GENERAL PERMIT 2007-541-M1

DISCHARGE OF FILL MATERIAL INTO WETLANDS FOR PART I: GOVERNMENT-INITIATED RESIDENTIAL AND COMMUNITY DEVELOPMENTS AND PART II: PRIVATE RESIDENTIAL SUBDIVISION DEVELOPMENTS, THROUGHOUT THE STATE OF ALASKA

INTRODUCTION

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

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

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

PART I: GOVERNMENT-INITIATED RESIDENTIAL AND COMMUNITY DEVELOPMENTS

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

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

PART II: PRIVATE RESIDENTIAL SUBDIVISION DEVELOPMENTS, THROUGHOUT THE STATE OF ALASKA

Part II of this GP, authorizes the placement of dredged and/or fill material into a maximum of five acres of wetlands for private residential subdivision developments in the state of Alaska. Excluded areas include the Municipality of Anchorage and the City and Borough of Juneau.

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

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

LIMITATIONS OF THIS GP

1) This GP applies **only to activities authorized under Section 404** of the Clean Water Act.

2) Fill for the development of a new subdivision or the addition of fill to any existing subdivision shall meet the following criteria:

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

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

4) Fill material shall not be placed into or within 200 feet horizontally, of the Ordinary High Water mark or High Tide Line of any open water body, including streams, sloughs, rivers, ponds, lakes, and emergent wetlands, unless needed for the placement of culverts and bridges on access roads and driveways crossing streams and sloughs that are not anadromous waters including, but not limited to catalogued streams identified in the *Catalog of Waters Important for the Spawning, Rearing, or Migration of Anadromous Fishes* (available at http://www.adfg.alaska.gov/sf/SARR/AWC/). Projects requiring the placement of fill within 200 feet of the ordinary high water mark or high tide line of any open water body must provide written justification and a vegetative buffer must be left in place between the water body and the facility. The vegetative buffer must be indicated on the project plans.

5) Activities covered under this GP shall not affect any species listed as threatened or endangered under the Endangered Species Act of 1973 (ACT), or their critical habitat designated as endangered or threatened, nor jeopardize the continued existence of any proposed species under the ACT. If a proposed project covered under this GP is found to affect but not likely to adversely affect a listed species or their critical habitat the U.S. Fish and Wildlife Service shall be consulted under Section 7 of the ACT. If a proposed project covered under this GP may affect listed species or their critical habitat the U.S. Fish and Wildlife Service shall be consulted under Section 7 of the ACT.

6) This GP does not apply if Essential Fish Habitat (EFH) is adversely affected. Contact the National Oceanic and Atmospheric Administration for information about EFH.

7) This GP does not apply to state designated Critical Habitat Areas, Game Refuges and Sanctuaries, and habitat areas identified as important by the Alaska Department of Fish and Game, unless the activity is specifically authorized by the agency with jurisdiction over these lands.

8) This GP does not apply to construction activities within any unit of the National Wildlife Refuge System, the National Park System, or component of the National Wild and Scenic River System (existing and nominated).

9) This GP does not authorize construction activities that would adversely affect historic properties that have been determined eligible, or that have been listed on the National Register of Historic Places. If a determination of eligibility has not been previously completed, a determination must be completed prior to project commencement.

If the historic property cannot be avoided, ways to minimize or mitigate adverse affects will be agreed upon through consultation with the Corps, Alaska State Historic Preservation Officer (SHPO), the appropriate Indian tribes, other interested parties, and if necessary, the Advisory Council on Historic Preservation.

10) This GP does not apply to any activity involving the use or storage of hazardous wastes or hazardous substances as part of their principal purpose. These materials are defined in the Solid Waste Disposal Act, as amended by the Resource Conservation Recovery Act (RCRA), 42 U.S.C. 6901 et seq., and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Contact the Alaska Department of Environmental Conservation or the U.S. Environmental Protection Agency for information about hazardous substances.

CONDITIONS OF GP

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

1) No work shall be done under this GP without first obtaining a GP verification from the Alaska District Corps.

2) Any activity authorized by this GP must be completed by the date specified in the Corps authorization letter.

3) The activity must be a single and complete project. The same GP cannot be used more than once for the same single and complete project.

4) The permittee shall implement the construction or operation of the work authorized herein in a manner so as to minimize adverse impacts on wildlife and natural environment.

5) The fill area shall be minimized by consolidating activities and uses of the fill. For example utility lines (water, electrical, telephone, sewer, etc.) shall be located within the road or driveway fill when practicable.

6) If permafrost is present, sufficient fill thickness and/or insulation shall be utilized in all fills to prevent detrimental thermal degradation.

7) Natural drainage patterns shall be maintained in the project area using appropriate ditching, culverts, storm drain systems, and/or other measures, without introducing ponding or drying. Excessive ponding and/or dewatering of areas adjacent to fills indicate non-compliance with this condition.

8) During excavation and fill placement, heavy equipment must not be operated in wetlands outside the authorized excavation and fill area. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

9) No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

10) No fill or construction materials shall be stockpiled in wetlands, outside of the project boundary which shall be staked, or otherwise delineated, prior to any mechanized land clearing or fill placement.

11) Temporary storage of excavated and/or excess material on-site must be managed to prevent sediment from being carried into adjacent wetlands and waters, and to prevent leachate from causing odor problems or degradation of water quality. Unusable or excess material must be disposed of at an approved disposal site.

12) Prior to construction, erosion control measures, such as silt fencing, sediment traps, or water diversion structures, must be properly deployed and installed. During construction, silt and sediment from the site work must be prevented from entering wetlands or water bodies outside the authorized project limits. Methods shall be implemented to filter or settle out suspended sediments from all construction-related wastewater prior to its direct or indirect discharge into any natural body of water.

