



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

**Department of Environmental
Conservation**

DIVISION OF ADMINISTRATIVE SERVICES

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March 31, 2022

The Honorable Click Bishop
The Honorable Bert Stedman
Co-Chairs, Senate Finance Committee
State Capitol Room 516
Juneau AK, 99801

Dear Senators Bishop and Stedman:

Thank you for the opportunity to provide information about the Department of Environmental Conservation's Primacy initiatives on March 14th. Questions arose during this meeting that required additional information. Responses related to the Clean Water Act Section 404 initiative are provided below.

➤ **What was the fiscal note back when the state wanted to pursue 404 in 2013?**

The 2013 fiscal note was provided to the committee by email on March 15 and was discussed in the follow up hearing that day. The fiscal note is attached for reference.

➤ **Provide maps that show the surface of Alaska that is covered in wetlands and the ownership of private lands in Alaska.**

Those maps were provided to the committee by email on March 15 and are attached for reference.

➤ **28 positions is a lot to fill in 1 year. Can we stretch this out to 4 years? Can we fill all PCNs in one year?**

DEC intends to begin the hiring process for 404 program staff as soon as possible and has submitted a FY22 supplemental request to initiate that effort. The Department will work to recruit for the full 28 position in FY22 and FY23, and believes this is an achievable goal. DEC has a plan to strategically hire key positions that will then recruit and fill the remaining PCNs.

Although the 2 year approach to develop, secure approval, and implement the 404 program is aggressive, DEC believes this is doable. This requires having the necessary staff in place, and DEC anticipates fully using all 28 PCNs to implement the plan. The recent approval of the Florida 404 program has provided DEC with a successful flow chart that can be used to assist in the development and approval of the Alaska 404 program. The existing EPA rules were recently clarified and are designed to assist states in assuming 404 programs, and DEC is anxious to move on the approval of the state 404 program before those rules change and make it more challenging to assume the program.

➤ **Slides 15-16 discuss accountability to the legislature. What does that mean? Provide example of time savings for large projects.**

Those slides and issues were addressed in the March 15 committee and are summarized as follows:

- **Accountable** – A State-run program is accountable to Alaskans, and DEC as the administrator of the State-run program is accountable to the Alaska Legislature for implementation. Departmental staff are the decision makers and should be held accountable for those decisions; more importantly DEC staff can be held accountable.
- **Time and cost savings** – Based on information from a 2006 court case, the average applicant for an individual permit spends 788 days and \$271,596 in completing the process, not counting the costs of mitigation. These costs cannot be avoided because the Clean Water Act imposes criminal liability as well as steep fines on a broad range of ordinary and commercial activities. Anything the State can do to reduce permitting time and costs will generally translate favorably to resource development interest and investment in the state.

For many small, routine, and easily categorized projects, quick over-the-counter types of approvals would be appropriate, similar to what the U.S. Army Corps of Engineers (USACE) currently issues. That aspect of the State-run program would expand beyond what the USACE is currently capable of doing based on the local project needs and area knowledge – that will save time for project proponents and staff. For larger or more complex projects, increased communication throughout the permitting and public notice phase of the project, the efficiencies of working with one State agency, and the reduction of NEPA required provisions will be a significant time savings for both permittees and permittees.

As currently proposed, the State-run 404 program is fully General Fund supported, but as the program is implemented and matures, DEC should consider a hybrid funding approach with a General Fund supported program supplemented by a fee-for-service concept (i.e., permit fee). In a hybrid funding scenario, the State-run Section 404 program permit fees would likely be similar to the current USACE fees, but cost to the applicant to permit some major new facilities may decrease substantially. The reason – permits issued under a State-run Section 404 program are State permits issued under State law, and for this reason, the provisions of the other federal laws that apply to federal permits, such as NEPA, generally do not apply.

➤ **Provide list of tribal entities that DEC communicates with.**

Attached is DEC Division of Water's list and mailing labels for all 229 federally-recognized tribes. DEC communicates and consults regularly with these tribes using email, USPS, or both when the project or action is proximal to the tribal area or lands. The Department also communicates and consults regularly in the same manner with Alaska Native Corporations.

➤ **How small of a project would require a 404 permit? What activities require a permit?**

In general, Section 404 of the Clean Water Act requires permits for the discharge of dredged or fill material into waters of the United States, including wetlands. This includes but is not limited to: building pads, roads, bridges, bank stabilization, hydropower projects, mining, oil & gas projects, harbors dredging, etc.. The size of the project and its potential for impact will determine the permitting avenue

- **Nationwide Permits (NWP)** – authorize specific activities in areas under USACE regulatory jurisdiction. These activities are minor in scope and must result in no more than minimal adverse impacts, both individually and cumulatively. There are 59

Nationwide permit categories/activities available in Alaska, typically with a limit of ½ acre for a single project.

- Letters of Permission (LOP) – a type of permit issued through an abbreviated processing procedure. It includes coordination with federal and state fish and wildlife agencies as required by the Fish and Wildlife Coordination Act, and a public interest evaluation, but without the publishing of an individual public notice. The letter is an expedited process for an individual permit, where a decision to issue is made within 45 days, and may be used for projects subject to Section 10 of the Rivers and Harbors Act of 1899 when the USACE determines the proposed work would be minor, would not have significant individual or cumulative impacts on environmental values, and should encounter no appreciable opposition.

- Regional General Permits (RGP) – some regional general permits (RGPs) authorize specific activities statewide, while others are specific to certain regions in Alaska. RGPs can only authorize activities or categories of activities that have minimal impacts both individually and cumulatively. There are currently nine RGPs in Alaska.

- Individual Permits – issued following a full public interest review of an individual application for a 404 permit. A public notice, usually lasting 30 days, is distributed to all known interested persons. The permit decision is generally based on the outcome of a public interest balancing process, where the benefits of the project are weighed against the detriments. A permit will be granted unless the proposal is found to be contrary to the public interest or fails to comply with the EPA's 404(b)(1) Guidelines. The 404(b)(1) Guidelines allow the USACE to permit only the least environmentally damaging practicable alternative.

➤ **Are remote cabins subject to 404 permitting?**

A remote cabin may be subject to 404 permitting in order to construct or expand the structure. As described above, if a project involves the discharge of dredged or fill material into waters of the United States, including wetlands, then a 404 may be required. This includes such activities as a building or foundation pad, driveways, parking areas, and utilities. The existing USACE has a number possible permitting avenues it may choose from either as a NWP, LOP, or an RGP for these types of activities. One example of a permitting avenue for residential fill is NWP #29 Residential Communities which is for discharges of dredged or fill material into non-tidal waters of the United States for the construction or expansion of a single residence, a multiple unit residential development, or a residential subdivision. This NWP authorizes the construction of building foundations and building pads and attendant features that are necessary for the use of the residence or residential development. Attendant features may include but are not limited to roads, parking lots, garages, yards, utility lines, storm water management facilities, septic fields, and recreation facilities such as playgrounds, playing fields, and golf courses (provided the golf course is an integral part of the residential development). The discharge must not cause the loss of greater than 1/2-acre of non-tidal waters of the United States. This NWP does not authorize discharges of dredged or fill material into non-tidal wetlands adjacent to tidal waters.

