THE STATE of ALASKA
GOVERNOR MIKE DUNLEAVY

Department of Environmental Conservation
DIVISION OF WATER
Wastewater Discharge Authorization Program

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May 7, 2025

US Army Corps of Engineers, Alaska District
Attn: Matthew Ferguson
JBER, AK 99506

Re: US Army Corps of Engineers, Alaska District, Skagway River Levee Repair
ER-25-001 v1.0, Skagway River

Mr. Ferguson,

In accordance with Section 401 of the Federal Clean Water Act and provisions of the Alaska Water Quality Standards, the Department of Environmental Conservation (DEC) is issuing the enclosed water quality certification with conditions that the discharge from the proposed project will comply with water quality requirements for dredging and/or fill material in waters of the U.S., authorized by an Army Corps of Engineers (USACE) permit/license ER-25-001 - *Skagway River Levee Repair* project.
A person authorized under a provision of 18 AAC 15 may request an informal review of a contested decision by the Division Director in accordance with 18 AAC 15.185 and/or an adjudicatory hearing in accordance with 18 AAC 15.195 – 18 AAC 15.340. See DEC's "Appeal a DEC Decision" web page https://dec.alaska.gov/commish/review-guidance/ for access to the required forms and guidance on the appeal process. Please provide a courtesy copy of the adjudicatory hearing request in an electronic format to the parties required to be served under 18 AAC 15.200. Requests must be submitted no later than the deadline specified in 18 AAC 15.

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

If you have any questions regarding the attached certification, please contact Willow Weimer at 907-269-6096, dec-401cert@alaska.gov.

Sincerely,

N Waldo

Nick Waldo
Program Manager, Storm Water and Wetlands

Enclosure: 401 Water Quality Certificate

cc: (with encl.)

Kate Kanouse, ADF&G
USFWS Field Office Juneau
Matthew LaCroix, EPA AK Operations
Jeffrey Brittain, EPA AK Operations

STATE OF ALASKA
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
Water Quality Certification

In accordance with Section 401 of the Federal Clean Water Act (CWA) and the Alaska Water Quality Standards (18 AAC 70), a water quality certification with conditions is issued to the US Army Corps of Engineers, Alaska District, Attn: matthew.w.ferguson@usace.army.mil matthew.w.ferguson@usace.army.mil, 2204 Third St, JBER AK 99506 for a permit/license to be issued by Army Corps of Engineers (USACE), reference ER-25-001 *Skagway River Levee Repair*.

Based upon the review of the federal application, readily available water quality-related materials, and certification request[1] in accordance with the CWA § 121.5(b) and (c), and 121.7 (c), DEC certifies that if the permittee complies with the terms and conditions imposed by the permit and the conditions set forth in this water quality certification, then it is reasonable for DEC to conclude that the activity will comply with water quality requirements, including applicable requirements of the CWA §§ 301, 302, 303, 306, and 307, Alaska's Water Quality Standards (WQS, 18 AAC 70) and other appropriate water quality requirements of state law.

The scope of certification is limited to the water quality-related impacts of the activity subject to the Federal license or permit (40 CFR 121.3, 18 AAC 15.180). Public notice of the application for this certification was given as required by 18 AAC 15.180 in the DEC Public Notice ER-25-001 posted from 03/12/2025 to 04/14/2025.

Project Purpose, Description, and Location

Project Name: Skagway River Levee Repair

Dates of the proposed activity are planned to begin and end: 10/01/2026 to 04/30/2027

Location: The proposed activity is located within Section 11, T. 28S, R. 59E, Copper River Meridian, in Municipality of Skagway, Alaska. Project Site (Latitude, Longitude): 59.459616, -135.31864. With potential discharge location(s) as follows: 59.4596, -135.3186

Purpose: The USACE proposes to construct emergency repairs to the Skagway River levee in Skagway to restore flood risk management capabilities. The Skagway River levee protects public infrastructure and residential, commercial, and historical properties from flooding. The levee was damaged by significant flood events in 2022. Damages included a severe loss of the levee toe and riverward armor stone. If the levee is not repaired, erosion will continue. The Skagway Airport runway could become unusable.

Description: The proposed repairs to the levee would include the placement of new rock to restore the level of protection to that of the original design. A small amount of quarry run rock would be placed to restore the design slope, and a more substantial quantity of armor stone would be placed to restore the width of the levee and enhance scour protection. Levee reaches, where the toe of the existing levee is buried by the natural aggradation of sand, would be excavated to allow access to the levee toe. The specific repair needs of the levee vary by reach, but the generic project description is substantially comprehensive.

