



US Army Corps
of Engineers
Alaska District

Public Notice

SPN-2005-11, dated May 18, 2006

Regulatory Branch (1145b)
Juneau Field Office
Suite 106B
8800 Glacier Highway
Juneau, Alaska 99801

**IDENTIFICATION Nos.: GP 2000-01, GP 2000-02,
GP 2000-03, and GP 2000-04**

In reply refer to above Identification Number(s)

GENERAL PERMITS

GP-2000-01, GP-2000-02, GP-2000-03, & GP-2000-04

General Permits for the City and Borough of Juneau, Alaska

The District Engineer, Alaska District, U.S. Army Corps of Engineers has issued three General Permits (GPs) Renewals for GPs 2000-01, 2000-02, and 2000-03, under the authority of Section 404 of the Clean Water Act (Public Law 95-217, 33 U.S.C. 1344 et. seq.), for the mechanized land clearing and for the discharge of fill material into waters of the United States (U.S.), including wetlands, within the City and Borough of Juneau (CBJ), Alaska.

In response to Special Public Notice SPN-11, dated July, 18, 2005, the three proposed GPs 2000-01, 2000-02, and 2000-03 were revised to reflect comments submitted by local, State, and Federal agencies, and the interested public. GP 2000-04, was not reauthorized due to lack of use and was allowed to expire and will not be renewed. Based on a review of all pertinent information, including a prepared Environmental Assessment and Combined Decision Document, I have concluded that issuance of these permits will not have more than minimal adverse impact on the environment and is not contrary to the public interest.

Several changes to the reauthorized GPs have been made. See CHANGES FROM GP 2000-01, 2000-02 and 2000-03, in the attached GP document.

These GPs will authorize the discharge of fill material into waters of the U.S., including wetlands, for the purpose of creating foundation pads for structures, utilities, associated roads, driveways, parking areas, and other domestic, governmental, and commercial development, as well as enhancement of certain environmental situations. These GPs authorize mechanized land clearing and other activities that could result in a re-deposition of fill material.

The wetland units covered by these GPs, as described in the original GP 92-01, dated June 30, 1995, have been mapped on the CBJ Street Atlas. Maps showing the areas subject to authorization under these GPs, and areas specifically excluded from the GPs, are available for public use at the CBJ Department of Community Development, 155 South Seward Street, Juneau, Alaska, 99801-1397, telephone (907) 586-5235; and at the Alaska District, Corps of Engineers, Regulatory Branch, Juneau Field Office. Please note that these GPs will result in slight changes to those maps. The areas excluded from the GPs' coverage will be subject to an individual permit review. All authorized activities must be in accordance with the conditions of the GPs, a copy of which is attached. Failure to comply with the terms and conditions of these permits could result in suspension, modification, or revocation of the permit, and/or imposition of penalties as provided by law.

GPs 2000-01, 2000-02, and 2000-03 will be valid for a period of five years effective the date of this public notice. The District Engineer 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 comments or request for additional information should be directed to: Alaska District, Corps of Engineers, ATTN: Mr. Garth Zimbelman, Regulatory Specialist, Juneau Field Office, U.S. Army Corps of Engineers, Suite 106, 8800 Glacier Highway, Juneau, Alaska 99801-8079, or contact Mr. Zimbelman at (907) 790-4490, by FAX at (907) 790-4499 or by email at Garth.A.Zimbelman@poa02.usace.army.mil.

District Engineer
U.S. Army, Corps of Engineers

Attachments

GENERAL PERMITS 2000-01, 2000-02, 2000-03

General Permits (GP) 2000-01, 2000-02 and , 2000-03, dated July 24, 2000, and previously issued cumulatively as GP 92-1 on June 30, 1995, have been reauthorized for a period of 5 years by the Alaska District, Corps of Engineers (Corps), in accordance with Title 33 CFR 325.2 (e)(2), as published in the Federal Register, Volume 51, Number 219, pursuant to Section 404 of the Clean Water Act (PL 95-217, 33 U.S.C. 1344), and authorize the mechanical land clearing of wetlands, and the placement of fill and/or dredged fill material into wetlands within the City and Borough of Juneau (CBJ) which have been designated 'C', 'D', 'EP', or as 'Road Corridors' in the Juneau Wetlands Management Plan (JWMP), dated February 1991, and adopted in revised form by the Coastal Policy Council on October 31, 1991, and as approved for incorporation into the Federally approved Alaska Coastal Management Plan (ACMP) pursuant to 15 C.F.R. 923.84, effective November 23, 1993 (see Attachment 1 for the list of approved management categories). GP 2000-04, dated July 24, 2000, was not reauthorized and has been allowed to expire. All previous changes and revisions have been incorporated into the revised JWMP, dated February 1997. New changes to the GPs and the JWMP are described below.