➤ **What is the status of the Sackett v. EPA case and what are the potential impacts of that case's outcome to Alaska?**

A water that is a Water of the United States (WOTUS) falls within federal jurisdiction under the federal Clean Water Act. The last time the United States Supreme Court considered the definition of a WOTUS was in *Rapanos v. United States*, 547 U.S. 715, 780 (2006). That case resulted in a splintered decision in which two tests for defining WOTUS were articulated: one in the plurality opinion (the "Scalia Test," which is the more restrictive of the two tests, thereby resulting in less waters being deemed WOTUS) and one in a concurring opinion (the "Kennedy Test," which is less restrictive of the two, thereby resulting in more waters being

deemed WOTUS). Since the Rapanos decision, there has been confusion as to which test applies to define WOTUS.

In January of this year, the United States granted certiorari in the case *Sackett v. EPA* to answer the question “Whether the Ninth Circuit,” in the case below, “set forth the proper test for determining whether wetlands are ‘waters of the United States’ [(“WOTUS”)] under the Clean Water Act, 33 U.S.C. § 1362(7).” In the case below, the Ninth Circuit applied the Kennedy Test or the “significant nexus” test to determine whether EPA correctly decided that a “soggy residential lot” near a lake was a WOTUS. *Sackett v. EPA*, 8 F.4th 1075, 1092 (9th Cir. 2021). Under the “significant nexus” test, wetlands are WOTUS if “the wetlands, either alone or in combination with similarly situated lands in the region, significantly affect the chemical, physical, and biological integrity of other covered waters more readily understood as ‘navigable.’” *Rapanos*, 547 U.S. at 780 (Kennedy, J., concurring in the judgment). Applying this test, the Ninth Circuit held that EPA reasonably concluded that the “soggy residential lot” was a WOTUS.

The “significant nexus” test formed the basis of the Ninth Circuit’s decision and now forms the basis of the Sacketts’ appeal. The owners of the soggy residential lot (the Sacketts) seek to narrow the WOTUS test for wetlands. A narrowed test might require, as the Scalia test requires, a wetland to have a “continuous surface connection” to a traditionally navigable water. Such a test would be unlikely to include the Sacketts’ soggy residential lot, which is separated from a nearby tributary (which feeds into a lake) by a road.

A narrowed WOTUS test would affect Alaska in several ways. Most significantly, it would likely reduce the amount of wetlands in Alaska that are subject to federal regulation under the Clean Water Act. The extent of the reduction depends on exactly how the test is articulated. If the test were to require a continuous surface connection to a traditionally navigable water, like the Scalia Test, the reduction in WOTUS wetlands in Alaska would be significant. For example, many of Alaska’s wetlands form wetland mosaics. Wetlands in wetland mosaics frequently lack a continuous surface connection to each other, or to a traditionally navigable water. A rule excluding wetlands lacking such a connection would exclude many of the mosaics. Similar potential exclusions include forested wetlands, and wetlands perched atop permafrost.

As a general matter, wetlands not subject to federal regulation would instead be subject to state regulation. Practically speaking, a more restrictive WOTUS test would give Alaska greater control over projects affecting wetlands in Alaska—including project specifics and mitigation requirements. Conversely, if the Supreme Court articulates a less restrictive WOTUS test, like the Kennedy Test, many more wetlands would be deemed WOTUS, giving Alaska less control over projects affecting the wetlands, and over the wetlands themselves. In this latter case, it is critically important that Alaska develop and implement a State-run 404 program to assume management and permitting of those WOTUS and wetlands.

➤ **Is the development of a Coastal Zone Management Program (CZMP) being considered?**

No, the development of an Alaska CZMP is not being proposed or considered at this point. The coordination of permit reviews is occurring in many of the departments, with several industry specific sectors benefiting from a single permit application satisfying many sister agency needs. For example, the Application for Permits to Mine in Alaska (APMA) is a coordinated mine application that satisfies DNR (DMLW – Mining, Lands, and Water sections), DEC, DFG, and OHA general information needs. In addition, the DNR, Office

of Project Management and Permitting coordinates the review of large scale projects in the state.

- **Provide a fiscal note showing how 404 program costs would be portrayed if it was not in the budget.**

Please see attached draft “fiscal note.”

If you would like more information or have additional questions, I am happy to assist.

Sincerely,



Megan Kohler
Administrative Services Director

Attachments:

LL0750-DEC-WQ-01-17-13
Who Owns Alaska Poster
AK Wetlands Map
Tribal Govt Mailing Labels
SFIN 2022 404 Fiscal Note Example

Cc: Michael Partlow, Legislative Finance Division
Josie Stern, Office of Management and Budget
Cody Grussendorf, Staff to Senator Bishop
Pete Ecklund, Staff to Senator Stedman

Fiscal Note

State of Alaska
2013 Legislative Session

Bill Version:	SB 27
Fiscal Note Number:	1
(S) Publish Date:	1/18/2013

Identifier: LL0750-DEC-WQ-01-17-13
Title: REGULATION OF DREDGE AND FILL
ACTIVITIES
Sponsor: RLS BY REQUEST OF THE GOVERNOR
Requester: Governor

Department: Department of Environmental Conservation
Appropriation: Water
Allocation: Water Quality
OMB Component Number: 2062

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below.

(Thousands of Dollars)

	FY2014 Appropriation Requested	Included in Governor's FY2014 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	FY 2014	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Personal Services	495.4		883.5	883.5	883.5	883.5	883.5
Travel	22.3		37.6	35.2	35.2	35.2	35.2
Services	879.5		908.2	902.2	902.2	902.2	902.2
Commodities	37.5		25.0	4.0	4.0	10.5	7.9
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	1,434.7	0.0	1,854.3	1,824.9	1,824.9	1,831.4	1,828.8

Fund Source (Operating Only)

1004 Gen Fund (UGF)	1,434.7		1,854.3	1,824.9	1,824.9	1,831.4	1,828.8
Total	1,434.7	0.0	1,854.3	1,824.9	1,824.9	1,831.4	1,828.8

Positions

Full-time	5.0		8.0	8.0	8.0	8.0	8.0
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2013) cost: 0.0 (separate supplemental appropriation required)

Estimated CAPITAL (FY2014) cost: 0.0 (separate capital appropriation required)

(Supplemental/Capital/New Fund - discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency?

Yes

If yes, by what date are the regulations to be adopted, amended or repealed?

06/30/15

Why this fiscal note differs from previous version/comments:

Not applicable, initial version.

