



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, ALASKA
P.O. BOX 6898
ELMENDORF AFB, ALASKA 99506-0898

JUN 15 2005

Regulatory Branch
North Section
POA-2005-980

Mr. Chuck Howe
Alaska Department of Transportation
And Public Facilities
2301 Peger Road
Fairbanks, Alaska 99709-5399

Dear Mr. Howe:

This is in response to your June 6, 2005, request for a Department of the Army (DA) jurisdictional determination concerning your proposed project located at Latitude 62.5245° N and Longitude 164.8751° W; within sections 8, 9, 10, 15, 16, and 17, T. 28 N., R. 84 W., Seward Meridian, near Nunam Iqua also known as Sheldon Point, Alaska. Potential projects would involve the airport property and potential airport relocation sites.

Based on our review of the information you furnished and information available to our office, we have determined that the above property contains wetlands under Corps regulatory jurisdiction (see enclosure titled, "JURISDICTIONAL DETERMINATION").

The wetland/upland boundary, which was staked during the aforementioned site inspection, is the definitive wetland delineation. The upland portions of the property may be developed without DA authorization. If development plans entail a discharge or placement of dredged and/or fill material into the wetlands, issuance of a DA permit would be required prior to initiating work.

Your proposed project was reviewed pursuant to Section 404 of the Clean Water Act. Section 404 of the Clean Water Act requires that a DA permit be obtained for the placement or discharge of dredged and/or fill material into waters of the U.S., including wetlands, prior to conducting the work (33 U.S.C. 1344).

For regulatory purposes, the Corps of Engineers defines wetlands as those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Please be advised that land clearing operations involving vegetation removal with mechanized equipment such as front-end loaders, backhoes, or bulldozers with sheer blades, rakes, or discs in wetlands; or windrowing of vegetation, land leveling, or other soil disturbances are considered placement of fill material under our jurisdiction.

This approved jurisdictional determination is valid for a period of five (5) years from the date of this letter, unless new information supporting a revision is provided to this office before the expiration date. Also, enclosed is a Notification of Administrative Appeals Options and Process and

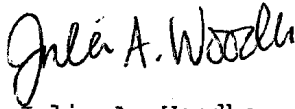
Request for Appeal form regarding this DA Approved Jurisdictional Determination.

For informational purposes, a copy of this letter is being sent to the agencies and individuals on the enclosed list.

Nothing in this letter shall be construed as excusing you from compliance with other Federal, State, or local statutes, ordinances, or regulations that may affect any proposed work.

We appreciate your cooperation with the Corps of Engineers' Regulatory Program. Please refer to file number POA-2005-980 in future correspondence or if you have any questions concerning this determination. You may contact me by mail at the letterhead address, ATTN: Ms. Julie A. Woodke, CEPOA-CO-R-N, at (907) 753-2716, toll free from within Alaska at (800) 478-2712, or by FAX at (907) 753-5567. For additional information about our Regulatory Program, visit our web site at www.poa.usace.army.mil/reg.

Sincerely,



Julie A. Woodke
Regulatory Specialist

Enclosure(s)

Copies Furnished: WITHOUT enclosure(s)
Anchorage Agencies

Mr. Larry Dugan
Alaska Department of Environmental
Conservation
555 Cordova Street
Anchorage, Alaska 99501-2617

Project Coordinator
Department of Natural Resources
Office of Project Management
and Permitting
Alaska Coastal Zone Management
550 West 7th Avenue, Suite 1660
Anchorage, Alaska 99501-3568

Ms. Ann Rappoport
Field Supervisor
U.S. Fish and Wildlife Service
Ecological Service Anchorage
605 West 4th Avenue, Room 62
Anchorage, Alaska 99501-2249

Supervisor
Western Alaska Ecological
National Marine Fisheries Service
222 West Seventh Avenue, # 43
Anchorage, Alaska 99513-7577

Ms. Judith Bittner
Department of Natural Resources
State Historic Preservation Office
550 W. 7th Avenue, Suite 1310
Anchorage, Alaska 99501-3565

Mr. Richard B. Thompson
State of Alaska
Department of Natural Resources
Division of Land
550 W. 7th Avenue, Suite 900C
Anchorage, Alaska 99501-3577

Mr. Gary Prokosch
State of Alaska
Department of Natural Resources
Division of Water
550 W. 7th Avenue, Suite 900A
Anchorage, Alaska 99501-3577

Ms. Robin Willis
Statewide Services
Alaska Department of Fish and Game
333 Raspberry Road
Anchorage, Alaska 99518-1599

Alaska Operations Office
Environmental Protection Agency
222 West Seventh Avenue, # 19
Anchorage, Alaska 99513-7588

