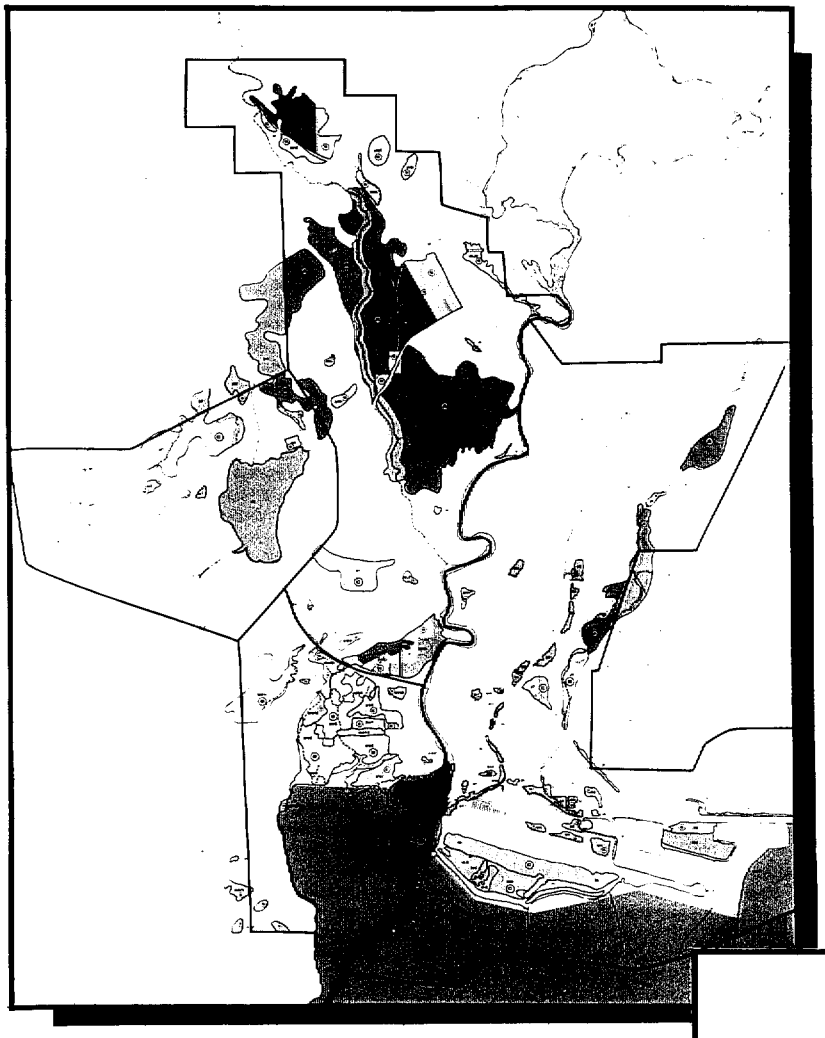
JUNEAU WETLANDS MANAGEMENT PLAN



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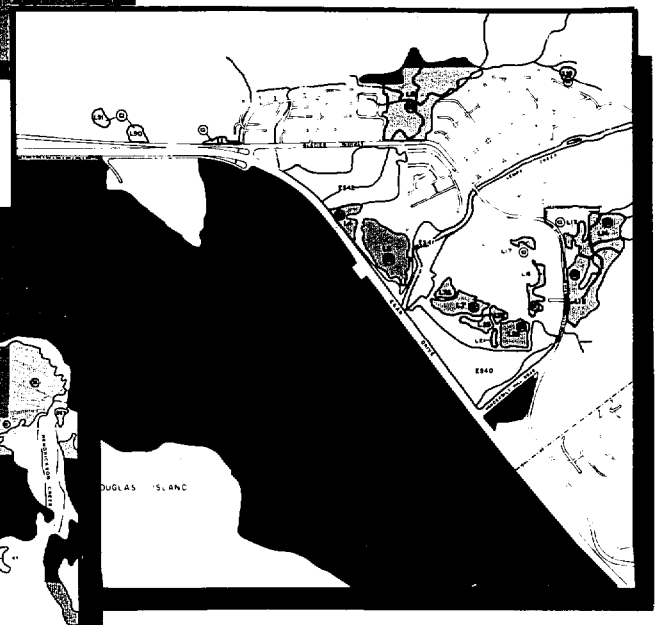

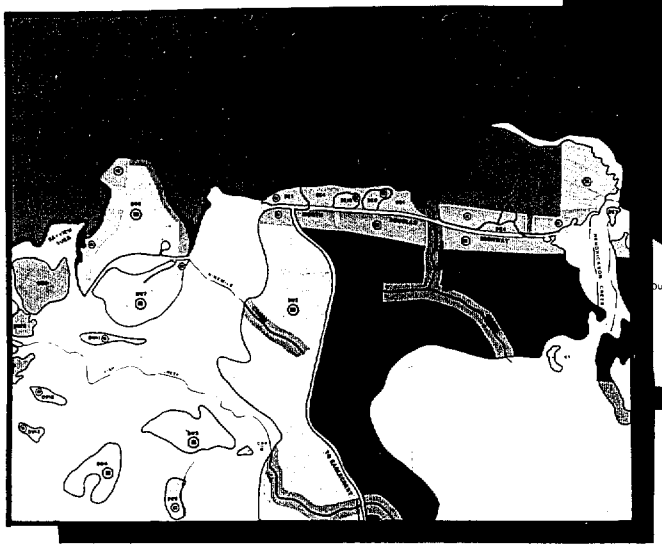

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CITY AND BOROUGH OF JUNEAU WETLANDS MANAGEMENT PLAN

CITY AND BOROUGH OF JUNEAU

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City Manager

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Errol Champion
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LuAnn Bailey
John Halterman
Barbara Sheinberg
Reed Stoops

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Melissa Zahasky, Secretary

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Generous financial support was provided by the City and Borough of Juneau Assembly, with assistance from the U.S. Environmental Protection Agency, the State of Alaska Division of Government Coordination, and the Department of Community and Regional Affairs.

All remaining errors and omissions are my own.

Ira Winograd, Assistant Director
CBJ Department of Community Development

TABLE OF CONTENTS PAGE

CHAPTER I

Introduction 1
Summary 1
Goals 2
History and Context 2
Wetlands Defined 5
Natural Functions of Wetlands 5
Proposed Permit Process 6

CHAPTER II

Methodology and Data Sources 8
Step I - Wetlands Classification 8
Environmental Component 9
Public Preference Component 10
Practicable Alternative Component 20
Consolidation 22
Step II - Management Plan 27
Data Base 28
Footnotes 29

CHAPTER III

Wetland Management Categories and Policies 30
Management Categories 31
Designation Rules 32
Definitions 34
Map Appendix - Page Reference 35
Wetland Management Categories and Classification . . . 36
Land Management Chart 37
Land Management Maps 56

CHAPTER IV

Implementation Summary 62
Regulations 62
General Regulatory Policies 63
Permits for Discharge of Dredged or Fill Material . 65
Processing of Permits 66
Enforcement 71
Public Hearings 71
Considerations for Tax Purposes 72
Remedies for Violations 73
Wetlands Review Board 73
Mitigation Bank 73

DRAFT ORDINANCE . . . . . Appendix A

LIST OF MAPS AND FIGURES PAGE

Map 1

Wetlands Management Plan Study Area 4

Figure 1

Sample of Wetlands Functions and Values Map Appendix . . 11

Figure 2

Sample of Wetlands Functions and Values Map Appendix . . 12

Figure 3

Summary of Weighting System Formula 13

Figure 4

Summary of Weighting System Formula 14

Figure 5

Frequency Distribution of Wetland Evaluation Results . . 15

Figure 6

Sample Page from the Blue Book Survey 17

Figure 7

Frequency Distribution of Public Opinion Results 18

Figure 8

Distribution of Public Preference Scores 19

Map 2

Wetlands Management Plan Inventory Study Area 21

Figure 9

Land Use Inventory 23

Figure 10

Wetland Management Category Formula 26

Land Management Maps

Series of Six Wetlands Management Plan Maps 56

CHAPTER I

CHAPTER I

INTRODUCTION

Summary

The Wetlands Management Plan of the City and Borough of Juneau (CBJ) is developed to provide predictability for development and protection of wetlands, and to shorten wetland permit processing time. These are important concerns for Juneau residents because a significant portion of remaining undeveloped land is wetlands. Wetlands development is carefully regulated by the U.S. Army Corps of Engineers (COE) and Environmental Protection Agency (EPA) because wetlands perform several important environmental functions. These include providing important habitat for fish, birds, and animals, nurturing commercial and sport fisheries, reducing flood damage, and abating water pollution. At the same time, wetlands are relatively flat and easy to build upon. Thus, at the center of the controversy over wetlands management is the fact that wetlands are a productive part of the natural environment and that they are also desired for their development potential.

To achieve the plan's goals of assuring predictability, the CBJ established a study area, evaluated the environmental functions of the wetlands within it, assessed the availability of upland alternatives to wetlands development, and surveyed public preferences for wetlands management. These three factors are combined to produce a balanced wetlands management plan which designates wetlands that are generally suitable and unsuitable for development in advance of any specific development proposal. This will help provide predictability regarding allowable wetlands use.

A mitigation bank will be available which will, in certain cases, allow permit applicants to expeditiously compensate for damage to wetlands which would result from their proposed development. The mitigation bank will allow development of certain wetlands which are generally suitable for development such that there is no net loss of wetland values in Juneau.

Based upon the plan, the CBJ is requesting that the COE authorize the CBJ to receive general permitting authority for wetlands that are generally suitable for development. If the CBJ receives a 'general permit', the review of development proposals in generally suitable wetlands will occur locally, rather than in Anchorage. The CBJ would become a 'one-stop permitting agency'. This should greatly reduce permit processing time.

Goals

The goals of the CBJ Wetlands Management Plan are to:

1. create a more stable economic environment by making land use decisions more predictable;

2. decrease the time it takes for applicants to obtain decisions on dredge and fill permit applications;

3. allow careful development of some less valuable wetlands; and,

4. provide protection for moderate and high value wetlands.

The Wetlands Management Plan allows reasonable development and still provides as much protection for the environment as is provided by federal regulations and the associated dredge and fill permit process.

By classifying each wetland into one of four categories the plan presents an overall balance between development needs of Juneau residents and benefits that wetlands provide to the public. The management categories range from wetlands which are most suitable for protection to those which are most suitable for development. Established land management categories and decreased permit processing time help accomplish the goal of making land use more predictable.

The plan is also an educational document which provides a great deal of information about individual wetlands. It indicates which wetlands contribute the most to the natural environment. The inventory of natural functional values gives very specific information for each wetland, including water flow, salmon stream population estimates, and bird counts. This is one of the most complete comparative wetland inventories for an area this size.

History and Context

Wetlands occupy 54 percent of the study area. The study area is about 15 square miles and encompasses most of the developing areas of Juneau. These areas were recently supplied with public water as a result of a $40 million expansion of the CBJ public water distribution system. This represents the largest capital project ever constructed by the CBJ. The water system is planned to encourage development in central corridors and prevent sprawl into environmentally sensitive rural areas. The study area for the CBJ Wetlands Management Plan includes these developing areas: Mendenhall

Valley, Auke Bay, Lemon Creek, and North Douglas. The study area excludes the Mendenhall State Game Refuge. (See Map 1)

The location of each wetland had already been determined by the COE. The COE has mapped, at this time, approximately one half of all the wetlands in the United States.

Man-made development in the Mendenhall Valley area has progressed in roughly the following sequence.

1. Pre-World War II development consisted of several dairy farms near the mouth of Duck Creek and Jordan Creek, some fur farms on Duck Creek which utilized the salmon runs for animal food, and a few commercial vegetable gardens. The A-J Mine had constructed the Mendenhall Loop Road, which followed the same route as it does today. A few residents were scattered along its length. The airport was built in the 1930's. Airport construction altered the mouths of Jordan and Duck Creeks.

2. World War II brought an army camp into the Jordan Creek drainage and expanded construction at the Juneau Airport.

3. During the post-war years and into the early 1960's several events occurred:

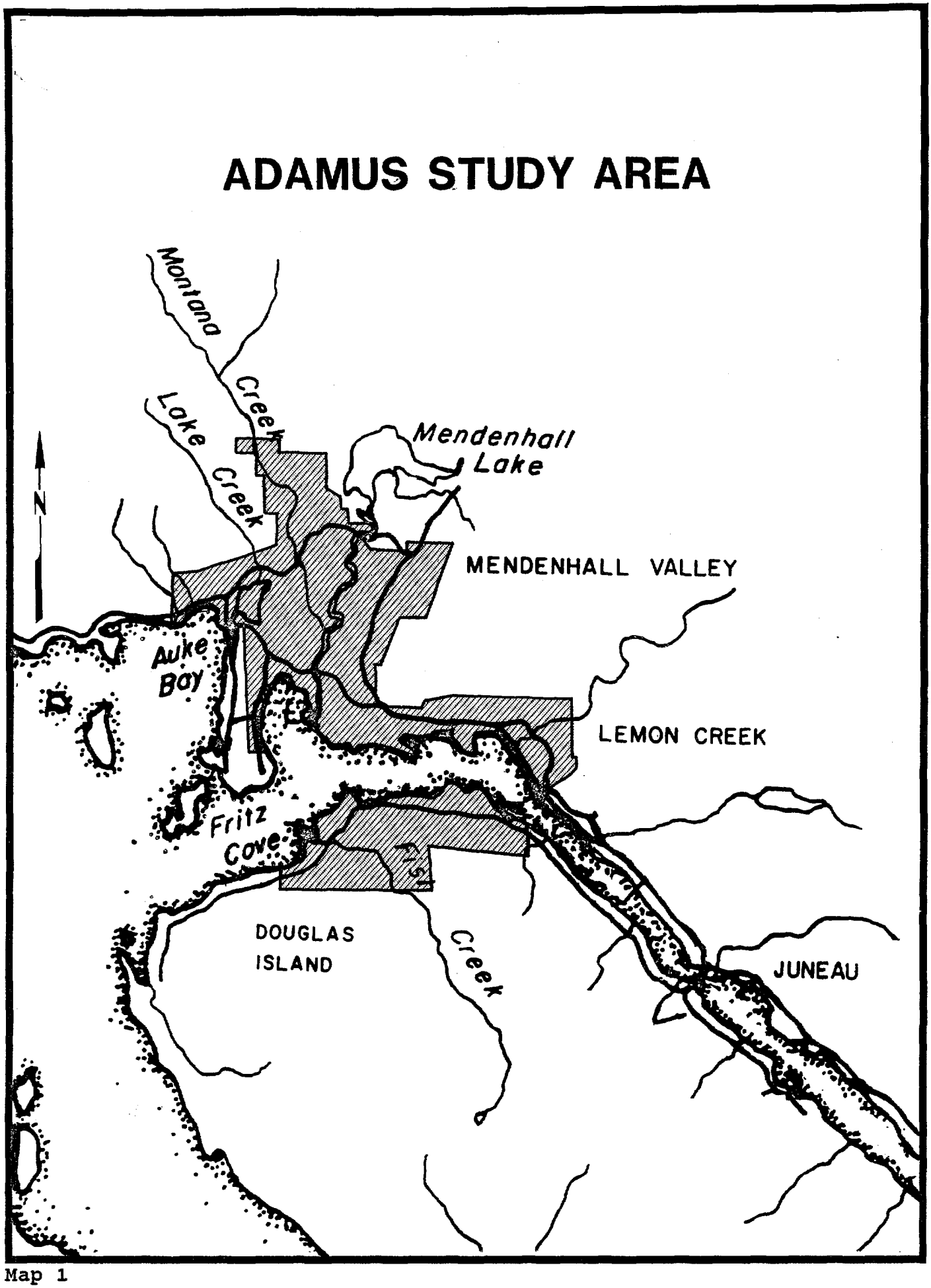
   a. parts of middle Jordan Creek drainage were logged or high-graded for timber, with little control over logging slash disposal in or near the stream;

   b. portions of the Loop Road were widened, using alluvial material from dredged ponds near the road; and,

   c. the Duck Creek drainage, particularly near its headwaters, began to be urbanized with the first tract home construction occurring in 1961.

4. During the past two decades urban development in the Mendenhall Valley has proceeded at an increased rate, particularly as the result of improved transportation and increased state employment. Present population of the Valley is estimated to exceed 10,000 people, an increase of 7,000 since 1967.

If future growth is to remain an option, locations for industrial and residential growth must be found. The natural values of wetlands must be taken into account in the planning process to satisfy existing laws, such as the Clean Water Act, and to assure that growth can progress in the most environmentally responsible manner.


ADAMUS STUDY AREA
Montana Creek
Lake Creek
Mendenhall Lake
N
MENDENHALL VALLEY
Auke Bay
LEMON CREEK
Fritz Cove
Fritz Creek
DOUGLAS ISLAND
JUNEAU

Map 1

Wetlands Defined

To most residents the word "wetland" conjures up images of tidally flooded grassland along Egan Drive. However, the laws which regulate development in wetlands apply to many areas that do not fit the conventional image of what a wetland should look like. Laws which address wetlands cover streams, wet forested areas, ponds, and occasionally flooded areas.

The COE located and mapped Juneau's wetlands, as they have done throughout the United States. The definition of wetlands used by the COE requires the presence of the following three features:

1. prevalence of plant species typically adapted for life in saturated soils;

2. water sufficient to flood or merely saturate most of the soil for at least part of the growing season; and,

3. soil conditions which indicate saturation.

Natural Functions of Wetlands

Wetlands can perform a variety of natural functions. Individual wetlands differ in their effectiveness in fulfilling each function. The major functions are as follows:

1. ground water recharge to fill underground water tables;

2. discharge to replenish streams during dry periods;

3. moderation of stream water flow fluctuations caused by surface runoff;

4. retention of sediments and trapping of toxicants;

5. transformation and deposition of nutrients in deltas or downstream areas;

6. support for riparian vegetation which improves habitat for aquatic and terrestrial animals;

7. provision of habitat for animals sensitive to human presence;

8. provision of habitat which supports a wide diversity of plants and animals;

9. protecting shorelines and ground from erosion;

10. provision of recreation areas; and,

11. protection of downstream areas from flood damage.

Some of these natural functions are more sensitive to development than others. For example, the upward flow of ground water known as discharge is relatively insensitive to development. The downward flow of water known as recharge is relatively sensitive to alterations in the surface of a wetland such as paving. Some functions are sensitive to the indirect impacts of development. For example, when residential development brings people into a wetland area, harm can be done to sensitive wildlife including habitat for juvenile salmonids. The most sensitive stage of the life cycle for king and coho salmon is the first winter as the immature salmon smolt seek shelter from predators in surprisingly small stream tributaries.

Proposed Permit Process

The functions listed above are ones widely attributable to wetlands. In addition to these natural functions, wetlands are also desired for development when there is a shortage of alternatives. Although wetlands can be expensive to develop, they are sometimes relatively desirable for development because alternative sites are even more expensive to develop. Local topography and climate have produced a situation where wetlands are prevalent and dry flat land is scarce. Wetland issues in Juneau revolve around the importance of wetland natural functions and the shortage of developable land.

Implementation of the Wetlands Management Plan would help resolve these issues by making significant changes in the existing permit process. If the management plan is approved, applications for development in wetlands will still be reviewed individually, but the review will conform to management designations presented in the plan which are derived from a comprehensive evaluation of all study area wetlands. The evaluation is based on environmental data, public preferences for protection and development of individual wetlands, and an analysis of practicable alternatives to wetlands development within each land use zoning category.

The CBJ is requesting authority from the COE to issue dredge and fill permits for wetlands most suitable for development. If this authority ('general permit') is granted, it will have several implications to applicants for dredge and fill permits.

1. Owners of wetlands generally suitable for development would apply to the CBJ rather than the COE for a dredge and fill permit.

2. For wetlands generally suitable for development, the CBJ will presume that less damaging practicable alternatives to the proposed development are not available. This rebuttable presumption provides for development which is not water-dependent.

   Under the existing process, federal regulations state that a non water-dependent development cannot be allowed unless there is no practicable alternative less damaging to the environment. The EPA is directed to presume that there are always less damaging practicable alternatives to every non water-dependent development proposed on a wetland. It is up to the applicant to rebut this presumption and unless done so to the to the satisfaction of the EPA, that agency will recommend to the COE that the dredge or fill permit be denied.

3. In many cases involving wetlands generally suitable for development, applicants for dredge and fill permits could use the mitigation bank to compensate for wetlands degradation. The mitigation bank purchases wetlands and makes wetland enhancement improvements. An applicant uses the bank by making a cash payment to reimburse the bank for improvements the bank has already made.

   The amount of payment is based on the banks expenditures which become the cost per mitigation credit. The cost per mitigation credit is used to calculate how much an applicant must pay the bank to compensate for the amount of land being degraded. For example, if the bank spent $3,000 per acre, and an applicant for a dredge and fill permit proposes to destroy 1/10 of an acre, the mitigation fee might be $300.

4. The CBJ is also submitting this plan for incorporation into the CBJ Coastal Management Program. If approved, this means that state and federal agencies agree with the CBJ's wetland designations and management intent. Development proposals which are consistent with the management plan would then receive a determination from the Division of Governmental Coordination that the project is consistent with the standards of the Alaska Coastal Management Program.

CHAPTER II

CHAPTER II

METHODOLOGY AND DATA SOURCES

In order to classify its wetlands into management categories the CBJ designed a scientific state-of-the-art methodology. Each step is designed so that any person using the same methods will reach the same results.

The CBJ wetlands management process attempts to consider for all wetlands, in advance of individual permit applications, the same comprehensive factors which are specified in the COE public interest permit review process for evaluating individual dredge and fill permits.[1] The plan considers each factor for all wetlands in advance of any individual permit application.

The CBJ Wetlands Management Plan is a two-step process which 1) designates each wetland into a management classification, and 2) specifies permit evaluation procedures for each management classification.

Step I - Wetlands Classification

The 1986 revisions to the COE regulations state that, "We have found through experience in administering the Section 404 dredge and fill permit program that wetlands vary in value."[2] This recognition provides the rationale for using a wetlands evaluation system to find out the relative value of each wetland. The CBJ used the Adamus Wetlands Evaluation Technique (WET) methodology[3] modified for Southeast Alaska.[4]

The underlying principle of the 404 regulatory permit review process is the broad-based public interest review and its general balancing process as explained in the Federal Register.

> All factors which may be relevant to the proposal must be considered, including the cumulative effects thereof: among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people.[5]

This statement of Congressional intent indicates that any management plan which identifies in advance how wetlands should be managed, must also be based on a comprehensive

general balancing process. This process is represented in the CBJ plan by three components: 1) environmental, 2) public preference, and 3) practicable alternatives. The three components are separately evaluated using their own data and methodology. Each wetland is assigned its own ranking for each of the three components.

Environmental Component:

The CBJ initiated the planning process by forming a Wetlands Interagency Technical Advisory Committee. The CBJ invited representatives from state and federal resource and land use agencies to nominate their own representatives to the committee. The committee's goal was to select a methodology to evaluate wetland biological functions and to provide oversight for implementation of the selected evaluation process.

As a result of committee discussions and consultation with a representative of the National Wetlands Technical Council[6], the committee selected the Adamus Wetlands Evaluation Technique. Paul Adamus was retained to evaluate each of the study area wetlands which had previously been identified and mapped by the COE. The study area (see Map 1) includes the areas of Juneau which are experiencing development pressure and are provided with a public water supply. The field work for the evaluation lasted one year, and the study team included researchers from Syracuse University, State University of New York at Syracuse, and the University of Minnesota.[7] A number of Juneau resident habitat biologists were employed to conduct field work including bird surveys and fish counts. Professionals associated with the National Marine Fisheries Laboratory, a variety of state and federal agencies, and others having particular expertise, contributed their time to the study.

Fourteen functions were evaluated for each wetland. Each wetland function was scored low to high for potential performance within each wetland. These functions are: groundwater discharge, groundwater recharge, surface hydrologic control, sediment toxicant retention, nutrient export, riparian support, erosion sensitivity, salmonid habitat, disturbance of sensitive wildlife, regional ecological diversity, ecological replacement cost, recreational use potential, recreational use actual, and downslope beneficiary sites. The two recreational functions were derived by a survey and have a lower confidence level than the other 12.

The results are published in the Wetlands Functions and Values Map Appendix which contains matrixes showing the scores for each function in each wetland. The matrixes also contain basic land use information for each wetland, including availability of municipal water and sewer, property ownership, and comprehensive plan land use designations. The matrixes are published opposite the corresponding maps of the referenced wetlands. See Figures 1 and 2 for sample pages from the map appendix.

Each map covers one square mile. The maps are photo reductions of the original 1:200 scale COE maps identifying the location of each wetland. The 1:200 scale is the same scale as the CBJ property ownership maps. This enables plat maps to be overlayed on wetland maps so that wetlands can be located in relation to property lines, streets and other landmarks.

The CBJ developed a mathematical weighting system to consolidate the 14 functions into one overall environmental value per wetland.[8] See Figures 3 and 4 for a summary of the weighting system. A feature of the weighting system is that recharge has different importance for human use support depending on whether the wetland is adjacent to a public water system. This recognizes the fact that the importance of some biological values varies in relation to other factors such as whether or not people depend on well water or a public water supply.

The management categories are derived from a statistical analysis. A frequency distribution of the final wetland environmental scores yielded a range of individual wetland scores from 55 to 155. Since the resulting graph approximated two normal curves, the wetlands were divided into five environmental categories clustered around two means. Each grouping consists of wetlands clustered around similar scores. The clustering is statistically calculated by determining which scores lie within and beyond one standard deviation from each mean. See Figure 5 for the frequency distribution of the wetland environmental evaluation scores.

Public Preference Component:

After evaluating each wetland's 14 different natural functions, the CBJ presented the findings in a large map/chart format along with small scale maps showing the location of the wetlands.[9] Additional charts were included to show relevant land use planning data such as municipal water and sewer system locations, property ownership, comprehensive plan land use designations, and developability.

SHEET 54

S25,T40S,R65E,C.R.M.

WETLAND EVALUATION RESULTS

FUNCTION	WETLAND NUMBER							
	MW2	MW3	MW3A	MW4	MW5	MW6	MW17	MW19
Groundwater Discharge	L	L	L	L	L	H	L	L
Groundwater Recharge	L	L	L	L	L	L	L	L
Surface Hydrologic Control	ML	ML	H	H	ML	H	H	L
Sediment/Toxicant Retention	H	H	ML	ML	ML	ML	H	ML
Nutrient Export	H	H	H	L	H	H	L	L
Riparian Support	H	H	ML	L	H	H	ML	L
Erosion Sensitivity	L	L	L	L	L	L	L	ML
Salmonid Habitat	VH	H	VL	VL	VL	VL	VL	VL
Disturbance Sensitive Wildlife	H1	H1	L	MH1	L	MH4	H4	L
Regional Ecological Diversty	H5	H1	H5	H5	H5	H1	L	L
Ecological Replacement Cost	L	L	L	L	ML	L	L	H
Recreational Use/Potential	ML	ML	MH	MH	ML	H	MH	ML
Recreational Use/Actual	ML	ML	MH	MH	ML	H	MH	ML
Downslope Beneficiary Sites	M	H	M	M	M	L	H	L

FUNCTION	WETLAND NUMBER			
	MW21	MW22	MW23	MW60
Groundwater Discharge	M	L	L	L
Groundwater Recharge	L	L	L	L
Surface Hydrologic Control	H	H	H	MH
Sediment/Toxicant Retention	MH	MH	H	H
Nutrient Export	H	H	L	L
Riparian Support	H	H	L	L
Erosion Sensitivity	L	ML	L	L
Salmonid Habitat	MH	H	VL	VL
Disturbance Sensitive Wildlife	MH4	MH2	L	L
Regional Ecological Diversity	H4	MH4	L	L
Ecological Replacement Cost	MH	H	L	L
Recreational Use/Potential	H	ML	ML	ML
Recreational Use/Actual	MH	ML	ML	ML
Downslope Beneficiary Sites	L	H	H	H

NOTE: Some rating codes are followed by a number (e.g.H4). This number has no value connotation, but is used to reference the specific criterion used to arrive at the rating. (See Sec. 2.2).

SOURCE: "Juneau Wetlands: Functions and Values", Adamus Resource Assessment, Inc., August 1987.

LAND USE INFORMATION

	MW2	MW3	MW3A	MW4	MW5	MW6	MW17	MW19
MUNICIPAL WATER	N	E	N	N	E	E	N	E
MUNICIPAL SEWER	N	N	N	N	N	N	N	N
PROPERTY OWNERSHIP*	P	M/P	M	M	M/P	M/P	M	M/P
COMP PLAN DESIGNATION	RDR/TA I	I/ IPU	I	IPU	I	RDR/TA OS	OS	RDR/TA

	MW21	MW22	MW23	MW60
MUNICIPAL WATER	E	E	N	E
MUNICIPAL SEWER	N	N	N	N
PROPERTY OWNERSHIP*	M/P	S/M/P	P	P
COMP PLAN DESIGNATION	RDR/TA OS	RDR/TA	I	I

EXPLANATION OF DATA:

1. Municipal Water: E = EXISTING WATER The wetland is within the existing municipal water system.
   F = FUTURE WATER The wetland is within the "Municipal Water System Five-Year Expansion Plan Map, Jan. 19, 1984."
   N = NO WATER The wetland is not served by municipal water, and is not within the planned expansion of the water system.

2. Municipal Sewer: YES or NO indicates whether the wetland, or a portion of it, is served by the municipal sewer system.

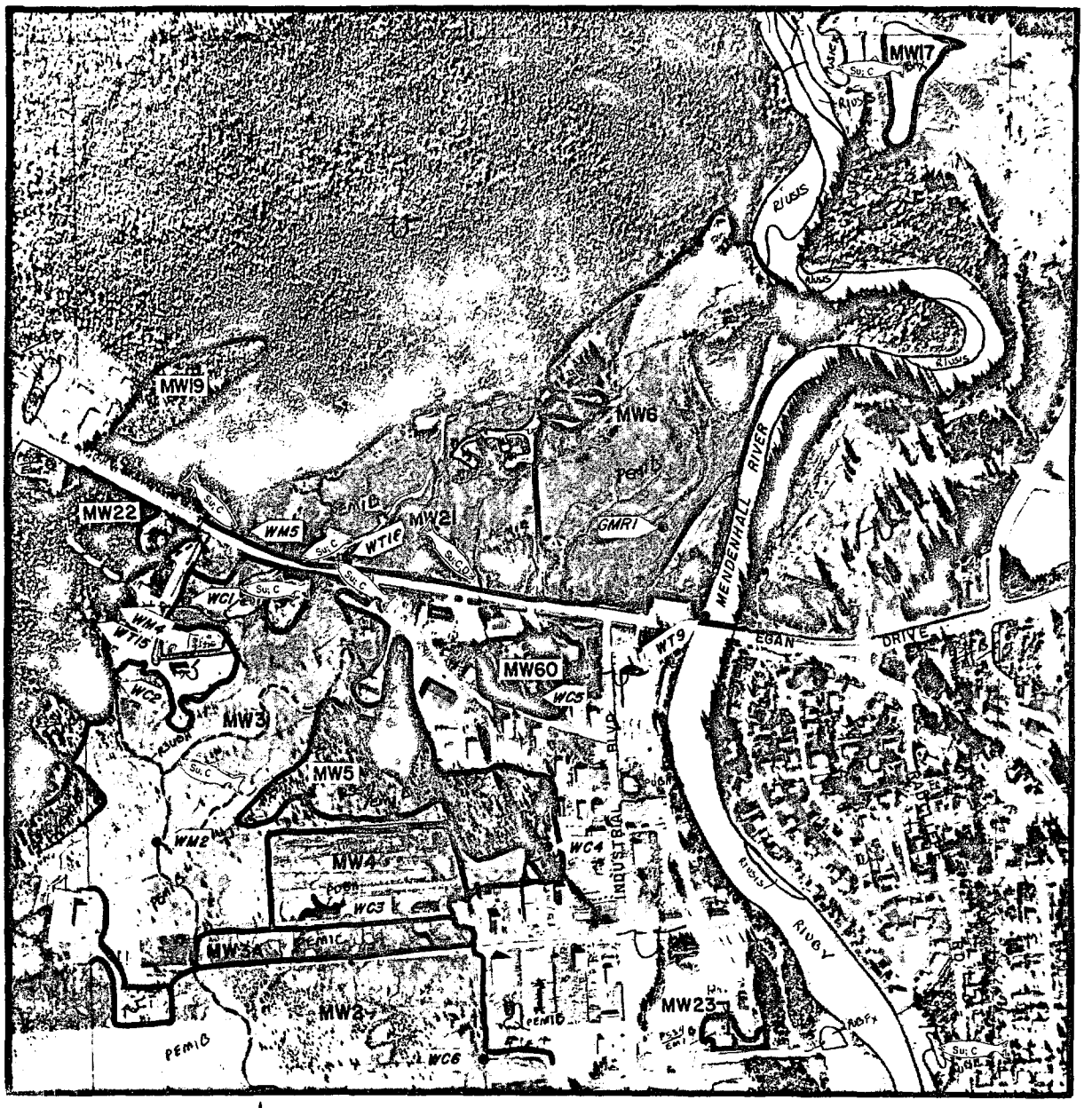
3. Property Ownership: M = MUNICIPAL (CBJ)
   P = PRIVATE
   S = STATE (including UAJ)
   F = FEDERAL

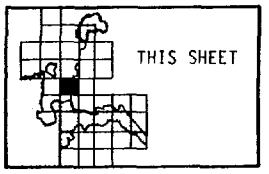
4. Comprehensive Plan Designations:
   RR = Resource Reserve
   OS = Open Space
   RDR = Rural Dispersed Residential
   RLDR = Rural Low Density Residential
   ULDR = Urban Low Density Residential
   MDR = Medium Density Residential
   TA = Transition Area (Increased density when serviced by municipal water.)
   NC = Neighborhood Commercial
   GC = General Commercial
   WC = Waterfront Commercial
   WCI = Waterfront Commercial Industrial
   I = Industrial
   IPU = Institutional/Public Use

* Property ownership designations are for general reference; property line alignments are not guaranteed.