Prepared By: Michelle Bonnet Hale, Director
Division: Water
Approved By: Lynn Kent
Agency: Deputy Commissioner, Dept. of Environmental Conservation

Phone: (907)269-7599
Date: 01/11/2013 01:01 PM
Date: 01/11/13

APPROVED BY
CONFERENCE
COMMITTEE

Printed 3/14/2022

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. LL0750

Analysis

Analysis/Assumptions:

Assumption of the Federal Clean Water Act Section 404 dredge and fill permitting program would allow the state to create streamlined processes for more efficient permit issuance, and to reduce redundancy between federal and state programs. Amended and new regulations will be required to comport with federal regulations to implement the 404 program. By the FY 16 budget cycle, there will be a decision point regarding whether to advance with the primacy effort and, if so, the pace of that effort. FY16 and beyond costs assume continued progress leading to a successful application approved by the Environmental Protection Agency, followed by full implementation of the program; these costs may change depending upon progress in FY14 and FY15 and a full analysis of the costs to implement the program. After FY16 and program approval some costs will be offset by program receipts.

FY14

Personal Services:

Three permanent positions for “program development” and to manage a workgroup of permittees that will assist in the analysis of 404 primacy and provide the state with recommendations about primacy; evaluate benefits and consequences of state primacy; conduct a fiscal analysis of the resource needs for state primacy; establish agreements with the EPA and the Corps that include a workplan, timeline, responsibilities, and requirements for the process to obtain state primacy; establish and manage contractor assistance to conduct a gap analysis and draft initial statutes and regulations for program implementation; develop work plan; begin development of program description; apply for wetlands program development grant from EPA; and develop a communications plan. Two permanent positions for “capacity development” to build the State’s knowledge and capability in the 404 permit program; to negotiate with the Corps one or more statewide programmatic general permits that allow the State to implement small, targeted portions of the 404 program; and to establish a workshare agreement with the Corps for sharing staff resources. New positions: Project Coordinator (Anchorage, XE, 23C); Environmental Program Specialist IV (Anchorage, GG, Range 20C); Two Environmental Program Specialists III (Anchorage, GG, Range 18C); One Engineer I (Anchorage, GG, Range 22C). Three positions for 10 months to ramp-up of program.

Travel:

Travel is for workgroup and stakeholder meetings; meetings with EPA Region 10 and Headquarters and the Corps Alaska District and Headquarters; and staff training.

Services:

Position support costs, indirect, and public notices for workgroup meetings.

-- \$300.0 professional services contractor assistance for statutory gap analysis, draft regulations, assistance with primacy analysis; workgroup report; and assistance with drafting primacy application.

-- \$187.50 RSA to Department of Law to assist with the Department’s and workgroup’s legal questions; legal assistance with Department’s preparation of a primacy application, including preparation of an Attorney General’s statement; legal assistance with statutes and regulations; negotiations with EPA and the Corps; and potential appeals and judicial challenges relating to federal approval of the state’s primacy application.

-- \$361.8 RSA to Department of Natural Resources for positions to participate with DEC in the program development tasks, including the analysis of the division of duties between agencies under primacy and development of a mitigation program required of State programs; and two positions for State program capacity development in wetlands jurisdictional determinations and permitting procedures.

Commodities:

Position support costs, including furniture and computers (one-time costs for new positions); standard office supplies.

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2013 LEGISLATIVE SESSION

BILL NO. LL0750

Analysis Continued

FY2015

Personal Services:

Five positions established in FY2014 will continue with program development tasks including adopting regulations; negotiating primacy MOUs with the EPA, the Corps and the U.S. Fish and Wildlife Service; developing program forms and guidance; continuing to manage a workgroup of permittees that will assist in designing a State program; ongoing negotiations with the EPA and the Corps; managing contractor assistance with development of the program description; applying for wetlands program development grant from EPA; and revising and implementing the communications plan. Three new positions in FY2015 will continue to develop the State's program capacity to issue and manage permits and to ensure compliance with permit conditions; implement statewide programmatic general permits that allow the state to implement targeted portions of the 404 program; implement data systems that provide automation of permits; and participate in a workshare agreement with the Corps for sharing staff resources. Three new positions will be established in FY15: Analyst Programmer IV (Juneau, GG, Range 20C); Engineer Associate II (Anchorage, GG, Range 21C); EPS III (Anchorage, GG, Range 18C). All positions for 12 months.

Travel:

Travel for workgroup/stakeholder meetings; meetings with EPA Region 10 and Headquarters and the Corps Alaska District and Headquarters; staff training; and field work for wetlands jurisdictional determinations and permittee inspections.

Services:

Position support costs for existing new positions, indirect, and public notice for workgroup meetings and draft regulations.

-- \$100.0 professional services contractor assistance for statutory gap analysis, draft regulations, assistance with primacy analysis; workgroup report; and assistance with drafting primacy application. New and amended regulations may be adopted by the end of FY2015. New regulations are required to be adopted to implement the federal program. Amended regulations may be necessary to align existing state regulations with program requirements.

-- \$187.50 RSA to Department of Law to assist with the Department's and workgroup's legal questions; legal assistance with Department's preparation of a primacy application, including preparation of an Attorney General's statement; legal assistance with statutes and regulations; negotiations with EPA and the Corps; and potential appeals and judicial challenges relating to federal approval of the state's primacy application.

-- \$566.7 RSA to Department of Natural Resources (DNR) for positions to participate with DEC in the program development tasks, including development of a mitigation program required of State programs and four positions for State program capacity development in permitting procedures.

Commodities:

Position support costs, including furniture and computers for three new positions (one-time costs for new positions); deletion of FY2014 one-time costs for furniture and computers; ongoing standard office supplies.

FY2016 and Beyond

By the FY16 budget cycle, there will be a decision point regarding whether to advance with the primacy effort and, if so, the pace of that effort. The fiscal note assumes a baseline budget to continue with primacy application efforts and some capacity development work; however, there will be a future determination about the pace of "ramping up" to the full program resources to implement the 404 program under primacy. Once the state assumes primacy, all but 2-3 of the program development positions will transition to program implementation (permitting, inspections, compliance, mitigation, recordkeeping, federal reporting).