13) All exposed fills (including side slopes) and disturbed areas shall be stabilized immediately after construction to prevent erosion. Re-vegetation of the disturbed areas shall begin as soon as site conditions allow. Species to be used for seeding and planting shall follow this order of preference:

a) Species native to the site.
b) Species native to the area.
c) Species native to the state.

Active sloughing, increased water turbidity and sediment in drainage ditches, streams, sloughs, and/or adjacent wetlands shall be evidence of insufficient stabilization.

14) Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA approved state or local floodplain management requirements. Fuel storage tanks shall be located above the 100-year flood level and must be designed to withstand a 100-year flood event when a 100-year flood level has been established for a site. If the 100-year flood level has not been established for a site, the tank flood design shall be developed by an engineer to withstand flood levels based on anecdotal evidence, physical evidence, climate data, and good engineering judgment.

15) Material must be available at the site to contain and clean up incidental spills and leaks, and must be used to contain and clean up any petroleum product spilled as a result of construction activity.

16) The boundaries of the permitted fill area in wetlands shall be staked and/or flagged prior to construction to prevent inadvertent encroachment of adjacent wetlands.

17) The proposed activity shall not be located within one-half mile of an eagle nest site unless the U.S. Fish and Wildlife Service determines that the activity will not impact the eagles. The applicant has additional responsibilities to protect eagles under provisions of the Bald and Golden Eagle Protection Act (16 U.S.C. 668a-d) http://www.fws.gov/midwest/Eagle/guidelines/index.html).

18) No cultural resources shall be adversely affected by activities authorized by this GP. If the permittee discovers any previously undiscovered archeological, paleontological, or historic resource, while conducting activities authorized by this GP, the DC must be immediately notified by calling (800) 478-2712. The Corps will notify the SHPO, and the coastal district (if within a coastal district), of what has been have found. The Corps or the appropriate federal land manager will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

19) Federal applicants must provide evidence that they have initiated consultation with the SHPO and if necessary, the Advisory Council on Historic Preservation as per Section 106 of the National Historic Preservation Act.

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

21) No subsistence resources shall be adversely impacted by activities.

22) The Migratory Bird Treaty Act prohibits the willful killing or harassment of migratory birds. Where practicable, clearing, excavation, and fill activities shall be completed before or after the nesting season to avoid impacts to breeding migratory birds unless the site has been sufficiently disturbed or altered during non-breeding periods (e.g., with fill, plastic, or other materials) to eliminate suitable nesting habitat (for example, the work area could be cleared of vegetation before the breeding season. This would render the area unsuitable for breeding birds before their arrival and facilitate work during the breeding season without impacts to birds. However, large areas should not be stripped of vegetation months before initiating work, which could result in even greater damage caused by excessive erosion). Nesting seasons vary throughout the state and U.S. Fish and Wildlife or the Corps should be contacted to determine when these disturbance activities should be avoided. For further information you may look at the USFWS site, http://alaska.fws.gov/fisheries/fieldoffice/anchorage/pdf/vegetation_clearing.pdf

23) Prior to fill placement and installation of any on-site wastewater treatment system (including mounded systems or package plants) within the fill site or contiguous wetlands, on-site sewage system design plan approval shall be obtained from the Alaska Department of Environmental Conservation.

24) The proposed operation activity shall be in compliance with applicable State of Alaska, Department of Environmental Conservation, Alaska Pollution Discharge Elimination System Permit**.**

25) A General Permit for the described work will not be issued until a certification or waiver of certification, as required under Section 401 of the Clean Water Act (Public Law 95-217), has been received from the Alaska Department of Environmental Conservation. The permittee shall adhere to the alternative measures specified in the Alaska Department of Environmental Conservation's Certificate of Reasonable Assurance. A copy of the certification is attached to this GP. These measures will remain conditions of this GP unless expressly modified or deleted, in writing, by the DC or his authorized representative. Additionally, dredge or fill activities are prohibited within 200 feet of any public water supply intake.

26) The permittee shall contact the Alaska Department of Transportation and Public Facilities if proposed access roads are connected to the State road system. This will ensure that the access roads and driveway widths are sufficient to meet State standards.

27) Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance. The permittee must maintain the lands and facilities subject to this GP in good condition and in conformance with the terms and conditions of this GP. The permittee is not relieved of this requirement even if the activity is abandoned. The permittee may transfer the permit to a third party in compliance with condition number 29 below. Should the permittee cease to maintain the authorized activity or should they desire to abandon the project without a transferee, then the permittee must obtain approval from this office, which may require restoration of the area.

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

_____ _____

(Transferee signature) (Date)

_____

(Printed name)

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

30) The permittee shall allow the DC or their authorized representative(s) to inspect authorized work at any time deemed necessary to assure that on-going and completed work is in compliance with the terms and conditions of this GP.

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

32) Fill shall only be placed in wetlands for house pads, drives or septic systems when lots have been sold for residential construction, or if the applicant chooses to build homes for sale, model, or personal use.

33) Measures should be implemented to prevent the introduction and spread of invasive plant and animal species, such as washing equipment to remove dirt and debris that might harbor invasive seeds before entering the jobsite, using weed-free fill, disposing of spoil and vegetation contaminated with invasive species appropriately, and revegetating with local native plant species.

APPLICATION PROCEDURES

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

1) A project description that includes purpose of fill; project location including section, township, range, and USGS quadrangle map number; number of structures; cubic yards of fill material required; and dimensions of fill in square feet for buildings, roads, and any other features of the project that require fill placement in wetlands.