SOURCES: Municipal Water System- Five Year Expansion Plan Map, CBJ Engineering Dept., rev. Feb. 1987.
CBJ Street and Property Atlas, CBJ Dept. Community Development, rev. Jan. 1987.
CBJ Comprehensive Plan, CBJ Dept. Community Development, April 1984.

FIGURE 1





N

APPROXIMATE SCALE: 1"=600'
200' 0 600'

SHEET 54

S25,T40S,R65E,C.R.M.

FISHERIES SURVEY LEGEND:

REARING: Su,C

SPAWNING: C

SEASON CODE
Su: = Summer
W: = Winter

SPECIES CODE
c = coho salmon
ct= cutthroat trout
d = dolly varden char
h = chum salmon
p = pink salmon
s = sockeye salmon
sh= steelhead

or = NO SALMONID FISH FOUND.

RATINGS:

VH = VERY HIGH
H = HIGH
MH = MODERATE HIGH
M = MODERATE
ML = MODERATE LOW
L = LOW
VL = VERY LOW
- = NO RATING

LEGEND:
STUDY APEA
WETLANDS BOUNDARY
STREAMS & TRIBUTARIES

LOCATION OF MONITORING STATIONS:

W = WATER QUALITY
Q = STAFF GUAGE
G = GROUNDWATER (Piezometer nest)
S = SEDIMENT

SOURCE: WETLAND BOUNDARIES, JUNEAU AND VICINITY Air Photo Mylar Supplied by: Air Photo Tech, Inc. Preliminary Wetland Mapping by: Ott Water Engineers, Inc.; Final Wetland Mapping by: Alaska District Corps of Engineers, Regulatory Branch; Date of Photography: 9/24/84; ARA final mapping by: CBJ Department of Community Development,8/87.

Caution: Many small wetlands not shown are protected by law, as are all wetlands shown, regardless of their ratings.

FIGURE 2

	Confidence 1 to 3	+ Component Contribution	+ Sensitivity to Human Presence	+ Economic Value Based on Availability of Substitutes	= Total	x Individual Wetland Evaluation
AQUATIC SUPPORT						
Discharge	3	2	1	3	9	
Sed./Tox.	3	1	1	1 disch. controls	6	
Nut. Support	3	1	1	2	7	
Riparian	3	2	2	3	10	
Salmonid	3	3	3	2 hatcheries	11	
Erosion	3	1	1	2 drainage control	SUM 7/50	

(Aquatic Support) = (Total Function Product)/6
50/6 = 8.33

HUMAN USE SUPPORT					
Recharge	3	(1 or 3)*	2	(1 or 3)*	(7 or 11)*
Recreation pot.	1	1	1	2	5
Recreation act.	1	2	1	2	6
Hydrologic	3	3	1	2 drainage control	9
Downslope Beneficiary	3	3	1	2 drainage control	SUM 9/36 or 40

(Human Use Support) = (Total Function Product)/5
36/5 or 40/5 = 7.20 or 8.00

* Dependent on location of CBJ public water.

TERRESTRIAL USE SUPPORT					
Disturbance	3	3	3	3	12
Diversity	3	3	2	3	SUM 11/23

(Terrestrial Use Support) = (Total Function Product)/2
23/2 = 11.5

In General: 1 = Small correlation
2 = Intermediate or indeterminate correlation
3 = Strong correlation

Final Weight =:

1. Multiply each support sector by a dummy variable to equalize relative importance of each of the three components (Aquatic Support, Human Use Support, Terrestrial Support).

Aquatic = 1.082 or 1.113
Human = 1.251 or 1.159
Terrestrial = .783 or .806

2. Add total scores.

Figure 3

Individual Wetland Evaluation =

VL=1, L=2, ML=3, M=4, MH=5, H=6, VH=7

Aquatic Support

Wetland #
H or M or L

Score x	Discharge	x 9	=
"	Sed./Tox.	x 6	=
"	Nut. Support	x 7	=
"	Riparian	x 10	=
"	Salmonid	x 11	=
"	Erosion	x 7	= _____

raw score

raw score/6 = AS mean raw score

AS mean raw x 1.082 or x 1.113 = AS weighted

Human Use

Score x	Recharge	x 7 or x 11	= (depending on location of utilities)
"	Recreation Pot.	x 5	=
"	Recreation Act	x 6	=
"	Hydrologic	x 9	=
"	Downslope	x 9	= _____

raw score

raw score/5 = HU mean raw score

HU mean raw x 1.251 or x 1.159 = HU weighted

Terrestrial

Score x	Disturbance	x 12	=
"	Diversity	x 11	= _____

raw score

raw score/2 = T mean raw score

T mean raw x .783 or x .806 = T weighted

Final Weighted Score = AS weighted + HU weighted + T weighted

Figure 4

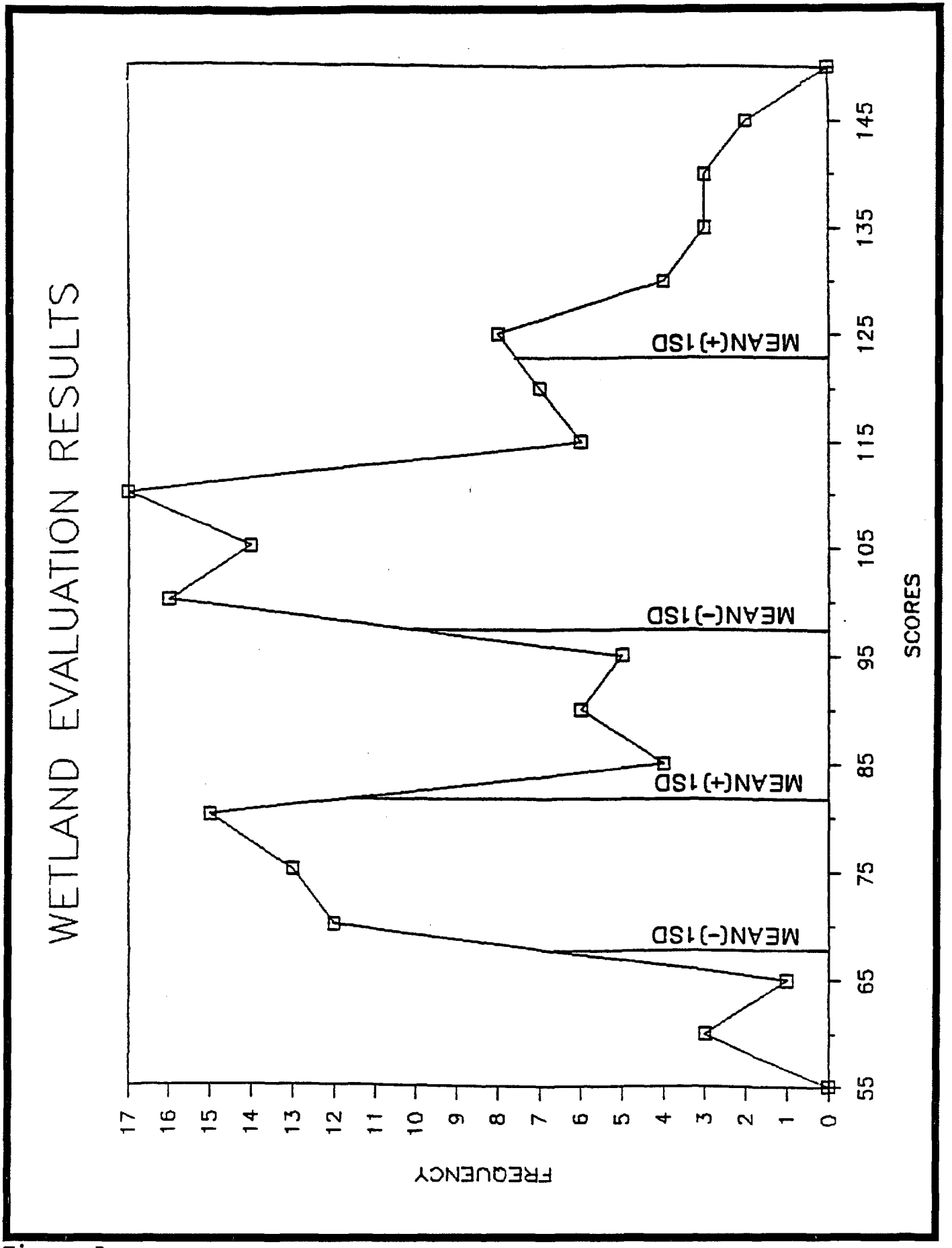

WETLAND EVALUATION RESULTS
FREQUENCY
0
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
SCORES
55
65
75
85
95
105
115
125
135
145
MEAN(-)1SD
MEAN(+)1SD
MEAN(-)1SD
MEAN(+)1SD

Figure 5

In addition, a major mapping effort was undertaken to graphically present each function using three overlays per function (one for very low and medium low; one for medium low, medium, and medium high; and one for high and very high values) on large scale base maps. Additional overlays were prepared for relevant land use functions. These functions included developability, location of public water and sewer and proposed public utilities, property ownership, comprehensive plan land use designations and topography. Over 100 large scale maps were produced by the CBJ Department of Community Development to illustrate the environmental and land use findings.

A series of separate base maps were prepared for each neighborhood within the study area. Community meetings were then held in each region for presentation of the base maps, overlays and explanation of the functions. A special survey called the Blue Book[10] was distributed at the meetings to solicit the public's management preferences. See Figure 6 for a sample page from the Blue Book straw poll survey. After introductory explanations, participants reviewed the large scale map overlays. They were then asked to fill out multiple choice responses in the chapter of the Blue Book for wetlands in their neighborhood. The Blue Book corresponded page for page to the map booklet, however, instead of wetland scores the Blue Book only contained a blank box for each wetland and space for comments. Respondents were asked to place a number from one to six in appropriate blank boxes corresponding to their desires for preservation or development.

The results were published in a Results Blue Book[11] which consolidated all the written comments for each wetland. The statistical mean public preference score and standard deviation for each wetland are also published in the book. A frequency distribution of the individual wetland management preference scores was statistically calculated and the wetlands were divided into five public preference categories to correspond to the number of environmental categories. See Figure 7 for public opinion frequency distribution.

One aspect of the public preference component is the comparison of survey results between 100 public meeting participants surveyed during the first community-wide public meeting and random mail survey respondents. Both groups were asked the same series of questions regarding their general preferences for preservation and development. As depicted in Figure 8[12], the meeting attendees represent polarized views in comparison to the random survey respondents. See Figure 8 for a comparison of public preference scores between survey and workshop participants.

SHEET 54

WETLAND NUMBER	MW2	MW3	MW3A	MW4	MW5	MW6
LAND USE RATING						

WETLAND NUMBER	MW17	MW19	MW21	MW22	MW23	MW60
LAND USE RATING						

RATINGS:

1 = HIGH DEVELOPMENT; (e.g. Commercial/Industrial)
2 = MODERATE DEVELOPMENT; (e.g. Residential Subdivisions)
3 = LOW DEVELOPMENT; (e.g. 2.5 acre Residential Lots)
4 = NO DEVELOPMENT
5 = RETAIN CURRENT COMPREHENSIVE PLAN DESIGNATION
6 = NO OPINION OR UNCERTAIN

COMMENTS: _____

_____

_____

_____

_____

_____

_____

_____

_____

DO YOU OWN ONE OF THE PRIVATELY OWNED WETLANDS? IF SO PLEASE CIRCLE THE WETLAND AND WRITE YOUR NAME AND ADDRESS.

(page # same as map appendix)

Figure 6

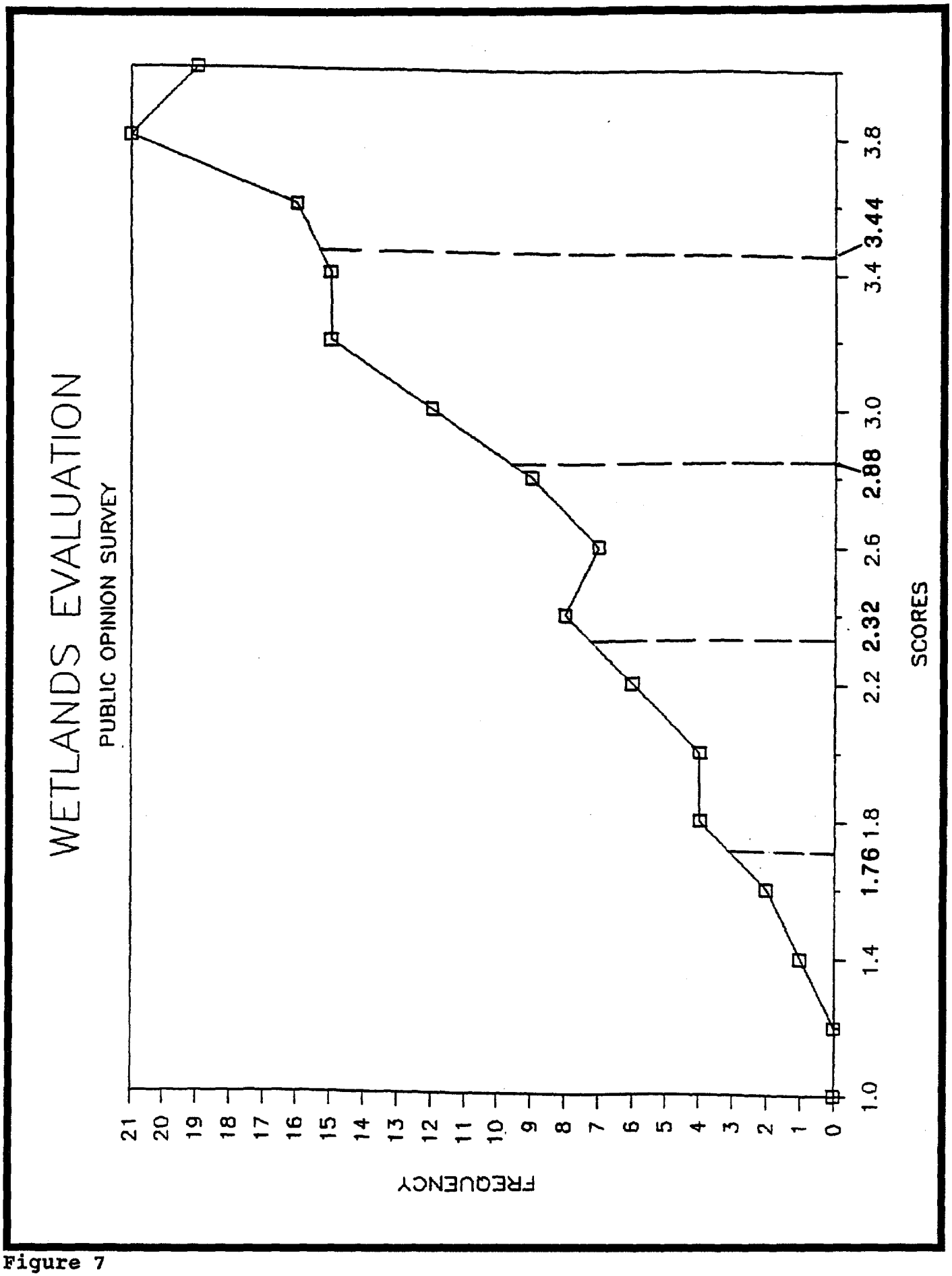

WETLANDS EVALUATION
PUBLIC OPINION SURVEY
FREQUENCY
0
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
SCORES
1.0
1.4
1.76
1.8
2.2
2.32
2.6
2.88
3.0
3.4
3.44
3.8

Figure 7

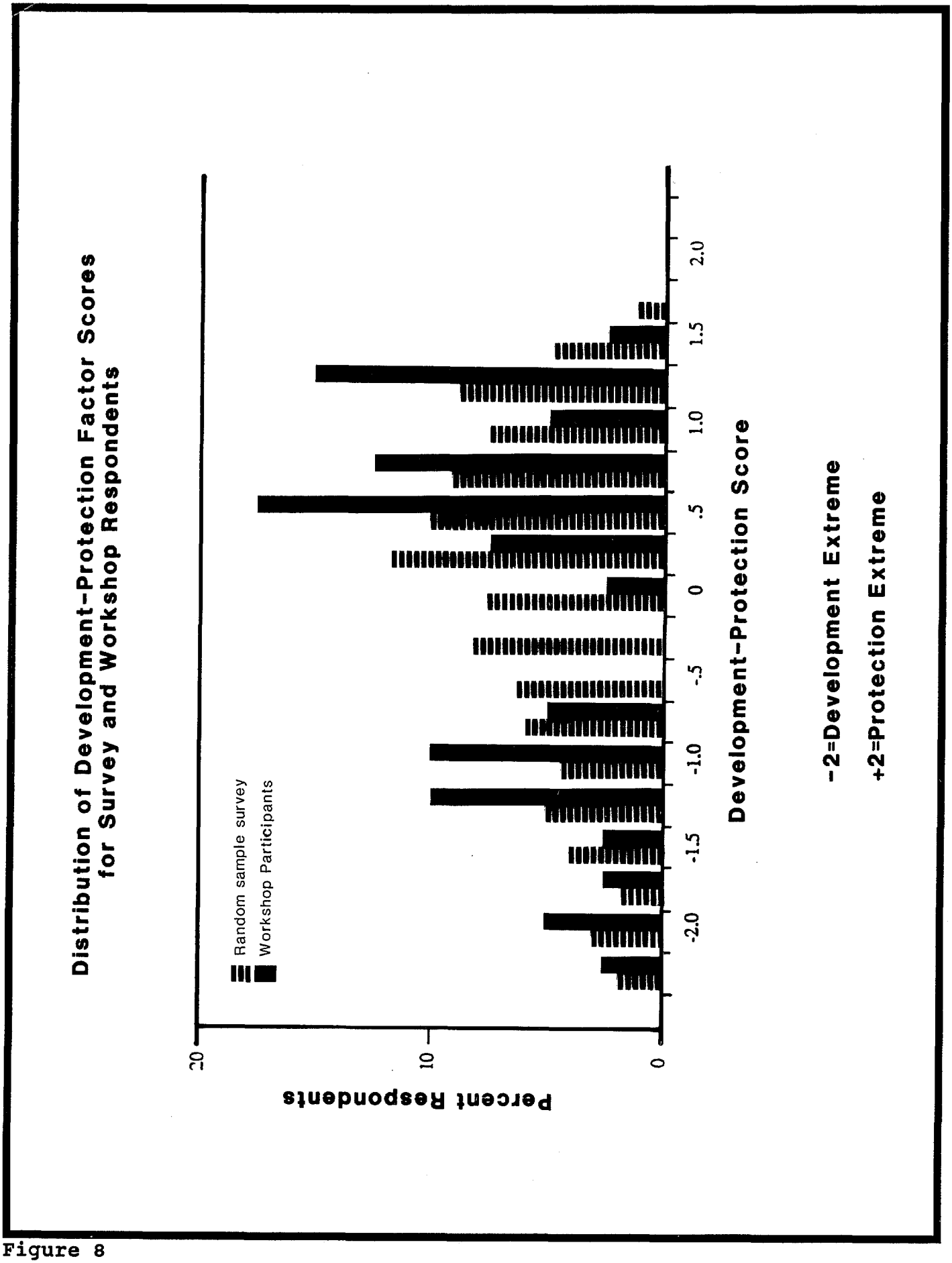

Distribution of Development-Protection Factor Scores
for Survey and Workshop Respondents
Random sample survey
Workshop Participants
Percent Respondents
20
10
0
-2.0
-1.5
-1.0
-.5
0
.5
1.0
1.5
2.0
Development-Protection Score
-2=Development Extreme
+2=Protection Extreme

Figure 8

Practicable Alternative Component:

The practicable alternative component is the relief valve provided in the federal legislation which allows national regulations to be rationally implemented in widely differing parts of the country. Juneau receives 100 inches of rain a year and the habitable areas are hemmed in by one of the world's tallest coastal mountain ranges. Due to Juneau's extreme topography and climate, an unusually high percentage of available land is wetlands. This circumstance of nature leaves relatively little dry flat land available as an alternative to wetlands development.

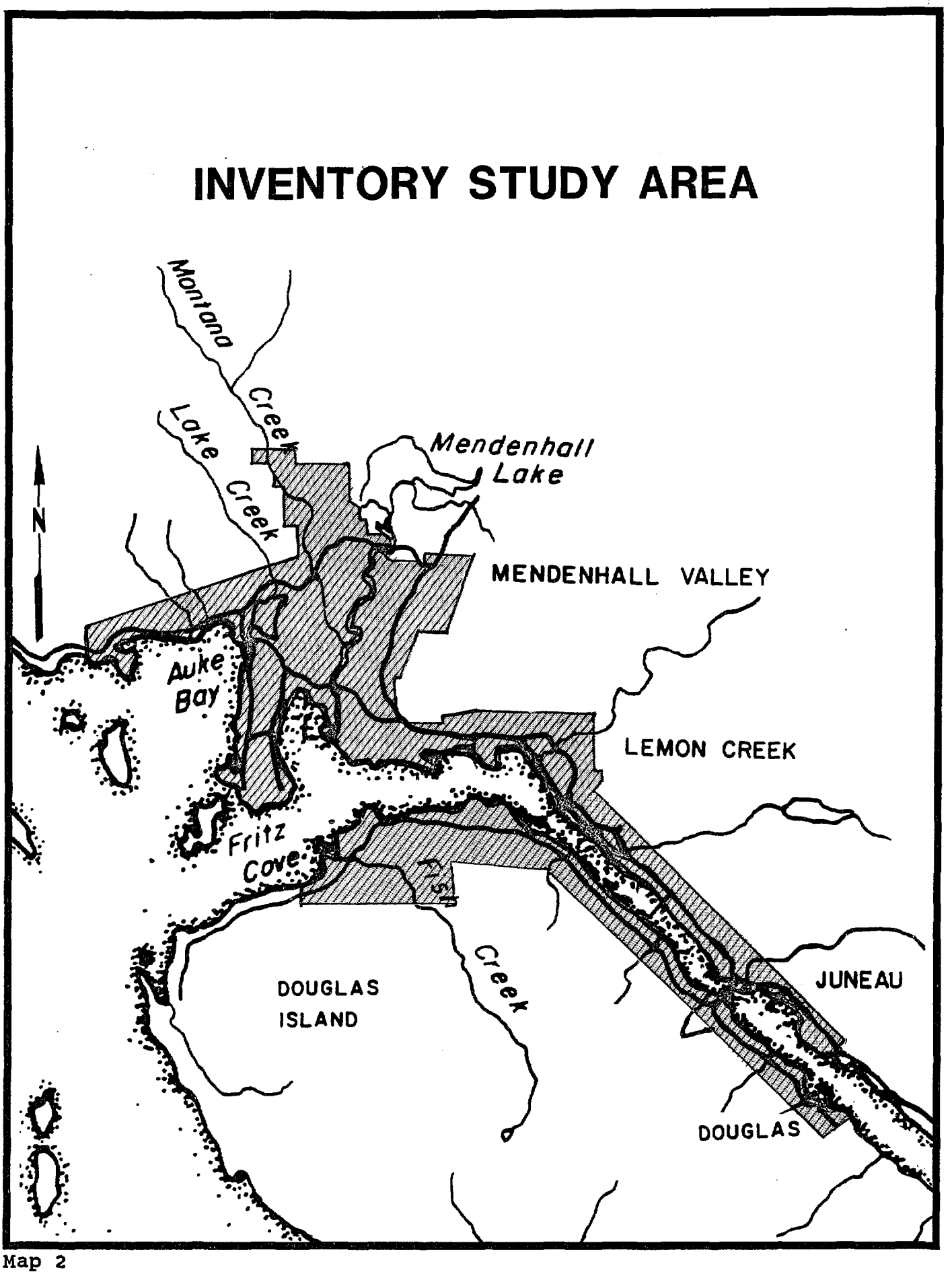
An important question regarding the management of wetlands in Juneau is the availability of alternative non-wetland sites for development. This study is specially designed to evaluate the availability of practicable alternatives.

Practicable alternatives were derived from a land use inventory comparing developed land to developable vacant land in each land use zone. Since the area inventoried is larger than the study area, the ratio of developable to developed land yields a measure of the relative future community-wide need for additional land in each land use zone. See Maps 1 and 2 for a comparison of the study and inventory areas.

Each land use zone is rated regarding practicable alternatives by comparing supply to demand, and by comparing developable uplands to developed land. The supply of land is the amount of developable vacant land per zoning classification. The future demand for land is derived by extrapolating from current land used per capita per zone multiplied by population projections.

For example, the inventory shows that Juneau has 219 acres of developed industrial land and 81 acres of developable industrial uplands. The ratio of developable to developed land is .37, which means that if future residents use as much industrial land as current residents, Juneau can accommodate a 37 percent increase in population before it runs out of industrial land.

Land prices become prohibitively expensive long before the last bit of available land is used. According to the October 1988 Cost of Living Index published by the Researchers Association of the American Chamber of Commerce, as of the second quarter of 1988, Juneau has the third highest cost of living out of 260 participating urban areas. The Juneau cost of living exceeds Anchorage, Fairbanks, Ketchikan and Kodiak in Alaska. The cost of land is a significant component of the local cost of living. The most recent data, Vol. 21 #4, for


INVENTORY STUDY AREA
Montana Creek
Lake Creek
Mendenhall Lake
N
MENDENHALL VALLEY
Auke Bay
LEMON CREEK
Fritz Cove
Sheep Creek
DOUGLAS ISLAND
JUNEAU
DOUGLAS

Map 2

fourth quarter 1988, shows that Juneau has moved into second place. The anticipated increase in mining activity will increase demand for the limited supply of developable land.

The inventory data is derived from property tax files and zoning maps. Land is considered developable if:

1. it is not a wetland;

2. the slope is less than 20 percent;

3. the value of the parcel exceeds twice the value of the structures on the property, if any;

4. a portion of the property is within 1,200 feet of an existing road; and,

5. the land is not reserved in a special non-development category such as City Park or National Forest.

Practicable alternatives are defined as follows:

> An alternative is practicable if it is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes. If it is otherwise a practicable alternative, an area not presently owned by the applicant which could reasonably be obtained, utilized or expanded or managed in order to fulfill the basic purpose of the proposed activity, may be considered.

Each land use zone is placed into one of five practicable alternative categories. Wetlands in those zones which have the greatest development pressure are placed in the least practicable alternative category. For example, the industrial land ratio of 37 percent is in the fourth quintile within the CBJ range of land demand/supply ratios (1% to 150%). All wetlands which are zoned industrial receive a practicable alternative score of four, which indicates that there are relatively few upland industrial alternatives to development of wetlands in industrial zones. A score of one means that the most upland practicable alternatives are available, and a score of five indicates that the least upland practicable alternatives are available for a particular zoning category. See Figure 9 for the land use inventory.

Consolidation:

Each of the three component data sets, environment, public preference, and practicable alternatives, is mapped separately

Figure 9

LAND USE INVENTORY

August 15, 1988

ZONE	TOTAL ACRES[1]	DEVELOPED ACRES[2]	VACANT ACRES	DEVELOPABLE ACRES[3]	DEVELOPABLE DIVIDED BY DEVELOPED[4]	QUINTILE RANK
D1	3,489	1,242	2,246	650	.52	4
D3	1,003	340	663	203	.60	4
D5	4,829	3,376	1,453	475	.14	5
D10	140	54	86	51	.94	2
D15	1,308	338	970	508	1.50	1
D18	373	244	129	59	.24	5
MU	155	108	46	4	.04	5
LC	230	171	59	31	.18	5
GC	240	154	86	45	.29	5
WC	122	105	16	10	.10	5
WCR	23	22	2	2	.08	5
WCI	362	289	73	71	.24	5
I	575	219	356	81	.37	4
RR	18,672	2,565	16,107	1,024	.40	4
A	667	655	12	6	.01	5

Range = .01 to 1.50 = 1.49
Interval 1.49/5 = .30
Quintiles .01 - .31 = 5, .31 - .61 = 4, .61 - .91 = 3, .91 - 1.21 = 2, 1.21 - 1.51 = 1

[1]From Central Sewage Treatment Plant to Indian Cove and from St. Annes (Linellen Heights) to Bay View (Entrance Pt.), inclusive.

[2]Parcels with building values more than half of the land values.

[3]Uplands, less than 20% slope, less developed land (parcels having land values less than twice building values), less avalanche zones, less parcels not having reasonable access (a boundary within 1,200 feet of an existing road), less reserved open space and greenbelts, less State and Federal land. Wetlands are not inventoried as developable land.

[4]Based on square foot raw data which is more precise than acreages.

using identical color schemes to show the five categories (low, medium low, medium, medium high, high) within each data set. The mapping facilitates comparison of the wetlands to see where there is agreement or disagreement between the quintile rankings within the three study components.

The three scores for each wetland are then consolidated into one wetland management classification per wetland. This overall classification represents a balance of the public interest. There is a range of scores based on a preservation to development scale. The categories are:

1. restricted land use (lands not subject to development);

2. 'A' wetlands, which can be developed if there is no net loss of individual functional values in the drainage basin;

3. 'B' wetlands, which can be developed if there is no net loss of individual functional values in the community;

4. 'C' wetlands, which can be developed if there is no net loss of aggregate functional value in the community;

5. 'D' wetlands, which can be developed using best management practices; and,

6. wetlands with enhancement potential (wetlands which are available for enhancement projects).

Restricted management categories represent land use restrictions in addition to wetland restrictions. They include city and state parks, rural reserves, Tongass National Forest, etc. These lands are not available for development because of public ownership and associated restrictions.

Category A and B wetlands are generally not suitable for development. However, they can be developed if adequate compensation for wetlands degradation can be provided. Since these wetlands tend to be more valuable, compensation is more difficult than it is for less valuable wetlands.

Category C wetlands are generally suited to development. They can be developed if the proposed project design is approved and mitigation is provided. Mitigation might be provided by mitigation banking or custom mitigation projects.

A mitigation bank is being initiated by the CBJ. The bank will be used to purchase wetlands or construct enhancement projects. The value of the protected wetland or enhancement project is determined by the WET Rapid Assessment Evaluation

in conjunction with the CBJ weighting system. The bank calculates its cost per acre. When a category C wetland is proposed for development, the net loss is calculated and the developer would make a cash contribution to repay the mitigation bank. The contribution would be based on the proportionate cost per acre within the mitigation bank. The mitigation bank is discussed in more detail in Chapter IV.

Category D wetlands are the most suitable for development. Best management practices are required for development and separate mitigation is not required. Best management practices are always required for development on any wetland. Best management practices are defined as:

> Those that are considered feasible (cost, constructability, etc.) to the applicant and that, if adopted, will result in a project that generally meets the applicant's purpose and need. Modifications can include reductions in scope and size; changes in construction methods, materials or timing; and operation and maintenance practices or other similar modifications that reflect a sensitivity to environmental quality within the context of the work proposed. For example, erosion control features could be required on a fill project to reduce sedimentation impacts; or a pier could be reoriented to minimize navigational problems.

Where there is agreement between the rankings in each of the three components, management classifications are readily derived. For example, if a wetland has high environmental value, the public has expressed a preference to protect it, and it is within a zoning category which has ample undeveloped land, then the wetland would readily be classified into a protective category.

Where there is disagreement, a formula solution has been applied. The formula is a two-step process. The WET (Wetlands Evaluation Technique) score is used as a first cut to determine a range of management options. Practicable alternatives and public preferences are used to select a specific management category.

The WET environmental evaluation score determines the range of management options which can be considered for each wetland. Public preferences (PP) derived from Blue Book public workshop scores and the needs of future residents as measured by practicable alternatives (PA), are given equal weight for determining which option is selected within the range of management options for each wetland. Thus, the environmental WET score sets the management parameters, and fine tuning is based on public preferences and future needs. Figure 10 illustrates this formula.

INPUT DATA

WET (Adamus)		Practicable Alternatives (Inventory)		Public Preference (Blue Books)	
High value	1	Abundant	1	Preservation	1
Medium High	2		2		2
Medium value	3	Moderate	3		3
Medium Low	4		4		4
Low value	5	Scarce	5	Development	5

CLASSIFICATION FORMULA

Step 1: The WET (Wetlands Evaluation Technique, Adamus) score determines the classification range of Management Categories.

High WET (1) (extreme score) = A or B Management Range.

Medium High WET (2) (intermediate score) = B or C Management Range.

Medium WET (3) (intermediate score) = B or C Management Range.

Medium Low WET (4) (intermediate score) = B or C Management Range.

Low WET (5) (extreme score) = C or D Management Range.

Step 2: For each wetland give equal weight to practicable alternatives (PA) and public preferences (PP) by adding the (PA) score and the (PP) score and dividing by two. If the resulting score is:

Above 3 = Select the least restrictive management classification option in the management range.

Below 3 = Select the most restrictive management classification option in the management range.

Equal to 3 = Use best professional judgement based on review of individual functions in the Adamus report and public comments in the Blue Book tabulations. The rationale of the recommendation is noted in the text.

An example of how this formula works for wetland A 13 (Auke Bay vicinity) is shown below.

WET Score = 3. Therefore, the Management Range is B or C.
Public Preference Score = 3
Practicable Alternative Score = 2
Average Score = 2.5 (2+3)/2 = 2.5

Since 2.5 is less than 3, the recommended management category is B.