ACTIVITY: These GPs authorize the placement of fill into certain designated wetlands located within the CBJ.

GP 2000-01, POA-2005-756 is for residential fill pads, site preparation, and driveways. Residential development is defined as the construction of single, attached and multi-family dwellings, a subdivision; a place used exclusively for human habitation; a person's fixed, permanent, and principal home for legal purposes. Residential development also includes work performed in association with the installation of driveways and of a dwelling's septic/sewer system. See CBJ Land Use Code, Title 49.

GP 2000-02, POA-2005-757 is for commercial, community and institutional development. Commercial development is defined as the construction of private facilities for the exchange or buying and selling of commodities. Commercial development structures include movie theaters, pool halls/arcades, video tape rentals, bingo halls, hotels/restaurants, hair salons, tanning salons, fabric/dress shops, daycare/baby-sitting facilities, lumber and hardware stores, etc. Public and institutional development is defined as the construction of facilities relating to business or community interests as opposed to private interests. Public development includes city halls, church buildings, post offices, fire stations, and similar projects. See CBJ Land Use Code, Title 49.

GP 2000-03, POA-2005-758 is for wetland functional enhancement projects. See CBJ Land Use Code, Title 49.

GP 2000-04, POA-2005-759 was for roads and other linear developments. This GP is not being re-authorized and has been allowed to expire.

In addition to the restrictions described in the revised JWMP adopted by the Coastal Policy Council on October 31, 1991, and as approved for incorporation into the Federally approved Alaska Coastal Management Plan (ACMP) pursuant to 15 C.F.R. 923.84, effective November 23, 1993, no authorization for fill is granted by these GPs for the following activities: heavy industry, dry cleaning operations, battery transfer yards, commercial auto repair garages, fuel storage sites, hazardous waste management facilities, service stations, landfills, petro-chemical plants, or other projects involving the manufacture, storage, or disposal of waste/toxic substances. All activities built under these GPs shall conform to the CBJ Land Use Code. The impacts of fill pads for other uses are similar regardless of surface use; further review and decisions concerning surface uses in the areas covered by these GPs are appropriate to State and local government. These GPs do not apply to estuaries or anadromous riverine wetlands, protective greenbelts, or any other wetland or corridor not designated C, D, or EP, or as a Road Corridor. Mitigation activities, involving either land clearing and/or the discharge of dredged or fill material into waters of

the United States (U.S.), including wetlands, not administered by these GPs, will require a separate Department of the Army authorization. These GPs are based on the JWMP, dated February 1991, with the inclusion of revisions approved by the Coastal Policy Council on October 31, 1991, the revised list of wetland unit classifications

with special conditions in the attachment to these GPs, the maps in the Juneau Wetlands, Functions and Values, Map Appendix, dated September 1987, the revised list of wetland unit classifications with special conditions and maps provided in the February 1997 revision of the JWMP, and will include the changes described below. These GPs will not be altered by any change in the CBJ's Plan unless the District Engineer determines that an alteration is not contrary to the public interest following a public interest review of the proposed change or alteration, and the GP is subsequently modified to incorporate these revisions.

CHANGES MADE TO GPs 2000-01, 2000-02, 2000-03:

1. General Condition #9, as stated in SPN-2005-11, has been changed by the addition of the following language, *"The CBJ shall fax the permit applications to the State Historic Preservation Office (SHPO). Upon receipt of the fax, the SHPO will have 15 days to review the project for conflicts with the cultural resources under Section 106 of the National Historic Preservation Act. If necessary, the SHPO may request additional review time provided that they contact the CBJ within 15 days"*.

2. Special Condition #4, as stated in SPN-2005-11, has been removed from the GP Special Conditions, as it is no longer relevant to the renewed GPs.

PROCEDURE: All applicants desiring to mechanically clear, or discharge dredged and/or fill material into U.S. waters under the terms of these GPs will submit an application to the CBJ Department of Community Development. The application will require descriptions of the location, proposed activity, purpose and need. The description will include quantities of fill, acreage of disturbed surface area, steps that the applicant proposes to take to comply with the mitigation policies of the JWMP, source of fill, and offsite disposal locations, supported by applicable drawings and narrative.

