



# Special Public Notice

US Army Corps  
of Engineers  
Alaska District  
Regulatory Division (1145)  
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Kenai, Alaska 99611-7755  
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Date:  
April 21, 2010  
Identification No:  
SPN POA-1987-3-M5  
In reply refer to above Identification Number

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**REISSUANCE OF GENERAL PERMIT (GP) 1987-3-M5  
PREVIOUSLY IDENTIFIED AS GP 1987-3P  
MOORING BUOYS ON THE KASILOF RIVER**

The District Commander (DC), Alaska District, U.S. Army Corps of Engineers (Corps) has reissued a General Permit (GP) 1987-3-M5 under the authority of Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), to authorize the seasonal placement of mooring buoys in the Kasilof River.

In response to Special Public Notice POA-1987-3-M5, dated February 18, 2010, proposed GP 1987-3-M5 was revised to reflect comments submitted by local, State, and Federal agencies, and the interested public. Based on a review of all pertinent information, including a prepared Environmental Assessment, I have concluded that issuance of this permit will not have more than minimal adverse impact on the environment and is not contrary to the public interest.

The GP authorizes the seasonal placement of 121 mooring buoys and associated anchors and chains into the Kasilof River for the purpose of mooring fishing vessels during the commercial fishing season. The locations and numbers of all mooring buoys are assigned by the Corps.

Activities NOT authorized under the GP include:

1. The placement of any dredged and/or fill material into waters of the U.S. including wetlands.
2. The placement of non-commercial mooring buoys.
3. The placement of commercial mooring buoys not assigned by the Corps.

The activities excluded from GP coverage would be subject to other established permit evaluation procedures available to the Alaska District, U.S. Army Corps of Engineers.

All authorized activities must be 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 could result in suspension, modification or revocation of the permit, and/or imposition of penalties as provided by law.

If the proposed placement of mooring buoys within the Kasilof River does not meet the GP's terms and conditions, the GP does not apply and the applicant will be required to apply for a different form of authorization.

The placement of mooring buoys authorized under this GP may not be undertaken and completed without prior notification to the Corps of Engineers. As stated under the

GP's "Authorization Procedure" (beginning on page 3), a notification of intended activity is required from all permittees every 2 years.

GP 1987-3-M5 is valid for a period of five years, effective the date of the signature shown on the last page of the permit. The DC may at any time during this five-year period, alter, modify, suspend, or revoke this permit if he deems such action to be in the public interest.

Any questions or requests for additional information should be directed to: Alaska District, Corps of Engineers, Regulatory Division, 805 Frontage Road, Suite 200C, Kenai, AK 99611-7755; phone (907) 283-3519.

District Commander  
U.S. Army, Corps of Engineers

Enclosures



US Army Corps  
of Engineers  
Alaska District

**Department of the Army**  
**Permit Evaluation**  
**and Decision Document**

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**General Permit (GP) 1987-3-M5**  
Mooring Buoys on the Kasilof River

This document constitutes my Environmental Assessment, Statement of Findings and Review for the proposed work (applicant's preferred alternative) described in the attached public notice.

**I. Authority:** This permit action is being taken under authority delegated to the District Engineer by 33 CFR 325.8, pursuant to Section 10 of the Rivers and Harbors Act of 1899.

**II. Proposed Project:** The location and description of work are described in the attached special public notice, dated February 18, 2010. No changes were made from the information in that special public notice.

**A. Background:**

The first 2.8 miles of the Kasilof River are used heavily by commercial fishermen for boat moorage during the commercial fishing season, as well as by the various processing plants and weighing stations. Because of this heavy commercial use, and to eliminate the need for a formal 60 to 90 day permit processing period for each mooring buoy, the Corps first authorized the placement of mooring buoys in the Kasilof River on June 20, 1986, with GP 86-1. On April 27, 1987, GP 87-3 was issued for mooring buoys on the Kasilof River, which superseded GP 86-1. Subsequent modifications of GP 87-3 were issued on January 28, 1988 (GP 87-3M), May 16, 1993 (GP 87-3N), August 24, 1999 (GP 87-3O), and November 15, 2004 (GP 87-3P). These modifications resulted in only minor changes in the General Permit. The most recent authorization for 121 mooring buoys on the Kasilof River, GP 87-3P, expired on November 15, 2009. Throughout the 24 years the GP has been in existence, the number of mooring buoys authorized has increased from 109 mooring buoys to 121 mooring buoys, located on the first 2.8 miles of the Kasilof River.

**B. Changes from GP 1987-3P:**

The District Commander (DC) has reviewed the existing GP and proposes the following changes:

1. Mooring buoy number 121 has been added to the maps.
2. General Condition number 1 was changed by deleting the last part of the sentence: "and if the Corps does not issue a letter verifying the use of this GP."

**III. Environmental and Public Interest Factors Considered:**

**A. Purpose and need:**

The purpose of the proposed project is to reauthorize the placement of 121 mooring buoys into the Kasilof River, in order to allow for moorage of fishing vessels during the commercial

fishing season. This reauthorization of General Permit (GP) 1987-3P, Mooring Buoys in the Kasilof River, is needed in order to:

1. Expedite the permitting process by relieving the regulatory burden of a 60-90 day review process on permittees with authorized mooring buoy sites on the Kasilof River;
2. Allow the DC to better allocate regional resources towards projects having greater potential to harm the aquatic environment, and;
3. Alleviate navigational concerns within the Kasilof River.

**B. Alternatives [33 CFR 320.4(b)(4):**

1. No action: This alternative would result from either denial of the permit or constructing the project at a location(s) not subject to Corps jurisdiction. This alternative would not meet the purpose and need of the proposed GP. If the GP is not reauthorized, individuals who have historically moored their vessels to mooring buoys within the Kasilof River would have to apply for an individual permit (IP), which has an average 60-90 day review process. Since its original authorization in 1986, this GP has allowed for the maintenance of navigation on the Kasilof River, while fulfilling the purpose of the project and allowing for minimal review. In addition, if commercial mooring buoys were not permitted within the Kasilof River, because of the presence of weighing stations within the river, it is likely that boats would still be present. Without mooring buoys in the river, individual fishing vessels would be required to anchor individually within the river. This would cause an increase in sedimentation within the river, as the anchors would churn up sediment from the river bottom, negatively impacting the adult and juvenile fish within the Kasilof River. Finally, the presence of the boats anchored to the river bottom would also likely increase the navigational hazards within the Kasilof River.

2. Other project designs (smaller, larger, different, etc.): Different project designs have been considered for this project. These designs include:

a. The authorization of additional mooring buoys: This alternative would involve either: i. spacing the currently authorized mooring buoys closer together, or; ii. the addition of mooring buoys further upstream. Currently, the mooring buoys authorized in the Kasilof River are situated 125' apart in the "upper" river, and 150' apart in the "lower" river. Placing these mooring buoys closer together in the Kasilof River may cause navigational and safety hazards within this area of the Kasilof River as recreational boaters and fishermen and commercial fishermen may not be able to navigate the narrow channel created within the Kasilof River at low tides. In addition, mooring buoys placed closer together may cause a safety hazard as boats moored to the buoys may interfere with each other and cause damage. The mooring buoys authorized within the Kasilof River currently extend to number 121, at approximately Kasilof River mile 2.8. If mooring buoys are permitted further upstream, they would likely be too far from the mouth of the Kasilof River and the various weighing stations where the commercially harvested salmon are offloaded. In addition, there has been no expressed need from various permittees to include additional mooring buoys further upstream into the General Permit, perhaps because this is too far removed from the mouth to sustain economic viability. If an individual or company wishes to place a commercial mooring buoy further upstream of mooring buoy 121, they may apply for an IP.

b. The authorization of fewer mooring buoys: Authorized since 1986, the use of this GP has had few problems. The majority of the problems with the GP have resulted from the strong tidal actions of this area of the Kasilof River. These tidal strengths and variations cannot be predicted or controlled by the Corps. The authorization of fewer mooring buoys into the Kasilof River by this GP would reduce negative impacts to navigation caused by the installation of 121 mooring buoys into the Kasilof River. However, judging by the number of mooring buoys placed in the Kasilof River every year, as well as

the wait list length for those desiring use of the existing mooring buoys (note, no requests have been made for additional buoys further upstream, likely due to the greater distance to the river mouth), reducing the number of mooring buoys would not meet the need of the public and would likely result in a substantial loss of income for commercial fishermen displaced from previous buoy use. In addition, reducing the number of mooring buoys within the Kasilof River may increase the number of boats moored to each buoy, which would likely cause more navigational problems. Because of the presence of the weighing stations within the Kasilof River, boats will attempt to moor their boats in the Kasilof River in order to unload their catches. The presence of mooring buoys allows multiple boats to anchor to one buoy, rather than each boat anchoring to the Kasilof River. This prevents the constant churning of sediments from the floor of the Kasilof River, which benefits migrating, spawning and rearing habitat for the fish present.

c. Placing the 121 authorized mooring buoys closer together/farther apart: Placing the mooring buoys within the Kasilof River closer together would cause navigational hazards as described in 2a., above. Placing the mooring buoys within the Kasilof River farther apart would cause the mooring buoys to be located too far upstream of the mouth and the weighing stations, which would lead to a loss in income for the fishermen as it would take longer and cost more to travel to Cook Inlet in order to fish.

3. Other sites: This proposed GP authorizes a water dependent activity within the Kasilof River. No other sites are available that offer a safe area to moor boats.

**C. Mitigation [33 CFR 320.4(r), 33 CFR 332]** As described above in section II B, Alternatives, the mooring buoy locations were selected to avoid and minimize navigational and environmental impacts to the greatest extent. No other forms of mitigation are necessary for this seasonal mooring buoy use.

**D. Physical/chemical characteristics and anticipated impacts:**

(X) Substrate: The Kasilof River substrate consists of fine-grained sediment formed by rock abrasion from the upstream glacial bed. With the exception of temporary substrate disruption during seasonal anchor placement and removal, there would be no change to existing substrate conditions.

(X) Currents, circulation or drainage patterns: GP reissuance would authorize the placement of 121 mooring buoys into the first 2.8 miles of the Kasilof River. This area of the Kasilof River is subject to the ebb and flow of the tide. The installation of 121 seasonally removable mooring buoys within the Kasilof River would likely not cause any identifiable changes to currents or circulation. Because the proposed project would not involve the discharge of any dredge and/or fill material into waters of the U.S., there would be no effect on drainage patterns.

(X) Suspended particulates, turbidity: The Kasilof River is a glacial fed river that originates from Tustumena Lake and drains into Cook Inlet. The Kasilof River is a naturally turbid stream resulting from the presence of glacial rock flour, fine-grained sediment formed by the abrasion of rock at the glacier bed.

The mooring buoys would not cause major impacts to the aquatic environment resulting from suspended particulates or turbidity, although some temporary impacts would occur during the placement and removal of the large and heavy anchors for the mooring buoys. These impacts would be temporary and isolated.

(X) Water quality (temperature, salinity patterns and other parameters): The proposed mooring buoys would likely not cause a direct impact to water quality.

(X) Flood control functions: The proposed project is not anticipated to affect flood control functions.