In addition, there are five management classification rules which apply to all wetlands. These rules provide greenbelts for riverine (rivers) and lacustrine (lakes) systems, and provide limited development corridors on affected palustrine (freshwater excluding rivers and lakes) wetlands depending on availability of upland alternatives on individual parcels[17]. The rules are presented in Chapter III, Management Categories and Policies.

FIGURE 10

Step II - Management Plan

As a result of the classification system, each wetland is placed into one of the four management categories, or a restricted land use or enhancement potential category. The resulting management categories are displayed on large scale maps. The maps are a visual depiction of the management plan.

The plan is implemented by an ordinance and regulations which apply the classifications and management rules to individual permit decisions. The ordinance establishes a local permit review process for category C and D wetlands. However, the local permit process depends on approval from the COE before it could be implemented. The CBJ is applying for a 'general permit' to delegate dredge and fill permit issuance authority to the CBJ for category C and D wetlands.

A central feature of the proposed local permit review process is a system for applicants to apply to a Wetlands Review Board for dredge and fill proposals on category C and D wetlands. The Board would be appointed by the CBJ and composed of Planning Commissioners and technical experts.

The plan will also become a major amendment to the CBJ Coastal Management Plan. The Planning Commission will hold public hearings on this discussion draft which will then be forwarded to the CBJ Assembly with recommendations. The Assembly will adopt the draft. It will then be labeled a conceptually approved document. After conceptual approval it will be submitted to the State Coastal Policy Council for coastal management approval, and concurrently to the COE as evidence supporting a 'general permit'. The Coastal Management Council and the COE will distribute the conceptually approved draft for interagency review.

Once the plan is incorporated into the CBJ Coastal Management Plan, the CBJ can make consistency recommendations. These will be given great weight by state agencies, and should result in state agencies making recommendations to the COE which are consistent with the CBJ recommendation.

Even under a coastal management plan, and if the CBJ obtains a 'general permit', each application will be individually reviewed. The COE would retain permitting authority for all wetlands which are not C and D category wetlands, including all estuarine wetlands. They would also retain a veto authority over all local permit decisions.

From the perspective of applicants for dredge and fill permits on category C and D wetlands, a 'general permit' would make the CBJ a one-stop permit agency. This would decrease application processing time and public/private sector costs.

Wetlands Data Base

The **ENVIRONMENTAL BASE DATA** is published in two documents:

"Juneau Wetlands Functions and Values", Adamus Resource Assessment Inc., Sept. 1987.

"Juneau Wetlands Functions and Values Map Appendix", Adamus Resource Assessment Inc. and City and Borough of Juneau, Sept. 1987.

The **METHODOLOGY FOR THE ENVIRONMENTAL BASE DATA** is published in:

"Rapid Assessment for Southeast Alaska", Adamus Resource Assessment Inc., Sept. 1987.

The **HYDROLOGICAL COMPONENT** is published in:

"The Recharge Discharge Function of Wetlands Near Juneau, Alaska: Part I Hydrogeological Investigations", Dr. D. I. Siegel, in Ground Water vol. 26, No. 4, Sept. Oct., 1988.

"The Recharge Discharge Function of Wetlands Near Juneau, Alaska: Part II Geochemical Investigations", Dr. D. I. Siegel, in Ground Water vol. 26, No. 5, July August, 1988.

The **RECREATION COMPONENT** is published in:

"Measuring Human Values Associated with Wetlands: Comparing Public Meetings and Sample Surveys", "Human Use Values of Wetlands: An Assessment in Juneau, Alaska", and "Visual Amenity Value of Wetlands: An Assessment in Juneau, Alaska", by Dr. James Palmer and Dr. Richard Smardon in Intractable Conflicts and their Transformations.

The **OVERALL PROJECT METHODOLOGY** is published in:

"Comprehensive Special Area Management Planning - Juneau, Alaska, Case Study" by Ira Winograd in Urban Wetlands and Riparian Habitat, The Association of State Wetland Managers, Inc.

The **PUBLIC PREFERENCES** are published by the CBJ in the following documents:

"Juneau Wetlands Functions and Values, Land Management, Juneau Resident Comments", Ira Winograd, March 1987.

"Public Opinion Statistical Review", Ira Winograd and David Goade, March 1988.

Footnotes

1 Federal Register 33 CFR 320.4, November 13, 1986.

2 Federal Register 33 CFR, Supplementary Information, part 320 General Regulatory Policies, p. 41207, Nov. 13, 1986.

3 A Method for Wetland Functional Assessment, U.S. Dept. of Transportation, FHA, March 1983.

4 Juneau Wetlands Functions and Values, Appendix D, Rapid Assessment Method for Southeast Alaska, Adamus Resources Assessment, Inc., September, 1987.

5 Federal Register 33 CFR 320.4(a), November 13, 1986.

6 Dr. Hank Sather, November 11, 1985 in Juneau, Alaska.

7 Dr. Don Siegel, Syracuse Univ., "The Recharge Discharge Function of Wetlands Near Juneau, Alaska: Part I & II", with field work assistance from Dr.Paul Glaser, Univ. of Minnesota.

8 Weighting Procedure and Formula, Ira Winograd, City and Borough of Juneau, Department of Community Development, April 13, 1988.

9 "Juneau Wetlands Functions and Values, Map Appendix", September 1987, Paul Adamus, Ira Winograd, Lisa Kampmann, Jeanette St. George.

10 "Juneau Wetlands Functions and Values: Land Management, Resident Comments", September 1987; Ira Winograd, project manager; Jere Smith, graphic artist; City and Borough of Juneau.

11 "Juneau Wetlands Functions and Values: Land Management, Resident Comments - Results", March 1987; Ira Winograd, project manager; Jere Smith, graphic artist; City and Borough of Juneau.

12 Dr. James Palmer and Dr. Richard Smardon, State Univ. of New York at Syracuse, "Measuring Human Values Associated with Wetlands: Comparing Public Meetings and Sample Surveys", p. 36.

CHAPTER III

CHAPTER III

MANAGEMENT CATEGORIES AND POLICIES

The heart of the Wetlands Management Plan are the maps which show how each wetland will be managed. Each wetland is designated into one of four management categories representing a range from wetlands which are generally suitable for development to those which are generally unsuitable. As explained in the methodology section, the four management categories are based on an evaluation of environmental functions, availability of alternatives to wetlands development within each land use zoning category, and an evaluation of public preferences. In general, these factors are the same as those the COE uses to evaluate individual permit applications.

Whether a permit is actually granted will depend on each individual development proposal. However, the permit requirements for wetlands that are generally suitable for development (category C and D) are relatively easier to meet than those for wetlands that are generally unsuitable for development (category A and B).

Category A and B wetlands tend to have important environmental functions. The public has generally expressed a preference to protect them, and there usually are upland practicable alternatives to development within the same zoning category.

Category C and D wetlands tend to have less important environmental functions. The public has generally not expressed a preference to protect them, and there are usually few practicable upland alternatives to development within the same zoning category.

Although placement of a wetland into a category is only an indication of general suitability and does not authorize approval or denial of a dredge and fill permit, the management categories will affect an application in three significant ways.

1. The management categories indicate whether the CBJ or the COE will make the permit decision. For category C and D wetlands the CBJ will request permit issuance authority from the COE. If permitting authority is granted it would mean that owners of category C and D wetlands would apply to the CBJ instead of the COE for a dredge and fill permit.

2. The management categories indicate whether there is a presumption that there are no less damaging practicable alternatives to development of a specific wetland. For category C and D wetlands the CBJ would presume that there

are no less damaging practicable alternatives to the proposed development. This presumption allows development which is not water dependent unless the presumption is reversed by the weight of evidence presented during the permit review process.

3. If mitigation is required, the management categories indicate whether the applicant might use the mitigation bank. For category C and D wetlands, applicants for dredge and fill permits could use the mitigation bank to expeditiously satisfy any mitigation which might be required. The mitigation bank can purchase wetlands and make habitat improvements. A person uses the bank by making a cash payment to reimburse the bank for improvements already made.

In addition to the four management categories, the plan recognizes wetlands whose management is constrained by existing restrictions. These include dedicated parks, Forest Service land and similar situations. Estuaries are not classified by this plan.

The plan also includes special policies which apply to all wetlands within a particular biological/hydrological classification. Riverine (rivers) and lacustrine (lakes) wetland policies provide for protective greenbelts. Palustrine (vegetated non-tidal) wetland policies allow single family residential development on parcels already affected by development and subdivided into small tracts where there are no practicable alternatives.

Management Categories

Restricted Management:

Usage is controlled by special land use designations. These designations include the Mendenhall State Game Refuge, CBJ parks, reserved open space, and greenbelts.

Category "A" - all individual functional values must be retained on site. These wetlands can be dredged or filled only if there is no net loss of any individual functional values on a given site. Mitigation projects are confined to on-site locations within the affected wetland.

Category "B" - all individual functional values must be retained on the roaded system. These wetlands can be dredged or filled only if there is no net loss of any individual functional values within the area served by public roads.

Mitigation projects can be off-site but a loss in one function cannot be replaced by a gain in another function. Mitigation must replace the particular function which has been degraded.

Category "C" - the total functional value must be retained on the roaded system. These wetlands can be dredged or filled if there is no net loss of total functional value within the area served by public roads. Mitigation projects or the mitigation bank can be used to compensate for development. Mitigation might include creation or enhancement of some wetland functions to replace other functions which are degraded by dredging or filling activities.

Category "D" - loss of functional values will be minimized through project design and construction. Mitigation projects and banking are not required. These wetlands can be developed using best management practices.

Enhancement Potential:

These are wetlands where the only allowable activity is approved wetland creation and enhancement projects. Development activity which creates wetlands or enhances functional values of existing wetlands will be allowed.

Designation Rules

The following management designation rules are used in conjunction with the management classifications by the Wetlands Review Board in the review of permit applications.

For **riverine** wetlands: All streams with at least an average flow of five cubic feet per second shall have a 50 foot buffer from each bank measured from the average high water mark. If the surrounding wetland is category A, then the 50 foot corridor shall be wetland category A. In all other cases the corridor shall be wetland category B. This corridor designation does not apply to sections of streams not adjacent to wetlands.

For **lacustrine** wetlands: There shall be a 50 foot buffer from the shoreline. If the surrounding wetland is category A, then the 50 foot corridor shall be category A. In all other cases the corridor shall be category B. This corridor designation does not apply to sections of lakes not adjacent to wetlands.

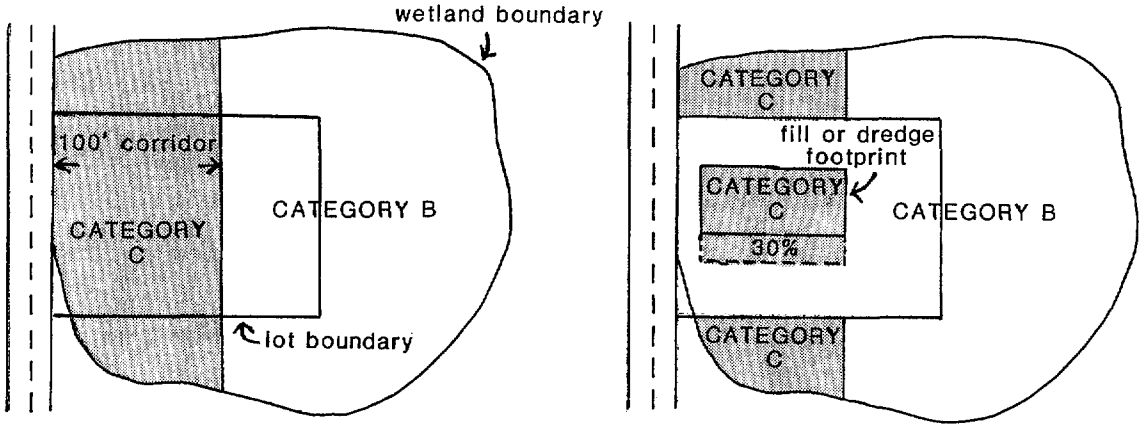
For **palustrine** wetlands bordering road corridors and water utility lines:

1. Undeveloped parcels with no upland practicable development alternatives shall have a 100 foot wetland category C designation corridor measured from the road frontage right-of-way. Once a dredge or fill permit is obtained and utilized, the corridor no longer applies. The wetland outside 130 percent of the original dredge and fill footprint shall assume the designated wetland management category for the rest of the wetland as determined by the management category adjacent to the former corridor.

   For example, if the original fill footprint is 1,000 square feet, then after a structure is built the fill could only be expanded as a category C wetland if the expansion is limited to 300 square feet. Any expansion beyond 300 square feet would be subject to the restrictions of the underlying wetland management category.

2. Developed parcels shall have a category C designation for 130 percent of their existing fill footprint. The surrounding wetland shall retain its designated management category as determined by the management category adjacent to the development.

   For example, if the existing fill footprint is 1,000 square feet, then the existing fill could only be expanded as a category C wetland if it is limited to 300 square feet. Any expansion beyond 300 square feet would be subject to the restrictions of the underlying wetland management category.



BEFORE DEVELOPMENT

AFTER DEVELOPMENT

3. Undeveloped parcels with upland practicable development alternatives shall retain their designated management category. Special corridors do not apply.

Definitions

Development:

A parcel is considered to be developed when the value of improvements is greater than half the land value.

Dredged Material:

Material that is excavated or dredged from waters of the United States.

Discharge of Dredged Material:

Any addition of dredged material into the waters of the United States.

Estuarine Wetlands:

Tidal wetlands that are usually semi-enclosed by land but have open, partly obstructed, or sporadic access to the open ocean, and in which ocean water is at least occasionally diluted by freshwater runoff from the land.

Fill Material:

Any material used for the primary purpose of replacing an aquatic area with dry land.

Discharge of Fill Material:

The addition of fill material into the waters of the United States.

Lacustrine Wetlands:

Wetlands situated in a topographic depression or a dammed river channel, lacking persistent vegetation greater than 30 percent aerial coverage, and whose total area exceeds 20 acres.

Palustrine Wetlands:

Non-tidal wetlands dominated by trees, shrubs, persistent emergents, or emergent mosses or lichens.

Riverine Wetlands:

Wetlands contained in a freshwater channel. A channel may be naturally or artificially created.

Map Appendix - Page Reference

The following is a cross-reference between each wetland map and the corresponding page in the "Juneau Wetlands Function and Values Map Appendix". In the following narrative description of each wetland, the associated map is referred to by its photography sheet number. The sheet number can be found on the cross-referenced Map Appendix page. The Map Appendix book contains reductions of large scale aerial photography sheets which are available for review at the CBJ Department of Community Development.

Photography Sheet	Map Appendix Page
27	27
31	29
32	31
33	34
37	42
38	43
39	35
40	37
41	7
46	45
47	47
48	39
49	9
50	11
53	19
54	21
55	13
56	23
57	25
58	15
59	17
60	1
61	3
63	49
64	51
65	53
66	55
67	5
72	57
73	59
74	61
75	63
76	65
81	68
82	69
83	71

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27	27
31	29
32	31
33	34
37	42
38	43
39	35
40	37
41	7
46	45
47	47
48	39
49	9
50	11
53	19
54	21
55	13
56	23
57	25
58	15
59	17
60	1
61	3
63	49
64	51
65	53
66	55
67	5
72	57
73	59
74	61
75	63
76	65
81	68
82	69
83	71

Wetland Management Categories and Classification

Management Categories:

A. Maintain all individual functional values on site (in kind/on-site, one function cannot be substituted for another). No off-site mitigation.

B. Maintain all individual functional values on roaded system (in kind/off-site, one function cannot be substituted for another). Can use off-site mitigation projects.

C. Maintain overall functional value on roaded system (out of kind/off-site, one function can be substituted for another). Can use mitigation bank.

D. Minimize loss of functional values. Mitigation projects or mitigation bank not needed.

Classification Formula:

Input Data -

WET (Adamus)		Practicable Alternatives (Inventory)		Public Preference (Blue Books)	
High value	1	Abundant	1	Preservation	1
Medium High	2		2		2
Medium value	3	Moderate	3		3
Medium Low	4		4		4
Low value	5	Scarce	5	Development	5

Step 1 - The WET (Wetlands Evaluation Technique, Adamus) score determines the classification range of management categories.

High WET (1) (extreme score) = A or B Management Range.

Medium High WET (2) (intermediate score) = B or C Management (intermediate) Range.

Medium WET (3) (intermediate score) = B or C (intermediate) Management Range.

Medium Low WET (4) (intermediate score) = B or C (intermediate) Management Range.

Low WET (5) (extreme score) = C or D Management Range.

Step 2 - For each wetland give equal weight to practicable alternatives (PA) and public preferences (PP) by adding the PA score and the PP score and dividing by two. If the resulting score is:

above 3 =	select the least restrictive management classification option in the management range.
below 3 =	select the most restrictive management classification option in the management range.
equal to 3 =	use best professional judgment based on review of individual functions in the Adamus report and public comments in the Blue Book tabulations, with documentation of rationale.

Example:

for Wetland #A13
WET Score = **3**
Therefore, the management range is B or C.
Practicable Alternative Score = 2
Public Preference Score = 3
Average Score = (2+3)/2 = **2.5**
Since 2.5 is less than 3, the recommended management category is **B**.

The WET environmental score determines the range of management options which can be considered for each wetland. The opinion of current residents (as measured by public preferences (PP) derived from Blue Book public workshop scores), and community growth needs which are equivalent to the needs of future residents (as measured by practicable alternatives (PA) derived from the land use inventory comparing the demand and supply of developable uplands for each zone), are given equal weight for determining which option is selected within the range of management options for each wetland. Thus, the WET environmental score sets the management parameters and fine tuning is based on current preferences and future needs.

Land Management Chart

The following chart summarizes the application of the formula to derive management categories for each wetland. Each wetland is listed along with its Wetlands Environmental Technique score, public preference score and practicable alternatives score. The resultant management range and the

final designated management category is shown. This is followed by the aerial photography sheet number reference to the "Juneau Wetlands Functions and Values Map Appendix". There is also a brief narrative description of each wetland, including references to its size, general land use features, and physical accessibility. Special features are also noted.

Wetland	WET	PP	PA:Zone	(PA+PP)/2	Management Range	Management Category	Sheet
Auke Bay:							
A1	4	2	4:D1/D5	3	B-C	C	48
	40 inaccessible forested acres in undeveloped part of east valley about midway between Mendenhall River and Auke Lake and about midway between Old Glacier Highway and Back Loop Road.						
A2	Auke Lake						
A5	1	1	4:D1/D5&RR	2.5	A-B	A&B	38
	44 forested acres within study area plus 45 acres in National Forest above Auke Lake between Lake Creek and Montana Creek but closer to Lake Creek in a general north/south orientation. The lower portion encompasses a Lake Creek tributary within an area above Back Loop Road. Within the subdivided portion of the wetland, if any, beyond the wetlands 5 cfs protective B corridor is also B, the remainder is A.						
A5A	4	2	4:D1/D5	3	B-C	B	39
	3 inaccessible forested acres in undeveloped part of east valley about midway between Montana Creek and Lake Creek above Back Loop Road.						
A5B	4	2	4:D1/D5	3	B-C	B	39
	6 inaccessible forested acres in undeveloped part of east valley about midway between Montana Creek and Lake Creek above Back Loop Road.						
A6	3	2	4:D1/D5	3	B-C	C	47
	3 acres adjacent to the east side of the north shore of Auke Lake and bounded on the north by Old Glacier Highway. There are residences adjacent to the west boundary.						

Wetland	WET	PP	PA:Zone	(PA+PP)/2	Management Range	Management Category	Sheet
Auke Bay continued:							
A7	2	3	4:D3	3.5	B-C	C	47
	101 forested acres north of the intersection of Back Loop Road and Old Glacier Highway extending as far east to include the U.A.S. student housing and traversed by Bay Creek towards the west side. The U.A.S. obtained this land from the CBJ for the purpose of University expansion and the CBJ obtained it from the State entitlement.						
A8	4	2	4:D3	3	B-C	B	38
	11 inaccessible acres of scrub shrub vegetation immediately west of upper Lake Creek north of Auke Lake. A portion of the wetland is located within the National Forest.						
A9	3	4	2&5&4: D10&LC&D3	3&4.5&4	B-C	C&C&C	46
	4 acres of forested wetlands west of Bay Creek and Auke Bay Elementary School adjacent to residential development in Auke Bay.						
A10	2	2	4:D1/D3	3	B-C	B	46
	5 inaccessible forested acres on upper Waydelich Creek adjacent to the National Forest.						
A11	2	1	4:D1/D3	2.5	B-C	B	46
	15 forested acres bisected by Waydelich Creek.						
A12	4	3	2:D10/D15	2.5	B-C	C	46
	1 acre to the east of Waydelich Creek close to residential land in Auke Bay.						
A13	3	3	2:D10/D15	2.5	B-C	B	46
	4 acres of forested land to the west of Waydelich Creek.						
A14	5	2	4:RR&D1/D3	3	C-D	C	46
	2 acres of inaccessible forested land on upper Bay Creek.						

Wetland	WET	PP	PA:Zone	(PA+PP)/2	Management Range	Management Category	Sheet
Auke Bay continued:							
A15	4	2	4:RR	3	B-C	C	46
	2 acres of scrub shrub vegetation bordering Bay Creek adjacent to residential development.						
A17	4	3	5:D5	4	B-C	C	47
	2 acres of scrub shrub vegetation on Federal owned land bordering the south side of Back Loop Road to the west of Auke Lake.						
A19	5	4	5:LC&GC	4.5	C-D	D	47
	2 acres of scrub shrub vegetation to the east of and adjacent to the Auke Bay Elementary School access road.						
Duck Creek:							
D2	2	1	1:D15	1	B-C	pond(EP)	49
D3	2	2	1:D15	1.5	B-C	pond(EP)	49
D4	3	2	1:D15	1.5	B-C	pond(EP)	55
D5	3	2	1&5:D15&D5	1.5&3.5	B-C	pond(EP)	55
D6	3	2	5&2:D5&D10	3.5&2	B-C	pond(EP)	55
D7	3	3	5:LC	4	B-C	pond(EP)	55
	These ponds were created by dredging during construction of the Mendenhall Loop Road. Although they are linked to Duck Creek, the ponds are stagnant. Some are devoid of salmonids and others have low populations. The potential for salmonid habitat is medium high and there is potential to design the ponds to enhance Duck Creek productivity. They are classified as areas with enhancement potential (EP).						
D8	2	3	5:LC	4	B-C	B	55
	This is a small wetland adjacent to and south of the intersection of Mendenhall Mall Road and the Back Loop Road.						
D11	4	1	1:D15	1	Lakewood Pond		49
	This is a CBJ Park consisting of a pond with pedestrian amenities.						

Wetland	WET	PP	PA:Zone	(PA+PP)/2	Management Range	Management Category	Sheet
Douglas Island East of Eaglecrest Road (Fish Creek):							
DE1	2	2	4:D1	3	B-C	C	64
	5 forested acres adjacent to residential housing and bordered by N. Douglas Highway.						
DE2	2	1	4:DI	2.5	B-C	open space	B&C65
	172 scrub shrub vegetated acres constituting a peninsula on the channel side of N. Douglas Highway between Hendrickson Creek and Johnson Creek. Most of the interior is CBJ owned and is managed as a preserve. The east side, accessed by Gastineau Channel at high tide, is B. The platted corridor bordering N. Douglas Highway is C.						
DE3	1	1	4:D1&RR	2.5	A-B	A&C	66&75
	95 acres of predominantly scrub shrub vegetation east of Hendrickson Creek above N. Douglas Highway. The platted corridor bordering N. Douglas Corridor is C. The large upper portion is A.						
DE4	1	1	4:D1&RR	2.5	A-B	A&C	
	Approximately 500 scrub shrub and forested acres in a large bog on the east side of Fish Creek Road above N. Douglas Highway as far east as Hendrickson Creek. The corridor bordering N. Douglas Corridor is C. The large upper portion is A. A significant component of the environmental score is the salmonid habitat of lower Johnson Creek which is protected by the stream corridor of B. A corridor of 50 feet exists on each side of every creek within a wetland having an average flow of at least 5 cfs. This protective corridor extends through the uplands and the lowlands bordering N. Douglas Highway.							
DE5	5	1	4:RR	2.5	C-D	B	75
	3 isolated inaccessible scrub shrub acres.						
DE7	2	2	4:D1	3	B-C	C&A	66
	3 acres of scrub shrub vegetation bisected by a small creek adjacent to the south side of N. Douglas Highway.						

Wetland	WET	PP	PA:Zone	(PA+PP)/2	Management Range	Management Category	Sheet
Douglas Island East of Eaglecrest Road (Fish Creek) continued:							
DE8	3	1	4:RR	2.5	B-C	B, Federal	75
	Small isolated inaccessible parcel within the National Forest.						
DE9	2	2	4:D1	3	B-C	C	65
	5 acres of scrub shrub vegetation adjacent to the south side of N. Douglas Highway.						
DE10	2	2	4:D1	3	B-C	C	65
	3 acres of scrub shrub and emergent vegetation adjacent to the south side of N. Douglas Highway.						
DW2	2	1	4:D1&RR	2.5	B-C	B&C	64&73
	Approximately 225 scrub shrub and forested acres in a large bog on the west side of Fish Creek Road above N. Douglas Highway. The corridor bordering N. Douglas Corridor is C. The large upper portion is B. The south portion is crossed by Fish Creek.						
DW3	4	1	4:RR	2.5	B-C	B	60
	14 isolated inaccessible forested acres west of upper Fish Creek Road.						
DW4	4	1	4:RR	2.5	B-C	B	68&73
	22 isolated inaccessible forested acres west of upper Fish Creek Road.						
DW5	5	1	4:RR	2.5	C-D	C	82
	10 isolated inaccessible forested acres west of upper Fish Creek Road.						
DW6	4	1	4:RR	2.5	B-C	B	73
	1 isolated inaccessible scrub shrub acre west of upper Fish Creek Road.						

Wetland	WET	PP	PA:Zone	(PA+PP)/2	Management Range	Management Category	Sheet
Douglas Island East of Eaglecrest Road (Fish Creek) continued:							
DW7	3	2	4:RR&D1	3	B-C	B&C	64&73
52 forested acres south of, and partially adjacent to, N. Douglas Highway. A small portion of the southeast corner is in a C corridor. The remainder is B.							
DW8	2	1	4:RR&D1	2.5	B-C	B&C	64
Approximately 100 forested acres constituting a peninsula on the north side of N. Douglas Highway. The west side is adjacent to Bayview Subdivision. A corridor on the west side is C.							
DW9	2	1	4:RR	2.5	Fish Creek Park		72
34 scrub shrub acres owned by the CBJ and managed as part of the park and open space system.							
DW11	4	1	4:RR	2.5	B-C	B	73
8 isolated inaccessible forested acres south of N. Douglas Highway.							
DW12	4	1	4:RR	2.5	B-C	B	72
5 isolated inaccessible forested acres south of N. Douglas Highway.							
DW13	5	1	4:RR	2.5	C-D	C	72
4 isolated inaccessible forested acres south of N. Douglas Highway.							
DW15	2	1	4:RR	2.5	B-C	C	72
5 scrub shrub acres adjacent to N. Douglas Highway on the south side.							
DW16	2	1	4:RR	2.5	Mendenhall Game Refuge		72
DW17	2	1	4:RR	2.5	Mendenhall Game Refuge		72
DW18	2	1	4:RR	2.5	Mendenhall Game Refuge		72

Mendenhall State Game Refuge Estuaries:

ES1	ES2	ES5	ES7	ES11	ES14	ES15	ES16	ES17	ES18
ES19	ES22	ES23	ES24	ES25	ES26	ES27	ES28	ES29	ES30
ES31	ES32	ES40	ES41	ES42					

All study area estuaries are part of the Mendenhall State Game Refuge. Management is in accordance with the specified refuge regulations. There may be enhancement potential for waterfowl habitat and public access.

Wetland	WET	PP	PA:Zone	(PA+PP)/2	Management Range	Management Category	Sheet
Jordan Creek:							
J1	3	1	5:D5	3	B-C	B	41
	18 forested acres north of Jordan Creek.						
J2	1	1	5:D5	3	A-B	A	50
	34 forested acres at the headwaters of Jordan Creek.						
J3	1	1	5:D5	3	A-B	B	50
	3 acres of scrub shrub and forest bisected by Jordan Creek and surrounded by developed land. The Jordan Creek corridor is B, as is the rest of the wetland outside the corridor.						
J4	1	1	5:D5	3	A-B	A	49&50
	Approximately 40 acres of forested wetland adjacent to and immediately east of Jordan Creek. The south half of the wetland is owned by the State.						
J5	1	1	5:D5	3	A-B	A	49&55
	36 forested and scrub shrub acres. Jordan Creek meanders with the wetland. The northeast portion is owned by the State.						
J6	2	2	5&2:D5&D10	3.5&2	B-C	B	55
	21 forested acres. Jordan Creek crosses the wetland in a north south direction.						

Wetland	WET	PP	PA:Zone	(PA+PP)/2	Management Range	Management Category	Sheet
Jordan Creek continued:							
J7	2	3	2:D10	2.5	B-C	C	55
	13 forested acres near the northeast corner of Egan Drive and Mendenhall Loop Road. Adjacent to existing development and crossed by Teslin Street running in a north south direction.						

The Recharge-Discharge Function of Wetlands Near Juneau Alaska: Part I, p.432, Siegel, Aug. 1988, "Similarly, ground-water discharge to Jordan Creek from wetlands is probably negligible compared to ground-water discharge from mineral soils in the alluvial fans and surface-water runoff."

Lemon Creek:							
L1	3	3	5&1:LC&D15	4&2	B-C	C	60
	1 acre fronting Old Glacier Highway near the DOT/PF Southeast Regional Office Building.						
L4	2	1	4:RR	2.5	B-C	C	60
	6 acres containing an excavated borrow pit.						
L5	2	1	4:RR	2.5	B-C	C	60&61
	16 acre excavated borrow pit.						
L6	1	1	5&1:D5&D15	3&1	A-B	B&A	61
	37 acres predominated by emergent vegetation with scrub shrub and forest on the upper north portion. Switzer Creek meanders through the lower portion. The CBJ purchased this property as a reserve for a future elementary school. The northern most fringe is in the National Forest and is category A. The remainder is category B except that the Switzer Creek corridors are category A.						
L7&7A	4	4	4:I	4	B-C	C	61
	10 acre excavated borrow pit.						

Wetland	WET	PP	PA:Zone	(PA+PP)/2	Management Range	Management Category	Sheet
Lemon Creek continued:							
L8	1	1	1:D15	1	A-B		67
	10 acres of emergent vegetation between Vanderbilt Hill Road and the Pioneers Home, owned by the State.						
L12	2	1	5:D18&GC	3	B-C	B	61
	18 emergent vegetation acres adjacent to the east side of Old Glacier Highway and bisected by Vanderbilt Creek. The Creek corridors are A to protect their high productivity.						
L13	2	3	5:GC	4	B-C	C	61
	1 acre of forested wetland adjacent to Old Glacier Highway.						
L14	2	2	5:GC&D18	3.5	B-C	B	61
	9 acres of emergent vegetation with a forested area and which is crossed by Vanderbilt Creek. The Creek corridors are A to protect their high productivity.						
L15	2	4	5:D5	4.5	B-C	C	61
	1 acre of scrub shrub vegetation adjacent to Mobile Haven Trailer Park.						
L17	4	4	4:I	4	B-C	C	61
	2 acres of scrub shrub vegetation.						
L18	2	4	4:I	4	B-C	C	61
	4 acres of emergent vegetation.						
L20	2	3	4:I	3.5	B-C	C	67
	6 acre excavated borrow pit.						
L21	2	3	4:I	3.5	B-C	C	67
	1 acre excavated borrow pit.						
L22	4	2	4:I	3	B-C	C	67
	1 acre excavated borrow pit.						

Wetland	WET	PP	PA:Zone	(PA+PP)/2	Management Range	Management Category	Sheet
Lemon Creek continued:							
L23	4	4	4:I	4	B-C	C pit/pond	67
	4 acre excavated borrow pit.						
L90	5	3	5:D5&LC	4	C-D	D State	60
	2 acres of scrub shrub vegetation on the north side of and adjacent to Old Glacier Highway.						
L91	5	4	5:D5	4.5	C-D	D	60
	2 acres of scrub shrub vegetation on the north side of Old Glacier Highway.						
Lower Mendenhall River East Side and Airport Vicinity:							
M1	2	3	5:A	4	B-C	C	57&58
	Float plane pond south of and parallel to airport runway. No salmonids.						
M1A	2	2	5:A	3.5	B-C	C	58
	Long narrow pond adjacent to and south of float plane pond. No salmonids.						
M1B	2	2	5:A	3.5	B-C	C	57&58
	Forested and scrub shrub wetland south of and adjacent to float plane pond.						
M1C	2	2	5:A	3.5	B-C	C	57&58
	Canals south of and adjacent to float plane pond. No salmonids.						
M2	3	1	5:A	3	B-C	pond(EP)	59
	28 acre pond created by gravel pit excavation between east end of runway and Egan Drive. No salmonids. There is enhancement potential to create riparian environment and salmonid habitat.						

