



# Public Notice

US Army Corps  
of Engineers  
Alaska District

Regulatory Branch (1145)  
Post Office Box 6898  
Anchorage, Alaska 99506-0898

Date:  
26 July 2006  
Identification No  
SPN 2006-214-Reauthorization  
In reply refer to above Identification Number  
Expiration Date: 26 July 2011

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**SPECIAL PUBLIC NOTICE 2006-214  
RE-ISSUANCE, EXPANSION AND RENAME OF GENERAL PERMIT (GP) 2006-214  
(PREVIOUSLY IDENTIFIED AS GP 90-1N)**

Discharge of Fill Material in Wetlands of Nome, Alaska.

The District Engineer (DE), Alaska District, United States Corps of Engineers (Corps), has re-issued General Permit (GP) 2006-214 (formerly GP 90-1N) for certain activities under authority of Section 404 of the Clean Water Act (Public Act 95-217, 33 U.S.C. 1344 et seq.), to authorize the placement of dredged and/or fill material and structures into wetlands, for activities associated with residential, public and commercial development projects in Nome, Alaska. A map showing areas covered by this GP is attached.

In response to the previous Special Public Notice (SPN) 2006-214, dated May 4, 2006, GP 2006-214 is hereby re-issued, geographically expanded and renamed to reflect both the needs of the local community as well as administrative changes within the Corps. Based on review of all pertinent information, including a prepared Environmental Assessment, I have concluded that re-issuance of this permit, with proposed modifications, will have no more than minimal adverse impacts on the aquatic environment and is not contrary to the public interest.

The GP authorizes the placement of dredged and/or fill material and structures into wetlands, for activities associated with residential, public and commercial development projects in Nome, Alaska. GP 2006-214 has been re-issued for a period of five (5) years, effective the date of the signature shown on the last page of the attached permit. The DE 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.

The GP describes the terms and conditions which must be met for a project to be authorized pursuant to the GP. A party wishing to perform work under GP 2006-214 must review the terms and conditions of the permit and follow the application procedures as written. No work is authorized without first receiving a positive Opinion of Compliance from the City of Nome. If the proposed work would occur in waters of the U.S. (including wetlands) and does not meet the terms and conditions, the GP does not apply and a nationwide permit or individual permit would be required.

Any questions or requests for additional information should be directed to: Alaska District, Corps of Engineers, ATTN: Ms. Shannon Hansen, Regulatory Branch, CEPOA-CO-R-N, Post Office Box 6898, Elmendorf AFB, Alaska 99506-0898, phone (907) 753-2712, toll free in Alaska at (800) 478-2712, or by e-mail at Shannon.r.hansen@poa02.usace.army.mil.

District Engineer  
U.S. Army Corps of Engineers

## GENERAL PERMIT (GP) 2006-214

### CITY OF NOME

#### INTRODUCTION

This GP authorizes the placement of dredged and/or fill material and structures into waters of the U.S., for activities associated with residential, public and commercial development projects in specified areas of Nome, Alaska, as shown on the attached maps.

All activities shall be performed in accordance with the terms and conditions of the GP. Failure to comply with the terms and conditions of the GP may result in suspension, modification or revocation of the permit and/or imposition of penalties as provided by law.

The placement of fill material in waters of the U.S. which does not fall within the scope of this GP, or which fails to meet the GP terms and conditions, are not authorized by this GP and a Department of the Army nationwide permit or individual permit would be required.

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

**Public** development is defined as the construction of facilities relating to community interests as opposed to private interests. Public development allowed will include the discharge of fill material in wetlands for public roads, parking lots, buildings such as city halls, public safety buildings, National Guard Armory, churches, post offices, and fire stations.