( ) Storm, wave and erosion buffers: N/A

( ) Erosion and accretion patterns: N/A

( ) Aquifer recharge: N/A

( ) Baseflow: N/A

#### **D. Biological characteristics and anticipated changes.**

( ) Special aquatic sites (wetlands, mudflats, coral reefs, pool and riffle areas, vegetated shallows, sanctuaries and refuges, as defined in 40 CFR 230.40-45): N/A

(X) Habitat for fish and other aquatic organisms: The portion of the Kasilof River that would be affected by the instant action is a tidally influenced estuary that flows into Cook Inlet. Estuaries are extremely productive transition zones between salt and fresh water. The mouth of the Kasilof River has been documented as supporting an important commercial and recreational fishery for several species of fish, such as: Coho (*Oncorhynchus kisutch*), Chinook/King (*Oncorhynchus tshawytscha*), Pink (*Oncorhynchus gorbusha*), and Sockeye (*Oncorhynchus nerka*) Salmon, Steelhead Trout (*Oncorhynchus mykiss*) and Dolly Varden (*Salvelinus malma*). These species use this section of the Kasilof River for migration, spawning and rearing. In addition, other fish species likely to be found in this estuary include: Arrowtooth Flounder (*Atheresthes stomias*), Bering Cisco (*Coregonus laurettae*), Big Skate (*Raja binoculata*), Coastrange Sculpin (*Cottus aleuticus*), Eulachon Smelt (*Thaleichthys pacificus*), Longfin Smelt (*Spirinchus thaleichthys*), Pacific Cod (*Gadus macrocephalus*), Pacific Herring (*Clupea haengus pallasii*), Pacific Sandfish (*Trichodon trichodon*), Pacific Sandlance (*Ammodytes hexapterus*), Pacific Staghorn Sculpin (*Leptocottus armatus*), Pacific Tomcod (*Microgadus proximus*), Sand Sole (*Psettichtys melanostictus*), Silvergray Rockfish (*Sebastes brevispinis*), Smooth Lumpsucker (*Aptocyclus ventricosus*), Spiny Dogfish (*Squalus acanthias*), Starry Flounder (*Platichthys stellatus*) and Threespine Stickleback (*Gastrosteus aculeatus*).

Impacts to fish habitat would largely be caused by an increase in sedimentation resulting from the placement and removal of mooring buoy anchors each year. These impacts would be temporary, as the mooring buoys are seasonal. Because the instant action would involve the placement of temporary structures in the Kasilof River, and would not involve the discharge of dredged or fill material into water's of the U.S., impacts to aquatic organisms and their habitat would be minor.

(X) Wildlife habitat (breeding, cover, food, travel, general): In addition to the fish species likely to be present in the mouth of the Kasilof River, Sea Otters (*Enhydra lutris*), Harbor Seals (*Phoca vitulina*) and Beluga Whales (*Delphinapterus leucas*) may utilize the mouth of the Kasilof River for feeding and resting. Many species of migratory birds, such as Herring Gulls (*Larus argentatus*), Mew Gulls (*Larus canus*), Glaucous-Winged Gulls (*Larus glaucescens*), Mallards (*Anas platyrhynchos*), Common Goldeneye (*Bucephala clangula*) and Bald Eagles (*Haliaeetus leucocephalus*) utilize the Kasilof River and Cook Inlet for feeding. The instant action would have only minor impacts to wildlife located in the area.

(X) Endangered or threatened species: The proposed project would not affect any endangered or threatened species, nor any critical habitat. This no effect determination was coordinated with the U.S. Fish and Wildlife Service and National Marine Fisheries Service.

(X) Essential Fish Habitat: The proposed work has been evaluated for possible effects to Essential Fish Habitat (EFH) and coordinated with the National Marine Fisheries Service

(NMFS) pursuant to the Magnuson Stevens Fishery Conservation and Management Act of 1996 (MSFCMA). [See Section III(B)(1)(a)(iii) and Section III(B)(2)(a)].

**E. Human use characteristics and impacts:**

( ) Existing and potential water supplies; water conservation: N/A

(X) Subsistence, recreational and commercial fisheries: The GP would maintain navigation on the Kasilof River while facilitating commercial fishing operations by allowing more than one boat to moor in the Kasilof River. By maintaining navigation, recreational and commercial fishermen would be able to use the first 2.8 miles of the Kasilof River for safe moorage and/or gain access to Cook Inlet, with minimal safety or navigational concerns. In addition, the subsistence set-netting fishery which occurs every year on the Kasilof would not be affected by the instant action, as no mooring buoys are permitted near the set-netting sites. GP reissuance would result in minor impacts to subsistence and recreational fisheries and would have a positive impact on commercial fisheries.

(X) Other water related recreation: The Kasilof River is used by recreational users for boating, leisure activities and wildlife viewing. GP reissuance and use would improve navigation on the Kasilof River and prevent the blocking of the navigational channel, and support water related recreation.

(X) Aesthetics of the aquatic ecosystem: The proposed GP would have only temporary and minor impacts to the aesthetics of the aquatic ecosystem, as the mooring buoys are seasonal and have been authorized by a GP for almost a quarter century.

( ) Parks, national and historic monuments, national seashores, wild and scenic rivers, wilderness areas, research sites, etc.: N/A

(X) Traffic/transportation patterns: The reissuance of this GP is not expected to change the demand for river use, as there have been no requests for additional buoys. Accordingly, the number of boats accessing or using the Kasilof River is not expected to change appreciably as a result of this action, and should not affect traffic or transportation patterns along the road network or within the river.

(X) Energy consumption or generation: The proposed project would result in fuel consumption by vessels placing and removing the mooring buoys from the Kasilof River. However, these impacts would be minor, as the vessels are only used temporarily.

(X) Navigation: The purpose of this action is to maintain navigation within the Kasilof River while allowing boats to moor during the commercial fishing season. GP reissuance with the inclusion of the existing conditions would ensure the maintenance of navigation along the Kasilof River. With these conditions, the effects on navigation would be minimal and temporary.

(X) Safety: It is assumed that placing and removing mooring buoys would be performed in accordance with all applicable safety requirements, rules and regulations.

(X) Air quality: A minor increase in air emissions would result from combustion of fuel for the equipment used to place and remove the mooring buoys. In addition, the boats using the mooring buoys during the fishing season may cause an impact to air quality. However, the proposed GP has been in effect for the last 24 years, and no known air quality concerns exist. Because the mooring buoys are seasonal and there have been no known effects to air quality in the 24 years the GP has been in existence, impacts to air quality are expected to be minor and short-term.

(X) Noise: The majority of the land bordering the first 2.8 miles of the Kasilof River is vacant land owned by Federal, State, Borough, or Tribal Governments. Few private residences exist in this area of the river, although there are numerous fish weighing stations present. A minor increase in noise could be generated by equipment used during the placement and removal of the mooring buoys. However, during the time that the buoys are placed, noise pollution exists, within safety standards, from the industrial processes of the fish weighing station and boats utilizing the Kasilof River. Therefore, vessels placing and removing the mooring buoys would not cause an appreciable increase in noise pollution.

(X) Historic properties (Section 301(5) National Historic Preservation Act): 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 worksite and no effect is expected on historic properties. Our no effect determination was coordinated with the State Historic Preservation Officer.

( ) Land use classification: N/A

(X) Economics: This action would not directly affect economics. However, secondary impacts of the proposed project would include an increase in economics via the allowance of commercial fishing vessels to access the Kasilof River easier.

(X) Property values: GP reissuance is not expected to affect property values.

(X) Regional growth: Since the mid-1980's, Alaska's commercial fishing industry has seen a decline in the numbers and demand of wild Pacific Salmon. Because of this, it is unlikely that GP reissuance will affect regional growth. However, if the demand for wild salmon increases, then there may be a greater demand for mooring buoys on the Kasilof River, and may cause an increase in the number of individuals relocating to the Kenai Peninsula.

(X) Tax revenues: An increase in tax revenues may occur during the placement and removal of the mooring buoys, however, this increase would be minor and temporary.

(X) Employment: No appreciable change.

( ) Public facilities and services: N/A

(X) Business activity: No appreciable change.

( ) Prime and unique farmland (7 CFR Part 658): N/A.

(X) Food and fiber production: GP reissuance would continue to indirectly support the production of salmon-related food production.

( ) Water quantity: N/A

( ) Mineral needs: N/A

( ) Consideration of private property: N/A

(X) Community cohesion: No appreciable change.

(X) Community growth and development: No appreciable change.

( ) Relocation (business, home, etc.): N/A



## **F. Summary of secondary and cumulative effects:**

Secondary effects of the proposed activity would include: increased erosion to river banks from the boats that moor to the proposed mooring buoys; discharge of contaminants into the Kasilof River from boats moored to the mooring buoys; an increase in noise pollution from vessels mooring to the buoys; an increase in air pollution from vessels; and an increase in siltation from mooring buoy anchors dragging on the floor of the Kasilof River.

Several fish weighing stations are located along the first 2.8 miles of the Kasilof River covered in the proposed GP. Therefore, on days when commercial fishing operations occur, hundreds of boats need to access these weighing stations to unload their fish. The wakes created by these boats could cause a slight increase in erosion rates to the riverbanks and an increase in contaminants (i.e. petroleum products, coliform). In addition, the vessels mooring to the buoys may also cause an increase in air and noise pollution as they travel to and from Cook Inlet during the commercial fishing season. However, because of the presence of the fish weighing stations along the Kasilof River, these boats would likely be in the Kasilof River independent of the mooring buoys, and therefore these impacts would not increase over existing conditions. The mooring buoys have been authorized by a GP within this area of the Kasilof River for the last 24 years, and were present in the Kasilof River long before that, with no obvious increase in erosion to the riverbanks, contamination, noise or air pollution. Without the mooring buoys, each boat that uses the Kasilof River to unload their fish would need to drop their anchor, which would increase siltation within the Kasilof River more than the proposed mooring buoys.

Positive secondary impacts associated with economics. The GP would allow boats to moor at mooring buoys during the commercial fishing season, thereby reducing the amount of time spent launching and removing boats from the Kasilof River everyday, decreasing the demand for more boat launches on the Kasilof River, and decreasing impacts to the aquatic environment. The proposed project would also provide tax revenues to federal and local government by facilitating commercial fishing, which would increase the profit to commercial fishermen and the processors. The more fish that are sold increases the sales tax revenues to the area. Finally, GP reissuance would allow commercial fishermen easier access to the Kasilof River and Cook Inlet during the commercial fishing season, supporting the continued processing and selling of salmon globally, and reflecting positive impacts to businesses on the Kenai Peninsula.

Because the proposed GP would authorize mooring buoys from April 1 to November 1, any secondary negative impacts from the proposed project would be temporary. The proposed GP and its conditions minimize and avoid secondary impacts to the greatest extent practicable.

The assessment of cumulative effects takes into account the impact of past, present and reasonably foreseeable actions on the resource. The Kasilof River originates at Tustumena Lake, the largest lake on the Kenai Peninsula, and flows approximately 17 miles to Cook Inlet, a territorial sea. The first 6 miles of the Kasilof River are tidally influenced and subject to both Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899. The Kasilof River has adjacent wetlands throughout the 17-mile length of the river, with the majority of these wetlands existing along the first 5 miles of the river. According to the National Wetland Inventory (NWI) maps, 2000 acres of wetlands are present from the mouth of the Kasilof River to Tustumena Lake. Approximately 85% of these wetlands (1700 acres) occur within the tidally influenced portion of the Kasilof River and have the Cowardin classification as estuarine, intertidal wetlands with emergent vegetation (E2EM), which are regularly or irregularly inundated. The remaining 11 miles of the Kasilof River consist mainly of uplands, although small pockets of Palustrine, scrub shrub wetlands may occur. In addition to wetlands, the mouth of the Kasilof River also contains extensive mudflats that extend into Cook Inlet and are present on a smaller scale for several miles within the Kasilof River estuary.