Wetland	WET	PP	PA:Zone	(PA+PP)/2	Management Range	Management Category	Sheet
Lower Mendenhall River East Side and Airport Vicinity continued:							
M3	2	2	4:RR	3	B-C	C	59
	13 acres of emergent vegetation adjacent to Egan Drive and the gravel pit pond. There is potential for mitigation to enhance access to the pond in conjunction with enhancement of the pond.						
M4	2	3	5:A	4	B-C	D	58
	This is a small pond adjacent to the north side of the runway located in the path of taxiway expansion. It is an attractive area for birds which creates bird strike hazard conditions. The pond has been drying up since the Jordan Creek culvert was enhanced to create more rapid flow. Most of the pond will be filled by the taxiway extension.						
M5	2	3	5:A	4	B-C	B	58
	3 acres between airport tie down area and fire-crash station. Jordan Creek passes through the site and its corridor is A.						
M6	4	5	5:A	5	B-C	C	58
	4 acres adjacent to taxiway next to tie down area.						
M7	2	3	5:GC&A	4	B-C	C	58
	12 emergent growth acres between airport and back of Nugget Mall commercial area. Jordan Creek runs down the middle of this wetland. The corridor is A.						
M8	4	5	5:A	5	B-C	C	58
	3 acres adjacent to taxiway next to tie down area.						
M9	2	4	4:I	4	B-C	C	58
	5 acres of emergent vegetation on the east side of Crest Ave.						
M10	4	5	4:I	4.5	B-C	C	58
	1 acre of emergent vegetarian on north side of and adjacent to Yandukin Drive.						

Wetland	WET	PP	PA:Zone	(PA+PP)/2	Management Range	Management Category	Sheet
Lower Mendenhall River East Side and Airport Vicinity continued:							
M13	4	5	5:GC	5	B-C	C	58
	1 acre adjacent to Alpine Ave.						
M14	3	1	2&4&1:D10 &RR&D15	1.5&2.5&1	B-C	B	58
	3 acres of scrub shrub in a long narrow strip on the north side of and adjacent to Egan Drive, mostly owned by the State						
M15	4	4	5:A	4.5	B-C	C	58
	Small scrub shrub wetland between Flight Service Center and airport plane access ramp.						
M17	4	4	5:LC	4.5	B-C	C	55
	2 acres of scrub shrub at the southeast corner of the intersection of Riverside and Egan Drive.						
M18	4	4	5:LC	4.5	B-C	C	55
	1 acre of emergent growth vegetation, owned by the State, adjacent to the south side of Egan Drive in the vicinity of Mendenhall Mall.						
M19	2	2	5:LC	3.5			55
	Less than one acre, Duck Creek Greenbelt.						
M20	2	2	5:LC	3.5	B-C		55
	1 acre, Duck Creek Greenbelt.						
M21	2	3	5:LC	4	B-C		58
	2 acres, Duck Creek Greenbelt.						
M26	3	2	5&1:D5&D15	3.5&1.5	B-C	C	59
	5 acres of emergent vegetation in a 'z' shape between Old Glacier Highway and Egan Drive in the vicinity of the old dairy.						

Wetland	WET	PP	PA:Zone	(PA+PP)/2	Management Range	Management Category	Sheet
Lower Mendenhall River East Side and Airport Vicinity continued:							
M27	2	2	5:D5	3.5	B-C	B	59
	6 emergent growth acres in a long narrow strip on the north side of and adjacent to Egan Drive east of the old dairy farm.						
M49	3	3	5:A	4			58
	Small parcel, Duck Creek Greenbelt. No salmonids.						
M50	4	4	5&1:A&D15	4.5&2.5	B-C	C	58
	1 acre of scrub shrub vegetation west of Duck Creek.						
M51	2	3	5:A	4			58
	Duck Creek Greenbelt.						
M52	4	3	5:GC&A	4	B-C	C	57
	Small emergent growth parcel at the northwest end of the airport runway.						
M53	2	3	5:A	4			57
	Duck Creek Greenbelt at the west end of the airport runway.						
Lower Montana Creek:							
ML1	1	1	4:D1/D5	2.5	A-B	A&B	39&48
	245 acres in a large patterned fen traversed by Montana Creek to the west side of the fen. Although it might seem that the fen recharges Montana Creek or discharges into an aquifer, the Seigel hydrological study determined that there is very little hydrological connection between the fen and the Creek or an aquifer. The main corridor of Montana Creek is protected by a CBJ greenbelt. The rest of the fen is A except for a small wedge shaped B piece next to the Back Loop Road.						

Wetland	WET	PP	PA:Zone	(PA+PP)/2	Management Range	Management Category	Sheet
Lower Montana Creek continued:							
ML2	4	2	4:D1/D5	3	B-C	C	48
	1 isolated inaccessible acre of scrub shrub.						
ML15	2	1	4:D1/D5	2.5			49
	A small isolated strip within the Mendenhall River greenbelt.						
ML16	1	2	4:D1/D5	3	A-B	B	32&40
	8 acres in a narrow northeast southwest orientation between Back Loop Road and Skaters Cabin Road.						
ML17	4	2	4:D1/D5	3	B-C	C	48
	2 acres of isolated inaccessible forest.						
ML19	2	2	4:D1/D5	3	B-C	B	40
	1 acre pond between the patterned fen and Back Loop Road.						

The Recharge-Discharge Function of Wetlands Near Juneau Alaska: Part I, Siegel, August, 1988, p.433, "Similarly, the amount of ground-water discharge from wetlands to major streams is probably too small to be detected by standard streamflow measurements."

Mendenhall River Adjacent to Old Glacier Highway (Including Industrial Blvd. and Mendenhall Peninsula):

MW1	2	3	4:I	3.5	B-C	C	54&57
	22 acres of emergent vegetation west of the south terminus of Old Industrial Blvd. There is an unnamed tributary through the southeast segment.						
MW2	1	2	4:I&D1/D5	3	A-B	B	53&57
	Approximately 70 acres of emergent vegetation from the industrial developed land on the east to Mendenhall Peninsula on the west. Casa del Sol Creek meanders in the wetland.						

Wetland	WET	PP	PA:Zone	(PA+PP)/2	Management Range	Management Category	Sheet
Mendenhall River Adjacent to Old Glacier Highway continued:							
MW3	1	3	4:I&D1/D3	3.5	A-B	B&C	54
	23 acres of emergent vegetation in a north south orientation as far north as Old Glacier Highway. Casa del Sol Creek meanders in the wetland.						
MW3A	2	3	4:I	3.5	B-C	C	54
	8 acres of emergent vegetation in a relatively narrow rectangle orientated in an east west direction adjacent to industrially developed land.						
MW4	2	4	4:I	4	B-C	C	54
	13 acres of emergent vegetation in a rectangular shape occupying the old sludge disposal site adjacent to industrially developed land.						
MW5	3	3	4:I	3.5	B-C	C	54
	20 acres of scrub shrub and forest wetlands adjacent to industrially developed land.						
MW6	2	2	4:D1/D5	3	B-C	B&C	54
	40 acres of emergent vegetation, a large portion of which is in Brotherhood Park. A small wooded portion in the northwest portion is developed as residential and is C. The north portion is publicly owned and is B, the rest is managed as a natural park preserve by the CBJ.						
MW9	4	3	4:D1/D5	3.5	B-C	C	53
	1 acre of isolated scrub shrub wetland north of Old Glacier Highway.						
MW11	2	2	4:D1/D3	3	B-C	B&C	53
	54 acres of forested wetland in the middle of Mendenhall Peninsula with a fringe on Engineers Cutoff Road. This fringe is C as is the road and utility corridor, the remainder is B.						

Wetland	WET	PP	PA:Zone	(PA+PP)/2	Management Range	Management Category	Sheet
Mendenhall River Adjacent to Old Glacier Highway continued:							
MW12	5	1	4:RR	2.5	C-D	C	56
MW13	4	1	4:RR	2.5	B-C	B	56
MW14	4	1	4:RR	2.5	B-C	B	56
MW15	4	1	4:RR	2.5	B-C	B	56
MW16	4	1	4:RR	2.5	B-C	B	56
	These are small isolated inaccessible parcels on the ridge of Mendenhall Peninsula.						
MW17	2	1	5:D5	3	B-C	C	54
	3 acre former dredge site which has been graded. This is part of land reserved for the future development of Diamond City Park.						
MW18	3	3	4:D1/D10	3.5	B-C	C	53
	Small isolated forested wetland adjacent to Old Glacier Highway.						
MW19	5	3	4:D1/D5 &D1/D10	3.5	C-D	D	54
	4 isolated scrub shrub acres north of Old Glacier Highway.						
MW20	2	2	4:D1/D3	3	B-C	C	53
	1 acre of scrub shrub adjacent to Engineers Cutoff on the east side.						
MW21	1	2	4:D1/D5& D1/D10	3	A-B	A&C	54
	30 acres of emergent vegetation adjacent to Brotherhood Park north of Old Glacier Highway. The west half contains small tributaries of Casa del Sol Creek which are protected by A corridors. The north portion is publicly owned and is A, while the remainder is C.						

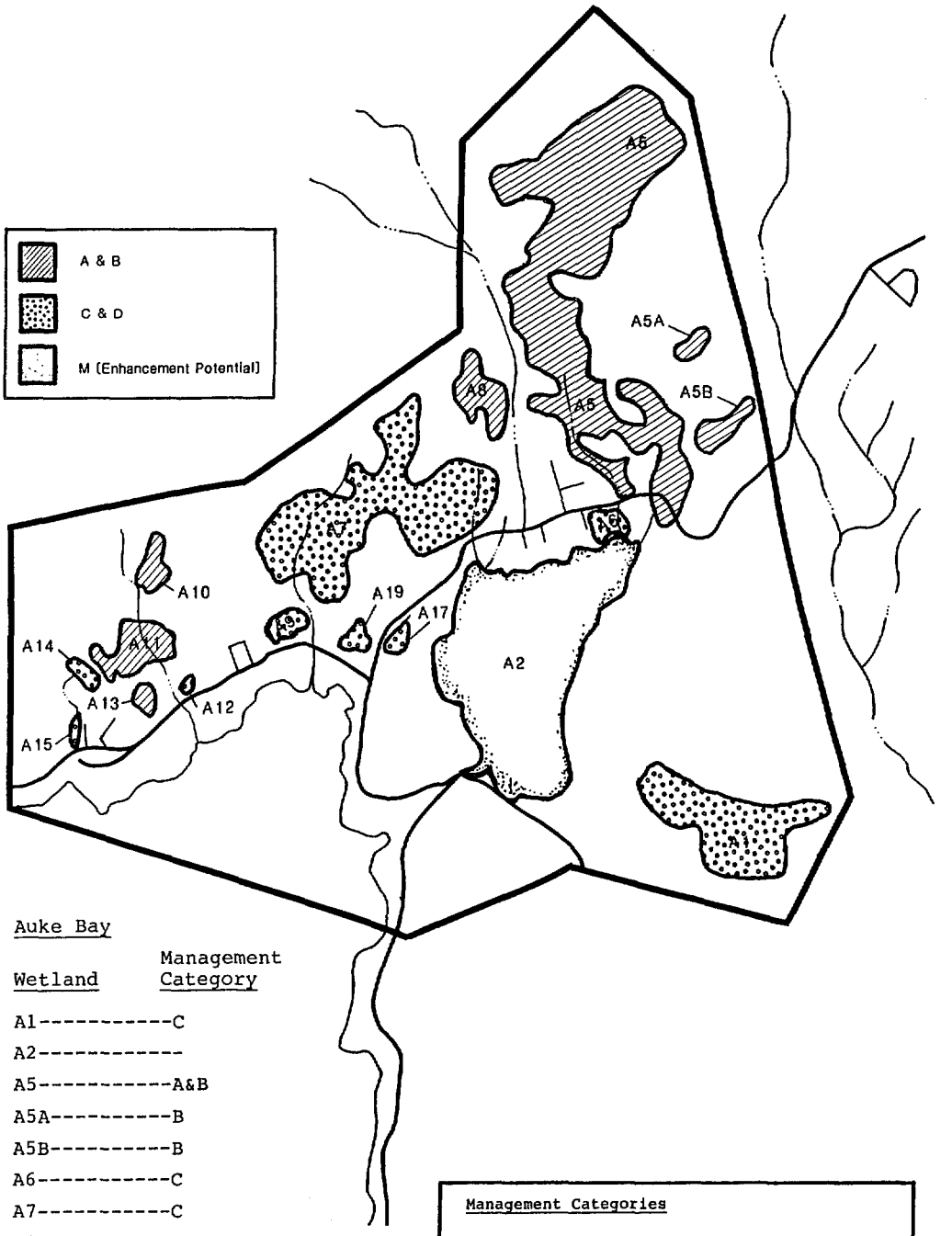
Wetland	WET	PP	PA:Zone	(PA+PP)/2	Management Range	Management Category	Sheet
Mendenhall River Adjacent to Old Glacier Highway continued:							
MW22	2	3	4:D1/D10& D1/D3&I	3.5	B-C	B&C	53&54
	17 acres of forested wetland bordering the south side of Old Glacier Highway. Casa del Sol Creek flows through a portion of the wetland and is protected by a B corridor. To the west of the Creek is also B while the impacted area adjacent to Old Glacier Highway is C.						
MW23	4	4	4:I	4	B-C	C	54
	1 acre of scrub shrub near Mendenhall River.						
MW25	3	1	4:RR	2.5	B-C	B	56
	1 isolated acre of scrub shrub at the east edge of Mendenhall Peninsula.						
MW30	2	2	4:D1/D3&I	3	B-C	B	53
	Approximately 10 acres of scrub shrub and forest in a north south orientation adjacent to Mendenhall Peninsula, bisected by Casa del Sol Creek.						
MW60	4	5	4:1	4.5	B-C	C	54
	5 forested acres in the middle of industrially developed land.						
Upper Montana Creek:							
UM1	1	1	4:D1/D5&RR	2.5	A-B	A&B&C	32&39
	218 acres composed of a variety of smaller wetlands. Montana Creek runs north south along the west boundary. The south boundary is the Back Loop Road. The forested east segment along Montana Creek Road is C except that there is a B transition strip at the transition to scrub shrub. The remainder of the wetland is A.						
UM6	2	1	4:RR	2.5	B-C	B	32
	9 acres adjacent to and on the east side of Montana Creek Road.						

Wetland	WET	PP	PA:Zone	(PA+PP)/2	Management Range	Management Category	Sheet
Upper Montana Creek continued:							
UM7	3	1	4:RR	2.5	B-C	B	32
	13 isolated inaccessible forested acres.						
UM8	2	1	4:RR	2.5	B-C	B	32
	7 isolated inaccessible forested acres.						
UM9	2	1	4:RR	2.5	B-C	A&B	27&31
	87 acres of scrub shrub and forest adjacent to and on the north side of Montana Creek Road. The forested section in the southeast corner is B, the remainder is A.						
UM10	2	1	4:RR	2.5	B-C	B	31&32
	6 acres of forest and scrub shrub adjacent to and on the south side of Montana Creek Road.						
UM11	2	1	4:RR	2.5	B-C	B	27&31
	5 acres of forested wetland adjacent to and on the south side of Montana Creek Road. The northern portion is in the National Forest.						

The Recharge-Discharge Function of Wetlands Near Juneau Alaska: Part I, Siegel, August, 1988, p.432, "the volumes of recharge and discharge are small compared to volumes of ground water in storage and surface runoff in streams."

JUNEAU WETLANDS MANAGEMENT PLAN

MANAGEMENT DESIGNATIONS



Auke Bay

Wetland	Management Category
A1	C
A2	
A5	A&B
A5A	B
A5B	B
A6	C
A7	C
A8	B
A9	C
A10	B
A11	B
A12	C
A13	B
A14	C
A15	C
A17	C
A19	D

Management Categories

A- Maintain all individual functional values on site. No loss of any value on site.

B- Maintain all individual functional values on roaded system. No loss of any value to region.

C- Maintain overall functional values on roaded system. No loss of aggregate value to region. (can use preselected mitigation projects or bank)

D- Minimize loss of functional values. (mitigation bank or projects not required)

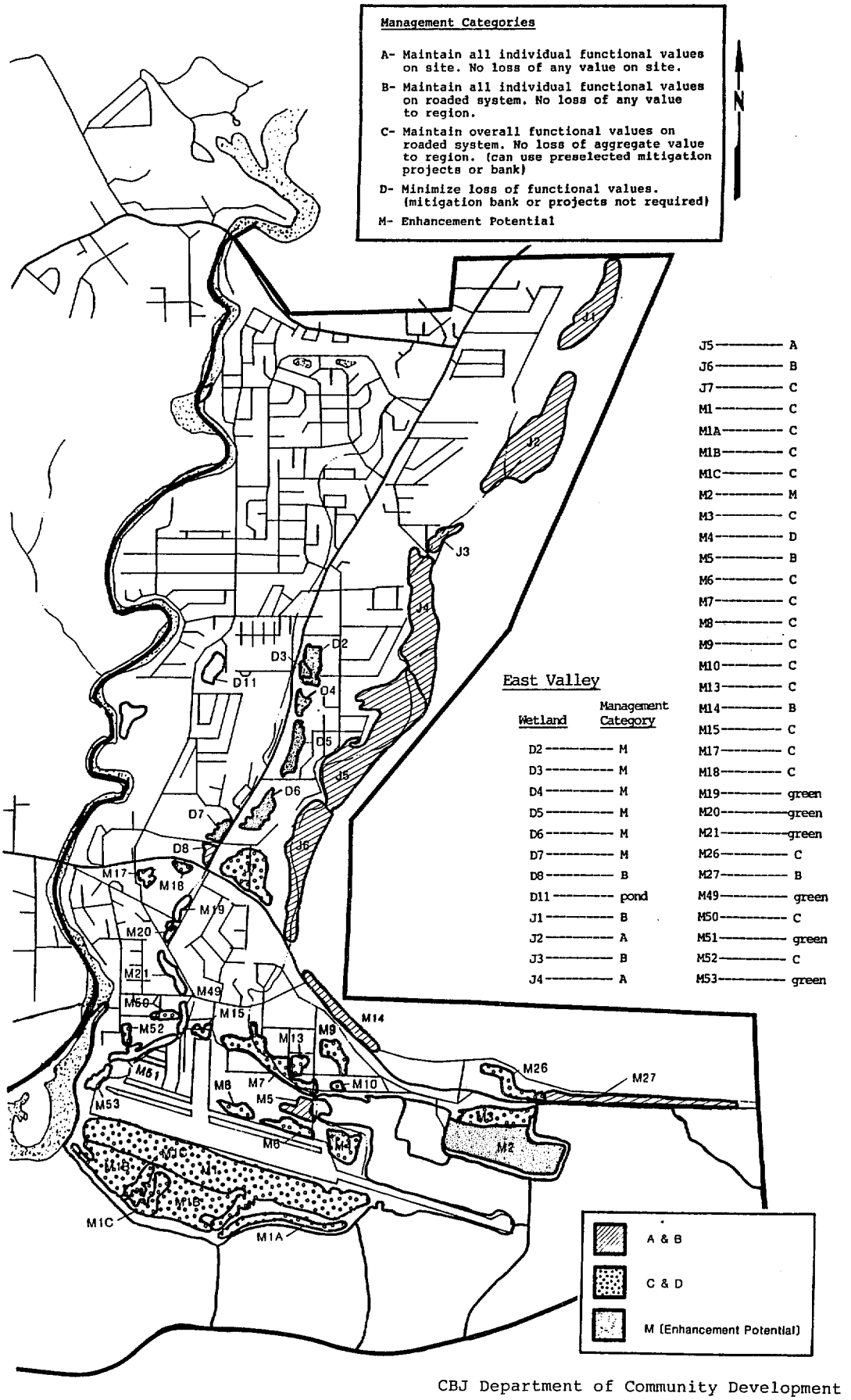
M- Enhancement Potential

N

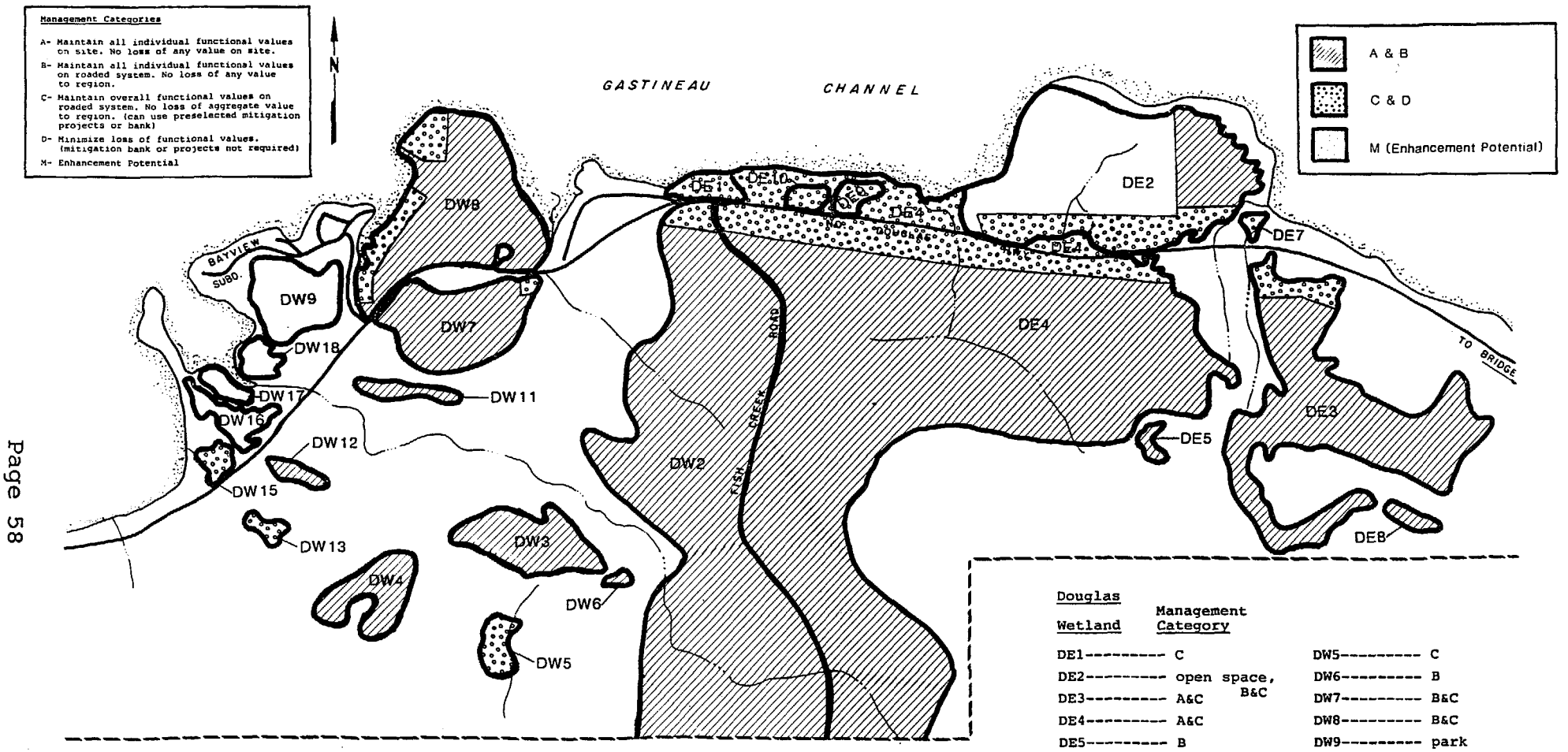
CBJ Department of Community Development

JUNEAU WETLANDS MANAGEMENT PLAN

MANAGEMENT DESIGNATIONS



CBJ Department of Community Development



Douglas Wetland	Management Category		
DE1	C	DW5	C
DE2	open space, B&C	DW6	B
DE3	A&C	DW7	B&C
DE4	A&C	DW8	B&C
DE5	B	DW9	park
DE7	C&A	DW11	B
DE8	B,Fed.	DW12	B
DE9	C	DW13	C
DE10	C	DW15	C
DW2	B&C	DW16	game refuge
DW3	B	DW17	game refuge
DW4	B	DW18	game refuge

JUNEAU WETLANDS MANAGEMENT PLAN

MANAGEMENT DESIGNATIONS

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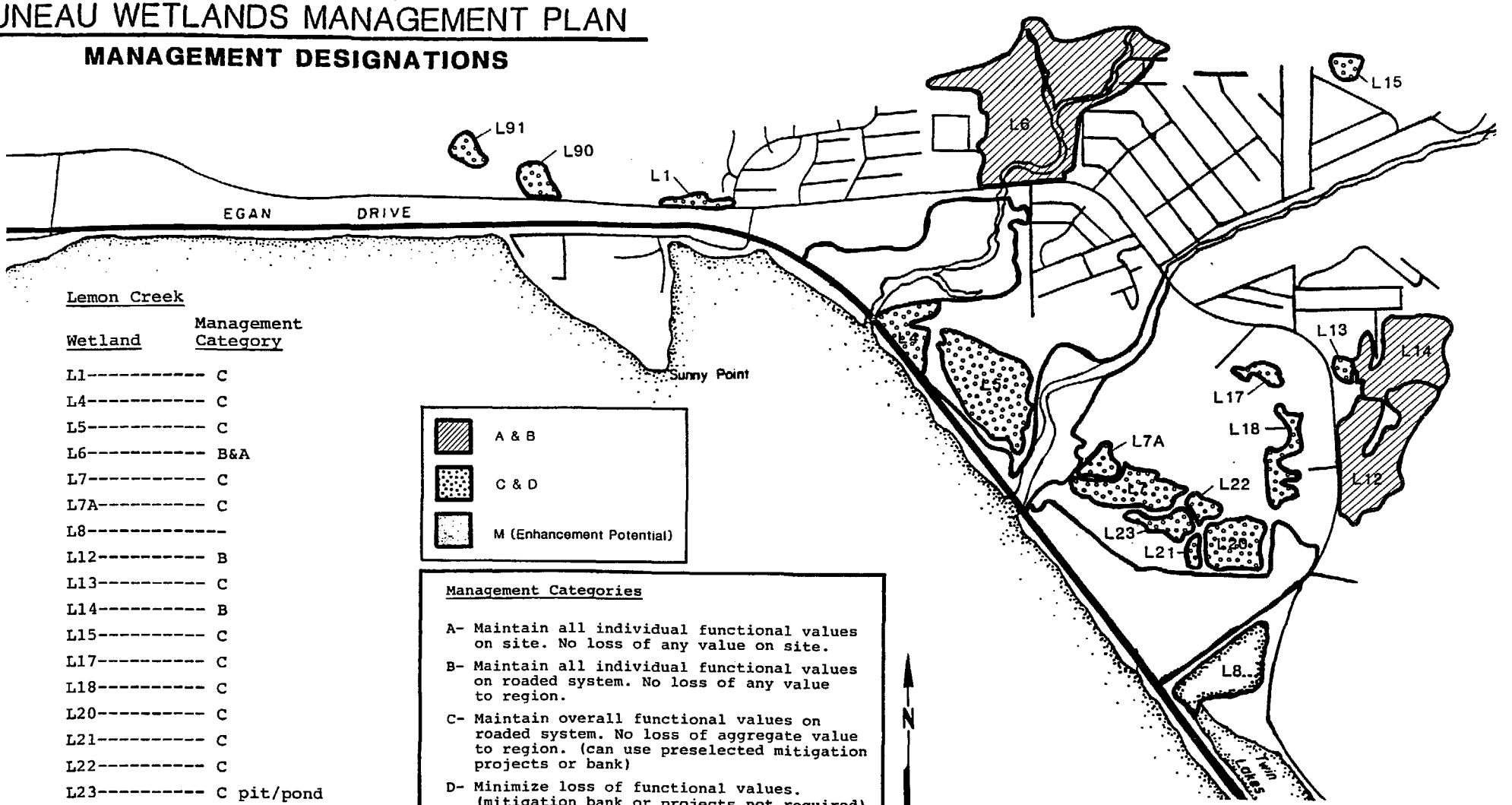


Lemon Creek

Wetland	Management Category	
L1	C	
L4	C	
L5	C	
L6	B&A	
L7	C	
L7A	C	
L8		
L12	B	
L13	C	
L14	B	
L15	C	
L17	C	
L18	C	
L20	C	
L21	C	
L22	C	
L23	C	pit/pond
L90	D	state
L91	D	

Management Categories

A- Maintain all individual functional values on site. No loss of any value on site.

B- Maintain all individual functional values on roaded system. No loss of any value to region.

C- Maintain overall functional values on roaded system. No loss of aggregate value to region. (can use preselected mitigation projects or bank)

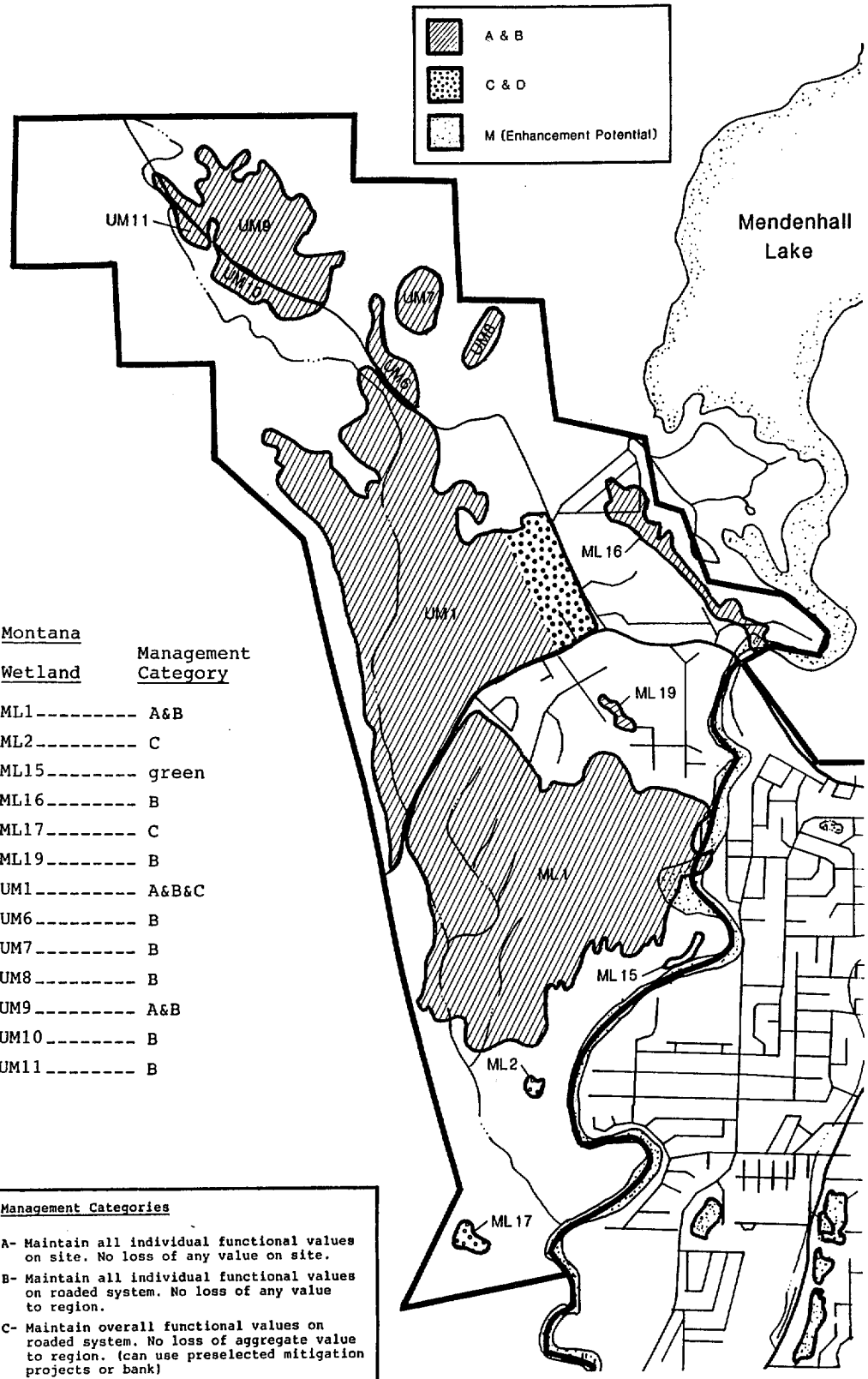
D- Minimize loss of functional values. (mitigation bank or projects not required)

M- Enhancement Potential

CBJ Department of Community Development

JUNEAU WETLANDS MANAGEMENT PLAN

MANAGEMENT DESIGNATIONS



Montana Wetland	Management Category
ML1	A&B
ML2	C
ML15	green
ML16	B
ML17	C
ML19	B
UM1	A&B&C
UM6	B
UM7	B
UM8	B
UM9	A&B
UM10	B
UM11	B

Management Categories

A- Maintain all individual functional values on site. No loss of any value on site.

B- Maintain all individual functional values on roaded system. No loss of any value to region.