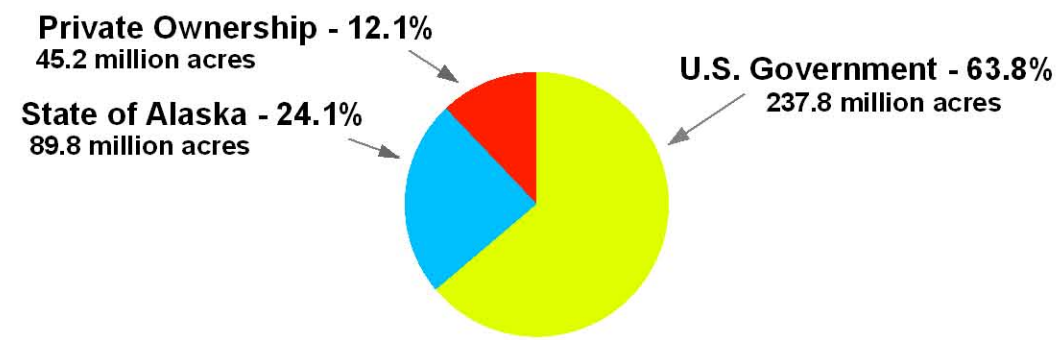
Services:

RSA with DOL continues. Once primacy is approved, estimated to be in year 4 or 5, efforts by the DOL will shift to counseling the agencies on implementation of the primacy program, and the nature of Law's work will likely vary based upon the specific projects and dredge and fill permit applications that need state approval. RSA with DNR continues.

Commodities:

Reflects the reduction of FY15 one-time costs for furniture and computers for three positions, computer replacements in FY18 (five positions) and FY19 (three positions).

Who Owns/Manages Alaska?



Russian traders arrived in Alaska in the mid-1700's and established small, scattered trading posts and settlements. Alaska Natives (the Eskimo, Indian, and Aleut peoples) continued as the primary landowners during this period of Russian occupation. On October 18, 1867, Russia sold Alaska to the United States government. As a result, the federal government owned the Alaska Territory, approximately 373 million acres - about one-fifth the size of the rest of the U.S.



Under the terms of the Alaska Statehood Act of 1959, the federal government granted the new state 28% ownership of its total area. Approximately 103,350,000 acres were to be elected under three types of grants:

- 1) Community - 400,000 acres
- 2) National Forest Community - 400,000 acres
- 3) General - 102,550,000 acres

Additional territorial grants for schools, university and mental health trust lands, totaling 1.2 million acres were confirmed with statehood.

All grants combined gave the State of Alaska approximately 105 million acres. To date, 89.9 million acres has been granted with the balance expected to be granted by 2009.

ANCSA Native Corporation (Private)
39.3 million acres

On December 18, 1971, P. L. 92-203, the Alaska Native Claims Settlement Act was signed into law. The purpose of ANCSA was to legislate the terms by which Alaska Natives could acquire title to their lands. This claim had been unresolved for more than 100 years since the United States purchased Alaska from Russia in 1867.

Native lands are private lands. ANCSA mandated the creation of regional and village Native corporations to manage 44 million acres and payment of one billion dollars. Thirteen regional corporations were created for the distribution of ANCSA land and money. Twelve of those shared in selection of 16 million acres, the thirteenth corporation, based in Seattle, received a cash settlement only. 224 village corporations, of 25 or more residents, shared 26 million acres. The remaining acres, which include historical sites and existing Native-owned lands, went into a land pool to provide land to small villages of less than 25 people. To date, 39.3 million acres have been transferred to ANCSA corporations.

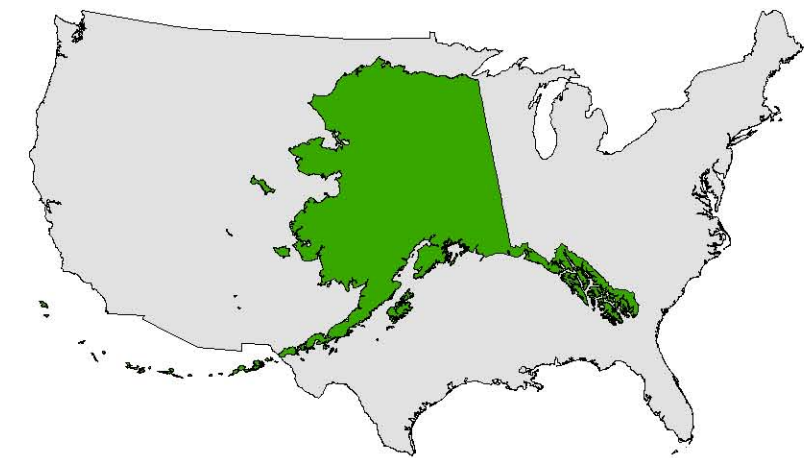
Non-ANCSA Private & Local Government - 5.9 million acres

Land in private ownership (other than Native land) comprises less than one percent of the total land in Alaska. Much of the best land for development around Alaska's communities is, or will be, privately owned. Private land development meets people's needs by providing places to live, work, shop and recreate. It also provides a tax base for cities and communities to help support public services.

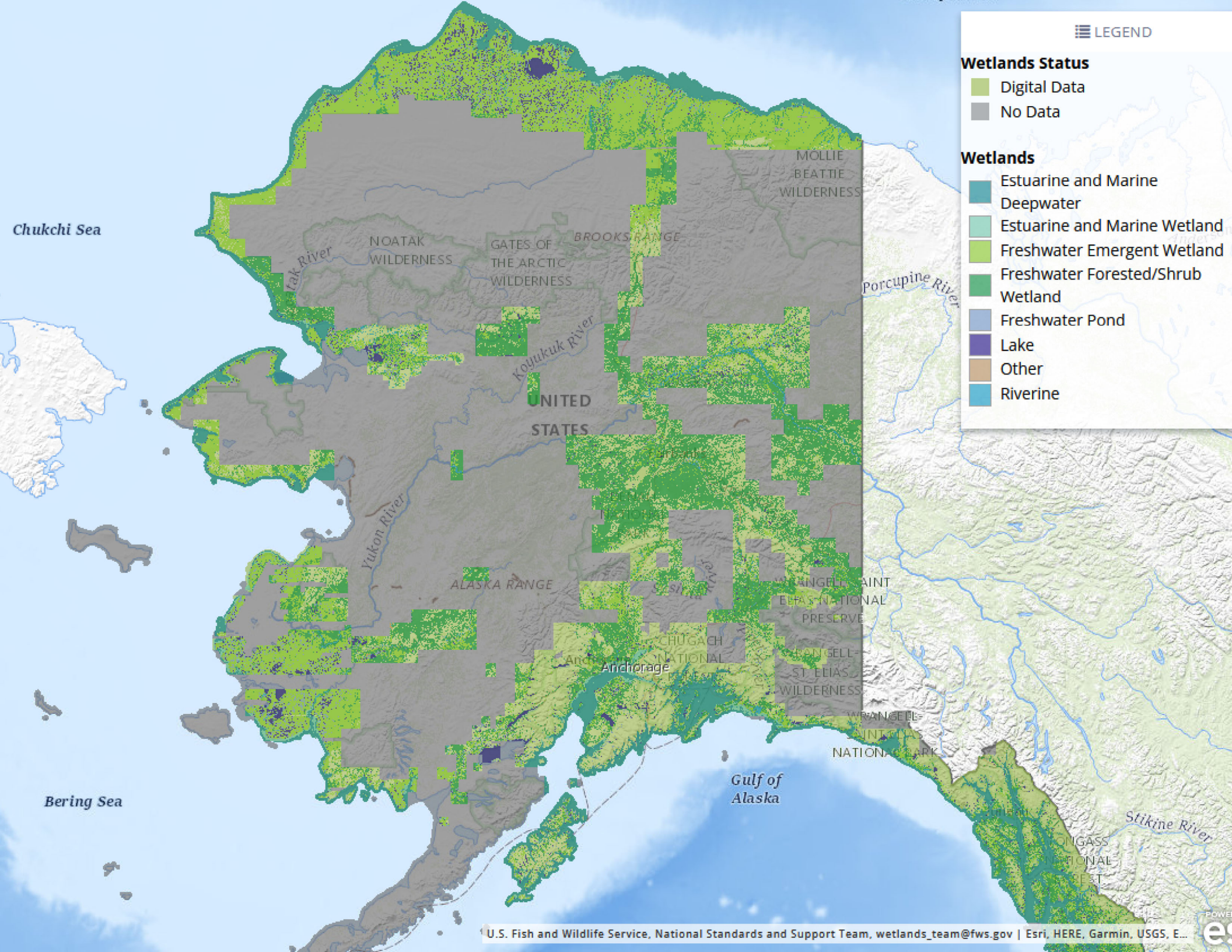
Because local governments in Alaska have individual methods of transferring land into private ownership, land currently owned by them is grouped into this category.