The majority of the development along the Kasilof River and its adjacent wetlands has occurred within the first 3 miles identified in the proposed GP. This development consists primarily of industrial development, with the construction of 6 fish offloading and weighing stations. Two of the facilities were constructed in the 1960's, with four more facilities constructed in the 1980's. Construction on this part of the river has included: 6 docks, at least 3 of which required the permanent discharge of fill material into the Kasilof River; the construction of at least 3 boat ramps; periodic dredging at one of the docks; dredging at one of the docks with a discharge of fill below HTL for boat channel construction; and the seasonal installation of approximately 121 mooring buoys. Within the first 3 miles of the river, approximately 16.79 acres of the river and its adjacent wetlands have been filled for the construction of these facilities. The remaining tidally influenced portions of the Kasilof River, to approximate river mile 6, contain very little development, with approximately 0.86 acres of the Kasilof River and adjacent wetlands being filled for the construction of three gravel pads adjacent to the river and an access road. As mentioned earlier, the remaining 11 miles of the Kasilof River contain few adjacent wetlands. Development within the river and adjacent wetlands from river mile 6 to 12.5 includes the Sterling Highway bridge over the Kasilof River, roads through adjacent wetlands, boat launches and bank stabilization projects. An estimated 1.1 acres of wetlands have been filled for these projects. The parcels along the east bank of the Kasilof River from mile 12.5 to mile 17 are owned by the State of Alaska and the Kenai Peninsula Borough, while those along the west bank are part of the Kenai National Wildlife Refuge. No development has occurred within waters of the U.S. in this portion of the river. A total of approximately 18.75 acres of wetlands and other waters of the U.S. have been filled along the Kasilof River. Because of the inability to locate all files for developments along the Kasilof River, it is unclear how many of these 18.75 acres of filled areas were permitted by the Corps.

Present development within the Kasilof River and its adjacent wetlands includes the proposed reactivation of a dock and fish processing facility (included in the total of six facilities described above). The former "Dragnet Dock" has fallen into disrepair and the facility has not been active for five or more years; therefore, a non-compliance letter was issued (POA-1984-454, Kasilof River). In response, the former owner proposed reactivation and piling/dolphin replacement by the new owner (Mr. Randy Vasko). The new owner proposes to repair and maintain the dock and dolphins, within the confines of the original permits, with some changes due to material changes and technological advances. The repairs/changes would bring the dock and facility into compliance. No additional impacts, beyond those previously permitted, are being proposed, with the exception of a temporary floating dock, which would be placed prior to, and removed immediately following, fishing season. This activity, if permitted, would occur in the fall of 2010.

Reasonably foreseeable future activities within the Kasilof River include the dredging of the boat launches located along the river, maintenance of the bank stabilization and construction of new bank stabilization projects. It is unlikely that future development would involve the construction of new fish offloading/weighing stations at the mouth of the Kasilof River, as the commercial salmon industry on the Kenai Peninsula has dropped dramatically since the 1980's. However, if the demand for fresh wild Pacific salmon increases, it is unknown if there would be a need for some of these facilities to expand. It is more likely that the fish processing plants along the Kenai River will have a need to expand, and not the offloading stations on the Kasilof River. While future developments may involve the expansion of some of the fish offloading facilities, the impacts associated with these activities are expected to be kept at the minimum necessary to fulfill the project. The proposed project would not likely affect future activities on the Kasilof River.

Cumulative impacts on the Kasilof River have been minor and concentrated to industrial developments along the first 3 miles of the river. Although substantial development has occurred within this portion of the river, large portions of the area still remain undeveloped. The majority of the tidal wetlands, which perform valuable wildlife habitat and water conservation functions, remain undisturbed. Future development proposals are largely unknown at this time,

and the cumulative effects of those future actions would be evaluated in consideration of the existing impacts to ensure there would be no significant impacts.

The proposed mooring buoys are seasonal and would not involve the discharge of dredged and/or fill material into the Kasilof River. Because of the uncertainty of the commercial salmon industry in Cook Inlet and Alaska, it is difficult to predict the trends of the market and therefore difficult to predict future needs for mooring buoys on the Kasilof River. If developments in the future necessitate additional mooring buoys on the Kasilof River, the GP can be reauthorized and reevaluated. This action would result in the continued seasonal placement of 121 mooring buoys in the Kasilof River during the commercial salmon industry, and would result in the loss of no waters of the U.S. Cumulative impacts would be minimal and temporary.

### III. Findings:

#### A. Other authorizations:

1. Coastal Zone Management Consistency Determination (Alaska Department of Natural Resources):

Date November 15, 2004 concurred X non-concurrence \_\_\_\_\_  
Conditions for concurrence Yes     No X (If yes, see attached)

The Alaska Department of Natural Resources, Division of Coastal and Ocean Management verified that the previous Final Consistency Determination, issued on November 15, 2004, for GP 1987-3P (State AK ID Number AK 0410-01AA), remains valid for this GP reissuance, since the coastal effects would not be substantially different than those that were previously reviewed during the last GP evaluation.

B. A provisional determination for the GP was made on February 11, 2010. Special public notice POA-1987-3-M5, describing proposed GP 1987-3-M5, was issued on February 18, 2010, and sent to all interested parties (see mailing list) including appropriate Federal and State agencies. All comments received on this action have been reviewed and are summarized below.

#### 1. Summary of comments received:

##### a. Federal agencies:

i. U.S. Environmental Protection Agency [USEPA] provided no comments.

ii. U.S. Fish and Wildlife Service [USFWS] provided no comments.

iii. National Marine Fisheries Service [NMFS] provided comments via email regarding the previous GP reissuance, on 10/20/04, and said: "the described action will have no more than a minimal impact and will not result in any substantive adverse effect to EFH. No further EFH Assessment is required and NMFS does not offer any EFH Conservation Recommendations. Further EFH consultation is not necessary. NMFS has no objection to the project. Thank you for the opportunity to comment. Should you have questions, feel free to contact me." No comments were received in response to this reissuance evaluation.

iv. U.S. Coast Guard [USCG] provided no comments.

v. No other federal agency forwarded comments on this proposal.

##### b. State and local agencies:

- i. Alaska Department of Fish and Game [ADF&G]: provided no comments.
- ii. Alaska Department of Natural Resources, Division of Parks and Outdoor Recreation, Office of History and Archaeology [SHPO] provided no comments.
- iii. Kenai Peninsula Borough (KPB): provided no comments.
- iv. No other state or local agencies forwarded comments on this proposal.

c. Organizations and individuals:

1. On February 24, 2010, Mr. Stephen Vanek (holder of buoy #66) provided written comments stating that he believes the permitting process has worked well and he is unaware of any problems in all the years the process has been in effect.

2. On February 24, 2010, Mr. Lawrence Waechter (holder of buoys #81 and #82) stated that he believes the Corps has done the management of mooring buoys well, and that although the buoys sometimes get out of place, it is taken care of by permit holders.

3. On March 24, 2010, Mr. Wayne Kvasnnikoff with Ocean Beauty Seafoods (holder of buoys # 3, 4, 5, 6, 11, 42, 43, 69, 70, 71, 74, 75, 104, and 120) provided written comments stating the Kasilof River is sometimes crowded. Ocean Beauty Seafoods voiced their preference to obtain authorization for any spaces that become available.

## 2. Evaluation:

I have reviewed and evaluated, in light of the overall public interest, the documents and factors concerning this permit application as well as the stated views of other interested agencies and the concerned public. In doing so, I have considered the possible consequences of this proposed work in accordance with regulations published in 33 CFR Part 320 to 330. The following paragraphs include my evaluation of comments received and how the project complies with the above-cited regulations.

- a. Consideration of comments: There are no unresolved issues or concerns.
- b. All General Conditions from the previously-issued GP would remain on this reissuance, and are listed as follows:
  - a. The permittee shall notify the Corps every two years regarding the use of the permitted buoy and any address changes. Individual verifications shall expire if the permittee does not use the authorized buoy location over two consecutive years, and/or if the permittee does not submit the required information to the Corps on the required date.

Rationale: This GC is to ensure that the GP records remain up-to-date and as accurate as possible. For the previous GP authorization, many of the addresses and telephone numbers for the permittees that were on file were incorrect and had not been updated since 1986, during which time many mooring buoy authorizations were transferred without notification to the Corps.

- b. The mooring buoys and attached vessel(s) shall be placed and kept outside of the navigation channel so as not to impede or obstruct navigation, or otherwise hinder safe access to, and use of the waterway by the general public. In addition, mooring buoys shall not be placed in locations that would hinder safe access to, or use of existing docks, piers, boat launch ramps, buoys, dolphins, floats, piles, or any other existing structures or facilities within the Kasilof River. The number of vessels moored to each buoy, the size of the

anchor and associated chains as well as the swinging radius of the buoy and attached vessel(s) shall be considered when determining compliance with this condition.

Rationale: This GC is to ensure that the navigation channel remains open and that no mooring buoy causes navigational or safety hazards within the Kasilof River.

c. The permittee is responsible for ensuring that all vessels are attached directly to the authorized mooring buoy (i.e. the vessel is not tied to another vessel that is tied to the mooring buoy).

Rationale: This GC is to ensure that navigational and safety hazards do not occur from incorrect moorage of the vessels to the mooring buoys. If a boat is attached to another boat but not the authorized buoy, the boats swing and cause navigational hazards in the Kasilof river.

d. All buoy locations and numbers shall be assigned by the Corps and the permittee shall be responsible for placing and maintaining authorized buoys at the assigned location shown on the attached map. Mooring buoys assigned by the Corps shall be located not less than 165 feet apart in the lower river and not less than 125 feet apart in the upper river. The dividing line between the upper and lower river is the upstream side of the old "Waterfall Cannery" located at Kasilof River mile 0.61, Latitude: 60° 22.90' N, Longitude: 151° 17.24' W. In addition, no mooring buoy shall be placed within 150 feet of the old ADOT dock, located at river mile 0.1, Latitude: 60° 23.18' N, Longitude: 151° 17.87' W.

Rationale: This GC remains from the previous GP authorizations and is intended to maintain navigation on the Kasilof River by having specified mooring buoy locations for each permittee, as well as reduce conflicts over mooring buoy locations. The mooring buoys authorized in the lower river should be placed further apart than in the upper river because the major fish weighing stations are located in the lower river, and placing the buoys closer together would potentially cause navigation hazards in this area. No mooring buoys are permitted within 150' of the "old ADOT dock" because DA individual permits exist at this location authorizing floating docks along the length of the weighing station.

e. The color of all buoys shall be white or international orange and shall be a minimum of 24 inches in diameter, clearly marked with the buoy number in black figures with a minimum of 2" high lettering. (i.e. mooring buoy number 1 in the Kasilof River shall have the designation KAS 1).

Rationale: This GC allows the authorized mooring buoys to be easily seen, which reduces navigation hazards in the Kasilof River. Putting the mooring buoy number on each buoy using large lettering allows for the Corps and other individuals to identify each buoy, and the permittee in case there are any questions or enforcement actions are taken.

f. Mooring buoys may not be set in the Kasilof River prior to April 1 of each year and shall be removed by November 1 of each year.

Rationale: This ensures that during the winter, when mooring buoys are not necessary and the Kasilof River is subject to freezing, that the mooring buoys do not cause additional hazards and become destroyed by ice flows.

g. Regarding disputes involving the placement of buoys, the permittee agrees that the Corps' decision is final. The permittee agrees to take the action directed by the Corps in resolving such disputes including relocation or removal of the buoy.

