

STATE OF ALASKA

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April 27, 2005

Mr. Gary Droubay
Goldbelt, Inc.
9097 Glacier Hwy, Ste 200
Juneau, Alaska 99801

Dear Mr. Droubay:

**Subject: Berners Bay 4 (Cascade Point Breakwater & Dock)
State I.D. No. AK 0406-14J
Final Consistency Response – Concurrence**

The Office of Project Management and Permitting (OPMP) has completed coordinating the State's review of the Goldbelt, Inc. proposed "Cascade Point Breakwater and Dock" project for consistency with the Alaska Coastal Management Program (ACMP).

OPMP has developed the enclosed consistency response, in which the State concurs with the Goldbelt, Inc. certification that the project is consistent with the ACMP. This will be the final ACMP decision on this project, as proposed.

By copy of this letter, I am informing the U.S. Forest Service, the U.S. Army Corps of Engineers, the U. S. Environmental Protection Agency, and State review participants of OPMP's finding. If you have any questions, please contact me at joe_donohue@dnr.state.ak.us or by phone at 907-465-4664. The State appreciates your cooperation with the ACMP.

Sincerely,



Joe Donohue
ACMP Project Specialist

Enclosure

Distribution List:

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**ALASKA COASTAL MANAGEMENT PROGRAM
FINAL CONSISTENCY RESPONSE
CONCURRENCE**

DATE ISSUED: April 27, 2005

PROJECT TITLE: Berners Bay 4 (Cascade Point Breakwater and Dock)

STATE ID. NO.: AK 0406-14J

AFFECTED COASTAL RESOURCE DISTRICT: Juneau

APPLICANT: Goldbelt, Inc.

DESCRIPTION OF PROJECT SUBJECT TO ACMP REVIEW:

Goldbelt, Inc. proposes to construct a marine terminal facility at Cascade Point, for the purpose of berthing vessels for the transport of personnel to and from the Kensington Mine. The location is within both uplands and tide and submerged land at Cascade Point in Berners Bay, Section 1, T. 36 S, R. 63 E, and Section 32, T. 37 S, R. 63 E, Copper River Meridian. The Cascade Point marine terminal facility and breakwater are referenced in the Alaska Coastal Management Program (ACMP) consistency review of the "Lynn Canal 31 / Kensington Mine (Jualin Modification)" [AK 0406-14J] as an "associated facility" of the proposed mining project.

The ACMP review for this project also includes the proposals contained in the Kensington Mine's Plan of Operations as submitted to the U.S. Forest Service (USFS) in November, 2001, and Addendum No. 1 to the Plan of Operations, which was submitted to the USFS in April, 2002, as modified in the Final Supplemental Environmental Impact Statement issued on December 9, 2004.

Specifically, the proposed "Berners Bay 4 (Cascade Point Breakwater and Dock)" work subject to this ACMP review includes:

1. Discharge of dredged and fill materials and construction of a moorage facility, including a rubble mound breakwater and dock: approximately 23,000 cubic yards (cy) of material would be dredged from within an approximately 70,000 square foot (sf) area below the high tide line (HTL). The dredged material would be used for the construction of a breakwater to provide safe moorage for four vessels and a miners' ferry shuttle for the Kensington Mine.

Approximately 29,000 cy of fill material would be discharged below the HTL for the construction of the breakwater. Additional fill materials for the breakwater, 6,000 cy, would be obtained from an upland quarry site.

2. Cascade Cove Marine Terminal Facility: a 120' long X 12' wide dock supported by 15 steel piles, plus a 100' long X 12' wide float secured by 10 steel piles, would also be constructed.

The float would be connected to the dock by an 80' long X 6' wide gangway. The facility would be constructed on approximately 5.8 acres of State tide and submerged lands.

Additional information: An approximately 2.5-mile road extension to this area from the existing road connecting to Juneau and ending at Echo Cove was permitted in 1998. This extension was reviewed for ACMP consistency under the State I.D. Nos. AK 9802-04J and AK 9911-08J for "Berners Bay 4".

SCOPE OF PROJECT REVIEW:

Except for the water quality issues addressed through the ADEC 401 Certification process, the scope of the project subject to the consistency review includes all activities that require an authorization from a Federal and State agency for the project to proceed. The scope of this ACMP consistency review included all applications and documentation submitted for federal and State authorizations.