C- Maintain overall functional values on roaded system. No loss of aggregate value to region. (can use preselected mitigation projects or bank)

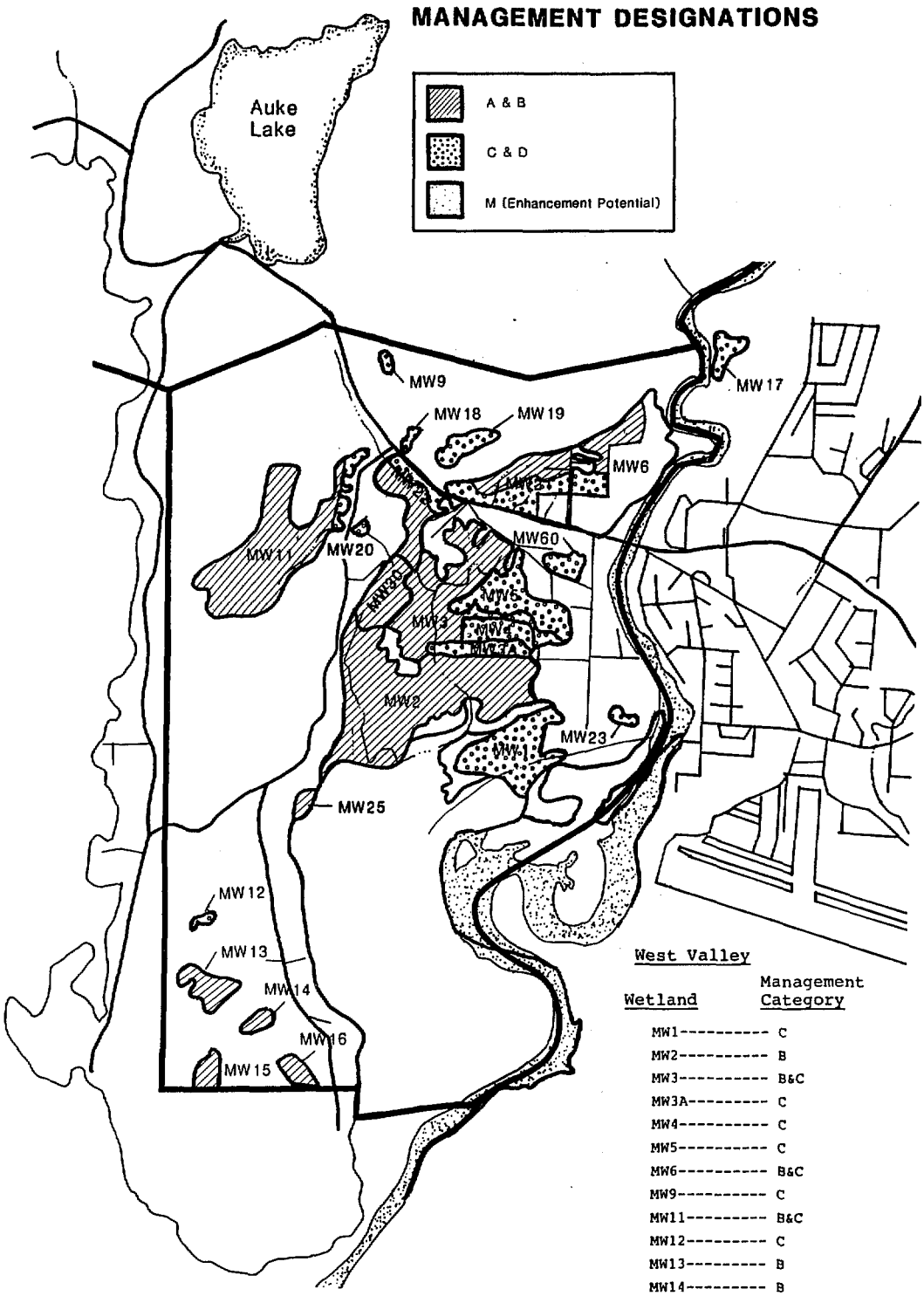
D- Minimize loss of functional values. (mitigation bank or projects not required)

M- Enhancement Potential

N

JUNEAU WETLANDS MANAGEMENT PLAN

MANAGEMENT DESIGNATIONS



West Valley

Wetland	Management Category
MW1	C
MW2	B
MW3	B&C
MW3A	C
MW4	C
MW5	C
MW6	B&C
MW9	C
MW11	B&C
MW12	C
MW13	B
MW14	B
MW15	B
MW16	B
MW17	C
MW18	C
MW19	D
MW20	C
MW21	A&C
MW22	B&C
MW23	C
MW25	B
MW30	B
MW60	C

Management Categories

A- Maintain all individual functional values on site. No loss of any value on site.

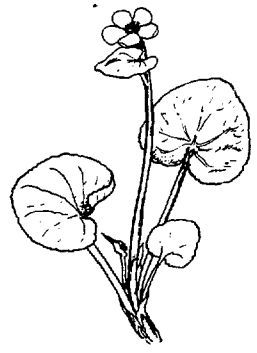
B- Maintain all individual functional values on roaded system. No loss of any value to region.

C- Maintain overall functional values on roaded system. No loss of aggregate value to region. (can use preselected mitigation projects or bank)

D- Minimize loss of functional values. (mitigation bank or projects not required)

M- Enhancement Potential

CBJ Department of Community Development



CHAPTER IV

CHAPTER IV

IMPLEMENTATION SUMMARY

Regulations

The management categories and policies in Chapter III will be implemented when the CBJ Assembly adopts the Wetlands Management Plan and its implementing ordinance. The ordinance would become effective upon receipt of a 'general permit'. The ordinance determines how the wetland management categories and policies will be used in the dredge and fill permit review process. This chapter of the plan is a narrative summary of the ordinance.

The CBJ has designated a management category for every freshwater wetland in the study area, but the ordinance only applies to category C and D wetlands. This is because the CBJ is only requesting a 'general permit' for category C and D wetlands. Policies pertaining to category A and B wetlands would be implemented through the CBJ Coastal Management Program by using the consistency review process. This process allows the CBJ to obtain support from state agencies for projects which are in accordance with the plan.

If the CBJ receives a 'general permit', category C and D wetlands would be regulated by the CBJ under procedures similar to federal regulations. Permit decisions for category C and D wetlands would be made by a Wetlands Review Board appointed by the CBJ. The Board would include Planning Commission representatives and local citizens having expertise in technical fields such as biology, geology, hydrology, land use planning, and engineering. The fact that permit decisions will be made in Juneau by a CBJ board instead of in Anchorage by federal agencies should result in improved communications and an expedited decision process.

An important component of many permit decisions is compensation for degradation of wetlands. If an applicant's proposed project would damage the environment, the permit granting agency could require the applicant to compensate for the expected harm to the environment. This compensation is called 'mitigation'. It can be required as a condition which must be satisfied before a permit is granted.

The mitigation component of the CBJ regulations is more specific than the comparable section of the federal regulations. Federal regulations recognize five types of mitigation: avoiding, minimizing, rectifying, reducing, and compensating for resource losses. However, federal regulations do not provide specific guidelines to determine acceptable mitigation. As a result, determination of appropriate mitigation can be very time consuming.

The CBJ has designed a mitigation bank to help specify mitigation requirements. For most dredge and fill permit applicants for category C wetlands, mitigation requirements will be met through off-site mitigation using the mitigation bank. The mitigation bank is designed to allow applicants to expeditiously satisfy mitigation requirements by making a cash payment to the mitigation bank. This should result in decreased permit processing time.

Even with the mitigation bank, actual permit decisions will be made on a case-by-case basis by the Wetlands Review Board. The management plan also specifies that dredge and fill permit applicants for category D wetlands can meet mitigation requirements by minimizing and reducing wetland degradation according to best management practices, as determined by the Wetlands Review Board.

The CBJ will rely on the management plan for guidance when it comments to the COE on dredge and fill permit applications for category A and B wetlands. The plan will also become part of the State and Juneau Coastal Management Programs. State agencies will thus use the plan as guidance when they comment to the COE regarding permit applications on category A and B wetlands.

The ordinance contains nine sections. The first seven are regulations and the last two create mechanisms to implement the regulations. The sections are:

1. Regulations:

   a. General Regulatory Policies
   b. Permits for Discharge of Dredged or Fill Material
   c. Processing of Permits
   d. Enforcement
   e. Public Hearings
   f. Consideration for Tax Purposes
   g. Remedies for Violations

2. Wetlands Review Board

3. Mitigation Bank

General Regulatory Policies:

The purpose of the regulations is to produce timely permit decisions. The regulations that will guide review of CBJ permit applications are similar to those that guide review of COE permit applications.

Permit decisions are based on general policies for reviewing applications. These policies form the basis of the public interest review. This is broadly defined to include consideration of all factors which become relevant in each particular application. The general policies for evaluating permit applications are as follows and are duplicates of the COE permit evaluation policies.

> The benefits which reasonably may be expected to accrue from the proposal are balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur, are determined by the general balancing process. The decision reflects the national concern for both protection and utilization of important resources.
>
> All factors which may be relevant to the proposal must be considered, including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general, the needs and welfare of the people. (320.4, Federal Register Vol. 51, No. 219)
>
> The following general criteria are also considered in the evaluation of every application:
>
> 1. the relative extent of the public and private need for the proposed structure or work;
>
> 2. where there are unresolved conflicts as to resource use, the practicability of using reasonable alternative locations and methods to accomplish the objective of the proposed structure or work; and
>
> 3. the extent and permanence of the beneficial and/or detrimental effects which the proposed structure or work is likely to have on the public and private uses to which the area is suited. (320.4, Federal Register Vol. 51, No. 219)
>
> The specific weight of each factor is determined by its importance and relevance to the particular proposal. Accordingly, how important a factor is, and how much consideration it deserves, will vary with each proposal.

> A specific factor may be given great weight on one proposal, while it may not be present or as important on another. Full consideration and appropriate weight will be given to all comments, including those of federal, state and local agencies and other experts on matters within their expertise. (320.4, Federal Register Vol. 51, No. 219)

The federal regulations state that an application must also comply with the EPA's 404(b)(1) regulations. These regulations state that unless a proposed activity on a wetland is water-dependent, the EPA shall recommend that the COE deny the permit unless there are no practicable alternative sites for the proposed activity. The EPA is directed to assume that there are practicable alternatives and it is up to the applicant to rebut this presumption in order to obtain EPA endorsement.

The CBJ will presume that there are no practicable alternatives for developments proposed on category C and D wetlands. This presumption is based on an extensive analysis of land use alternatives conducted as part of this study. The presumption is rebuttable, which means that the decision making body can still conclude that there are practicable alternatives based on its review of project specific evidence during the permit review process.

Permits for Discharges of Dredged or Fill Material:

The corresponding section of the ordinance contains definitions of dredge, fill and related terms. Dredged material means material that is excavated or dredged from waters of the United States. Fill material means any material used for the primary purpose of replacing an aquatic area with dry land.

In addition, the ordinance prescribes activities that require wetland dredge and fill permits. Essentially, all activities involving dredge or fill on lands identified as wetlands by the COE require permits unless an activity is exempted.

Exempted activities include farming, silviculture (timber industry) and ranching. There are also exemptions for certain emergency activities and minor drainage. The CBJ has added a new category entitled "Temporary Emergency Permit". It allows the CBJ to issue temporary emergency permits for regulated activities when there is a threat to life or severe loss of property, and the anticipated damage may occur before a permit could be granted under normal procedures.

For more detailed information, refer to the chapter in the ordinance entitled "Permits for Discharges of Dredged or Fill Material".

Processing of Permits:

When the COE grants the CBJ a 'general permit' and the CBJ passes the ordinance implementing local permit issuance procedures, the CBJ will process permits for dredge and fill activity on category C and D wetlands. Permit processing would begin on the effective date of the ordinance. This will allow time for preparation of application forms, appointment of members to the Wetlands Review Board and distribution of a brochure explaining the new process to the public.

The Processing of Permits chapter in the ordinance describes application forms, including the required contents of a complete application, and permit review procedures including the availability of preapplication conferences between the applicant and the Wetlands Review Board. It also describes application processing procedures, time allowed for each step, the board's ability to determine any special conditions which might be incorporated into a permit, or the explanation that would be supplied to an applicant if a permit is denied.

The ordinance requires the CBJ to issue a permit decision no later than 60 days after receipt of a complete application. There are provisions for public notice which are consistent with existing CBJ permit processes. Additional provisions require conformity with water quality certifications and other permit programs where applicable.

The discussion of special permit conditions (mitigation) differs from federal regulations. Federal regulations state that mitigation may be accomplished on-site or off-site to compensate for significant losses which are specifically identifiable, reasonably likely to occur, and of importance to the human or aquatic environment. The CBJ version goes on to add that for category C wetlands mitigation might include a contribution to a mitigation bank such that there is no net loss of wetland value to the CBJ. On-site mitigation would also be allowed.

For category D wetlands, mitigation might be satisfied by specified construction practices applicable to the specific project. These specified construction practices are known as best management practices. They will be required on all category C and D wetland developments.

Best management practices will be required as a permit condition by the Wetlands Review Board. Perhaps the three most prescribed best management practices in the Juneau area are:

1. not working in or adjacent to stream beds in the spring during out-migration of salmon smolts;

2. placing filtration curtains to protect streams from turbidity due to adjacent soil disturbance activities; and,

3. stripping existing wetland vegetation in mats and replacing the mats over regraded soil.

The Wetlands Review Board will prescribe further conditions based on their analysis of individual projects and comments received during the permit review process. Acceptable conditions are those that are considered feasible (cost, constructibility, etc.) to the applicant and that if adopted, will result in a project that generally meets the applicant's purpose and need. Such modifications can include reductions in scope and size, changes in construction methods, materials or timing, and operation and maintenance practices or other similar modifications that reflect a sensitivity to environmental quality within the context of the work proposed.

Additional items in this section are procedures to modify, suspend or revoke permits, and to appeal. The appeal procedure conforms to the current CBJ appeal process.

The federal regulations authorize the COE to determine wetland boundaries. This has presented a problem to some applicants because there are no COE personnel located in Juneau to make boundary determinations. The COE has identified wetlands on aerial photography but the boundaries are often not precise enough to determine correct siting of dredge and fill activities. The CBJ regulations provide a procedure for applicants to obtain boundary delineations.

An applicant can request a letter of wetland boundary determination from the CBJ. The CBJ could then require the applicant to perform an on-site inspection to provide information useful for determining wetland boundaries. The inspection is subject to approval and verification by the CBJ.

The existing boundary delineation process, which requires that COE personnel come to Juneau to make an on-site determination would still be available to any applicant. Any letter of boundary interpretation by the CBJ which says that an area is not a wetland shall be subject to review, modification or revocation by the COE within a fixed number of days.

The application form for a CBJ dredge and fill permit for category C and D wetlands will be developed upon receipt of the 'general permit'. The form will be consistent with CBJ land use application forms and will be determined by the Wetlands Review Board and designed to minimize duplication with building and grading permits.

Refer to the Processing of Permits chapter in the ordinance for more detailed information.

The form of an issued permit approval or denial will be very similar to the format stipulated in COE regulations. The decision document will use the following format:

CITY AND BOROUGH OF JUNEAU WETLANDS PERMIT

Permittee: _____

Permit No. _____

Note: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the Community Development Department or the appropriate official of that office acting under the authority of the City Manager.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: *Describe the permitted activity and its intended use with references to any attached plans or drawings that are considered to be a part of the project description. Include a description of the types and quantities of dredged or fill materials to be discharged in jurisdictional waters.*

Project Location: *Where appropriate, provide the names and locations of the waters where the permitted activity and any off-site disposals will take place.*

General Permit Conditions:

1. The time limit for completing the work authorized ends on: _____ *(18 months).* If you find that you need more time to complete the authorized activity, submit a time extension request to this office for consideration at least one month before the above date is reached.

2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

7. You must advise this office in writing, at least two weeks before you start maintenance dredging activities under the authority of this permit.

Special Permit Conditions:

(Special conditions as required by the Mitigation Review Board will be added in this space. No special conditions will be preprinted on the permit form.)

Further Information:

AUTHORITIES. You have been authorized to undertake the activity described above pursuant to:

1. LIMITS OF AUTHORIZATION:

   a. This permit does not obviate the need to obtain other federal, state, or local authorizations required by law.

   b. This permit does not grant any property rights or exclusive privileges.

   c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed CBJ project.

2. LIMITS OF LIABILITY. In issuing this permit, the CBJ does not assume any liability for the following:

   a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

   b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the CBJ in the public interest.

   c. Damages to persons, property, or other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

   d. Design or construction deficiencies associated with the permitted work.

   e. Damage claims associated with any future modification, suspension, or revocation of this permit.

3. RELIANCE ON APPLICANT'S DATA. The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

4. REEVALUATION OF PERMIT DECISION. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

   a. You fail to comply with the terms and conditions of this permit.

   b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate. (See 3 above.)

   c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

   Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures or enforcement procedures. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations accomplish the corrective measures by contract or otherwise and bill you for the cost.

5. EXTENSIONS. General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the CBJ will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

_____ _____

Permittee's Signature Date

This permit becomes effective when the CBJ official designated to act for the City Manager has signed below.

_____ _____

City Manager Date

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

_____ _____

Transferee's Signature Date

Enforcement:

This part prescribes enforcement policies for activities performed without a required CBJ Wetlands permit, and for activities not in compliance with the terms and conditions of issued permits. It contains additional sections on supervision of authorized activities and legal action.

If the CBJ determines that a permittee has violated the terms or conditions of a permit and that the violation is sufficiently serious to require an enforcement action then it will take the following steps:

1. contact the permittee;

2. request corrected plans reflecting actual work; and,

3. attempt to resolve the violation.

Violations may be resolved through voluntary compliance or a permit modification. If a mutually agreeable solution cannot be reached, a written order requiring compliance would normally be issued. Issuance of an order is not, however, a prerequisite to legal action. If an order is issued it will specify a time period of not more than 30 days for bringing the permitted project into compliance. If the permittee fails to comply with the order within the specified period of time, the CBJ may consider suspending or revoking the permit or it may pursue legal action.

The CBJ will pursue criminal or civil actions to obtain penalties for violations, compliance with the orders it has issued, or other relief as appropriate. Appropriate cases for civil or criminal action include, but are not limited to, violations which in the opinion of the CBJ, are willful, repeated, flagrant, or of substantial impact.

Refer to the Enforcement chapter in the ordinance for more detailed information.

Public Hearings:

This section prescribes the policy, practice, and procedures to be followed in the conduct of public hearings by the Wetlands Review Board.

For each permit application, except emergency permits and certain minor permits which may be excluded by ordinance, public hearings shall be conducted by the presiding officer of the Wetlands Review Board. Hearings shall be conducted in an orderly but expeditious manner. Any person shall be permitted

to submit oral or written statements concerning the subject matter of the hearing, to call witnesses who may present oral or written statements, and to present recommendations as to an appropriate decision. Any person may present written statements for the hearing record prior to the time the hearing record is closed to public submissions, including the presentation of proposed findings and recommendations. The presiding officer shall afford participants a reasonable opportunity for rebuttal.

The presiding officer shall have discretion to establish reasonable limits upon the time allowed for statements of witnesses, for arguments of parties or their counsel or representatives, and upon the number of rebuttals. Cross examination of witnesses shall not be permitted.

All public hearings shall be recorded and transcribed and made available to the public. Verbatim copies of the transcripts may be purchased from the CBJ by any person. All written statements, charts, tabulations, and similar data offered in evidence at the hearing shall, subject to exclusion by the presiding officer for reasons of redundancy, be received in evidence and shall constitute a part of the record.

Public notice of hearings shall be provided in accordance with the public notice provisions of CBJ Title 49. Public notification shall be consistent with the rules governing notification of other CBJ land use permitting activities.

Refer to the Public Hearings chapter in the ordinance for more detailed information.

Consideration for Tax Purposes:

This section establishes a policy and provision for incorporation of wetland considerations into fair market value property tax calculations. The tax assessor is authorized to consider denied permits in a property assessment. In addition, any owner of a wetland classified as A or B may request, and the tax assessor shall provide, that this fact be taken into account when the property is assessed for property tax purposes.

Refer to the Consideration for Tax Purposes chapter in the ordinance for more detailed information.

Remedies for Violations:

This section provides a range of penalties for violations in accordance with the CBJ criminal and civil code.

Refer to the Remedies for Violations chapter in the ordinance for more detailed information.

Wetlands Review Board

The corresponding section of the ordinance creates the CBJ Wetlands Review Board. If the CBJ receives a 'general permit' from the COE the Wetland Review Board would become the decision-making authority for dredge and fill permits in category C and D wetlands. It will be an independent board, not an advisory body to the Planning Commission, although its members would be appointed by the Planning Commission. The board would be composed of two Planning Commissioners and five private citizens having expertise in specified relevant technical fields including biology, geology, hydrology, land use planning and engineering. The board will meet at least once a month for regularly scheduled meetings.

The board can issue or deny permits for category C and D wetlands. This includes the ability to condition approved permits with appropriate mitigation requirements, including best management practices. In cases where the mitigation bank is used, the board will determine the appropriate cash contribution to meet the required mitigation. All permit hearings by the board will be open to the public, preceded by public notification and followed by published minutes.

Mitigation Bank

A wetlands mitigation bank operates like a bank in that it issues credit and accepts cash payments. It accepts cash payments when the Wetlands Review Board determines that payments are appropriate to compensate for wetlands which will be degraded by development. A typical dredge and fill permit applicant in category C wetlands would be allowed to use the mitigation bank to satisfy compensation requirements for wetland degradation expected from a proposed development.

The Wetlands Review Board will recommend areas where wetlands can be created, protected, restored or enhanced for the mitigation bank. The CBJ will receive the recommendations and approve a priority list of mitigation bank projects. The CBJ will also undertake the specific wetland enhancement or

protection activities. The CBJ Lands Division will manage mitigation bank land, including enhancement projects and monitoring.

The Wetlands Review Board will calculate the total resource value of wetland enhancement or protection projects completed for the bank. Resource value is calculated by using the Adamus Rapid Assessment and the CBJ Weighting System. The resource value of the bank is denominated in resource credits. A credit is a unit of resource value.

Each resource credit is worth a certain amount of money. The amount of money a resource credit is worth is established after all the bank's expenses for wetlands enhancement and protection projects have been compared to the resource value of the resultant environmental improvements. The value of an individual credit is equal to the cost of a unit of environmental improvement on a per acre or square foot basis. The total value of all the bank credits added together will be set at an amount that will compensate the bank for all of the costs and expenses it has incurred and is expected to incur in establishing and maintaining the mitigation bank.

An example of mitigation bank accounting is as follows:

If the bank spends $3,000 to protect one acre of wetlands which is worth 50 points of resource value, and it spends $1,000 to improve the acre by 50 points of resource value, then:

1. The total value of all bank credits is $4,000 ($3,000 + $1,000 = $4,000).

2. The number of resource credits is 100 (50 + 50 = 100).

3. Therefore, the value of a credit is $40 ($4,000/100 = $40).

The Wetlands Review Board can authorize developers to purchase resource credits when off-site mitigation is required. In purchasing the resource credits, developers are repaying the bank for mitigation work already accomplished by the bank. They pay back the bank for the expenditures it has already undertaken to acquire, restore, maintain and monitor the designated mitigation bank wetland projects. The amount of resource credit that an applicant will be asked to purchase from the bank will be equal to the number of credits which the Wetlands Review Board determines will be degraded by the direct dredge or fill activity proposed by the applicant. The mitigation bank will operate under the following restrictions.

1. Credits are not available to permit applicants until the bank has already conducted wetlands protection or enhancement projects. This requirement guarantees that mitigation will be performed. (The CBJ typically requires applicants to post bonds to guarantee fulfillment of conditions attached to land use permits. However, wetlands enhancement is a fairly new concept and bonding is not generally available at this time.)

2. Mitigation bank credits cannot be used for any permit action where the wetlands area to be adversely affected by a dredge or fill activity exceeds five acres. This requirement prevents bank credits from being exhausted by a single large development. Large-scale developers will be required to perform mitigation through individual actions rather than using the bank. The bank is designed to facilitate mitigation for small-scale developments which might otherwise cause cumulative incremental damage to overall wetland values.

The bank funds will be managed by establishing a revolving fund account. All money received by the bank will be paid into the CBJ Treasury and credited to the account. All money in the account is appropriated continuously to the mitigation bank. The funds can be used for the following purposes:

1. to acquire land suitable for use in mitigation banks;

2. to pay the cost of creating, restoring, or enhancing wetland areas; and,

3. to pay the cost of administrative, research, or scientific monitoring expenses.

The bank can also accept land donations. Any donation accepted by the bank will be valued at its fair market value as determined by an independent assessment. An example of how the bank will work is presented below.

> The bank purchases, for $3,000 per acre, a gravel pit with relatively low environmental value which has been identified as having wetland enhancement potential. The bank then spends $1,000 per acre for environmental improvements. It replaces the steep banks of the pit with gentle slopes and it channels an anadromous stream to connect with the gravel pit. The gentle slopes will be suitable for riparian habitat improvements which benefit terrestrial and aquatic animals. The connection to freshwater will provide a flushing action which is also very beneficial.

The Wetlands Review Board then calculates the environmental value of the wetland improvements and a cost per environmental value per acre. In this case, if the environmental value of the protected and enhanced gravel pit is 100 resource credits per acre, the cost of a bank resource credit would be $40 per acre ($4,000/100 = $40). 'Credit' is a unit of environmental value per acre.

When an applicant for a wetlands development project on a category C wetland applies to the Wetlands Review Board for a permit, the Board might determine that the proposed project would decrease environmental value by 50 environmental credits over an entire acre.

Since the expected environmental degradation would be 50 credits, and the cost of a mitigation bank credit is $40, mitigation would cost the applicant $2,000 (50 credits x $40 = $2,000). This amount would become a condition of the permit and it would have to be paid to the bank before the permit becomes effective.

Appendix A to this plan lists the regulations, in ordinance form, that will establish and govern the mitigation bank.

APPENDIX

CITY AND BOROUGH OF JUNEAU

DEPARTMENT OF COMMUNITY DEVELOPMENT

APPENDIX A

WETLANDS MANAGEMENT PLAN

IMPLEMENTING ORDINANCE

Wetlands Ordinance

TABLE OF CONTENTS

	page
GENERAL REGULATORY POLICIES	
Purpose and Scope	1
Authorities	1
Related Laws	1
General Policies for Evaluating Permit Applications	1
PERMITS FOR DISCHARGES OF DREDGED OR FILL MATERIAL	
General	11
Discharges Requiring Permits	13
Discharges Not Requiring Permits	13
Temporary Emergency Permits	18
Special Policies and Procedures	18
PROCESSING OF PERMITS	
Processing of Applications	22
Public Notice	29
Conditioning of Permits	32
Forms of Permits	33
Duration of Permits	34
Modification, Suspension or Revocation of Permits	35
Authority to Issue or Deny Permits	36
Authority to Determine Jurisdiction	38
Publicity	39
ENFORCEMENT	
Purpose	40
Unauthorized Activities	40
Supervision of Authorized Activities	43
Legal Action	44
PUBLIC HEARINGS	
Purpose	45
Applicability	45
Definitions	45
General Policies	45
Presiding Officer	46
Legal Advisor	46
Representation	46
Conduct of Hearings	46
Filing of the Transcript of the Public Hearing	47
Authority of the Presiding Officer	47
Public Notice	48

page

CONSIDERATION FOR TAX PURPOSES..... 48

REMEDIES FOR VIOLATIONS..... 48

WETLANDS REVIEW BOARD..... 49

APPEALS, VARIANCES AND INTERPRETATIONS..... 50

MITIGATION BANK
- Purpose..... 51
- Definitions..... 51
- Policy..... 51
- Powers..... 52
- Resource Values and Credits..... 53
- Fill and Removal Activities..... 54
- Rules..... 54
- Cooperation..... 54
- CBJ Wetlands Mitigation Bank Revolving Fund Account.... 54

Appendix B
- CBJ Wetlands Permit Form and Special Conditions..... 56

Article __. General Regulatory Policies

49.00.000 PURPOSE AND SCOPE. (a) Background. (1) The City and Borough of Juneau (CBJ) has been involved in regulating land use in wetlands and uplands. The Corps of Engineers (COE) has been involved in regulating land use in wetlands. The COE has classified many undeveloped lands as wetlands. Wetland property owners are regulated independently by the CBJ and the COE. This has resulted in uncertainty, permit processing delays and associated difficulties.

(2) The CBJ seeks to avoid unnecessary regulatory controls.

(3) The CBJ is neither a proponent nor opponent of any permit proposal. However, the CBJ believes that applicants are due a timely decision. Reducing unnecessary paper work and delays is a continuing CBJ goal.

(4) The CBJ believes that federal and local regulatory programs should complement rather than duplicate one another.

(b) Types of activities regulated. This part prescribes the statutory authorities and general and special policies and procedures applicable to the review of applications for CBJ Wetlands permits for controlling certain activities in waters of the United States within Juneau classified as category C and D wetlands. CBJW permits must be issued before discharges of dredged or fill material into waters of the United States can be lawfully undertaken.

49.00.000 AUTHORITIES TO ISSUE PERMITS. General Permit No. _____

49.00.000 RELATED LAWS. CBJ Title 49, Planning and Zoning.

49.00.000 GENERAL POLICIES FOR EVALUATING PERMIT APPLICATIONS. The following policies shall be applicable to the review of all applications for CBJ Wetlands (CBJW) permits applicable to all category C and D wetlands. Additional policies concerning category A and B wetlands are provided in the CBJ Wetlands Management Plan for consideration by the District Engineer.

(a) Public Interest Review. (1) The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. Evaluation of the probable impact which the proposed activity may have on the public interest requires a careful weighing of all those factors which become relevant in each particular case. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur, are therefore determined by the outcome of this general balancing process. That decision should reflect

the national concern for both protection and utilization of important resources. All factors which may be relevant to the proposal must be considered, including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general, the needs and welfare of the people. For activities involving 404 discharges, a permit will be denied if the discharge that would be authorized by such permit would not comply with the Environmental Protection Agency's 404(b)(1) guidelines.

If a proposed discharge into a wetland is not for a water dependent activity, then it will not be allowed unless there is no practicable upland alternative. An alternative is practicable if it is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes. If it is otherwise a practicable alternative, an area not presently owned by the applicant which could reasonably be obtained, utilized, expanded or managed in order to fulfill the basic purpose of the proposed activity may be considered. It is a rebuttable assumption that proposals to discharge dredge or filled material in category C and D wetlands do not have practicable alternatives less damaging to the aquatic ecosystem. Guidelines for determining that there are practicable alternatives are:

The basic project purpose can reasonably be accomplished using one or more other sites in the general region that would avoid, or result in less adverse impact;

A reduction in the size, scope, configuration or density of the project would avoid or result in less adverse impacts and accomplish the basic purpose of the project; and

Where alternatives are limited by land use regulatory restraints, a variance or zone change might be approved based on established precedence regarding similar circumstances.

For activities involving 404 discharges, a permit will be denied if the discharge that would be authorized by such permit would not comply with the CBJ's practicable alternatives test for non-water dependent activities. Subject to the preceding sentence and any other applicable guidelines and criteria, a permit will be granted for category C and D wetlands unless the CBJ determines that it would be contrary to the public interest.

It is a rebuttable assumption that proposals to "dredge" or discharge dredge or filled material in category A wetlands do have practicable alternatives less damaging to the aquatic ecosystem. Subject to the preceding sentence and any other applicable guidelines and

criteria, a permit will be granted for category A and B wetlands unless the CBJ determines that it would be contrary to the public interest.

(2) The following general criteria will be considered in the evaluation of every application:

(A) The relative extent of the public and private need for the proposed structure or work;

(B) Where there are unresolved conflicts as to resource use, the practicability of using reasonable alternative locations and methods to accomplish the objective of the proposed structure or work; and

(C) The extent and permanence of the beneficial and/or detrimental effects which the proposed structure or work is likely to have on the public and private uses to which the area is suited.

(3) The specific weight of each factor is determined by its importance and relevance to the particular proposal. Accordingly, how important a factor is and how much consideration it deserves will vary with each proposal. A specific factor may be given great weight on one proposal, while it may not be present or as important on another. However, full consideration and appropriate weight will be given to all comments, including those of federal, state and local agencies, and other experts on matters within their expertise.

(b) Effect on wetlands. (1) Most wetlands constitute a productive and valuable public resource, the unnecessary alteration or destruction of which should be discouraged as contrary to the public interest. For projects to be undertaken or partially or entirely funded by a federal, state, or local agency, additional requirements on wetlands considerations are stated in Executive Order 11990, dated 24 May 1977.

(2) Wetlands considered to perform functions important to the public interest include:

(A) Wetlands which serve significant natural biological functions, including food chain production, general habitat and nesting, spawning, rearing and resting sites for aquatic or land species;

(B) Wetlands set aside for study of the aquatic environment or as sanctuaries or refuges;

(C) Wetlands, the destruction or alteration of which would affect detrimentally natural drainage characteristics, sedimentation patterns, salinity distribution, flushing characteristics, current patterns, or other environmental characteristics;

(D) Wetlands which are significant in shielding other areas from wave action, erosion, or storm damage. Such wetlands are often associated with barrier beaches, islands, reefs and bars;

(E) Wetlands which serve as valuable storage areas for storm and flood waters;

(F) Wetlands which are ground water discharge areas that maintain minimum baseflows important to aquatic resources and those which are prime natural recharge areas;

(G) Wetlands which serve significant water purification functions; and

(H) Wetlands which are unique in nature or scarce in quantity to the region or local area.

(3) Although a particular alteration of a wetland may constitute a minor change, the cumulative effect of numerous piecemeal changes can result in a major impairment of wetland resources. Thus, the particular wetland site for which an application is made will be evaluated with the recognition that it may be part of a complete and interrelated wetland area. In addition, the CBJ may undertake, where appropriate, reviews of particular wetland areas in consultation with the CBJ, Regional Director of the U.S. Fish and Wildlife Service, the Regional Director of the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration, the Regional Administrator of the Environmental Protection Agency, the local representative of the Soil Conservation Service of the Department of Agriculture, and the head of the appropriate state agency to assess the cumulative effect of activities in such areas.

(4) No permit will be granted which involves the alteration of wetlands identified as important by paragraph (g)(2) of this section or because of provisions of paragraph (g)(3) of this section unless the CBJ concludes, on the basis of the analysis required in paragraph (a) of this section, that the benefits of the proposed alteration outweigh the damage to the wetlands resource. In evaluating whether a particular discharge activity should be permitted, the Planning Commission shall apply the section 404(b)(1) guidelines, except that it is a rebuttable assumption that proposals to discharge dredge or filled material in category C and D wetlands do not have practicable alternatives less damaging to the aquatic ecosystem.

(5) In addition to the policies expressed in this subpart, the Congressional policy expressed in the Estuary Protection Act, Pub. L. 90-454, and state regulatory laws or programs for classification and protection of wetlands, will be considered.

For all category C and D wetlands, in accordance with the Fish and Wildlife Coordination Act, the CBJ will consult with the Regional Director, U.S. Fish and Wildlife Service, the Regional Director, National Marine Fisheries Service, and the head of the agency responsible for fish and wildlife for the state in which work is to be performed, with a view to the conservation of wildlife resource by prevention of their direct and indirect loss and damage due to the activity proposed in a permit application. The CBJ will give full consideration to the views of those agencies on fish and wildlife matters in deciding on the issuance, denial, or conditioning of individual or general permits.