Rationale: This GC ensures that the permittee understands that the Corps is the final authority in disputes for the placement of the authorized mooring buoys and is intended to reduce conflicts between permittees on the location of authorized mooring buoys.

h. The permittee agrees not to use any buoy for which the Corps is involved in the resolution of a violation or disputed location and has so notified the permittee. The permittee further agrees that he or she will make arrangements to moor boats elsewhere until the conflict is resolved to the satisfaction of the DE.

Rationale: This GC ensures that mooring buoys are not used during enforcement actions, which is necessary for proper enforcement of the GP.

i. The permittee shall maintain the activity authorized by this GP in good condition and in conformance with the terms and conditions of the GP. The permittee is not relieved of this requirement if the permitted activity is abandoned (i.e. permittee moves, dies, etc.), although the permittee may make a good faith transfer to a third party in compliance with GC 9 below. Should the permittee wish to cease to maintain the authorized activity or desire to abandon it without a good faith transfer, approval from this office must be obtained.

Rationale: This GC was developed to ensure that individuals do not abandon or transfer their authorized mooring buoy without notifying the Corps. This enables the Corps to reauthorize the unwanted mooring buoys to other individuals on the waiting list and keeps records up-to-date.

j. The permittee may transfer their authorization by written notification to this office. At initial contact, please provide the full name, address, and phone number of the transferee. A letter must be received from the permittee requesting and authorizing the transfer. A second letter must be received from the transferee stating their agreement to comply with all terms and conditions of the GP. This written agreement must be included in the permit file for final authorization.

Rationale: This GC ensures that the Corps is notified prior to any transfers so the prospective permittee can get proper authorization for the mooring buoy location and to ensure that records are as accurate as possible.

k. Your use of the permitted activity must not interfere with the public's right to free navigation on all navigable waters of the United States.

Rationale: This GC is to ensure that navigation is retained on the Kasilof River, as the Corps has statutory responsibility to protect navigable waters of the U.S. under Section 10 of the Rivers and Harbors Act of 1899.

l. You must install and maintain, at your expense, any safety lights and signals prescribed by the United States Coast Guard (USCG), through regulations or otherwise, on your authorized facilities. The USCG may be reached at the following address and telephone number: Commander (oan), 17th Coast Guard District, P.O. Box 25517, Juneau, Alaska 99802, (907) 463-2269.

Rationale: This GC is to ensure that the authorized mooring buoys do not cause navigational problems on the Kasilof River.

m. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free

navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

Rationale: This GC is necessary to inform the permittee that the Corps may revoke or change the authorized activity and require the removal of all mooring buoys at any time if it interferes with future operations by the United States or causes obstruction to navigation. It also informs the permittee that if the mooring buoys are required to be removed, no claim can be made against the United States.

n. The proposed activity shall not adversely affect any designated critical habitat or species listed as threatened or endangered under the Endangered Species Act of 1973, as amended. In addition, the proposed activity shall not jeopardize the continued existence of any proposed species or result in the destruction or adverse modification of proposed critical habitat.

Rationale: This GC is necessary to protect all threatened and endangered species or critical habitat.

o. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this GP, you must immediately notify this office, and the State Historic Preservation Office of what you have found. The Corps 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.

Rationale: This GC is necessary to protect any known or discovered Cultural Resources within the project area.

c. General Evaluation [33 CFR 320.4(a)]:

i. The relative extent of the public and private need for the proposed work: The proposed project is not a public project. The need for the GP is based upon the demand for mooring buoys within the Kasilof River to allow commercial fishermen easier access to Cook Inlet during the commercial fishing season while maintaining navigation on the Kasilof River. This GP allows the Corps to authorize these projects with minimal impacts using a less time consuming method than an individual permit (IP), so resources can be used on projects causing greater impacts to the aquatic environment.

ii. The practicability of using reasonable alternative locations and methods to accomplish the objective of the proposed structure or work: We have determined that there are no reasonable practicable alternative locations that would accomplish the purpose of the proposed work. We have also determined that there is no reasonable practicable alternative method to accomplish the purpose of the proposed work. The applicant's preferred alternative represents the least environmentally damaging practicable alternative.

iii. The extent and permanence of the beneficial and/or detrimental effects that the proposed structures or work may have on the public and private uses to which the area is suited: The proposed GP would not authorize the discharge of any fill material and the authorized mooring buoys would be placed in the Kasilof River seasonally. Therefore, any detrimental impacts would be temporary and limited to the area directly surrounding the activity.

As previously stated, the terms, conditions and provisions of this GP were developed to ensure that individual and cumulative adverse impacts are minimal. Specifically, GPs do not

obviate the need for the general permittee to obtain other Federal, state or local authorizations required by law. Mooring buoy numbers and locations as well as special conditions on this GP provide further safeguards to the aquatic environment and overall public interest. GP provisions are also included to allow suspension, modification or revocation of the GP.

**3. Determinations:**

a. Finding of No Significant Impact (FONSI) (33 CFR Part 325): Having reviewed the information provided by the applicant, all interested parties and the assessment of environmental impacts contained in Part II B of this document, I find that this permit action will not have a significant impact on the quality of the human environment. Therefore, an Environmental Impact Statement will not be required.

b. Section 176(c) of the Clean Air Act General Conformity Rule Review: The proposed project has been analyzed for conformity applicability pursuant to regulations implementing Section 176(c) of the Clean Air Act. It has been determined that the activities proposed under this permit will not exceed de minimis levels of direct emissions of a criteria pollutant or its precursors and are exempted by 40 CFR Part 93.153. This no effect determination has been coordinated with the U.S. Environmental Protection Agency and the Alaska Department of Environmental Conservation. Any later indirect emissions are generally not within the Corps continuing program responsibility and generally cannot be practicably controlled by the Corps. For these reasons a conformity determination is not required for this individual permit.

c. Public interest determination: I find that issuance of a DA permit, as prescribed by regulations published in 33 CFR Parts 320 to 330:

(X) Is not contrary to the public interest

( ) Is contrary to the public interest

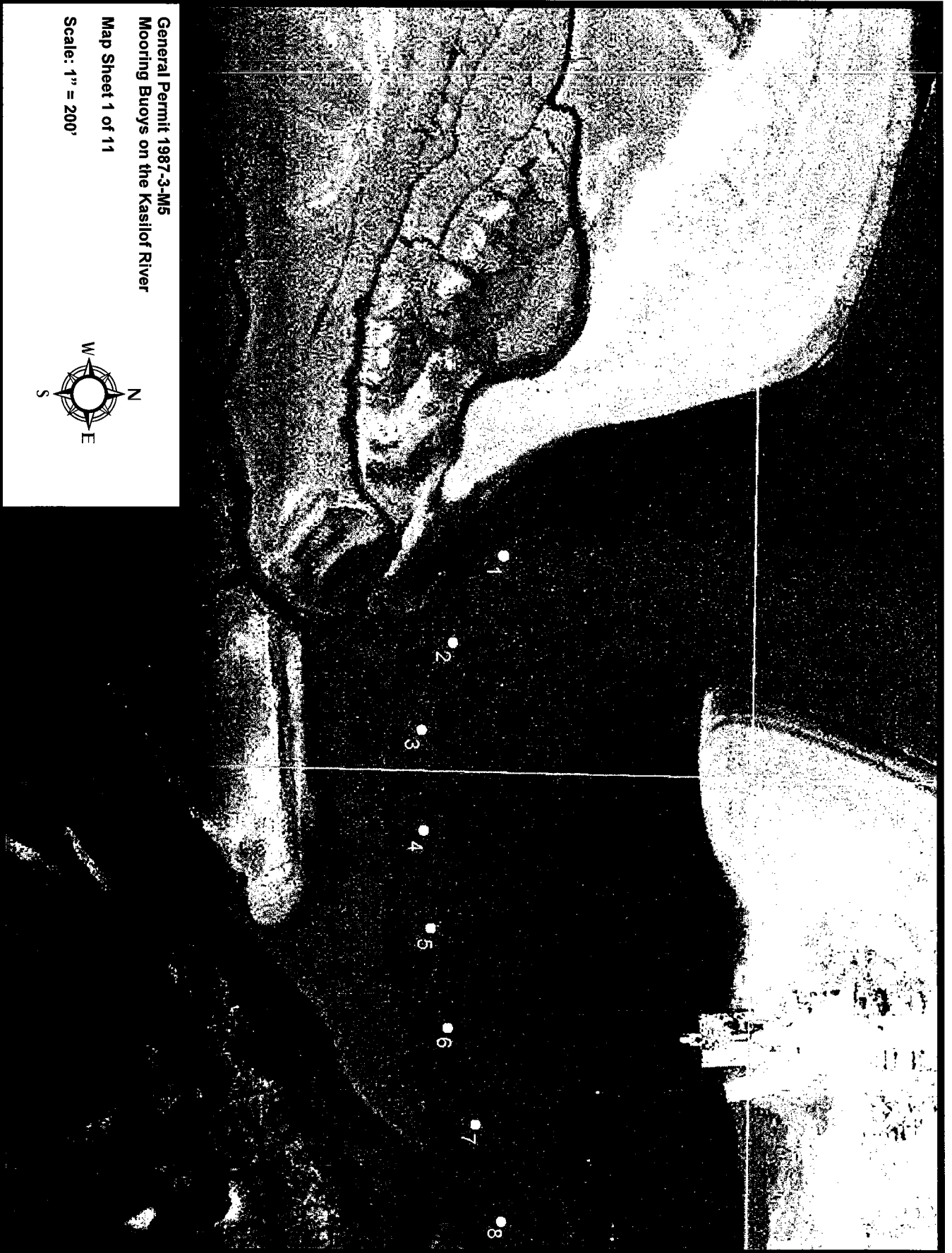
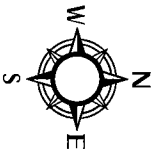
Prepared by: \_\_\_\_\_ Date: 4/16/10 Bryan A. Herczeg  
for Shannon Morgan  
Project Manager  
Regulatory Division

Reviewed & Approved by: \_\_\_\_\_ Date: 4/16/10 Bryan A. Herczeg  
Bryan Herczeg  
Acting South Branch Supervisor  
Regulatory Division

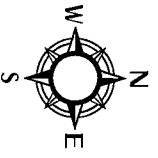
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Chief, South Branch  
Regulatory Division



