DEPARTMENT OF THE ARMY
ALASKA DISTRICT, U.S. ARMY CORPS OF ENGINEERS
REGULATORY DIVISION
P.O. BOX 6898
JBER, ALASKA 99506-0898

September 9, 2014

Regulatory Division
POA-2013-396

Mr. Mark Davis
Alaska Industrial Delevopment and Export Authority
813 West Northern Lights Boulavard
Anchorage, Alaska, 99503

Dear Mr. Davis:

This is in response to your April 16, 2014, request for a jurisdictional determination (JD) for the Ambler Mining District Industrial Access Road Project study area. The project corridor is 203 miles long. The west side of the study area begins at the Ambler River approximately 190 miles northwest of the Village of Kobuk. The east side of the study area begins near MP 136 of the Dalton Highway. It has been assigned number POA-2013-396, Ambler, which should be referred to in all correspondence with us.

We have completed our review of the Ambler Mining District Industrial Access Road Preliminary Wetland Delineation and Functions and Values Assessment, dated May 2014, prepared by DOWL HKM. We concur that the wetland boundaries within the study area have been established in accordance with the *Corps of Engineers 1987 Wetland Delineation Manual* and its 2007 regional supplement for Alaska.

The following points are an overview of our findings:

1. The wetland delineation data sets prepared by DOWL HKM successfully depict the waters of the U.S. (WOUS) contained within the 68,067-acre study area.

2. Our review was limited to the identification and delineation of WOUS, which is central to our jurisdiction determination. The functions and values assessment was not included in this evaluation.

3. The Photographic Log was useful to our evaluation, but its comparison with the wetland delineation data forms was at times problematic due to its organization and/or absence of some photos. If necessary for further evaluation of the project, its reorganization to follow the sequence of the transect/sampling points may be needed.

4. Some wetland polygons classified as palustrine scrub-shrub/palustrine emergent appear to be palustrine emergent/palustrine scrub-shrub based because the cover percentage of OBL/FACW herbaceous species is much higher that the cover percentage of OBL/FACW shrub species. Some examples of this occur at points T17-124, T21-125, and T9-52.

5. We question whether Polygon FID 5415 should be marked as wetlands and not uplands (its imagery signature resembles adjacent PSS1 polygons (30 of 252)).

Based on our review of the delineation report, we have determined that the study area contains WOUS, including wetlands, subject to the Corps' regulatory jurisdiction. The delineation identified approximately 39,949 acres of wetlands, excluding littoral zones of other waters. The total area of other waters within the study area consists of 9.37 acres of lakes, 144.63 acres of ponds, and 960.84 acres of waterways.

In order for us to finalize this JD, we request that a summary of the jurisdictional determination report (JDR), as referenced in the "Special Public Notice 2010-45, Corps of Engineers Regulatory Program Consultant-Supplied Jurisdictional Determination Reports" be provided in a condensed format. This summary should include the spreadsheet template we provided DOWL HKM. Upon receipt of this information, we will be able to provide you with a Preliminary Jurisdictional Determination (PJD) Form, which we will ask you to sign and return. A PJD is not appealable. At any time you have the right to request and obtain an Approved Jurisdictional Determination (AJD), which can be appealed. If it is your intent to request an AJD, work may not begin until one is obtained.

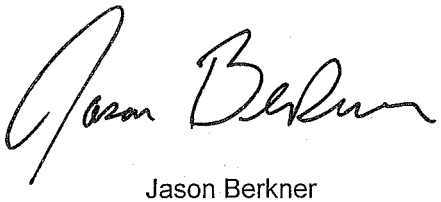
Section 404 of the Clean Water Act requires that a DA permit be obtained for the placement or discharge of dredged and/or fill material into waters of the U.S., including jurisdictional wetlands (33 U.S.C. 1344). The Corps defines wetlands as those areas that are inundated or saturated by surface or 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.

Section 10 of the Rivers and Harbors Act of 1899 requires that a DA permit be obtained for structures or work in or affecting navigable waters of the U.S. (33 U.S.C. 403). Section 10 waters are those waters subject to the ebb and flow of the tide shoreward to the mean high water mark, and/or other waters identified by the Alaska District.

Nothing in this letter excuses you from compliance with other Federal, State, or local statutes, ordinances, or regulations.

Please contact me via email at Jason.R.Berkner@usace.army.mil, by mail at the address above, by phone at (907) 753-5778, or toll free from within Alaska at (800) 478-2712, if you have questions. For more information about the Regulatory Program, please visit our website at http://www.poa.usace.army.mil/Missions/Regulatory.aspx.

Sincerely,



Jason Berkner
Project Manager

Copy Furnished:
DOWL HKM, Ms. Maryellen Tuttell
NPS, Mr. Joe Durrenberger
BLM, Mr. Gary Foreman
USFWS, Mr. Doug Campbell
USCG, Mr. James Helfinstine
USACE, Ms. Estrella Campellone

DOWL HKM

November 4, 2014
W.O. 60693

Jason Berkner
Department of the Army
Alaska District, U.S. Army Corps of Engineers
Regulatory Division
P.O. Box 6898
JBER, Alaska 99506-0898

Subject: POA-2013-396, Ambler
Ambler Mining District Industrial Access Road Preliminary Jurisdictional Determination
Response to USACE Comments

Dear Mr. Berkner:

On September 9, 2014, you submitted comments to Mark Davis of the Alaska Industrial Development and Export Authority (AIDEA) concerning a request made on April 16, 2014, for a jurisdictional determination for the Ambler Mining District Industrial Access Road (AMDIAR) Project study area. DOWL HKM completed a study of the project study area and provided preliminary mapping of wetland boundaries as well as a Functions and Values Assessment for the project corridor. We are offering the following responses (Table 1, enclosure) to your initial comments on the previously submitted report.

