads, driveways and other fill on individual lots) in waters of the U.S. including wetlands. Access roads shall be defined as any road constructed primarily to access two or more private/commercial lots.
- c) Individual commercial buildings will not exceed a footprint size of one acre in waters of the U.S. (i.e., total fill for the building pad, parking area, utility lines, and driveway will not exceed one acre in wetlands) .
- d) Driveways will be limited to a maximum footprint dimension of 200 feet long by 30 feet wide and defined as a connecting link of fill between a road and an individual house or subdivision.

2) Part II of this GP also includes the development of individual lots in existing subdivisions as long as those individual impacts are less than .30 acre per lot and the cumulative impacts for the subdivision also meet the 5 acre wetland impacts limit.

3) Fill material shall not be placed into or within 100 feet horizontally, of the Ordinary High Water mark or High Tide Line of any open water body, including streams, sloughs, rivers, ponds, lakes, estuaries, marine waters, and permanently flooded emergent wetlands, unless needed for the placement of culverts and bridges on access roads and driveways crossing streams and sloughs that are not anadromous waters including, but not limited to catalogued streams identified in the *Catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fishes* (available at <http://www.adfg.alaska.gov/sf/SARR/AWC/>)

THE FOLLOWING APPLY TO BOTH PART I AND PART II OF THIS GP

LIMITATIONS OF THIS GP

- 1) This GP applies **only to activities authorized under Section 404** of the Clean Water Act.
- 2) Activities covered under this GP shall not adversely affect any species listed as threatened or endangered under the Endangered Species Act of 1973 (ACT), or their critical habitat designated as endangered or threatened, nor jeopardize the continued existence of any proposed species under the ACT.
- 3) This GP does not apply if Essential Fish Habitat is adversely affected.
- 4) This GP does not apply to state designated Critical Habitat Areas, Game Refuges and Sanctuaries, and habitat areas identified as important by and Alaska Department of Natural Resources, unless the activity is specifically authorized by the agency with jurisdiction over these lands.
- 5) This GP does not apply to construction activities within any unit of the National Wildlife Refuge System, the National Park System, or component of the National Wild and Scenic River System (existing and nominated).
- 6) This GP does not authorize construction activities that would adversely affect historic properties that have been determined eligible, or that have been listed on the National Register of Historic Places. If a determination of eligibility has not been previously completed, a determination must be completed prior to project commencement. If the historic property cannot be avoided, ways to minimize or mitigate adverse affects will be agreed upon through consultation with the Corps, Alaska State Historic Preservation Officer (SHPO), the appropriate Indian tribes, other interested parties, and if necessary, the Advisory Council on Historic Preservation.
- 7) This GP does not apply to any activity involving the use or storage of hazardous wastes or hazardous substances as part of their principal purpose. These materials are defined in the Solid Waste Disposal Act, as amended by the Resource Conservation Recovery Act (RCRA), 42 U.S.C. 6901 et seq., and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Contact the Alaska Department of Environmental Conservation or the U.S. Environmental Protection Agency for information about hazardous substances.

CONDITIONS OF GP

All activities identified and authorized by this GP shall be consistent with the conditions listed below. The Corps can also add special conditions to a GP authorization.