Repair in place includes a construction length of approximately 6,500 linear feet, which will reconstruct the riverward levee side slopes and toe with Class IV riprap for the entire length of the repairs. Approximately 40,000 cubic yards of armor stone and 5,000 cubic yards of quarry run rock would be required to repair

[1] Reference EDMS Submission Ref Nbr: HQA-WWQ4-J0YYF, Rcv 3/10/2025 2:05:00 PM

the levee. Rock used would be provided by the contractor and subject to Corps specifications. The Corps assumes the rock would be sourced from an existing local quarry.

Approximately 15,000 cubic yards of sand would be excavated to allow access to the levee toe. The excavated material would be used to construct sacrificial berms on the sandbars to temporarily divert floodwater away from the levee. Excavated material would be restored to the toe of the levee after levee repairs are completed.

Based on the amount of Class III armor stone that was displaced during the flood of record, it was deemed critical to increase the armor stone size for stability and longevity of the structure. Increases in armor stone size are authorized from updated scour analysis. This will entail reshaping the riverward slope to a 1.5H:1V side slope, restoring the riverward toe to its original design width, and adding a one stone thickness Class IV riprap armor layer over the existing levee. Due to scour and erosion of the existing slopes, Class II riprap will be used to reshape the existing structure with a 1.5H:1V side slope before the addition of Class IV riprap.

The construction work would be substantially completed by shore-based equipment. Work would take place during the winter to minimize impacts to aquatic resources and minimize impacts to construction due to flooding.

Additional Information: Construction of the Skagway River Levee was authorized by the Rivers and Harbors Act of June 20, 1938. The act, as adopted, provided for a rock, brush, and earth training dike 6,700 feet long on the east bank of the Skagway River, and a rubble-mound breakwater 1,800 feet long across the tide flats as a prolongation of the training dike. The project authorization was subsequently modified by the Flood Control Act of July 24, 1946. This act, as adopted, provided for (1) restoration of the existing breakwater (1,800 ft) to the original project cross-section, construction of a 300-foot extension thereto, and the addition of two groins on the river side, (2) reconstruction and extension of the existing training dike (6,700 ft) adjacent to the city, and (3) reconstruction of the existing dike at the sanatorium. Public Law 99-662, November 17, 1986, deauthorized the modifications authorized in 1946, except for the 6,700 ft training dike and the 1,800 ft breakwater.

Airport expansion encapsulated all but a roughly 1,300-foot portion of the training dike in 2001, with side slopes of the runway being integrated into the project footprint. The airport modifications were submitted through the 408 Federal project modification process and approved by USACE. In 2007, the training dike was renamed the Skagway River Levee. The present-day Skagway River Levee extends from the river mouth upstream approximately 6,700 feet to the Klondike Highway (23rd Avenue) bridge, near the upstream end of the municipality. In the undamaged condition, the levee protects overtopping up to the 1% annual exceedance probability (AEP) flood event.

Applicant Proposed Mitigation: The applicant proposes the following mitigation measures to avoid, minimize, and compensate for impacts to waters of the United States from activities involving discharges of dredged or fill material.

a. Avoidance: Work would be conducted during the winter when water levels are naturally low.

b. Minimization: Construction would occur during the winter when water levels are low to minimize impacts to aquatic resources

c. Mitigation: No mitigation proposed because this is a maintenance project and the additional toe width is minor within the context of the river channel.

Antidegradation Analysis Finding

Pursuant to the Department's Antidegradation Policy and Implementation Methods at 18 AAC 70.015 and 18 AAC 70.016, DEC finds that the project would comply with the requirements for Tiers 1 and 2 regarding water quality impacts to receiving water immediately surrounding the dredge or fill material pursuant to the Corps evaluation and findings of no significant degradation under 33 U.S.C. 1344 and under 40 CFR 230. The use of appropriate best management practices and erosion and sediment control measures would adequately protect the existing water uses and the level of water quality necessary to protect existing uses. Any potential water quality degradation is expected to be temporary, limited, and necessary to accommodate important social and/or economic development in the area.

Conditions Necessary to Ensure Compliance with Water Quality Standards or Other Appropriate Water Quality Requirements of State Law

The Department of Environmental Conservation (DEC) reviewed the application and certifies that there is reasonable assurance that the proposed activity, as well as any discharge that may result, will comply with applicable provisions of Section 401 of the CWA and the Alaska Water Quality Standards (18 AAC 70) provided the permittee complies with the terms and conditions imposed by the permit/license and that the following additional measures are adhered to.

Pursuant to 18 AAC 70.020(a) and the Toxics and Other Deleterious Organic and Inorganic Substances in 18 AAC 70.020(b), the following conditions are designed to reduce pollutants from construction activity to ensure compliance with the applicable water quality standards.