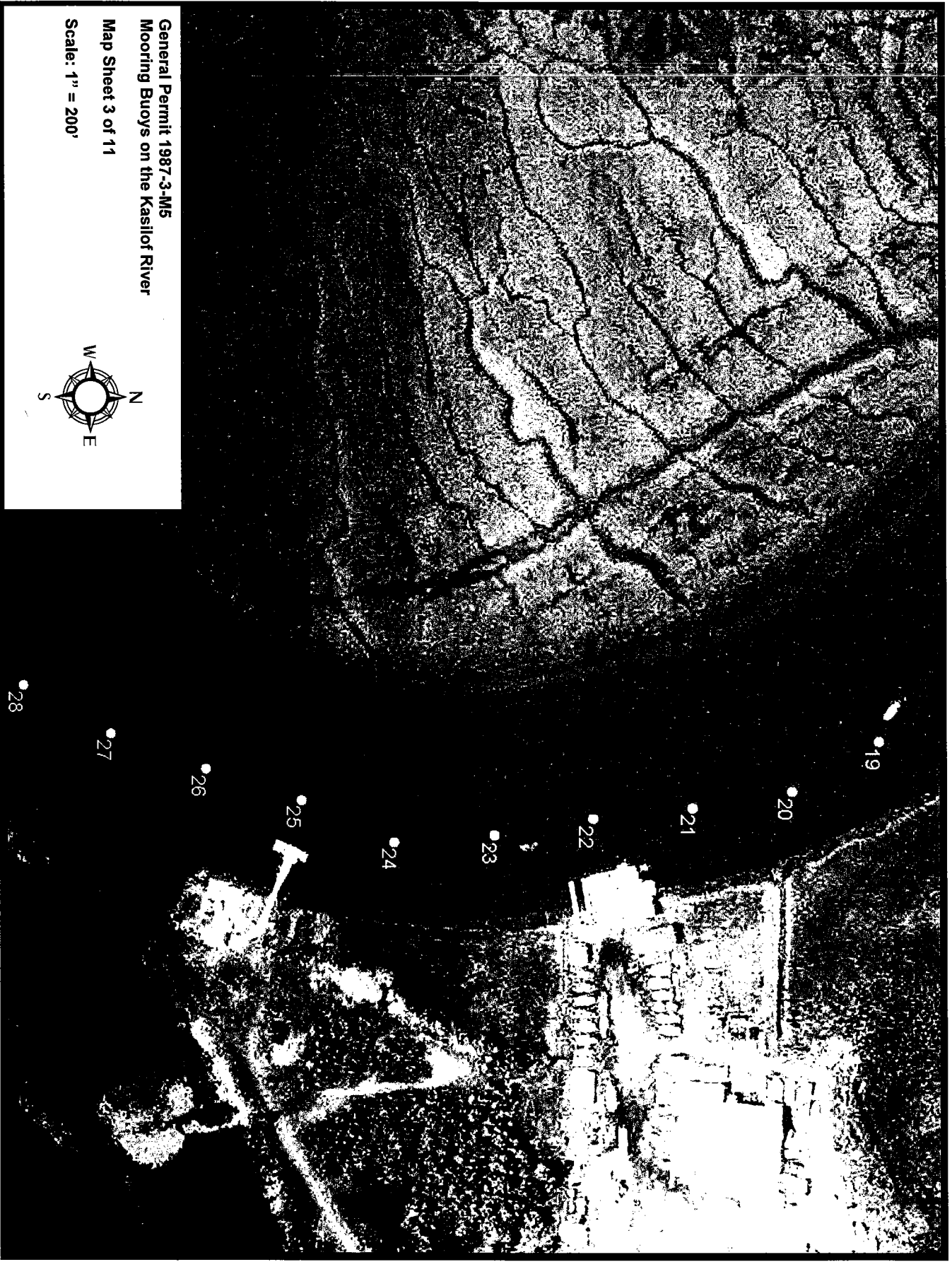
General Permit 1987-3-M5  
Mooring Buoys on the Kaslof River  
Map Sheet 1 of 11  
Scale: 1" = 200'



General Permit 1987-3-M5  
Mooring Buoys on the Kaslof River  
Map Sheet 2 of 11  
Scale: 1" = 200'

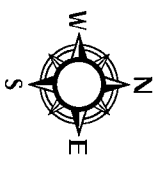


General Permit 1987-3-M5  
Mooring Buoys on the Kaslof River  
Map Sheet 3 of 11  
Scale: 1" = 200'





General Permit 1987-3-M5  
Mooring Buoys on the Kaslof River  
Map Sheet 4 of 11  
Scale: 1" = 200'





General Permit 1987-3-M5  
Mooring Buoys on the Kaslof River  
Map Sheet 5 of 11  
Scale: 1" = 200'





General Permit 1987-3-M5  
Mooring Buoys on the Kaslof River  
Map Sheet 6 of 11  
Scale: 1" = 200'



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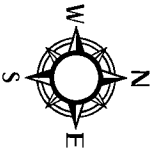
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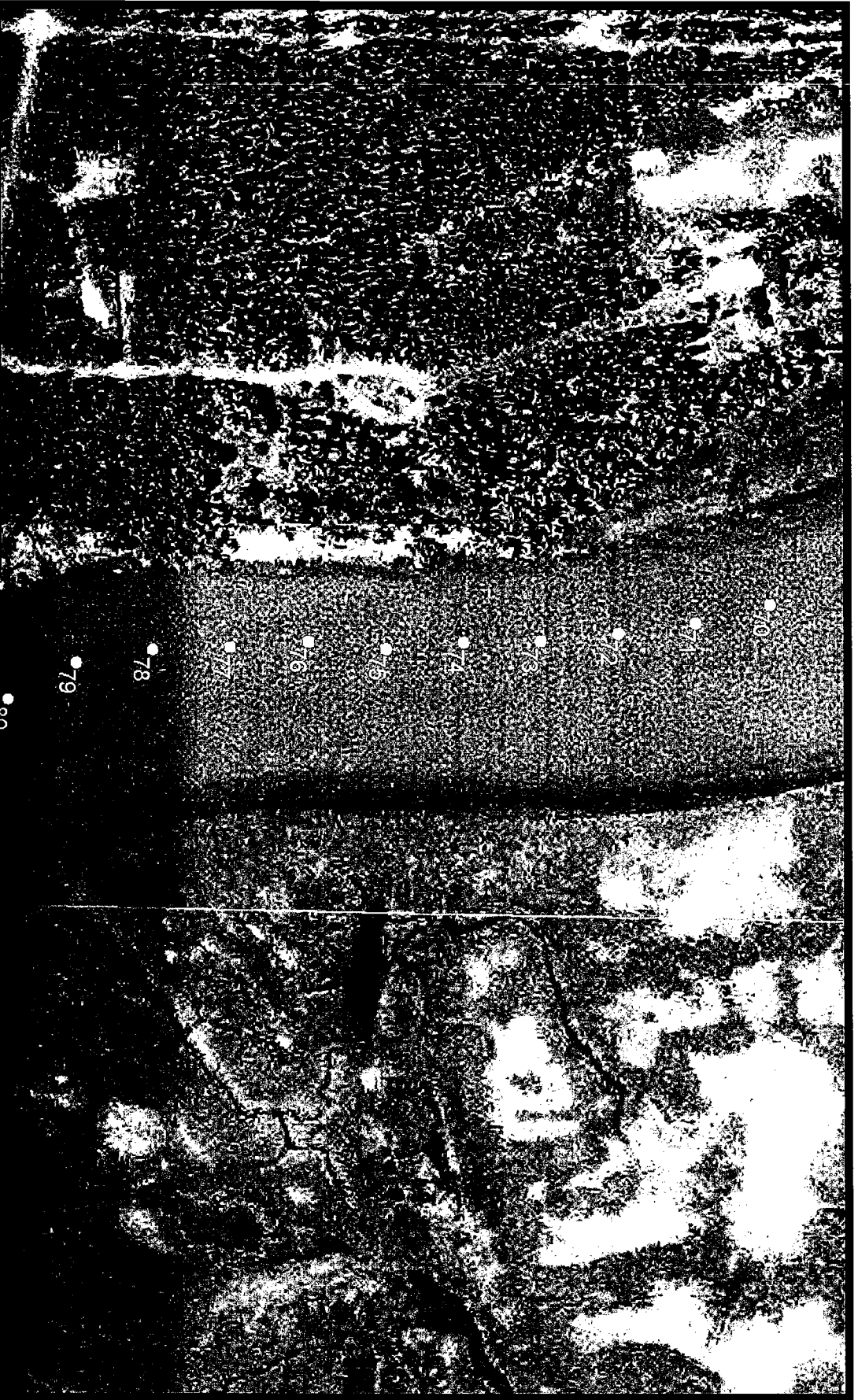
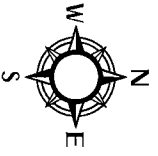
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General Permit 1987-3-M5  
Mooring Buoys on the Kaslof River  
Map Sheet 7 of 11  
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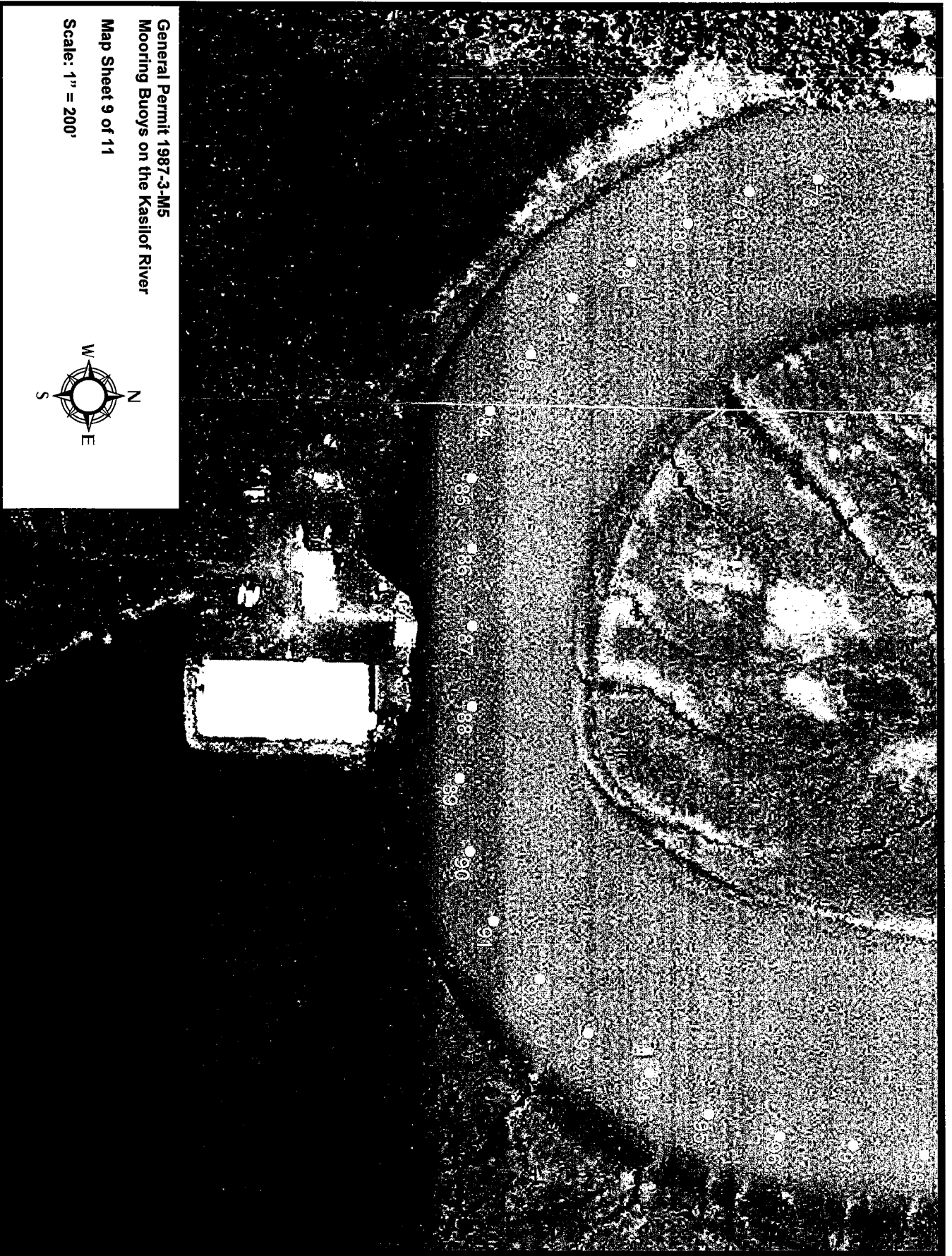
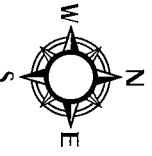