(c) Water quality. Applications for permits for activities which may adversely affect the quality of waters of the United States will be evaluated for compliance with applicable effluent limitations and water quality standards during the construction and subsequent operation of the proposed activity. The evaluation should include the consideration of both point and non-point sources of pollution. It should be noted, however, that the Clean Water Act assigns responsibility for control of non-point sources of pollution to the states. Certification of compliance with applicable effluent limitations and water quality standards required under provisions of Section 401 of the Clean Water Act will be considered conclusive with respect to water quality considerations unless the Regional Administrator, Environmental Protection Agency (EPA) advises of other water quality aspects to be taken into consideration.

(d) Historic, cultural, scenic, and recreational values. Applications for CBJW permits may involve areas which possess recognized historic, cultural, scenic, conservation, recreational or similar values. Full evaluation of the general public interest requires that due consideration be given to the effect which the proposed structure or activity may have on values such as those associated with wild and scenic rivers, historic properties and National Landmarks, National Rivers, National Wilderness Areas, National Seashores, National Recreation Areas, National Lakeshores, National Parks, National Monuments, estuarine and marine sanctuaries, archeological resources, including Indian religious or cultural sites, and such other areas as may be established under federal or state law for similar and related purposes. Recognition of those values is often reflected by state, regional, or local land use classifications, or by similar federal controls or policies. Action on permit applications should, insofar as possible, be consistent with, and avoid significant adverse effects on the values or purposes for which those classifications, controls, or policies were established.

(e) Consideration of property ownership. Authorization of work or structures by CBJ does not convey a property right, nor authorize any injury to property or invasion of other rights.

(1) An inherent aspect of property ownership is a right to reasonable private use. However, this right is subject to the rights and interests of the public in the navigable and other waters of the United States, including the federal navigation servitude and federal regulation for environmental protection.

(2) Because a landowner has the general right to protect property from erosion, applications to erect protective structures will usually receive favorable consideration. However, if the protective structure may cause damage to the property of others, adversely affect public health and safety, adversely impact floodplain or wetlands values, or otherwise appears contrary to the public interest, the CBJ will so advise the applicant and inform him of possible alternative methods of protecting his property. Such advice will be given in terms of general guidance only so as not to compete with private engineering firms nor require undue use of government resources.

(3) A riparian landowner's general right of access to navigable waters of the United States is subject to the similar rights of access held by nearby riparian landowners and to the general public's right of navigation on the water surface. In the case of proposals which create undue interference with access to, or use of, navigable waters, the authorization will generally be denied.

(4) A CBJW permit does not convey any property rights, either in real estate or material, or any exclusive privileges. Furthermore, a CBJW permit does not authorize any injury to property or invasion of rights or any infringement of federal, state or local laws or regulations. The applicant's signature on an application is an affirmation that the applicant possesses or will possess the requisite property interest to undertake the activity proposed in the application. The CBJ will not enter into disputes but will remind the applicant of the above. The dispute over property ownership will not be a factor in the CBJ public interest decision.

(f) Activities affecting coastal zones. Applications for CBJW permits for activities affecting the coastal zones of those states having a coastal zone management program approved by the Secretary of Commerce will be evaluated with respect to compliance with that program. No permit will be issued to a non-federal applicant until certification has been provided that the proposed activity complies with the coastal zone management program and the appropriate state agency has concurred with the certification or has waived its right to do so. However, a permit may be issued to a non-federal applicant if the Secretary of Commerce, on his own initiative or upon appeal by the applicant, finds that the proposed activity is consistent with the objectives of the Coastal Zone Management Act of 1972 or is otherwise necessary in the interest of national security. Federal agency and Indian tribe applicants for CBJW permits are responsible for complying with the Coastal Zone Management Act's directives for assuring that their activities directly affecting the coastal zone are consistent, to the maximum extent practicable, with approved state coastal zone management programs.

(g) Other federal, state, or local requirements. (1) Processing of an application for a CBJW permit normally will proceed concurrently with the processing of other required federal, state and/or local authorizations or certifications. Final action on the CBJW permit will normally not be delayed pending action by another federal, state, or local agency. However, where the required federal, state and/or local authorization and/or certification has been denied for activities which also require a CBJW permit before final action has been taken on the CBJW permit application, the CBJ will, after considering the likelihood of subsequent approval of the other authorization and/or certification and time and effort remaining to complete processing the CBJW permit application, either immediately deny the CBJW permit without prejudice or continue processing the application to a conclusion. If the CBJ continues processing the application, it will conclude by either denying the permit as contrary to the public interest, or denying it without prejudice indicating that except for the other federal, state, or local denial the CBJW permit could, under appropriate conditions, be issued. Denial without prejudice means that there is not prejudice to the right of the applicant to reinstate processing of the CBJW permit application if subsequent approval is received from the appropriate federal, state and/or local agency on a previously denied authorization and/or certification. Even if official certification and/or authorization is not required by state or federal law, but a state, regional, or local agency having jurisdiction or interest over the particular activity comments on the application, due consideration shall be given to those official views as a reflection of local factors of the public interest.

(2) The primary responsibility for determining zoning and land use matters rests with state, and local governments. If an approved permit is being considered for veto by the district engineer, the district engineer will normally accept decisions by such governments on those matters unless there are significant issues of overriding national importance. Such issues would include but are not necessarily limited to, national security, navigation, national economic development, water quality, preservation of special aquatic areas, including wetlands, with significant interstate importance, and national energy needs. Whether a factor has overriding importance will depend on the degree of impact in an individual case.

(3) In the absence of overriding national factors of the public interest that may be revealed during the evaluation of the permit application, a permit will generally be issued on category C and D wetlands following receipt of a favorable CBJ determination provided the concerns, policies, goals, and requirements as expressed in applicable statutes have been considered and followed (e.g., the National Environmental Policy Act; the Fish and Wildlife Coordination Act; the Historical and Archeological Preservation Act; the National Historic Preservation Act; the Endangered Species Act; the Coastal Zone Management Act; the Marine Protection, Research and Sanctuaries Act of 1972 as

amended; the Clean Water Act, the Archeological Resources Act, and the American Indian Religious Freedom Act). Similarly, a permit will generally be issued for CBJ, state and federally authorized activities; a CBJ, state or another federal agency's authorization to proceed is entitled to substantial consideration in the CBJ's public interest review.

(4) Where general permits to avoid duplication are not practical, permitting authorities shall develop joint procedures with those local, state, and federal agencies having ongoing permit programs for activities also regulated by the Department of the Army. In such cases, applications for DA permits may be processed jointly with the state or federal applications to an independent conclusion and decision by the district engineer and the appropriate federal or state agency or the CBJ.

(h) Safety of impoundment structures. To insure that all impoundment structures are designed for safety, non-federal applicants may be required to demonstrate that the structures comply with established state dam safety criteria or have been designed by qualified persons and, in appropriate cases, that the design has been independently reviewed, and modified as the review would indicate, by similarly qualified persons.

(i) Floodplain management. (1) Floodplains possess significant natural values and carry out numerous functions important to the public interest. These include:

(A) Water resource values (natural moderation of floods, water quality maintenance, and groundwater recharge);

(B) Living resource values (fish, wildlife, and plant resources);

(C) Cultural resource values (open space, natural beauty, scientific study, outdoor education, and recreation); and

(D) Cultivated resource values (agriculture, aquaculture, and forestry).

(2) Although a particular alteration to a floodplain may constitute a minor change, the cumulative impact of such changes may result in a significant degradation of floodplain values and functions and in increased potential for harm to upstream and downstream activities. In accordance with the requirements of Executive Order 11988, the CBJ, as part of their public interest review, should avoid to the extent practicable, long and short term significant adverse impacts associated with the occupancy and modification of floodplains, as well as the direct and indirect support of floodplain development whenever there is a practicable alternative. For those activities, which in the public interest must occur in or impact upon floodplains, the CBJ shall insure,

to the maximum extent practicable, that the impacts of potential flooding on human health, safety, and welfare are minimized, the risks of flood losses are minimized, and whenever practicable the natural and beneficial values served by floodplains are restored and preserved.

(3) In accordance with Executive Order 11988, the CBJ should avoid authorizing floodplain developments whenever practicable alternatives exist outside the floodplain. If there are no such practicable alternatives, the CBJ shall consider, as a means of mitigation, alternatives within the floodplain which will lessen any significant adverse impact to the floodplain.

(j) Water supply and conservation. Water is an essential resource, basic to human survival, economic growth, and the natural environment. Water conservation requires the efficient use of water resources in all actions which involve the significant use of water or that significantly affect the availability of water for alternative uses including opportunities to reduce demand and improve efficiency in order to minimize new supply requirements. Actions affecting water quantities are subject to Congressional policy as stated in the Clean Water Act which provides that the authority of states to allocate water quantities shall not be superseded, abrogated, or otherwise impaired.

(k) Energy conservation and development. Energy conservation and development are major national objectives. The CBJ will give high priority to the processing of permit actions involving energy projects.

(l) Environmental benefits. Some activities that require CBJW permits result in beneficial effects to the quality of the environment. The CBJ will weigh these benefits as well as environmental detriments along with other factors of the public interest.

(m) Economics. When private enterprise makes application for a permit, it will generally be assumed that appropriate economic evaluations have been completed, the proposal is economically viable, and is needed in the market place. However the CBJ, in appropriate cases, may make an independent review of the need for the project from the perspective of the overall public interest. The economic benefits of many projects are important to the local community and contribute to needed improvements in the local economic base, affecting such factors as employment, tax revenues, community cohesion, community services, and property values. Many projects also contribute to the National Economic Development (NED); i.e., the increase in the net value of the national output of goods and services.

(n) Mitigation. (1) Mitigation is an important aspect of the review and balancing process on many CBJ permit applications. Consideration of mitigation will occur throughout the permit application review process and includes avoiding, minimizing, rectifying, reducing, or compensating

for resource losses. Losses will be avoided to the extent practicable. Compensation may occur on-site or at an off-site location. Mitigation requirements generally fall into three categories.

(A) Project modifications to minimize adverse project impacts should be discussed with the applicant at pre-application meetings and during application processing. As a result of these discussions and as the CBJ's evaluation proceeds, the CBJ may require minor project modifications. Minor project modifications are those that are considered feasible, cost, constructability, etc., to the applicant and that, if adopted, will result in a project that generally meets the applicant's purpose and need. Such modifications can include reductions in scope and size; changes inconstruction methods, materials or timing; and operation and maintenance practices or other similar modifications that reflect a sensitivity to environmental quality within the context of the work proposed. For example, erosion control features could be required on a fill project to reduce sedimentation impacts or a pier could be reoriented to minimize navigational problems even though those projects may satisfy all legal requirements and the public interest review test without such modifications.

(B) For category C wetlands, mitigation shall be used to retain the overall functional value within the metropolitan area of Juneau such that there is no net loss of total functional value (See "Mitigation Bank".) Individual functional value is measured by the CBJ Wetlands Evaluation Technique Rapid Assessment Methodology ("Juneau Functions and Values, Appendix D"). Total functional value is measured by the CBJ Wetlands Weighting Methodology.

(C) Further mitigation measures may be required to satisfy legal requirements. For Section 404 applications, mitigation shall be required to ensure that the project complies with the 404(b)(1) guidelines.

(D) Mitigation measures in addition to those of this section may be required as a result of the public interest review process. Mitigation should be developed and incorporated within the public interest review process to the extent that the mitigation is found by the CBJ to be reasonable and justified. Only those measures required to insure that the project is not contrary to the public interest may be required under this subparagraph.

(2) All compensatory mitigation will be for significant resource losses which are specifically identifiable, reasonably likely to occur, and of importance to the human or aquatic environment. Also, all mitigation will be directly related to the impact of the proposal, appropriate to the scope and degree of those impacts, and reasonably enforceable. The CBJ will require all forms of mitigation, including compensatory mitigation, only as provided in paragraphs (S)(1)(A) through (C) of this section. Additional mitigation may be added at the applicants' request.

Article __. Permits for Discharges of Dredged or fill material into waters of the United States

49.00.000 **GENERAL.** (a) This regulation prescribes, in addition to the general policies, those special policies, practices, and procedures to be followed by the CBJ in connection with the review of applications for CBJW permits to authorize the discharge of dredged or fill material into waters of the United States pursuant to section 404 of the Clean Water Act. Certain discharges of dredged or fill material into waters of the United States are also regulated under other authorities of the Department of the Army. These include dams and dikes in navigable waters of the United States pursuant to Section 9 of the Rivers and Harbors Act of 1899 and certain structures or work in or affecting navigable waters of the United States pursuant to Section 10 of the Rivers and Harbors Act of 1899. A DA permit will also be required under these additional authorities if they are applicable to activities involving discharges of dredged or fill material into water of the United States. A CBJW permit will also be required under these additional authorities if they are applicable to activities involving discharges of dredged or fill material into water of the United States within category C and D wetlands. Applicants for DA or CBJW permits under this part should refer to the other cited authorities and implementing regulations for these additional permit requirements to determine whether they also are applicable to their proposed activities.

(b) Definitions. For the purpose of this part, the following terms are defined:

(1) The term "waters of the United States" and all other terms relating to the geographic scope of jurisdiction are defined at (33 CFR Part 328.)

(2) The term "lake" means a standing body of open water that occurs in a natural depression fed by one or more streams from which a stream may flow, that occurs due to the widening or natural blockage or cutoff of a river or stream, or that occurs in an isolated natural depression that is not a part of a surface river or stream. The term also includes a standing body of open water created by artificially blocking or restricting the flow of a river, stream, or tidal area. As used in this regulation, the term does not include artificial lakes or ponds created by excavating and/or diking dry land to collect and retain water for such purposes as stock watering, irrigation, settling basins, cooling, or rice growing.

(3) The term "dredged material" means material that is excavated or dredged from waters of the United States.

(4) The term "discharge of dredged material" means any addition of dredged material into the water of the United States. The term includes, without limitation, the addition of dredged material to a specified discharge site located in waters of the United States and the runoff or overflow from a contained land or water disposal area. Discharges of pollutants into waters of the United States resulting from the onshore subsequent processing of dredged material that is extracted for any commercial use are not included within this term and are subject to Section 402 of the Clean Water Act even through the extraction and deposit of such material may require a permit from the Corps of Engineers. The term does not include plowing, cultivating, seeding and harvesting for the production of food fiber and forest products. See section (discharges not requiring permits) for the definition of these terms. The term does not include minimum, incidental soil movement occurring during normal dredging operations.

(5) The term "fill material" means any material used for the primary purpose of replacing an aquatic area with dry land or of changing the bottom elevation of any waterbody. The term does not include any pollutant discharged into the water primarily to dispose of waste, as that activity is regulated under Section 402 of the Clean Water Act.

(6) The term "Discharge of fill material" means the addition of fill material into waters of the United States. The term generally includes, without limitation, the following activities: placement of fill that is necessary to the construction of any structure in a water of the United States; the building of any structure or impoundment requiring rock, sand, dirt, or other material for its construction; site-development fills for recreational, industrial, commercial, residential, and other uses; causeways or road fills; dams and dikes; artificial islands; property protection and/or reclamation devices such as riprap, groins, seawalls, breakwaters, and revetments; beach nourishment; levees; fill for structures such as sewage treatment facilities.; intake and outfall pipes associated with power plants and subsequent utility lines; and artificial reefs. The term does not include plowing, cultivating, seeding and harvesting for the production of food, fiber, and forest products.

(7) The term "individual permit" means a Department of the Army authorization that is issued following a case-by-case evaluation of a specific project involving the proposed discharge(s) in accordance with the procedures of this part and a determination that the proposed discharge is in the public interest pursuant to section (general regulatory policies).

(8) The term "CBJ Wetland Permit: means a City and Borough of Juneau authorization that is issued following a case-by-case evaluation of a specific project involving the proposed discharge(s) in accordance with the procedures of this part and a determination that the proposed discharge is in the public interest pursuant to (general regulatory policies).

49.00.000 DISCHARGES REQUIRING PERMITS. (a) General. Except as provided in section (discharges not requiring permits) of this section, CBJW permits will be required for the discharge of dredged or fill material into waters of the United States within category C and D wetlands. Certain discharges specified in 33 CFR Part 330 are permitted by that regulation ("nationwide permits"). Other discharges may be authorized by district or division engineers on a regional basis ("regional permits"). If a discharge of dredged or fill material is not exempted by section (discharges not requiring permits), an individual or regional section 404 permit will be required for the discharge of dredged or fill material into water of the United States.

(b) Activities of the CBJ. Discharges of dredged or fill material into waters of the United States done by or on behalf of the CBJ are subject to the authorization procedures of these regulations. Agreement for construction or engineering services performed for other agencies by the CBJ does not constitute authorization under the regulations. The CBJ will therefore advise its agencies and instrumentalities accordingly and cooperate to the fullest extent in expediting the processing of their applications.

49.00.000 DISCHARGES NOT REQUIRING PERMITS. (a) General. Except as specified in paragraphs (b) and (c) of this section, any discharge of dredged or fill material that may result from any of the following activities is not prohibited by or otherwise subject to regulation under section 404:

(1)(A) Normal farming, silviculture and ranching activities such as plowing, seeding, cultivating, minor drainage, and harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices as defined in paragraph (a)(1)(c) of this section.

(B) To fall under this exemption, the activities specified in paragraph (a)(1)(A) of this section must be part of an established (i.e., ongoing) farming, silviculture, or ranching operation and must be in accordance with definitions in Section (a)(1)(c). Activities on areas lying fallow as part of a conventional rotational cycle are part of an established operation. Activities which bring an area into farming, silviculture, or ranching use are not part of an established operation. An operation ceases to be established when the area on which it was conducted has been converted to another use or has lain idle so long that modifications to the hydrological regime are necessary to resume operations. If an activity takes place outside the waters of the United States, or if it does not involve a discharge, it does not need a section 404 permit, whether or not it is part of an established farming, silviculture, or ranching operation.

(C)(i) Cultivating means physical methods of soil treatment employed within established farming, ranching and silviculture lands on farm, ranch, or forest crops to aid and improve their growth, quality or yield.

(ii) Harvesting means physical measures employed directly upon farm, forest, or ranch crops within established agricultural and silvicultural lands to bring about their removal from farm, forest, or ranch land, but does not include the construction of farm, forest, or ranch roads.

(D)(i) Minor Drainage means: The discharge of dredged or fill material incidental to connecting upland drainage facilities to waters of the United States, adequate to effect the removal of excess soil moisture from upland crop lands;

The discharge of dredge or fill material for the purpose of installing ditching or other such water control facilities incidental to planting, cultivating, protection, or harvest of rice, cranberries or other wetland crop species, where these activities and the discharge occur in waters of the United States which are in established use for such agricultural and silvicultural wetland crop production;

The discharge of dredged or fill material for the purpose of manipulating the water levels of, or regulating the flow or distribution or water within existing impoundments which have been constructed in accordance with applicable requirements of CWA, and which are in established use for the production of rice, cranberries, or other wetland crop species.

The discharges of dredged or fill material incidental to the emergency removal of sandbars, gravel bars, or other similar blockages which are formed during flood flows or other events, where such blockages close or constrict previously existing drainageways and, if not promptly removed, would result in damage to or loss of existing crops or would impair or prevent the plowing, seeding, harvesting, or cultivating of crops on land in established use for crop production. Such removal does not include enlarging or extending the dimensions of, or changing the bottom elevations of the affected drainageway as it existed prior to the formation of the blockage. Removal must be accomplished within one year of discovery of such blockages in order to be eligible for exemption.

(D)(ii) Minor drainage in waters of the United States is limited to drainage within areas that are part of an established farming or silviculture operation. It does not include drainage associated with the immediate or gradual conversion of a wetland to a non-wetland (e.g., wetland species to upland species not typically adapted to life in saturated soil conditions), or conversion from

the wetland use to another (for example, silviculture to farming). In addition, minor drainage does not include the construction of any canal, ditch, dike or other waterway or structure which drains or otherwise significantly modifies a stream, lake, swamp, bog or any other wetland or aquatic area constituting waters of the United States. Any discharge of dredged or fill material into the waters of the United States incidental to the construction of any such structure or waterway requires a permit.

(E) Plowing means all forms of primary tillage, including moldboard, chisel, or wide-blade plowing, discing, harrowing and similar physical means utilized on farm, forest or ranch land for the breaking up, cutting, turning over, or stirring of soil to prepare it for the planting of crops. The term does not include the redistribution of soil, rock, sand, or other surficial materials in a manner which changes any area of the waters of the United States to dry land. For example, the redistribution of surface materials by blading, grading, or other means to fill in wetland areas is not plowing. Rock crushing activities which result in the loss of natural drainage characteristics, the reduction of water storage and recharge capabilities, or the overburden of natural water filtration capacities do not constitute plowing. Plowing as described above will never involve a discharge of dredged or fill materials.

(F) Seeding means the sowing of seed and placement of seedlings to produce farm, ranch, or forest crops and includes the placement of soil beds for seeds or seedlings on established farm and forest lands.

(2) Maintenance, including emergency reconstruction of recently damaged parts, or currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, bridge abutments or approaches, and transportation structures. Maintenance does not include any modification that changes the character, scope, or size of the original fill design. Emergency reconstruction must occur within a reasonable period of time after damage occurs in order to qualify for this exemption.

(3) Construction or maintenance of farm or stock ponds or irrigation ditches, or the maintenance of drainage ditches, discharges associated with siphons, pumps, headgates, wingwalls, weirs, diversion structures, and such other facilities as are appurtenant and functionally related to irrigation ditches are included in this exemption.

(4) Construction of temporary sedimentation basins on a construction site which does not include placement of fill material into water of the United States. The term "construction site" refers to any site involving the erection of buildings, roads, and other discrete structures and the installation of support facilities necessary for construction and utilization of such structures. The term also includes

any other land areas which involve land-disturbing excavation activities, including quarrying or other mining activities, where an increase in the runoff of sediment is controlled through the use of temporary sedimentation basins.

(5) Any activity with respect to which a state has an approved program under section 208(b)(4) of the Clean Water Act which meets the requirements of sections 208(b)(4)(B) and (C).

(6) Construction or maintenance of farm roads, forest roads, or temporary roads for moving mining equipment, where such roads are constructed and maintained in accordance with best management practices (BMPs) to assure that flow and circulation patterns and chemical and biological characteristics of waters of the United States are not impaired, that the reach of the waters of the United States is not reduced, and that any adverse effect on the aquatic environment will be otherwise minimized. These BMPs which must be applied to satisfy this provision shall include those detailed BMPs described in the state's approved program description pursuant to the requirements of 40 CFR Part 233.22(i), and shall also include the following baseline provisions.

(A) Permanent roads (for farming or forestry activities), temporary access roads (for mining, forestry, or farm purposes) and skid trails (for logging) in waters of the United States shall be held to the minimum feasible number, width, and total length consistent with the purpose of specific farming, silvicultural or mining operations, and local topographic and climatic conditions.

(B) All roads, temporary or permanent, shall be located sufficiently far from streams or other water bodies (except for portions of such roads which must cross water bodies) to minimize discharges of dredged or fill material into water of the United States

(C) The road fill shall be bridged, culverted, or otherwise designed to prevent the restriction of expected flood flows.

(D) The fill shall be properly stabilized and maintained during and following construction to prevent erosion.

(E) Discharges of dredged or fill materials into waters of the United States to construct a road fill shall be made in a manner that minimizes the encroachment of trucks, tractors, bulldozers, or other heavy equipment within water of the United States (including adjacent wetlands) that lie outside the lateral boundaries of the fill itself.

(F) In designing, constructing, and maintaining roads, vegetative disturbance in the waters of the United States shall be kept to a minimum.

(G) The design, construction and maintenance of the road crossing shall not disrupt the migration or other movement of those species of aquatic life inhabiting the water body.

(H) Borrow material shall be taken from upland sources whenever feasible.

(I) The discharge shall not take, or jeopardize the continued existence of a threatened or endangered species as defined under the Endangered Species Act, or adversely modify or destroy the critical habitat of such species.

(J) Discharges into breeding and nesting areas for migratory waterfowl, spawning areas, and wetlands shall be avoided if practical alternatives exist.

(K) The discharge shall not be located in the proximity of a public water supply intake.

(L) The discharge shall not occur in areas of concentrated shellfish production.

(M) The discharge shall not occur in a component of the National Wild and Scenic River System.

(N) The discharge of material shall consist of suitable material free from toxic pollutants in toxic amounts, and

(O) All temporary fills shall be removed in their entirety and the area restored to its original elevation.

(b) If any discharge of dredged or fill material resulting from the activities listed in paragraphs (a)(1) through (6) of this section contains any toxic pollutant listed under section 307 of the Clean Water Act such discharge shall be subject to any applicable toxic effluent standard or prohibition, and shall require a Section 404 permit.

(c) Any discharge of dredged or fill material into waters of the United States incidental to any of the activities identified in paragraphs (a)(1) through (6) of this section must have a permit if it is part of an activity whose purpose is to convert an area of the waters of the United States into a use to which it was not previously subject, where the flow or circulation of waters of the United States may be impaired or the reach of such waters reduced. Where the proposed discharge will result in significant discernible alterations to flow or circulation, the presumption is that flow or circulation may be impaired by such alteration. For example, a permit will be required for the conversion of a cypress swamp to some other use or the conversion of a wetland from silvicultural to agricultural use when there is a discharge of dredged or fill material into waters of the United States in conjunction with

construction of dikes, drainage ditches or other works or structures used to effect such conversion. A conversion of a Section 404 wetland to a non-wetland is a change in use of an area of waters of the United States. A discharge which elevates the bottom of waters of the United States without converting it to dry land does not thereby reduce the reach of, but may alter the flow or circulation of, waters of the United States.

(d) Federal projects which qualify under the criteria contained in section 404(r) of the Clean Water Act are exempt from section 404 permit requirements, but may be subject to other state of federal requirements.

49.00.000 **TEMPORARY EMERGENCY PERMITS.** (a) The CBJ may issue a temporary emergency CBJW permit for a regulated activity if:

(1) A threat to life or a severe loss of property will occur if an emergency permit is not granted;

(2) The anticipated threat of loss may occur before a permit can be issued.

(A) The emergency permit shall be limited in duration to the time required to complete the authorized emergency activity, not to exceed 90 days. If more than the 90 days from issuance of the emergency permit is required to complete the restoration, the emergency permit may be extended to complete this restoration.

(B) The emergency permit may be issued orally or in writing by the Director of Community Development, except that if it is issued orally, a written emergency permit shall be issued within five days thereof.

(C) The emergency permit may be terminated at any time without process upon a determination by the Wetlands Review Board that this action is appropriate to protect human health or the environment.

49.00.000 **SPECIAL POLICIES AND PROCEDURES.** (a) The District Engineer has delegated to the CBJ the authority to issue or deny Section 404 permits fpr category C and D wetlands. The CBJ will review applications for permits for the discharge of dredged or fill material into waters of the United States in accordance with guidelines promulgated by the Administrator, EPA, under authority of section 404(b)(1) of the Clean Water Act. Subject to consideration of any economic impact on navigation and anchorage pursuant to section 404(b)(2), a permit will be denied if the discharge that would be authorized by such a permit would not comply with the 404(b)(1) guidelines. If the CBJ determines that the proposed discharge would comply with the 404(b)(1) guidelines, he will grant the permit unless issuance would be contrary to the public interest.

(b) The CBJ will not issue a permit where the regional administrator of EPA has notified the CBJ and applicant in writing pursuant to 40 CFR 231.2(a)(1) that he intends to issue a public notice of a proposed determination to prohibit or withdraw the specification, or to deny, restrict or withdraw the use for specification, of any defined area as a disposal site in accordance with Section 404(c) of the Clean Water Act. However the CBJ will continue to complete the administrative processing of the application while the Section 404(c) procedures are underway including completion of final coordination with EPA.

Article ___. Processing of Permits

49.00.000 **APPLICATIONS.** (a) The processing procedures of this part apply to any CBJW permit. This part is arranged in the basic timing sequence used by the CBJ in processing applications for CBJW permits.

(b) Pre-application consultation for major applications. The staff element having responsibility for administering, processing, and enforcing municipal laws and regulations relating to the CBJW regulatory program shall be available to advise potential applicants of studies or other information foreseeably required for later municipal action. The CBJ will establish local procedures and policies including appropriate publicity programs which will allow potential applicants to contact the regulatory staff element to request pre-application consultation. Upon receipt of such request, the CBJ will assure the conduct of an orderly process which may involve other staff elements and affected agencies and the public. This early process should be brief but thorough so that the potential applicant may begin to assess the viability of some of the more obvious potential alternatives in the application. The CBJ will endeavor, at this stage, to provide the potential applicant with all helpful information necessary in pursuing the application, including factors which the CBJ must consider in its permit decision making process. Whenever the CBJ becomes aware of planning for work which may require a CBJW permit and which may involve the preparation of an environmental document, he shall contact the principals involved to advise them of the requirement for the permit(s) and the attendant public interest review including the development of an environmental document. Whenever a potential applicant indicates the intent to submit an application for work which may require the preparation of an environmental document, a single point of contact shall be designated within the CBJ's regulatory staff to effectively coordinate the regulatory process, including the National Environmental Policy Act (NEPA) procedures and all attendant reviews, meetings, hearings, and other actions, including the scoping process if appropriate, leading to a decision by the CBJ. Effort devoted to this process should be commensurate with the likelihood of a permit application actually being submitted to the CBJ. The regulatory staff coordinator shall maintain an open relationship with each potential applicant or his consultants so as to assure that the potential applicant is fully aware of the substance of the data required by the CBJ for use in preparing an environmental

assessment or an environmental impact statement (EIS) in accordance with 33 CFR Part 230, Appendix B

(c) Application form. Applicants for all individual CBJW permits must use the standard application form. Local variations of the application form for purposes of facilitating coordination with federal, state and local agencies may be used. The appropriate form may be obtained from the CBJ.

(d) Content of application. (1) The application must include a complete description of the proposed activity including necessary drawings, sketches, or plans sufficient for public notice; the locations, purpose and need for the proposed activity; scheduling of the activity; the names and addresses of adjoining property owners; the location and dimensions of adjacent structures; and a list of authorizations required by other federal, interstate, state, or local agencies for the work, including all approvals received or denials already made. See section (public notice section) for information required to be in public notices. The CBJ may request specific information on a case-by-case basis.

(2) All activities which the applicant plans to undertake which are reasonably related to the same project and for which a CBJW permit would be required should be included in the same permit application. The CBJ should reject, as incomplete, any permit application which fails to comply with this requirement. For example, a permit application for a marina will include dredging required for access as well as any fill associated with construction of the marina.

(3) If the activity would involve dredging in navigable waters of the United States, the application must include a description of the type, composition and quantity of the material to be dredged, the method of dredging, and the site and plans for disposal of the dredged material.

(4) If the activity would include the discharge of dredged or fill material into the waters of the United States or the transportation of dredged material for the purpose of disposing of it in ocean waters, the application must include the source of the material; the purpose of the discharge, a description of the type, composition and quantity of the material; and the location of the disposal site. Certification under section 401 of the Clean Water Act is required for such discharges into waters of the United States.

(5) If the activity would include the construction of a filled area or pile or float-supported platform the project description must include the use of, and specific structures to be erected on, the fill or platform.

(6) If the activity would involve the construction of an impoundment structure, the applicant may be required to demonstrate that the structure complies with established state dam safety criteria or that the structure has been designed by qualified persons and, in appropriate cases, independently reviewed (and modified as the review would indicate) by similarly qualified persons. No specific design criteria are to be prescribed nor is an independent detailed engineering review to be made by the CBJ.

(e) Signature on application. The application must be signed by the person who desires to undertake the proposed activity (i.e., the applicant) or by a duly authorized agent. When the applicant is represented by an agent, that information will be included in the space provided on the application or by a separate written statement. The signature of the applicant or the agent will be an affirmation that the applicant possesses or will possess the requisite property interest to undertake the activity proposed in the application, except where the lands are under the control of the CBJ, in which case the CBJ will coordinate the transfer of the real estate and the permit action. An application may include the activity of more than one owner provided the character of the activity of each owner is similar and in the same general area and each owner submits a statement designating the same agent.

fr) Complete application. An application will be determined to be complete when sufficient information is received to issue a public notice. The issuance of a public notice will not be delayed to obtain information necessary to evaluate an application.

(g) Additional information. In addition to the information indicated in paragraph (3) of this section, the applicant will be required to furnish only such additional information as the CBJ deems essential to make a public interest determination including where applicable a determination of compliance with the section 404(b)(1) guidelines or ocean dumping criteria. Such additional information may include environmental data and information on alternate methods and sites as may be necessary for the preparation of the required environmental documentation.

(h) Fees. Fees are required for permits under 49.85. A fee of $100 will be charged when the planned or ultimate purpose of the project is commercial or industrial in nature and is in support of operations that charge for the production, distribution or sale of goods or services. A $25 fee will be charged for permit applications when the proposed work is non-commerical in nature and would provide personal benefits that have no connection with a commercial enterprise. The final decision as to the basis for a fee (commercial vs. non-commercial) shall be soley the responsibility of the CBJ. No fee will be charged if the applicant withdraws the application at any time prior to issuance of the

permit or if the permit is denied. Collection of the fee will be deferred until the proposed activity has been determined to be not contrary to the public interest.

Multiple fees are not to be charged if more than one law is applicable. Any modification significant enough to require publication of a public notice will also require a fee. No fee will be assessed when a permit is transferred from one property owner to another. No fees will be charged for time extensions, general permits or letters of permission. Agencies or instrumentalities of federal, state, or local governments will not be required to pay any fee in connection with permits.