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

#### APPLICATION PROCEDURES

A party wishing to perform work under GP 2006-214 must review the terms and conditions of the permit and follow the application procedures as written. In order for a proposed project to be considered for authorization under this GP, an application form (see attached example) must be completed and submitted to the City Engineer, City of Nome, on the corner of Front and Hunter Streets, Post Office Box 281, Nome, Alaska 99762, telephone (907) 443-5242, FAX (907) 443-5349. Application forms and copies of the GP are available at the City Engineer's office. If the proposed project complies with the terms and conditions of the GP, the City of Nome will notify the applicant by providing him/her with a completed "Opinion of Compliance" form, which is part of the application. No work is authorized without first receiving a positive Opinion of

Compliance from the City of Nome. If the project does not comply with the terms and conditions of the GP, the City of Nome will inform the applicant of the reasons for non-compliance with the same form. The applicant should contact the Corps of Engineers to determine if application for a nationwide permit or individual permit would be necessary. Anyone may request written confirmation of whether their proposed work requires authorization.

The City of Nome shall submit copies of all GP application forms and Opinion of Compliance forms to the Alaska District, Corps of Engineers, Regulatory Branch, North Section, on a quarterly basis with the City's Coastal Management Program quarterly report summary sheets.

All work in marine waters requires an individual Department of Army Section 10 Permit or nationwide permit authorization.

#### **CONSISTENCY DETERMINATION**

Discharges authorized by the GP may affect the State of Alaska coastal zone. However, the GP specifically requires compliance with Alaska water quality standards, all other federal, state, or local environmental regulations, as well as any requirements which the Alaska Department of Environmental Conservation provides as a result of the Clean Water Act Section 401 certification process. In addition, the Alaska Department of Natural Resources, Office of Project Management and Permitting found this GP consistent with the Alaska Coastal Management Program (ACMP), and a copy of this Consistency Determination is attached to this GP.

#### **LIMITATIONS**

This GP does not apply if Essential Fish Habitat is adversely affected.

This GP does not apply to marine or estuarine waters under any circumstances.

This GP does not apply to State designated Critical Habitat Areas or Game Refuges and Sanctuaries, unless the activity is specifically authorized by the agency with jurisdiction over these lands.

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

The lead role that Federal and State land management agencies have in identifying evaluating and pursuing consultation on cultural resources is recognized. This consultation has a basis under Section 106 of the National Historic Preservation Act and any agency's cultural resources conservation implementing regulations. This GP does not authorize construction activities that would adversely affect archaeological, cultural or historic properties which the National Park Service has listed on, or has determined eligible for listing on, the National Register of Historic Places unless coordination with the State Historic Preservation officer (SHPO), and if necessary, the Advisory Council on Historic Preservation is completed as per Section 106 of the National Historic Preservation Act.

Authorization granted under this GP applies only to work subject to the regulatory authority of the U.S. Army Corps of Engineers. GP authorization does not obviate or affect in any manner the requirements or the need to meet any other required Federal, State or local governmental

authorizations (e.g., local land use codes or regulations). If the proposed work authorized under this GP is subsequently modified by any other Federal, State, or local governmental authorization, a modification of the authorization to perform activities under this GP may need to be obtained from the Corps.

#### **CONDITIONS OF THE GENERAL PERMIT**

The goals of these conditions are: to ensure work results in only minimal adverse environmental impact when performed separately and have only minor cumulative impacts; to be consistent with other regulatory authorities; and, to retain normal aquatic ecosystem functions representative of the area in which construction takes place. All activities identified and authorized by this GP shall be consistent with the following conditions:

1. Fill material shall not be discharged within 50 feet of the ordinary high water mark of any non-tidal open water body, including streams, sloughs, rivers, ponds, lakes; within 50 feet of permanently flooded wetlands; or within 50 feet of the high tide line of any tidal waters. The only exception is the reduction of the setback to 10 feet to allow development within 50 feet of an established drainage along near East N Street and 6<sup>th</sup> Avenue. The drainage would be preserved during development and adjacent disturbed areas would be re-seeded to reduce erosion.
2. The boundaries of the fill area in wetlands shall be staked and/or flagged prior to construction to prevent inadvertent encroachment of adjacent wetlands.
3. 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 and 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.
4. Sufficient gravel thickness and/or insulation shall be utilized in all fills to prevent thermal degradation of underlying permafrost (if present).
5. Natural drainage patterns shall be maintained using appropriate ditching, culverts, storm drain systems and other measures, without introducing ponding or drying. Excessive ponding and/or dewatering of areas adjacent to fill areas shall indicate non-compliance with this condition.
6. All conditions of the Alaska Department of Natural Resources, Office of Project Management and Permitting (OPMP), Coastal Zone Management Consistency Determination are fully enforceable conditions of this GP. A copy of the OPMP final consistency determination is attached to this permit.
7. No discharge of fill material shall be authorized under this GP if it consists of unsuitable material, e.g., trash, debris, tree stumps, car bodies, etc., and all material discharged shall be free of toxic pollutants in toxic amounts, as defined by the Toxic Pollutant List referred to as Table 1 in Section 307 of the Clean Water Act and by Alaska State Law, i.e., 18 AAC 70 Alaska Water Quality Standards, 18 AAC Oil and Hazardous Substance Pollution Control, and 18 AAC 78 Underground Storage

Tanks. A soil remediation plan shall be approved by the Alaska Department of Environmental Conservation (ADEC) prior to commencing any work on a site containing contaminated soil. If contaminated soils are discovered during the activity, all work shall cease in the area of the contamination; ADEC shall be contacted, and work shall commence only upon receiving ADEC approval.

8. All exposed fills (including side slopes) and disturbed areas shall be stabilized to prevent erosion. Increased water turbidity and sediment in drainage ditches, streams, sloughs, and/or adjacent wetlands shall be evidence of insufficient stabilization.

9. The permittee shall allow the District Engineer or his 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.

10. If the permittee, during performance of the work authorized herein, encounters a previously undiscovered archeological, paleontological, or historic resource, he/she shall immediately notify the District Engineer at (800) 478-2712 and the State Historic Preservation Officer, Division of Parks, Department of Natural Resources, 550 West 7th Avenue, Suite 1310, Anchorage, Alaska 99501-3565.

11. Activities covered under this GP shall not adversely affect any species listed as threatened or endangered under the Endangered Species Act of 1973 (ACT), nor jeopardize the continued existence of any proposed species under the Act. The U.S. Fish and Wildlife Service has concluded that residential, public, and commercial development within the subdivision boundaries described in this GP will not adversely affect listed species. However, if a listed species is identified within the boundaries of a proposed project covered under this GP, work at the site shall cease and the Service consulted immediately (within 24 hours) at (907) 456-0297 or (907) 456-0203.

12. All activities identified and authorized herein shall be undertaken in a manner that is consistent with the terms and conditions of the 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 the 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. In instances where the City of Nome is party to violations of the Clean Water Act, the District Engineer may, at his discretion, modify the GP to have the Alaska District Regulatory Branch require verification by the Corps of projects, where appropriate, until such time as the District Engineer determines that the situation has been resolved.

13. Any activity being performed under this permit may be summarily suspended, in whole or in part, upon a finding by the District Engineer 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 District Engineer 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.

#### **MONITORING**

Soon after the beginning of each year this office shall 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 the GP. Reports shall be prepared for all field inspections and entered into the official GP file. The North Section of the Regulatory Branch shall maintain a file of GP-related documents and monitoring efforts.

Information contained in the GP file shall provide the basis for the decision whether or not to revise or renew the GP. If it is determined that projects authorized by this GP result in greater than minimal adverse environmental impacts, then the 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 unpermitted activities or from natural causes.
2. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States which are not contrary to the public interest.
3. Damages to persons, property, or to other permitted or unpermitted 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.

**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 ENGINEER:



Steve Meyers  
Chief, North Section  
Regulatory Branch  
Alaska District, Corps of Engineers

Date 7/26/06