2) Three types of drawings (see enclosed figures 1-4) that include:

a) Vicinity map depicting location of the project on a map such as a 1:63,360 USGS quadrangle map and on a smaller scale map of Alaska (see enclosed example Figure 1). Maps should show lake and stream locations, drainage patterns, and topography.

b) Plan view of the project showing the layout of buildings, roads, and other project features in relation to adjacent features such as ponds and creeks (to scale if possible). The plan view shows the proposed activity as if you were looking down on it (see enclosed example Figures 2 and 3). Plans must include total footprint size of project fill pad and show location and size of proposed culverts or other water-crossing structures.

c) Cross section of excavation and/or fill including approximate side slopes. The cross section represents the project as it would appear if cut internally for display (see enclosed example Figure 4). Since drawings may be reproduced, use heavy dark lines. Drawings do not have to be prepared by a professional, but should be clear and easily understood.

3) A description of soil conditions and building foundation type proposed.

4) The type of material and location of the material source to be used as fill for the project.

5) Photographs (if available) or any other information that would verify that the proposed work is in wetlands and meets the conditions of this GP. The project footprint overlaid on an aerial photo is especially helpful.

CORPS AUTHORIZATION PROCESS

1) Applicant submits a request to the Corps for a permit by methods outlined in the application procedures above.

2) The Corps reviews the application and preliminarily determines whether this GP is applicable.

3) The Corps will send the project plans to appropriate agencies for review. The agencies have ten calendar days from the date the Corps sends the project plans to them, to contact the Corps in writing, by FAX, email, or

telephone, with comments on the project. If the agencies need additional time to provide substantive, site-specific comments, the Corps will wait an additional 15 calendar days before making a permit decision. Specific condition recommendations by the agencies will be incorporated as appropriate. If the applicant can provide documentation of recent coordination regarding their specific project with these agencies, the agency coordination can potentially be waived.

4) The Corps issues the applicant a GP verification letter, or based upon review, the Corps notifies the applicant that a GP is not appropriate for the proposed project.

MITIGATION

This GP is conditioned to prohibit discharges of any fill material within 100 feet of any streams, sloughs, rivers, ponds, lakes, permanently flooded wetlands or tidal waters (except Part II for placement of culverts and bridges when crossing non anadromous streams for driveways and access roads). This GP also includes other conditions requiring best management practices to minimize impacts to wetlands. Additionally a mitigation statement is required with the application showing the avoidance, minimization and compensatory mitigation proposal for unavoidable impacts. Link to Title 22 CFR 332: http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=f2bf2b888b4ffa72e99f22691f59dfc4&tpl=/ecfrbrowse/Title33/33cfr332_main_02.tpl

For properties located in the Mat-Su Borough, Kenai Peninsula Borough, or Fairbanks North Star Borough compensatory mitigation will be required at a minimum of 1.5:1 ratio based on a functional assessment of wetlands in the project area. For all other locations covered by this GP the district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal: (a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to wetlands to the maximum extent practicable at the project site (i.e., on site). (b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal. (c) Compensatory mitigation will be considered on a case by case basis for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse effects of the proposed activity are minimal, and provides a project-specific waiver of this requirement. For wetland losses of 1/10-acre or less, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR 332.

1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory
mitigation is necessary to ensure that the activity results in minimal adverse effects on the aquatic environment in the following order of preference:

a) *Mitigation bank credits.* When permitted impacts are located within the service area of an approved mitigation bank, and the bank has the appropriate number and resource type of credits available, the permittee's compensatory mitigation requirements may be met by securing those credits from the sponsor.

b) *In-lieu fee program credits.* Where permitted impacts are located within the service area of an approved in-lieu fee program, and the sponsor has the appropriate number and resource type of credits available, the permittee's compensatory mitigation requirements may be met by securing those credits from the sponsor. Where permitted impacts are not located in the service area of an approved mitigation bank, or the approved mitigation bank does not have the appropriate number and resource type of credits available to offset those impacts, in-lieu fee mitigation, if available, is generally preferable to permittee-responsible mitigation.

c) *Permittee-responsible mitigation under a watershed approach.* Where permitted impacts are not in the service area of an approved mitigation bank or in-lieu fee program that has the appropriate number and resource type of credits available, permittee-responsible mitigation is the only option.

d) *Permittee-responsible mitigation through on-site and in-kind mitigation.* In cases where a watershed approach is not practicable, the district engineer should consider opportunities to offset anticipated aquatic resource impacts by requiring on-site and in-kind compensatory mitigation.

e) *Permittee-responsible mitigation through off-site and/or out-of-kind mitigation.* If, after considering opportunities for on-site, in-kind compensatory mitigation, the district engineer determines that these compensatory mitigation opportunities are not practicable, are unlikely to compensate for the permitted impacts, or will be incompatible with the proposed project, and an alternative, practicable off-site and/or out-of-kind mitigation opportunity is identified that has a greater likelihood of offsetting the permitted impacts or is environmentally preferable to on-site or in-kind mitigation, the district engineer should require that this alternative compensatory mitigation be provided.

2) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site
protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the GP
authorization, instead of components of a compensatory mitigation plan.

3) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of this GP, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with this GP.

MONITORING

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

LIMITS OF THIS AUTHORIZATION

1) This GP does not grant any property rights, either in real estate or material, or any exclusive privileges; and it does not authorize any injury to property, invasion of rights, or infringement of federal, state, or local laws or regulations.

2) This GP does not authorize the interference with any existing or proposed federal projects.

3) This authorization does not obviate the need for other federal, state, and local permits, licenses, or approvals that may be required for the proposed work.

LIMITS OF FEDERAL LIABILITY

In issuing this GP, the federal government does not assume any liability for the following:

1)Damages to the permitted project or uses thereof as a result of other permitted or non-permitted activities or from natural causes.

2)Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States which are not contrary to the public interest.

3)Damages to persons, property, or to other permitted or non-permitted activities or structures caused by an activity authorized by this GP.