The CBJ will determine if the proposed mechanical land clearing, or discharge of dredged and fill material meets local permit requirements and is consistent with the criteria of the GP. In all cases the CBJ will proceed with its review as soon as it receives an application. The CBJ's determination of consistency is advisory, is not legally binding as to authorization under a particular GP, and does not constitute issuance of or authorization under the GPs.

For projects that would involve mechanically clearing, or filling between five and ten acres of wetlands, the CBJ will provide the Corps with a copy of the application; the Corps shall determine which GP applies and whether any additional special conditions shall be added to protect the Federal interest. The Corps shall have 15 days in which to make this determination. In reviewing an activity under the notification procedure, the District Engineer will determine whether the activity will result in more than minimal individual or cumulative adverse environmental effects or will be contrary to the public interest. The Corps shall notify the CBJ of its determination.

For projects that would involve mechanically clearing, or filling more than ten acres of wetlands, the CBJ will provide the application to the Corps, who shall determine within 30 days of receipt of a complete application whether one or more of the GPs apply, or if the proposed project requires an individual Department of the Army permit. The Corps shall notify the CBJ of its determination. If the proposed action meets the GPs' qualifications, the application would be returned to the CBJ.

For projects that would involve mechanically clearing, or filling five or less acres of wetlands, the CBJ will determine whether the proposed activity is located in areas designated as Road Corridors or classified as a C, D, or EP wetland and meets the criteria of one or more of the GPs. Upon issuance of the necessary CBJ Wetland Permit and other CBJ Title 49 Planning and Zoning permits, no further Corps action is required to proceed under one or more of these GPs. As is currently the case, the CBJ

will require that all necessary municipal authorizations be obtained before the requested mechanical land clearing, or discharge of dredged and fill material can proceed. Relative to the GPs, the Corps retains its full legal authority and may suspend use of or find a violation of the GPs at any time it determines that an

activity is not in compliance with the GPs, even if the CBJ has advised an applicant the activity meets the criteria of the GP's.

Authorization to proceed will require fulfillment of the general conditions specified here and of the special conditions applicable to particular sites as noted in the attachment to this notice, as well as fulfillment of any additional special conditions included in the CBJ Wetland Permit as determined by the CBJ Wetlands Review Board. At the time of the issuance of the local authorization, the CBJ will give a copy of the conditions for these GPs to the individual.

The CBJ authorization of the CBJ Wetland Permit would expire in eighteen months, if no other required CBJ permits have been issued, or no substantial construction progress has been made pursuant to these local permits, unless otherwise specified in the CBJ Wetland Permit. For any partially completed work, the permittee shall restore the site to pre-project conditions or apply for an extension or reauthorization under the GP from the CBJ.

INDIVIDUAL AUTHORIZATIONS: Any project that has any local authorization denied will be closed and an application for an individual DA permit will not be accepted by the Corps. The Corps retains the final review and authority to determine compliance of a given activity with the GP. The CBJ is expected to confer with the Corps in questionable or borderline proposals before the requisite local authorization to proceed under the GP is issued.

REPORTING: The CBJ shall compile information on authorizations issued under this GP and provide the Corps with copies of all applications and authorizations made under each GP for each quarter. Reports shall be submitted to the District Engineer by the following dates: April 10 (for January 1- March 31), July 10 (for April 1-June 30), October 10 (for July 1- September 30), and January 10 (for October 1- December 31).

The CBJ will submit to the District Engineer once a year the following information: total acreage permitted for mechanical land clearing, or discharge of dredged and fill material, number of permits granted for each GP, average permit processing time, and enforcement activities. In addition, if the CBJ adopts and implements a mitigation banking plan, a copy of the appropriate wetland mitigation bank annual report will be submitted to the District Engineer.

IMPLEMENTATION: Implementation will be in accordance with the JWMP of February 1991, as amended by the Coastal Policy Council on October 31, 1991, and the site-specific changes described in this document, and in the revised JWMP, dated February 1997, and the CBJ implementing ordinance.

DURATION: These GPs are in effect for a period of 5 years. At the end of the 5-year period, an evaluation of the program will be made and at that time it will be decided whether one or more of these permits should be renewed.

MAPS AND JURISDICTIONAL BOUNDARIES: These GPs are based on the revised JWMP, dated February 1997, with the inclusion of revisions approved by the Coastal Policy Council on October 31, 1991, the revised list of wetland site classifications with special conditions attached to the original GP, and the maps in the Juneau Wetlands, Functions and Values, Map Appendix, dated September 1987. The procedure for situations where the wetland designation or classification is in question and needs a more definitive jurisdictional determination consists of requesting field verification from the District Engineer. The wetland units covered by these GPs have been mapped on the CBJ Street Atlas. This Atlas is available for review from the CBJ Department of Community Development, 155 South Seward Street, Juneau, Alaska, 99801-1397; telephone (907) 586-5235. Please note the changes to the JWMP, resulting from the changes in the Shoreline Corridor Rule.

