ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
6550 SENATE RESOURCES

954

Pond Lilies on Alaska's Kenai Peninsula
Larry Ulrich/DRK Photo

THE WETLANDS OF ALASKA AND HAWAII

Alaska

The Alaskan tundra meets the general definition of wetlands, giving Alaska more than twice the number of wetland acres contained in the coterminous United States. About 223 million acres, or 58% of the state, are wetlands. Much of the state's finest fish and wildlife habitats are wet tundra, muskeg, and coastal wetlands. Wet tundra, found in the low-lying drier regions of the state, provides nesting habitat for millions of ducks and other birds.

Muskeg ponds, lakes, and bogs are scrub-shrub habitats containing thick layers of peat. These provide habitat for bears, moose, foxes, marten, mink, and muskrat. Songbirds and waterbirds also nest among the blueberry, cranberry, willow, and pine thickets which dominate muskegs.

Alaska's coastal wetlands, found primarily in river deltas and along the coast, are vital feeding, resting, and nesting areas for large numbers of migratory birds. It is estimated that as many as 20 million shorebirds annually use the Copper River delta. The Yukon-Kuskokwim delta provides a stopover for 100 million shorebirds and nesting sites for up to 2 million waterfowl.

Alaska wetlands are being affected to an increasing degree by human activity. At present, more than 70% of Alaska's population lives along its coasts, many in areas which were once wetlands. Dredging, draining, and filling of wetlands is on the rise as development expands. Crop and timber production, solid waste disposal, mining operations, highway and road construction, oil and gas development, contamination and degradation, and urban development are growing threats to the state's wetlands. Alaska does have a Coastal Management

Program and a Habitat Protection Permit Program regulating activities in inland wetlands. The local governments of Bethel, Anchorage, and Juneau have programs to regulate wetland impacts. Poor "interagency coordination," the lack of specific federal criteria for establishing practicable alternatives, and the need for public education, however, are hindering efforts to protect Alaska's wetlands. Even so, gains have been made in establishing local wetlands management plans and in increasing public awareness of the need to protect the state's coastal and inland wetland areas. Alaska offers a paradox; it is vast beyond ready comprehension, yet there is a need to give careful protection to the fragile wetlands of this region. The amount of wetlands present in Alaska is large, yet that quantity alone does not obviate the need for sensitive management of these resources.

Hawaii

Although Hawaii is best known for its volcanoes and resort beaches, wetlands constitute an important part of this state's cultural and ecological heritage. Early inhabitants constructed stone dams to expand natural wetlands along slow-moving streams to grow taro root and raise fish. Today, Hawaii's wetlands support four endangered species of waterbirds: the Hawaiian stilt, Hawaiian coot, Hawaiian gallinule, and the Nene or Hawaiian goose.

The Kawainui Marsh, Hawaii's largest wetland, over 600 acres in size, is located on Oahu, Hawaii's most densely populated island. Kawainui Marsh is currently the focus of an elaborate management plan seeking to preserve the economic, natural, and cultural values of the wetland. A part of this effort is directed to restoring and enlarging the marsh.

The "big island" of Hawaii has two wetlands along the West Kona coast, Opaeule Pond and the Waikoloa Wetland. The latter is unusual in that it consists of brackish ponds which fluctuate with the tides. The wetland's only outflow to the ocean is by way of the porous lava rock underlying the area. Three species of shrimp endemic to the marsh reside there. Both these wetlands are privately owned and are scheduled for resort development.

Aside from wetlands that have been acquired as wildlife refuges, the wetlands of Hawaii are not well protected, although the state does have a Shoreline Protection Act. Except for local initiatives, there is no comprehensive program to protect the state's inland wetlands.

United States Army Corps of Engineers

Regulatory Program

Applicant Information

PLEASE NOTE TOLL FREE
800-478-2712

This Pamphlet Supersedes EP 1145-2-1, November 1977

Authority for the Regulatory Program

The U.S. Army Corps of Engineers has been regulating activities in the nation's waters since 1890. Until the 1960's the primary purpose of the regulatory program was to protect navigation. Since then, as a result of laws and court decisions, the program has been broadened so that it now considers the full public interest for both the protection and utilization of water resources.

The regulatory authorities and responsibilities of the Corps of Engineers are based on the following laws:

- **Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403)** prohibits the obstruction or alteration of navigable waters of the United States without a permit from the Corps of Engineers.
- **Section 404 of the Clean Water Act (33 U.S.C. 1344).** Section 301 of this Act prohibits the discharge of dredged or fill material into waters of the United States without a permit from the Corps of Engineers.
- **Section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended (33 U.S.C. 1413)** authorizes the Corps of Engineers to issue permits for the transportation of dredged material for the purpose of dumping it into ocean waters.

Other laws may also affect the processing of applications for Corps of Engineers permits. Among these are the National Environmental Policy Act, the Coastal Zone Management Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Deepwater Port Act, the Federal Power Act, the Marine Mammal Protection Act, the Wild and Scenic Rivers Act, and the National Fishing Enhancement Act of 1984.

Explanation of Some Commonly Used Terms

Certain terms which are closely associated with the regulatory program are explained briefly in this section. If you need more detailed definitions, refer to the Code of Federal Regulations (33 CFR Parts 320 through 330) or contact a Corps district regulatory office.

Activity(ies) as used in this pamphlet includes structures (for example a pier, wharf, bulkhead, or jetty) and work (which includes dredging, disposal of dredged material, filling, excavation or other modification of a navigable water of the United States).

Navigable Waters of the United States are those waters of the United States that are subject to the ebb and flow of the tide shoreward to the mean high water mark and/or are presently used, or have been used in the past or may be susceptible to use to transport interstate or foreign commerce. These are waters that are navigable in the traditional sense where permits are required for certain activities pursuant to Section 10 of the Rivers and Harbors Act. This term should not be confused with the term *waters of the United States* below.

Waters of the United States is a broader term than navigable waters of the United States defined above. Included are adjacent wetlands and tributaries to navigable waters of the United States and other waters where the degradation or destruction of which could affect interstate or foreign commerce. These are the waters where permits are required for the discharge of dredged or fill material pursuant to Section 404 of the Clean Water Act.

Pre-application Consultation is one or more meetings between members of the district engineer's staff and an applicant and his agent or his consultant. A pre-application consultation is usually related to applications for major activities and may involve discussion of alternatives, environmental documents, National Environmental Policy Act procedures, and development of the scope of the data required when an environmental impact statement is required.

Public Hearings may be held to acquire information and give the public the opportunity to present views and opinions. The Corps may hold a hearing or participate in joint public hearings with other Federal or state agencies. The district engineer may specify in the public notice that a hearing will be held. In addition, any person may request in writing during the comment period that a hearing be held. Specific reasons must be given as to the need for a hearing. The district engineer may attempt to resolve the issue informally or he may set the date for a public hearing. Hearings are held at times and places that are convenient for the interested public. Very few applications involve a public hearing.

The Public Interest Review is the term which refers to the evaluation of a proposed activity to determine probable impacts. Expected benefits are balanced against reasonably foreseeable detriments. All relevant factors are weighed. Corps policy is to provide applicants with a timely and carefully weighed decision which reflects the public interest.

Public Notice is the primary method of advising interested public agencies and private parties of the proposed activity and of soliciting comments and information necessary to evaluate the probable impact on the public interest. Upon request, anyone's name will be added to the distribution list to receive public notices.

Waterbody is a river, creek, stream, lake, pool, bay, wetland, marsh, swamp, tidal flat, ocean, or other water area.

Questions That Are Frequently Asked

Various questions are often asked about the regulatory program. It is hoped that these answers will help you to understand the program better.

Q. When should I apply for a Corps permit?

A. Since two to three months is normally required to process a routine application involving a public notice, you should apply as early as possible to be sure you have all required approvals before your planned commencement date. For a large or complex activity that may take longer, it is often helpful to have a "pre-application consultation" or informal meeting with the Corps during the early planning phase of your project. You may receive helpful information at this point which could prevent delays later. When in doubt as to whether a permit may be required or what you need to do, don't hesitate to call a district regulatory office.

Q. I have obtained permits from local and state governments. Why do I have to get a permit from the Corps of Engineers?

A. It is possible you may not have to obtain an individual permit, depending on the type or location of work. The Corps has many general permits which authorize minor activities without the need for individual processing. Check with your Corps district regulatory office for information on general permits. When a general permit does not apply, you may still be required to obtain an individual permit.

Q. What will happen if I do work without getting a permit from the Corps?

A. Performing unauthorized work in waters of the United States or failure to comply with terms of a valid permit can have serious consequences. You would be in violation of Federal law and could face stiff penalties, including fines and /or requirements to restore the area.

Enforcement is an important part of the Corps regulatory program. Corps surveillance and monitoring activities are often aided by various agencies, groups, and individuals, who report suspected violations. When in doubt as to whether a planned activity needs a permit, contact the nearest district regulatory office. It could save a lot of unnecessary trouble later.

Q. How can I obtain further information about permit requirements?

A. Information about the regulatory program is available from any Corps district regulatory office. Addresses and telephone numbers of offices are listed at the back of this pamphlet. Information may also be obtained from the water resource agency in your state.

Q. Why should I waste my time and yours by applying for a permit when you probably won't let me do the work anyway?

A. Nationwide, only three percent of all requests for permits are denied. Those few applicants who have been denied permits usually have refused to change the design, timing, or location of the proposed activity. When a permit is denied, an applicant may redesign the project and submit a new application. To avoid unnecessary delays pre-application conferences, particularly for applications for major activities, are recommended. The Corps will endeavor to give you helpful information, including factors which will be considered during the public interest review, and alternatives to consider that may prove to be useful in designing a project.

Q. What is a wetland and what is its value?

A. Wetlands are areas that are periodically or permanently inundated by surface or ground water and support vegetation adapted for life in saturated soil. Wetlands include swamps, marshes, bogs and similar areas. A significant natural resource, wetlands serve important functions relating to fish and wildlife; food chain production; habitat; nesting; spawning; rearing and resting sites for aquatic and land species; protection of other areas from wave action and erosion; storage areas for storm and flood waters; natural recharge areas where ground and surface water are interconnected; and natural water filtration and purification functions.

Although individual alterations of wetlands may constitute a minor change, the cumulative effect of numerous changes often results in major damage to wetland resources. The review of applications for alteration of wetlands will include consideration of whether the proposed activity is dependent upon being located in an aquatic environment.

Q. How can I design my project to eliminate the need for a Corps permit?

A. If your activity is located in an area of tidal waters, the best way to avoid the need for a permit is to select a site that is above the high tide line and avoids wetlands or other waterbodies. In the vicinity of fresh water, stay above ordinary high water and avoid wetlands adjacent to the stream or lake. Also, it is possible that your activity is exempt and does not need a Corps permit or that it has been authorized by a nationwide or regional general permit. So, before you build, dredge or fill, contact the Corps district regulatory office in your area for specific information about location, exemptions, and regional and nationwide general permits.

General

The application form used to apply for a permit is Engineer Form 4345, *Application for a Department of the Army Permit.* You can obtain the application from one of the Corps of Engineers district regulatory offices listed in the back of this pamphlet. Some offices may use a slightly modified form for joint processing with a state agency; however, the required information is basically the same. It is important that you provide complete information in the requested format. If incomplete information is provided, processing of your application will be delayed. This information will be used to determine the appropriate form of authorization, and to evaluate your proposal. Some categories of activities have been previously authorized by nationwide or regional permits, and no further Corps approvals are required. Others may qualify for abbreviated permit processing, with authorizations in the form of letters of permission, in which a permit decision can usually be reached in less than 30 days. For other activities, a Public Notice may be required to notify Federal, state, and local agencies, adjacent property owners, and the general public of the proposal to allow an opportunity for review and comment or to request a public hearing. Most applications involving Public Notices are completed within four months and many are completed within 60 days.

The district engineer will begin to process your application immediately upon receipt of all required information. You will be sent an acknowledgement of its receipt and the application number assigned to your file. You should refer to this number when inquiring about your application. Your proposal will be reviewed, balancing the need and expected benefits against the probable impacts of the work, taking into consideration all comments received and other relevant factors. This process is called the *public interest review.* The Corps goal is to reach a decision regarding permit issuance or denial within 60 days of receipt of a complete application. However, some complex activities, issues, or requirements of law may prevent the district engineer from meeting this goal.

For any specific information on the evaluation process, filling out the application forms, or the status of your application, you should contact the regulatory branch of the Corps of Engineers district office which has jurisdiction over the area where you plan to do the work.

Typical Processing Procedure for a Standard Individual Permit

1. Preapplication consultation (optional)
2. Applicant submits ENG Form 4345 to district regulatory office*
3. Application received and assigned identification number
4. Public notice issued (within 15 days of receiving all information)
5. 15 to 30 day comment period depending upon nature of activity
6. Proposal is reviewed** by Corps and:
   - Public
   - Special interest groups
   - Local agencies
   - State agencies
   - Federal agencies
7. Corps considers all comments
8. Other federal agencies consulted, if appropriate
9. District engineer may ask applicant to provide additional information
10. Public hearing held, if needed
11. District engineer makes decision
12. Permit issued
    or
    Permit denied and applicant advised of reason

**A local variation, often a joint federal-state application form may be submitted.*

***Review period may be extended if applicant fails to submit information or due to requirements of certain laws.*

Evaluation Factors

The decision whether to grant or deny a permit is based on a public interest review of the probable impact of the proposed activity and its intended use. Benefits and detriments are balanced by considering effects on items such as:

conservation
economics
aesthetics
general environmental concerns
wetlands
cultural values
fish and wildlife values
flood hazards
floodplain values
food and fiber production
navigation
shore erosion and accretion
recreation
water supply and conservation
water quality
energy needs
safety
needs and welfare of the people
considerations of private ownership

The following general criteria will be considered in the evaluation of every application:

- the relative extent of the public and private need for the proposed activity;
- the practicability of using reasonable alternative locations and methods to accomplish the objective of the proposed activity; and
- the extent and permanence of the beneficial and/or detrimental effects which the proposed activity is likely to have on the public and private uses to which the area is suited.

Section 404(b) (1) of the Clean Water Act

If your project involves the discharge of dredged or fill material, it will be necessary for the Corps tc evaluate your proposed activity under the Section 404(b)(1) guidelines prepared by the Environmental Protection Agency. The guidelines restrict discharges into aquatic areas where less environmentally damaging, practicable alternatives exist.

Forms and Permits

The following forms apply to the permit process:

Application

The form that you will need to initiate the review process is ENG Form 4345 or a joint Federal-state application that may be available in your state. The appropriate form may be obtained from the district regulatory office which has jurisdiction in the area where your proposed project is located.

Individual Permits

An individual permit may be issued as either ENG Form 1721, the standard permit, or as a Letter of Permission.

- A standard permit is one processed through the typical review procedures, (see page 7) which include public notice, opportunity for a public hearing, and receipt of comments. It is issued following a case-by-case evaluation of a specific activity.
- If work is minor or routine with minimum impacts and objections are unlikely, then it may qualify for a Letter of Permission (LOP). An LOP can be issued much more quickly than a standard permit since an individual public notice is not required. The District Engineer will notify you if your proposed activity qualifies for an LOP.

General Permits

In many cases the formal processing of a permit application is not required because of general permits already issued to the public at large by the Corps of Engineers. These are issued on a regional and nationwide basis.

Separate applications may not be required for activities authorized by a general permit; nevertheless, reporting may be required. For specific information on general permits, contact a district regulatory office.

ENG Form 4336

The third form, ENG Form 4336, is used to assist with surveillance for unauthorized activities. The form, which contains a description of authorized work, should be posted at the site of an authorized activity. If the Corps decides it is appropriate for you to post this form, it will be furnished to you when you receive your permit.

Fees. Fees are required for most permits. $10.00 will be charged for a permit for a non-commercial activity; $100.00 will be charged for a permit for a commercial or industrial activity. The district engineer will make the final decision as to the amount of the fee. Do not send a fee when you submit an application. When the Corps issues a permit, you will be notified and asked to submit the required fee payable to the Treasurer of the United States. No fees are charged for transferring a permit from one property owner to another, for Letters of Permission, or for any activities authorized by a general permit or for permits to governmental agencies.

Instructions for Preparing an Application

The instructions given below, together with the sample application and drawings, should help in completing the required application form. If you have additional questions, do not hesitate to contact the district regulatory office.

Block Number 1. Application Number. Leave this block blank. When your completed application is received, it will be assigned a number for identification. You will be notified of the number in an acknowledgement letter. Please refer to this number in any correspondence or inquiry concerning your application.

Block 2. Name and address of applicant(s). Fill in name, mailing address, and telephone number(s) for all applicants. The telephone number(s) should be a number where you can be reached during business hours. If space is needed for additional names, attach a sheet of white, 8½ x 11 inch paper labeled "Block 2 Continued."

Block 3. Name, address and title of authorized agent. It is not necessary to have an agent represent you; however, if you do, fill in the agent's name, address, title and telephone number(s). If your agent is submitting and signing the application, you must fill out and sign the Statement of Authorization in Block 3.

Block 4. Detailed description of proposed activity. The written description and the drawings are the most important parts of the application. If there is not enough space in Block 4, (a), (b) or (c) attach additional sheet(s) of white, 8½ x 11 inch paper labeled "Block 4 Continued."

a. **Activity.** Describe the overall activity. Give the approximate dimensions of structures, fills, excavations (lengths, widths, heights or depths).

b. **Purpose.** Describe the purpose, need and intended use (public, private, commercial, or other use) of the proposed activity. Include a description of related facilities, if any, to be constructed on adjacent land. Give the date you plan to begin work on the activity and the date work is expected to be completed.

c. **Discharge of Dredged or Fill Material.** If the activity will involve the discharge of dredged or fill material, describe the type (rock, sand, dirt, rubble, etc.), quantity (in cubic yards), and mode of transportation to the discharge site.

Block 5. Names and addresses of adjoining property owners, lessees, etc. whose property adjoins the waterbody. List complete names, addresses and zip codes of adjacent property owners (both public and private), lessee, etc., whose property also adjoins the waterbody or wetland, in order that they may be notified of the proposed activity. This information is usually available at the local tax assessor office. If more space is needed attach a sheet of white, 8½ x 11 inch paper labeled "Block 5 Continued."

Block 6. Waterbody and location on waterbody where activity exists or is proposed. Fill in the name of the waterbody and the river mile (if known) at the location of the activity. Include easily recognizable landmarks on the shore of the waterbody to aid in locating the site of the activity.

Block 7. Location and land where activity exists or is proposed. This information is used to locate the site. Give the street address of the property where the proposed activity will take place. If the site does not have a street address, give the best descriptive location (name or waterbody), names and/or numbers of roads or highways, name of nearest community or town, name of county and state, and directions, such as 2 miles east of Brown's Store on Route 105.

Do not use your home address unless that is the location of the proposed activity. Do not use a post office box number.

Block 8. Information about completed activity. Provide information about parts of the activity which may be complete. An activity may have been authorized by a previously issued permit, may exist from a time before a Corps permit was required or may be constructed on adjacent upland.

Block 9. Information about approvals or denials by other government agencies. You may need approval or certification from other Federal, interstate, state, or local government agencies for the activity described in your application. Applications you have submitted, and approvals, certifications, or disapprovals that you have received should be recorded in Block 9. It is not necessary to obtain other Federal, state, and local permits before applying for a Corps of Engineers permit.

Block 10. Signature of applicant or agent. The application must be signed in Block 10 by the owner, lessee, or a duly authorized agent. The person named in Block 3 will be accepted as the officially designated agent of the applicant. The signature will be understood to be affirmation that the applicant possesses the requisite property interest to undertake the proposed activity.

APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT

(33 CFR 325)

OMB APPROVAL NO. 0702-0036
Expires 30 June 1986

The Department of the Army permit program is authorized by Section 10 of the River and Harbor Act of 1899, Section 404 of the Clean Water Act and Section 103 of the Marine Protection, Research and Sanctuaries Act. These laws require permits authorizing activities in or affecting navigable waters of the United States, the discharge of dredged or fill material into waters of the United States, and the transportation of dredged material for the purpose of dumping it into ocean waters. Information provided on this form will be used in evaluating the application for a permit. Information in this application is made a matter of public record through issuance of a public notice. Disclosure of the information requested is voluntary, however, the data requested are necessary in order to communicate with the applicant and to evaluate the permit application. If necessary information is not provided, the permit application cannot be processed nor can a permit be issued.

One set of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this application (*see sample drawings and instructions*) and be submitted to the District Engineer having jurisdiction over the location of the proposed activity. An application that is not completed in full will be returned.

1. APPLICATION NUMBER. *To be assigned by Corps*

2. NAME AND ADDRESS OF APPLICANT

Fred R. Harris
852 West Branch Road
Blue Harbor, Maryland 21703

Telephone no. during business hours

A/C ( ) _____ _____ (*Residence*)
A/C ( ) _____ _____ (*Office*)

3. NAME, ADDRESS, AND TITLE OF AUTHORIZED AGENT

None

Telephone no. during business hours

A/C ( ) _____ _____ (*Residence*)
A/C ( ) _____ _____ (*Office*)

Statement of Authorization. I hereby designate and authorize _____ to act in my behalf as my agent in the processing of this permit application and to furnish, upon request, supplemental information in support of the application.

SIGNATURE OF APPLICANT	DATE

4. DETAILED DESCRIPTION OF PROPOSED ACTIVITY

4a. ACTIVITY.

Build timber bulkhead and pier and fill.

4b. PURPOSE

To provide boat access and prevent erosion of shoreline at my place of residence.

4c. DISCHARGE OF DREDGED OR FILL MATERIAL

Approximately 200 cubic yards of upland fill will be placed between new bulkhead and existing shoreline.