General Permit 1987-3-M5  
Mooring Buoys on the Kaslof River  
Map Sheet 8 of 11  
Scale: 1" = 200'

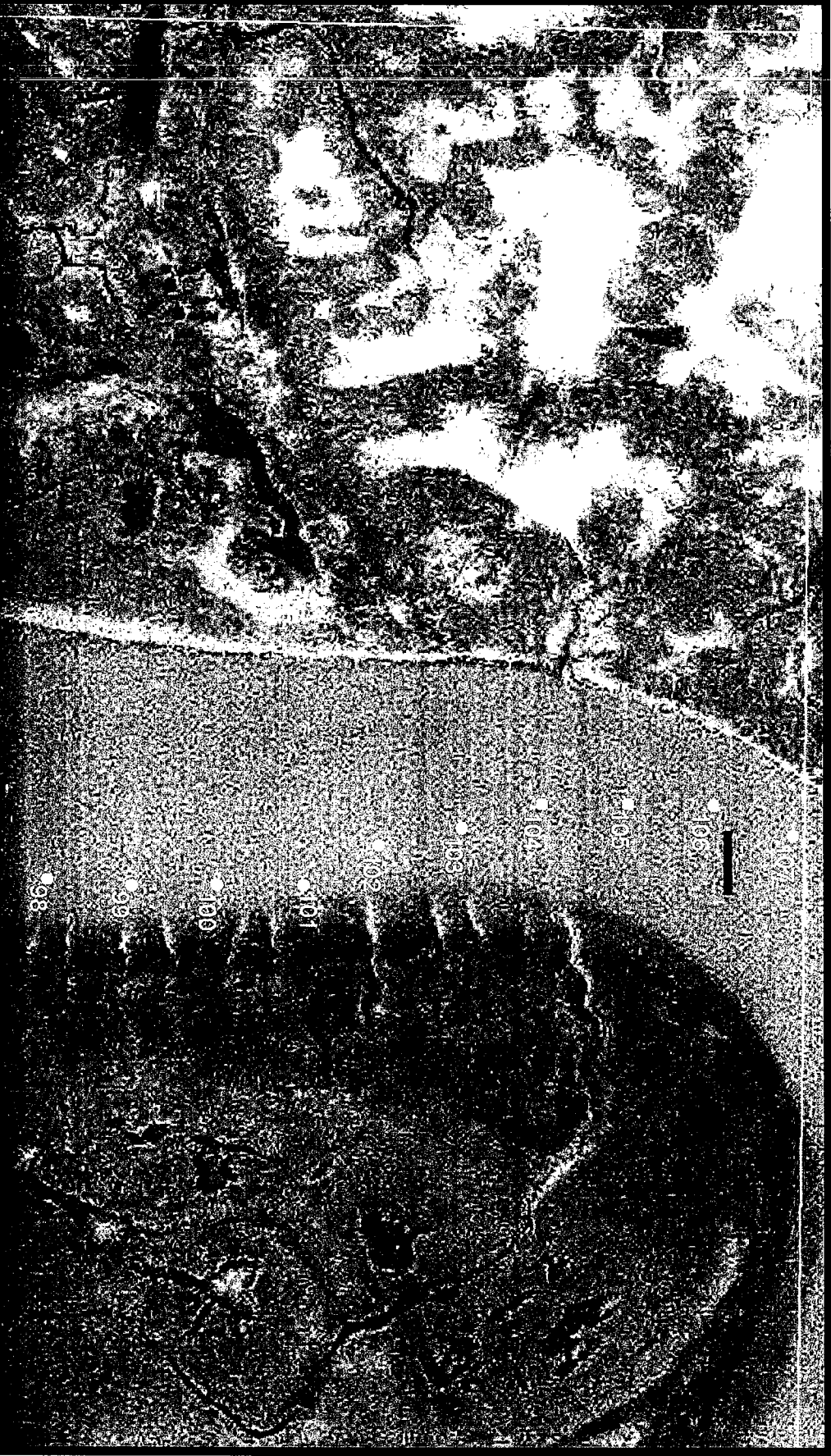
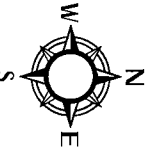




General Permit 1987-3-M5  
Mooring Buoys on the Kaslof River  
Map Sheet 9 of 11  
Scale: 1" = 200'

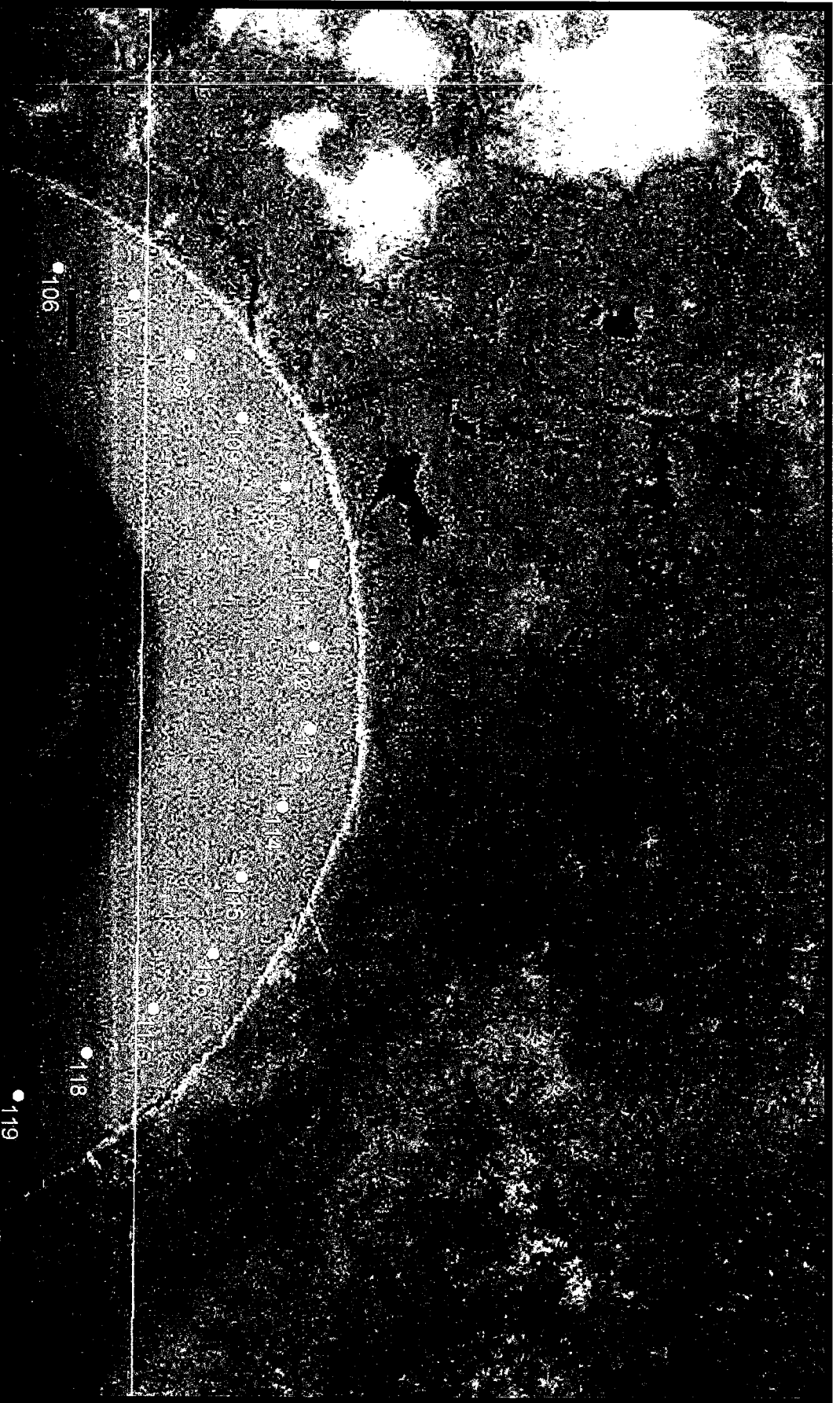
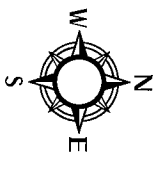


General Permit 1987-3-M15  
Mooring Buoys on the Kaslof River  
Map Sheet 10 of 11  
Scale: 1" = 200'



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General Permit 1987-3-M5  
Mooring Buoys on the Kaslof River  
Map Sheet 11 of 11  
Scale: 1" = 200'



## GENERAL PERMIT 1987-3-M5

Under the authority of Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) the Secretary of the Army has reauthorized the Alaska General Permit (GP) 87-3P for mooring buoys on the Kasilof River with GP 1987-3-M5. The permit allows for mooring buoys to be seasonally placed on the Kasilof River for a period of five years.

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

### AUTHORIZED ACTIVITIES:

This GP authorizes the seasonal placement of mooring buoys and associated anchors and chains in the Kasilof River for the purpose of conducting commercial fishing operations.

### ACTIVITIES NOT AUTHORIZED UNDER THE GP:

1. The placement of any dredged and/or fill material into waters of the U.S., including wetlands.
2. The placement of non-commercial mooring buoys.
3. The placement of commercial mooring buoys not assigned by the Corps

### INSPECTION:

The DE, or his designated representative, may 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 GP.

GENERAL CONDITIONS: Each buoy owner (permittee) shall be required to obtain a letter from the Corps verifying their use of this GP. Verifications will be valid for a period of 2 years and may be extended by the permittee upon confirming their use of the permit.

All activities identified and authorized by this permit shall be consistent with the following conditions:

1. The permittee shall notify the Corps every two years regarding the use of the permitted buoy and any address changes. Individual verifications shall expire if the permittee does not use the authorized buoy location over two consecutive years, and/or if the permittee does not submit the required information to the Corps on the required date.
2. The mooring buoys and attached vessel(s) shall be placed and kept outside of the navigation channel so as not to impede or obstruct navigation, or otherwise hinder safe access to, and use of the waterway by the general public. In addition, mooring buoys shall not be placed in locations that would hinder safe access to, or use of existing docks, piers, boat launch ramps, buoys, dolphins, floats, piles, or any other existing structures or facilities within the Kasilof River. The number of vessels moored to each buoy, the size of the anchor and associated chains as well as the swinging radius of the buoy and attached vessel(s) shall be considered when determining compliance with this condition.
3. The permittee shall be responsible for ensuring that all vessels attached to authorized mooring buoys are tied directly to the mooring buoy (i.e. the vessel is not tied to another vessel that is tied to the mooring buoy).
4. All buoy locations and numbers shall be assigned by the Corps and the permittee shall be responsible for placing and maintaining authorized buoys at the assigned location shown on the attached map. Mooring buoys assigned by the Corps shall be located not less than 165 feet apart in the lower river and

not less than 135 feet apart in the upper river. The dividing line between the upper and lower river is the upstream side of the old "Waterfall Cannery" located at Kasilof River mile 0.61, Latitude: 60° 22.90' N, Longitude: 151° 17.24' W. In addition, no mooring buoy shall be placed within 150 feet of the old ADOT dock, located at river mile 0.1, Latitude: 60° 23.18' N, Longitude: 151° 17.87' W.

5. The color of all buoys shall be white or international orange and shall be a minimum of 24 inches in diameter, clearly marked with the buoy number in black figures with a minimum of 2" high lettering. (i.e. mooring buoy number 1 in the Kasilof River shall have the designation KAS 1).

6. Mooring buoys may not be set in the Kasilof River prior to April 1 of each year and shall be removed by November 1 of each year.