We propose to address the changes to point T17-124 (item 4, Table 1) by attaching an errata sheet to future distributions of DOWL HKM's Ambler Mining District Industrial Access Road Preliminary Wetland Delineation and Functions and Values Assessment. We have included the errata sheet for your reference.

In addition, DOWL HKM is working to fulfill your request for a summary of the jurisdictional determination report in the spreadsheet format provided by the United States Army Corps of Engineers (USACE), as referenced in your September 9, 2014 letter. We anticipate that the summary will be provided in the near future.

If you have any questions, please do not hesitate to contact me or Adam Morrill by telephone at (907) 562-2000 or by email at amorrill@dowlhkm.com.

Sincerely,
DOWL HKM

Maryellen Tuttell, AICP
Consultant/Agent

Enclosure:
Response to Comments Table
Errata Sheet

Table 1: Response to Preliminary Jurisdictional Determination Comments

No.	Comment	Response
1	The wetland delineation data sets prepared by DOWL HKM successfully depict the Waters of the U.S. (WOUS) contained within the 68,067-acre study area.	Noted.
2	Our review was limited to the identification and delineation of WOUS, which is central to our jurisdictional determination. The functions and values assessment was not included in this evaluation.	Noted.
3	The Photographic Log was useful to our evaluation, but its comparison with the wetland delineation data forms was at times problematic due to its organization and/or absence of some photos. If necessary for further evaluation of the project, a reorganization to follow the sequence of the transect/sampling points may be needed.	Noted. If reorganization of the Photographic Log is necessary and requested, DOWL HKM will discuss with the USACE specific formatting needs and will resubmit this portion of the report accordingly.
4	Some wetland polygons classified as palustrine scrub-shrub/palustrine emergent appear to be palustrine emergent/scrub-shrub based because the cover percentage of OBL/FACW herbaceous species is much higher than the cover percentage of OBL/FACW shrub species. Some examples of this occur at points T17-124, T21-125, and T9-52.	Cowardin class designations are based on dominant life forms (tree, scrub-shrub, herbaceous) which influence the appearance of a habitat. These designations are typically based on the upper most layer exceeding 30% cover (Cowardin, et al., page 25, 1979). Hydrophytic vegetation indicators are FAC, FACW, and OBL. T17-124: Scrub-shrub cover is 40% and herbaceous cover is 147%. The upper most layer (scrub-shrub) exceeds 30% cover, however it is a dwarf scrub species and does not influence the appearance of the habitat, so this polygon has been changed to PEM1/SS4H. T21-125: Scrub-shrub cover is 75% and herbaceous cover is 105%. The upper most layer (scrub-shrub) exceeds 30% cover and influences the appearance of this habitat, so no change to this polygon has occurred and it remains a PSS1/EM1B. T9-52: Scrub-shrub cover is 167% and herbaceous cover is 24%. The upper most layer (scrub-shrub) exceeds 30% and influences the appearance of the habitat, so no change to this polygon has occurred and it remains a PSS1B. Should there be additional questions on other polygons in question, DOWL HKM will address each of them as requested by the USACE.
5	We question whether Polygon FID 5415 should be marked as wetlands and not uplands (its imagery signature resembles adjacent PSS1 polygons (30 of 252)).	After further analysis, we concur with the comment and polygon FID 5415 has been updated to reflect a Cowardin habitat classification of PSS1/EM1B.

ERRATA SHEET

DOWL HKM, Ambler Mining District Industrial Access Road: Preliminary Wetland Delineation and Functions and Values Assessment, 2014

DOWL HKM submitted a preliminary wetland delineation to the U.S. Army Corps of Engineers (USACE) in May 2014. Since the submission, the USACE has submitted comments to DOWL HKM. The following changes to the document are being made in these errata.

- Appendix B3, Page 4. Point T17-124 has been changed from PSS4/EM1H to PEM1/SS4H.
- Appendix B3, Page 233. Point classification has been changed from PSS4/EM1H to PEM1/SS4H.
- Appendix B4, page 136. Notes are changed from:
  The sample location was taken on the north side of the alignment within a transition area between the pond described in point 122 and the *scrub shrub/emergent* wetland. The pond was located to the north and tussocks to the south. Vegetation consisted of Bog-Rosemary, and Sedge species. Observation view point is oriented to the southwest.

  To:
  The sample location was taken on the north side of the alignment within a transition area between the pond described in point 122 and the *emergent/scrub-shrub* wetland. The pond was located to the north and tussocks to the south. Vegetation consisted of Bog-Rosemary, and Sedge species. Observation view point is oriented to the southwest.

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