ENG FORM 4345, Apr 83 EDITION OF 1 OCT 77 IS OBSOLETE (Proponent: DAEN-CWO-N)

5 NAMES AND ADDRESSES OF ADJOINING PROPERTY OWNERS, LESSEES, ETC., WHOSE PROPERTY ALSO ADJOINS THE WATERWAY

Mary L. Clark
850 West Branch Road
Blue Harbor, Maryland 21703

(301) 585-8830

Harry N. Hampton
854 West Branch Road
Blue Harbor, Maryland 21703

(301) 585-3676

6 WATERBODY AND LOCATION ON WATERBODY WHERE ACTIVITY EXISTS OR IS PROPOSED

West Branch of the Haven River on Blue Harbor.

7 LOCATION ON LAND WHERE ACTIVITY EXISTS OR IS PROPOSED

ADDRESS

852 West Branch Road
STREET, ROAD, ROUTE OR OTHER DESCRIPTIVE LOCATION

King Edward, Maryland 21703
COUNTY STATE ZIP CODE

Town of Blue Harbor
LOCAL GOVERNING BODY WITH JURISDICTION OVER SITE

SAMPLE

8 Is any portion of the activity for which authorization is sought now complete? ☐ YES ☒ NO
If answer is "Yes" give reasons, month and year the activity was completed. Indicate the existing work on the drawings.

9 List all approvals or certifications and denials received from other federal, interstate, state or local agencies for any structures, construction, discharges or other activities described in this application

ISSUING AGENCY	TYPE APPROVAL	IDENTIFICATION NO	DATE OF APPLICATION	DATE OF APPROVAL	DATE OF DENIAL
Town of Blue Harbor	Zoning	BH25172	6/20/82	6/30/82	
Md DNR	Certification	DNR258WQ	6/11/82	8/12/82	

10 Application is hereby made for a permit or permits to authorize the activities described herein. I certify that I am familiar with the information contained in this application, and that to the best of my knowledge and belief such information is true, complete, and accurate. I further certify that I possess the authority to undertake the proposed activities or I am acting as the duly authorized agent of the applicant.

Fred R. Harris — Oct. 15, 1982
SIGNATURE OF APPLICANT — DATE

SIGNATURE OF AGENT — DATE

The application must be signed by the person who desires to undertake the proposed activity (applicant) or it may be signed by a duly authorized agent if the statement in Block 3 has been filled out and signed

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of The United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

Do not send a permit processing fee with this application. The appropriate fee will be assessed when a permit is issued.

General Information

Three types of drawings—Vicinity, Plan, and Elevation—are required to accurately depict activities (See sample drawings on pages 16 and 17).

Submit one original, or good quality copy, of all drawings on 8½ × 11 inch white paper (tracing cloth or film may be used). Submit the fewest number of sheets necessary to adequately show the proposed activity. Drawings should be prepared in accordance with the general format of the samples, using block style lettering. Each page should have a title block. See check list below. Drawings do not have to be prepared by an engineer, but professional assistance may become necessary if the project is large or complex.

Leave a 1-inch margin at the top edge of each sheet for purposes of reproduction and binding.

In the title block of each sheet of drawings identify the proposed activity and include the name of the body of water; river mile (if applicable); name of county and state; name of applicant; number of the sheet and total number of sheets in set; and date the drawing was prepared.

Since drawings must be reproduced, use heavy dark lines. Color shading cannot be used; however, dot shading, hatching, or similar graphic symbols may be used to clarify line drawings.

Vicinity Map

The vicinity map you provide will be printed in any public notice that is issued and used by the Corps of Engineers and other reviewing agencies to locate the site of the proposed activity. You may use an existing road map or U.S. Geological Survey topographic map (scale 1:24,000) as the vicinity map. Please include sufficient details to simplify locating the site from both the waterbody and from land. Identify the source of the map or chart from which the vicinity map was taken and, if not already shown, add the following:

- ☐ location of activity site (draw an arrow showing the exact location of the site on the map).
- ☐ latitude, longitude, river mile, if known, and/or other information that coincides with Block 6 on the application form.
- ☐ name of waterbody and the name of the larger creek, river, bay, etc., that the waterbody is immediately tributary to.
- ☐ names, descriptions and location of landmarks.
- ☐ name of all applicable political (county, parish, borough, town, city, etc.) jurisdictions.
- ☐ name of and distance to nearest town, community, or other identifying locations.
- ☐ names or numbers of all roads in the vicinity of the site.
- ☐ north arrow.
- ☐ scale.

Plan View

The plan view shows the proposed activity as if you were looking straight down on it from above. Your plan view should clearly show the following:

- ☐ Name of waterbody (river, creek, lake, wetland, etc.) and river mile (if known) at location of activity.
- ☐ Existing shorelines.
- ☐ Mean high and mean low water lines and maximum (spring) high tide line in tidal areas.
- ☐ Ordinary high water line and ordinary low water line if the proposed activity is located on a non-tidal waterbody.

- ☐ Average water depths around the activity.
- ☐ Dimensions of the activity and distance it extends from the high water line into the water.
- ☐ Distances to nearby Federal projects, if applicable.
- ☐ Distance between proposed activity and navigation channel, where applicable.
- ☐ Location of structures, if any, in navigable waters immediately adjacent to the proposed activity.
- ☐ Location of any wetlands (marshes, swamps, tidal flats, etc.)
- ☐ North arrow.
- ☐ Scale.
- ☐ If dredged material is involved, you must describe the type of material, number of cubic yards, method of handling, and the location of fill and spoil disposal area. The drawing should show proposed retention levees, weirs, and/or other means for retaining hydraulically placed materials.
- ☐ Mark the drawing to indicate previously completed portions of the activity.

Elevation and/or Cross Section View

The elevation and/or cross section view is a scale drawing that shows the side, front, or rear of the proposed activity. If a section view is shown, it represents the proposed structure as it would appear if cut internally for display. Your elevation should clearly show the following:

- ☐ Water elevations as shown in the plan view.
- ☐ Water depth at waterward face of proposed activity or, if dredging is proposed, dredging and estimated disposal grades.
- ☐ Dimensions from mean high water line (in tidal waters) for proposed fill or float, or high tide line for pile supported platform. Describe any structures to be built on the platform.
- ☐ Cross section of excavation or fill, including approximate side slopes.
- ☐ Graphic or numerical scale.
- ☐ Principal dimensions of the activity.

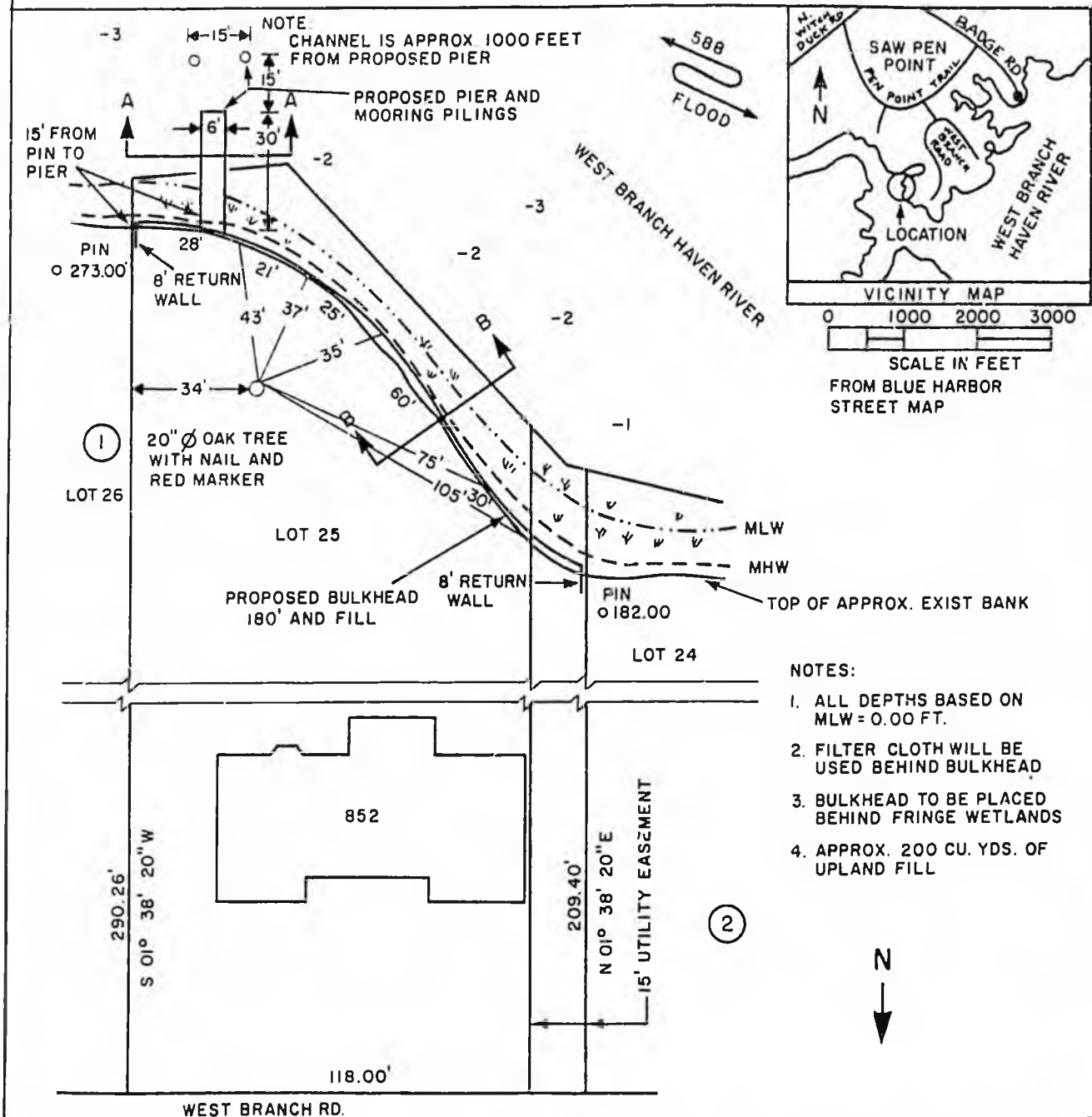
Notes on Drawings*

- ☐ Names of adjacent property owners who may be affected. Complete names and addresses should be shown in Block 5 on ENG Form 4345.
- ☐ Legal property description: Number, name of subdivision, block and lot number. Section, Township and Range (if applicable) from plot, deed or tax assessment.
- ☐ Photographs of the site of the proposed activity are not required; however, pictures are helpful and may be submitted as part of any application.

**Drawings should be as clear and simple as possible (i.e., not too "busy")*

SAMPLE DRAWINGS FOR A PERMIT APPLICATION

NOTE. THE DRAWINGS SUBMITTED NEED NOT BE PREPARED BY A PROFESSIONAL DRAFTSMAN AS IN THESE SAMPLES.



PURPOSE: PREVENT EROSION AND PROVIDE BOATING ACCESS

DATUM: MLW

ADJACENT PROPERTY OWNERS:

1. MARY L. CLARK
2. HARRY N. HAMPTON
3.

PLAN VIEW

0 40 80

1" = 40'

FRED R. HARRIS
852 WEST BRANCH ROAD
BLUE HARBOR, MD 21703

PROPOSED BULKHEAD PIER AND FILL

IN: WEST BRANCH HAVEN RIVER

AT: BLUE HARBOR

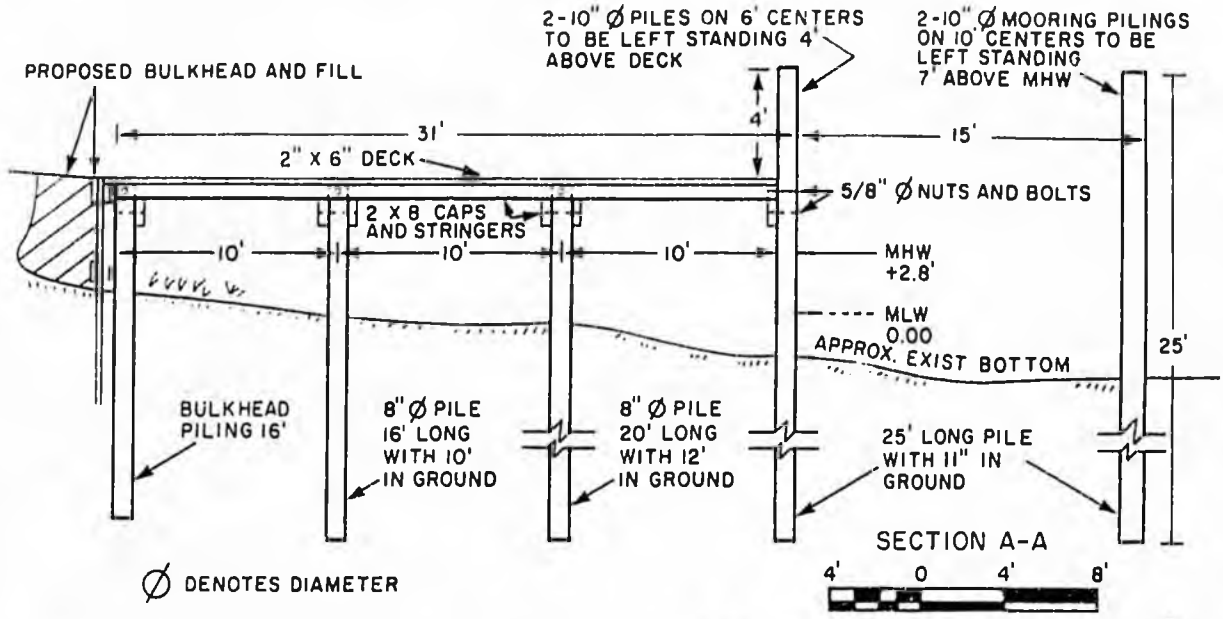
COUNTY OF: KING EDWARD STATE: MD

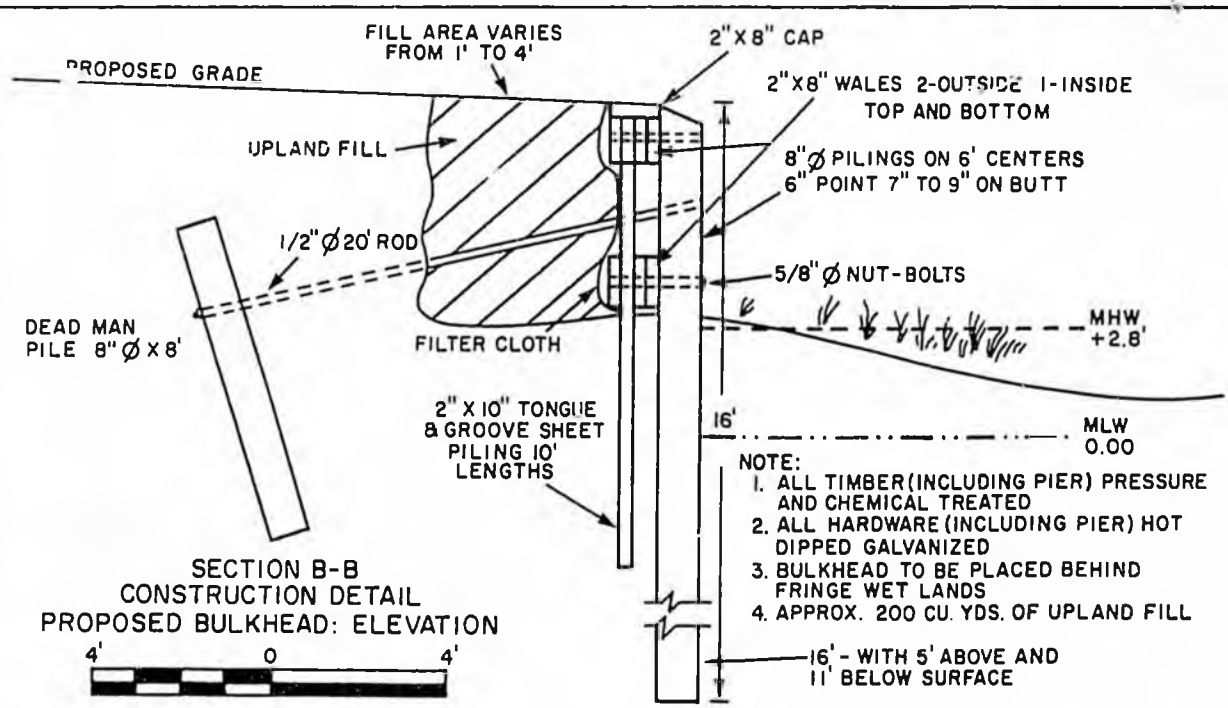
APPLICATION BY: FRED R. HARRIS

SHEET 1 OF 2 DATE 10-16-82

REV. 11-28-82

17





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SECTION VIEWS

FRED R. HARRIS
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SHEET 2 OF 2 DATE 10-16-82

REV. 11-28-82

■ DIVISION AND DISTRICT HEADQUARTERS
● DIVISION HEADQUARTERS
▲ DISTRICT HEADQUARTERS
– – – – STATE BOUNDARIES
——— DISTRICT BOUNDARIES

Note: In Iowa the eastern bank of the Missouri River is regulated by the Omaha office.

Address correspondence to:

The District Engineer
U.S. Army Engineer District
Please include attention line in address.

ALASKA
P.O. Box 898
Anchorage, AK 99506-0898
Attention: NPACO-RF
907/753-2712

ALBUQUERQUE
P.O. Box 1580
Albuquerque, NM 87103-1580
Attention: SWACO-OR
505/766-2776

BALTIMORE
P.O. Box 1715
Baltimore, MD 21203-1715
Attention: NABOP-R
301/962-3670
Joint application with New York, Maryland

BUFFALO
1776 Niagara Street
Buffalo, NY 14207-3199
Attention: NCBCO-S
716/876-5454 x2313
Joint application with New York

CHARLESTON
P.O. Box 919
Charleston, SC 29402-0919
Attention: SACCO-P
803/724-4330

CHICAGO
219 S. Dearborn Street
Chicago, IL 60604-1797
Attention: NCCCO-R
312/353-6428
Joint application with Illinois

DETROIT
P.O. Box 1027
Detroit, MI 48231-1027
Attention: NCECO-L
313/226-2218
Joint application with Michigan

FT. WORTH
P.O. Box 17300
Ft. Worth, TX 76102-0300
Attention: SWFOD-O
817/334-2681

GALVESTON
P.O. Box 1229
Galveston, TX 77553-1229
Attention: SWGCO-R
409/766-3925

HUNTINGTON
502 8th Street
Huntington, WV 25701-2070
Attention: ORHOP-F
304/529-5487
Joint application with West Virginia

HONOLULU
Building 230, Fort Shafter
Honolulu, HI 96858-5440
Attention: PODCO-O
808/438-9258

JACKSONVILLE
P.O. Box 4970
Jacksonville, FL 32232-0019
Attention: SAJRD
904/791-1659
Joint application with Florida, Virgin Islands

KANSAS CITY
700 Federal Building
601 E. 12th Street
Kansas City, MO 64106-2896
Attention: MRKOD-P
816/374-3645

LITTLE ROCK
P.O. Box 867
Little Rock, AR 72203-0867
Attention: SWLCO-P
501/378-5295

LOS ANGELES
P.O. Box 2711
Los Angeles, CA 90053-2325
Attention: SPLCO-R
213/688-5606

LOUISVILLE
P.O. Box 59
Louisville, KY 40201-0059
Attention: ORLOP-F
502/582-5452
Joint application with Illinois

MEMPHIS
Clifford Davis Federal Building
Room B-202
Memphis, TN 38103-1894
Attention: LMMCO-G
901/521-3471
Joint application with Missouri, Tennessee, Kentucky

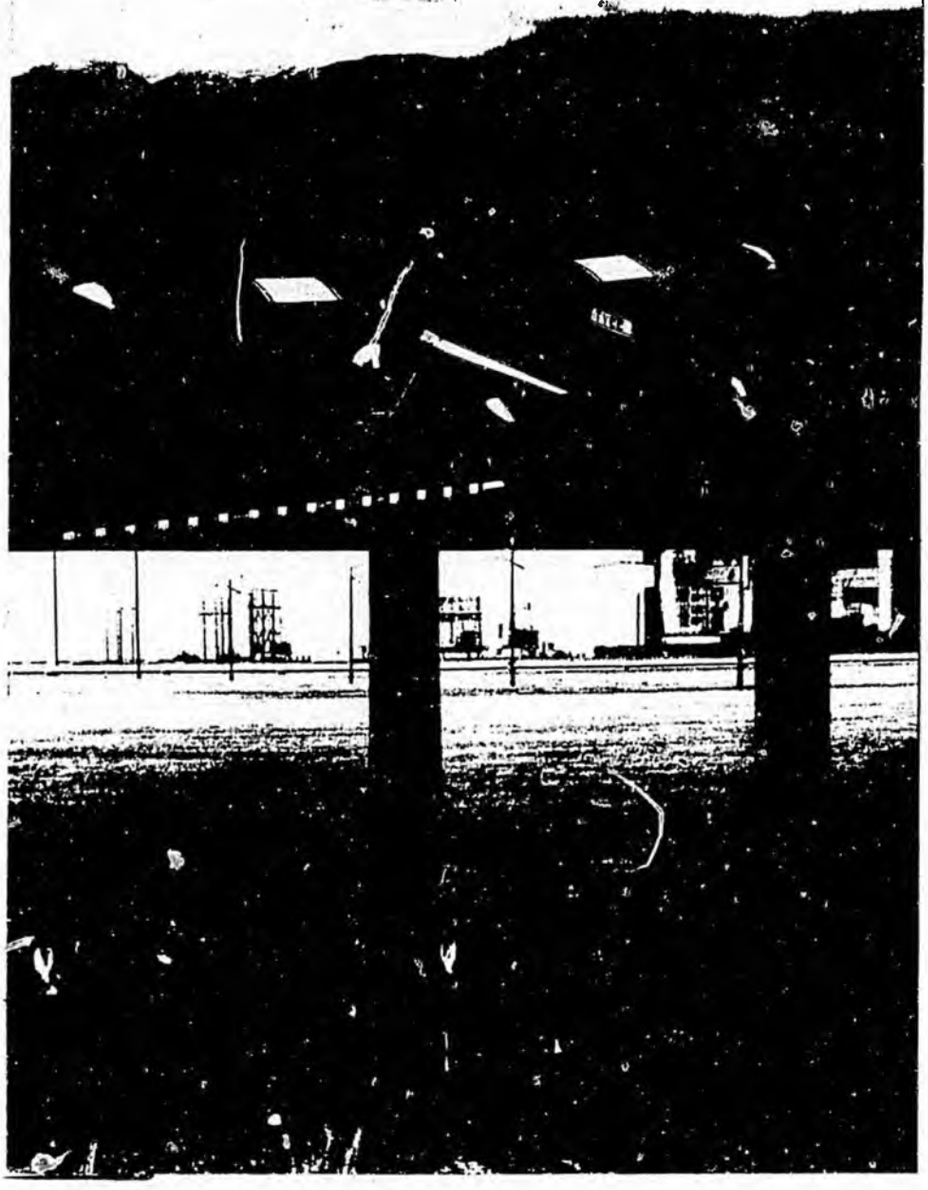
MOBILE
P.O. Box 2288
Mobile, AL 36628-00001
Attention: SAMOP-S
205/690-2658
Joint application with Mississippi