Office of Habitat Management & Permitting
Alaska Department of Natural Resources
555 W 7th Avenue, Suite 1430
Anchorage, AK 99501-3513

JURISDICTIONAL DETERMINATION
U.S. Army Corps of Engineers

DISTRICT: Alaska
FILE NUMBER: POA-2005-980

PROJECT LOCATION INFORMATION:

State: Alaska
Borough: N/A
Center coordinates of site (lat/long in degree decimal format): Lat. 62.5245° N., Long. 164.8751° W.; Sec. 8, 9, 10, 15, 16, 17, T. 28 N, R. 84 W, Seward Meridian
Approximate size of area (parcel) reviewed, including uplands: 2,257 acres.
Name of nearest waterway: Kwemeluk Pass

JURISDICTIONAL DETERMINATION

Method: Office determination ☒
Onsite determination ☐

Date Form Completed: 6/14/2005

Jurisdictional Determination (JD):

☐ Preliminary JD - Based on available information, ☐ *there appear to be* (or) ☐ *there appear to be no* "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

☒ Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331).
Check all that apply:

☒ *There are* "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area.
Approximate size of jurisdictional area:

☒ *There are* "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area.
Approximate size of jurisdictional area: 2,141 acres.

☒ *There are* "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.
☐ Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

BASIS OF JURISDICTIONAL DETERMINATION:

A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":

☒ The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

- ☒ (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
- ☒ (2) The presence of interstate waters including interstate wetlands¹.
- ☒ (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
- ☐ (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
- ☐ (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
- ☐ (iii) which are or could be used for industrial purposes by industries in interstate commerce.
- ☒ (4) Impoundments of waters otherwise defined as waters of the US.
- ☒ (5) The presence of a tributary to a water identified in (1) - (4) above.
- ☒ (6) The presence of territorial seas.
- ☒ (7) The presence of wetlands adjacent² to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:* The site is a jurisdictional wetland based on soils, vegetation, and hydrology. Also, the wetlands are adjacent to other waters of the US, the Kwemeluk Pass.

DISTRICT: Alaska
FILE NUMBER: POA-2005-980

Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)

- ☒ Ordinary High Water Mark indicated by:
- ☐ clear, natural line impressed on the bank
 - ☐ the presence of litter and debris
 - ☐ changes in the character of soil
 - ☐ destruction of terrestrial vegetation
 - ☐ shelving
 - ☐ other:
- ☒ High Tide Line indicated by:
- ☐ oil or scum line along shore objects
 - ☐ fine shell or debris deposits (foreshore)
 - ☐ physical markings/characteristics
 - ☐ tidal gages
 - ☐ other:
- ☒ Mean High Water Mark indicated by:
- ☐ survey to available datum; ☐ physical markings; ☐ vegetation lines/changes in vegetation types.
- ☒ To the limit of the wetland boundaries

Basis For Not Asserting Jurisdiction:

- ☒ The reviewed area consists entirely of uplands.
- ☒ Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
- ☒ Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
- ☒ The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
- ☐ Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
 - ☐ Artificially irrigated areas, which would revert to upland if the irrigation ceased.
 - ☐ Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
 - ☐ Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
 - ☐ Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
 - ☐ Isolated, intrastate wetland with no nexus to interstate commerce.
 - ☐ Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
 - ☐ Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
 - ☐ Other (explain):

DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):

- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant.
- ☒ Data sheets prepared/submitted by or on behalf of the applicant.
- ☒ This office concurs with the delineation report, dated March 2005, prepared by (company): DOWL Engineers
- ☐ This office does not concur with the delineation report, dated _____, prepared by (company): _____
- ☒ Data sheets prepared by the Corps
- ☐ Wetland boundary map prepared by the Corps
- ☒ Alaska District's Approved List of Navigable Waters
- ☒ U.S. Geological Survey Hydrologic Atlas:
- ☒ U.S. Geological Survey 7.5 Minute Topographic maps: Kwiguk C-6
- ☒ U.S. Geological Survey 15 Minute Topographic maps:
- ☒ USDA Natural Resources Conservation Service Soil Survey: Exploratory Soil Survey of Alaska, 1979
- ☒ National wetlands inventory maps:
- ☒ State/Local wetland inventory maps:
- ☒ FEMA/FIRM maps (Map Name & Date):
- ☒ 100-year Floodplain Elevation is: _____ (NGVD)
- ☒ Aerial Photographs (Name & Date):
- ☒ Other photographs (Date): Online Community Profile, 1994
- ☒ Advanced Identification Wetland maps:
- ☒ Site visit [Date(s)]:
- ☐ Previous determination(s) [File number and date of response letter]:
- ☒ Applicable/supporting case law:
- ☒ Other information (please specify): Online Community Profile

Julie A. Woodh

Signature

¹Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

²The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.