7. Regarding disputes involving the placement of buoys, the permittee agrees that the Corps' decision is final. The permittee agrees to take the action directed by the Corps in resolving such disputes including relocation or removal of the buoy.

8. The permittee agrees not to use any buoy for which the Corps is involved in the resolution of a violation or disputed location and has so notified the permittee. The permittee further agrees that he or she will make arrangements to moor boats elsewhere until the conflict is resolved to the satisfaction of the DE.

9. The permittee shall maintain the activity authorized by this GP in good condition and in conformance with the terms and conditions of the GP. The permittee is not relieved of this requirement if the permitted activity is abandoned (i.e. permittee moves, etc.), although the permittee may make a good faith transfer to a third party in compliance with GC 10 below. Should the permittee wish to cease to maintain the authorized activity or desire to abandon it without a good faith transfer, approval from this office must be obtained.<sup>1</sup>

10. The permittee may transfer their authorization by written notification to this office. At initial contact, please provide the full name, address, and phone number of the transferee. A letter must be received from the permittee requesting and authorizing the transfer. A second letter must be received from the transferee stating their agreement to comply with all terms and conditions of the GP. This written agreement must be included in the permit file for final authorization.

11. Your use of the permitted activity must not interfere with the public's right to free navigation on all navigable waters of the United States.

12. You must install and maintain, at your expense, any safety lights and signals prescribed by the United States Coast Guard (USCG), through regulations or otherwise, on your authorized facilities. The USCG may be reached at the following address and telephone number: Commander (oan), 17th Coast Guard District, P.O. Box 25517, Juneau, Alaska 99802, (907) 463-2269.

13. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

14. The proposed activity shall not adversely affect any designated critical habitat or species listed as threatened or endangered under the Endangered Species Act of 1973, as amended. In addition, the

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<sup>1</sup> Permits do not automatically transfer upon abandonment of the permit by the permittee. A request for a transfer must be submitted in accordance with GC 10.

proposed activity shall not jeopardize the continued existence of any proposed species or result in the destruction or adverse modification of proposed critical habitat.

15. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this GP, you must immediately notify this office, and the State Historic Preservation Office of what you have found. The Corps 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.

#### PENALTIES FOR VIOLATIONS:

All work performed shall be in compliance with the terms and conditions of this GP. Failure to comply with the terms and conditions of this GP may result in suspension of the work, revocation of the permit, removal of mooring buoys, and/or imposition of penalties as provided by law.

Any work in and/or structures placed in the Kasilof River not in accordance with the terms and conditions of this GP is a violation of Section 12 of the Rivers and Harbors Act (33 U.S.C 406) providing penalties of not less than \$500, and not more than \$2,500, per day of violation or by imprisonment of up to one year, or both.

#### 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 U.S. in the public interest.
3. Damages to persons, property, or to other 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.

#### AUTHORIZATION PROCEDURE:

##### A. Current Permittees:

For individuals that were authorized to place one or more mooring buoys in the Kasilof River under General Permit 87-3P, authorization of GP 1987-3-M5 will be given without further public review provided the permittee gives written notification of intended activity to the Corps regarding their

intended use of the authorized buoy location and their agreement to comply with all terms and conditions of this GP.<sup>2</sup>

The notification must include the following information<sup>3</sup>:

- 1) The current name, address and telephone number of the permittee;
- 2) The Kasilof River mooring buoy number and Corps file number;
- 3) Use of the mooring buoy during the previous 2 fishing seasons;
- 4) Intended use of the mooring buoy for the following fishing season;
- 5) Verification of the location of the proposed mooring buoy; and;
- 6) A statement verifying that the permittee has read and agrees to comply with all terms and conditions of the GP.

Following receipt of the required information the Corps will issue a letter of authorization to the permittee.

## B. New Permittees

Individuals wishing to be considered for buoy authorization in locations where previous authorizations have expired, been abandoned or revoked should contact this office, in writing. A list will be kept in the order requests are received.

This request must include the following information<sup>4</sup>:

- 1) The current name, address and telephone number of the project proponent;
- 2) The location and number of the preferred location for a mooring buoy in the Kasilof River; and
- 3) The purpose and need for a mooring buoy in the Kasilof River.

**In order for the permittee to retain their authorization under GP 1987-3-M5, a notification of intended activity must be received by December 31 every two years.<sup>5</sup>**

### EVALUATION CRITERIA USED FOR PROJECT VERIFICATIONS:

In reviewing all proposed projects for this GP, the DE will determine whether or not the proposal:

- 1) Is consistent with the GP;
- 2) Will have a negative impact on navigation;
- 3) Will result in more than minimal individual or cumulative adverse environmental effects; and,
- 4) Is contrary to the public interest.

After this determination is made, the DC will notify the applicant in writing to verify the proposal either qualifies for the GP, which may include special conditions necessary to avoid and minimize impacts to the aquatic environment, or it does not qualify for the GP and a standard individual permit is required.

Should a standard individual permit be required, the DC will publish a public notice in accordance with 33 CFR Part 325.3(d).

### REEVALUATION OF PERMIT DECISION:

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<sup>2</sup> Mailing instructions can be obtained by calling the Corps at (907) 753-2712 or (907) 283-3519.

<sup>3</sup> A sample form that can be returned to this office is attached to the back of this permit.

<sup>4</sup> Alternatively, an applicant may elect to submit either the Kenai River Center's Multi-Agency Permit Application or application form, ENG Form 4345, Jul 97.

<sup>5</sup> The dates the form must be received by are: December 31, 2010, December 31, 2012, and December 31, 2014.

The Corps may reevaluate its decision to verify a GP authorization to any permittee 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. Substantial new information surfaces, which this office did not consider in reaching the original public interest determination.

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 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 (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

MODIFICATION, REVOCATION AND EXTENSION OF THE GENERAL PERMIT:

Should, at any time, the DC determine that the individual or cumulative effects of the activities authorized herein are having an unacceptable adverse effect upon the public interest, the DC may modify or revoke this GP with the issuance of a Public Notice. Should the DC revoke the GP all new applications will be evaluated under other available permit application review procedures. The DC will also decide on a case-by-case basis if prior GP verifications should be revoked, suspended, or modified.

The DE, during the fifth year of the GP, will review the GP along with the work verified under it in order to determine if the GP should be modified, extended, or discontinued.

District Commander  
U.S. Army, Corps of Engineers



**NOTIFICATION OF INTENDED ACTIVITY FORM FOR THE PLACEMENT  
OF MOORING BUOYS IN THE KASILOF RIVER UNDER THE  
CORPS OF ENGINEERS GENERAL PERMIT 1987-3-M5**

1. Contact Information:

_____ NAME			_____ PHONE-DAY
_____ ADDRESS 1			_____ PHONE-EVENING
_____ ADDRESS 2			_____ FAX
_____ CITY	_____ STATE	_____ ZIP	_____ E-MAIL

2. Corps File Number \_\_\_\_\_

3. Mooring Buoy(s) Number \_\_\_\_\_

4. Was your buoy(s) placed in the Kasilof for the previous 2 fishing seasons?  Yes  No

5. If no, which year(s) were your buoys not placed? \_\_\_\_\_

5. Do you intend to place the buoy in the Kasilof during the next fishing season?  Yes  No

6. Do you place your buoy in the location permitted by the Corps?  Yes  No

7. Additional Comments:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By signing this, I am verifying that I have read and agree to comply with all terms and conditions of GP 1987-3-M5.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
**PERMIT HOLDER** **FILE NUMBER** **MOORING BUOY NUMBER**

Inlet Fish Producers, Inc.	POA-1984-242-B	1
Salamatof Seafoods	POA-1981-113-B	2
Ocean Beauty Seafoods	POA-1986-300-B	3, 4, 5
Ocean Beauty Seafoods	POA-1986-472-B	6
Icicle Seafoods, Inc.	POA-1986-352-B	7
Icicle Seafoods, Inc.	POA-1986-247-B	8, 9, 10
Ocean Beauty Seafoods	POA-1986-366-B	11
Snug Harbor Seafoods	POA-1982-161-B	12, 13
Dyer Van Devere	POA-1986-480-B	14
Salamatof Seafoods	POA-1982-655-B	15, 16
Salamatof Seafoods	POA-1982-104-B	17
The River Company LLC.	POA-1982-199-B	18, 19, 20, 21, 22, 23, 24
Ronald Russell, Linda Wright	POA-1995-587-B	25
Heath Duncan	POA-1986-461-B	26
Inlet Fish Producers, Inc.	POA-1986-471-B	27
Dick Gunlogson	POA-1986-478-B	28
Snug Harbor Seafoods	POA-1982-161-B	29, 30, 31, 32
Jerry Hatten	POA-1986-460-B	33
Kelly Duncan	POA-1986-453-B	34
Freddie Blevins	POA-1986-346-B	35
Icicle Seafoods, Inc.	POA-1986-345-B	36
Emmet Heidemann	POA-1986-458-B	37
Emmet Heidemann	POA-1986-477-B	38
Theo Matthews	POA-1986-160-B	39
Icicle Seafoods, Inc.	POA-1986-378-B	40
David Martin	POA-1986-427-B	41
Ocean Beauty Seafoods	POA-1986-491-B	42, 43
Dan Garroutte	POA-1986-497-B	44
Cynthia Duffy	POA-1986-479-B	45
Carl Hatten	POA-1984-454-B	46
The Auction Block, Co.	POA-2005-897-B	47
Ronald Russell	POA-2005-900-B	48
Forrest Tressler	POA-1986-209-B	49, 50
Debra Holle	POA-1986-148-B	51, 52
Lee Martin	POA-1986-502-B	53
Tony Western	POA-1986-283-B	54
Van Swan	POA-1985-257-B	55
Roland Maw	POA-1986-489-B	56
TO REMAIN VACANT*	POA-1985-192-B	57
Dorius And Helen Carlson	POA-1978-049-B	58, 59, 60
Inlet Fish Producers, Inc.	POA-1986-401-B	61, 62
Bruce Gabrys	POA-1986-282-B	63
Ken Duffus	POA-1994-1109-B	64
Bruce Gabrys	POA-1986-279-B	65
Stephen Vanek, Jr.	POA-1986-464-B	66
John D. McCombs	POA-1986-465-B	67
Ronald Cox	POA-1986-496-B	68
Ocean Beauty Seafoods	POA-1986-491-B	69, 70, 71
Icicle Seafoods, Inc.	POA-1992-229-B	72
Inlet Fish Producers, Inc.	POA-2005-902-B	73

Ocean Beauty Seafoods	POA-1986-300-B	74, 75
Icicle Seafoods, Inc.	POA-1986-521-B	76
Jack Hughes	POA-1986-536-B	77
Steve Webb	POA-1986-494-B	78
Cosmo Mercurio	POA-1986-404-B	79, 80
Lawrence Waechtler	POA-1986-389-B	81, 82
Kasilof Riverside Properties	POA-1986-416-B	83, 84
Kasilof Riverside Properties	POA-1965-37-B	85, 86, 87, 88, 89, 90, 91, 92, 93, 94
Gary Jackinsky	POA-1986-538-B	95
Ridgley Stier	POA-1986-557-B	96
Emmet Heidemann	POA-1986-559-B	97
Inlet Fish Producers, Inc.	POA-1987-273-B	98, 99, 100, 101, 102, 103
David Scheer	POA-1987-659-B	104
The Auction Block, Co.	POA-1988-215-B	105
Dave Beck	POA-1988-214-B	106
Ocean Beauty Seafoods	POA-1988-213-B	107
Daniel A. Smith, Jr.	POA-1988-217-B	108
Dyer Van Devere	POA-1988-212-B	109
Icicle Seafoods, Inc.	POA-1988-216-B	110
Icicle Seafoods, Inc.	POA-1988-552-B	111
Icicle Seafoods, Inc.	POA-1988-551-B	112
The Auction Block, Co.	POA-1988-553-B	113
Kurt Weichand	POA-1988-550-B	114
Icicle Seafoods, Inc.	POA-1988-554-B	115
The Auction Block, Co.	POA-1988-555-B	116
The Auction Block, Co.	POA-1989-354-B	117
Snug Harbor Seafoods	POA-1990-415-B	118
Icicle Seafoods, Inc.	POA-1990-415-B	119
Ocean Beauty Seafoods	POA-1990-415-B	120
Snug Harbor Seafoods	POA-1990-416-B	121