NASHVILLE
P.O. Box 1070
Nashville, TN 37202-1070
Attention: ORNOR-F
615/251-5181
Joint application with TVA, Tennessee, Alabama

U.S. GOVERNMENT PRINTING OFFICE

Development in Alaska's Waterways and Wetlands

The Corps of Engineers and You



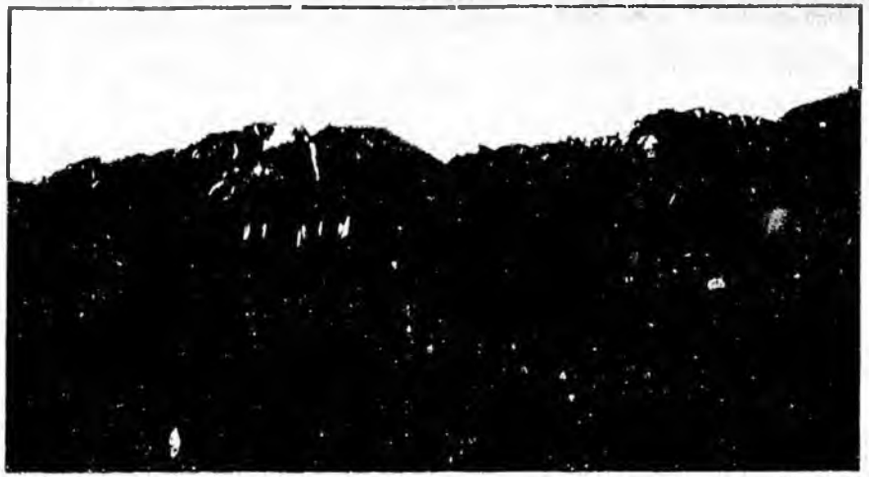
Alaska District
U.S. Army Corps of Engineers

Regulatory Branch

(907) 753-2712

or toll free

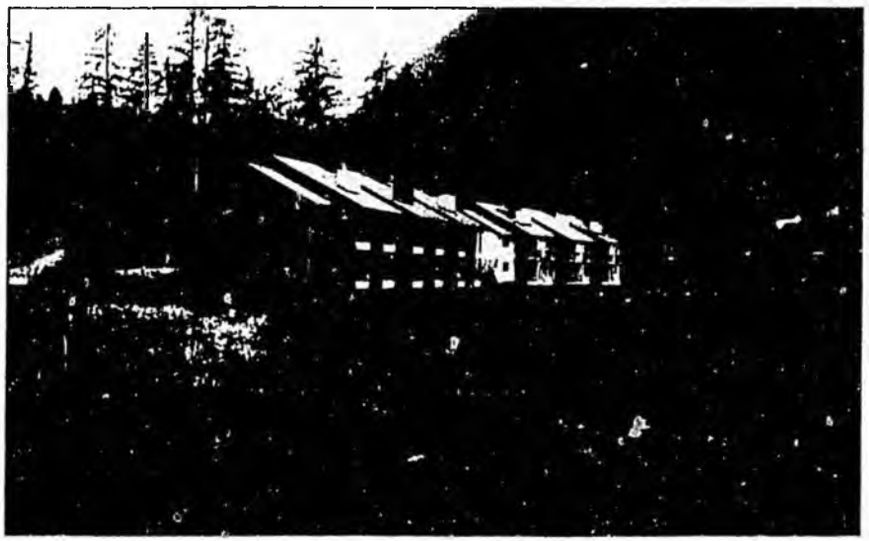
(800) 478-2712



The U.S. Army Corps of Engineers permit program regulates the development and protection of waters and wetlands so they will he used in the best interests of the public. Congress has delegated this responsibility to the Corps to ensure the continued wise use, survival and health of these waters through the public interest review process.

The Corps has jurisdiction over placing dredged or fill material in wetlands and waterways, construction of any structure in or over navigable and tidally influenced waters, excavation of material from these waters, or any obstruction or alteration in such waters.

Section 10 of the **River and Harbor Act of 1899** requires Corps permits for any construction or



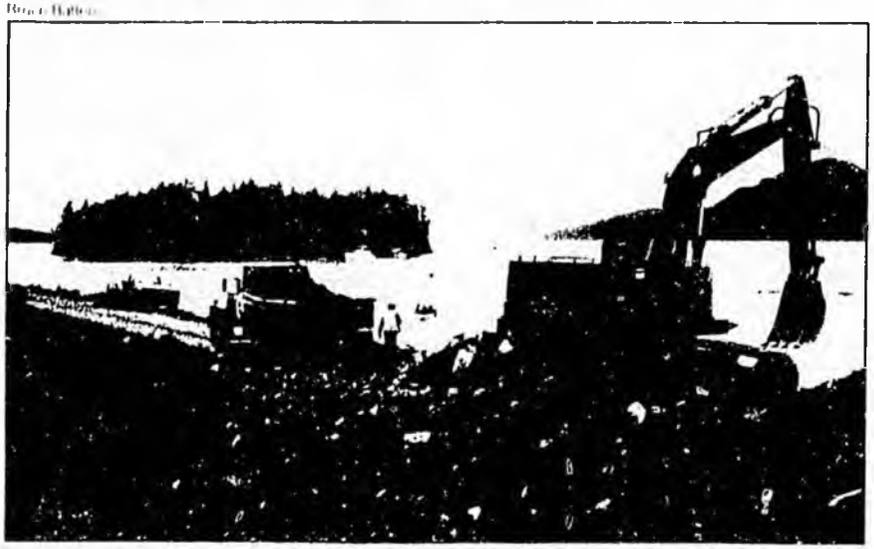
activity that alters the navigability of the waterways. This includes the ocean, rivers, streams, lakes and adjacent waterways.

Section 404 of the **Clean Water Act of 1977** requires Corps permits for placing dredged or fill material in all waters, including wetlands.

These laws apply to all projects affecting these waters, from the smallest recreational dock to the largest commercial undertaking, including site development and road fills, artificial islands, bank protection and utility line crossings.

Structures requiring permits include bulkheads with backfill, piers, pilings, ramps, breakwaters, jetties, groins, stone revetments, boathouses and buoys or mooring devices.

Other work requiring permits includes dredging and fill associated with utility lines, pads to support structures, dikes and dams, stream crossings, stream channelization, and riprap for shoreline protection.



The Importance of Wetlands

Wetlands provide direct economic, social and environmental benefits to the public. They serve as buffer areas, protecting the shoreline from erosion by waves and moderate storm surges. They act as natural barriers between development and waterways and as storage areas during floods and storms by retaining and gradually releasing high waters after subsidence. Wetlands often serve as groundwater recharge areas by replenishing sources of drinking water. They also filter and remove pollutants from water.

Wetlands are valuable resource areas. They include swamps, marshes, bogs, wet tundra, tidal waters, lakes, and stream and river systems. They are breeding, spawning, feeding and nursery areas for fish such as salmon and char. Wetlands are important nesting, feeding and wintering areas for waterfowl and shorebirds. They are a source of food and cover for moose, bears, and important furbearers like beavers and otters. Some aquatic areas may be the last stronghold for threatened and endangered species such as the Eskimo Curlew, Aleutian Canada Goose and Arctic Peregrine Falcon.

Terms and Definitions

Dredged Material: Material excavated or dredged from water.

Fill Material: Used for the primary purpose of replacing an aquatic area with dry land or of changing the bottom elevation of any body of water.

Discharge of Dredged or Fill Material: Addition of material into water, including the addition of material to a specified discharge site and the runoff or overflow from a contained land or water disposal area.

Headwaters: The point on a non-tidal stream above which the average annual flow is less than five cubic feet per second.

Navigable Waters: Waters subject to the ebb and flow of the tide shoreward to the mean high water mark and/or presently used, or have been used in the past, or may be susceptible to use for transportation of interstate commerce.

Ordinary High Water: The line on the shore established by the fluctuations of water indicated by physical characteristics such as a clear, natural line impressed on the bank; shelving; changes in the character of the soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding area.

Wetlands: Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support vegetation typically adapted for life in saturated soil conditions.

Adjacent Wetlands: Bordering or contiguous to water. Wetlands separated from other water by such things as constructed dikes or barriers, natural river berms or beach dunes are also "adjacent wetlands."

Helen Vollmer

Mary Peyton

Obtaining a Permit

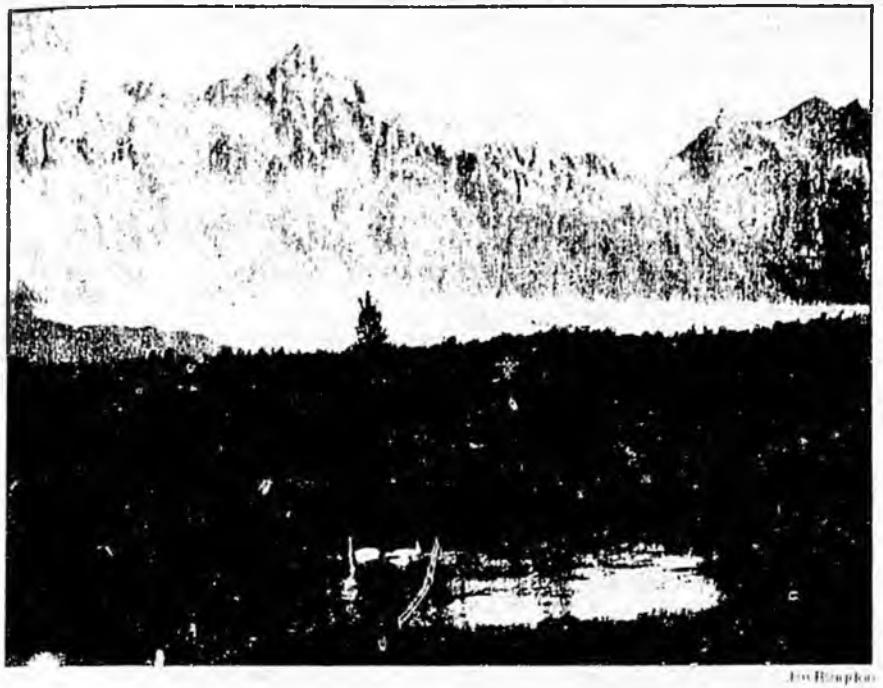
Any individual, company, corporation or government body planning construction or fill in waters of the United States, including wetlands, must obtain a permit from the Corps before starting the work. These permits are required on private land as well as on public land.

To determine whether a permit is required, contact the Corps. This service is provided by the Corps' Regulatory Branch at no charge.

If the proposed project requires a permit, a formal application must be submitted. A public notice is issued and a review is made by other federal, state and local agencies and the public. If the project is controversial a public hearing may be held.

Corps specialists analyze the impacts of the proposed activity, considering several important factors, including economics, environmental concerns, water quality, navigation, flood storage, cultural resources, aesthetics, recreation, water supply, energy needs, safety, food production and the needs and welfare of the applicant.

As a result of this review, an applicant may be required to modify potentially detrimental aspects of the proposed project to comply with



the intent of the laws. Permits are issued by the Corps' district engineer when the project is found to be in the public interest. An applicant must obtain other federal, state and local permits for the project in addition to the Corps permit.

Considerable time and expense may be saved by contacting the Corps for a permit before beginning work in waterways or wetlands. Penalties for non-compliance with the laws are high. Violators are subject to fines up to $25,000 per day or imprisonment for up to one year, or both.

For permit application information and jurisdictional determinations, contact:

Regulatory Branch
Alaska District
U.S. Army Corps of Engineers
P.O. Box 898
Anchorage, Alaska 99506-0898

phone:
(907) 753-2712
toll free (800) 478-2712

Sensitivity to our nation's important natural resources, including waterways and wetlands, is in the public's best interest – now and in the future. With cooperation, the need for developing our nation's resources can be successfully balanced with the values that are important to all of us.

Alaska District
U.S. Army Corps of Engineers

Regulatory Branch

(907) 753-2712

or toll free

(800) 478-2712

A new nationwide policy has been proposed to achieve no overall net loss of the nation's wetlands. Unless it is modified, this policy would apply to Alaska. If implemented, it would severely impact Alaska's ability to maintain its contribution to the nation's economy.

Alaska relies on resource development for its economic base, yet only 80,000 acres of wetlands have been used for *all* forms of development in Alaska, including the building of towns and roads. This amounts to 0.05% of Alaska's 170 million acres of wetlands. In contrast, the rest of the nation has seen the loss of over 54% of its wetlands—a loss over 1,000 times greater than the wetland loss in Alaska. The need for wetland preservation is clear in the contiguous 48 states. In Alaska, however, a problem simply does not exist.

Alaska Depends

Alaska is a state of vast physical dimensions. Covering 375 million acres, it stretches over 2,000 miles from west to east and over 1,000 miles from north to south. The climate ranges from the moderate maritime in Southeast Alaska to the harsh arctic on the North Slope.

Most think of Alaska as a land of great mountains, yet surprisingly, about 45% of the state's land area is covered by wetlands. In fact, wetlands account for about 74% of Alaska's non-mountainous area. Thus, wetlands of many types and descriptions form the bulk of the developable land in the state.

With its rich endowment of oil and gas, fish, minerals, and forests, Alaska is America's treasure chest of natural resources. As national and global consumption trends demand more resources, Alaska will continue to provide a vital part of the domestic supply. And through the wise use and management of its resources, Alaska has the means to diversify its economy while helping to provide the nation's essential raw materials.

Though Alaska already makes a substantial contribution to the nation's resource needs, only a tiny fraction of its wetlands have been modified. And since oil and gas, minerals, fisheries, timber, and tourism are the mainstays of Alaska's economy, the economic importance of resource development cannot be overlooked in wetland policies.

"No Net Loss" and Alaska's Economy

"No net loss" of wetlands means that any wetlands used for development would have to be replaced in the national wetland inventory by either creating new wetlands or reclaiming previously disturbed ones. Many Alaskan communities are built in wetlands or on narrow strips of flat land between mountains and the sea, and any expansion is impossible without sacrificing some wetlands. The state's capital Juneau, for example, would not have an airport if it wasn't for filling wetlands. Furthermore, there are essentially no disturbed wetlands in the state to be reclaimed. Many public and private projects in Alaska would be held hostage to the costs of "no net loss."

Most coastal communities in Alaska are undertaking port and harbor development and expanding marine repair facilities. Most have to rely on water-based transportation for fishing, processing, recreation, and tourism. The infrastructure must be built for the most part across wetlands.

Alaska's economic base—and vital community development in rural and urban Alaska—would be crippled if a nationwide policy of "no net loss" of wetlands was applied to the 49th State. In fact, such a policy would deprive Alaskans of their right to economic growth through judicious development of their natural resources. While the policy may be applicable to the contiguous 48 states, it is clearly not appropriate for Alaska. Such a policy in Alaska would accomplish nothing to slow wetland losses in the contiguous U.S. Moreover, Alaska is a public land state, with less than 1% of its lands in conventional private ownership. The federal government owns 60% and [illegible]% of Alaska's lands.

Alaska is also in a unique position because of the

Alaska Railroad Corp

Timber from Alaska's interior is loaded on a ship at the Port of Anchorage.

Alaska Native Claims Settlement Act of 1971. This law provided compensation in land and money to Alaska's natives in exchange for their aboriginal claims. Congress also intended that the lands selected by the natives be available for development.

Wetlands are Already Strictly Regulated

Additional policies to protect wetlands are not necessary in Alaska. A comprehensive set of state, federal, and local laws and regulations ensures that all development is carefully scrutinized before it begins. Not only that, but about half of Alaska is already protected as federal and state parks, wildlife refuges, wilderness areas, and other conservation units. Many of these lands were set aside when Congress passed the Alaska National Interest Lands Conservation Act in 1980, placing over 100 million acres in these conservation units, *with the expressed purpose that the remaining land be developed.* The coastal regions of Alaska are also protected under the Alaska Coastal Zone Management Program.

The existing regulatory framework, as well as Alaska's unique geographical setting, will ensure that wetland loss does not become a problem there. Adding another layer of regulatory control through the "no net loss" concept would accomplish little but to stifle economic growth throughout Alaska—from the smallest village to metropolitan Anchorage.

Third Eye Photography 1989

"The Mat-Su Borough has the oldest and one of the largest agriculture areas in Alaska, coupled with the entire gamut of minerals the nation needs, from coal to gravel, and a strong recreation industry. The proposed 'no net loss' policy would spell an end to projects supporting those vital industries. Can you imagine having to purchase land outside Alaska to replace wetlands which had to be crossed to build a necessary highway, port, tourist facility or school in Alaska?"

- Dorothy Jones, Mayor, Matanuska-Susitna Borough

AeroMap U S

"Unfortunately, the 'no net loss' policy is already being enforced by some federal agencies and its detrimental effect is becoming evident. However, Alaska is not the problem, nor should it be viewed as the solution to wetlands loss in the contiguous United States. Even with recent world-class developments, 99.95% of Alaska's wetlands are intact. That means there is no effective way to create new wetlands in most of Alaska to satisfy the demands of such a federal policy."

- Don Gilman, Mayor, Kenai Peninsula Borough

Carl Portman

"Applied to Alaska, a national policy of 'no net loss' of wetlands has the potential to stop economic development in every community. The 'no net loss' concept is not flexible to Alaska's unique position. We deserve a balanced public policy, one which allows responsible development while keeping wetland losses to a necessary minimum."

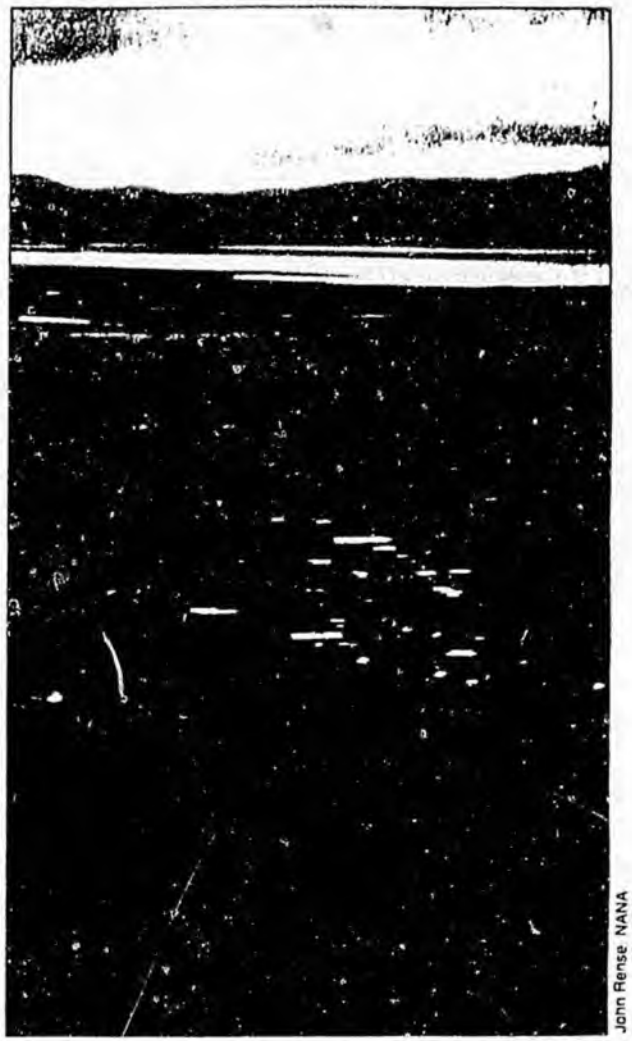
- Jerome Selby, Mayor, Kodiak Island Borough

AeroMap U S

"Like many other coastal communities, Juneau highly values its wetlands. They serve as wildlife habitat, as recharge zones for groundwater, and as recreational sites. For us, wetlands also represent the only buildable land remaining in our community. Because of our concerns for wetland use, we undertook an exhaustive study to identify and protect high-valued wetlands and to identify others suitable for reasonable development. Yet many believe our work has been largely ignored because of a federal regulatory scheme that fails to recognize our own paramount interests in land use and our ability to represent the public interest."