Alaska is one-fifth the size of the conterminous 48 states.



- Bureau of Land Management - 82.5 million acres**
In Alaska, BLM's focus is conveying land, wildland fire management, overseeing the Joint Pipeline Office (a partnership with the state and other federal agencies with oversight responsibility of the Trans-Alaska Pipeline), and responding to the public demand for use of the land they manage.
- U.S. Fish & Wildlife Service - 78.8 million acres**
The USFWS manages 16 wildlife refuges in Alaska. The two largest are the Yukon Delta National Wildlife Refuge and much storied Arctic National Wildlife Refuge (ANWR), both of which are approximately 19 million acres.
- National Park Service - 52.4 million acres**
There are eight national parks in Alaska, including the five largest in the national park system:
Wrangell-St. Elias National Park & Preserve - 13,175,901 acres
Gates of the Arctic National Park & Preserve - 8,472,506 acres
Denali National Park & Preserve - 6,075,030 acres
Katmai National Park & Preserve - 4,093,229 acres
Lake Clark National Park & Preserve - 4,030,025 acres
- U.S. Forest Service - 22.3 million acres**
The USFS manages two National Forests in Alaska. The Tongass NF, 16.8 million acres, and the Chugach NF, 5.5 million acres are the two largest national forests in the U.S. The USFS manages these lands for a wide range of goods and services while conserving and protecting them.
- Department of Defense - 1.7 million acres**
Dept. of Defense lands in Alaska provide for a unique training environment, most notably at the Northern Warfare Training Center in the Tanana Valley in the Interior.



Agdaagux Tribe of King Cove
P.O. Box 249
King Cove, AK 99612

Akiachak Native Community
P.O. Box 51070
Akiachak, AK 99551-0070

Akiak Native Community
P.O. Box 52127
Akiak, AK 99552

Alatna Village
P.O. Box 70
Alatna, AK 99720

Algaaciq Native Village (St. Mary's)
P.O. Box 48
St. Mary's, AK 99658

Allakaket Village
P.O. Box 30
Allakaket, AK 99720

Alutiiq Tribe of Old Harbor
P.O. Box 62
Old Harbor, AK 99643

Angoon Community Association
P.O. Box 328
Angoon, AK 99820

Anvik Village
P.O. Box 10
Anvik, AK 99558

Arctic Village
P.O. Box 22069
Arctic Village, AK 99722

Asa'carsarmiut Tribe
P.O. Box 32249
Mountain Village, AK 99632

Atqasuk Village (Atkasook)
P.O. Box 91108
Atqasuk, AK 99791

Beaver Village
P.O. Box 24029
Beaver, AK 99724

Birch Creek Tribe
P.O. Box 73505
Fairbanks, AK 99707

Central Council Tlingit & Haida Indian Tribes
9097 Glacier Highway
Juneau, AK 99801