AUTHORIZATIONS:

The project must be found consistent with the ACMP before the following Federal and State authorizations may be issued:

U.S. Army Corps of Engineers (COE)
Section 404 and 10 Permit No. POA-1997-245-2

Alaska Department of Environmental Conservation (ADEC)
Certificate of Reasonable Assurance (401)

Alaska Department of Natural Resources (ADNR)
Division of Mining, Land & Water
Tidelands Lease No. ADL 107152

CONSISTENCY RESPONSE STATEMENT:

Based on an evaluation of this project by the Alaska Departments of Fish and Game and Natural Resources, and the Juneau Coastal District, the State of Alaska concurs with the consistency certification submitted by the applicant "Goldbelt, Inc." and signed by Mr. David Goade. An analysis by ACMP staff of authorization documents of separate State agencies has reached the conclusion that the conditions placed upon the applicant by these authorizations meet the requirements of the standards and policies of the ACMP, therefore the proposed modifications to the USFS' "General Plan of Operations" (POO) for the Kensington Mine and each of the authorizations listed above are found to be consistent with the standards and policies of the ACMP.

Please note that, in addition to their consistency review, State agencies with permitting responsibilities will evaluate this proposed project according to their specific permitting authorities. Agencies will issue permits and authorizations only if they find the proposed project complies with their statutes and regulations in addition to being consistent with the coastal program. An agency permit or authorization may be denied even though the State concurs with the ACMP. Authorities outside the ACMP may result in additional permit/lease conditions. If a requirement set out in the project description (per 11 AAC 110.260) is more or less restrictive than a similar requirement in a

resource agency authorization, the applicant shall comply with the more restrictive requirement. Applicants may not use any State land or water without ADNR authorization.

This final consistency determination represents a consensus reached between you as the project applicant and the reviewing agencies listed above regarding the conditions necessary to ensure the proposed project is consistent with the ACMP. We are informing the federal agency responsible for approving a federal authorization for your project that your original proposal has been modified subject to the conditions in this consistency determination.

This final consistency determination is a final administrative decision for purposes of Alaska Appellate Rules 601-612. Any appeal from this decision to the superior court must be made within 30 days of the date of this determination.

ADVISORIES:

Department of Natural Resources:

Division of Mining, Land and Water (DMLW) – On September 15, 2004 OPMP received the following comments from DMLW:

"The Land Section of the Division of Mining, Land and Water has reviewed the above referenced development projects for consistency with the Alaska Coastal Management Program. The project proposed is the development of a marine transfer facility and terminal at Cascade Point located on State-owned tide and submerged lands in Berners Bay.

The DNR land use application has been received for the project and is identified as:
Tideland lease, ADL 107152 (Cascade Point Marine terminal)

Our office concurs with the applicant's certification that the proposed activity complies with and is consistent with the ACMP. A consistency determination does not obligate the Department of Natural Resources to issue authorization pursuant to AS 38, nor does it supersede statutory obligations thereunder. The applicant may not proceed with any site specific land use activity on the subject State lands until so authorized by the Division of Mining, Land and Water. Authorities outside 6AAC 50 may result in additional permit conditions not contained in the consistency decision."

Office of Habitat Management and Permitting (OHMP) – On April 21, 2005 OPMP received the following written comments and recommendations:

"Habitats in the project area that may be affected by the proposed project include estuaries, wetlands and tideflats. Pursuant to 6 AAC 80.130(b), all habitats that are subject to the provisions of the Alaska Coastal Management Program (ACMP) must be managed so as to maintain or enhance the biological, physical, and chemical characteristics of the habitat that contribute to its capacity to support living resources. In addition,

- Estuaries must be managed so as to assure adequate water flow, natural circulation patterns, nutrients, and oxygen levels, and avoid the discharge of toxic wastes, silt, and destruction of productive habitat;
- Wetlands and tideflats must be managed so as to assure adequate water flow, nutrients, and oxygen levels and avoid adverse effects on natural drainage patterns, the destruction of important habitat, and the discharge of toxic substances.

Pursuant to 6 AAC 80.130(d) uses and activities in the coastal area, which will not conform to the above standards, may be allowed if the following are established:

- (1) there is a significant public need for the proposed use or activity;
- (2) there is no feasible prudent alternative to meet the public need for the proposed use or activity which would conform to the standards; and
- (3) all feasible and prudent steps to maximize conformance with the standards will be taken.

The Office of Habitat Management and Permitting (OHMP) has determined that the project would not conform to the above standards because the project would result in loss of important herring spawning habitat from dredging the boat basin and fill associated with the breakwater. Vessel operations during the eulachon spawning period when large numbers of sea lions and seals are congregated in Berners Bay may disrupt foraging activities (habitat). However, we have determined that the activity should be allowed pursuant to 6 AAC 80.130(d) for the following reasons:

Public need: (Note: The City and Borough of Juneau found the project consistent with their coastal management plan without the need to evaluate whether there was a significant public need for the project. OPMP, as the coordinating agency, has reviewed the administrative record of the project file, has evaluated the project's relationship to the Kensington Mine project [OPMP file Lynn Canal 31 / Kensington Mine (Jualin Modification), and has determined that there is a significant public need for this project.)