VERIFICATION: These GPs do not require notification to the District Engineer prior to commencement of the authorized activity, nor do they require confirmation from the District Engineer that a proposed activity is in full compliance with all terms and conditions of this GP as authorized.

Nevertheless, a General Permittee may choose to request in writing, verification that his proposed activity is authorized by a specific GP, by writing to the Alaska District, Corps of Engineers, Regulatory Branch, Juneau Field Office, Suite 106, 8800 Glacier Highway, Juneau, Alaska 99801-8079. Any written inquiry must include the following information:

1. Name, address and telephone number of the applicant;
2. Location of the proposed work;
3. Brief description of the proposed work listed in the earlier Procedures Section of the specific GP;
4. Identification of the GP or permits which apply to the proposed work; and
5. Any other information that the applicant believes is appropriate.

If the General Permittee's written request for verification is complete, accurate and made in good faith, and the Corps does not respond to such inquiry within 20 days after the Corps receives such inquiry, the General Permittee may proceed with the activity, provided all necessary CBJ permits are obtained. The General Permittee's authorization can only be suspended, modified or revoked in accordance with the procedure set forth in 33 CFR 325.7. If the Corps later determines that the General Permittee's written request for verification was inaccurate, incomplete or made in bad faith, and that the activity was not in fact authorized by the GP, the Federal Government may bring an appropriate enforcement action under 33 CFR Part 326.

GENERAL CONDITIONS: All authorizations issued under these GPs are subject to the following conditions:

1. The amount of fill authorized by these GPs shall not exceed the amount authorized by the CBJ in its wetland permit.

2. Activities authorized under these GPs shall not adversely impact adjacent estuarine, riverine, or A & B wetlands by causing ponding, drainage, siltation or inadvertent fill. The use of culverts or other methods may be required to ensure compliance with this condition. Shoreline corridors shall be designated measuring 100 feet landward (inclusive) of the ordinary high water mark of anadromous fish streams and lakes. This corridor will be classified as Category A Wetlands (see Shoreline Corridor Rule).

3. All fill material authorized under these GPs shall be free from toxic pollutants in toxic amounts, as defined by Alaska State law.

4. Upon completion of earthwork operations, all exposed slopes, fills and disturbed areas shall be properly stabilized, by appropriate means such as landscaping, or planting and maintaining vegetative cover to prevent subsequent erosion. All disturbed soil areas (exposed soils) shall be revegetated within the next growing season. Natural revegetation is acceptable if the site will be revegetating itself within the next growing season. If natural revegetation is not successful, additional measures shall be taken to ensure compliance with this condition, such as interim protective cover until natural regrowth occurs.

5. No borrow material may be obtained within 330 feet of an eagle nest. This does not absolve the applicant from responsibilities to protect bald eagles under provisions of the Bald Eagle Protection Act.

6. No borrow material may be obtained from an estuarine, riverine, A or B wetlands for activities covered under these GPs.

7. These GPs do not apply for activities currently covered by a Nationwide Permit. No additional authorization is required for Nationwide-Permitted activities.

8. The permittee must maintain the structure or work authorized by these GPs in good condition and in conformance with the terms and conditions of the specific GP. The permittee is not relieved of this requirement if the permittee abandons the

permitted activity, although the permittee may make a good faith transfer to a third party. Should the permittee wish to cease to maintain the authorized activity or should the permittee desire to abandon it without a good faith transfer, the permittee must obtain a modification of this permit from this office, which may require restoration of the area.

9. All activities conducted under these GPs (including the use of new borrow sites) shall not take place in or adversely affect any existing historical properties listed or eligible for listing in the National Register of Historic Places or any historical properties found to be listed or eligible for listing on the National Register of Historic Places subsequent to the issuance of these GPs. The CBJ shall fax the permit applications to the State Historic Preservation Office (SHPO). Upon receipt of the fax, the SHPO will have 15 days to review the project for conflicts with the cultural resources under Section 106 of the National Historic Preservation Act. If necessary, the SHPO may request additional review time provided that they contact the CBJ within 15 days. If the permittee discovers any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, the permittee must immediately notify the Corps regarding the find. 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.

10. The permittee must comply with any conditions specified as part of the State water quality certification, which is part of these GPs.

11. 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.