4)Design or construction deficiencies associated with the permitted work.

5) Damage claims associated with any future modification, suspension, or revocation of this permit.

REEVALUATION OF PERMIT DECISION

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

1)The permittee fails to comply with the terms and conditions of this permit.

2)The information provided by the permittee in support of the application proves to have been false, incomplete, or inaccurate.

3)Significant new information surfaces, which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CF 326.4 and 326.5. The referenced enforcement procedures provide for terms and condition of the permit and for the initiation of legal action where appropriate. The permittee will be required to pay for any corrective measures ordered by this office, and if the permittee fails to comply with said directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or other means and bill the permittee for the cost.

PENALTIES FOR NONCOMPLIANCE/VIOLATIONS

Failure to comply with the terms and conditions of this GP may result in suspension of the work, revocation of the permit, removal of fill material or other structure, restoration of areas subject to Corps jurisdiction, and/or impositions of penalties as provided by law. The discharge of fill material not in accordance with the terms and conditions of this GP constitutes a violation of Section 301 of the Clean Water Act (33 U.S.C. 1319), and upon conviction thereof is punishable, in accordance with Section 309 of the Clean Water Act, by a fine of not less than $2,500, nor more than $25,000, per day of violation, or imprisonment of not more than one year, or both. That individual is also subject to a civil penalty not to exceed $25,000 per day of the violation.

TERM

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

FOR THE DISTRICT COMMANDER:

Karen Kochenbach
Division Chief
Regulatory Division
Alaska District, Corps of Engineers

12/10/12
Date

THE STATE of ALASKA
GOVERNOR SEAN PARNELL

Department of Environmental Conservation
DIVISION OF WATER
Wastewater Discharge Authorization Program

555 Cordova Street
Anchorage, Alaska 99501-2617
Main: 907.269.6285
fax: 907.334.2415
www.dec.alaska.gov/water/wwdp

December 6, 2012

Certified Mail: 7009-2820-0001-7169-3582

United States Army Corps of Engineers
Alaska District, Regulatory Division
Post Office Box 6898
JBER, Alaska 99506-0898
Attention: Colonel Christopher D. Lestochi

Re: General Permit, Residential and Community Projects within the State of Alaska
Reference No. POA–2007-541-M1

Dear Colonel Lestochi:

In accordance with Section 401 of the Federal Clean Water Act of 1977 and provisions of the Alaska Water Quality Standards, the Department of Environmental Conservation (DEC) is issuing the enclosed Certificate of Reasonable Assurance for placement of fill material in waters of the U.S. in association with the development of .

DEC regulations provide that any person who disagrees with this decision may request an informal review by the Division Director in accordance with 18 AAC 15.185 or an adjudicatory hearing in accordance with 18 AAC 15.195 – 18 AAC 15.340. An informal review request must be delivered to the Director, Division of Water, 555 Cordova Street, Anchorage, AK 99501, within 15 days of the permit decision. Visit http://www.dec.state.ak.us/commish/ReviewGuidance.htm for information on Administrative Appeals of Department decisions.

An adjudicatory hearing request must be delivered to the Commissioner of the Department of Environmental Conservation, 410 Willoughby Avenue, Suite 303, PO Box 111800, Juneau, AK 99811-1800, within 30 days of the permit decision. If a hearing is not requested within 30 days, the right to appeal is waived.

By copy of this letter we are advising the U.S. Army Corps of Engineers of our actions and enclosing a copy of the certification for their use.

Sincerely,

James Rypkema
Section Manager, Storm Water and Wetlands

Enclosure: 401 Certificate of Reasonable Assurance

cc: (with encl.)
Mary Romero, USACE, Anchorage
Sarah Conn, USF&WS, Fairbanks
Matt LaCroix, EPA, Anchorage
Brenda Krauss, DEC, Juneau

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 United States Army Corps of Engineers Alaska District, Regulatory Division, Post Office Box 6898, JBER, Alaska 99506-0898, for placement of fill material in waters of the U.S. in association with construction under the General Permit POA-2007-541-M1 for Residential and Community Projects within the State of Alaska. Limitations of this GP include: that subdivision construction shall not exceed five acres of wetland fill, with individual house pads not exceeding 0.30 acres wetland fill. Fill for any project shall not be placed within 200 feet horizontally from open water of any kind unless part of culvert installation and bridge installation. A State Water Quality Certification is required under Section 401 because the proposed activity will be authorized by a U.S. Army Corps of Engineers permit, reference number POA-2007-541-M1, and a discharge of pollutants to waters of the U.S. located in the State of Alaska may result from the proposed activity. Public notice of the application for this certification was given as required by 18 AAC 15.180 in the Corps Special Public Notice POA-2007-541-M1 posted from June 25, 2012 to August 24, 2012.

The proposed activity is located Statewide in Alaska.

The Department of Environmental Conservation (DEC) reviewed the application and 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, provided that the following alternative measures are adhered to.

1. Reasonable precautions and controls must be used to prevent incidental and accidental discharge of petroleum products or other hazardous substances. Fuel storage and handling activities for equipment must be sited and conducted so there is no petroleum contamination of the ground, surface runoff or water bodies.
2. During construction, spill response equipment and supplies such as sorbent pads shall be available and used immediately to contain and cleanup oil, fuel, hydraulic fluid, antifreeze, or other pollutant spills. Any spill amount must be reported in accordance with Discharge Notification and Reporting Requirements (AS 46.03.755 and 18 AAC 75 Article 3). The applicant must contact by telephone the DEC Area Response Team for the project's area: Central Alaska at (907) 269-3063, Northern Alaska at 451-2121, or Southeast Alaska (907) 465-5340 during work hours or 1-800-478-9300 after hours. Also, the applicant must contact by telephone the National Response Center at 1-800-424-8802.
3. Runoff discharged to surface water (including wetlands) from a construction site disturbing one or more acres must be covered under Alaska's General Permit for Storm Water Discharges from Large and Small Construction Activities in Alaska (AKR100000). This permit requires a Storm Water Pollution Prevention Plan (SWPPP). For projects that disturb more than five acres, this SWPPP must also be submitted to DEC (William Ashton, 907-269-6283) prior to construction.
4. During the work on the culverts and bridges, construction equipment shall not be operated below the ordinary high water mark if equipment is leaking fuel, oil, hydraulic fluid, or any other

hazardous material. Equipment shall be inspected on a daily basis for leaks. If leaks are found the equipment shall not be used and pulled from service until the leak is repaired.