Feasible prudent alternative: The applicant has demonstrated that the proposed project is the only feasible prudent alternative that would meet the public need for the project.

Measures to maximize conformance: Appropriate measures are incorporated into the project description to maximize conformance with the standard. Although there would be short-term loss of herring spawning habitat during facility construction, OHMP believes that the breakwater will be colonized by macroalgae and will provide some replacement spawning habitat within a few years. Potential impacts would be mitigated through appropriate facility design, in-water construction timing and vessel operational restrictions, vessel fueling restrictions, and water quality and biological monitoring, as described in the following project-related authorizing documents (described under "Response"). These measures are taken from a list of recommendations submitted by the National Marine Fisheries Service (NMFS) to the State natural resource agencies:

Measures shall include, but will not be limited to the following:

Facility Design -

Breakwater Design - The breakwater design includes a breach at the shoreline to promote water circulation and provide passage for juvenile salmonids.

Quieting technologies - The USFS POO requires that whenever practicable, quieting technologies should be adapted to the crew shuttle to minimize noise disturbance to listed species and their prey.

Lighting - The CBJ- CUP requires that low intensity lighting must be directed inward and not shed light and glare off site or seaward.

Construction and Operational Restrictions -

- NMFS recommendation - In-water construction to take place outside timing window to protect outmigrating juvenile salmonids and spawning and rearing marine forage fish; use of vibratory hammers to drive piles to reduce noise impacts to teleost fish.

State response - The State's tidelands leases will have a stipulation [alternative measure] prohibiting in-water construction from March 15 through June 30. The use of vibratory hammers is recommended whenever practicable. (The CBJ CUP prohibits in-water construction from March 15 through June 15.)

- NMFS recommendation - No construction between March 15 and June 30 to minimize noise impacts to marine mammals. Near-water construction only during winter months when few marine mammals are present.

State response - CBJ Allowable and Conditional Use permits address in-water construction from March 15 through June 15. Coeur has proposed no construction March 15 through June 30 and that will be reflected in State tideland lease.

The tidelands lease will also have the following stipulation [alternative measure] that states:
"No blasting shall occur on the leased premises during any period when in-water construction activities are prohibited or at any time when Steller sea lions or humpback whales are present within a 1000-foot radius, In-water construction activities will be suspended when humpback whales or Steller sea lions are within 1,000 feet, as determined from on-site monitoring by a NMFS-approved marine mammal biologist."

- NMFS recommendation - Suspend crew shuttle transits across Berners Bay during eulachon run and herring spawning periods of April and May; Coeur to limit disturbance from vessel noise, lights and other sources that may discourage herring spawning near Cascade Point.

State response - The State will include a stipulation [alternative measure] in the Cascade Point Tidelands Lease that states:

"Vessel operations from the Cascade Point terminal will be suspended when ADFG notifies the owner and/or operator that aerial surveys document that herring are spawning within 500 meters north of the breakwater. The distance will be clearly marked on the shoreline. Operations shall remain suspended until ADFG notifies the owner and/or operator that spawning is complete (typically 3-5 days)."

- NMFS recommendation - No fueling of vessels at Cascade Point from the time herring show up until eggs hatch.

State response - The State will include a stipulation [alternative measure] in the Cascade Point terminal Tidelands Lease that states:

"In the event that herring deposit eggs within 500 meters of the Cascade Point marine terminal facility, fueling operations at the terminal shall remain suspended until the eggs have hatched, as determined by ADF&G."

Pollution Prevention - SPCC Plans are required of the operator by USFS and USACE, and will be completed before operations are allowed.

Water Quality / Biological Monitoring -

- NMFS recommendation - Coeur should support research over the life of the project to better understand the direct and indirect impacts to listed species and their prey. Monitoring is to be directed toward adaptive management; NMFS and other natural resource agencies independently review collected data to assess impacts; if impacts are detected, USFS and USACE would consult with NMFS to determine how to adjust action.

State response - The USFS POO requires a marine monitoring program for Berners Bay that includes long-term monitoring for petroleum pollution (PAH), herring spawning habitat and egg biomass, marine mammals and waterbirds. The USFS POO and the CBJ AUP establishes the "Berners Bay Working Group" to evaluate the effectiveness of the monitoring programs. Also, the USFS POO requires that an environmental audit will be performed every six years by an independent third party consultant to determine the effectiveness of the mines environmental systems, and recommend changes if necessary.

- NMFS recommendation - Monitoring of construction activity impacts on marine mammal behavior with results submitted annually to NMFS and USFS to determine effectiveness of mitigation measures.