# STATE OF ALASKA

**DEPARTMENT OF NATURAL RESOURCES**  
**OFFICE OF PROJECT MANAGEMENT AND PERMITTING**  
**ALASKA COASTAL MANAGEMENT PROGRAM**

FRANK H. MURKOWSKI  
GOVERNOR

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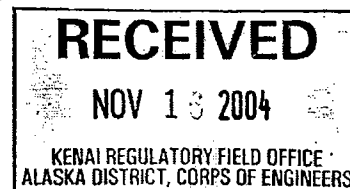
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[www.alaskacoast.state.ak.us](http://www.alaskacoast.state.ak.us)

November 15, 2004

Ms. Lisa Gibson  
U.S. Army Corps of Engineers  
Regulatory Branch  
105 Trading Bay Road, Suite 105  
Kenai, AK 99611



**SUBJECT:** Proposed General Permit 1987-3P, Kasilof River Seasonal Mooring Buoys and Associated Anchors and Chains  
State I.D. No. AK 0410-01AA  
Final Consistency Response

Dear Lisa Gibson:

The Office of Project Management & Permitting (OPMP) has completed coordinating the State's review of your proposed project for consistency with the Alaska Coastal Management Program (ACMP). OPMP has developed the attached final consistency response based on reviewers' comments. This final consistency response, developed under 11 AAC 110, applies to the federal consistency determination required for the activity per 15CFRT 930, Subpart C.

Based on an evaluation of your project by the Alaska Departments of Environmental Conservation, Fish and Game, and Natural Resources and the affected coastal resource district, OPMP *concurs* with your determination that the project is consistent with the ACMP and affected coastal district's enforceable policies to the maximum extent practicable.

This is the *final consistency decision* for your project.

This consistency response is only for the project as described. If you propose any changes to the approved project, including its intended use, prior to or during its siting, construction, or operation, you must contact this office immediately to determine if further review and approval of the revised project is necessary.

If you have any questions regarding this process, please contact me at 907-269-7475 or email [Amanda\\_Tuttle@dnr.state.ak.us](mailto:Amanda_Tuttle@dnr.state.ak.us).

Sincerely,



Amanda Tuttle  
Project Review Coordinator

Enclosures

cc:

Mel Langdon, DEC, Anchorage  
KPBCMP Coordinator, KP, Soldotna  
Jane Gabler, KP, Soldotna  
Mike Sullivan, DNR, Anchorage  
Robin Swinford, DNR/MLW, Anchorage  
Lee McKinley, DNR/OHMP, Soldotna  
Linda Markham, DOT/PF, Anchorage  
Stefanie Ludwig, DNR/SHPO, Anchorage  
Wayne Dolezal, DFG/DHR, Anchorage  
Robin Willis, DFG, Anchorage  
Lisa Gibson, COE Regulatory Branch

**ALASKA COASTAL MANAGEMENT PROGRAM  
FINAL CONSISTENCY RESPONSE  
CONCURRENCE**

**DATE ISSUED: NOVEMBER 15, 2004**

**PROJECT TITLE: PROPOSED GENERAL PERMIT 1987-3P, KASLOF RIVER SEASONAL MOORING BUOYS AND ASSOCIATED ANCHORS AND CHAINS**

**STATE ID. NO.: AK 0410-01AA**

**AFFECTED COASTAL RESOURCE DISTRICT(S): KENAI PENINSULA BOROUGH**

**PROJECT DESCRIPTION AND SCOPE OF THE PROJECT SUBJECT TO CONSISTENCY REVIEW:**

Except for the water quality issues addressed through the DEC 401 Certification process, the activity subject to this consistency review is the proposed issuance of General Permit (GP) 1987-3P for the seasonal placement of mooring buoys and associated anchors and chains in the Kasilof River for the purpose of conducting commercial fishing operations. The Kasilof River supports an important commercial and recreational fishery for several species of salmon, trout and Dolly Varden. The first 2.8 miles of the Kasilof River are used heavily by commercial fishermen for boat moorage during the commercial fishing season, as well as by the various processing plants and weighing stations. Because of this heavy commercial use, and to eliminate the need for a formal 60 to 90 day permit processing period for each mooring buoy, the Corps first authorized the placement of mooring buoys in the Kasilof River on June 20, 1986, with GP 86-1. Modifications in the past resulted in only minor changes in the General Permit. The current authorization for 121 mooring buoys on the Kasilof River, GP 87-30, expired on August 24, 2004. Throughout the 18 years the GP has been in existence, the number of mooring buoys authorized has increased from 109 to 121 mooring buoys, located on the first 2.8 miles of the Kasilof River. The objective of the GP authorization is to: 1. Expedite the permitting process by relieving the regulatory burden of a 60 to 90 day review process on permittees with authorized mooring buoy sites on the Kasilof River. 2. Allow the Department Engineer (DE) to better allocate regional resources towards projects having greater potential to harm the aquatic

environment. The draft proposed GP includes authorized activities, activities not authorized, inspection, general conditions, penalties for violations, limits of the authorization, limits of federal liability, authorization procedures, evaluation criteria used for project verifications, reevaluation of permit decision, and modification, revocation and extension of the general permit, and would be valid seasonally for a period of 4 ½ years from the date of issuance. This general permit is for the Kasilof River from Mile 0 to 2.8 miles upstream of the Kasilof River.

**CONSISTENCY STATEMENT:** OPMP concurs with the consistency certification submitted by the Alaska Corps of Engineers.

**AUTHORIZATIONS:** State agencies shall issue the following authorizations within five days after OPMP issues the final consistency determination that concurs with the applicant's consistency certification, unless the resource agency considers additional time to be necessary to fulfill its statutory or regulatory authority.

The activity may require the following federal and State permits:

Alaska Department of Natural Resources- Division of Mining, Land and Water  
Land Use Permit

Alaska Department of Environmental Conservation (DEC)  
Certificate of Reasonable Assurance (401)

The Department of Environmental Conservation (DEC) will review any activities subject to DEC permits, certifications, approvals, and authorizations for consistency with 6 AAC 80.140. The issuance of the permits, certifications, approvals, and authorizations by DEC establishes consistency with 6 AAC 80.140 for those specific activities.

Please note that, in addition to their consistency review, State agencies with permitting responsibilities will evaluate this proposed project according to their specific permitting authorities. Agencies will issue permits and authorizations only if they find the proposed project complies with their statutes and regulations in addition to being consistent with the coastal program. An agency permit or authorization may be denied even though the State concurs with the ACMP. Authorities outside the ACMP may result in additional permit/lease conditions. If a requirement set out in the project description (per 11 AAC 110.260) is more or less restrictive than a similar requirement in a resource agency authorization, the applicant shall comply with the more restrictive requirement. Applicants may not use any State land or water without Department of Natural Resources (DNR) authorization.

**APPEAL:** This final consistency response is a final administrative order and decision under the ACMP and for purposes of Alaska Appellate Rules 601-612. Any appeal from this decision to the superior court of Alaska must be made within thirty (30) days of the date this response is

issued.

**ADVISORIES:**

Please be advised that although OPMP concurs with the determination that the project is consistent to the maximum extent practicable with the ACMP, the Corps of Engineers is still required to meet all applicable State and federal laws and regulations. This consistency finding may include reference to specific laws and regulations, but this in no way precludes the Corps of Engineers responsibility to comply with other applicable laws and regulations.

If the proposed activities reveal cultural or paleontological resources, please stop any work that would disturb such resources and immediately contact the State Historic Preservation Office (907-269-8720) and the U.S. Army Corps of Engineers (907-753-2712) so that consultation per section 106 of the National Historic Preservation Act may proceed.

Final Consistency Response Prepared By:  
Amanda Tuttle, Project Review Coordinator  
550 W. 7<sup>th</sup> Avenue, Suite 1660  
Anchorage, AK 99501  
(907) 269-7475

Amanda Tuttle  
[Name]  
11/15/04  
[date]



## ACMP CONSISTENCY EVALUATION

Pursuant to the following evaluation, the project as proposed is consistent with applicable ACMP statewide and affected coastal resource district enforceable policies (copies of the policies are available on the ACMP web site at <http://www.alaskacoast.state.ak.us>).

<b>STATEWIDE ENFORCEABLE POLICIES</b>
<b>6 AAC 80.040. Coastal Development</b>
<b>Evaluation:</b> a) water dependent use is given priority b) OPMP defers to the COE to interpret compliance with the cited regulations.
<b>6 AAC 80.050. Geophysical Hazard Areas</b>
<b>Evaluation:</b> Not located in a known designated natural hazard area
<b>6 AAC 80.060. Recreation</b>
<b>Evaluation:</b> Not located in a designated recreational area.
<b>6 AAC 80.070. Energy Facilities</b>
<b>Evaluation:</b> Not applicable
<b>6 AAC 80.080. Transportation &amp; Utilities</b>
<b>Evaluation:</b> Not applicable
<b>6 AAC 80.090. Fish &amp; Seafood Processing</b>
<b>Evaluation:</b> Not applicable
<b>6 AAC 80.100. Timber Harvest &amp; Processing</b>
<b>Evaluation:</b> Not applicable
<b>6 AAC 80.110. Mining &amp; Mineral Processing</b>
<b>Evaluation:</b> Not applicable
<b>6 AAC 80.120. Subsistence</b>
<b>Evaluation:</b> Not applicable
<b>6 AAC 80.130. Habitats</b>
<b>Evaluation:</b> The Habitat Standard requires that habitats in the coastal area be managed so as to maintain or enhance the biological, physical, and chemical characteristics of the habitat which contribute to its capacity to support living resources. In addition, rivers, must be managed to protect natural flow, active floodplains and natural vegetation within riparian management areas. Evaluation: Based on Federal Consistency Determination provided by the Corps this proposed General Permit is consistent with the ACMP Habitat Standard.

**6 AAC 80.140. Air, Land & Water Quality**

**Evaluation:** The DEC statutes and regulations with respect to air, land and water quality are incorporated into the ACMP. The issuance of a DEC authorization constitutes consistency with the ACMP for the authorized activity and this standard. Consistency with this standard will be established when the DEC issues or waives the required authorizations.

**6 AAC 80.150. Historic, Prehistoric, and Archaeological Resources**

**Evaluation:** The applicant has been advised to stop work and contact DNR/SHPO and the U.S. Army Corps of Engineers if the proposed activities reveal cultural or paleontological resources.

**AFFECTED COASTAL RESOURCE DISTRICT ENFORCEABLE POLICIES**

**2.1 Navigation Obstruction:** Based on the Federal Consistency Determination provided by the Corps the mooring buoys will be visibly marked and placed to minimize navigational hazards or obstruction.