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November 16, 2020

Mr. David Olson
U.S. Army Corps of Engineers
CECW-CO-R
441 G St NW
Washington DC 20314
Submitted via www.regulations.gov
Docket No. COE-2020-0002; RIN 0710-AA84

RE: Comments of the Alaska Miners Association on the U.S. Army Corps of Engineers Proposal to Reissue and Modify Nationwide Permits 85 Fed. Reg. 57,298 (September 15, 2020)

Dear Mr. Olson:

The Alaska Miners Association (AMA) appreciates the opportunity to submit comments on the U.S. Army Corps (Corps) of Engineers 2020 Proposal to Reissue and Modify Nationwide Permits (NWP), per 85 Fed. Reg. 57,298 (Sept. 15, 2020).

AMA is a professional membership trade organization established in 1939 to represent the mining industry in Alaska. We are composed of more than 1,400 members that come from eight statewide branches: Anchorage, Denali, Fairbanks, Haines, Juneau, Kenai, Ketchikan/Prince of Wales, and Nome. Our members include individual prospectors, geologists, engineers, suction dredge miners, small family mines, junior mining companies, major mining companies, Alaska Native Corporations, and the contracting sector that supports Alaska's mining industry.

AMA supports the Corps' proposal to reissue and modify its suite of nationwide permits (NWP), and offers the following additional views and recommendations:

Removal of requirement for written Authorization before commencing authorized activity:

AMA supports the Corps' proposal to remove the requirement for written authorization before commencing authorized activity. Removing this requirement makes these NWP consistent with other NWP requiring Pre-Construction Notice (PCN) and will help streamline the permitting process by removing additional administrative burdens.

Removal of 300 foot limit for impacts to stream beds

AMA supports the Corps' proposal to remove the 300 linear foot limit for stream bed losses and rely instead on a half-acre limit and PCN review processes. Removing this limit will increase efficiency and help streamline the permitting process.

Related, the Corps is proposing to modify the Mitigation General Condition (Condition 23) to require compensatory mitigation for losses of greater than 0.1 acre of stream bed (if the project is required to

submit a PCN under the terms of the NWP). While the proposal indicates that the District Engineer would retain the discretionary authority to waive the requirement, the premise and arbitrary selection of 0.1 acre is not supported by scientific analysis that supports the need for this requirement. AMA suggests that flexibility be retained as the core principle; that stream bed mitigation be considered a possible but not mandatory requirement and that availability of viable functional assessments, mitigation credits, and other factors be considered in deciding whether to require compensatory mitigation. The Corps can always require mitigation as a condition of NWP authorization without mandating a one-size-fits-all presumption, and should recognize that mitigation may also be accomplished through site specific requirements like reclamation.

Specific NWPs

NWP 44: Mining Activities

AMA encourages the Corps to consider including “tidally influenced waters” in NWP44. While mining activity in tidal waters is presumably rare across much of the nation, Alaska’s tidal waters boast tremendous resource potential. Mining projects that would normally qualify for use of NWP44 cannot do so with this exclusion, and therefore must obtain an Individual Permit, causing significant cost and time delay to the project that meets the criteria for operating in other types of waterbodies.

General Conditions

AMA provided comments on the Alaska District Regional Conditions on November 4, 2020.

Management comment: desktop delineations

AMA urges the Alaska District to continue accepting desktop delineations for activities requiring PCNs. Field visits in Alaska for jurisdictional determinations are not always practicable considering travel distances and short growing seasons. Elimination of desktop delineations would result in not just significant delay of projects, but could be a roadblock to progressing through the permitting process and would make the NWP *useless* in this jurisdiction. Desktop delineations have worked successfully and we request the Corps continue this practice.

AMA greatly appreciates the opportunity to offer comments on the Corps’ 2020 NWP proposal. We support the proposal and encourage the Corps also to consider our comments as well as those submitted by the National Mining Association and the American Exploration & Mining Association, to further streamline the NWP program and make it more usable for the mining industry.

Please do not hesitate to contact us if we can provide further information. Thank you for your consideration of these comments.

Sincerely,



Deantha Skibinski
Executive Director