- Bruce Botelho, Mayor, City and Borough of Juneau

"No Net Loss" and What It Means to Alaska's Economy



John Reese NANA

Box 100516, Anchorage, Alaska 99510-0516 907/276-0700

10/89

fr: Phil Holdsworth

ACTION ALERT

RECEIVED
JAN 6 1990
PHIL HOLDSWORTH

TO: All NWMA Members
From: E.A. Johnson
Committee Coordinator

Re: ALASKA WETLANDS, The "No-Net-Loss" Policy

President Bush has stated that one of his administration's goals is reversing the loss of this Nation's wetlands. This idea was under analysis by the Domestic Policy Council but, on November 14, 1989, a memorandum of Agreement (MOA) was signed between the EPA and the Corps of Engineers, stating that "no-net-loss" is a goal. Effective date was December 15, but is now given as January 15, 1990. Operators who wish to be excluded from this no-net-loss policy must have their Clean Water Act Section 404 permits filed before January 14, 1990. Because over 170 million acres of Alaska is technically wetland, many of the small placer operations will be forced to cease operations, and the no-net-loss policy, if it is allowed to continue, will especially impact future development in Alaska, including mining operations and North Slope oil.

Take time to write the President and a few key members of the Senate Committee on the Environment and Public Works stating that this MOA should be rescinded because:

1.) This MOA circumvents the Administrative Procedures Act. It was made without the opportunity for full public review and comment. It implements binding policy in advance of guidance resulting from consideration of wetland issues by other departments in the administration and by Congress.
2.) "No-net-loss" must not be applied indiscriminately. Because of permafrost, much of Alaska is "technically" wetland but because much of Alaska remains undeveloped, 99.95% of the wetlands remain. Contrast this to a loss of nearly 54% in the "lower 48", and the inappropriateness of "no-net-loss" to Alaska becomes readily apparent.
3.) This seems to be another area where EPA is establishing more power. To have one agency influencing so many policies regarding public lands and industrial development does not serve this nation well. A consensus on these matters can only be obtained from a broad spectrum of public and government agency input at all levels. We need this consensus in order to develop rational public policy.

Again please take time to write. The approach to wetlands taken by EPA and the Corps of Engineers is inequitable to Alaska. If this MOA is not protested, it will also be applied in a "broad brush" manner in the "lower 48" and again without the opportunity for public input. A mailing list of potential recipients of your letter is provided on the back of this Action Alert.

NWMA
NORTHWEST MINING ASSOCIATION
414 PEYTON BUILDING
SPOKANE WA 99201

The Executive Office of the President
The White House
1600 Pennsylvania Ave., NW
Washington, DC 20500

The Honorable Quentin N. Burdick
Chairman, Senate Committee on Environment
and Public Works
SH-511 Hart Senate Office Bldg.
Washington, DC 20510-3401

The Honorable John H. Chaffee
Ranking Minority Member
Senate Committee on Environment
and Public Works
SD-567 Dirksen Senate Office Bldg.
Washington, DC 20510-3902

The Honorable Steve Symms
Member, Senate Committee on Environment
and Public Works
SH-509 Hart Senate Office Bldg.
Washington, DC 20510-1202

The Honorable Max Baucus
Member, Senate Committee on Environment
and Public Works
SH-706 Hart Senate Office Bldg.
Washington, DC 20510-2602

The Honorable Frank Murkowski
(Leading the Alaska Delegation
opposing the agreement)
SH-709 Hart Senate Office Bldg.
Washington, DC 20510-0202

Please send copies of your letters to:

Mr. Steve Borell, P.E.
Acting Exec. Director
Alaska Miners Association
501 Northern Lights Blvd. #203
Anchorage, AK 99503

Alliance for Juneau's Future, Inc.

BEST WISHES FOR GOOD HEALTH AND HAPPINESS IN 1990 AND FUTURE YEARS!!!

JANUARY 1990 PROGRAMS & ACTIVITIES

January 4, 1990

Thursday morning, 7 to 8 am at THE COOKHOUSE

Progress report on the various Alliance Committees including an up-date on the Wetlands No Net Loss Policy scheduled for implementation on January 15; status of the AJ mine project EIS; status of up-date on Juneau's Twenty Year Power Plan; status of of Juneau access EIS and other Alliance committee reports. Invite member's interests in future Alliance programs and activities.

Thursday morning 10 to 11 am AT THE CENTENNIAL CENTER FOREST SERVICE VISITOR CENTER THEATRE

Meeting of Juneau-Klondike Gold Rush planning group; Review of plans for developing a gold mining exhibit at Centennial Hall and relating this to plans for the observance of the Klondike Centennial in Alaska, the Yukon and Seattle.

Thursday, noon-hour AJF, Inc. BOARD MEETING AT THE LIBRARY CONFERENCE ROOM

The Alliance Board will meet at noon in the Library Conference Room above the downtown parking garage. The agenda will include: Membership and finance report; the planned January-March Alliance meeting/activity schedule; coordination with and possible co-location with JEDC, the Greater Juneau Chamber of Commerce, Juneau Convention and Visitors Bureau and other organizations; possible position statement on issues now before the Alliance. All members as well as Board Members are welcome to attend.

JANUARY 9, TUESDAY 4:30 to 6:30 PM AT CENTENNIAL HALL

LEGISLATIVE WELCOME RECEPTION AT CENTENNIAL HALL. This welcome reception is in partnership with the Greater Juneau Chamber of Commerce, Juneau Convention and Visitors Burea and other Juneau organizations. All Alliance members are encouraged to welcome Alaska's legislators back to Juneau.

JANUARY 11, THURSDAY MORNING, 7 to 8 am AT THE COOKHOUSE

Alliance Committee and Activity Reports
David Dorris, BLM, a brief progress report on the AJ project EIS
Status Report on the Mayor's Task Force on Fiscal Policy
and plans for the proposed Community Forum on Fiscal Policy

JANUARY 18, THURSDAY MORNING, 7 to 8 am AT THE COOKHOUSE

Alliance Committee and Activity Reports
Status Report on the Mayor's Task Force on Fiscal Policy & Public Forum

JANUARY 25, THURSDAY MORNING, 7 to 8 am AT THE COOKHOUSE

The A-J Mine Project; Overview of Mine Application & Project Plans
Harry Noah - Discussion leader

SUMMARY OF GENERAL MEMBERSHIP MEETING, THURSDAY, DECEMBER 21, 1989

This meeting of the Alliance for Juneau's Future began at 7:00 am at the Cookhouse. There were 43 in attendance including: Chuck Achberger, David Allison,Bill Brock, Tom Cashen, Lee Coffman, John Cooper, Bill Corbus, Dave Dawson, Fred Eastaugh, Don Harris, Rex Hermann, Ralph Hunt, Randall Jenkins, Jim Kohler, Skip Lakeman, Phyllis Lewis, Ladd Macaulay, Neil MacKinnon, Randy March, John McConnochie, Shorty and Evelyn Oliver, Tom Pittman, Rudy Ripley, John Sandor, Scott Spickler, Red Swanson, Debbie Talley, Lee Foreman, Susan Russo, Mike McKinnon, Don Tucker, Ira Winograd, Bev Ward and Gary Jenkins. Visitors were introduced and everyone welcomed.

Because of the Ridoubt Volcano and adverse weather conditions, Senator Ted Stevens had to cancel his Ketchkian - Juneau trip. It is expected that he will be visiting in Juneau in January or February, at which time we hope to have the Senator meet with our membership.

Gary Jenkins gave an excellent presentation on the Corps of Engineers/Environmental Protection Agency Memorandum of Agreement which would apply the "No Net Loss Policy for Wetlands" to Alaska lands. This Memorandum of Agreement was signed November 14-15, 1989, and was to take effect 30 days later, but implementation has been delayed for 30 days, but is now scheduled for implementation January 15, 1990. The Agreement concerns the determination of mitigation measures under the Clean Water Act Section 404(b)(1) guidelines.

Loss of wetlands in the 48 "contiguous" states is a serious problem with an estimated 54% of such lands disturbed or developed in those states. However, about 170 million acres of Alaska falls under the technical definition of wetlands and would be subject to this policy. Less than 1 % of Alaska's wetlands have been developed, but all of Alaska's wetlands would be be subject to the No Net Loss Policy outlined in this Agreement.

Ira Winograd of the CBJ Staff provided maps which showed the areas within the Borough which would be classified as wetlands. Substantial Borough as well as private lands would be subject to the proposed restriction of this Memorandum of Agreement.

Gary Jenkins described some of the provisions of the Agreement and summarized the impact on both public and private lands. Although development of such private lands would be restricted or prohibited, the private land owner is not compensated for those restrictions imposed by the government.

The application of a No net Loss Policy for Alaska's 170 million acres of lands classified as Wetlands, will be a major obstacle to all forms of development in the state. Although this policy has merit in application to the 48 states where 54 % of the wetlands are developed or disturbed, it is unreasonable to apply this same policy to Alaska wetlands, where less than 1 % of such lands are developed.

In discussions which followed, Bev Ward reported that the Arctic Slope Regional Corporation had filed a law suit for Declaratory and Injunctive Relief. The City and Borough of Anchorage has also filed suit with Fairbanks also considering this same action. Governor Cowper has indicated the State of Alaska is also considering filing suit. In addition to a challenge of the merits of applying this policy to Alaska, the lawsuits already filed challenge the proposed application of this policy without following the public rule-making procedures required by the Administrative Procedure Act. This major policy action was developed without public hearings or the opportunity for public comment.

This very interesting meeting on this serious question closed at 8 am, with follow-up reports planned for future meetings of the Alliance. The Executive Committee of the Alliance met following the meeting to consider the Alliance position on this and other business. The Executive Committee agrees the proposed No-Net Loss Policy should not be applied to Alaska and will consider appropriate action on this matter.

MEMORANDUM OF AGREEMENT BETWEEN THE ENVIRONMENTAL PROTECTION AGENCY AND THE DEPARTMENT OF THE ARMY CONCERNING THE DETERMINATION OF MITIGATION UNDER THE CLEAN WATER ACT SECTION 404(b)(1) GUIDELINES

I. Purpose

The United States Environmental Protection Agency (EPA) and the United States Department of the Army (Army) hereby articulate the policy and procedures to be used in the determination of the type and level of mitigation necessary to demonstrate compliance with the Clean Water Act (CWA) Section 404(b)(1) Guidelines ("Guidelines"). This Memorandum of Agreement (MOA) expresses the explicit intent of the Army and EPA to implement the objective of the CWA to restore and maintain the chemical, physical, and biological integrity of the Nation's waters, including wetlands. This MOA is specifically limited to the Section 404 Regulatory Program and is written to provide clarification for agency field personnel on the type and level of mitigation required to demonstrate compliance with requirements in the Guidelines. The policies and procedures discussed herein are consistent with current Section 404 regulatory practices and are provided in response to questions that have been raised about how the Guidelines are implemented.

Although the Guidelines are clearly applicable to all discharges of dredged or fill material, including general permits and Corps of Engineers (Corps) civil works projects, this MOA focuses on standard permits (33 CFR 325.5(b)(1))[1]. This focus is intended solely to reflect the unique procedural aspects associated with the review of standard permits, and does not obviate the need for other regulated activities to comply fully with the Guidelines. EPA and Army will seek to develop supplemental guidance for other regulated activities consistent with the policies and principles established in this document.

This MOA is a directive for Corps and EPA personnel and must be adhered to when considering mitigation requirements for standard permit applications. The Corps will use this MOA when making its determination of compliance with the Guidelines with respect to mitigation for standard permit applications. EPA will use this MOA in developing its positions on compliance with the Guidelines for proposed discharges and will reflect this MOA when commenting on standard permit applications.

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[1]Standard permits are those individual permits which have been processed through application of the Corps public interest review procedures (33 CFR 325) and EPA's Section 404(b)(1) Guidelines, including public notice and receipt of comments. Standard permits do not include letters of permission, regional permits, nationwide permits, or programmatic permits.

II. Policy

A. The Council on Environmental Quality (CEQ) has defined mitigation in its regulations at 40 CFR 1508.20 to include: avoiding impacts, minimizing impacts, rectifying impacts, reducing impacts over time, and compensating for impacts. The Guidelines establish environmental criteria which must be met for activities to be permitted under Section 404.[2] The types of mitigation enumerated by CEQ are compatible with the requirements of the Guidelines; however, as a practical matter, they can be combined to form three general types: avoidance, minimization and compensatory mitigation. The remainder of this MOA will speak in terms of these more general types of mitigation.

B. The Clean Water Act and the Guidelines set forth a goal of restoring and maintaining existing aquatic resources. The Corps will strive to avoid adverse impacts and offset unavoidable adverse impacts to existing aquatic resources, and for wetlands, will strive to achieve a goal of no overall net loss of values and functions. In focusing the goal of no overall net loss to wetlands only, EPA and Army have explicitly recognized the special significance of the nation's wetlands resources. This special recognition of wetlands resources does not in any manner diminish the value of other waters of the United States, which are often of high value. All waters of the United States, such as streams, rivers, lakes, etc., will be accorded the full measure of protection under the Guidelines, including the requirements for appropriate and practicable mitigation. The determination of what level of mitigation constitutes "appropriate" mitigation shall be based on the values and functions of the aquatic resource that will be impacted. This determination shall not be based upon characteristics of the proposed project such as need, societal value, or the nature or investment objectives of the project's sponsor. "Practicable" shall be defined as in Section 230.10(a)(2) of the Guidelines. However, the level of mitigation determined to be appropriate and practicable under Section 230.10(d) may lead to individual permit decisions which do not fully meet this goal because the mitigation measures necessary to meet this goal are not feasible, not practicable, or would accomplish only inconsequential reductions in impacts. Consequently, it is recognized that no net loss of wetlands functions and values may not be achieved in each and every permit action. However, it remains a goal of the Section 404 regulatory program to contribute to the national goal of no overall net loss of the nation's remaining wetlands base. EPA and Army are committed to working with others through the Administration's interagency task force and other avenues to help achieve this national goal.

C. In evaluating standard Section 404 permit applications, as a practical matter, information on all facets of a project, including potential mitigation, is typically gathered and reviewed at the same time. Notwithstanding this procedural approach, the Corps will, except as indicated below, first make a determination that potential impacts have been avoided to the maximum extent practicable; remaining unavoidable impacts will then be

[2](except where Section 404(b)(2) applies).

mitigated to the extent appropriate and practicable by requiring steps to minimize impacts and, only as a last resort, compensate for aquatic resource values. This sequence will be considered satisfied where the proposed mitigation is in accordance with specific provisions of a Corps and EPA approved comprehensive plan that ensures compliance with the compensation requirements of this MOA, as set forth at Section II.B (examples of such comprehensive plans may include Special Area Management Plans, Advance Identification areas (Section 230.80), and State Coastal Zone Management Plans). In some circumstances, it may be appropriate to deviate from the sequence when EPA and the Corps agree the proposed discharge is necessary to avoid environmental harm (e.g., to protect a natural aquatic community from saltwater intrusion, chemical contamination, or other deleterious physical or chemical impacts), or EPA and the Corps agree that the proposed discharge can reasonably be expected to result in environmental gain. This environmental gain must be solely attributable to the project itself, exclusive of benefits which may accrue from proposed compensatory mitigation.

In determining "appropriate and practicable" measures to offset unavoidable impacts, such measures should be appropriate to the scope and degree of those impacts and practicable in terms of cost, existing technology, and logistics in light of overall project purposes. The Corps will give full consideration to the views of the resource agencies when making this determination.

1. **Avoidance.**[3] Section 230.10(a) allows permit issuance for only the least environmentally damaging practicable alternative.[4] The thrust of this section on alternatives is avoidance of impacts. Section 230.10(a)(1) requires that, to be permittable, an alternative must be the least environmentally damaging practicable alternative. In addition, Section 230.10(a)(3) sets forth rebuttable presumptions that 1) alternatives for non-water dependent activities that do not involve special aquatic sites[5] are available and 2) alternatives that do not involve special aquatic sites have less adverse impact on the aquatic environment. Compensatory mitigation may not be used as a method to reduce environmental impacts in the selection of the least environmentally damaging practicable alternatives for the purposes of requirements under Section 230.10(a).

2. **Minimization.** Section 230.10(d) states that appropriate and practicable steps to minimize the adverse impacts will be required through project modifications and permit

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[3]Avoidance as used in this MOA does not include compensatory mitigation.

[4]It is important to recognize that there are circumstances where the impacts of the project are so significant that even if alternatives are not available, the discharge may not be permitted regardless of the compensatory mitigation proposed (40 CFR 230.10(c)).

[5]Special aquatic sites include sanctuaries and refuges, wetlands, mud flats, vegetated shallows, coral reefs and riffle pool complexes.

conditions. Subpart H of the Guidelines describes several (but not all) means for minimizing impacts of an activity.

3. **Compensatory Mitigation.** Appropriate and practicable compensatory mitigation will be required for unavoidable adverse impacts which remain after all appropriate and practicable minimization has been required. Compensatory actions (e.g., restoration of existing degraded wetlands or creation of man-made wetlands) should be undertaken, when practicable, in areas adjacent or contiguous to the discharge site (on-site compensatory mitigation). If on-site compensatory mitigation is not practicable, off-site compensatory mitigation should be undertaken in the same geographic area (i.e., in close physical proximity and, to the extent possible, the same watershed). In determining compensatory mitigation, the functional values lost by the resource to be impacted must be considered. In most cases, in-kind compensatory mitigation is preferable to out-of-kind. There is continued uncertainty regarding the success of wetland creation or other habitat development. Therefore, in determining the nature and extent of habitat development of this type, careful consideration should be given to its likelihood of success. Because the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, restoration should be the first option considered.

In the situation where the Corps is evaluating a project where a permit issued by another agency requires compensatory mitigation, the Corps may consider that mitigation as part of the overall application for purposes of public notice, but avoidance and minimization shall still be sought.

Mitigation banking may be an acceptable form of compensatory mitigation under specific criteria designed to ensure an environmentally successful bank. Where a mitigation bank has been approved by EPA and the Corps for purposes of providing compensatory mitigation for specific identified projects, use of that mitigation bank for those particular projects will be considered as meeting the requirements of Section II.C.3 of this MOA, regardless of the practicability of other forms of compensatory mitigation. Additional guidance on mitigation banking will be provided. Simple purchase or "preservation" of existing wetlands resources may in only exceptional circumstances be accepted as compensatory mitigation. EPA and Army will develop specific guidance for preservation in the context of compensatory mitigation at a later date.

III. Other Procedures

A. Potential applicants for major projects should be encouraged to arrange preapplication meetings with the Corps and appropriate federal, state or Indian tribal, and local authorities to determine requirements and documentation required for proposed permit evaluations. As a result of such meetings, the applicant often revises a proposal to avoid or minimize adverse impacts after developing an understanding of the Guidelines

requirements by which a future Section 404 permit decision will be made, in addition to gaining an understanding of other state or tribal, or local requirements.

B. In achieving the goals of the CWA, the Corps will strive to avoid adverse impacts and offset unavoidable adverse impacts to existing aquatic resources. Measures which can accomplish this can be identified only through resource assessments tailored to the site performed by qualified professionals because ecological characteristics of each aquatic site are unique. Functional values should be assessed by applying aquatic site assessment techniques generally recognized by experts in the field and/or the best professional judgment of federal and state agency representatives, provided such assessments fully consider ecological functions included in the Guidelines. The objective of mitigation for unavoidable impacts is to offset environmental losses. Additionally for wetlands, such mitigation will provide, at a minimum, one for one functional replacement (i.e., no net loss of values)[6], with an adequate margin of safety to reflect the expected degree of success associated with the mitigation plan, recognizing that this minimum requirement may not be relevant in some cases, as discussed in Section II.B of this MOA.

C. The Guidelines are established as the environmental standard for Section 404 permit issuance under the CWA. Aspects of a proposed project may be affected through a determination of requirements needed to comply with the Guidelines to achieve these CWA environmental goals. Other reviews, such as NEPA and the Corps public interest review, cannot be used to nullify any Guidelines requirements or to justify less rigorous Guidelines evaluations.

D. Monitoring is an important aspect of mitigation, especially in areas of scientific uncertainty. Monitoring should be directed toward determining whether permit conditions are complied with and whether the purpose intended to be served by the condition is actually achieved. Any time it is determined that a permittee is in non-compliance with mitigation requirements of the permit, the Corps will take action in accordance with 33 CFR Part 326. Monitoring should not be required for purposes other than these, although information for other uses may accrue from the monitoring requirements. For projects to be permitted involving mitigation with higher levels of scientific uncertainty, such as some forms of compensatory mitigation, long term monitoring, reporting and potential remedial action should be required. This can be required of the applicant through permit conditions.

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[6]In most cases a minimum of 1 to 1 acreage replacement of wetlands will be required to achieve no net loss of values. However, this ratio may be greater where the functional values of the area being impacted are demonstrably high. Conversely, the ratio may be less than 1 to 1 for areas where the functional values associated with the area being impacted are demonstrably low and the likelihood of success associated with the mitigation proposal is high.

E. Mitigation requirements shall be conditions of standard Section 404 permits. Army regulations authorize mitigation requirements to be added as special conditions to an Army permit to satisfy legal requirements.(e.g., conditions necessary to satisfy the Guidelines) [33 CFR 325.4(a)]. This ensures legal enforceability of the mitigation conditions and enhances the level of compliance. If the mitigation plan necessary to ensure compliance with the Guidelines is not reasonably implementable or enforceable, the permit shall be denied.

F. Nothing in this document is intended to diminish, modify or otherwise affect the statutory or regulatory authorities of the agencies involved. Furthermore, formal policy guidance on or interpretation of this document shall be issued jointly.

G. This MOA shall take effect thirty (30) days after the date of the last signature below, and will apply to those completed standard permit applications which are received on or after the effective date. This MOA may be modified or revoked by agreement of both parties, or revoked by either party alone upon six (6) months written notice.