49.00.000 **PROCESSING OF APPLICATIONS** (a) Standard procedures. (1) When an application for a permit is received the CBJ shall immediately assign it a number for identification, acknowledge receipt thereof, and advise the applicant of the number assigned to it. He shall review the application for completeness, and if the application is incomplete, require from the applicant within 15 days of receipt of the application any additional information necessary for further processing.

(2) Within 15 days of receipt of an application the CBJ will either determine that the application is complete and issue a public notice as described in Section (processing of permits) of this part, unless specifically exempted by other provisions of this regulation or that it is incomplete and notify the applicant of the information necessary for a complete application. The CBJ will issue a supplemental, revised, or corrected public notice if in his view there is a change in the application data that would affect the public's review of the proposal.

(3) The CBJ will consider all comments received in response to the public notice in its subsequent actions on the permit application. Receipt of the comments will be acknowledged, if appropriate, and they will be made part of the administrative record of the application. Comments received as form letters or petitions may be acknowledged as a group to the person or organization responsible for the form letter or petition. If comments relate to matters within the special expertise of another agency, the CBJ may seek the advice of that agency. If the CBJ determines, based on comments received, that it must have the views of the applicant on a particular issue to make a public interest determination, the applicant will be given the opportunity to furnish his views on such issue to the CBJ. At the earliest practicable time, other substantive comments will be furnished to the applicant for his information and any views he may wish to offer. A summary of the comments, the actual letters or portions thereof, or representative comment letters may be furnished to the applicant. The applicant may voluntarily elect to contact objectors in an attempt to resolve objections but will not be required to do so. The CBJ will insure that

all parties are informed that the CBJ alone is responsible for reaching a decision on the merits of any application. The CBJ may also offer CBJ regulatory staff to be present at meetings between applicants and objectors, where appropriate, to provide information on the process, to mediate differences, or to gather information to aid in the decision process. The CBJ should not delay processing of the application unless the applicant requests a reasonable delay, normally not to exceed 30 days, to provide additional information or comments.

(4) The CBJ will follow Appendix B of 33 CFR Part 230 for environmental procedures and documentation required by the National Environmental Policy Act of 1969. A decision on a permit application will require either an environmental assessment or an environmental impact statement unless it is included within a categorical exclusion.

(5) The CBJ will also evaluate the application to determine the need for a public hearing pursuant to (section on public hearings).

(6) After all above actions have been completed, the CBJ will determine, in accordance with the record and applicable regulations, whether or not the permit should be issued. The CBJ shall prepare a statement of findings (SOF) or, where an EIS has been prepared, a record of decision (ROD), on all permit decisions. The SOF or ROD shall include the CBJ's views on the probable effect of the proposed work on the public interest including conformity with the guidelines published for the discharge of dredged or fill material into waters of the United States or with the criteria for dumping of dredged material in ocean waters, if applicable, and the conclusions of the CBJ. The SOF or ROD shall be dated, signed, and included in the record prior to final action on the application. Where the CBJ has delegated authority to sign permits for and in his behalf, he may similarly delegate the signing of the SOF or ROD. If the CBJ makes a decision on a permit application which is contrary to state or federal decisions, the CBJ will include in the decision document the significant local issues and explain how they are overriding in importance. If a permit is warranted, the CBJ will determine the special conditions, if any, and duration which should be incorporated into the permit. In accordance with the authorities specified in Section (authority to issue or deny permits) of this part, the CBJ will take final action. (or forward the application with all pertinent comments, records, and studies, including the final EIS or environmental assessment, through channels to make the final decision. The CBJ will generally combine the SOF, environmental assessment, and finding of no significant impact (FONSI), 404(b)(1) guideline analysis, and/or the criteria for dumping of dredged material in ocean waters into a single document.

(7) If the final decision is to deny the permit, the applicant will be advised in writing of the reason(s) for denial. If the final decision is to issue the permit and a standard individual permit form will be used, the issuing official will forward the permit to the applicant for

signature accepting the conditions of the permit. The permit is not valid until signed by the issuing official. Letters of permission require only the signature of the issuing official. Final action on the permit application is the signature on the letter notifying the applicant of the denial of the permit or signature of the issuing official on the authorizing document.

(8) The CBJ will publish monthly a list of permits issued or denied during the previous month. The list will identify each action by public notice number, name of applicant, and brief description of activity involved. It will also note that relevant environmental documents and the SOFs or RODs are available upon written request and, where applicable, upon the payment of administrative fees. This list will be distributed to all persons who may have an interest in any of the public notices listed.

(9) Copies of permits will be furnished to other agencies in appropriate cases as follows:

(A) If the activity involves the erection of an aerial transmission line, submerged cable, or submerged pipeline across a navigable water of the United States, to the Charting and Geodetic Services, N/CG222, National Ocean Service NOAA, Rockville, Maryland 20852.

(B) If the activity involves the construction of structures to enhance fish propagation (e.g., fishing reefs) along the coasts of the United States, to the Defense Mapping Agency, Hydrographic Center and National Ocean Service as in paragraph (a)(9)(i) of this section and to the Director, Office of Marine Recreational Fisheries, National Marine Fishries Service, Washington, DC 20235.

(C) If the activity is listed in paragraphs (a)(9)(A) or (B) of this section, or involves the transportation of dredged material for the purpose of dumping it in ocean waters, to the appropriate District Commander, U.S. Coast Guard.

(b) Procedures for particular types of permit situations. (1) Section 401 Water Quality Certification. If the CBJ determines that water quality certification for the proposed activity is necessary under the provisions of section 401 of the Clean Water Act, he shall so notify the applicant and obtain from him or the certifying agency a copy of such certification.

The public notice for such activity, which will contain a statement on certification requirements, will serve as the notification to the Administrator of the Environmental Protection Agency pursuant to section 401(a)(2) of the Clean Water Act.

No permit will be granted until required certification has been obtained or has been waived. A waiver may be explicit, or will be deemed to occur if the certifying agency fails or refuses to act on a request for certification within 60 days after receipt of such a request unless the CBJ determines a shorter or longer period is reasonable for the state to act. In determining whether or not a waiver period has commenced or waiver has occurred, the CBJ will verify that the certifying agency has received a valid request for certification. If, however, special circumstances identified by the CBJ requires that action on an application be taken within a more limited period of time, the CBJ shall determine a reasonable lesser period of time, advise the certifying agency of the need for action by a particular date, and that, if certification is not received by that date, it will be considered that the requirement for certification has been waived. Similarly, if it appears that circumstances may reasonably require a period of time longer than 60 days, the CBJ, based on information provided by the certifying agency, will determine a longer reasonable period of time, not to exceed one year, at which time a waiver will be deemed to occur.

(2) Coastal Zone Management Consistency. If the proposed activity is to be undertaken in a state operating under a coastal zone management program approved by the Secretary of Commerce pursuant to the Coastal Zone Management (CZM) Act, the CBJ shall proceed as follows:

(A) If the applicant is a federal agency, and the application involves a federal activity in or affecting the coastal zone, the CBJ shall forward a copy of the public notice to the agency of the state responsible for reviewing the consistency of federal activities. The federal agency applicant shall be responsible for complying with the CZM Act's directive for ensuring that federal agency activities are undertaken in a manner which is consistent, to the maximum extent practicable, with approved CZM programs. If the state coastal zone agency objects to the proposed federal activity on the basis of its inconsistency with the state's approved CZM Program, the CBJ shall not make a final decision on the application until the disagreeing parties have had an opportunity to utilize the procedures specified by the CZM Act for resolving such disagreements.

(B) If the applicant is not a federal agency and the application involves an activity affecting the coastal zone, the CBJ shall obtain from the applicant a certification that his proposed activity complies with and will be conducted in a manner that is consistent with the approved state CZM program. Upon receipt of the certification, the CBJ will forward a copy of the public notice (which will include the applicant's certification statement) to the state coastal zone agency and request its concurrence or objection. If the state agency fails to concur or object to a certification statement within six months of the state agency's receipt of the certification statement, state agency concurrence with the certification statement shall be conclusively presumed. The CBJ

will seek agreements with state CZM agencies that the agency's failure to provide comments during the public notice comment period will be considered as a concurrence with the certification or waiver of the right to concur or non-concur.

(3) Historic Properties. If the proposed activity would involve any property listed or eligible for listing in the National Register of Historic Places, the CBJ will proceed in accordance with Corps National Historic Preservation Act implementing regulations.

(4) Activities Associated with Federal Projects. If the proposed activity would consist of the dredging of an access channel and/or berthing facility associated with an authorized federal navigation project, the activity will be included in the planning and coordination of the construction or maintenance of the federal project to the maximum extent feasible. Separate notice, hearing, and environmental documentation will not be required for activities so included and coordinated, and the public notice issued by the CBJ for these federal activities will be the notice of intent to issue permits for those included non-federal dredging activities. The decision whether to issue or deny such a permit will be consistent with the decision on the federal project unless special considerations applicable to the proposed activity are identified.

(5) Endangered Species. Applications will be reviewed for the potential impact on threatened or endangered species pursuant to section 7 of the Endangered Species Act as amended. The CBJ will include a statement in the public notice of his current knowledge of endangered species based on his initial review of the application. If the CBJ determines that the proposed activity would not affect listed species or their critical habitat, he will include a statement to this effect in the public notice. If he finds the proposed activity may affect an endangered or threatened species or their critical habitat, he will initiate formal consultation procedures with the U.S. Fish and Wildlife Service or National Marine Fisheries Service. Public notices forwarded to the U.S. Fish and Wildlife Service or National Marine Fisheries Service will serve as the request for information on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by the proposed activity, pursuant to section 7(c) of the Act. References, definitions, and consultation procedures are found in 50 CFR Part 402.

(6) The CBJ shall consolidate the processing of related aspects of other regulatory programs with the freshwater wetlands permit process established herein so as to provide a timely and coordinated permit process consistent with the Federal Act.

(c) Timing of processing of applications. The CBJ will be guided by the following time limits for the indicated steps in the evaluation process:

(1) The public notice will be issued within 15 days of receipt of all information required to be submitted by the applicant in accordance with paragraph (application for permits) of this part.

(2) The comment period on the public notice should be for a reasonable period of time within which interested parties may express their views concerning the permit. The comment period should not be more than 30 days nor less than 15 days from the date of the notice. Before designating comment periods less than 30 days, the CBJ will consider:

(A) Whether the proposal is routine or noncontroversial,
(B) Mail time and need for comments from remote areas,
(C) Comments from similar proposals, and
(D) Need for a site visit.

After considering the length of the original comment period and other pertinent factors, the CBJ may extend the comment period up to an additional 30 days if warranted.

(3) The CBJ will decide on all applications not later than 60 days after receipt of a complete application, unless:

(A) precluded as a matter of law or procedures required by law;
(B) the case must be referred to higher authority;
(C) the comment period is extended,
(D) a timely submittal of information or comments is not received from the applicant,
(E) the processing is suspended at the request of the applicant, or
(F) information needed by the CBJ for a decision on the application cannot reasonably be obtained within the 60-day period.

Once the cause for preventing the decision from being made within the normal 60-day period has been satisfied or eliminated, the 60-day clock will start running again from where it was suspended. For example, if the comment period is extended by 30 days, the CBJ will, absent other restraints, decide on the application within 90 days of receipt of a complete application. Certain laws require procedures such as state or other federal agency certifications, public hearings, environmental impact statements, consultation, special studies, and testing which may prevent the CBJ from being able to decide certain applications within 60 days.

(4) Once the CBJ has sufficient information to make its public interest determination, it should decide the permit application even though other agencies which may have regulatory jurisdiction have not yet granted their authorizations, except where such authorizations are, by federal law, a prerequisite to making a decision on the CBJW permit application. Permits granted prior to other authorizations by other agencies should, where appropriate, be conditioned in such manner as to

give those other authorities an opportunity to undertake their review without the applicant biasing such review by making substantial resource commitments on the basis of the CBJW permit. In unusual cases the CBJ may decide that due to the nature or scope of a specific proposal, it would be prudent to defer taking final action until another agency has acted on its authorization. In such cases, it may advise the other agency of his position on the CBJW permit while deferring his final decision.

(5) The applicant will be given a reasonable time, not to exceed 30 days, to respond to requests of the CBJ. The CBJ may make such requests by certified letter and clearly inform the applicant that if he does not respond with the requested information or a justification why additional time is necessary, then his application will be considered withdrawn or a final decision will be made, whichever is appropriate. If additional time is requested, the CBJ will either grant the time, make a final decision, or consider the application as withdrawn.

(6) The time requirements in these regulations are in terms of calendar days rather than in terms of working days.

(d) Alternative procedures. The CBJ is authorized to use alternative procedures as follows:

(1) Letters of permission. Letters of permission are a type of permit issued through an abbreviated processing procedure which includes coordination with federal and state fish and wildlife agencies, as required by the Fish and Wildlife Coordination Act, and a public interest evaluation, but without the publishing of an individual public notice. The letter of permission will not be used to authorize the transportation of dredged material for the purpose of dumping it in ocean waters. Letters of permission may be used:

(A) In those cases subject to section 10 of the Rivers and Harbors Act of 1899 when, in the opinion of the CBJ, the proposed work would be minor, would not have significant individual or cumulative impacts on environmental values, and should encounter no appreciable opposition.

(B) In those cases subject to section 404 of the Clean Water Act after:

(i) The CBJ, through consultation with federal and state fish and wildlife agencies, the Regional Administrator, Environmental Protection Agency, the state water quality certifying agency, and, if appropriate, the state Coastal Zone Management Agency, develops a list of categories of activities proposed for authorization under LOP procedures.

(ii) The CBJ issues a public notice advertising the proposed list and the LOP procedures, requesting comments and offering an opportunity for public hearing; and

(iii) A 401 certification has been issued or waived and, if appropriate, CZM consistency concurrence obtained or presumed either on a generic or individual basis.

(2) Joint procedure. The CBJ is authorized and encouraged to develop joint procedures with state and federal agencies with ongoing permit programs for activities also regulated by the Department of the Army. Such procedures may be substituted for the procedures in paragraphs (a)(1) through (a)(3) of this section provided that the substantive requirements of those sections are maintained. The CBJ is also encouraged to develop management techniques such as joint agency review meetings to expedite the decision making process. However, in doing so, the applicant's rights to a full public interest review and independent decision by the CBJ must be strictly observed.

(3) Emergency procedures. The CBJ is authorized to approve special processing procedures in emergency situations. An "emergency" is a situation which would result in an unacceptable hazard to life, a significant loss of property, or an immediate, unforeseen, and significant economic hardship if corrective action requiring a permit is not undertaken within a time period less than the normal time needed to process the application under standard procedures. In emergency situations, the CBJ will explain the circumstances and recommend special procedures as to further processing of the application. Even in an emergency situation, reasonable efforts will be made to receive comments from interested federal, state, and local agencies and the affected public. Also, notice of any special procedures authorized and their rationale is to be appropriately published as soon as practicable. See Temporary Emergency Permit.

49.00.000 PUBLIC NOTICE. (a) General. The public notice is the primary method of advising all interested parties of the proposed activity for which a permit is sought and of soliciting comments and information necessary to evaluate the probable impact on the public interest. The notice must, therefore, include sufficient information to give a clear understanding of the nature and magnitude of the activity to generate meaningful comment. The notice should include the following items of information:

(1) Applicable statutory authority or authorities;

(2) The name and address of the applicant;

(3) The name or title, address and telephone number of the CBJ employee from whom additional information concerning the application may be obtained;

(4) The location of the proposed activity;

(5) A brief description of the proposed activity, its purpose and intended use, so as to provide sufficient information concerning the nature of the activity to generate meaningful comments, including a description of the type of structures, if any, to be erected on fills or pile or float-supported platforms, and a description of the type, composition, and quantity of materials to be discharged or disposed of in the ocean;

(6) A plan and elevation drawing showing the general and specific site location and character of all proposed activities, including the size relationship of the proposed structures to the size of the impacted waterway and depth of water in the area;

(7) If the proposed activity would occur in the territorial seas or ocean waters, a description of the activity's relationship to the baseline from which the territorial sea is measured;

(8) A list of other government authorizations obtained or requested by the applicant, including required certifications relative to water quality, coastal zone management, or marine sanctuaries;

(9) If appropriate, a statement that the activity is a categorical exclusion for purposes of NEPA;

(10) A statement of the CBJ's current knowledge on historic properties;

(11) A statements of the CBJ's current knowledge on endangered species;

(12) A statement(s) on evaluation factors;

(13) Any other available information which may assist interested parties in evaluating the likely impact of the proposed activity, if any, on factors affecting the public interest;

(14) The comment period based on Section (processing of applications;

(15) A statement that any person may request, in writing, within the comment period specified in the notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing;

(16) For non-federal applications in states with an approved CZM plan, a statement on compliance with the approved plan.

(b) Evaluation factors. A paragraph describing the various evaluation factors on which decisions are based shall be included in every public notice.

(1) The following will be included:
"The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people."

(2) If the activity would involve the discharge of dredged or fill material into the waters of the United States or the transportation of dredged material for the purpose of disposing of it in ocean waters, the public notice shall also indicate that the evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrate, EPA, or of the criteria established under authority of section 102(a) of the Marine Protection, Research and Sanctuaries Act of 1972, as amended.

(d) Distribution of public notices. (1) Public notices will be sent to the applicant, to adjoining property owners, to appropriate state agencies, to appropriate Indian Tribes or tribal representatives, to concerned federal agencies, to local, regional and national shipping and other concerned business and conservation organizations, to appropriate River Basin Commissions, to appropriate state and areawide clearing houses as prescribed by OMB Circular A-95, to local news media and to any other interested party. The applicant shall post a sign on the site at least seven days prior to the Wetlands Review Board meeting. The sign shall be visible from a public right of way, shall be between four square feet and thirty-two square feet in area, shall have a red background, and shall indicate in white lettering one hundred twenty five pointor larger that a CBJW permit is being sought for the site, the date of the hearing, and that further information is available from the Department of Community Development. The applicant shall maintain the sign, and then remove it within fourteen days after final action on the application. Copies of public notices will be sent to all parties who have specifically requested copies of public notices, to the U.S. Senators and Representatives for the area where the work is to be performed, the field representative of the Secretary of the Interior, the Regional Director of

the Fish and Wildlife Service, the Regional Director of the National Park Service, the Regional Administrator of the Environmental Protection Agency, the Regional Director of the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration, the head of the state agency responsible for fish and wildlife resources, the State Historic Preservation Officer, and the District Commander, U.S. Coast Guard and the State Division of Government Coordination.

(2) In addition to the general distribution of public notices cited above, notices will be sent to other addresses in appropriate cases as follows:

(A) If the activity involves the construction of structures which may affect aircraft operations or for purposes associated with seaplane operations, to the Regional Director of the Federal Aviation Administration.

(B) If the activity would be in connection with a foreign-trade zone, to the Executive Secretary, Foreign-Trade Zones Board, Department of Commerce, Washington, DC 20230 and to the appropriate District Director of Customs as Resident Representative, Foreign- Trade Zones Board.

(3) It is presumed that all interested parties and agencies will wish to respond to public notices, therefore a lack of response will be interpreted as meaning that there is no objection to the proposed project. A copy of the public notice with the list of the addresses to whom the notice was sent will be included in the record. If a question develops with respect to an activity for which another agency has responsibility and that other agency has not responded to the public notice, the CBJ may request its comments. Whenever a response to a public notice has been received from a member of Congress, either in behalf of a constituent or himself, the CBJ will inform the member of Congress of the final decision.

(4) The CBJ will update public notice mailing lists as least once every two years.

49.00.000 **CONDITIONING OF PERMITS.** (a) The CBJ will add special conditions to CBJW permits when such conditions are necessary to satisfy legal requirements or to otherwise satisfy the public interest requirement. Permit conditions will be directly related to the impacts of the proposal, appropriate to the scope and degree of those impacts, and reasonably enforceable.

(1) Legal requirements which may be satisfied by means of CBJ permit conditions include compliance with the 404(b)(1) guidelines, the EPA ocean dumping criteria, the Endangered Species Act, and requirements imposed by conditions on state section 401 water quality certifications.

(2) Where appropriate, the CBJ may take into account the existence of controls imposed under other federal, state, or local programs which would achieve the objective of the desired condition, or the existence of an enforceable agreement between the applicant and another party concerned with the resource in question, in determining whether a proposal complies with the 404(b)(1) guidelines, ocean dumping criteria, and other applicable statutes, and is not contrary to the public interest. In such cases, the CBJW permit will be conditioned to state that material changes in, or a failure to implement and enforce such program or agreement, will be grounds for modifying, suspending, or revoking the permit.

(3) Such conditions may be accomplished on-site, or may be accomplished off-site for mitigation of significant losses which are specifically identifiable, reasonably likely to occur, and of importance to the human or aquatic environment. Mitigation conditions can be required as follows:

Category C Wetlands: off-site, such that there is no net loss of aggregate functional value in terms of acre x weighted WET value calculations. This might be accomplished by completing a specified project or contributing cash or in-kind services equal to the cash value of mitigation credits necessary to achieve no net loss in aggregate wetland acre value.

(b) The CBJ is authorized to add special conditions, exclusive of paragraph (a) of this section, at the applicant's request or to clarify the permit application.

(c) If the CBJ determines that special conditions are necessary to insure the proposal will not be contrary to the public interest, but those conditions would not be reasonably implementable or enforceable, he will deny the permit.

(d) If the CBJ has reason to consider that the permittee might be prevented for completing work which is necessary to protect the public interest, he may require the permittee to post a bond of sufficient amount to indemnify the government against any loss as a result of corrective action it might take.

49.00.000 FORMS OF PERMITS (a) General. (1) CBJW permits under this regulation will be in the form of individual permits (or general permits). The basic format shall be Appendix B.

(2) The general conditions included in Appendix A are normally applicable to all permits; however, some conditions may not apply to certain permits and may be deleted by the issuing officer. Special conditions applicable to the specific activity will be included in the permit as necessary to protect the public interest in accordance with Section (Conditioning of Permits).

(b) Individual permits. (1) Standard permits. A standard permit is one which has been processed through the public interest review procedures, including public notice and receipt of comments, described through this Part. The standard individual permit shall be issued using Appendix A.

(2) Letters of permission. A letter of permission will be issued where procedures of section (Processing of Permits) have been followed. It will be in letter form and will identify the permittee, the authorized work and location of the work, the statutory authority, any limitations on the work, a construction time limit and a requirement for a report of completed work. A copy of the relevant general conditions from Appendix A will be attached and will be incorporated by reference into the letter of permission.

(3) Programmatic permits. Programmatic permits are a type of general permit founded on an existing state, local, or other federal agency program and designed to avoid duplication with that program.

49.00.000 DURATION OF PERMITS (a) General. CBJW permits may authorize both the work and the resulting use. Permits continue in effect until they automatically expire or are modified, suspended, or revoked.

(b) Structures. Permits for the existence of a structure or other activity of a permanent nature are usually for an indefinite duration with no expiration date cited. However, where a temporary structure is authorized, or where restoration of a waterway is contemplated, the permit will be of limited duration with a definite expiration date.

(c) Works. Permits for construction work, discharge, of dredged or fill material or other activity and any construction period for a structure with a permit of indefinite duration under paragraph (b) of this section will specify time limits for completing the work or activity. The permit may also specify a date by which the work must be started, normally within one year from the date of issuance. The date will be established by the issuing official and will provide reasonable times based on the scope and nature of the work involved. Permits issued for the transport of dredged material for the purpose of disposing of it in ocean waters will specify a completion date for the disposal not to exceed three years from the date of permit issuance.

(d) Extensions of time. An authorization or construction period will automatically expire if the permittee fails to request and receive an extension of time. Extensions of time may be granted by the CBJ. The permittee must request the extension and explain the basis of the request, which will be granted unless the CBJ determines that an extension would be contrary to the public interest. Requests for extensions will be processed in accordance with the regular procedures of

Section (Processing of Permits), including issuance of a public notice, except that such processing is not required where the CBJ determines that there have been no significant changes in the attendant circumstances since the authorization was issued.

(e) Maintenance dredging. If the authorized work includes periodic maintenance dredging, an expiration date for the authorization of the maintenance dredging will be included in the permit. The expiration date, which in no event is to exceed ten years from the date of issuance of the permit, will be established by the issuing official after evaluation of the proposed method of dredging and disposal of the dredged material in accordance with the requirements of 33 CFR Parts 320 to 325. In such cases, the CBJ shall require notification of the maintenance dredging prior to actual performance to insure continued compliance with the requirements of this regulation and 33 CFR Parts 320 to 325. If the permittee desires to continue maintenance dredging beyond the expiration date, he must request a new permit. The permittee should be advised to apply for the new permit six months prior to the time he wishes to do the maintenance work.

49.00.000 MODIFICATION, SUSPENSION, OR REVOCATION OF PERMITS (a) General. The CBJ may reevaluate the circumstances and conditions of any permit, including regional permits, either on his own motion, at the request of the permittee, or a third party, or as the result of periodic progress inspections, and initiate action to modify, suspend, or revoke a permit as may be made necessary by considerations of the public interest. In the case of regional permits, this reevaluation may cover individual activities, categories of activities, or geographic areas. Among the factors to be considered are the extent of the permittee's compliance with the terms and conditions of the permit; whether or not circumstances relating to the authorized activity have changed since the permit was issued or extended, and the continuing adequacy of or need for the permit conditions; any significant objections to the authorized activity which were not earlier considered; revisions to applicable statutory and/or regulatory authorities; and the extent to which modification, suspension, or other action would adversely affect plans, investments and actions the permittee has reasonably made or taken in reliance on the permit. Significant increases in scope of a permitted activity will be processed as new applications for permits in accordance with Section (Processing of Permits) and not as modifications under this section.

(b) Modification. Upon request by the permittee or, as a result of reevaluation of the circumstances and conditions of a permit, the CBJ may determine that the public interest requires a modification of the terms or conditions of the permit. In such cases, the CBJ will hold informal consultations with the permittee to ascertain whether the terms and conditions can be modified by mutual agreement. If a mutual agreement is reached on modification of the terms and conditions of the permit, the

CBJ will give the permittee written notice of the modification, which will then become effective on such date as the CBJ may establish. In the event a mutual agreement cannot be reached by the CBJ and the permittee, the CBJ will proceed in accordance with paragraph (c) of this section if immediate suspension is warranted. In cases where immediate suspension is not warranted but the CBJ determines that the permit should be modified, he will notify the permittee of the proposed modification and reasons therefor, and that he may request a meeting with the CBJ and/or a public hearing. The modification will become effective on the date set by the CBJ which shall be at least ten days after receipt of the notice by the permittee unless a hearing or meeting is requested within that period. If the permittee fails or refuses to comply with the modification the CBJ will proceed in accordance with 33 CFR Part 326. The CBJ shall consult with resource agencies before modifying any permit terms or conditions that would result in greater impacts for a project about which that agency expressed a significant interest in the term, condition, or feature being modified, prior to permit issuance.

(c) Suspension. The CBJ may suspend a permit after preparing a written determination and finding that immediate suspension would be in the public interest. The CBJ will notify the permittee in writing by the most expeditious means available that the permit has been suspended with the reasons therefor, and order the permittee to stop those activities previously authorized by the suspended permit. The permittee will also be advised that following this suspension a decision will be made to either reinstate, modify, or revoke the permit and that he may, within 10 days of receipt of notice of the suspension, request a meeting with the CBJ and/or a public hearing to present information in this matter. If a hearing is requested, the procedures prescribed in 33 CFR Part 327 will be followed. After the completion of the meeting or hearing, the CBJ will take action to reinstate, modify, or revoke the permit.

(d) Revocation. Following completion of the suspension procedures in paragraph (c) of this section, if revocation of the permit is found to be in the public interest, the authority who made the decision on the original permit may revoke it. The permittee will be advised in writing of the final decision.

49.00.000 **AUTHORITY TO ISSUE OR DENY PERMITS** (a) General. Except as otherwise provided in this regulation, the City Manager, subject to such conditions as he may from time to time impose, has authorized the Director of Community Development to issue or deny permits for dams or dikes in intrastate waters of the United States pursuant to section 9 of the Rivers and Harbors Act of 1899, for construction or other work in or affecting navigable waters of the United States pursuant to section 10 of the Rivers and Harbors Act of 1899; for the discharge of dredged or fill material into waters of the United States pursuant to section 404 of the Clean Water Act; or for the transportation of dredged material for the purpose of disposing of it into ocean waters pursuant to section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended.

The authority to issue or deny permits in interstate navigable waters of the United States pursuant to section 9 of the Rivers and Harbors Act of March 3, 1899 has not been delegated to the CBJ or his authorized representatives.

(b) The City Manager's Authority. The City Manager is authorized to issue or deny permits in accordance with these regulations pursuant to sections 9 and 10 of the Rivers and Harbors Act of 1899; section 404 of the Clean Water Act; and section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, in all cases not required to be referred to higher authority. It is essential to the legality of a permit that it contain the name of the City Manager as the issuing officer. However, the permit need not be signed by the City Manager in person but may be signed for and in behalf of him by whomever he designates. In cases where permits are denied for reasons other than navigation or failure to obtain required local, state, or federal approvals or certifications, the Statement of Findings must conclusively justify a denial decision. The City Manager is authorized to deny permits without issuing a public notice or taking other procedural steps where required local, state or federal permits for the proposed activity have been denied or where he determines that the activity will clearly interfere with navigation except in all cases required to be referred to higher authority. The City Manager is also authorized to add, modify, or delete special conditions in permits in accordance with Section (Conditioning of Permits) except for those conditions which may have been imposed by higher authority, and to modify, suspend, and revoke permits according to the procedures of Section (Modification Suspension or Revocation of Permits). The City Manager will refer the following applications to the Planning Commission for resolution:

(1) When a referral is required by a written agreement between the head of a state agency and the City Manager;

(2) When the recommended decision is contrary to the written position of the Governor of the state in which the work would be performed;

(3) When there is substantial doubt as to authority, law, regulations, or policies applicable to the proposed activity;

(4) When higher authority requests the application be forwarded for decision; or

(5) When the City Manager is precluded by law or procedures required by law from taking final action on the application (e.g., section 9 of the Rivers and Harbors Act of 1899, or territorial sea baseline changes).

(6) When a party files an appeal within twenty days of the signing of a CBJW permit or denial.

(c) Planning Commission authority. The Planning Commission will review and evaluate all permit applications referred by the City Manager. The Planning Commission may authorize the issuance or denial of permits pursuant to section 10 of the Rivers and Harbors Act of 1899; section 404 of the Clean Water Act; and section 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended; and the inclusion of conditions in accordance with Section (Conditioning of Permits) in all cases not required to be referred to the Corps of Engineers. The Planning Commission will refer the following applications to the Corps of Engineers for resolution:

(1) When a referral is required by a written agreement between the head of a federal agency and the Secretary of the Army;

(2) When there is substantial doubt as to authority, law, regulations, or policies applicable to the proposed activity;

(3) When higher authority requests the application be forwarded for decision; or

(4) When the Planning Commission is precluded by law or procedures required by law from taking final action on the application.

49.00.000 AUTHORITY TO DETERMINE JURISDICTION The CBJ is authorized to determine the area defined by the terms "navigable waters of the United States" and "waters of the United States" for category C and D wetlands except:

(a) When a determination of navigability is made pursuant to 33 CFR 329.14 (division engineers have this authority); or

(b) When EPA makes a section 404 jurisdiction determination under its authority.

A person proposing to engage in a regulated activity in the general vicinity of a freshwater wetland, prior to applying for a CBJW permit, may request from the CBJ a letter of interpretation to establish that the site of the proposed activity is located in a freshwater wetland.

The CBJ may require an applicant for a letter of interpretation to perform and submit to the CBJ an on-site inspection to determine or verify the general location of the freshwater wetland boundary. This inspection shall be subject to approval and verification by the CBJ. If the CBJ determines that on-site inspection by the CBJ is necessary, the CBJ shall make the inspection.

If a person requesting the letter has not made a reasonable good faith effort to provide the CBJ with information sufficient to make a determination, the CBJ shall issue a letter of interpretation requiring the application for a CBJW permit.

The CBJ may charge a fee not to exceed the costs for reviewing the information submitted, conducting on-site inspections and for issuing a letter of interpretation.

Any letter of interpretation which determines that the site of a proposed regulated activity is not in a freshwater wetlands shall be subject to review, modification, or revocation by the COE or EPA within 20 days of receipt of the notification by the agency.

49.00.000 **PUBLICITY** The CBJ will establish and maintain a program to assure that potential applicants for permits are informed of the requirements of this regulation and of the steps required to obtain permits for activities in waters of the United States or ocean waters. Whenever the CBJ becomes aware of plans being developed by either private or public entities which might require permits for implementation, he should advise the potential applicant in writing of the statutory requirements and the provisions of this regulation. Whenever the City Manager is aware of changes in CBJ regulatory jurisdiction, he will issue appropriate public notices.

Article __. Enforcement

49.00.000 PURPOSE. This section prescribes enforcement policies and procedures applicable to activities performed without required CBJW permits and to activities not in compliance with the terms and conditions of issued CBJW permits. Procedures for initiating legal actions are prescribed in Section (Legal Action). Nothing contained in this section shall establish a non-discretionary duty on the part of the CBJ nor shall deviation from these procedures give rise to a private right of action against the CBJ.

Enforcement, as part of the overall regulatory program of the CBJ, is based on a policy of regulating the waters of the United States by discouraging activities that have not been properly authorized and by requiring corrective measures, where appropriate, to ensure those waters are not misused and to maintain the integrity of the program. There are several methods discussed in the remainder of this part which can be used either singly or in combination to implement this policy, while making the most effective use of the enforcement resources available. As EPA has independent enforcement authority under the Clean Water Act for unauthorized discharges, the CBJ should normally coordinate with EPA to determine the most effective and efficient manner by which resolution of a section 404 violation can be achieved.

