THE STATE of ALASKA
GOVERNOR BILL WALKER

Department of Environmental Conservation
DIVISION OF WATER
Wastewater Discharge Authorization Program

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May 15, 2015

Certified Mail: 7012-3460-0002-9326-5387

U.S. Army Corps of Engineers
Alaska District - Fairbanks Field Office
Regulatory Division (1145), CEPOA-RD
2175 University Ave, Suite 201E
Fairbanks, Alaska 99707-4927

Re: General Permit – Mechanical Placer Mining Activities within the State of Alaska
Reference No. POA–2014-55

Dear Benjamin Soiseth:

In accordance with Section 401 of the Federal Clean Water Act of 1977 and provisions of the Alaska Water Quality Standards, the Department of Environmental Conservation (DEC) is issuing the enclosed Certificate of Reasonable Assurance for placement of dredged and/or fill material in waters of the U.S., including wetlands and streams, associated with mechanical placer mining activities within the State of Alaska.

DEC regulations provide that any person who disagrees with this decision may request an informal review by the Division Director in accordance with 18 AAC 15.185 or an adjudicatory hearing in accordance with 18 AAC 15.195 – 18 AAC 15.340. An informal review request must be delivered to the Director, Division of Water, 410 Willoughby Avenue, Suite 303, PO Box 111800, Juneau, AK 99811-1800, within 15 days of the permit decision.

Visit http://dec.alaska.gov/commish/ReviewGuidance.htm for information on Administrative Appeals of Department decisions.

An adjudicatory hearing request must be delivered to the Commissioner of the DEC, 410 Willoughby Avenue, Suite 303, PO Box 111800, Juneau, AK 99811-1800, within 30 days of the permit decision. If a hearing is not requested within 30 days, the right to appeal is waived.

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.

Sincerely,

James Rypkema
Program Manager, Storm Water and Wetlands

Enclosure: Section 401 Certificate of Reasonable Assurance

cc: (with encl.)
Deb McAtee, USACE, Fairbanks
Leslie Tose, USACE, Anchorage
Michael Daigneault, ADF&G
Jack Winters, ADF&G
USFWS Field Office(s) Anchorage, Fairbanks
Gayle Martin, EPA Operations, Anchorage
Matthew LaCroix, EPA Operations, Anchorage
Heather Dean, EPA Operations, Anchorage

STATE OF ALASKA
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
CERTIFICATE OF REASONABLE ASSURANCE

In accordance with Section 401 of the Federal Clean Water Act (CWA) and the Alaska Water Quality Standards (18 AAC 70), a Certificate of Reasonable Assurance is issued to the U.S. Army Corps of Engineers, Alaska District, Regulatory Division (1145), CEPOA-RD, 2175 University Ave, Suite 201E, Fairbanks, Alaska 99709-4927 for the placement of dredged and/or fill material in waters of the U.S. including wetlands and streams associated with mechanical placer mining activities within the State of Alaska associated with a Regional General Permit. Mechanical placer mining is defined as the removal of gold or other precious materials from gravels using mechanized equipment.

A state issued water quality certification is required under Section 401 because the proposed activity will be authorized by U.S. Army Corps of Engineers permit (POA-2014-55) and a discharge of pollutants to waters of the U.S. located in the State of Alaska may result from the proposed activity. Public notice of the application for this certification was given as required by 18 AAC 15.180 in the Corps Public Notice POA-2014-55 posted from December 17, 2014 to January 15, 2015.

The proposed activity is located throughout Alaska.

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 provided that the following additional measures are adhered to.

1. Reasonable precautions and controls must be used to prevent incidental and accidental discharge of petroleum products or other hazardous substances. 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 cleanup 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 permittee must contact by telephone the appropriate DEC Area Response Team for Central Alaska at (907) 269-3063, Northern Alaska at (907) 451-2121, Southeast Alaska (907) 465-5340 during work hours or 1-800-478-9300 after hours. Also, the permittee must contact by telephone the National Response Center at 1-800-424-8802.
3. Construction equipment shall not be operated below the ordinary high water mark if equipment is leaking fuel, oil, hydraulic fluid, or any other hazardous material. Equipment shall be inspected recorded in a log on a daily basis 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, free from petroleum products and toxic contaminants in toxic amounts.