11/14/89

Robert W. Page (date)
Assistant Secretary of the Army
(Civil Works)

NOV 15 1989

LaJuana S. Wilcher (date)
Assistant Administrator for Water
U.S. Environmental Protection Agency

SJR 54

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 1/8/90

FURTHER:

Date of 5-Day Notice: 1/8/90
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 1-8-90

RESOURCES Committee considered SJR 54

"no net loss of Wetlands" policy of the United States Army Corps of Engineers and the United States Enviornmental Protection Agency

and recommended:

[✓] replace with _____ CS SJR54 (Res) [✓] same title [ ] new title

[ ] attached amendment(s)

[ ] _____ letter of intent adopted

[✓] do pass

[ ] do not pass

[ ] no recommendation

[ ] individual recommendations

[ ] further referral to _____

ATTACHES NEW FISCAL NOTE(S):

Department(s)/Date:

[ ] fiscal note(s) _____

Department(s)/Date:

[✓] zero fiscal note(s) Senate Resources Committee

[ ] appropriation-no fiscal note

[ ] Governor's bill w/fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

Betty Fahrenkamp DO Pass

Chair: Signature and Recommendation

United States Senate

COMMITTEE ON APPROPRIATIONS
WASHINGTON, DC 20510-6025

December 1, 1989

The Honorable Richard G. Darman
Director
Office of Management and Budget
Old Executive Office Building
17th Street and Pennsylvania Ave., N.W.
Washington, D.C. 20503

Dear Dick:

There are serious problems with a recently promulgated Corps of Engineers/ Environmental Protection Agency Memorandum of Agreement [MOA] concerning permits under section 404 of the Clean Water Act. The agencies maintain that this MOA is merely a clarification of existing mitigation policy in light of the national goal of no overall net loss of wetland functions and values. We disagree.

While the application of this MOA to Alaska has the potential for disaster, it is objectionable on much broader grounds. It is not a clarification of existing policy. The Corps admits that the "no overall net loss" goal had not been articulated before this MOA. It is, in fact, a new policy setting an objective of no net loss of wetlands, and directing the agencies to use existing mitigation policies to achieve that objective.

As such, it undercuts and supercedes efforts within the Administration and in Congress to articulate a workable no overall net loss policy for wetlands protection. Further, it has been promulgated without opportunity for public comment, in violation of the Administrative Procedures Act.

Either of these objections would justify revocation of this MOA -- a step which we urge be taken immediately. And in addition to policy and procedural issues, there are substantive problems with it as well. Putting it simply, implementation of this MOA can not be done with the flexibility which the agencies claim to have worked into the document.

(1)

ENVIRONMENTALLY ARCO AN O.K. COMPANY, SAYS PRIORITIES COUNCIL

In "Shopping for a Better World: A Quick and Easy Guide to Socially Responsible Supermarket Shopping," ARCO Alaska's parent company, ARCO, is one of hundreds of firms whose corporate conscience has been rated by the Council on Economic Priorities (CEP).

Companies are rated on a variety of topics, from dealings with South Africa and charitable programs to minority and women's advancement.

Regarding environmental issues, ARCO receives a fair mark for its record. The guide sites some positive programs such as encouragement for recycling; waste reduction and alternative energy sources. (ARCO received the 1988 Energy Future Award for its leadership in the development and application of renewable and alternate energy technologies.)

ARCO, however, receives poor marks for conducting animal testing.

> ARCO, however, receives poor marks for conducting animal testing.

Randy Roth, ARCO's manager of Toxicology, says companies are required to do a certain amount of testing to determine the human health risks presented by their products.

"I think that's the socially responsible thing to do," said Roth regarding animal testing.

The guide states that non-animal alternatives to traditional testing may offer more reliable scientific results.

Roth disagrees. "At the present time, non-animal tests can't replace traditional tests."

However, in supporting research aimed at replacing animals in testing, ARCO donates roughly $50,000 annually to the University of Southern California and has been an active supporter of the John Hopkins Center for alternate testing, said Roth.

Tests which use animals to obtain that data are used as a last resort, he added. ■

ALASKA WETLANDS ARE DIFFERENT

Alaska North Slope wetlands are different from other wetlands. As a consequence, there has been no reduction in size or productivity of any wildlife species as a result of oil field development, according to the recently released report, "Effects of Petroleum Operations in Alaska Wetlands."

The report was written by environmental consultant Robert Senner and Co. for ARCO Alaska and BP Exploration, operators of the North Slope oil fields.

The report consists of a literature review of the functions and values of arctic permafrost wetlands in comparison to wetlands in the Lower 48.

Literature review and an original terrain analysis from aerial photography are used to determine Alaska wetland losses due to development. A preliminary quantification is compared to losses in the Lower 48.

Petroleum industry techniques to mitigate potential wetland loss are described in the report, along with a discussion of the effectiveness of current and proposed wetland mitigation measures on the North Slope.

According to the executive summary, evidence in the report supports the following conclusions:

- North Slope wetlands are fundamentally different from those in the conterminous United States. They do not provide most of the functions and values associated with temperature-zone wetlands. Aquifer recharge and discharge, flood control, storm surge protection, erosion and sedimentation control, and many other attributes are almost entirely absent from arctic permafrost wetlands.
- North Slope wetlands have low biological productivity and diversity, compared to temperate-zone wetlands and other wetland areas in Alaska. Wildlife inhabiting the Alaskan arctic are limited in number by length of snow-free season, predation, hunting, recurring severe winters, and conditions in staging of overwintering areas outside of Alaska and the arctic.
- Petroleum operations have not reduced the size or productivity of any wildlife population present on the North Slope at any time of the year. After 10 years of cumulative development centered on the Prudhoe Bay oil field, there is no evidence for a habitat "fragmentation" effect on birds or large mammals: the same suite of bird species is present within the most heavily developed areas of the Prudhoe Bay oil field as occurs in undisturbed areas, and caribou continued to calve successfully in and around the Kuparuk River oil field. Range abandonment as a result of North Slope petroleum operations has not occurred.
- Approximately 99.95 percent of Alaskan wetlands remain in their natural state. Human activity has resulted in a loss of an estimated 80,000 acres, or approximately 0.05 percent, of Alaska's wetlands, estimated to be 170,000,000 acres at the time of territorial accession in 1867.
- Statewide wetland losses due to the petroleum industry are estimated to be about 0.02 percent of Alaska's total wetlands. This reduction is greater than from any other type of development in Alaska, involving about 29,700 acres, or 38 percent of the total wetland acreage lost from man-made causes. The trans-Alaska pipeline and Dalton Highway account for about 20,000 acres, an estimated 67 percent of petroleum-related wetland losses in Alaska (Pamplin 1979). North Slope oil fields account for about 8,326 acres, an estimated 28 percent of petroleum-related losses statewide.
- Statewide wetland reductions due to other types of development have been similarly low. They are estimated as follows: mining, 13,300 acres, or 17 percent of total statewide wetland reductions; infrastructure, 12,700 acres, 16 percent; settlement, 12,100 acres, 15 percent; agriculture/homestead, 8,500 acres, 11 percent; timber harvest, less than 5,000 acres, or 6 percent; and military installations, 2,400 acres, 3 percent.
- The most effective types of mitigation used by the petroleum industry in Alaska are avoidance and minimization. The most significant factor in mitigating petroleum-related effects on Alaskan wetlands is pre-construction planning. This requires the close interaction of environmental specialists with design engineers from the beginning of each project. The majority of potential adverse effects are precluded before planned actions reach the permitting and field operations phases. Use of winter construction for petroleum exploration and development minimizes tundra damage; innovations such as modular facility design, reduced wellhead spacing, and directional drilling allow facility consolidation and minimize the cumulative area of tundra covered by gravel pads.
- There is no biological basis for concluding that wetland management techniques used by industry on the North Slope are insufficient, or that additional mitigation measures beyond continuing refinement of those currently in effect will benefit wildlife. Adverse effects on wildlife populations resulting from petroleum-related wetlands reductions have not been documented for Alaska, either on an individual or cumulative level. ■

Pond Lilies on Alaska's Kenai Peninsula
Larry Ulrich/DRK Photo

THE WETLANDS OF ALASKA AND HAWAII

Alaska

The Alaskan tundra meets the general definition of wetlands, giving Alaska more than twice the number of wetland acres contained in the coterminous United States. About 223 million acres, or 58% of the state, are wetlands. Much of the state's finest fish and wildlife habitats are wet tundra, muskeg, and coastal wetlands. Wet tundra, found in the low-lying drier regions of the state, provides nesting habitat for millions of ducks and other birds.

Muskeg ponds, lakes and bogs are scrub-shrub habitats containing thick layers of peat. These provide habitat for bears, moose, foxes, marten, mink, and muskrat. Songbirds and waterbirds also nest among the blueberry, cranberry, willow, and pine thickets which dominate muskegs.

Alaska's coastal wetlands, found primarily in river deltas and along the coast, are vital feeding, resting, and nesting areas for large numbers of migratory birds. It is estimated that as many as 20 million shorebirds annually use the Copper River delta. The Yukon-Kuskokwim delta provides a stopover for 100 million shorebirds and nesting sites for up to 2 million waterfowl.

Alaska wetlands are being affected to an increasing degree by human activity. At present, more than 70% of Alaska's population lives along its coasts, many in areas which were once wetlands. Dredging, draining, and filling of wetlands is on the rise as development expands. Crop and timber production, solid waste disposal, mining operations, highway and road construction, oil and gas development, contamination and degradation, and urban development are growing threats to the state's wetlands. Alaska does have a Coastal Management

Program and a Habitat Protection Permit Program regulating activities in inland wetlands. The local governments of Bethel, Anchorage, and Juneau have programs to regulate wetland impacts. Poor "interagency coordination," the lack of specific federal criteria for establishing practicable alternatives, and the need for public education, however, are hindering efforts to protect Alaska's wetlands. Even so, gains have been made in establishing local wetlands management plans and in increasing public awareness of the need to protect the state's coastal and inland wetland areas. Alaska offers a paradox; it is vast beyond ready comprehension, yet there is a need to give careful protection to the fragile wetlands of this region. The amount of wetlands present in Alaska is large, yet that quantity alone does not obviate the need for sensitive management of these resources.

Hawaii

Although Hawaii is best known for its volcanoes and resort beaches, wetlands constitute an important part of this state's cultural and ecological heritage. Early inhabitants constructed stone dams to expand natural wetlands along slow-moving streams to grow taro root and raise fish. Today, Hawaii's wetlands support four endangered species of waterbirds: the Hawaiian stilt, Hawaiian coot, Hawaiian gallinule, and the Nene or Hawaiian goose.

The Kawainui Marsh, Hawaii's largest wetland, over 600 acres in size, is located on Oahu, Hawaii's most densely populated island. Kawainui Marsh is currently the focus of an elaborate management plan seeking to preserve the economic, natural, and cultural values of the wetland. A part of this effort is directed to restoring and enlarging the marsh.

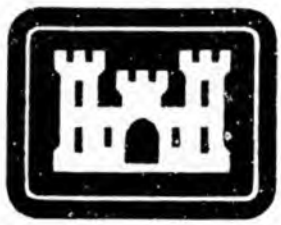
The "big island" of Hawaii has two wetlands along the West Kona coast, Opaeule Pond and the Waikoloa Wetland. The latter is unusual in that it consists of brackish ponds which fluctuate with the tides. The wetland's only outflow to the ocean is by way of the porous lava rock underlying the area. Three species of shrimp endemic to the marsh reside there. Both these wetlands are privately owned and are scheduled for resort development.

Aside from wetlands that have been acquired as wildlife refuges, the wetlands of Hawaii are not well protected, although the state does have a Shoreline Protection Act. Except for local initiatives, there is no comprehensive program to protect the state's inland wetlands.

United States Army Corps of Engineers

Regulatory Program

Applicant Information



PLEASE NOTE TOLL FREE #
800-478-2712

This Pamphlet Supersedes EP 1145-2-1, November 1977

Page

Authority for the Regulatory Program

The U.S. Army Corps of Engineers has been regulating activities in the nation's waters since 1890. Until the 1960's the primary purpose of the regulatory program was to protect navigation. Since then, as a result of laws and court decisions, the program has been broadened so that it now considers the full public interest for both the protection and utilization of water resources.

The regulatory authorities and responsibilities of the Corps of Engineers are based on the following laws:

- **Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403)** prohibits the obstruction or alteration of navigable waters of the United States without a permit from the Corps of Engineers.
- **Section 404 of the Clean Water Act (33 U.S.C. 1344).** Section 301 of this Act prohibits the discharge of dredged or fill material into waters of the United States without a permit from the Corps of Engineers.
- **Section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended (33 U.S.C. 1413)** authorizes the Corps of Engineers to issue permits for the transportation of dredged material for the purpose of dumping it into ocean waters.

Other laws may also affect the processing of applications for Corps of Engineers permits. Among these are the National Environmental Policy Act, the Coastal Zone Management Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Deepwater Port Act, the Federal Power Act, the Marine Mammal Protection Act, the Wild and Scenic Rivers Act, and the National Fishing Enhancement Act of 1984.

Explanation of Some Commonly Used Terms

Certain terms which are closely associated with the regulatory program are explained briefly in this section. If you need more detailed definitions, refer to the Code of Federal Regulations (33 CFR Parts 320 through 330) or contact a Corps district regulatory office.

Activity(ies) as used in this pamphlet includes structures (for example a pier, wharf, bulkhead, or jetty) and work (which includes dredging, disposal of dredged material, filling, excavation or other modification of a navigable water of the United States).

Navigable Waters of the United States are those waters of the United States that are subject to the ebb and flow of the tide shoreward to the mean high water mark and/or are presently used, or have been used in the past or may be susceptible to use to transport interstate or foreign commerce. These are waters that are navigable in the traditional sense where permits are required for certain activities pursuant to Section 10 of the Rivers and Harbors Act. This term should not be confused with the term *waters of the United States* below.

Waters of the United States is a broader term than navigable waters of the United States defined above. Included are adjacent wetlands and tributaries to navigable waters of the United States and other waters where the degradation or destruction of which could affect interstate or foreign commerce. These are the waters where permits are required for the discharge of dredged or fill material pursuant to Section 404 of the Clean Water Act.

Pre-application Consultation is one or more meetings between members of the district engineer's staff and an applicant and his agent or his consultant. A pre-application consultation is usually related to applications for major activities and may involve discussion of alternatives, environmental documents, National Environmental Policy Act procedures, and development of the scope of the data required when an environmental impact statement is required.

Public Hearings may be held to acquire information and give the public the opportunity to present views and opinions. The Corps may hold a hearing or participate in joint public hearings with other Federal or state agencies. The district engineer may specify in the public notice that a hearing will be held. In addition, any person may request in writing during the comment period that a hearing be held. Specific reasons must be given as to the need for a hearing. The district engineer may attempt to resolve the issue informally or he may set the date for a public hearing. Hearings are held at times and places that are convenient for the interested public. Very few applications involve a public hearing.

The Public Interest Review is the term which refers to the evaluation of a proposed activity to determine probable impacts. Expected benefits are balanced against reasonably foreseeable detriments. All relevant factors are weighed. Corps policy is to provide applicants with a timely and carefully weighed decision which reflects the public interest.

Public Notice is the primary method of advising interested public agencies and private parties of the proposed activity and of soliciting comments and information necessary to evaluate the probable impact on the public interest. Upon request, anyone's name will be added to the distribution list to receive public notices.

Waterbody is a river, creek, stream, lake, pool, bay, wetland, marsh, swamp, tidal flat, ocean, or other water area.

Questions That Are Frequently Asked

Various questions are often asked about the regulatory program. It is hoped that these answers will help you to understand the program better.

Q. When should I apply for a Corps permit?

A. Since two to three months is normally required to process a routine application involving a public notice, you should apply as early as possible to be sure you have all required approvals before your planned commencement date. For a large or complex activity that may take longer, it is often helpful to have a "pre-application consultation" or informal meeting with the Corps during the early planning phase of your project. You may receive helpful information at this point which could prevent delays later. When in doubt as to whether a permit may be required or what you need to do, don't hesitate to call a district regulatory office.

Q. I have obtained permits from local and state governments. Why do I have to get a permit from the Corps of Engineers?

A. It is possible you may not have to obtain an individual permit, depending on the type or location of work. The Corps has many general permits which authorize minor activities without the need for individual processing. Check with your Corps district regulatory office for information on general permits. When a general permit does not apply, you may still be required to obtain an individual permit.

Q. What will happen if I do work without getting a permit from the Corps?

A. Performing unauthorized work in waters of the United States or failure to comply with terms of a valid permit can have serious consequences. You would be in violation of Federal law and could face stiff penalties, including fines and /or requirements to restore the area.

Enforcement is an important part of the Corps regulatory program. Corps surveillance and monitoring activities are often aided by various agencies, groups, and individuals, who report suspected violations. When in doubt as to whether a planned activity needs a permit, contact the nearest district regulatory office. It could save a lot of unnecessary trouble later.

Q. How can I obtain further information about permit requirements?

A. Information about the regulatory program is available from any Corps district regulatory office. Addresses and telephone numbers of offices are listed at the back of this pamphlet. Information may also be obtained from the water resource agency in your state.

Q. Why should I waste my time and yours by applying for a permit when you probably won't let me do the work anyway?

A. Nationwide, only three percent of all requests for permits are denied. Those few applicants who have been denied permits usually have refused to change the design, timing, or location of the proposed activity. When a permit is denied, an applicant may redesign the project and submit a new application. To avoid unnecessary delays pre-application conferences, particularly for applications for major activities, are recommended. The Corps will endeavor to give you helpful information, including factors which will be considered during the public interest review, and alternatives to consider that may prove to be useful in designing a project.

Q. What is a wetland and what is its value?

A. Wetlands are areas that are periodically or permanently inundated by surface or ground water and support vegetation adapted for life in saturated soil. Wetlands include swamps, marshes, bogs and similar areas. A significant natural resource, wetlands serve important functions relating to fish and wildlife; food chain production; habitat; nesting; spawning; rearing and resting sites for aquatic and land species; protection of other areas from wave action and erosion; storage areas for storm and flood waters; natural recharge areas where ground and surface water are interconnected; and natural water filtration and purification functions.

Although individual alterations of wetlands may constitute a minor change, the cumulative effect of numerous changes often results in major damage to wetland resources. The review of applications for alteration of wetlands will include consideration of whether the proposed activity is dependent upon being located in an aquatic environment.

Q. How can I design my project to eliminate the need for a Corps permit?

A. If your activity is located in an area of tidal waters, the best way to avoid the need for a permit is to select a site that is above the high tide line and avoids wetlands or other waterbodies. In the vicinity of fresh water, stay above ordinary high water and avoid wetlands adjacent to the stream or lake. Also, it is possible that your activity is exempt and does not need a Corps permit or that it has been authorized by a nationwide or regional general permit. So, before you build, dredge or fill, contact the Corps district regulatory office in your area for specific information about location, exemptions, and regional and nationwide general permits.

General

The application form used to apply for a permit is Engineer Form 4345, *Application for a Department of the Army Permit.* You can obtain the application from one of the Corps of Engineers district regulatory offices listed in the back of this pamphlet. Some offices may use a slightly modified form for joint processing with a state agency; however, the required information is basically the same. It is important that you provide complete information in the requested format. If incomplete information is provided, processing of your application will be delayed. This information will be used to determine the appropriate form of authorization, and to evaluate your proposal. Some categories of activities have been previously authorized by nationwide or regional permits, and no further Corps approvals are required. Others may qualify for abbreviated permit processing, with authorizations in the form of letters of permission, in which a permit decision can usually be reached in less than 30 days. For other activities, a Public Notice may be required to notify Federal, state, and local agencies, adjacent property owners, and the general public of the proposal to allow an opportunity for review and comment or to request a public hearing. Most applications involving Public Notices are completed within four months and many are completed within 60 days.

The district engineer will begin to process your application immediately upon receipt of all required information. You will be sent an acknowledgement of its receipt and the application number assigned to your file. You should refer to this number when inquiring about your application. Your proposal will be reviewed, balancing the need and expected benefits against the probable impacts of the work, taking into consideration all comments received and other relevant factors. This process is called the *public interest review.* The Corps goal is to reach a decision regarding permit issuance or denial within 60 days of receipt of a complete application. However, some complex activities, issues, or requirements of law may prevent the district engineer from meeting this goal.

For any specific information on the evaluation process, filling out the application forms, or the status of your application, you should contact the regulatory branch of the Corps of Engineers district office which has jurisdiction over the area where you plan to do the work.

Typical Processing Procedure for a Standard Individual Permit

1. Preapplication consultation (optional)
2. Applicant submits ENG Form 4345 to district regulatory office*
3. Application received and assigned identification number
4. Public notice issued (within 15 days of receiving all information)
5. 15 to 30 day comment period depending upon nature of activity
6. Proposal is reviewed** by Corps and:
   - Public
   - Special interest groups
   - Local agencies
   - State agencies
   - Federal agencies
7. Corps considers all comments
8. Other federal agencies consulted, if appropriate
9. District engineer may ask applicant to provide additional information
10. Public hearing held, if needed
11. District engineer makes decision
12. Permit issued
    or
    Permit denied and applicant advised of reason

**A local variation, often a joint federal-state application form may be submitted.*

***Review period may be extended if applicant fails to submit information or due to requirements of certain laws.*

Evaluation Factors

The decision whether to grant or deny a permit is based on a public interest review of the probable impact of the proposed activity and its intended use. Benefits and detriments are balanced by considering effects on items such as:

conservation
economics
aesthetics
general environmental concerns
wetlands
cultural values
fish and wildlife values
flood hazards
floodplain values
food and fiber production
navigation
shore erosion and accretion
recreation
water supply and conservation
water quality
energy needs
safety
needs and welfare of the people
considerations of private ownership

The following general criteria will be considered in the evaluation of every application:

- the relative extent of the public and private need for the proposed activity;
- the practicability of using reasonable alternative locations and methods to accomplish the objective of the proposed activity; and
- the extent and permanence of the beneficial and/or detrimental effects which the proposed activity is likely to have on the public and private uses to which the area is suited.