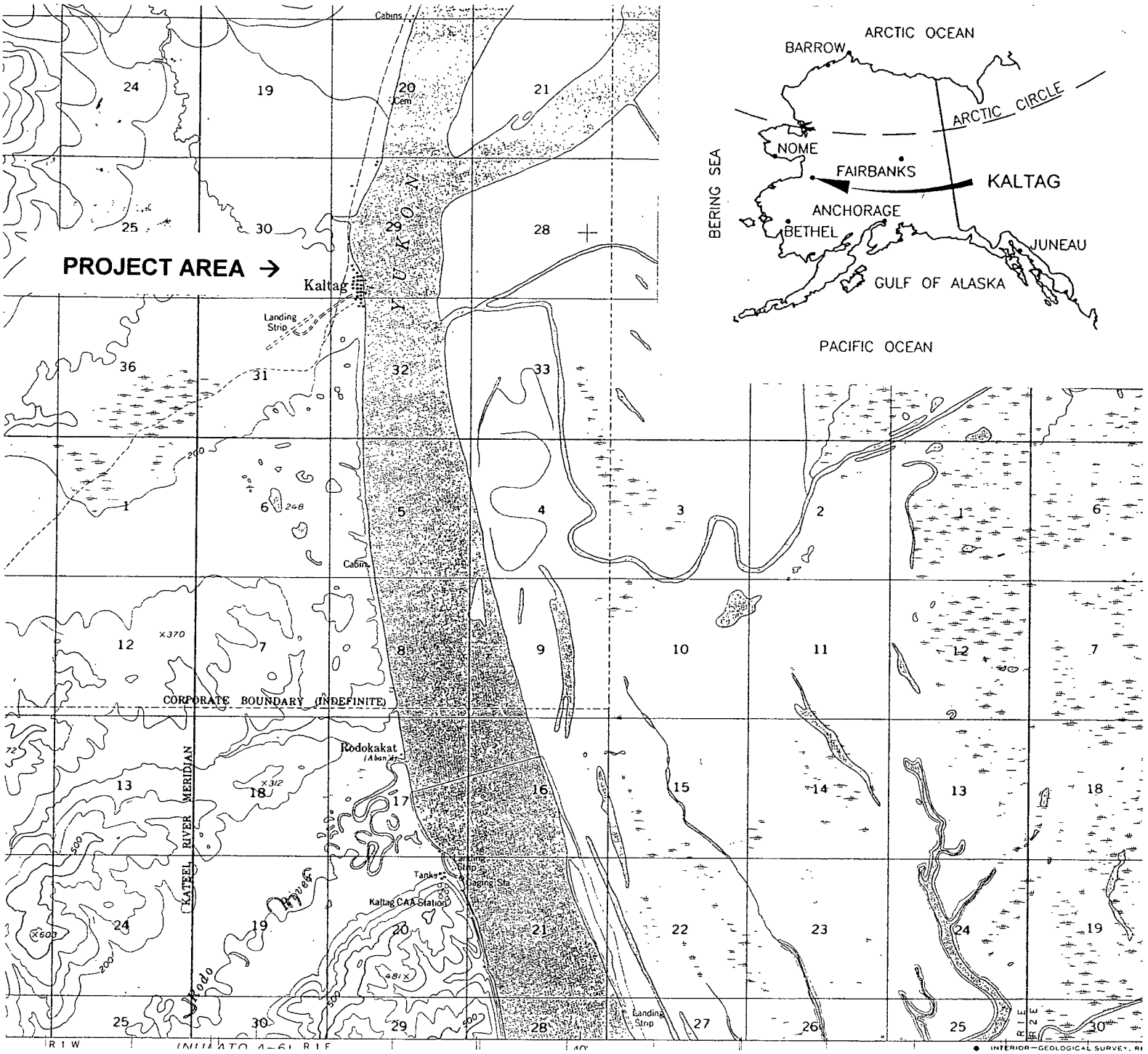
5. All work areas, material access routes, and surrounding wetlands involved in the construction project shall be clearly delineated and marked in such a way that equipment operators do not operate outside of the marked areas.
6. Natural drainage patterns shall be maintained, to the extent practicable, without introducing ponding or drying.
7. During construction through project completion, project best management practices must be utilized that ensure that construction fill and sediments are restricted to project footprint.
8. Any disturbed ground and exposed soil not covered with fill must be stabilized and re-vegetated with endemic species, grasses, or other suitable vegetation in an appropriate manner to minimize erosion and sedimentation.

This certification expires five (5) years after the date the certification is signed. If your project is not completed by then and work under U.S Army Corps of Engineers Permit will continue, you must submit an application for renewal of this certification no later than 30 days before the expiration date (18 AAC 15.100).