5. Excavated or fill material, including overburden, shall be placed so that it is stable, meaning that 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.

6. Include the following BMPs to handle storm water and total storm water volume discharges as they apply to the site:

   a. Divert storm water 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 storm water 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 water course to prevent erosion and to protect the channel embankment, outlet, adjacent stream bank slopes, and downstream waters.

7. During construction of the new stream channel, the upstream and downstream ends of the new channel will remain plugged by the existing streambed materials. All channel excavation, other than the plug removals, and bank stabilization shall be completed prior to directing the stream into the new channel. If there are plans to transplant vegetation along the stream banks, the stream should not be directed into the new channel until the fall of the year, to allow for the new vegetation to take hold and not wash out when exposed to the stream during high flow events. If the stream is intermittent, connection of the two channels shall occur during a dry period. Otherwise, the water shall be slowly introduced into the new channel by first removing the downstream plug, then removing the upstream plug.

8. All surface runoff water from areas disturbed during the stripping of overburden or moving of existing overburden piles shall be diverted to existing mine cuts or stabilized areas, such as settling ponds, using berms, diversion channels, or brush barriers. Surface runoff containing sediment from disturbed areas shall not be discharged to surface waters, which includes wetlands without treatment.

9. Settling ponds shall not be located in a flowing stream. If a settling pond is located where it is likely to flood, and is needed for mining during the next year, it shall be protected from erosion by a berm or another method. Settling ponds shall not be located where a stream channel is going to be reestablished unless the fine sediments are removed or protected from erosion.

10. Impaired Waterbody: A water is impaired for purposes of this permit if it has been identified by a State or Environmental Protection Agency (EPA) pursuant to Section 303(d) of the CWA as not meeting applicable State Water Quality Standards (these waters are called "water quality limited segments" under 40 CFR 30.2(j)). Impaired waters include both waters with approved or established Total Maximum Daily Load (TMDL), and those that a TMDL has not yet been approved or established. For further information on impaired waters and the most current approved 303(d) Listed Waterbodies see: http://dec.alaska.gov/water/wqsar/waterbody/integratedreport.htm.

a. Discharging to a CWA §303(d)-Listed Waterbody (Category 5) (e.g., Turbidity or Sediment)

(i) A permittee who places fill into a surface waterbody listed on the CWA §303(d) list for turbidity or sediment must monitor turbidity at the following locations to evaluate compliance with the turbidity Water Quality Standard. The permittee must sample the:

(1) Upstream turbidity in the §303(d)-listed receiving waterbody at a representative location (upgradient) from the mechanical placer mining activity (activity) into the §303(d)-listed surface waterbody; and

(2) Downstream turbidity at a representative location immediately downgradient from the activity in the §303(d)-listed surface waterbody, inside the area of influence of the activity.

(3) Samples must be collected concurrently, or within a one-hour of each other.

(4) Monitoring frequency shall be "three times per week" starting on either the first or second day of the week that activities commence with subsequent samples taken every other day thereafter until three samples are collected.

(ii) If a sample is not collected due to safety concerns or a situation beyond the permittee's control, the circumstances must be documented in a log and another sample must be collected as soon as conditions allow.

(iii) Based on the sampling, the resulting water quality must meet the state Water Quality Standard for turbidity, as follows: the downstream sample may not exceed 5 nephelometric turbidity units (NTU) above the upstream sample when the upstream turbidity is 50 NTU or less, and may not have more than 10% increase in turbidity when the upstream turbidity is more than 50 NTU, not to exceed a maximum increase of 25 NTU.

(iv) If the difference between the upstream and downstream sample exceeds the turbidity Water Quality Standard, the permittee must:

(1) Review the mine site plan and the BMPs selected for the project phase and make appropriate improvements and corrections to the BMPs within seven (7) calendar days of the date the discharge exceeds the water quality standard;

(2) Implement improvements and changes to the BMPs;

(3) Continue to sample according to the frequency identified in Section 10.a(i)(4) of the certification.