- 1) No work shall be done under this GP without first obtaining a GP verification from the Alaska District Corps.
- 2) Any activity authorized by this GP must be completed by the date specified in the Corps authorization letter.
- 3) The activity must be a single and complete project. The same GP cannot be used more than once for the same single and complete project.
- 4) The permittee shall implement the construction or operation of the work authorized herein in a manner so as to minimize adverse impacts on wildlife and natural environment.
- 5) The fill area shall be minimized by consolidating activities and uses of the fill. For example utility lines (water, electrical, telephone, sewer, etc.) should be located within the road or driveway fill.
- 6) If permafrost is present, sufficient fill thickness and/or insulation shall be utilized in all fills to prevent detrimental thermal degradation.
- 7) 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.
- 8) During excavation and fill placement, heavy equipment must not be operated in wetlands outside the authorized excavation and fill area. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.
- 9) 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).
- 10) No fill or construction materials shall be stockpiled in waters of the U.S. including wetlands, outside of the project boundary which shall be staked, or otherwise delineated, prior to any mechanized land clearing or fill placement.
- 11) 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. Unusable or excess material must be disposed of at an approved disposal site.
- 12) 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. Methods shall be implemented to filter or settle out suspended sediments from all construction-related wastewater prior to its direct or indirect discharge into any natural body of water.
- 13) All exposed fills (including side slopes) and disturbed areas 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.
- 14) Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA approved state or local floodplain management requirements. Fuel storage tanks shall be located above the 100-year flood level and must be designed to withstand a 100-year flood event when a 100-year flood level has been established for a site. If the 100-year flood level has not been established for a site, the tank flood design shall be developed by an engineer to withstand flood levels based on anecdotal evidence, physical evidence, climate data, and good engineering judgment.
- 15) Material must be available at the site to contain and clean up incidental spills and leaks, and must be used to contain and clean up any petroleum product spilled as a result of construction activity.
- 16) The boundaries of the permitted fill area in wetlands shall be staked and/or flagged prior to construction to prevent inadvertent encroachment of adjacent wetlands.

- 17) Activities covered under this GP shall not adversely affect any species listed as threatened or endangered under the Endangered Species Act (ACT) of 1973(87 Stat. 844), or their critical habitat designated as endangered or threatened, nor jeopardize the continued existence of any proposed species under the ACT. If a listed species is identified within the boundaries of a proposed project covered under this GP, work at the site shall cease and the U.S. Fish and Wildlife Service and Corps shall be consulted immediately.
- 18) The proposed activity shall not be located within one-quarter mile of an eagle nest site unless the U.S. Fish and Wildlife Service determines that the activity will not impact the eagles. The applicant has additional responsibilities to protect eagles under provisions of the Bald and Golden Eagle Protection Act (16 U.S.C. 668a-d).
- 19) 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.
- 20) Federal applicants must provide evidence that they have initiated consultation with the SHPO and if necessary, the Advisory Council on Historic Preservation as per Section 106 of the National Historic Preservation Act.
- 21) No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
- 22) No subsistence resources shall be adversely impacted by activities.
- 23) The Migratory Bird Treaty Act prohibits the willful killing or harassment of migratory birds. Where practicable, clearing, excavation, and fill activities shall be completed before or after the nesting season to avoid impacts to breeding migratory birds unless the site has been sufficiently disturbed or altered during non-breeding periods (e.g., with fill, plastic, or other materials) to eliminate suitable nesting habitat (for example, the work area could be cleared of vegetation before the breeding season. This would render the area unsuitable for breeding birds before their arrival and facilitate work during the breeding season without impacts to birds. However, large areas should not be stripped of vegetation months before initiating work, which could result in even greater damage caused by excessive erosion). Nesting seasons vary throughout the state and U.S. Fish and Wildlife or the Corps should be contacted to determine when these disturbance activities should be avoided. For further information you may look at the USFWS site, <http://www.fws.gov/laws/lawsdigest/migtrea.html>
- 24) Prior to fill placement and installation of any on-site wastewater treatment system (including mounded systems or package plants) within the fill site or contiguous wetlands, on-site sewage system design plan approval shall be obtained from the Alaska Department of Environmental Conservation.
- 25) The proposed operation activity shall be in compliance with applicable State of Alaska, Department of Environmental Conservation, Alaska Pollution Discharge Elimination System Permit.
- 26) A General Permit for the described work 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. The permittee shall adhere to the alternative measures specified in the Alaska Department of Environmental Conservation's Certificate of Reasonable Assurance. A copy of the certification is attached to this GP. These measures will remain conditions of this GP unless expressly modified or deleted, in writing, by the DC or his authorized representative. Additionally, dredge or fill activities are prohibited within 200 feet of any public water supply intake.
- 27) The permittee shall contact the Alaska Department of Transportation and Public Facilities if proposed access roads are connected to the State road system. This will ensure that the access roads and driveway widths are sufficient to meet State standards.
- 28) 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 in compliance with condition number 29 below. 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.