Section 404(b) (1) of the Clean Water Act

If your project involves the discharge of dredged or fill material, it will be necessary for the Corps to evaluate your proposed activity under the Section 404(b)(1) guidelines prepared by the Environmental Protection Agency. The guidelines restrict discharges into aquatic areas where less environmentally damaging, practicable alternatives exist.

Forms and Permits

The following forms apply to the permit process:

Application

The form that you will need to initiate the review process is ENG Form 4345 or a joint Federal-state application that may be available in your state. The appropriate form may be obtained from the district regulatory office which has jurisdiction in the area where your proposed project is located.

Individual Permits

An individual permit may be issued as either ENG Form 1721, the standard permit, or as a Letter of Permission.

- A standard permit is one processed through the typical review procedures, (see page 7) which include public notice, opportunity for a public hearing, and receipt of comments. It is issued following a case-by-case evaluation of a specific activity.
- If work is minor or routine with minimum impacts and objections are unlikely, then it may qualify for a Letter of Permission (LOP). An LOP can be issued much more quickly than a standard permit since an individual public notice is not required. The District Engineer will notify you if your proposed activity qualifies for an LOP.

General Permits

In many cases the formal processing of a permit application is not required because of general permits already issued to the public at large by the Corps of Engineers. These are issued on a regional and nationwide basis.

Separate applications may not be required for activities authorized by a general permit; nevertheless, reporting may be required. For specific information on general permits, contact a district regulatory office.

ENG Form 4336

The third form, ENG Form 4336, is used to assist with surveillance for unauthorized activities. The form, which contains a description of authorized work, should be posted at the site of an authorized activity. If the Corps decides it is appropriate for you to post this form, it will be furnished to you when you receive your permit.

Fees. Fees are required for most permits. $10.00 will be charged for a permit for a non-commercial activity; $100.00 will be charged for a permit for a commercial or industrial activity. The district engineer will make the final decision as to the amount of the fee. Do not send a fee when you submit an application. When the Corps issues a permit, you will be notified and asked to submit the required fee payable to the Treasurer of the United States. No fees are charged for transferring a permit from one property owner to another, for Letters of Permission, or for any activities authorized by a general permit or for permits to governmental agencies.

Instructions for Preparing an Application

The instructions given below, together with the sample application and drawings, should help in completing the required application form. If you have additional questions, do not hesitate to contact the district regulatory office.

Block Number 1. Application Number. Leave this block blank. When your completed application is received, it will be assigned a number for identification. You will be notified of the number in an acknowledgement letter. Please refer to this number in any correspondence or inquiry concerning your application.

Block 2. Name and address of applicant(s). Fill in name, mailing address, and telephone number(s) for all applicants. The telephone number(s) should be a number where you can be reached during business hours. If space is needed for additional names, attach a sheet of white, 8½ × 11 inch paper labeled "Block 2 Continued."

Block 3. Name, address and title of authorized agent. It is not necessary to have an agent represent you; however, if you do, fill in the agent's name, address, title and telephone number(s). If your agent is submitting and signing the application, you must fill out and sign the Statement of Authorization in Block 3.

Block 4. Detailed description of proposed activity. The written description and the drawings are the most important parts of the application. If there is not enough space in Block 4, (a), (b) or (c) attach additional sheet(s) of white, 8½ × 11 inch paper labeled "Block 4 Continued."

a. **Activity.** Describe the overall activity. Give the approximate dimensions of structures, fills, excavations (lengths, widths, heights or depths).

b. **Purpose.** Describe the purpose, need and intended use (public, private, commercial, or other use) of the proposed activity. Include a description of related facilities, if any, to be constructed on adjacent land. Give the date you plan to begin work on the activity and the date work is expected to be completed.

c. **Discharge of Dredged or Fill Material.** If the activity will involve the discharge of dredged or fill material, describe the type (rock, sand, dirt, rubble, etc.), quantity (in cubic yards), and mode of transportation to the discharge site.

Block 5. Names and addresses of adjoining property owners, lessees, etc. whose property adjoins the waterbody. List complete names, addresses and zip codes of adjacent property owners (both public and private), lessee, etc., whose property also adjoins the waterbody or wetland, in order that they may be notified of the proposed activity. This information is usually available at the local tax assessor office. If more space is needed attach a sheet of white, 8½ × 11 inch paper labeled "Block 5 Continued."

Block 6. Waterbody and location on waterbody where activity exists or is proposed. Fill in the name of the waterbody and the river mile (if known) at the location of the activity. Include easily recognizable landmarks on the shore of the waterbody to aid in locating the site of the activity.

Block 7. Location and land where activity exists or is proposed. This information is used to locate the site. Give the street address of the property where the proposed activity will take place. If the site does not have a street address, give the best descriptive location (name or waterbody), names and/or numbers of roads or highways, name of nearest community or town, name of county and state, and directions, such as 2 miles east of Brown's Store on Route 105.

Do not use your home address unless that is the location of the proposed activity. Do not use a post office box number.

Block 8. Information about completed activity. Provide information about parts of the activity which may be complete. An activity may have been authorized by a previously issued permit, may exist from a time before a Corps permit was required or may be constructed on adjacent upland.

Block 9. Information about approvals or denials by other government agencies. You may need approval or certification from other Federal, interstate, state, or local government agencies for the activity described in your application. Applications you have submitted, and approvals, certifications, or disapprovals that you have received should be recorded in Block 9. It is not necessary to obtain other Federal, state, and local permits before applying for a Corps of Engineers permit.

Block 10. Signature of applicant or agent. The application must be signed in Block 10 by the owner, lessee, or a duly authorized agent. The person named in Block 3 will be accepted as the officially designated agent of the applicant. The signature will be understood to be affirmation that the applicant possesses the requisite property interest to undertake the proposed activity.

APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT

OMB APPROVAL NO. 0702-0036
Expires 30 June 1986

The Department of the Army permit program is authorized by Section 10 of the River and Harbor Act of 1899, Section 404 of the Clean Water Act and Section 103 of the Marine Protection, Research and Sanctuaries Act. These laws require permits authorizing activities in or affecting navigable waters of the United States, the discharge of dredged or fill material into waters of the United States, and the transportation of dredged material for the purpose of dumping it into ocean waters. Information provided on this form will be used in evaluating the application for a permit. Information in this application is made a matter of public record through issuance of a public notice. Disclosure of the information requested is voluntary, however, the data requested are necessary in order to communicate with the applicant and to evaluate the permit application. If necessary information is not provided, the permit application cannot be processed nor can a permit be issued.

One set of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this application (*see sample drawings and instructions*) and be submitted to the District Engineer having jurisdiction over the location of the proposed activity. An application that is not completed in full will be returned.

1. APPLICATION NUMBER *(To be assigned by Corps)*

2. NAME AND ADDRESS OF APPLICANT

Fred R. Harris
852 West Branch Road
Blue Harbor, Maryland 21703

Telephone no. during business hours

A.C. 301 585-2779 *(Residence)*
A.C. _____ *(Office)*

3. NAME, ADDRESS, AND TITLE OF AUTHORIZED AGENT

None

Telephone no. during business hours

A.C. ( ) _____ *(Residence)*
A.C. ( ) _____ *(Office)*

Statement of Authorization. I hereby designate and authorize _____ to act in my behalf as my agent in the processing of this permit application and to furnish, upon request, supplemental information in support of the application.

SIGNATURE OF APPLICANT	DATE

4. DETAILED DESCRIPTION OF PROPOSED ACTIVITY

4a. ACTIVITY

Build timber bulkhead and pier and fill.

4b. PURPOSE

To provide boat access and prevent erosion of shoreline at my place of residence.

4c. DISCHARGE OF DREDGED OR FILL MATERIAL

Approximately 200 cubic yards of upland fill will be placed between new bulkhead and existing shoreline.

SAMPLE

ENG FORM 4345, Apr 83 EDITION OF 1 OCT 77 IS OBSOLETE (Proponent: DAEN-CWO-N)

5 NAMES AND ADDRESSES OF ADJOINING PROPERTY OWNERS, LESSEES, ETC., WHOSE PROPERTY ALSO ADJOINS THE WATERWAY

Mary L. Clark
850 West Branch Road
Blue Harbor, Maryland 21703

(301) 585-8830

Harry N. Hampton
854 West Branch Road
Blue Harbor, Maryland 21703

(301) 585-3676

6 WATERBODY AND LOCATION ON WATERBODY WHERE ACTIVITY EXISTS OR IS PROPOSED

West Branch of the Haven River on Blue Harbor.

7 LOCATION ON LAND WHERE ACTIVITY EXISTS OR IS PROPOSED

ADDRESS

852 West Branch Road
STREET, ROAD, ROUTE OR OTHER DESCRIPTIVE LOCATION

King Edward, Maryland 21703
COUNTY STATE ZIP CODE

Town of Blue Harbor
LOCAL GOVERNING BODY WITH JURISDICTION OVER SITE

8 Is any portion of the activity for which authorization is sought now complete? ☐ YES ☒ NO
If answer is "Yes" give reasons, month and year the activity was completed. Indicate the existing work on the drawings.

9 List all approvals or certifications and denials received from other federal, interstate, state or local agencies for any structures, construction, discharges or other activities described in this application

ISSUING AGENCY	TYPE APPROVAL	IDENTIFICATION NO	DATE OF APPLICATION	DATE OF APPROVAL	DATE OF DENIAL
Town of Blue Harbor	Zoning	BH25172	6/20/82	6/30/82	
Md DNR	Certification	DNR258WQ	6/11/82	8/12/82	

10 Application is hereby made for a permit or permits to authorize the activities described herein. I certify that I am familiar with the information contained in this application, and that to the best of my knowledge and belief such information is true, complete, and accurate. I further certify that I possess the authority to undertake the proposed activities or I am acting as the duly authorized agent of the applicant.

Fred R. Harris — Oct. 15, 1982
SIGNATURE OF APPLICANT — DATE

SIGNATURE OF AGENT — DATE

The application must be signed by the person who desires to undertake the proposed activity (applicant) or it may be signed by a duly authorized agent if the statement in Block 3 has been filled out and signed

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of The United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

Do not send a permit processing fee with this application. The appropriate fee will be assessed when a permit is issued.

14

General Information

Three types of drawings—Vicinity, Plan, and Elevation—are required to accurately depict activities (See sample drawings on pages 16 and 17).

Submit one original, or good quality copy, of all drawings on 8½ × 11 inch white paper (tracing cloth or film may be used). Submit the fewest number of sheets necessary to adequately show the proposed activity. Drawings should be prepared in accordance with the general format of the samples, using block style lettering. Each page should have a title block. See check list below. Drawings do not have to be prepared by an engineer, but professional assistance may become necessary if the project is large or complex.

Leave a 1-inch margin at the top edge of each sheet for purposes of reproduction and binding.

In the title block of each sheet of drawings identify the proposed activity and include the name of the body of water; river mile (if applicable); name of county and state; name of applicant; number of the sheet and total number of sheets in set; and date the drawing was prepared.

Since drawings must be reproduced, use heavy dark lines. Color shading cannot be used; however, dot shading, hatching, or similar graphic symbols may be used to clarify line drawings.

Vicinity Map

The vicinity map you provide will be printed in any public notice that is issued and used by the Corps of Engineers and other reviewing agencies to locate the site of the proposed activity. You may use an existing road map or U.S. Geological Survey topographic map (scale 1:24,000) as the vicinity map. Please include sufficient details to simplify locating the site from both the waterbody and from land. Identify the source of the map or chart from which the vicinity map was taken and, if not already shown, add the following:

- ☐ location of activity site (draw an arrow showing the exact location of the site on the map).
- ☐ latitude, longitude, river mile, if known, and/or other information that coincides with Block 6 on the application form.
- ☐ name of waterbody and the name of the larger creek, river, bay, etc., that the waterbody is immediately tributary to.
- ☐ names, descriptions and location of landmarks.
- ☐ name of all applicable political (county, parish, borough, town, city, etc.) jurisdictions.
- ☐ name of and distance to nearest town, community, or other identifying locations.
- ☐ names or numbers of all roads in the vicinity of the site.
- ☐ north arrow.
- ☐ scale.

Plan View

The plan view shows the proposed activity as if you were looking straight down on it from above. Your plan view should clearly show the following:

- ☐ Name of waterbody (river, creek, lake, wetland, etc.) and river mile (if known) at location of activity.
- ☐ Existing shorelines.
- ☐ Mean high and mean low water lines and maximum (spring) high tide line in tidal areas.
- ☐ Ordinary high water line and ordinary low water line if the proposed activity is located on a non-tidal waterbody.

- ☐ Average water depths around the activity.
- ☐ Dimensions of the activity and distance it extends from the high water line into the water.
- ☐ Distances to nearby Federal projects, if applicable.
- ☐ Distance between proposed activity and navigation channel, where applicable.
- ☐ Location of structures, if any, in navigable waters immediately adjacent to the proposed activity.
- ☐ Location of any wetlands (marshes, swamps, tidal flats, etc.)
- ☐ North arrow.
- ☐ Scale.
- ☐ If dredged material is involved, you must describe the type of material, number of cubic yards, method of handling, and the location of fill and spoil disposal area. The drawing should show proposed retention levees, weirs, and/or other means for retaining hydraulically placed materials.
- ☐ Mark the drawing to indicate previously completed portions of the activity.

Elevation and/or Cross Section View

The elevation and/or cross section view is a scale drawing that shows the side, front, or rear of the proposed activity. If a section view is shown, it represents the proposed structure as it would appear if cut internally for display. Your elevation should clearly show the following:

- ☐ Water elevations as shown in the plan view.
- ☐ Water depth at waterward face of proposed activity or, if dredging is proposed, dredging and estimated disposal grades.
- ☐ Dimensions from mean high water line (in tidal waters) for proposed fill or float, or high tide line for pile supported platform. Describe any structures to be built on the platform.
- ☐ Cross section of excavation or fill, including approximate side slopes.
- ☐ Graphic or numerical scale.
- ☐ Principal dimensions of the activity.

Notes on Drawings*

- ☐ Names of adjacent property owners who may be affected. Complete names and addresses should be shown in Block 5 on ENG Form 4345.
- ☐ Legal property description: Number, name of subdivision, block and lot number. Section, Township and Range (if applicable) from plot, deed or tax assessment.
- ☐ Photographs of the site of the proposed activity are not required; however, pictures are helpful and may be submitted as part of any application.

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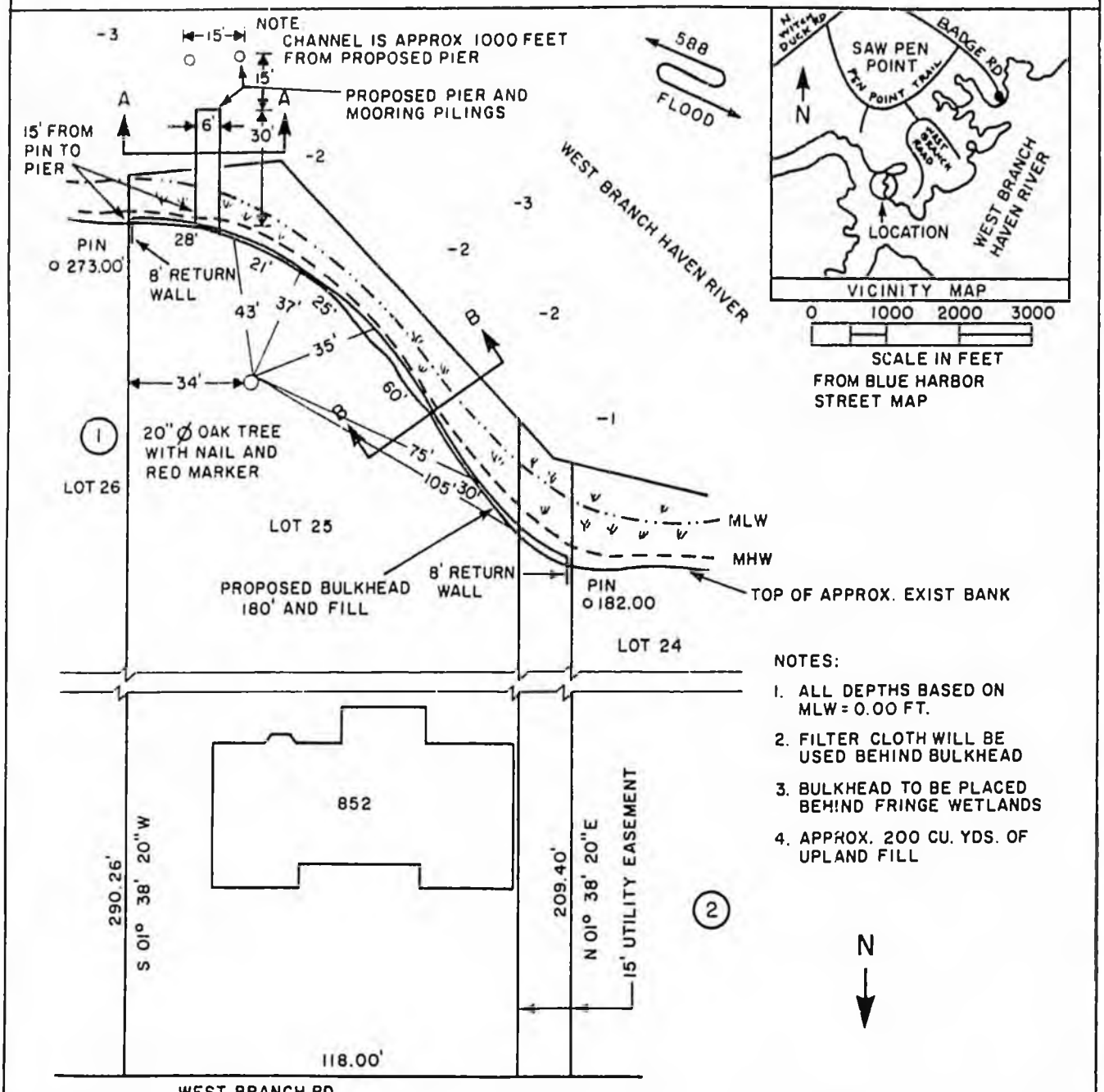
*Drawings should be as clear and simple as possible (i.e., not too "busy").

SAMPLE DRAWINGS FOR A PERMIT APPLICATION

NOTE THE DRAWINGS SUBMITTED NEED NOT BE PREPARED BY A PROFESSIONAL DRAFTSMAN AS IN THESE SAMPLES.