Chalkyitsik Village
P.O. Box 57
Chalkyitsik, AK 99788

Cheesh-Na Tribe
HC 01 Box 217
Gakona, AK 99586

Chevak Native Village
P.O. Box 140
Chevak, AK 99563-0140

Chickaloon Native Village
P.O. Box 1105
Chickaloon, AK 99674-1105

Chignik Bay Tribal Council
P.O. Box 50
Chignik Bay, AK 99564

Chignik Lake Village
P.O. Box 33
Chignik Lake, AK 99548

Chilkat Indian Village (Klukwan)
HC60 Box 2207
Haines, AK 99827

Chilkoot Indian Association (Haines)
P.O. Box 490
Haines, AK 99827-0490

Chinik Eskimo Community (Golovin)
P.O. Box 62020
Golovin, AK 99762

Chuloonawick Native Village
P.O. Box 245
Emmonak, AK 99581-0245

Circle Native Community
P.O. Box 89
Circle, AK 99733

Craig Tribal Association
P.O. Box 828
Craig, AK 99921

Curyung Tribal Council
P.O. Box 216
Dillingham, AK 99576

Douglas Indian Association
811 West 12th
Juneau, AK 99801

Egegik Village
P.O. Box 29
Egegik, AK 99579

**Eklutna Native Village
26339 Eklutna Village Road
Chugiak, AK 99567-6339**

**Emmonak Village
P.O. Box 126
Emmonak, AK 99581**

**Evansville Village (aka Bettles Field)
P.O. Box 26087
Bettles Field, AK 99726**

**Galena Village (aka Loudon Village)
P.O. Box 244
Galena, AK 99741**

**Gulkana Village Council
P.O. Box 254
Gulkana, AK 99586**

**Healy Lake Village
P.O. Box 60302
Fairbanks, AK 99706**

**Holy Cross Tribe
P.O. Box 89
Holy Cross, AK 99602**

**Hoonah Indian Association
P.O. Box 602
Hoonah, AK 99829-0602**

**Hughes Village
P.O. Box 45029
Hughes, AK 99745**

**Huslia Village
P.O. Box 70
Huslia, AK 99746**

**Hydaburg Cooperative Association
P.O. Box 349
Hydaburg, AK 99922**

**Igiugig Village
P.O. Box 4008
Igiugig, AK 99613**

**Inupiat Community of the Arctic Slope
P.O. Box 934
Barrow, AK 99723**

**Iqurmiut Traditional Council
P.O. Box 09
Russian Mission, AK 99657**

**Ivanof Bay Tribe
6407 Brayton Drive, Suite 201
Anchorage, AK 99507**

**Kaguyak Village
P.O. Box 5078
Akhiok, AK 99615**

**Kaktovik Village (aka Barter Island)
P.O. Box 52
Kaktovik, AK 99747**

**Kasigluk Traditional Elders Council
P.O. Box 19
Kasigluk, AK 99609**

**Kenaitze Indian Tribe
P.O. Box 988
Kenai, AK 99611-0988**

**Ketchikan Indian Corporation
2960 Tongass Ave.
Ketchikan, AK 99901**

**King Island Native Community
P.O. Box 682
Nome, AK 99762**

**King Salmon Tribe
P.O. Box 68
King Salmon, AK 99613-0068**

**Klawock Cooperative Association
P.O. Box 430
Klawock, AK 99925-0430**

**Knik Tribe
P.O. Box 871565
Wasilla, AK 99687-1565**

**Kokhanok Village
P.O. Box 1007
Kokhanok, AK 99606**

**Koyukuk Native Village
P.O. Box 109
Koyukuk, AK 99754**

**Levelock Village
P.O. Box 70
Levelock, AK 99625**

**Lime Village
P.O. Box LVD
McGrath, AK 99627**

**Manley Hot Springs Village
P.O. Box 105
Manley Hot Springs, AK 99756**

**Manokotak Village
P.O. Box 169
Manokotak, AK 99628**

<p>McGrath Native Village P.O. Box 134 McGrath, AK 99627</p>	<p>Mentasta Traditional Council P.O. Box 6019 Mentasta Lake, AK 99780-6019</p>	<p>Metlakatla Indian Community, Annette Island Reserve P.O. Box 8 Metlakatla, AK 99926</p>
<p>Naknek Native Village P.O. Box 210 Naknek, AK 99633</p>	<p>Native Village of Afognak 115 Mill Bay Road Kodiak, AK 99615</p>	<p>Native Village of Akhiok P.O. Box 5030 Akhiok, AK 99615</p>
<p>Native Village of Akutan P.O. Box 89 Akutan, AK 99553-0089</p>	<p>Native Village of Aleknagik P.O. Box 115 Aleknagik, AK 99555</p>	<p>Native Village of Ambler P.O. Box 35 Ambler, AK 99786</p>
<p>Native Village of Atka P.O. Box 47030 116 Laavkix Rd Atka, AK 99547</p>	<p>Native Village of Barrow Inupiat Traditional Government P.O. Box 1130 Barrow, AK 99723</p>	<p>Native Village of Belkofski P.O. Box 57 King Cove, AK 99612</p>
<p>Native Village of Brevig Mission P.O. Box 85039 Brevig Mission, AK 99785</p>	<p>Native Village of Buckland P.O. Box 67 Buckland, AK 99727</p>	<p>Native Village of Cantwell P.O. Box 94 Cantwell, AK 99729</p>
<p>Native Village of Chenega (aka Chanega) 3000 C Street, Suite 301 Anchorage, AK 99503</p>	<p>Native Village of Chignik Lagoon P.O. Box 09 Chignik Lagoon, AK 99565</p>	<p>Native Village of Chitina P.O. Box 31 Chitina, AK 99566</p>
<p>Native Village of Chuathbaluk (Russian Mission, Kuskokwim) #1 Teen Center Trail Chuathbaluk, AK 99557</p>	<p>Native Village of Council P.O. Box 2050 Nome, AK 99762</p>	<p>Native Village of Deering P.O. Box 36089 Deering, AK 99736</p>
<p>Native Village of Diomedede (aka Inalik) P.O. Box 7079 Diomedede, AK 99762</p>	<p>Native Village of Eagle P.O. Box 19 Eagle, AK 99738</p>	<p>Native Village of Eek P.O. Box 89 Eek, AK 99578-0089</p>
<p>Native Village of Ekuk P.O. Box 530 Dillingham, AK 99576</p>	<p>Native Village of Ekwok P.O. Box 70 Ekwok, AK 99580</p>	<p>Native Village of Elim P.O. Box 39070 Elim, AK 99739</p>
<p>Native Village of Eyak (Cordova) P.O. Box 1388 Cordova, AK 99574-1388</p>	<p>Native Village of False Pass P.O. Box 29 False Pass, AK 99583</p>	<p>Native Village of Fort Yukon P.O. Box 126 Fort Yukon, AK 99740</p>

Native Village of Gakona P.O. Box 102 Gakona, AK 99586	Native Village of Gambell P.O. Box 90 Gambell, AK 99742	Native Village of Georgetown 5313 Arctic Blvd Ste 104 Anchorage, AK 99518
Native Village of Goodnews Bay P.O. Box 03 Goodnews Bay, AK 99589-0138	Native Village of Hamilton P.O. Box 20248 Kotlik, AK 99620	Native Village of Hooper Bay P.O. Box 69 Hooper Bay, AK 99604
Native Village of Kanatak P.O. Box 876822 Wasilla, AK 99687	Native Village of Karluk P.O. Box 22 Karluk, AK 99608	Native Village of Kiana P.O. Box 69 Kiana, AK 99749
Native Village of Kipnuk P.O. Box 57 Kipnuk, AK 99614	Native Village of Kivalina P.O. Box 50051 Kivalina, AK 99750	Native Village of Kluti-Kaah (aka Copper Center) P.O. Box 68 Copper Center, AK 99573-0068
Native Village of Kobuk P.O. Box 51039 Kobuk, AK 99751	Native Village of Kongiganak P.O. Box 5069 Kongiganak, AK 99545	Native Village of Kotzebue P.O. Box 296 Kotzebue, AK 99752-0296
Native Village of Koyuk P.O. Box 53030 Koyuk, AK 99753	Native Village of Kwigillingok P.O. Box 90 Kwigillingok, AK 99622	Native Village of Kwinhagak (aka Quinhagak) P.O. Box 149 Quinhagak, AK 99655
Native Village of Larsen Bay P.O. Box 50 Larsen Bay, AK 99624	Native Village of Marshall (aka Fortuna Ledge) P.O. Box 110 Marshall, AK 99585	Native Village of Mary's Igloo P.O. Box 546 Teller, AK 99778
Native Village of Mekoryuk P.O. Box 66 Mekoryuk, AK 99630	Native Village of Minto P.O. Box 58026 Minto, AK 99758-0026	Native Village of Nanwalek (aka English Bay) P.O. Box 8028 Nanwalek, AK 99603
Native Village of Napaimute P.O. Box 1301 Bethel, AK 99559	Native Village of Napakiak P.O. Box 34069 Napakiak, AK 99634	Native Village of Napaskiak P.O. Box 6009 Napaskiak, AK 99559
Native Village of Nelson Lagoon P.O. Box 913 Nelson Lagoon, AK 99571	Native Village of Nightmute P.O. Box 90021 Nightmute, AK 99690	Native Village of Nikolski P.O. Box 105 Nikolski, AK 99638