49.00.000 UNAUTHORIZED ACTIVITIES. (a) Surveillance. To detect unauthorized activities requiring permits, the CBJ should make the best use of all available resources. CBJ employees; members of the public; and representatives of state, local, and federal agencies should be encouraged to report suspected violations. Additionally, the CBJ should consider developing joint surveillance procedures with federal, state, or local agencies having similar regulatory responsibilities, special expertise, or interest.

(b) Initial investigation. The CBJ should take steps to investigate suspected violations in a timely manner. The scheduling of investigations will reflect the nature and location of the suspected violations, the anticipated impacts, and the most effective use of inspection resources available to the CBJ. These investigations should confirm whether a violation exists, and if so, will identify the extent of the violation and the parties responsible.

(c) Formal notifications to parties responsible for violations. Once the CBJ has determined that a violation exists, it should take appropriate steps to notify the responsible parties.

(1) If the violation involves a project that is not complete, the CBJ's notification should be in the form of a cease and desist order prohibiting any further work pending resolution of the violation in accordance with the procedures contained in this section. See paragraph (c)(4) of this section for exception to this procedure.

(2) If the violation involves a completed project, a cease and desist order should not be necessary. However, the CBJ should still notify the responsible parties of the violation.

(3) All notifications, pursuant to paragraphs (c)(1) and (2) of this section, should identify the relevant statutory authorities, indicate potential enforcement consequences, and direct the responsible parties to submit any additional information that the CBJ may need at that time to determine what course of action it should pursue in resolving the violation; further information may be requested, as needed, in the future.

(4) In situations which would, if a violation were not involved, qualify for emergency procedures pursuant to Section (Processing of Applications), the CBJ may decide it would not be appropriate to direct that the unauthorized work be stopped. Therefore, in such situations, the CBJ may, at its discretion, allow the work to continue, subject to appropriate limitations and conditions as it may prescribe, while the violation is being resolved in accordance with the procedures contained in this section.

(5) When an unauthorized activity requiring a permit has been undertaken by American Indians (including Alaskan natives, Eskimos, and Aleuts, but not including Native Hawaiians) on reservation lands or in pursuit of specific treaty rights, the CBJ should use appropriate means to coordinate proposed directives and orders with the Assistant Chief Counsel for Indian Affairs (DAEN-CCI).

(6) When an unauthorized activity requiring a permit has been undertaken by an official acting on behalf of a foreign government, the CBJ should use appropriate means to coordinate proposed directives and orders with the Office, Chief of Engineers, ATTN: DAEN-CCK.

(d) Initial corrective measures. (1) The CBJ should, in appropriate cases, depending upon the nature of the impacts associated with the unauthorized, completed work, solicit the views of the Environmental Protection Agency; the U.S. Fish and Wildlife Service; the National Marine Fisheries Service, and other Federal, state and local agencies to facilitate its decision on what initial corrective measures are required. If the CBJ determines as a result of its investigation, coordination, and preliminary evaluation that initial corrective measures are required, it should issue an appropriate order to the parties responsible for the violation. In determining what initial corrective measures are required, the CBJ should consider whether serious jeopardy to life, property, or important public resources may be reasonably anticipated to occur during the period required for the ultimate resolution of the violation. In its order, the CBJ will specify the initial corrective measures required and the time limits for completing this work. In unusual cases where initial corrective measures substantially eliminate all current and future detrimental impacts resulting from the unauthorized work, further enforcement actions should normally be unnecessary. For all other cases, the CBJ's order should normally specify that compliance with the order will not foreclose the Government's options to initiate appropriate legal action or to later require the submission of a permit application.

(2) An order requiring initial corrective measures that resolve the violation may also be issued by the CBJ in situations where the acceptance or processing of an after-the-fact permit application is prohibited or considered not appropriate pursuant to Section (e)(1)(C)-(D) below. However, such orders will be issued only when the CBJ has reached an independent determination that such measures are necessary and appropriate.

(3) It will not be necessary to issue a CBJW permit in connection with initial corrective measures undertaken at the direction of the CBJ.

(e) After-the-fact permit applications. (1) Following the completion of any required initial corrective measures, the CBJ will accept an after-the-fact permit application unless it determines that one of the exceptions listed in subparagraphs i-iv below is applicable. Applications for after-the-fact permits will be processed in accordance with the applicable procedures in this ordinance. Situations where no permit application will be processed or where the acceptance of a permit application must be deferred are as follows:

(A) No permit application will be processed when restoration of the waters of the United States has been completed that eliminates current and future detrimental impacts to the satisfaction of the CBJ.

(B) No permit application will be accepted in connection with a violation where the CBJ determines that legal action is appropriate until such legal action has been completed.

(C) No permit application will be accepted where a federal, state, or local authorization or certification, required by federal law has already been denied.

(D) No permit application will be accepted nor will the processing of an application be continued when the CBJ is aware of enforcement litigation that has been initiated by federal, state, or local regulatory agencies, unless it determines that concurrent processing of an after-the-fact permit application is clearly appropriate.

(2) Upon completion of its review in accordance with this ordinance, the CBJ will determine if a permit should be issued, with special conditions if appropriate, or denied. In reaching a decision to issue, it must determine that the work involved is not contrary to the public interest, and if section 404 is applicable, that the work also complies with the Environmental Protection Agency's section 404(b)(1) guidelines. If it determines that a denial is warranted, its notification of denial should prescribe any final corrective actions required. Its notification should also establish a reasonable period of time for the applicant to complete such actions unless it determines that further information is required before the corrective measures can be specified. If further information is required, the final corrective measures may be specified at a later date. If an applicant refuses to undertake prescribed corrective actions ordered subsequent to permit denial or refuses to accept a conditioned permit, the CBJ may initiate legal action in accordance with Section (Legal Action).

(f) Combining steps. The procedural steps in this section are in the normal sequence. However, these regulations do not prohibit the streamlining of the enforcement process through the combining of steps.

(g) Coordination with EPA. In all cases where the CBJ is aware that EPA is considering enforcement action, it should coordinate with EPA to attempt to avoid conflict or duplication. Such coordination applies to interim protective measures and after-the-fact permitting, as well as to appropriate legal enforcement actions.

49.00.000 SUPERVISION OF AUTHORIZED ACTIVITIES. (a) Inspections. The CBJ will, at its discretion, take reasonable measures to inspect permitted activities, as required, to ensure that these activities comply with specified terms and conditions. To supplement inspections by its enforcement personnel, the CBJ should encourage its other personnel; members of the public; and interested state, local, and federal agency representatives to report suspected violations of CBJW permits. To facilitate inspections, the CBJ will, in appropriate cases, require that copies of ENG Form 4336 be posted conspicuously at the sites of authorized activities and will make available to all interested persons information on the terms and conditions of issued permits. The U.S. Coast Guard will inspect permitted ocean dumping activities pursuant to section 107(c) of the Marine Protection, Research and Sanctuaries Act of 1972, as amended.

(b) Inspection limitations. Section (Supervision of authorized activities) does not establish a non-discretionary duty to inspect permitted activities for safety, sound engineering practices, or interference with other permitted or unpermitted structures or uses in the area. Further, the regulations implementing the CBJ regulatory program do not establish a nondiscretionary duty to inspect permitted activities for any other purpose.

(c) Inspection expenses. The expenses incurred in connection with the inspection of permitted activities will normally be paid by the CBJ unless daily supervision or other unusual expenses are involved. In such unusual cases, the CBJ may condition permits to require permittees to pay inspection expenses pursuant to authority contained in Section 9701 of Pub L. 97-258 (33 U.S.C. 9701). The collection and disposition of inspection expense funds obtained from applicants will be administered in accordance with the relevant CBJ regulations governing such funds.

(d) Non-compliance. If the CBJ determines that a permittee has violated the terms or conditions of the permit and that the violation is sufficiently serious to require an enforcement action, then it should, unless at its discretion it deems it inappropriate: (1) First contact the permittee; (2) request corrected plans reflecting actual work, if needed; and (3) attempt to resolve the violation. Resolution of the violation may take the form of the permitted project being voluntarily brought into compliance or of a permit modification Section (Modification, Suspension or Revocation of Permits).

If a mutually agreeable solution cannot be reached, a written order requiring compliance should normally be issued and delivered by personal service. Issuance of an order is not, however, a prerequisite to legal action. If an order is issued, it will specify a time period of not more than 30 days for bringing the permitted project into compliance, and a copy will be sent to the appropriate state official pursuant to section 404(s)(2) of the Clean Water Act. If the permittee fails to comply with the order within the specified period of time, the CBJ may consider using the suspension/revocation procedures in Section (Modification Suspension or Revocation of Permits) and/or it may recommend legal action in accordance with Section (Legal Action).

49.00.000 LEGAL ACTION. (a) General. For cases the CBJ determines to be appropriate, it will recommend criminal or civil actions to obtain penalties for violations, compliance with the orders and directives it has issued pursuant to Sections (Unauthorized Activities) and (Supervision of Authorized Activities), or other relief as appropriate. Appropriate cases for criminal or civil action include, but are not limited to, violations which, in the CBJ's opinion, are willful, repeated, flagrant, or of substantial impact.

(b) Preparation of case. If the CBJ determines that legal action is appropriate, it will prepare a litigation report or such other documentation that the City Manager and the Municipal Attorney have mutually agreed to, which contains an analysis of the information obtained during its investigation of the violation or during the processing of a permit application and a recommendation of appropriate legal action. The litigation report or alternative documentation will also recommend what, if any, restoration or mitigative measures are required and will provide the rationale for any such recommendation.

(c) Referral to the Municipal Attorney. Except as provided in paragraph (d) of this section, the City Manager is authorized to refer cases directly to the Municipal Attorney.

(d) Referral to the District Engineer. The CBJ will forward litigation reports with recommendations to the District Engineer for all cases that qualify under the following criteria:

(1) Significant precedential or controversial questions of law or fact;

(2) Requests for elevation to the Washington level by the Department of Justice;

(3) Violations of section 9 of the Rivers and Harbors Act of 1899;

(4) Violations of section 103 the Marine Protection, Research and Sanctuaries Act of 1972;

(5) All cases involving violations by American Indians (original of litigation report to DAEN-CCII with copy to DAEN-CCK) on reservation lands or in pursuit of specific treaty rights;

(6) All cases involving violations by officials acting on behalf of foreign governments; and

(7) Cases requiring action pursuant to paragraph (e) of this section.

Article __. Public Hearings

49.00.000 **PURPOSE.** This regulation prescribes the policy, practice and procedures to be followed by the CBJ in the conduct of public hearings conducted in the evaluation of a proposed CBJW permit action or federal project as defined in Section (Definitions) of this Section including those held pursuant to section 404 of the Clean Water Act (33 U.S.C. 1344) and section 103 of the Marine Protection, Research and Sanctuaries Act (MPRSA), as amended (33 U.S.C. 1413).

49.00.000 **APPLICABILITY.** This regulation is applicable to all boards and commissions responsible for the conduct of public hearings.

49.00.000 **DEFINITIONS.** (a) Public hearing means a public proceeding conducted for the purpose of acquiring information or evidence which will be considered in evaluating a proposed CBJW permit action, or federal project, and which affords the public an opportunity to present their views, opinions, and information on such permit actions or federal projects.

(b) Permit action, as used herein means the evaluation of and decision on an application for a CBJW permit pursuant to sections 9 or 10 of the Rivers and Harbors Act of 1899, section 404 of the Clean Water Act, or section 103 of the MPRSA, as amended, or the modification, suspension or revocation of any CBJW permit.

(c) Federal project means a Corps of Engineers project (work or activity of any nature for any purpose which is to be performed by the Chief of Engineers pursuant to Congressional authorizations) involving the discharge of dredged or fill material into waters of the United States or the transportation of dredged material for the purpose of dumping it in ocean waters subject to section 404 of the Clean Water Act, or section 103 of the MPRSA.

49.00.000 **GENERAL POLICIES.** (a) A public hearing will be held in connection with the consideration of a CBJW permit application or a federal project whenever a public hearing is needed for making a decision on such permit application or federal project. In addition, a public hearing may be held when it is proposed to modify or revoke a permit.

(b) Unless the public notice specifies that a public hearing will be held, any person may request, in writing, within the comment period specified in the public notice on a CBJW permit application or on a federal project, that a public hearing be held to consider the material matters at issue in the permit application or with respect to federal project. Upon receipt of any such request, stating with particularity the reasons for holding a public hearing, the CBJ may expeditiously attempt to resolve the issues informally. Otherwise, it shall promptly set a time and place for the public hearing, and give due notice thereof, as prescribed in Section (Public Notice). Requests for a public hearing under this paragraph shall be granted, unless the CBJ determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing. The CBJ will make such a determination in writing, and communicate his reasons therefor to all requesting parties. Comments received as form letters or petitions may be acknowledged as a group to the person or organization responsible for the form letter or petition.

(c) In case of doubt, a public hearing shall be held.

(d) In fixing the time and place for a hearing, the convenience and necessity of the interested public will be duly considered.

49.00.000 **PRESIDING OFFICER.** (a) The Wetland Review Board Chairperson, shall normally serve as the presiding officer. When the Wetland Review Board Chairperson is unable to serve, he may designate the deputy Wetland Review Board Chairperson or other qualified person as presiding officer. In cases of unusual interest, the CBJ may appoint such person as it deems appropriate to serve as the presiding officer.

(b) The presiding officer shall include in the administrative record of the permit action the request or requests for the hearing and any data or material submitted in justification thereof, materials submitted in opposition to or in support of the proposed action, the hearing transcript, and such other material as may be relevant or pertinent to the subject matter of the hearing. The administrative record shall be available for public inspection with the exception of material exempt from disclosure under the Freedom of Information Act.

49.00.000 **LEGAL ADVISOR.** At each public hearing, the Municipal Attorney may serve as legal advisor to the presiding officer. In appropriate circumstances, the CBJ may waive the requirement for a legal advisor to be present.

49.00.000 **REPRESENTATION.** At the public hearing, any person may appear on his own behalf, or may be represented by counsel, or by other representatives.

49.00.000 **CONDUCT OF HEARINGS.** (a) The presiding officer shall make an opening statement outlining the purpose of the hearing and prescribing the general procedures to be followed.

(b) Hearings shall be conducted by the presiding officer in an orderly but expeditious manner. Any person shall be permitted to submit oral or written statements concerning the subject matter of the hearing, to call witnesses who may present oral or written statements, and to present recommendations as to an appropriate decision. Any person may present written statements for the hearing record prior to the time the hearing record is closed to public submissions, and may present proposed findings and recommendations. The presiding officer shall afford applicants a reasonable opportunity for rebuttal.

(c) The presiding officer shall have discretion to establish reasonable limits upon the time allowed for statements of witnesses, for arguments of parties or their counsel or representatives, and upon the number of rebuttals.

(d) Cross-examination of witnesses shall not be permitted.

(e) All public hearings shall be reported verbatim. Copies of the transcripts of proceedings may be purchased by any person from the CBJ or the reporter of such hearing. A copy will be available for public inspection at the office of the CBJ.

(f) All written statements, charts, tabulations, and similar data offered in evidence at the hearing shall, subject to exclusion by the presiding officer for reasons of redundancy, be received in evidence and shall constitute a part of the record.

(g) The permit decision shall not become effective in less than 20 days to allow submission of an appeal.

(h) In appropriate cases, the CBJ may participate in joint public hearings with other federal or state agencies, provided the procedures of those hearings meet the requirements of this regulation. In those cases in which the other federal or state agency allows a cross examination in its public hearing, the CBJ may still participate in the joint public hearing but shall not require cross examination as a part of this participation.

49.00.000 FILING OF THE TRANSCRIPT OF THE PUBLIC HEARING. Where the presiding officer is the initial action authority, the transcript of the public hearing, together with all evidence introduced at the public hearing, shall be made a part of the administrative record of the permit action or federal project. The initial action authority shall fully consider the matters discussed at the public hearing in arriving at its initial decision or recommendation and shall address, in its decision or recommendation, all substantial and valid issues presented at the hearing. Where a person other than the initial action authority serves as presiding officer, such person shall forward the transcript of the public hearing and all evidence received in connection therewith to the initial action authority together with a report summarizing the issues covered at the hearing. The report of the presiding officer and the transcript of the public hearing and evidence submitted therewith shall in such cases be fully considered by the initial authority in making its decision or recommendation to higher authority as to such permit action or federal permit.

49.00.000 AUTHORITY OF THE PRESIDING OFFICER. Presiding officers shall have the following authority:

(a) To regulate the course of the hearing including the order of all sessions and the scheduling thereof, after any initial session, and the recessing, reconvening, and adjournment thereof; and

(b) To take any other action necessary or appropriate to the discharge of the duties vested in them, consistent with the statutory or other authority under which the CBJ functions, and with the policies and directives of the CBJ.

49.00.000 **PUBLIC NOTICE.** (a) Public notice shall be given of any public hearing to be held pursuant to this regulation. Such notice should normally provide for a period of not less than 10 (30) days following the date of public notice during which time interested parties may prepare themselves for the hearing. Notice shall also be given to all federal agencies affected by the proposed action, and to state and local agencies and other parties having an interest in the subject matter of the hearing. Notice shall be sent to all persons requesting a hearing and shall be posted in appropriate government buildings and provided to newspapers of general circulation for publication. Comments received as form letters or petitions may be acknowledged as a group to the person or organization responsible for the form letter or petition.

(b) The notice shall contain time, place, and nature of hearing; the legal authority and jurisdiction under which the hearing is held; and location of and availability of the staff report or draft environmental impact statement or environmental assessment.

Article __. Consideration for Tax Purposes

If the CBJ denies an application for a freshwater wetlands permit, the owner of record of the property affected may request, and the tax assessor shall provide, that this fact be taken into account when the property is valued, assessed, and taxed for property tax purposes.

If a parcel is designated as category A or B wetlands the owner of record of the property affected may request, and the tax assessor shall provide, that this fact be taken into account when the property is valued, assessed, and taxed for property tax purposes.

Article __. Remedies for Violations

Whenever, on the basis of available information, the CBJ finds that a person is in violation of any provision of this act, or any rule or regulation adopted, or permit or order issued, pursuant to this act, the CBJ may: taken action as set forth in Title 49.10.600-660.

Chapter 49.10

ADMINISTRATION AND COMPLIANCE

Article __. Wetland Review Board

49.10.000 **WETLAND REVIEW BOARD - ESTABLISHMENT AND PURPOSE.** There is established the wetland review board for the city and borough, whose purpose is to serve as an expert jury regarding wetland permit applications and to evaluate mitigation credits in accordance with Section (Mitigation Bank).

49.10.000 **MEMBERSHIP--COMPOSITION.** The members shall be seven residents of the city and borough. Two shall be members of the commission and five others shall have relevant technical expertise including knowledge of the fields of biology, geology, hydrology, land use planning, engineering or related fields.

49.10.000 **APPOINTMENT.** Members shall be appointed by the planning commission. Appointments to fill vacancies shall be for the unexpired term only.

49.10.000 **TERM OF OFFICE.** Members shall be appointed for a term of three years; except, of the first appointees, two shall be appointed for a one year term, two for a two year term, and three for a three year term.

49.10.000 **OFFICERS.** The board shall elect a chair to conduct the meetings, a vice chair to serve in the chair's absence, and a clerk to prepare the journal of the board's proceedings.

49.10.000 **UNEXCUSED ABSENCES.** If a member without first being excused by the board misses two consecutive regular meetings, that member's position shall become vacant without action by the board. The board or its chair shall immediately inform the planning commission of the vacancy.

49.10.000 **MEETINGS.** (a) Regular Meetings. The board shall hold one regular meeting per month and shall hold such additional regular meetings as the board may prescribe by resolution.

(b) Special Meetings. The board may hold special meetings upon the call of the chair or any two members. At least twenty-four hours before the meeting, personal notice shall be given to each board member designating the time, place, and purpose of the special meeting. At least twenty-four hours before the meeting, copies of the notice shall also be delivered to the newspapers of general circulation in the municipality and to the commercial radio and television stations operating in the municipality. No business may be transacted at any special meeting except as stated in the notice of the meeting.

(c) Record of Meeting. The clerk shall keep a journal of all meetings.

(d) Rules of Proceeding. Meetings shall be conducted under Robert's Rules of Order as modified by the board.

Chapter 49.20

APPEALS, VARIANCES, AND INTERPRETATIONS

Article I. Appeals

49.20.110 **APPEALS TO THE COMMISSION.** Review by the commission of a decision of the director, wetland review board, or design review board on any development permit, wetland permit, or design review permit may be requested by filing a notice of appeal stating with particularity the grounds therefor with the department within 20 days of the date of the decision appealed. The notice shall be considered by the commission at a regular scheduled meeting. The department, wetland review board, or design review board and any aggrieved person, including the developer, may appear at that meeting and explain to the commission why it should hear the appeal. The appeal shall be heard unless it presents only minor or routine issues and it is clear from the notice of appeal and any evidence offered at the consideration thereof, that the decision appealed was supported by substantial evidence and involved no policy error or abuse of discretion. If the commission decides to hear the appeal, it shall announce whether it intends to review the entire decision, or merely a portion thereof and whether review shall be de novo or on the record. If the commission decides to hear the appeal, it shall give public notice thereof in a newspaper of general circulation in the municipality. The department shall prepare the record on appeal, which shall consist of the original application and supporting materials, written public comment thereon, and all notes, memoranda, minutes, and other department or board material in relation thereto. The burden of proof in the appeal shall be on the party challenging the decision of the director, wetland review board, or design review board. In a hearing de novo, proof shall be established by a preponderance of the evidence. If the appeal is heard on the record, no evidence outside the record shall be admitted and the decision of the department, wetland review board or design review board shall be upheld if there is substantial evidence in support thereof and no policy error or abuse of discretion therein. The commission may confirm, reverse, or modify the director's, wetland review board's or design review board's decision, or change the conditions which the director, wetland review board, or design review board placed on approval. The commission shall support its action with written findings. The commission's decision on any development permit, wetland permit or design review permit shall be effective 21 days after issuance unless appealed to the assembly pursuant to Section 49.20.120 of this chapter. Upon its own motion, the commission may certify a case directly to the assembly without review, hearing, or recommendation.

Article __. Mitigation Bank

49.00.000 PURPOSE. A wetland mitigation bank is, in part, a designated wetland that is created, restored, protected or enhanced to compenmsate for the future loss of wetlands through development. The Wetlands Review Board translates the total resource value of the bank into a system of mitigation credits using the CBJ Adamus Weighting System. These credits are the product of the weighted Adamus functional value and the quantity of land affected by the mitigation action. Developers can purchase the credits when off-site mitigation is required under _____. In purchasing the credits, developers pay on a pro-rata cost basis toward the acquisition, restoration, maintenance, and monitoring of the designated wetland bank. The pro-rata cost basis is the product of the weighted Adamus functional value of the wetland degraded by the applicant and the quantity of land degraded, as determined by the Wetlands Review Board.

49.00.000 DEFINITIONS. (1) "Credit" means a numerical value that represents the wetland resource functions and values of a site.

(2) "Mitigation bank" means a publicly owned and operated wetland site, created, restored, protected or enhanced by the CBJ in accordance with _____ to compensate for unavoidable adverse impacts due to activities which otherwise comply with the requirements of _____.

(3) "Onsite mitigation methods" means all measures that may be taken to reduce, offset or eliminate damage or destruction to the functional characteristics and processes of a wetland, including but not limited to relocating, reducing the size or scope or changing the operational characteristics of the proposed activity, or creating or enhancing wetland functions or values at the project site.

(4) "Permit action" means activity under a dredge and fill permit required or issued under _____...

49.00.000 POLICY. It is the purpose of _____... to

(1) Promote, in concert with federal and state programs as well as interested parties, the maintenance and conservation of wetlands.

(2) Improve cooperative efforts among private, nonprofit and public entities for the management and protection of wetlands.

(3) Offset losses of wetland values caused by activities which otherwise comply with local, state and federal law in order to create, restore, or enhance wetland values and functions.

(4) Maintain and encourage a predictable, efficient regulatory framework for environmentally acceptable development.

(5) Provide an option for accomplishing offsite mitigation when such mitigation is required under a CBJW permit.

49.00.000 POWERS. (a) Mitigation Bank Board (MBB). Subject to approval by the CBJ, the MBB may:

(1) Charge a fee for purchase of credits in the mitigation bank as provided by _____...

(2) Acquire or accept title to lands suitable for use in mitigation banks or actions, or to protect sensitive or unique wetlands habitat.

(3) Pay costs incurred for alterations needed to create, restore, or enhance wetland areas for purposes of carrying out the provisions of ...

(4) Authorize payment of administrative, research or scientific monitoring expenses of the MBB in carrying out the provisions of ...

(5) Disperse funds received under the Federal Coastal Zone Management Act of 1972, as amended, and other grant programs, for such purposes as specifically stipulated in a grant award.

(6) Receive funds under the Federal Emergency Wetlands Resources Act of 1986, and other programs, for the voluntary acquisition of wetlands and interests therein according to the wetlands provisions of ...

(b) Mitigation bank program criteria. (1) In accordance with the provisions of _____, upon the approval of the CBJ, the MBB shall initiate and implement a program for wetlands mitigation banks.

(2) Subject to the approval of the CBJ, Assembly Lands Committee, the MBB shall adopt, by rule, standards and criteria for the site selection process, operation and evaluation of mitigation banks. Criteria to be considered shall include but need not be limited to:

A(A Historic wetland trends, including the estimated rate of current and future losses of the respective types of wetlands,

(B) The contributions of the wetlands to:

(i) Wildlife, migratory birds and resident species;
(ii) Commercial and sport fisheries;
(iii) Surface and ground water quality and quantity, and flood moderation;
(iv) Outdoor recreation, including enhancement of scenic waterways; and
(v) Scientific and research values.

(C) Regional economic needs.

(3) The MBB shall establish a well-defined plan, including preliminary objectives, inventory of resource values, and an evaluation and monitoring program.

49.00.000 RESOURCE VALUES AND CREDITS. (a) The MBB shall establish a system of resource values and credits.

(b) A credit from a mitigation bank may be withdrawn only for a permit action after all onsite mitigation methods have been examined and found to be impracticable by the Wetlands Review Board.

(v) The MBB shall not withdraw any credits from the mitigation bank until it:

(1) Has conducted protection, creation, restoration and enhancement actions to establish or protect wetland functions and values at the mitigation bank site; and

(2) Evaluated the results of the actions and determined that a high probability exists that the wetland functions and values of the mitigation bank site are equal to or greater than the functions and the values of the wetland area to be damaged or destroyed.

(d) The price for any mitigation credit shall be set at an amount that will compensate the MBB for all of the costs and expenses it has incurred, and is expected to incur in establishing and maintaining that portion of the mitigation bank.

(e) No mitigation bank credits may be withdrawn for any permit action where the wetland area to be adversely affected by a removal or fill activity exceed five acres. The "area affected" shall include the area where material is removed or filled and any surrounding area adversely affected by the activity.

(f) The Wetlands Review Board shall not consider the availability or nonavailability of mitigation bank credits in deciding whether to grant or deny any removal or fill permit under _____.

(g) The MBB annually shall:

(1) Evaluate the wetlands functions and values created within the wetland mitigation bank site, and

(2) Compare the current functions and values with the functions and values that the MBB anticipated the site would provide. If the MBB finds any significant disparity between the actual and anticipated functions and values, the MBB shall:

(A) Suspend the withdrawal of credits to that mitigation site; or

(B) Take prompt action to assure that the anticipated functions and values are established.

49.00.000 FILL AND REMOVAL ACTIVITIES. (a) The MBB shall maintain a record of fill and removal activities and actions for the mitigation bank and conduct monitoring with moneys from CBJ Wetlands Mitigation Bank Revolving Fund Account.

(b) The MBB shall provide semi-annual reports to the CBJ on moneys spent and received for the wetland mitigation bank.

49.00.000 RULES. Subject to the approval of the CBJ, the MBB shall adopt rules according to the provisions of _____ to carry out the provisions of _____

49.00.000 COOPERATION. (a) The provisions of ... shall be carried out in consultation with state and federal natural resources and regulatory agencies, affected organizations and other interested parties.

(b) In cooperation with the parties in subsection (1) of this section, the MBB, in consultation with the CBJ, shall:

(1) Review opportunities for inclusion of appropriate wetlands in the mitigation bank.

(2) Develop and recommend a wetlands priority plan for inclusion in the mitigation bank. The wetlands priority plan shall be complementary to the purposes and programs under _____.

49.00.000 CBJ WETLANDS MITIGATION BANK REVOLVING FUND ACCOUNT (CBJWMBRFA). (a) The CBJWMBRFA is established in the General Fund of the CBJ Treasury. All moneys received under ... shall be paid into the CBJ Treasury and credited to the account. All moneys in the account are appropriated continuously to the MBB to be used by the MBB as set forth in ... The moneys in the account may be invested and reinvested as provided in ...

(b) The MBB shall keep a record of all moneys deposited in the account. The record shall indicate by separate cumulative accounts the source from which the moneys are derived and the individual activity or program against with each withdrawal is charged.

(c) Sources of account. The following moneys shall be paid into the CBJWMBRFA:

(1) Any moneys appropriated for that purpose by the Assembly,

(2) Moneys awarded for such purposes as specifically stipulated under grants such as the FEWRA of 1986 or the FCZM Act of 1972, as amended.

(3) Moneys obtained by gift, bequest, donation or grant from any other public or private source for the purposes of ...

(4) Repayment of moneys from the accounts including interest on such moneys.

(5) Moneys obtained from interest or other earnings from investments of moneys in the account.

(d) Use of account. The MBB may use the moneys in the CBJWMBRFA for the following purposes;

(1) For the voluntary acquisition of land suitable for use in mitigation banks,

(2) To pay for costs incurred for alterations needed to create, restore, or enhance wetland areas for purposes of carrying out the provisions of ...

(3) For payment of administrative research or scientific monitoring expenses of the MBB in carrying out the provisions of ...

(4) For the dispersal of funds received under the FCZM Action of 1972, as amended for such purposes as specifically stipulated in a grant award.

(5) For the dispersal of funds received under the FEWRA of 1986 for the voluntary acquisition of wetlands and interests therein

(e) Report on CBJ Wetlands Mitigation Bank Revolving Fund. As part of the report to the CBJ required under ..., the MBB shall prepare an annual report on the CBJWMBRFA. The report shall include, but need not be limited to:

(1) The financial status of the account;

(2) Creation, restoration or enhancement activities and credits sold, granted or otherwise disposed or remaining in mitigation banks established under ...;

(3) Wetlands acquired with moneys in the account, and;

(4) A summary of activities, including but not limited to:

(A) A description of the location, size, number of potential credits and credits withdrawn for each specific permit action; and

(B) The status of all mitigation bank activities pending or completed during the past year.

Appendix B--Permit Form and Special Conditions

A. Permit Form

City and Borough of Juneau Wetlands Permit Application

Permittee _____
Permit No. _____
Issuing Office _____

Note.--The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate department of the CBJ having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the City Manager.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: Describe the permitted activity and its intended use with references to any attached plans or drawings that are considered to be a part of the project description. Include a description of the types and quantities of dredged or fill materials to be discharged in jurisdictional waters.

Project Location: Where appropriate, provide the names of and the locations on the waters where the permitted activity and any off-site disposals will take place. Also, using name, distance, and direction, locate the permitted activity in reference to a nearby landmark such as a town or city.

Permit Conditions:
General Conditions:

1. The time limit for completing the work authorized ends on _____. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.

2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions: (Add special conditions as required in this space with reference to a continuation sheet if necessary.)

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

( ) Section 10 of the Rivers and Harbors Act of 1899 (33U.S.C. 403).

( ) Section 404 of the Clean Water Act (33 U.S.C. 1344).

( ) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. This Permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of CBJ. In issuing this permit, the CBJ Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in Section (Modification, Suspension or Revocation of Permit) or enforcement procedures such as those contained in Section (Supervision of Authorized Activities and Legal Action). The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the CBJ will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

_____

(Permittee)

_____

(Date)

This permit becomes effective when the CBJ official, designated to act for the City Manager, has signed below.

_____

City Manager

_____

(Date)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

_____

(Transferee)

_____

(Date)

B. Special Conditions. No special conditions will be preprinted on the permit form. The following and other special conditions should be added, as appropriate, in the space provided aater the general conditions or on a referenced continuation sheet:

1. Your use of the permitted activity must not interfere with the public's right to free navigation on all navigable waters of the United States.

2. You must have a copy of this permit available on the vessel used for the authorized transportation and disposal of dredged material.

3. You must advise this office in writing, at least two weeks before you start maintenance dredging activities under the authority of this permit.

4. You must install and maintain, at your expense, any safety lights and signals prescribed by the United States Coast Guard (USCG), through regulations or otherwise, on your authorized facilities. The USCG may be reached at the following address and telephone number:

_____

_____

5. The condition below will be used when a CBJW permit authorizes an artificial reef, an aerial transmission line, a submerged cable or pipeline, or a structure on the outer continental shelf.

National Ocean Service (NOS) has been notified of this authorization. You must notify NOS and this office in writing, at least two weeks before you begin work and upon completion of the activity authorized by this permit. Your notification of completion must include a drawing which certifies the location and configuration of the completed activity (a certified permit drawing may be used). Notifications to NOS will be sent to the following address: The Director, National Ocean Service (N/CG 222), Rockville, Maryland 20852.

6. The following condition should be used for every permit where legal recordation of the permit would be reasonably practicable and recordation could put a subsequent purchaser or owner of property on notice of permit conditions.

You must take the actions required to record this permit with the Registrar of Deeds or other appropriate official charged with the responsibility for maintaining records of title to or interest in real property.