12. Design plans for any stormwater collection system to be placed into or associated with the authorized fill must be approved by the Alaska Department of Environmental Conservation prior to system construction or fill placement.

13. Measures shall be implemented to attenuate flows, remove oil, grease, and other petroleum products from the project's stormwater collection system, if one is required by the Alaska Department of Environmental Conservation.

14. Design plans for any on-site sewage disposal system associated with the proposed fill must be approved by the Alaska Department of Environmental Conservation prior to construction.

15. The permittee must allow the District Engineer, or his designated representatives, to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of these GPs.

16. These GPs shall not apply to any activity or use that would involve the storage or use of hazardous materials or substances as part of their principal purpose. These materials are defined in the Resource Conservation and Recovery Act and the Comprehensive Environmental Response and Liability Act.

17. All activities authorized under these GPs must meet a clearly demonstrated need. The CBJ review and building permit shall be instrumental in this respect to help prevent speculative projects and/or those contrary to the general public interest.

18. The applicant must design his proposed project so as to minimize the area of wetlands needed to be filled.

19. Equipment Operation and Marking of Footprint: Prior to initiation of construction, the permitted project footprint and any applicable waterbody setbacks, wetland buffers, and/or other avoidance areas shall be clearly delineated, using stakes, flags, fencing, or other similar measures. No equipment used for activities permitted under these GPs shall be operated, stored, or serviced in wetlands, and no

mechanized land clearing or discharge of fill material may occur, even temporarily, in wetlands or other waters beyond the project footprint or within avoidance areas.

20. All activities identified and authorized herein shall be consistent with the terms and conditions of the appropriate GP, and activities not specifically identified and authorized herein shall constitute a violation of the terms and conditions of that GP which result in the modification, suspension or revocation of any authorization in whole or in part, and in the institution of such legal proceedings as the United States Government may consider appropriate.

21. All activities authorized herein shall be conducted in a manner that is consistent with applicable water quality standards, effluent limitations and standards of performance, prohibitions, pretreatment standards, and management practices established pursuant to the Clean Water Act (PL 95-217 33 U.S.C. 1344), the Marine Protection, Research and Sanctuaries Act of 1972 (PL 92-532: 86 Stat. 1052) and pursuant to applicable State and local law.

22. The activity shall not jeopardize the continued existence of a threatened or endangered species, as identified under the Endangered Species Act, or endanger the critical habitat of such species.

23. The permittee shall implement the construction or operation of the work authorized herein in a manner so as to minimize adverse impact on fish, wildlife and natural environmental values. The project shall include all measures imposed by the CBJ Wetland Review Board to mitigate the adverse impacts of the work consistent with the enforceable policies of Chapter 3 of the JWMP, dated February 1991, as revised by the Coastal Policy Council on October 31, 1991.

24. These GPs shall not apply to mitigation activities involving either land clearing and/or the discharge of fill into estuaries or anadromous riverine wetlands, protective greenbelts, or any other wetland or corridor not designated C, D, or EP, or as a Road Corridor. For these situations, a Department of the Army permit application must be submitted to the Corps.

SPECIAL CONDITIONS: (pertaining to specific wetland unit designations in the JWMP).

1. **UM1:** Portions of the Category C area shall be retained undisturbed through a site plan review process that shall consider: (a) siting residences to the extent practicable to maximize use of the non-wetland areas or lower value wetland areas that occur within the unit; (b) restricting fill associated with the residences, driveways and roads to the minimum amount necessary to achieve project purposes; (c) use of site plan techniques to consolidate development. The area shall be retained in a low-density residential zoning (D1, D3, or D5). Construction mitigation techniques shall be used to avoid impacts to portions of the wetlands that shall not be developed. The CBJ staff shall consult with the agency working group on these issues during the site plan review process and when preparing a recommendation to the Wetlands Review Board.

2. **M7, M9, M10, and M13:** If development is proposed in wetland units M7, M9, M10 or M13, the applicant shall be required to conduct mitigation to support and enhance the functioning of Jordan Creek in the area owned by the CBJ in Wetland Unit M7. The "Juneau Creeks Greenbelt Study", prepared by the CBJ with the assistance of the Alaska Department of Fish and Game in January 1984, lists possible mitigation projects for this section of Jordan Creek. These projects could be pursued as mitigation.

3. **M9:** Development of Wetland Unit M9 shall involve a site plan that shall consider: (a) restricting fill to the minimum amount necessary to achieve stated

project purposes; (b) consolidating development; and (c) if development of the wetland is to occur in phases, the lower value areas shall be developed first to the extent practicable. Construction mitigation techniques shall be used to avoid impacts to the portion of the wetland that is not developed. This should include maintaining the hydrologic connection to the undisturbed portion of the wetland through Wetland Unit M10. The CBJ staff shall consult with the agency working group on these issues during the site plan review process and when preparing a recommendation to the Wetlands Review Board.