Date: December 6, 2012

James Rypkema, Section Manager
Storm Water and Wetlands

VICINITY MAP EXAMPLE



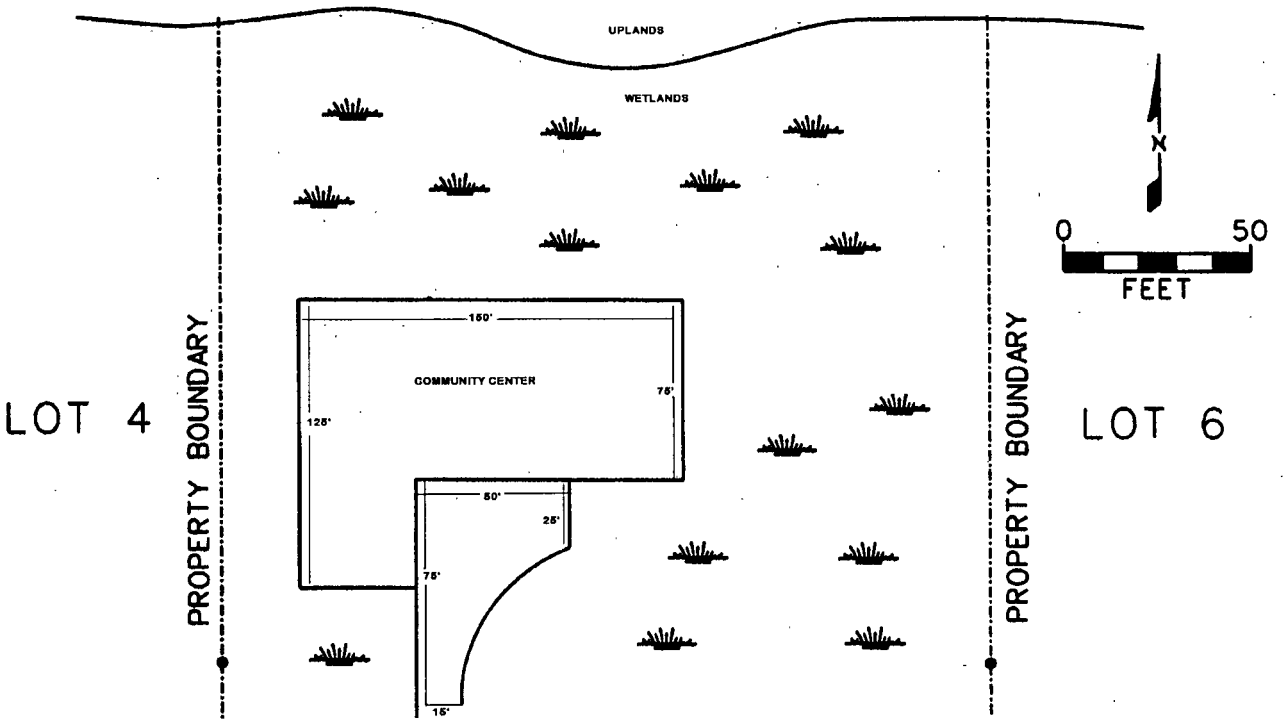
KALTAG COMMUNITY CENTER PROJECT

POA-_____-_____
Applicant:_____
Waterway_____
Section_____Township_____Range_____
_____Meridian
USGS Quad _____
Latitude__._____Longitude_____-_____
Drawings dated_____
Sheet _____of_____

↑
NORTH

FIGURE 1

Plan View Example



- **Plan view shows the proposed activity as if you were looking down on it.**
- **Show project size and layout of proposed work such as buildings, driveways, and roads in relation to other features such as wetlands and creeks.**
- **Include existing and proposed structures such as culverts and utilities.**

POA-_____-_____
Applicant:_____
Waterway_____
Section_____Township_____Range_____
_____Meridian
USGS Quad _____
Latitude__._____Longitude_____-_____
Drawings dated_____
Sheet _____of_____