NOTES:

1. ALL DEPTHS BASED ON MLW = 0.00 FT.
2. FILTER CLOTH WILL BE USED BEHIND BULKHEAD
3. BULKHEAD TO BE PLACED BEHIND FRINGE WETLANDS
4. APPROX. 200 CU. YDS. OF UPLAND FILL

PURPOSE: PREVENT EROSION AND PROVIDE BOATING ACCESS

DATUM: MLW

ADJACENT PROPERTY OWNERS:

1. MARY L. CLARK
2. HARRY N. HAMPTON
3.

PLAN VIEW

0 40 80

1" = 40'

FRED R. HARRIS
852 WEST BRANCH ROAD
BLUE HARBOR, MD 21703

PROPOSED BULKHEAD PIER AND FILL

IN: WEST BRANCH HAVEN RIVER

AT: BLUE HARBOR

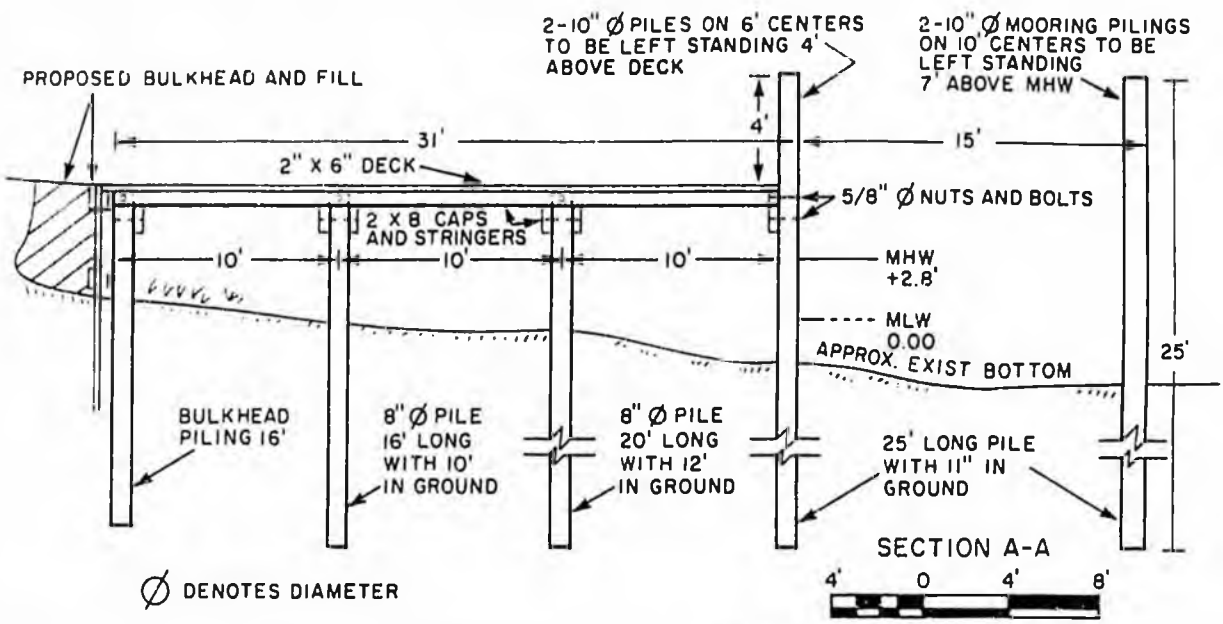
COUNTY OF: KING EDWARD STATE: MD

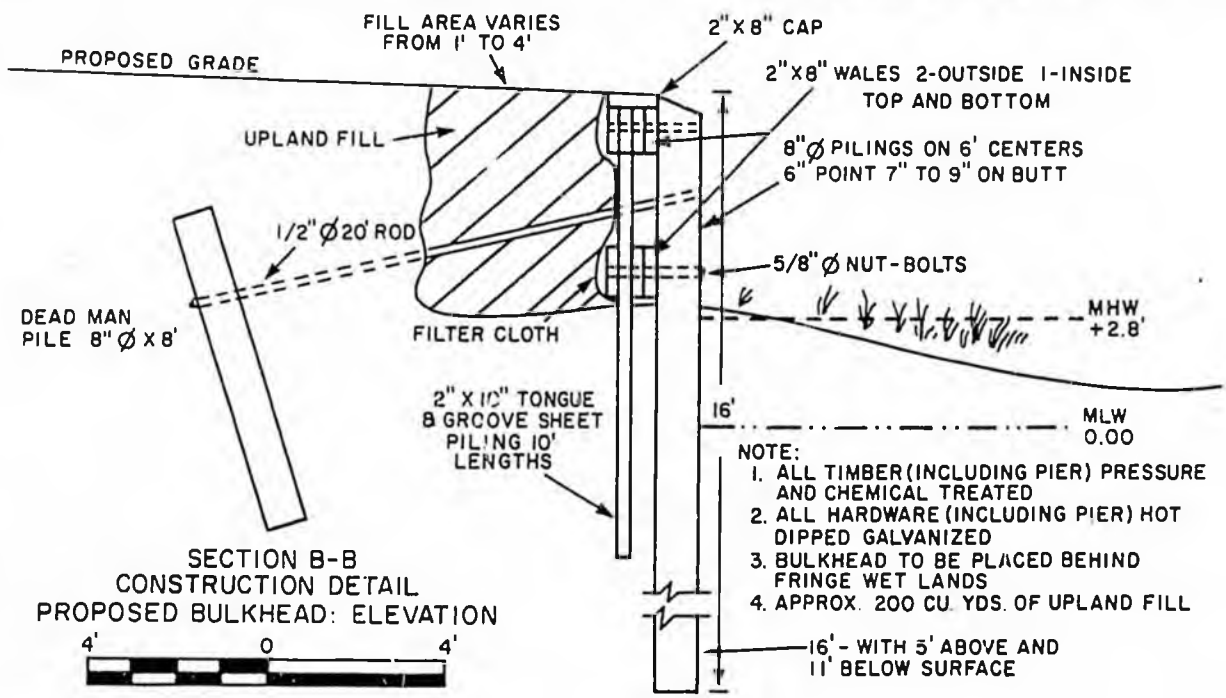
APPLICATION BY: FRED R. HARRIS

SHEET 1 OF 2 DATE 10-16-82

REV. 11-28-82

17





PURPOSE: PREVENT EROSION AND PROVIDE BOATING ACCESS

DATUM: MLW

ADJACENT PROPERTY OWNERS:

1. MARY L. CLARK
2. HARRY N. HAMPTON
3.

SECTION VIEWS

FRED R. HARRIS
852 WEST BRANCH ROAD
BLUE HARBOR, MD 21703

PROPOSED BULKHEAD PIER AND FILL

IN: WEST BRANCH HAVEN RIVER

AT: BLUE HARBOR

COUNTY OF: KING EDWARD STATE: MD

APPLICATION BY: FRED R. HARRIS

SHEET 2 OF 2 DATE 10-16-82

REV. 11-28-82


ANCHORAGE
SEATTLE
NORTH PACIFIC
PORTLAND
NORTH PACIFIC
WALLA WALLA
MISSOURI RIVER
OMAHA
SACRAMENTO
KANSAS CITY
SAN FRANCISCO
SOUTH PACIFIC
LOS ANGELES
TULSA
LITTLE ROCK
ALBUQUERQUE
SOUTHWESTERN
FORT WORTH
DALLAS
HONOLULU
PACIFIC OCEAN
GALVESTON
DIVISION AND DISTRICT HEADQUARTERS
DIVISION HEADQUARTERS
DISTRICT HEADQUARTERS
STATE BOUNDARIES
DISTRICT BOUNDARIES

Note: In Iowa the eastern bank of the Missouri River is regulated by the Omaha office.

Address correspondence to:

The District Engineer
U.S. Army Engineer District
Please include attention line in address.

ALASKA
P.O. Box 898
Anchorage, AK 99506-0898
Attention: NPACO-RF
907/753-2712

ALBUQUERQUE
P.O. Box 1580
Albuquerque, NM 87103-1580
Attention: SWACO-OR
505/766-2776

BALTIMORE
P.O. Box 1715
Baltimore, MD 21203-1715
Attention: NABOP-R
301/962-3670
Joint application with New York, Maryland

BUFFALO
1776 Niagara Street
Buffalo, NY 14207-3199
Attention: NCBCO-S
716/876-5454 x2313
Joint application with New York

CHARLESTON
P.O. Box 919
Charleston, SC 29402-0919
Attention: SACCO-P
803/724-4330

CHICAGO
219 S. Dearborn Street
Chicago, IL 60604-1797
Attention: NCCCO-R
312/353-6428
Joint application with Illinois

DETROIT
P.O. Box 1027
Detroit, MI 48231-1027
Attention: NCECO-L
313/226-2218
Joint application with Michigan

FT. WORTH
P.O. Box 17300
Ft. Worth, TX 76102-0300
Attention: SWFOD-O
817/334-2681

GALVESTON
P.O. Box 1229
Galveston, TX 77553-1229
Attention: SWGCO-R
409/766-3925

HUNTINGTON
502 8th Street
Huntington, WV 25701-2070
Attention: ORHOP-F
304/529-5487
Joint application with West Virginia

HONOLULU
Building 230, Fort Shafter
Honolulu, HI 96858-5440
Attention: PODCO-O
808/438-9258

JACKSONVILLE
P.O. Box 4970
Jacksonville, FL 32232-0019
Attention: SAJRD
904/791-1659
Joint application with Florida, Virgin Islands

KANSAS CITY
700 Federal Building
601 E. 12th Street
Kansas City, MO 64106-2896
Attention: MRKOD-P
816/374-3645

LITTLE ROCK
P.O. Box 867
Little Rock, AR 72203-0867
Attention: SWLCO-P
501/378-5295

LOS ANGELES
P.O. Box 2711
Los Angeles, CA 90053-2325
Attention: SPLCO-R
213/688-5606

LOUISVILLE
P.O. Box 59
Louisville, KY 40201-0059
Attention: ORLOP-F
502/582-5452
Joint application with Illinois

MEMPHIS
Clifford Davis Federal Building
Room B-202
Memphis, TN 38103-1894
Attention: LMMCO-G
901/521-3471
Joint application with Missouri, Tennessee, Kentucky

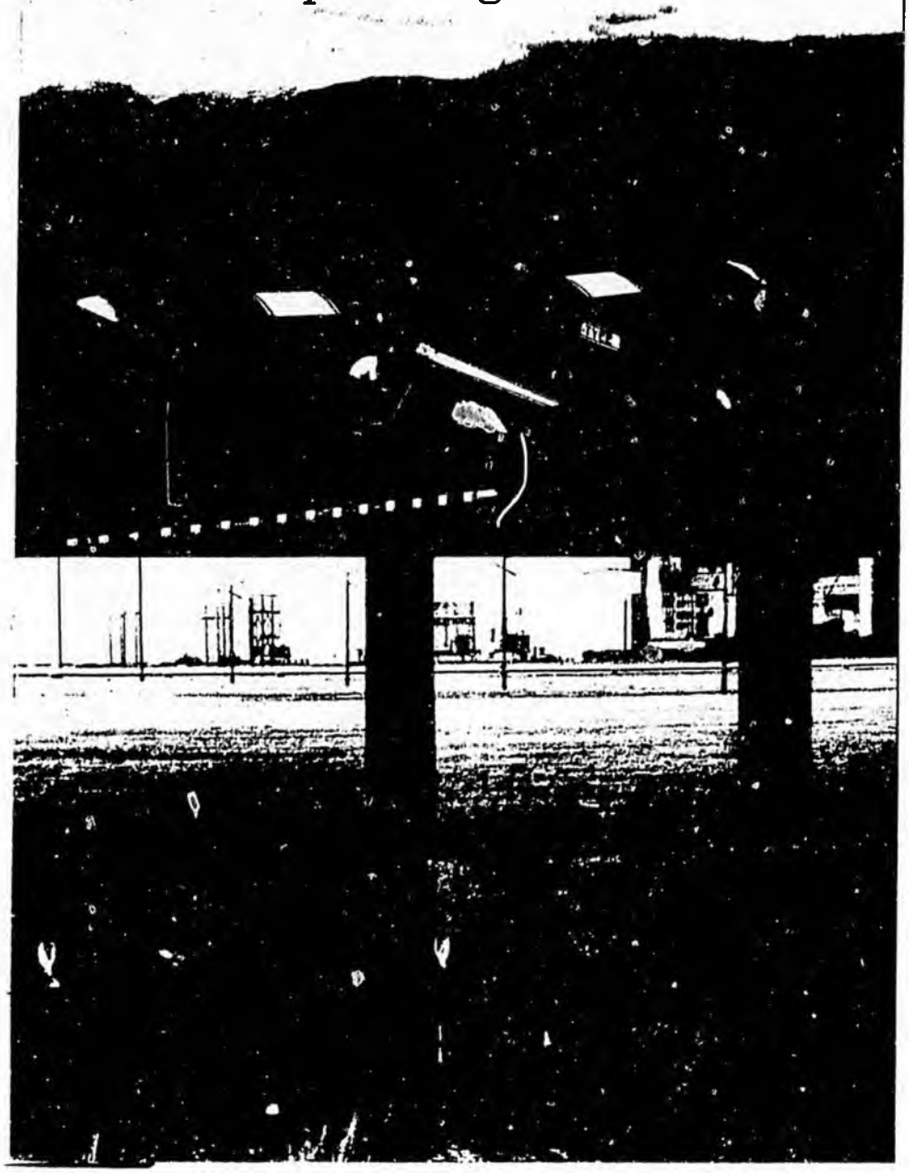
MOBILE
P.O. Box 2288
Mobile, AL 36628-00001
Attention: SAMOP-S
205/690-2658
Joint application with Mississippi

NASHVILLE
P.O. Box 1070
Nashville, TN 37202-1070
Attention: ORNOR-F
615/251-5181
Joint application with TVA, Tennessee, Alabama

US GOVERNMENT PRINTING OFFICE 1995 - 529-678 - 814 11145

Development in Alaska's Waterways and Wetlands

The Corps of Engineers and You



Alaska District
U.S. Army Corps of Engineers

Regulatory Branch

(907) 753-2712

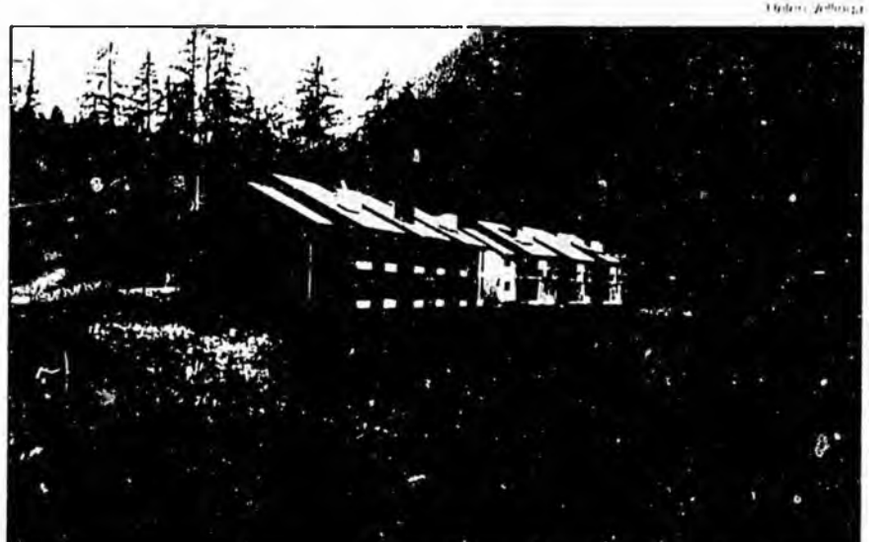
or toll free

(800) 478-2712

The U.S. Army Corps of Engineers permit program regulates the development and protection of waters and wetlands so they will be used in the best interests of the public. Congress has delegated this responsibility to the Corps to ensure the continued wise use, survival and health of these waters through the public interest review process.

The Corps has jurisdiction over placing dredged or fill material in wetlands and waterways, construction of any structure in or over navigable and tidally influenced waters, excavation of material from these waters, or any obstruction or alteration in such waters.

Section 10 of the **River and Harbor Act of 1899** requires Corps permits for any construction or



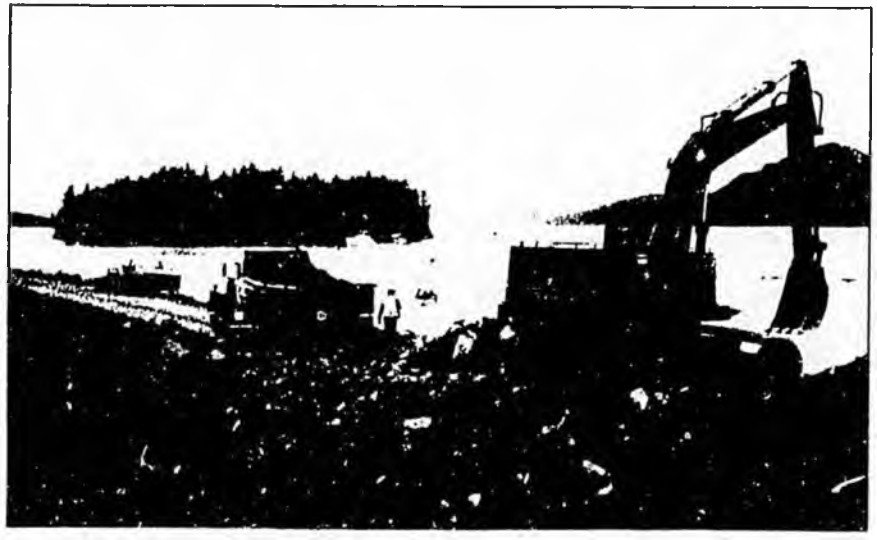
activity that alters the navigability of the waterways. This includes the ocean, rivers, streams, lakes and adjacent waterways.

Section 404 of the **Clean Water Act of 1977** requires Corps permits for placing dredged or fill material in all waters, including wetlands.

These laws apply to all projects affecting these waters, from the smallest recreational dock to the largest commercial undertaking, including site development and road fills, artificial islands, bank protection and utility line crossings.

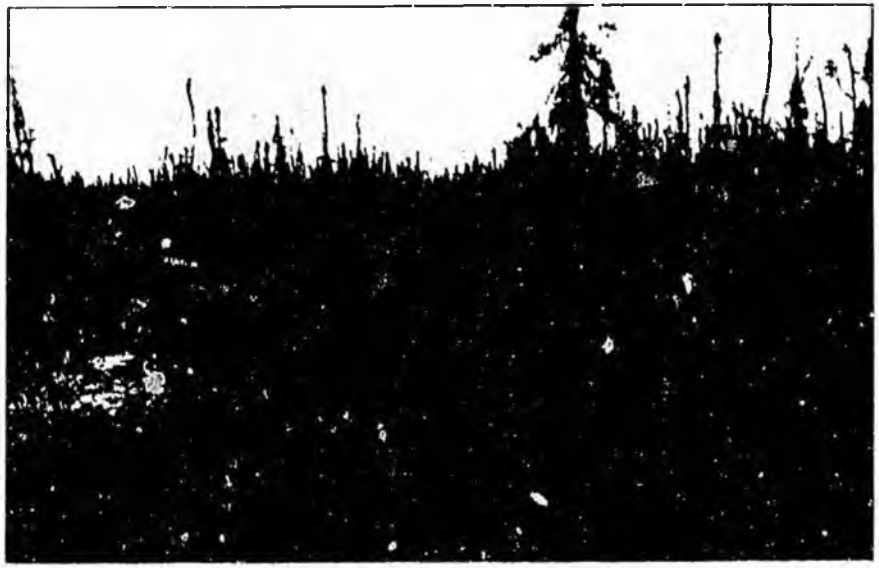
Structures requiring permits include bulkheads with backfill, piers, pilings, ramps, breakwaters, jetties, groins, stone revetments, boathouses and buoys or mooring devices.

Other work requiring permits includes dredging and fill associated with utility lines, pads to support structures, dikes and dams, stream crossings, stream channelization, and riprap for shoreline protection.



The Importance of Wetlands

Wetlands provide direct economic, social and environmental benefits to the public. They serve as buffer areas, protecting the shoreline from erosion by waves and moderate storm surges. They act as natural barriers between development and waterways and as storage areas during floods and storms by retaining and gradually releasing high waters after subsidence. Wetlands often serve as groundwater recharge areas by replenishing sources of drinking water. They also filter and remove pollutants from water.



Wetlands are valuable resource areas. They include swamps, marshes, bogs, wet tundra, tidal waters, lakes, and stream and river systems. They are breeding, spawning, feeding and nursery areas for fish such as salmon and char. Wetlands are important nesting, feeding and wintering areas for waterfowl and shorebirds. They are a source of food and cover for moose, bears, and important furbearers like beavers and otters. Some aquatic areas may be the last stronghold for threatened and endangered species such as the Eskimo Curlew, Aleutian Canada Goose and Arctic Peregrine Falcon.

Terms and Definitions

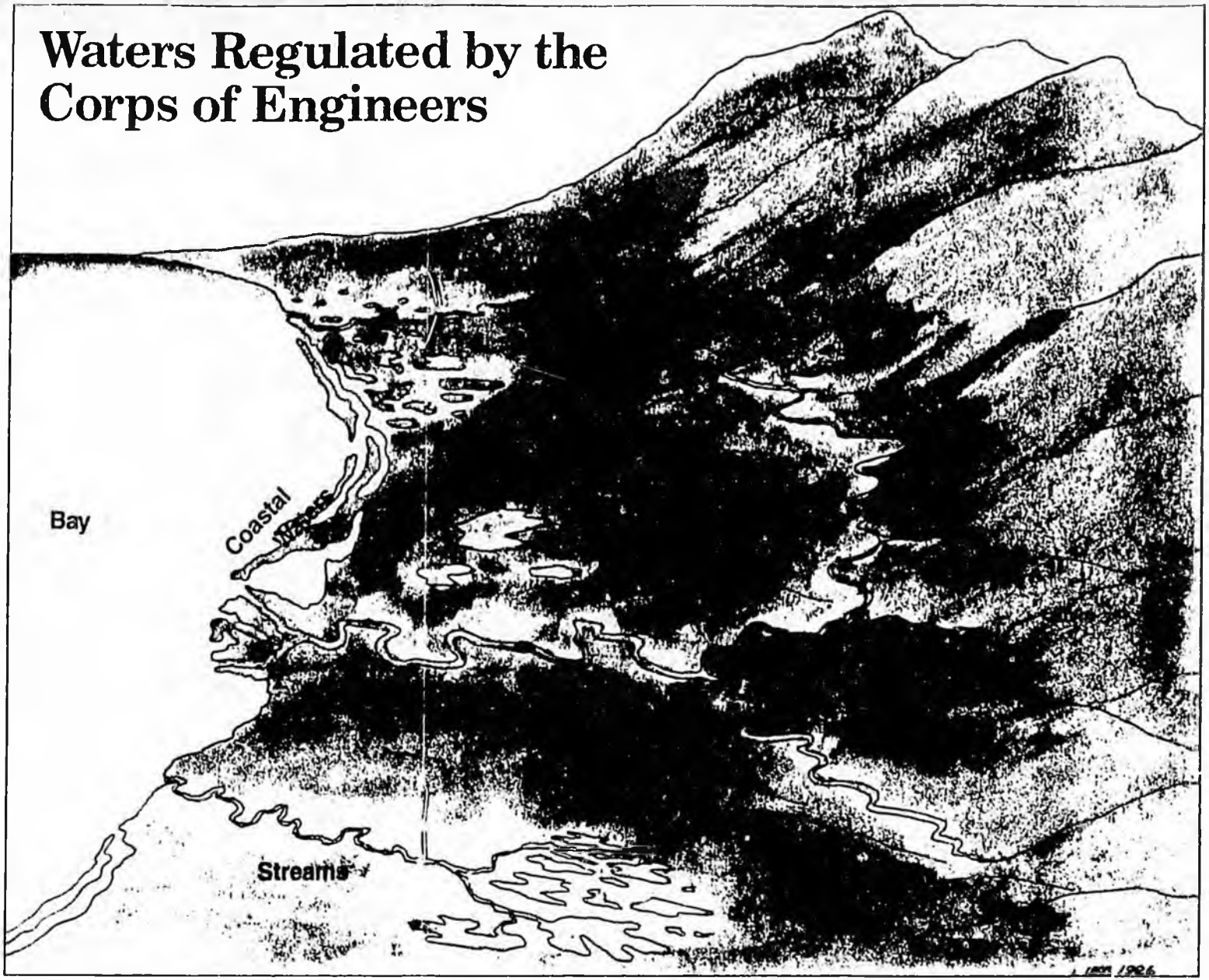
Dredged Material: Material excavated or dredged from water.