Native Village of Noatak P.O. Box 89 Noatak, AK 99761	Native Village of Nuiqsut (aka Nooiksut) P.O. Box 89169 Nuiqsut, AK 99789	Native Village of Nunam Iqua P.O. Box 27 Sheldon's Point, AK 99666-0027
Native Village of Nunapitchuk P.O. Box 130 Nunapitchuk, AK 99641	Native Village of Ouzinkie P.O. Box 130 Ouzinkie, AK 99644	Native Village of Paimiut P.O. Box 240084 Anchorage, AK 99524
Native Village of Perryville P.O. Box 89 Perryville, AK 99648	Native Village of Pilot Point P.O. Box 449 Pilot Point, AK 99649	Native Village of Pitka's Point P.O. Box 127 St. Mary's, AK 99658
Native Village of Point Hope P.O. Box 109 Pt. Hope, AK 99766	Native Village of Point Lay P.O. Box 59031 Point Lay, AK 99759	Native Village of Port Graham P.O. Box 5510 Port Graham, AK 99603-5510
Native Village of Port Heiden P.O. Box 49007 Port Heiden, AK 99549	Native Village of Port Lions P.O. Box 69 Port Lions, AK 99550	Native Village of Ruby P.O. Box 210 Ruby, AK 99768
Native Village of Saint Michael P.O. Box 59050 St. Michael, AK 99659	Native Village of Savoonga P.O. Box 120 Savoonga, AK 99769	Native Village of Scammon Bay P.O. Box 126 Scammon Bay, AK 99662
Native Village of Selawik 59 North Tundra St Selawik, AK 99770	Native Village of Shaktoolik P.O. Box 100 Shaktoolik, AK 99771-0100	Native Village of Shishmaref P.O. Box 72110 Shishmaref, AK 99772
Native Village of Shungnak P.O. Box 73064 Shungnak, AK 99773	Native Village of Stevens P.O. Box 74016 Stevens Village, AK 99774	Native Village of Tanacross P.O. Box 76009 Tanacross, AK 99776
Native Village of Tanana P.O. Box 130 Tanana, AK 99777	Native Village of Tatitlek P.O. Box 171 Tatitlek, AK 99677	Native Village of Tazlina P.O. Box 87 Glennallen, AK 99588-0087
Native Village of Teller P.O. Box 567 Teller, AK 99778	Native Village of Tetlin P.O. Box 797 Tok, AK 99780	Native Village of Tuntutuliak P.O. Box 8086 Tuntutuliak, AK 99680

Native Village of Tununak
P.O. Box 77
Tununak, AK 99681

Native Village of Tyonek
P.O. Box 82009
Tyonek, AK 99682-0009

Native Village of Unalakleet
P.O. Box 270
Unalakleet, AK 99684

Native Village of Unga
P.O. Box 508
Sand Point, AK 99661

**Native Village of Venetie Tribal
Government (Arctic Village and Village of
Venetie)**
P.O. Box 81080
Venetie, AK 99781

Native Village of Wales
P.O. Box 549
Wales, AK 99783

Native Village of White Mountain
P.O. Box 84090
White Mountain, AK 99784

Nenana Native Association
P.O. Box 369
Nenana, AK 99760

New Koliganek Village Council
P.O. Box 5057
Koliganek, AK 99576

New Stuyahok Village
P.O. Box 49
New Stuyahok, AK 99636

Newhalen Village
P.O. Box 207
Newhalen, AK 99606

Newtok Village
P.O. Box 5596
Newtok, AK 99559

Nikolai Village
P.O. Box 9107
Nikolai, AK 99691

Ninilchik Village
P.O. Box 39070
Ninilchik, AK 99639

Nome Eskimo Community
P.O. Box 1090
Nome, AK 99762

Nondalton Village
P.O. Box 49
Nondalton, AK 99640

Noorvik Native Community
P.O. Box 209
Noorvik, AK 99763

Northway Village
P.O. Box 516
Northway, AK 99764

Nulato Village
P.O. Box 65049
Nulato, AK 99765

Nunakauyarmiut Tribe
P.O. Box 37048
Toksook Bay, AK 99637-7048

**Organized Village of Grayling (aka
Holikachuk)**
P.O. Box 49
Grayling, AK 99590

Organized Village of Kake
P.O. Box 316
Kake, AK 99830-0316

Organized Village of Kasaan
P.O. Box 26 - Kasaan
Kasaan, AK 99950-0340

Organized Village of Kwethluk
P.O. Box 130
Kwethluk, AK 99621-0130

Organized Village of Saxman
Route 2, Box 2-Saxman
Ketchikan, AK 99901

Orutsararmuit Traditional Native Council
P.O. Box 927
Bethel, AK 99559

Oscarville Traditional Village
P.O. Box 6129
Napaskiak, AK 99559

Pauloff Harbor Village
P.O. Box 97
Sand Point, AK 99661

Pedro Bay Village
P.O. Box 47020
Pedro Bay, AK 99647

Petersburg Indian Association
P.O. Box 1418
Petersburg, AK 99833

Pilot Station Traditional Village
P.O. Box 5119
Pilot Station, AK 99650

Platinum Traditional Village
P.O. Box 8
Platinum, AK 99651

Portage Creek Village Council (aka
Ohgsenakale)
901 E Klatt Rd, Unit #1
Anchorage, AK 99516