4. MW5: Fill shall be restricted to the minimum amount necessary to achieve project purposes and measures shall be taken to avoid impacts to portions of the wetland not developed. Applicants shall conduct mitigation that is appropriate to enhance the wetland values in the immediate area. For example, the applicant could be required to enhance waterfowl use of the area through development of waterfowl staging ponds on the CBJ-owned property (MW4) to enhance the regional ecological diversity of the area. The CBJ staff and Wetland Review Board shall be consulted to determine the appropriate mitigation strategy for any proposed project.

LIMITS OF THIS AUTHORIZATION:

1. These GPs and authorizations obtained under these GPs do not obviate the need to obtain other Federal, State, or local authorizations required by law, nor does it authorize activities denied by any State or Federal agency, or the CBJ.

2. These GPs do not convey property rights, either in real estate or material, or exclusive privileges; do not authorize injury to property, or invasion of rights, or any infringement of Federal, State, or local laws or regulations; nor do these GPs obviate the requirement to obtain State or local assent required by law for the activity authorized herein.

3. These GPs or authorizations obtained under these GPs do not authorize interference with any existing or proposed Federal project.

4. In issuing these GPs or authorizations obtained under these GPs, the Federal Government does not assume any liability for the following:

a. Damages to an authorized project or uses thereof as a result of the permitted or non-permitted activities or from natural causes;

b. Damages to an authorized project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest;

c. Damages to persons, property, or to other permitted or non-permitted activities or structures caused by the activity authorized by this GP;

d. Design or construction deficiencies associated with the authorized work;

e. Damage claims associated with any future modification, suspension, or revocation of one or more of these GPs, or authorizations obtained under these GPs.

5. This office may reevaluate its decision on the GPs or any determinations made under these GPs by either this office or the CBJ at any time the circumstances warrant. Circumstances that would require a reevaluation include, but are not limited to, the following:

a. The permittee or the CBJ fails to comply with the terms and conditions of a specific GP;

b. The information provided by the permittee in support of an application for authorization under these GPs proves to have been false, incomplete, or inaccurate;

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision; or

d. The CBJ itself is found to be party to violations of the Clean Water Act. If the District Engineer determines that this has occurred, the District Engineer may require verification of all projects by the Regulatory Branch of the Alaska District, Corps of Engineers, until such time as the issue is resolved to the District Engineer's satisfaction.

Such a re-evaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring the permittee to comply with the terms and conditions of these GPs and for the initiation of legal action where appropriate.

The permittee shall be required to pay for any corrective measures ordered by this office, and if the permittee fails 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 the permittee for the cost.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

Colonel, Corps of Engineers
District Engineer

Attachments

ATTACHMENT to GENERAL PERMITS 2000-01, 2000-02 and 2000-03

Note: These GPs are based on mapping by the Alaska District, Corps of Engineers, Regulatory Branch, as shown in the Juneau Wetlands, Functions and Values, Map Appendix, September 1987; many small wetlands not shown are protected by law, but are not included in these GPs.

Note: Shoreline Corridor Rule. Riverine and lacustrine shoreline corridors take priority over all other management categories and designations. All catalogued anadromous fish streams shall have a 100-foot shoreline corridor on each side of the stream, measured from the ordinary high water mark in the main channel up to the point shown in "An Atlas to the Catalog of Waters Important for Spawning, Rearing or Migration of Anadromous Fishes" indicating the presence of anadromous fish. The 100-foot shoreline corridor shall be designated and managed as Wetland Category A. There shall be a 100-foot shoreline corridor around lakes, measured from the ordinary high water mark of the shoreline; the lacustrine shoreline corridor shall only apply to bodies of water more than 20 acres in area with water depths in the deepest part of the basin exceeding 6.6 feet at low water. If the lacustrine wetland or adjacent palustrine wetland is Category A, then the 100-foot lakeshore corridor shall be Category A. In all other cases the lakeshore corridor shall be Category B. This rule applies only to wetlands; no uplands shall be included within the 100 foot A or B wetland corridors. The Shoreline Corridor Rule shall take precedence over the Residential Road Corridor Designation Rule, described below.