(v) Monitoring requirements in Section (10.a) of the certification do not apply when activity occurs outside the riparian zone, as defined in permit section Permit Part III.A.4.b.

b. Discharging into a Surface Waterbody with an Approved or Established TMDL (Category 4a or 4b) (e.g., Turbidity or Sediment). If the permittee discharges into a surface waterbody with an EPA-established or approved TMDL, the permittee must implement measures to ensure that the discharge of pollutants from the site is consistent with the assumptions and requirements of the EPA-established or approved TMDL. This includes ensuring that the discharge does not exceed specific wasteload or load allocation that has been established that would apply to the discharge. The permittee must also evaluate the recommendations in the implementation section of the TMDL and incorporate applicable measures into the operations.

c. Inspection Program. The permittee shall institute an inspection program. A daily visual inspection of the site must be conducted and documented in a log while on-site during the mining season, and include the following:

(i) An evaluation of the condition of all water control devices such as diversion structures and berms and all solids retention structures including, but not limited to: berms, dikes, pond structures, and dams; and

(ii) Visual monitoring for turbidity upstream of the mine site and at a point immediately downstream of the mine site.

(iii) If during a daily visual inspection the receiving water downstream of the operation appears more turbid than upstream, the permittee must take measures to determine the source and ensure compliance with discharge limits in Section 10.a(iii) of the certification and BMPs.

d. Sampling and Analysis Methods

(i) Turbidity analysis must be performed with a calibrated EPA-approved turbidimeter.

(ii) Turbidity Sampling Protocol:

(1) Grab samples shall be collected in sterile polypropylene or glass containers.

(2) Samples must be cooled to 4 degrees Celsius / 39 degrees Fahrenheit (iced), if analysis is not performed immediately.

(3) Cooled samples must be analyzed within 48 hours of sample collection.

e. Recordkeeping

(i) A permittee must retain records of all monitoring information, field logbooks, or visual monitoring logbooks for a minimum of three years from the time of measurement or observation.

(ii) For each sample collected, the permittee must record in a log the following:

(1) The date, monitoring location, method, and time of sampling;

(2) The name and title of the individual(s) who performed the sampling and analyses;

(3) The date(s) and time any analyses was performed;

(4) The analytical techniques or methods used; and

(5) The results of such analyses in nephelometric turbidity units (NTU) and all calibration and quality control information used to validate the measurement(s).

11. Additional Monitoring Required by DEC. DEC may notify the permittee of additional discharge monitoring requirements. Any such notice will state the reasons for the requested monitoring, locations, and parameters to be monitored, frequency and period of monitoring, sample types, and reporting requirements.

12. Other Considerations:

- All solid waste and foreign debris must be eliminated by removal to an off-site DEC-approved facility or by burning (if a paper product). Waste, in this paragraph means all discarded matter, including, but not limited to: human waste, trash, garbage, litter, oil drums, petroleum, ashes and discarded equipment. Hazardous waste must not be disposed of on-site, but instead must be hauled out for disposal in a DEC-approved disposal site.
- All greywater and human waste must be disposed of in a pit, or containment (port-a-potty) that can be transported to allow for disposal at a DEC-approved disposal site. If a pit is used, it must be located at least 100 feet from the ordinary high-water mark of the nearest surface waterbody and four (4) feet above the high groundwater table, and back-filled prior to leaving the site. Prior to installing a septic system check with the DEC office in Fairbanks (Tonya Bear, 907-451-2177, Tonya.Bear@alaska.gov; or 907-451-2109, http://dec.alaska.gov/water/wwdp/ onsite/index.htm) for plan review requirements.
- If activity includes discharges of process wastewater, dewatering water, or drainage waters from open-cut mines or mechanical dredges, permittees shall obtain additional discharge coverage from an appropriate Alaska Pollutant Discharge Elimination System (APDES) permit. For further information, contact the DEC Engineering and Mining Technical Services (907-451-2142, dec.placer@alaska.gov, or http://dec.alaska.gov/water/wwdp/engineering/ engineering.htm)

This certification expires five (5) years after the date the certification is signed. If your project is not completed by then and work under U.S Army Corps of Engineers Permit will continue, you must submit an application for renewal of this certification no later than 30 days before the expiration date (18 AAC 15.100).

Date: May 15, 2015

James Rypkema, Program Manager
Storm Water and Wetlands