Fill Material: Used for the primary purpose of replacing an aquatic area with dry land or of changing the bottom elevation of any body of water.

Discharge of Dredged or Fill Material: Addition of material into water, including the addition of material to a specified discharge site and the runoff or overflow from a contained land or water disposal area.

Headwaters: The point on a non-tidal stream above which the average annual flow is less than five cubic feet per second.

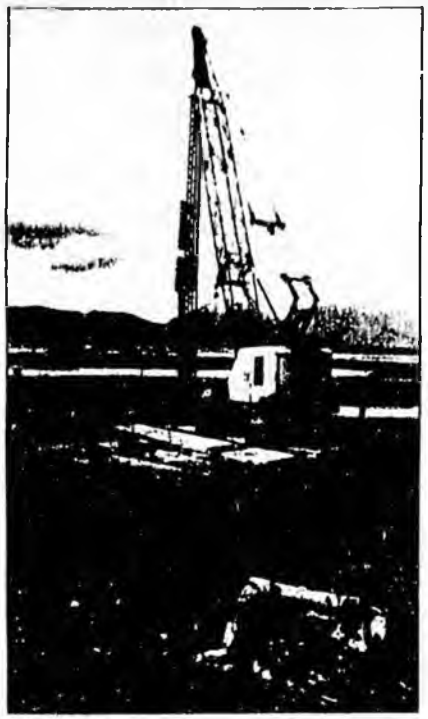
Navigable Waters: Waters subject to the ebb and flow of the tide shoreward to the mean high water mark and/or presently used, or have been used in the past, or may be susceptible to use for transportation of interstate commerce.



Ordinary High Water: The line on the shore established by the fluctuations of water indicated by physical characteristics such as a clear, natural line impressed on the bank; shelving; changes in the character of the soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding area.

Wetlands: Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support vegetation typically adapted for life in saturated soil conditions.

Adjacent Wetlands: Bordering or contiguous to water. Wetlands separated from other water by such things as constructed dikes or barriers, natural river berms or beach dunes are also "adjacent wetlands."



Helen Vollmer

Mary Peyton

Obtaining a Permit

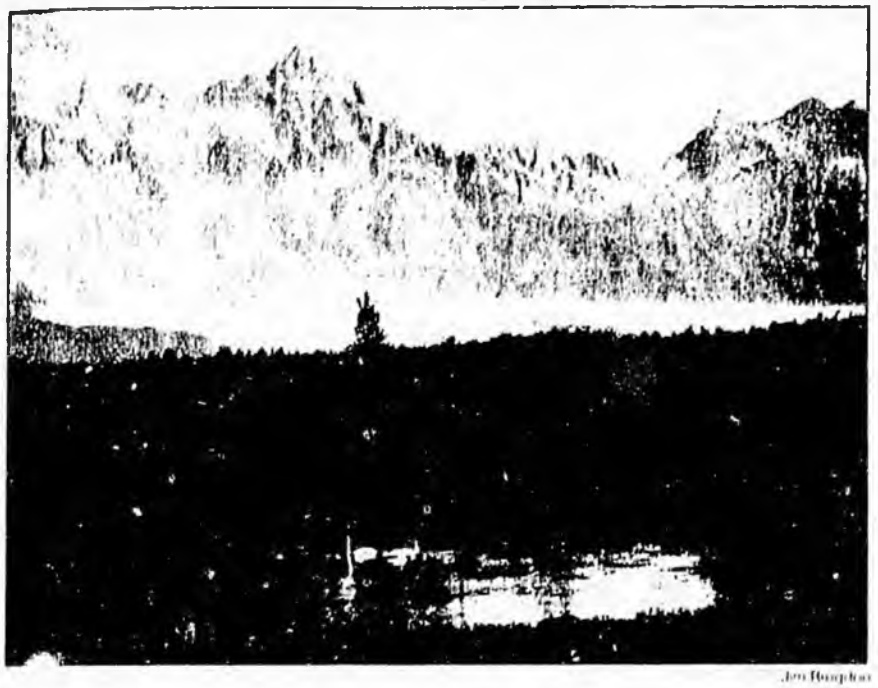
Any individual, company, corporation or government body planning construction or fill in waters of the United States, including wetlands, must obtain a permit from the Corps before starting the work. These permits are required on private land as well as on public land.

To determine whether a permit is required, contact the Corps. This service is provided by the Corps' Regulatory Branch at no charge.

If the proposed project requires a permit, a formal application must be submitted. A public notice is issued and a review is made by other federal, state and local agencies and the public. If the project is controversial a public hearing may be held.

Corps specialists analyze the impacts of the proposed activity, considering several important factors, including economics, environmental concerns, water quality, navigation, flood storage, cultural resources, aesthetics, recreation, water supply, energy needs, safety, food production and the needs and welfare of the applicant.

As a result of this review, an applicant may be required to modify potentially detrimental aspects of the proposed project to comply with



Jim Hamphus

the intent of the laws. Permits are issued by the Corps' district engineer when the project is found to be in the public interest. An applicant must obtain other federal, state and local permits for the project in addition to the Corps permit.

Considerable time and expense may be saved by contacting the Corps for a permit before beginning work in waterways or wetlands. Penalties for non-compliance with the laws are high. Violators are subject to fines up to $25,000 per day or imprisonment for up to one year, or both.

For permit application information and jurisdictional determinations, contact:

Regulatory Branch
Alaska District
U.S. Army Corps of Engineers
P.O. Box 898
Anchorage, Alaska 99506-0898

phone:
(907) 753-2712
toll free (800) 478-2712

Sensitivity to our nation's important natural resources, including waterways and wetlands, is in the public's best interest – now and in the future. With cooperation, the need for developing our nation's resources can be successfully balanced with the values that are important to all of us.

Alaska District
U.S. Army Corps of Engineers

Regulatory Branch

(907) 753-2712

or toll free

(800) 478-2712

A new nationwide policy has been proposed to achieve no overall net loss of the nation's wetlands. Unless it is modified, this policy would apply to Alaska. If implemented, it would severely impact Alaska's ability to maintain its contribution to the nation's economy.

Alaska relies on resource development for its economic base, yet only 80,000 acres of wetlands have been used for *all* forms of development in Alaska, including the building of towns and roads. This amounts to 0.05% of Alaska's 170 million acres of wetlands. In contrast, the rest of the nation has seen the loss of over 54% of its wetlands—a loss over 1,000 times greater than the wetland loss in Alaska. The need for wetland preservation is clear in the contiguous 48 states. In Alaska, however, a problem simply does not exist.

Alaska Depe[illegible]

Alaska is a state of vast physical dimensions. Covering 375 million acres, it stretches over 2,000 miles from west to east and over 1,000 miles from north to south. The climate ranges from the moderate maritime in Southeast Alaska to the harsh arctic on the North Slope.

Most think of Alaska as a land of great mountains, yet surprisingly, about 45% of the state's land area is covered by wetlands. In fact, wetlands account for about 74% of Alaska's non-mountainous area. Thus, wetlands of many types and descriptions form the bulk of the developable land in the state.

With its rich endowment of oil and gas, fish, minerals, and forests, Alaska is America's treasure chest of natural resources. As national and global consumption trends demand more resources, Alaska will continue to provide a vital part of the domestic supply. And through the wise use and management of its resources, Alaska has the means to diversify its economy while helping to provide the nation's essential raw materials.

Though Alaska already makes a substantial contribution to the nation's resource needs, only a tiny fraction of its wetlands have been modified. And since oil and gas, minerals, fisheries, timber, and tourism are the mainstays of Alaska's economy, the economic importance of resource development cannot be overlooked in wetland policies.

"No net loss" of wetlands means that any wetlands used for development would have to be replaced in the national wetland inventory by either creating new wetlands or reclaiming previously disturbed ones. Many Alaskan communities are built in wetlands or on narrow strips of flat land between mountains and the sea, and any expansion is impossible without sacrificing some wetlands. The state's capital Juneau, for example, would not have an airport if it wasn't for filling wetlands. Furthermore, there are essentially no disturbed wetlands in the state to be reclaimed. Many public and private projects in Alaska would be held hostage to the costs of "no net loss."

Most coastal communities in Alaska are undertaking port and harbor development and expanding marine repair facilities. Most have to rely on water-based transportation for fishing, processing, recreation, and tourism. The infrastructure must be built for the most part across wetlands.

Alaska's economic base—and vital community development in rural and urban Alaska—would be crippled if a nationwide policy of "no net loss" of wetlands was applied to the 49th State. In fact, such a policy would deprive Alaskans of their right to economic growth through judicious development of their natural resources. While the policy may be applicable to the contiguous 48 states, it is clearly not appropriate for Alaska. Such a policy in Alaska would accomplish nothing to slow wetland losses in the contiguous U.S. Moreover, Alaska is a public land state, with less than 1% of its lands in conventional private ownership. The federal government owns 60% and the state 28% of Alaska's lands.

Alaska is also in a unique position because of the

Alaska Railroad Corp.

Timber from Alaska's interior is loaded on a ship at the Port of Anchorage.

Alaska Native Claims Settlement Act of 1971. This law provided compensation in land and money to Alaska's natives in exchange for their aboriginal claims. Congress also intended that the lands selected by the natives be available for development.

Wetlands are Already Strictly Regulated

Additional policies to protect wetlands are not necessary in Alaska. A comprehensive set of state, federal, and local laws and regulations ensures that all development is carefully scrutinized before it begins. Not only that, but about half of Alaska is already protected as federal and state parks, wildlife refuges, wilderness areas, and other conservation units. Many of these lands were set aside when Congress passed the Alaska National Interest Lands Conservation Act in 1980, placing over 100 million acres in these conservation units, *with the expressed purpose that the remaining land be developed.* The coastal regions of Alaska are also protected under the Alaska Coastal Zone Management Program.

The existing regulatory framework, as well as Alaska's unique geographical setting, will ensure that wetland loss does not become a problem there. Adding another layer of regulatory control through the "no net loss" concept would accomplish little but to stifle economic growth throughout Alaska—from the smallest village to metropolitan Anchorage.

Third Eye Photography 1989

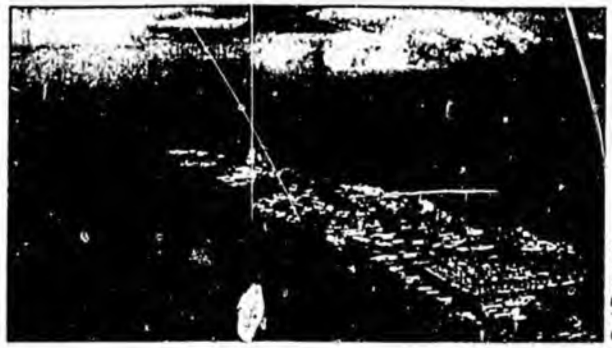
"The Mat-Su Borough has the oldest and one of the largest agriculture areas in Alaska, coupled with the entire gamut of minerals the nation needs, from coal to gravel, and a strong recreation industry. The proposed 'no net loss' policy would spell an end to projects supporting those vital industries. Can you imagine having to purchase land outside Alaska to replace wetlands which had to be crossed to build a necessary highway, port, tourist facility or school in Alaska?"

- Dorothy Jones, Mayor, Matanuska-Susitna Borough

AeroMap U.S.

"Unfortunately, the 'no net loss' policy is already being enforced by some federal agencies and its detrimental effect is becoming evident. However, Alaska is not the problem, nor should it be viewed as the solution to wetlands loss in the contiguous United States. Even with recent world-class developments, 99.95% of Alaska's wetlands are intact. That means there is no effective way to create new wetlands in most of Alaska to satisfy the demands of such a federal policy."

- Don Gilman, Mayor, Kenai Peninsula Borough



Carl Porman

"Applied to Alaska, a national policy of 'no net loss' of wetlands has the potential to stop economic development in every community. The 'no net loss' concept is not flexible to Alaska's unique position. We deserve a balanced public policy, one which allows responsible development while keeping wetland losses to a necessary minimum."

- Jerome Selby, Mayor, Kodiak Island Borough

AeroMap U.S.

"Like many other coastal communities, Juneau highly values its wetlands. They serve as wildlife habitat, as recharge zones for groundwater, and as recreational sites. For us, wetlands also represent the only buildable land remaining in our community. Because of our concerns for wetland use, we undertook an exhaustive study to identify and protect high-valued wetlands and to identify others suitable for reasonable development. Yet many believe our work has been largely ignored because of a federal regulatory scheme that fails to recognize our own paramount interests in land use and our ability to represent the public interest."

- Bruce Botelho, Mayor, City and Borough of Juneau

"No Net Loss" and What It Means to Alaska's Economy

John Rense, NANA

Box 100516, Anchorage, Alaska 99510-0516 907/276-0700

10/89

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: CS SJR54
PUBLISH DATE: 1-8-90

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Relating to "no net loss of wetlands" policy
Sponsor: Senator Steve Frank
Requestor: _____

Agency Affected: federal impact
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

SJR 54 requests that the President of the United States rescind the application of the "no net loss" wetland Memorandum of Agreement as it applies to the State of Alaska. SJR 54 has no state fiscal impact.

Prepared by: Nancy Petersen
Division: Staff, Senate Resources Committee
Phone: 465-3834
Date: 1-8-90

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by preparer):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

BY SEN. FRANK

IN THE SENATE

SENATE JOINT RESOLUTION NO. 54

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - SECOND SESSION

Relating to the "no net loss of wetlands" policy of the United States Army Corps of Engineers and the United States Environmental Protection Agency.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS the Domestic Policy Council is considering advancing for Presidential approval a national "no net loss of wetlands" policy; and

WHEREAS the November 17, 1989, Memorandum of Agreement between the United States Corps of Engineers and the United States Environmental Protection Agency fails to distinguish Alaska's fundamentally different wetlands from those of the other states; and

WHEREAS the perceived need for a "no net loss" policy is caused by wetlands loss in the continental United States, not in Alaska; and

WHEREAS the concept of wetlands has become increasingly expanded since the Clean Water Act was originally implemented; and

WHEREAS 88 percent of the total land mass of the state is still owned by the federal or state government, and the state already exercises strict control on its development; and

WHEREAS under the existing definition of wetlands, over 45 percent or 170,000,000 acres of Alaska is classified as wetlands in contrast to the other states where only a small percentage of the area is classed as wetlands; and

WHEREAS over 155,000,000 acres of Alaska are already protected in federal conservation units, of which over 56,000,000 acres are wilderness; and

WHEREAS the "no net loss wetlands" policy fails to recognize the effects of permafrost in the state as well as the vast areas of the state that cannot be developed; and

WHEREAS the wetland areas of the state cover approximately 170,000,000 acres and only 80,000 acres, approximately 0.05 percent of the wetlands, have been altered since 1867; and

WHEREAS the quantity and the quality of wetlands in the state are not endangered;

BE IT RESOLVED by the Alaska State Legislature that George Bush, President of the United States, is respectfully requested to rescind the application to the state of the wetlands Memorandum of Agreement.

COPIES of this resolution shall be sent to the Honorable George Bush, President of the United States; Lieutenant General Henry J. Hatch, Chief of Engineers, Commanding General, U.S. Army Corps of Engineers; William K. Reilly, Administrator, U.S. Environmental Protection Agency; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.

original version

BY SEN. FRANK

IN THE SENATE

SENATE JOINT RESOLUTION NO. 54

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - SECOND SESSION

Relating to the "no net loss of wetlands" policy of the United States Army Corps of Engineers and the United States Environmental Protection Agency.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS the Domestic Policy Council is considering advancing for Presidential approval a national "no net loss of wetlands" policy; and

WHEREAS the November 17, 1989, Memorandum of Agreement between the United States Corps of Engineers and the United States Environmental Protection Agency fails to distinguish Alaska's fundamentally different wetlands from those of the other states; and

WHEREAS the perceived need for a "no net loss" policy is caused by wetlands loss in the continental United States, not in Alaska; and

WHEREAS the concept of wetlands has become increasingly expanded since the Clean Water Act was originally implemented; and

WHEREAS 88 percent of the total land mass of the state is still owned by the federal or state government, and the state already exercises strict control on its development; and

WHEREAS under the existing definition of wetlands, up to 58% ~~over 45 percent~~ or 170,000,000 acres of Alaska is classified as wetlands in contrast to the other states where only a small percentage of the area is classed as wetlands; and

WHEREAS over 15~~4~~,000,000 acres of Alaska are already protected in federal conservation units, of which over 56,000,000 acres ~~are~~ are federally designated wilderness; and

WHEREAS the "no net loss wetlands" policy fails to recognize the effects of permafrost in the state as well as the vast areas of the state that cannot be developed; and

WHEREAS the wetland areas of the state cover ~~approximately~~ up to 170,000,000 acres and only 80,000 acres, approximately 0.05 percent of the wetlands, have been altered since 1867; and

WHEREAS the quantity and the quality of wetlands in the state are not endangered;

BE IT RESOLVED by the Alaska State Legislature that George Bush, President of the United States, is respectfully requested to rescind the application to the state of the wetlands Memorandum of Agreement.

COPIES of this resolution shall be sent to the Honorable George Bush, President of the United States; Lieutenant General Henry J. Hatch, Chief of Engineers, Commanding General, U.S. Army Corps of Engineers; William K. Reilly, Administrator, U.S. Environmental Protection Agency; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.

① P1, LN 23,
by Halford

② P1, LN 27
by Frank

③ P1, LN 28
by Fahrenkamp

④ P2, LN 4
by HAlford

6-1871E
Bradley
1/8/90

Original sponsor(s): SEN. FRANK, Kelly, Coghill, Jones Sturgulewski, Uehling, Pearce, Faiks, Zharoff, Fahrenkamp, Fischer, Binkley, Adams, Halford, Szymanski

IN THE SENATE BY THE RESOURCES COMMITTEE

CS FOR SENATE JOINT RESOLUTION NO. 54 (Resources)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - SECOND SESSION

Relating to the "no net loss of wetlands" policy of the United States Army Corps of Engineers and the United States Environmental Protection Agency.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS the Domestic Policy Council is considering advancing for Presidential approval a national "no net loss of wetlands" policy; and

WHEREAS the November 17, 1989, Memorandum of Agreement between the United States Corps of Engineers and the United States Environmental Protection Agency fails to distinguish Alaska's fundamentally different wetlands from those of the other states; and

WHEREAS the perceived need for a "no net loss" policy is caused by wetlands loss in the continental United States, not in Alaska; and

WHEREAS the concept of wetlands has become increasingly expanded since the Clean Water Act was originally implemented; and

WHEREAS 88 percent of the total land mass of the state is still owned by the federal or state government, and the state already exercises strict control on its development; and

WHEREAS under the existing definition of wetlands, up to 170,000,000 acres of Alaska are classified as wetlands in contrast to the other states where only a small percentage of the area is classed as wetlands; and

WHEREAS over 157,000,000 acres of Alaska are already protected in federal conservation units, of which over 56,000,000 acres are federally designated wilderness; and

WHEREAS the "no net loss wetlands" policy fails to recognize the

effects of permafrost in the state as well as the vast areas of the state that cannot be developed; and

WHEREAS the wetland areas of the state cover up to 170,000,000 acres and only 80,000 acres, approximately 0.05 percent of the wetlands, have been altered since 1867; and

WHEREAS the quantity and the quality of wetlands in the state are not endangered;

BE IT RESOLVED by the Alaska State Legislature that George Bush, President of the United States, is respectfully requested to rescind the application to the state of the wetlands Memorandum of Agreement.

COPIES of this resolution shall be sent to the Honorable George Bush, President of the United States; Lieutenant General Henry J. Hatch, Chief of Engineers, Commanding General, U.S. Army Corps of Engineers; William K. Reilly, Administrator, U.S. Environmental Protection Agency; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.

STEVE FRANK
DISTRICT K
SEAT A

119 N. Cushman, Rm. 213
Fairbanks, Alaska 99701

While in Juneau
P.O. Box V
Juneau, Alaska 99811
(907) 465-3709

Capitol Rm. 514

Alaska State Legislature

Senate

MEMBER
Finance Committee
Resources Committee
Legislative Council
Special Committee on Banking & Economic Development

VICE-CHAIR
Community & Regional Affairs Committee

TO: All Senators

FROM: Senator Steve Frank

RE: Senate Joint Resolution No. 54 "Relating to the 'no net loss of wetlands' policy of the United States Army Corps of Engineers and the United States Environmental Protection Agency."

DATE: January 9, 1990

SJR 54 requests President George Bush to rescind the Memorandum of Agreement (MOA) between the Corps of Engineers and the EPA regarding the "no net loss of wetlands" policy as it applies to Alaska.

If enacted, this policy could have a drastic effect on any future development in Alaska and I appreciate the Senates' willingness to act quickly in an effort to stop the MOA which is set to go into place on Tuesday, January 16, 1990.

Wetlands comprise a small percentage of the total land area in the lower 48, but they make up 45% of Alaska's land because permafrost creates conditions consistent with wetlands definitions. Moreover, we have not experienced a significant loss of wetlands in Alaska. Less that .05 percent (1/20th of 1 percent) of our wetlands have been disturbed.

If Alaska is affected by the MOA, vital resource development industries such as fishing, timber, tourism, mining, and oil & gas could be severely constrained and infrastructure development could be curtailed. Even something as simple as building a home on private land could be prevented under this proposal.

Alaska is unique in this situation and needs special consideration in the form of exemption from the Corps of Engineers/EPA policy, or non-adoption of the policy.

Thank you for your consideration.