Note: The Residential Road Corridor Designation Rule is described on page 30 of the JWMP, February 1991, with further amendments by the Coastal Policy Council on October 31, 1991: The definition of "residential road corridor" is also discussed on page 5 of the revised JWMP, February 1997. It applies only to residential development on parcels where public water is already provided, the parcel is already affected by development and is subdivided into small lots. This rule allows residential development to be reviewed under Category C guidelines in cases where: (1) the residential parcel is in a development corridor served by public water and existing local access roads; (2) the property owner has no practicable upland alternative to wetland development; and (3) the proposal shall consist of only residential building pads and direct access to them. The Residential Road Corridor Rule is quoted in part here: "Undeveloped palustrine wetland residential parcels with no practicable upland development alternatives shall have a temporary 100-foot Category C designation corridor measured from the road frontage right-of-way,.... Developed palustrine residential parcels shall have a Category C designated envelope that is 30 percent larger than their existing fill footprint.... Undeveloped residential parcels with an upland practicable development alternative on the parcel shall retain their original designated management category."

M7, M9, M10, and M13: If development is proposed in wetland units M7, M9, M10 or M13, the applicant shall be required to conduct mitigation to support and enhance the functioning of Jordan Creek in the area owned by the CBJ in Wetland Unit M7. The "Juneau Creeks Greenbelt Study", prepared by the CBJ with the assistance of the Alaska Department of Fish and Game in January 1984, lists possible mitigation projects for this section of Jordan Creek. These projects could be pursued as mitigation.

M9: Development of wetland Unit M9 will involve a site plan review process that will consider: (1) restricting fill to the minimum amount necessary to achieve stated project purposes; (2) consolidating development; and (3) if development of the wetland is to occur in phases, developing to the extent practicable the lower value areas first. Measures shall be taken to avoid impacts to the portion of the wetland that is not developed. This would include maintaining the hydrologic connection to the undisturbed portion of the wetland through wetland Unit M10. CBJ staff will consult with the appropriate Federal, State and local Borough/City resource agencies on these issues during the site plan review process and when preparing a recommendation to the Wetlands Review Board.

M49, M51, and M53: These wetland units are re-classified as Category A wetlands. An individual Department of the Army permit will be required prior to the discharge of material into these wetlands, which were previously categorized as 'C' wetlands in GP 92-01 and in the JWMP.

WEST VALLEY

MW5: Fill will be restricted to the minimum amount necessary to achieve project purposes and measures shall be taken to avoid impacts to portions of the wetland that will not be developed. CBJ staff will consult with the appropriate Federal, State and local Borough/City resource agencies on these issues during the site plan review process and when preparing a recommendation to the Wetlands Review Board. Applicants will be required to conduct mitigation that is appropriate to enhance the wetland values in the immediate area. For example: the applicant could be required to enhance waterfowl use of the area through development of waterfowl staging ponds on the CBJ-owned property (MW4) to enhance the regional ecological diversity of the area. The appropriate Federal, State and local Borough/City resource agencies will be consulted to determine if this is the most appropriate mitigation strategy for the proposed project.

Road Corridor in MW11 along Engineer's Cutoff Road applies only to lots that are already developed; Road Corridor would allow 30% expansion of the existing fill sites subject to restrictions associated with road corridors and stream corridors.

STATE OF ALASKA
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
CERTIFICATE OF REASONABLE ASSURANCE

A Certificate of Reasonable Assurance, in accordance with Section 401 of the federal Clean Water Act and the Alaska Water Quality Standards, is issued to the US Army Corps of Engineers Alaska District, Regulatory Functions Branch, Juneau Field Office, 8800 Glacier Highway, Juneau, Alaska 99801, for the proposed following general permits (GPs), covering wetland activities with the City and Borough of Juneau.

GP 2000-01 is for residential fill pads, site preparation, and driveways; GP 2000-02 is for commercial, community, and institutional development; GP 2000-03 is for wetlands functional enhancement, and GP 2000-04 is for roads and other linear development. The GPs authorize the discharge of fill material into wetlands within the City and Borough of Juneau, which have designated "C", "D", "EP", or as Road Corridors, in the Juneau Wetlands Management Plan. The objective of the GPs is to allow planned, systematic development of private and commercial lots, selected government managed areas, and expedite the permitting process for the previously mentioned wetlands types, while maintaining important wetland functions.


The department supports the use of General Permits by local governments. Therefore the Department supports continued use of the GPs that have been useful and have been demonstrated to streamline the permitting process.

Public notice of the application for this certification was given as required by 18 AAC 15.180.

Water Quality Certification is required under Section 401 because the proposed activity will be authorized by a Corps of Engineers permit, reference number SPN-2005-11, and a discharge may result from the proposed activity.