Pollutants/Toxics

1. Fuel storage and handling activities for equipment must be sited and conducted so there is no petroleum contamination of the ground, subsurface, or surface waterbodies.
2. During construction, spill response equipment and supplies such as sorbent pads shall be available and used immediately to contain and clean up oil, fuel, hydraulic fluid, antifreeze, or other pollutant spills. Any spill amount must be reported in accordance with Discharge Notification and Reporting Requirements (AS 46.03.755 and 18 AAC 75 Article 3). The applicant must report the spill to the DEC Area Response Team office online at https://reportspills.alaska.gov/ or via phone at 1-800-478-9300 or 1-907-269-0667. For Federal reporting requirements, see the National Response Center website: https://nrc.uscg.mil/. For more information, see the DEC Spill Information website: https://dec.alaska.gov/spar/ppr/spill-information/reporting/.
3. Construction equipment shall not be operated below the ordinary high-water mark if the equipment is leaking fuel, oil, hydraulic fluid, or any other hazardous material. Equipment shall be inspected daily for leaks. If leaks are found, the equipment shall not be used and pulled from service until the leak is repaired.
4. Fill material (including dredge material) must be clean soil, sand, gravel, or rock, free from petroleum products and toxic contaminants in toxic amounts.

Turbidity, Erosion and Sediment Control

5. Runoff discharged to surface water (including wetlands) from a construction site disturbing one or more acres must be covered under Alaska's General Permit for Storm Water Discharges from Large and Small Construction Activities in Alaska (CGP, AKR100000, 18 AAC 83). The CGP requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). For projects that disturb more than five acres, this SWPPP must also be submitted to DEC prior to construction, along with the Notice of Intent (NOI). For more information, see DEC's website for the CGP at https://dec.alaska.gov/water/wastewater/stormwater/construction, or call 907-269-6285.
6. Excavated or fill material, including overburden, shall be placed so that it is stable, meaning after placement, the material does not show signs of excessive erosion. Indicators of excess erosion include gullying, head cutting, caving, block slippage, material sloughing, etc. The material must be contained with siltation best management practices (BMPs) to preclude reentry into any waters of the U.S., which includes wetlands.
7. Include the following BMPs to handle stormwater and total stormwater volume discharges as they apply to the site:
   a. Divert stormwater from off-site around the site so that it does not flow onto the project site and cause erosion of exposed soils.
   b. Slow down or contain stormwater that may collect and concentrate within a site and cause erosion of exposed soils.
   c. Place velocity dissipation devices (e.g., check dams, sediment traps, or riprap) along the length of any conveyance channel to provide a non-erosive flow velocity. Also place velocity dissipation devices where discharges from the conveyance channel or structure join a watercourse to prevent erosion and to protect the channel embankment, outlet, adjacent stream bank slopes, and downstream waters.

Vegetation Protection and Restoration

8. Any disturbed ground and exposed soil not covered with fill must be stabilized and re-vegetated with endemic species, grasses, or other suitable vegetation appropriately to minimize erosion and sedimentation, so that a durable vegetative cover is established in a timely manner.
9. All work areas, material access routes, and surrounding wetlands involved in the construction project shall be delineated and marked in such a way that equipment operators do not operate outside of the marked areas.
10. Natural drainage patterns shall be maintained, to the extent practicable, without introducing ponding or drying.

General

11. DEC coordinates with several regulatory programs to review the impacts of proposed projects. A Section 401 Certification does not release the applicant from obtaining all necessary federal, state, and local permits, nor does it limit more restrictive requirements set through any such program. It does not eliminate, waive, or vary the applicant's obligation to comply with all state water statutes and rules through the construction, installation, and operation of the project or mitigation, including, but not limited to, the APDES permitting program 18 AAC 83 and 18 AAC 72.

12. USACE has stated that projects shall be reviewed under the federal rules in place at the time the application is received. This project and its mitigation were reviewed under the federal and state statutes and laws in place at the time the application was received. If the USACE determines any part or condition of this Certification is not lawful or is waived and unenforceable, the determination shall apply only to the part or condition so determined. The determination shall not apply to nor invalidate any remaining parts or conditions of this Certification. If the USACE makes such a determination, the applicant remains responsible for meeting state water quality statutes and rules, and if a violation occurs, may be subject to state enforcement (18 AAC 70.010).

13. This Certification does not release the applicant from any liability, penalty, or duty imposed by Alaska or federal statutes, regulations, rules, or local ordinances, and it does not convey a property right or an exclusive privilege.

Date: May 7, 2025

N Waldo

Nick Waldo, Program Manager
Storm Water and Wetlands