Qagan Tayagungin Tribe of Sand Point
Village
P.O. Box 447
Sand Point, AK 99661

Qawalangin Tribe of Unalaska
P.O. Box 334
Unalaska, AK 99685

Rampart Village
P.O. Box 29
Rampart, AK 99767

Saint George Island
P.O. Box 940
St. George Island, AK 99591-0940

Saint Paul Island
P.O. Box 86
St. Paul Island, AK 99660

Salamatof Tribe
P.O. Box 2682
Kenai, AK 99611

Seldovia Village Tribe
Drawer L
Seldovia, AK 99663

Shageluk Native Village
P.O. Box 35
Shageluk, AK 99665

Sitka Tribe of Alaska
456 Katlian Street
Sitka, AK 99835-7505

Skagway Village
P.O. Box 1157
Skagway, AK 99840

South Naknek Village
P.O. Box 70029
South Naknek, AK 99670

Stebbins Community Association
P.O. Box 71002
Stebbins, AK 99671

Sun'aq Tribe of Kodiak
312 West Marine Way
Kodiak, AK 99615

Takotna Village
P.O. TYC
Takotna, AK 99675

Tangirnaq Native Village
3449 East Rezanof Drive
Kodiak, AK 99615

Telida Village
P.O. Box 9104
Nikolai, AK 99691

Traditional Village of Togiak
P.O. Box 310
Togiak, AK 99678

Tuluksak Native Community
P.O. Box 95
Tuluksak, AK 99679-0095

Twin Hills Village
P.O. Box TWA
Twin Hills, AK 99576-8996

Ugashik Village
2525 Blueberry Road, Suite 205
Anchorage, AK 99503

Umkumiut Native Village
P.O. Box 90062
Nightmute, AK 99690

Village of Alakanuk
P.O. Box 149
Alakanuk, AK 99554-0149

Village of Anaktuvuk Pass
P.O. Box 21170
Anaktuvuk Pass, AK 99721-0170

Village of Aniak
P.O. Box 349
Aniak, AK 99557

Village of Atmautluak
P.O. Box 6568
Atmautluak, AK 99559

Village of Bill Moore's Slough
P.O. Box 20288
Kotlik, AK 99620

**Village of Chefnak
P.O. Box 110
Chefnak, AK 99561-0110**

**Village of Clarks Point
P.O. Box 90
Clarks Point, AK 99569-0090**

**Village of Crooked Creek
P.O. Box 69
Crooked Creek, AK 99575**

**Village of Dot Lake
P.O. Box 70494
Fairbanks, AK 99701**

**Village of Iliamna
P.O. Box 286
Iliamna, AK 99606**

**Village of Kalskag
P.O. Box 50
Upper Kalskag, AK 99607**

**Village of Kaltag
P.O. Box 129
Kaltag, AK 99748**

**Village of Kotlik
P.O. Box 20210
Kotlik, AK 99620**

**Village of Lower Kalskag
P.O. Box 27
Lower Kalskag, AK 99626**

**Village of Ohogamiut
P.O. Box 49
Marshall, AK 99585**

**Village of Red Devil
P.O. Box 61
Red Devil, AK 99656**

**Village of Sleetmute
P.O. Box 109
Sleetmute, AK 99668**

**Village of Solomon
P.O. Box 2053
Nome, AK 99762**

**Village of Stony River
P.O. Box SRV
Stony River, AK 99557**

**Village of Venetie
P.O. Box 81109
Venetie, AK 99781**

**Village of Wainwright
P.O. Box 143
Wainwright, AK 99782**

**Wrangell Cooperative Association
P.O. Box 2021
Wrangell, AK 99929**

**Yakutat Tlingit Tribe
P.O. Box 418
Yakutat, AK 99689**

**Yupiit of Andreafski
P.O. Box 88
St. Mary's, AK 99658-0088**

FISCAL NOTE

STATE OF ALASKA
2022 LEGISLATIVE SESSION

Bill Version _____
Fiscal Note Number _____
() Publish Date _____

Identifier (file name) _____ Dept. Affected Environmental Conservation
Title Clean Water Act 404 Program Appropriation Water
Allocation Water Quality, Infrastructure Support and Financial
Sponsor _____ OMB Component Number 3204
Requester Senate Finance Committee

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY2023 Appropriation Requested	Included in Governor's FY2023 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	FY2023	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028
Personal Services		3,511.3	4,047.9	4,047.9	4,047.9	4,047.9	4,047.9
Travel		104.0	20.8	7.0	7.0	7.0	7.0
Services		1,109.7	682.2	661.4	661.4	661.4	661.4
Commodities		179.0	46.0	16.0	16.0	16.0	16.0
Capital Outlay							
Grants, Benefits							
Miscellaneous							
TOTAL OPERATING	0.0	4,904.0	4,796.9	4,732.3	4,732.3	4,732.3	4,732.3

FUND SOURCE (Thousands of Dollars)							
1002	Fed Rcpts (Fed)						
1003	GF/Match (UGF)						
1004	Gen Fund (UGF)	4,904.0	4,796.9	4,732.3	4,732.3	4,732.3	4,732.3
1005	GF/Prgm (DGF)						
1007	I/A Rcpts (Other)						
1037	GF/MH (UGF)						
		0.0	4,904.0	4,796.9	4,732.3	4,732.3	4,732.3

POSITIONS							
Full-time		28	32	32	32	32	32
Part-time							
Temporary							

CHANGE IN REVENUES	FY2023	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028
1004 Gen Fund (UGF)							
1002 Fed Rcpts (Fed)							
TOTAL CHANGE IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2022) operating costs 750.0 (separate supplemental appropriation required)

Estimated CAPITAL (FY2023) costs 0.0 (separate capital appropriation required)

Does the bill create or modify a fund or account? No
(Supplemental/Capital/New Fund- discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? Yes
If yes, by what date are the regulations to be adopted, amended, or repealed? 7/1/2023 Discuss details in analysis section.

Why this fiscal note differs from previous version/comments (if initial version, please note as such)

Drafted at the request of the Senate Finance Committee to better display the Department's budget request for the 404 Program for FY2023 and future years.

Prepared by _____
Division _____
Approved by _____
Agency _____

Phone _____
Date/Time _____
Date _____

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2022 LEGISLATIVE SESSION

BILL NO. 0

Analysis

State assumption of the Section 404 dredge and fill permitting program would provide time and cost savings for applicants, a streamlined and coordinated permitting process, greater certainty to the regulated community, conservation of resources of both the applicant and regulator, and greater control over the management of its wetlands and development of its natural resources while complying with federal law.

Personal Services: In SFY2022, three (3) positions were requested to prepare the State for assumption of the Section 404 program, an additional twenty-five (25) in SFY 2023, an additional four (4) in SFY 2024 to implement the program, for a total of thirty-two (32) cumulative base positions. The general duties would include program development; manage a workgroup of permittees that will assist in the analysis of 404 primacy; establish agreements with the Environmental Protection Agency (EPA), Corps, and other agencies (state and federal) that include a workplan, timeline, responsibilities, and requirements for the process to obtain and implement the program; establish and manage contractor assistance to conduct a gap analysis and draft initial statutes and regulations for program implementation; develop work plan; develop program description; manage wetlands program development grant from EPA; develop a communications plan; develop the State's knowledge and capability in the 404 permit program; negotiate with the Corps on one or more statewide programmatic general permits that allow the State to implement small, targeted portions of the 404 program; and to establish a workshare agreement with the Corps for sharing staff resources.

Travel: Travel to intensive training in the first year will be necessary for each technical staff person (\$5,200) but that will be reduced (\$1,000) for maintenance training rotating a quarter of the staff each year. Other travel may be required for jurisdictional determinations.

Services: Cost of intensive training in the first year will be necessary for each technical staff person (\$5,200) but that will be reduced (\$500) for maintenance training rotating a quarter of the staff each year. A contractor (\$250,000) will conduct a gap analysis and draft initial statutes and regulations for program implementation. Reimbursable Service Agreements with the Departments of Law, Fish and Game, and Natural Resources (\$415,000) to comply with a federal required consultation regarding historical assests and habitat concerns.

Commodities: First year new employee costs at \$7,500 each and office supplies at \$500 each for subsequent years.