SUBDIVISION PLAN VIEW EXAMPLE

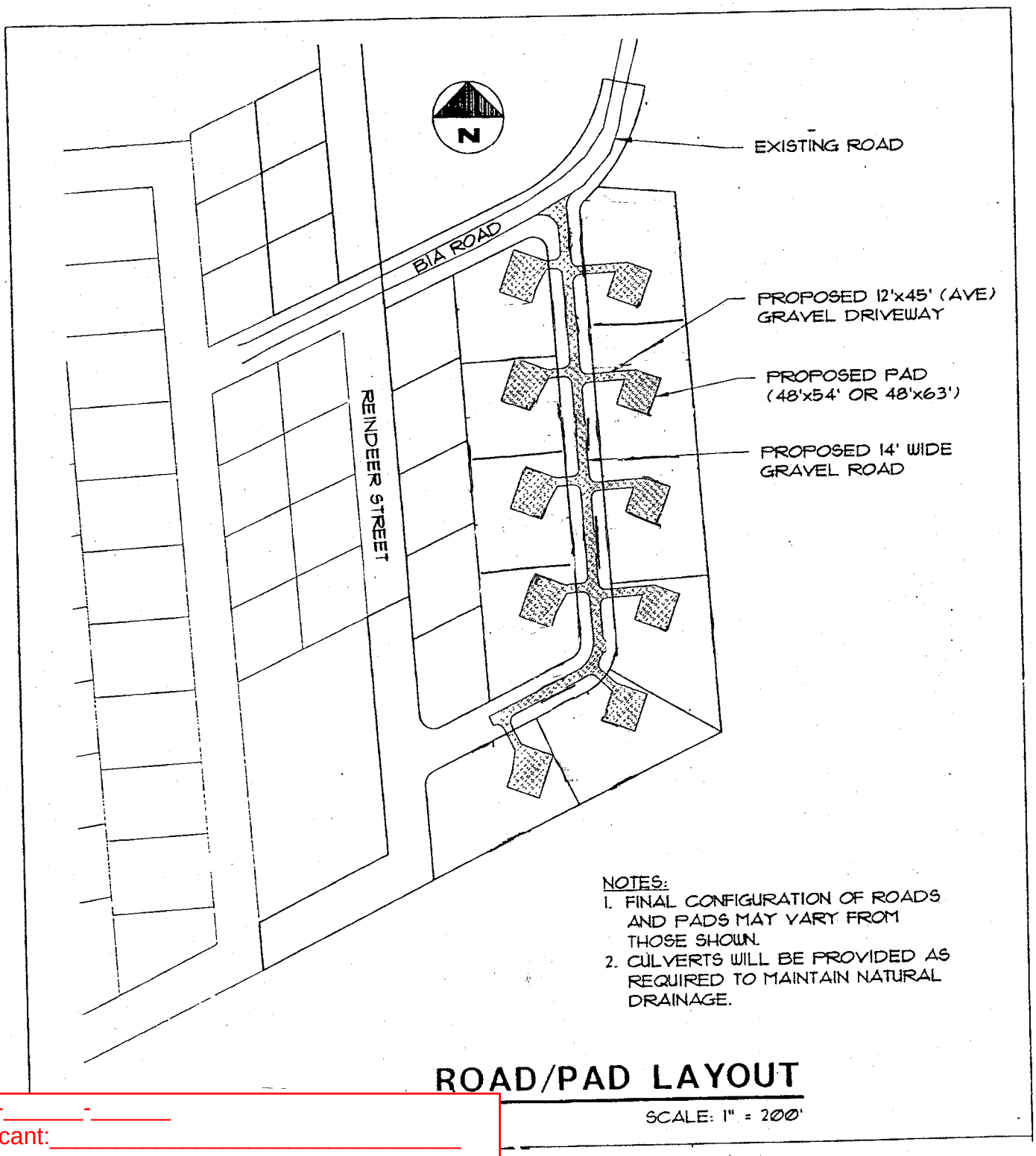
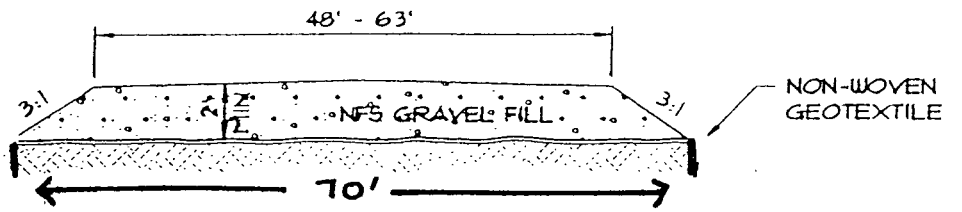


FIGURE 3

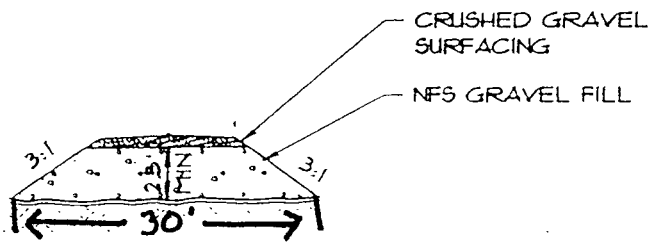
POA-_____-_____
Applicant:_____
Waterway_____
Section_____Township_____Range_____
_____Meridian
USGS Quad _____
Latitude__._____Longitude_____-_____
Drawings dated_____
Sheet _____of_____

CROSS SECTION EXAMPLE



TYPICAL PAD SECTION

HORIZONTAL SCALE: 1" = 20'
VERTICAL SCALE: 1" = 10'



TYPICAL ROADWAY/DRIVEWAY SECTION

POA-_____-_____
Applicant:_____
Waterway_____
Section_____Township_____Range_____
_____Meridian
USGS Quad _____
Latitude__._____Longitude_____-_____
Drawings dated_____
Sheet _____of_____

FIGURE 4

U.S. Army Corps of Engineers, Alaska District
GENERAL PERMIT APPLICATION FORM

May be used instead of Form ENG 4345 to request verification under a General Permit (GP)

Applicant:	Phone:
Address:	Fax:
City, State, Zip:	Cell/Direct Line:
Point of Contact:	e-mail:

Agent:	Phone:
Address:	Fax:
City, State, Zip:	Cell/Direct Line:
Point of Contact:	e-mail:

Location of the Proposed Project Site:

Nearest Waterway:	
Section, Township, Range, and Meridian:	
Latitude and Longitude (Decimal Degrees, NAD-83):	
Nearest City:	Subdivision:
Borough:	USGS Quad(s):
Driving Directions to Site:	

Project Description:

To ensure your project meets the requirements for a GP, read all of the GP General Conditions and Regional Conditions, which can be found on our website at http://www.poa.usace.army.mil/reg/gps.htm
Description of the proposed project, including the area of impacts and the volume of fill material to be used (If there is a GP that you think would apply to your proposed project, please include that in this section):
Project purpose:
Describe any direct and/or indirect adverse environmental effects that may result from the proposed project:

Do you intend to use any other authorizations for any part of the proposed project or any related activity, for example, a NWP, General Permit (GP), or Individual Permit (IP)?

☐ YES or ☐ NO

If YES, specify what permit type (NWP, GP, IP) and for what aspect of the project:

Will your proposed project result in the loss of greater than 1/10 of an acre of wetlands?

☐ YES or ☐ NO

If YES, describe how you will satisfy the mitigation requirement by completing the attached Mitigation Statement.

Are there any listed species or designated critical habitat that might be affected or is in the vicinity of the project, or is the project located in designated critical habitat? Federal agencies must provide the appropriate documentation to demonstrate compliance with the agency's procedures for compliance with the ESA. Information on the location of threatened or endangered species and their critical habitat can be obtained directly from the offices of the U.S. Fish and Wildlife Service and the National Marine Fisheries Service.