Having reviewed the application and comments received in response to the public notice, the Alaska Department of Environmental Conservation certifies that there is reasonable assurance that the proposed activity, as well as any discharge which may result, will comply with applicable provisions of Section 401 of the Clean Water Act and the Alaska Water Quality Standards, 18 AAC 70.

Date Jan 11, 2005


Kent Patrick Riley
Acting Program Manager

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES
OFFICE OF PROJECT MANAGEMENT/PERMITTING
ALASKA COASTAL MANAGEMENT PROGRAM

FRANK H. MURKOWSKI, GOVERNOR

SOUTHCENTRAL REGIONAL OFFICE
550 W 7TH AVENUE SUITE 1660
ANCHORAGE, ALASKA 99501
PH: (907) 269-7470 FAX: (907) 269-3891

CENTRAL OFFICE
302 GOLD STREET, SUITE 202
JUNEAU, ALASKA 99801-0030
PH: (907) 465-3582 FAX: (907) 465-3075

PIPELINE COORDINATOR'S OFFICE
411 WEST 4TH AVENUE, SUITE 2C
ANCHORAGE, ALASKA 99501
PH: (907) 2857-1351 FAX: (907) 272-3829

www.alaskacoast.state.ak.us

December 19, 2005

Mr. Garth Zimbelman
U.S. Army Corps of Engineers
Regulatory Branch
8800 Glacier Highway, Suite 106
Juneau, Alaska 99801-8079

Dear Mr. Zimbelman:

**Subject: USACE – Renewal of General Permits 2000-01, 2000-02, 2000-03, 2000-04
for the City and Borough of Juneau
State I.D. No. AK 0512-05J
Project Deemed Consistent with ACMP**

On July 18, 2005 the Office of Project Management & Permitting (OPMP) received the Special Public Notice for the renewal of the General Permits (2000-01, 2000-02, 2000-03, 2000-04) for wetland fill in the City and Borough of Juneau. Typically, this would initiate the review of the proposed renewal under the Alaska Coastal Management Program (ACMP).

OPMP has consulted with representatives of the Alaska Department of Natural Resources' Office of Habitat Management and Permitting (OHMP), and received the following comments on August 10, 2005:

"Special Condition #4 pertains to the proposed relocation of Duck Creek for airport expansion. This condition is no longer relevant in the updated GP as CBJ has applied for an individual permit for this work. IF this condition is retained, the "Advisory" in #4 should be updated to reflect the change in authorities from ADF&G Title 16 to ADNOR-OHMP Title 41."

According to ACMP regulations [11 AAC 110.400(a) (1)], OPMP is to coordinate an ACMP consistency review of a project that requires a federal consistency certification, and is to be located within the State's coastal zone boundaries. However, according to ACMP regulations, [11 AAC 110.265(a)] a project's consistency review shall be completed within 90 days after receipt of a complete application, unless there are exceptional circumstances.

Due to staffing and workload constraints, OPMP was unable to start and complete the ACMP review of your proposed water diversion within the required 90 days [by October 18, 2005].

"Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans."

Therefore, OPMP is closing your ACMP consistency review file and deeming your renewal of the General Permits for the City and Borough of Juneau (2000-01, 2000-02, 2000-03, 2000-04) project to be "consistent with the standards and policies of the ACMP.

This action will allow the USACE to complete the internal review of the General Permit under their regulatory process and authority.

In light of this ACMP decision, you will not need to take any further action regarding an ACMP determination for your project. By copy of this letter, I am informing the Federal and State review participants of OPMP's decision. If you have any questions, please contact me at (907) 465-8791 or by email at ben_white@dnr.state.ak.us. The State appreciates your cooperation with the ACMP.

Sincerely,



Ben White
ACMP Project Specialist

cc: Jim Powell - ADEC, Juneau *
Wayne Dolezal - ADFG, Anchorage *
Brady Scott - ADNR/DMLW, Juneau *
Doug Sanvik - ADNR/DMLW, Juneau *
Jackie Timothy - ADNR/OHMP, Juneau *
Carl Schrader - ADNR/OHMP, Juneau *
Kim Kruse - ADNR/OPMP, Anchorage *
Joe Donohue - ADNR/OPMP, Juneau *
Margie Goatley - ADNR/SHPO, Anchorage *
Teri Camery - Coastal District, Juneau *
Sue Walker - NMFS, Juneau *
Chris Meade - USEPA, Juneau *
Richard Enriquez - USFWS, Juneau *
Garth Zimbelman - USACE, Regulatory, Juneau *

* = Emailed, ** = Faxed