State response - The USFS POO requires a trained observer during construction activity. Monitoring results will be reviewed by the "Berners Bay Working Group" annually.

- NMFS recommendation - A marine mammal observer is to monitor crew shuttle operations year-round rather than only during April/May.

State response - The USFS POO requires a trained observer during the spring eulachon run. The state will not require the observer year-round.

- NMFS recommendation - Vessel operating procedures to be monitored and evaluated to determine effectiveness at protecting listed species.

State response - The USFS POO requires a trained observer during vessel operations. Monitoring results will be reviewed by the "Berners Bay Working Group" annually.

Vessel / Aircraft / Vehicle Operation -

- NMFS recommendation - Dock facilities are to serve only the Kensington Gold Project with no other public or private use to avoid cumulative impacts to marine mammals.

State response - CBJ CUP prohibits non-mine use of the dock, and requires a new CUP if the dock facilities are expanded.

- NMFS recommendation - Vessel traffic to be minimized after dark especially during spring eulachon/herring runs.

State response - The USFS POO requires that during spring eulachon and herring runs, ferry operations shall be restricted to daylight hours, to the extent feasible.

- NMFS recommendation - Vessels to be operated year-round at speeds not exceeding 13 knots.

State response - The USFS POO requires that during spring eulachon and herring runs, ferries within Berners Bay shall be operated at speeds not to exceed 13 knots.

Juneau Coastal District – On October 15, 2004 OPMP received the following written comments and recommendations from the Juneau Coastal District Coordinator:

"The Juneau Coastal District has reviewed the above referenced proposal for consistency with the Juneau Coastal Management Program (JCMP) and the Juneau Wetlands Management Plan (JWMP). The project was approved by the CBJ Planning Commission on August 30, 2004 as MIN2004-00003 ...

The Juneau Coastal District recommends that the project be found consistent with the Juneau Coastal Management Program with adoption of the following alternative measures:

1. No in-water work shall occur at the project site between March 15 and June 15 to avoid impacts on spawning herring and other species.
2. The best management practices identified in the discussion under 49.70.905 (5)[C] on pages 12 through 14 of this report shall be incorporated as best management practices for the project. Essentially, these are all related to spill prevention... [the CBJ letter, dated October 15, 2004 identifies each of the BMP's]
3. Coeur-Alaska will prepare and implement a Spill Response Plan for Cascade Point as identified in their September, 2004 Berners Bay Transportation Policy and Mitigation and Best Management Practices Plan, as Standard Operating Procedure # 13. A draft plan will be circulated to federal and state agencies with responsibility for water quality and spill prevention and response, and to the CBJ, for review. A final plan shall be implemented by Coeur before terminal operations begin.
4. An adequate supply of spill containment and response equipment will be maintained at the Cascade Point dock as described in the Spill Response Plan prepared under #13 above.
5. Fueling will take place at a U.S. Coast Guard-approved facility outside of Berners Bay between April 15 and May 15 each year when herring are observed spawning within 250 meters of the marine terminal. The distances shall be clearly marked on the shoreline. The presence of spawning herring will be determined by a qualified observer whose salary and expenses shall be reimbursed by Goldbelt. **(NOTE: While the reimbursement is not an ACMP consistency issue, the State understands that reimbursement for the observer salary and expenses will be for the actual determination period in April and May.)**

6. The vessel will be surrounded by a containment boom during fueling between April 15 and June 15 each year. (NOTE: The State understands that this alternative measure is meant to apply specifically to the vessel fueling within Berners Bay.)

7. The City and Borough of Juneau, working with other agencies as necessary, will prepare a monitoring program to assure the terminal operator is routinely employing best management practices and standard operating procedures.

8. Coeur shall implement Standard Operating Procedures #12 and #14 as identified in Coeur Alaska Gold Mine Berners Bay Transportation Plan and Mitigation and Best Management Practices Plan, September, 2004"

This consistency determination may include reference to specific laws and regulations, but this in no way precludes an applicant's responsibility to comply with all other applicable State and federal laws and regulations.

This consistency determination is only for the project as described. If, after issuance of a final consistency determination, the applicant proposes any changes to the approved project, including its intended use, prior to or during its siting, construction, or operation, the applicant must contact this office immediately to determine if further review and approval of the modifications to the project is necessary. Changes may require amendments to the State authorizations listed in this determination or may require additional authorizations.

If the proposed activities reveal cultural or paleontological resources, the applicant is to stop any work that would disturb such resources and immediately contact the State Historic Preservation Office (907-269-8720) and the U.S. Army Corps of Engineers (907-753-2712) so that consultation per section 106 of the National Historic Preservation Act may proceed.

FINAL CONSISTENCY DETERMINATION PREPARED BY:

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Joe Donohue