☐ YES or ☐ NO

If YES, list all species:

Are there historic properties (listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties) that the proposed activity may have the potential to effect? Federal agencies must provide documentation demonstrating compliance with the Section 106 of the National Historic Preservation Act. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer.

☐ YES or ☐ NO

If YES, state which property or properties may be affected and/or attach a vicinity map indicating the location of the historic property or properties.

Will the proposed work involve ground disturbing activities?

☐ YES or ☐ NO

If YES, attach a short narrative describing the topsoil or organic materials (including seed) that you intend to use for rehabilitation. If you intend to use other locally-obtained native materials, identify the source.

Attach the following in addition to the above applicable items:

- Drawings of the site and project plans (For more information on acceptable drawings and plans, please visit our website at http://www.poa.usace.army.mil/reg/permitapp.htm and click on "Guide to Drawings")
- You must include a delineation of wetlands, other special aquatic sites (riffle and pool complexes, sanctuaries and refuges, mudflats, vegetated shallows, and/or coral reefs), and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The applicant may request the Corps to delineate the special aquatic sites and other waters and if this application does not include a delineation we will take that to mean you are requesting the Corps for one. In these cases, the aplication will not be considered complete until we complete the delineation.
  Note: If you request a Corps delineation, you may be delayed in receiving authorization for your proposed project.

Application is hereby made for a permit or permits to authorize the work described in this application.

I certify the information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.

_____	_____	_____	_____
SIGNATURE OF APPLICANT	DATE	SIGNATURE OF AGENT	DATE

Applicant Proposed Mitigation Statements

Background:

The U.S. Army Corps of Engineers (Corps) and the Environmental Protection Agency issued regulations that govern national compensatory mitigation policy for activities in waters of the U.S., including wetlands, authorized by Corps permits. The final mitigation rule was published in the federal register on April 10, 2008, and became effective on June 9, 2008. The final rule establishes standards and criteria for the use of appropriate and practicable compensatory mitigation for unavoidable functional losses of aquatic resources authorized by Corps permits (33 CFR Part 332). Additionally, the rule requires new information to be included in Corps permit applications and public notices to enable meaningful comments on applicant proposed mitigation. In accordance with 33 CFR Part 325.1(d)(7), "For activities involving discharges of dredged or fill material into waters of the U.S., the application must include a statement describing how impacts to waters of the United States are to be avoided and minimized. The application must also include either a statement describing how impacts to waters of the United States are to be compensated for or a statement explaining why compensatory mitigation should not be required for the proposed impacts." For additional information, the final mitigation rule can be viewed at: http://www.usace.army.mil/cw/cecwo/reg/news/final_mitig_rule.pdf

Mitigation is a sequential process of avoidance, minimization, and compensation. Compensatory mitigation is not considered until after all appropriate and practicable steps have been taken to first avoid and then minimize adverse impacts to the aquatic ecosystem. Please provide your proposed avoidance, minimization, and compensatory mitigation below:

Applicant's Proposed Mitigation (attach additional sheets as necessary):

1. Avoidance of impacts to waters of the U.S., including wetlands:

Please describe how, in your project planning process, you avoided impacts to waters of the U.S., including wetlands, to the maximum extent practicable. Examples of avoidance measures include site selection, routes, design configurations, etc...

Applicant Proposed Mitigation Statements

2. Minimization of unavoidable impacts to waters of the U.S., including wetlands:

Please describe how your project design incorporates measures that minimize the unavoidable impacts to waters of the U.S., including wetlands, by limiting fill discharges to the minimum amount/size necessary to achieve the project purpose.

3. Compensation for unavoidable impacts to waters of the U.S., including wetlands:

Please describe your proposed compensatory mitigation to offset unavoidable impacts to waters of the U.S., or, alternatively, why compensatory mitigation is not appropriate or practicable for your project. Compensatory mitigation involves actions taken to offset unavoidable adverse impacts to waters of the U.S., including wetlands, streams and other aquatic resources (aquatic sites) authorized by Corps permits. Compensatory mitigation may involve the restoration, enhancement, establishment (creation), and/or the preservation of aquatic sites. The three mechanisms for providing compensatory mitigation are mitigation banks, in-lieu fee of mitigation, and permittee-responsible mitigation. Please see the attached definitions for additional information.

Applicant Proposed Mitigation Statements

Definitions:

Enhancement: the manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

Establishment (creation): the manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area and functions.

In-lieu fee program: a program involving the restoration, establishment, enhancement, and/or preservation of aquatic resources through funds paid to a governmental or non-profit natural resources management entity to satisfy compensatory mitigation requirements for DA permits. Similar to a mitigation bank, an in-lieu fee program sells compensatory mitigation credits to permittees whose obligation to provide compensatory mitigation is then transferred to the in-lieu program sponsor. However, the rules governing the operation and use of in-lieu fee programs are somewhat different from the rules governing operation and use of mitigation banks. The operation and use of an in-lieu fee program are governed by an in-lieu fee program instrument.

Mitigation bank: a site, or suite of sites, where resources (e.g., wetlands, streams, riparian areas) are restored, established, enhanced, and/or preserved for the purpose of providing compensatory mitigation for impacts authorized by DA permits. In general, a mitigation bank sells compensatory mitigation credits to permittees whose obligation to provide compensatory mitigation is then transferred to the mitigation bank sponsor. The operation and use of a mitigation bank are governed by a mitigation banking instrument.

Permittee-responsible mitigation: an aquatic resource restoration, establishment, enhancement, and/or preservation activity undertaken by the permittee (or an authorized agent or contractor) to provide compensatory mitigation for which the permittee retains full responsibility.

Practicable: available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

Preservation: the removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

Restoration: the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: re-establishment and rehabilitation.