29) If the permittee sells the property associated with a GP verification, the permittee may transfer this GP verification to the new owner by submitting a letter to the Corps to validate the transfer. A copy of this GP verification must be attached to the letter, and the letter must contain the following statement and signature: "When the structures or work authorized by this GP are still in existence at the time the property is transferred, the terms and conditions of this GP, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this GP and the associated liabilities associated with compliance with its terms and conditions, the signature of the transferee and date appear below."

(Transferee signature)

(Date)

(Printed name)

30) Any activity being performed under this permit may be summarily suspended, in whole or in part, upon a finding by the DC that there is noncompliance with any of the terms or conditions of this GP, or that there is noncompliance with a related nationwide or individual permit, or that there is a violation of Federal law associated with the activity, or that the immediate suspension of the activity authorized herein would be in the general public interest. Such suspension shall be effective upon receipt by the permittee of a written notice thereof which shall indicate: (1) the extent of the suspension; (2) the reasons for such action; and (3) any corrective or preventive measures to be taken by the permittee which are deemed necessary by the DC to abate imminent hazards to the general public interest. The permittee shall take immediate action to comply with the provisions of such notice. Within 10 days following receipt of a notice of suspension, the permittee may request a public hearing in order to present information relevant to a decision as to whether the authorization should be reinstated, modified, or revoked. If a hearing is requested, it shall be conducted pursuant to procedures prescribed by the Chief of Engineers. After completion of the hearing, or within a reasonable time after issuance of the suspension notice to the permittee, if no hearing is requested, the authorization will either be reinstated, modified, or revoked.

31) 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.

32) All activities identified and authorized herein shall be undertaken in a manner that is consistent with the terms and conditions of this GP, and any activities undertaken by the permittee that are not specifically identified and authorized herein shall constitute noncompliance with the terms and conditions of this GP, and consequently, a violation of the Clean Water Act, which may result in the modification, suspension, or revocation of any authorization by the Corps in whole or in part, and in the institution of such legal, administrative, or judicial proceedings as the United States Government may consider appropriate, whether or not these permits have been previously modified, suspended, or revoked in whole or in part.

APPLICATION PROCEDURES

Any entity may apply for authorization by submitting an application or letter to the Corps with the following information:

- 1) A project description that includes purpose of fill; project location including section, township, range, and USGS quadrangle map number; number of structures; cubic yards of fill material required; and dimensions of fill in square feet for buildings, roads, and any other features of the project that require fill placement in wetlands.
- 2) Three types of drawings (see enclosed figures 1-4) that include:
 - a) Vicinity map depicting location of the project on a map such as a 1:63,360 USGS quadrangle map and on a smaller scale map of Alaska (see enclosed example Figure 1). Maps should show lake and stream locations, drainage patterns, and topography.
 - b) Plan view of the project showing the layout of buildings, roads, and other project features in relation to adjacent features such as ponds and creeks (to scale if possible). The plan view shows the proposed activity as if you were looking down on it (see enclosed example Figures 2 and 3). Plans must include total footprint size of project fill pad and show location and size of proposed culverts or other water-crossing structures.
 - c) Cross section of excavation and/or fill including approximate side slopes. The cross section represents the project as it would appear if cut internally for display (see enclosed example Figure 4). Since drawings may be reproduced, use heavy dark lines. Drawings do not have to be prepared by a professional, but should be clear and easily understood.
- 3) A description of soil conditions and building foundation type proposed.
- 4) The type of material and location of the material source to be used as fill for the project.
- 5) Photographs (if available) or any other information that would verify that the proposed work is in wetlands and meets the conditions of this GP. The project footprint overlaid on an aerial photo is especially helpful.

CORPS AUTHORIZATION PROCESS

- 1) Applicant submits a request to the Corps for a permit by methods outlined in the application procedures above.
- 2) The Corps reviews the application and preliminarily determines whether this GP is applicable.

- 3) The Corps will send the project plans to appropriate agencies for review. The agencies have ten calendar days from the date the Corps sends the project plans to them, to contact the Corps in writing, by FAX, email, or telephone, with comments on the project. If the agencies need additional time to provide substantive, site-specific comments, the Corps will wait an additional 15 calendar days before making a permit decision. Specific condition recommendations by the agencies will be incorporated as appropriate. If the applicant can provide documentation of recent coordination regarding their specific project with these agencies, the agency coordination can potentially be waived.
- 4) The Corps issues the applicant a GP verification letter, or based upon review, the Corps notifies the applicant that a GP is not appropriate for the proposed project.

MITIGATION: This GP is conditioned to prohibit discharges of any fill material within 100 feet of any streams, sloughs, rivers, ponds, lakes, permanently flooded wetlands or tidal waters (except Part II for placement of culverts and bridges when crossing non anadromous streams for driveways and access roads). This GP also includes other conditions requiring best management practices to minimize impacts to waters of the U.S. Additionally a mitigation statement is required with the application showing the avoidance, minimization and compensatory mitigation proposal for unavoidable impacts.
http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title33/33cfr332_main_02.

The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal: (a) 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). (b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal. (c) Compensatory mitigation will be considered on a case by case basis for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse effects of the proposed activity are minimal, and provides a project-specific waiver of this requirement. For wetland losses of 1/10-acre or less, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR 332.

- (1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in minimal adverse effects on the aquatic environment.
 - (2) Wetland restoration should be the first compensatory mitigation option considered since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced.
 - (3) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) – (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)).
 - (4) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan need only to address the baseline conditions at the impact site and the number of credits to be provided.
 - (5) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan.
- (e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of this GP, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with this GP.
- (g) Permittees may propose the use of mitigation banks, in-lieu fee programs, or separate permittee-responsible mitigation. For permittee-responsible mitigation, the special conditions of this GP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

MONITORING

The Corps will conduct an annual review of all projects authorized during the previous year. Pertinent information from these cases shall be compiled into a report and entered in the official GP file. Copies of this report shall be made available to the interested public, and to local, state and Federal agencies for their information upon request. In addition, periodic field inspections shall be undertaken by this office of projects authorized under this GP. Reports shall be prepared for all field inspections and entered into the official GP file. The Regulatory Division shall maintain a file of GP-related documents and monitoring efforts. Information contained in this GP file shall provide the basis for the decision whether or not to revise or renew this GP. If it is determined that projects authorized by this GP result in greater than minimal adverse environmental impacts, then this GP shall be modified, suspended, or revoked to prevent further impacts.

LIMITS OF THIS AUTHORIZATION

- 1) This GP does not grant any property rights, either in real estate or material, or any exclusive privileges; and it does not authorize any injury to property, invasion of rights, or infringement of Federal, state, or local laws or regulations.
- 2) This GP does not authorize the interference with any existing or proposed Federal projects.
- 3) This authorization does not obviate the need for other Federal, state, and local permits, licenses, or approvals that may be required for the proposed work.

LIMITS OF FEDERAL LIABILITY

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 non-permitted 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.

REEVALUATION OF PERMIT DECISION

The Corps may reevaluate its decision to issue a GP authorization to any person or agency at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- 1) The permittee fails to comply with the terms and conditions of this 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 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 CF 326.4 and 326.5. The referenced enforcement procedures provide for terms and condition of the permit and for the initiation of legal action where appropriate. The permittee will be required to pay for any corrective measures ordered by this office, and if the permittee fails to comply with said directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or other means and bill the permittee for the cost.

PENALTIES FOR NONCOMPLIANCE/VIOLATIONS

Failure to comply with the terms and conditions of this GP may result in suspension of the work, revocation of the permit, removal of fill material or other structure, restoration of areas subject to Corps jurisdiction, and/or impositions of penalties as provided by law. The discharge of fill material not in accordance with the terms and conditions of this GP constitutes 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 309 of the Clean Water Act, by a fine of not less than \$2,500, nor more than \$25,000, per day of violation, or 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

This GP is effective for 5 years from the date of issuance unless otherwise modified, suspended, or revoked. Authorized work must be completed within 12 months after the expiration date of this GP.

FOR THE DISTRICT COMMANDER:

Terri Stinnett-Herczeg
Deputy Division Chief
Regulatory Division
Alaska District, Corps of Engineers

Date