

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

DIVISION OF HABITAT

SARAH PALIN, GOVERNOR

Douglas Island Center Building
802 3rd Street, Douglas
P.O. BOX 110024
JUNEAU, AK 99811-0024
PHONE: (907) 465-4105
FAX: (907) 465-4759

FISH HABITAT PERMIT FH08-I-0116-SA

ISSUED: February 12, 2009

Mr Dave Palmer, Manager
Juneau International Airport
1873 Shell Simmons Drive
Juneau, Alaska 99801

RE: Juneau International Airport Runway Safety Area Expansion
Runway Safety Area Expansion and Modifications to Jordan Creek
Mendenhall Wetlands State Game Refuge
T. 40 S., R. 66 E., S. 31 and 32 (Juneau B-2 SW)
State ID AK 0705-03J, FH08-I-0150, FH08-I-0002, FH08-I-0003,
FH08-I-0010

Dear Mr. Palmer:

Pursuant to AS 16.20.060, AS 16.05.871(b), and 5 AAC 95, the Alaska Department of Fish and Game (ADF&G), Division of Habitat has reviewed your request to expand the Runway Safety Areas (RSA) and eliminate a wildlife hazard adjacent to the runway at the Juneau International Airport (JNU). The purpose of the RSA project is to expand the existing RSAs to conform to current Federal Aviation Administration (FAA) standards. The purpose of the West End Wetlands Fill project is to eliminate habitat adjacent to the west end of the runway that the JNU Wildlife Hazard Management Plan (WHMP) has identified as attractive to birds that create a risk to aircraft operations. Both aspects of this project affect lands of the Mendenhall Wetlands State Game Refuge (MWSGR) and work below the ordinary high water marks of the anadromous Mendenhall River (Stream No. 111-50-10500) and Jordan Creek (Stream No. 111-50-10620).

Background and Project Description

The Juneau International Airport (JNU) has proposed a number of projects to enhance airport capacity and efficiency and to meet FAA requirements to improve the RSAs and reduce risks to aviation posed by wildlife. These projects are described as the "Agency Preferred Alternatives" in the Juneau International Airport Final Environmental Impact Statement, April 2007 (FEIS Section 2.13.2).

RSA Project

To maintain its FAA certification JNU is required to expand the current RSAs to conform to FAA standards. JNU is surrounded on three sides by the MWSGR. Complying with FAA requirements will require expanding the RSAs onto 4.76 acres of land currently within the MWSGR, 2.7 acres at the west end of the runway and 2.06 acres at the east end of the runway. Building the eastern RSA will require filling a portion of East Runway Slough and relocating the slough channel to adjacent land of the MWSGR. East Runway Slough is a slough of the anadromous Jordan Creek.

The statute creating the MWSGR and the refuge management plan contain provisions under which JNU may acquire refuge land for airport expansion provided certain conditions are met and the land is replaced. ADF&G is satisfied that those conditions have been met. To ensure the refuge land is replaced, JNU has developed a Real Estate Contingency Agreement (RECA). The RECA will function as a contract between JNU and the State of Alaska (SOA) guaranteeing that refuge land sought by JNU will be replaced. JNU intends to contract with the Southeast Alaska Land Trust (SEAL Trust) to acquire wetlands to mitigate affects of airport expansion, including replacing refuge land. In brief, SEAL Trust will have the 5-year term of the ADNR early entry permit for construction of the RSAs to facilitate acquisition of replacement land. The goal is for SEAL Trust to purchase former refuge lands that have accreted to upland owners using JNU mitigation funds and to transfer title from the seller to the SOA. If by the reckoning date, SEAL Trust has failed to offer sufficient acceptable replacement land to the SOA, JNU will donate JNU-owned wetlands to fulfill the remaining requirement to replace refuge land. JNU's commitment to donate up to 4.8 acres of airport-owned wetlands abutting the refuge boundary to the SOA guarantees that all refuge land used for the RSAs will be replaced in a timely fashion.

The refuge wetlands sought by JNU have high functional value, and similar types of wetlands likely will not be available as replacement land. Therefore, JNU and the SOA have agreed to use Functional Capacity Units (FCU) (Adamus 1987), rather than acres, as the method for determining relative value of wetlands used for the RSA project and wetlands offered as replacement land. JNU is required to replace the FCU equivalent of refuge land used for the RSA project.

ADNR will only convey title for the RSA land to JNU after JNU completes replacing refuge land. To allow JNU to build the RSAs before completing that requirement, ADNR will issue an early entry permit transferring management authority for the RSA land from ADF&G to JNU. Consequently, JNU will not need an ADF&G Special Areas Permit to build on the RSA lands. To minimize the project's long-term effects on the MWSGR, JNU has requested ownership of only the exact footprint of the RSAs. However, JNU anticipates construction activities will affect refuge land within 10 feet of the RSA fill prism, and they have requested a Special Areas Permit to temporarily disturb that land during construction and to allow vegetation to naturally recover.

Construction of the new RSA will block flow of the existing East Runway Slough. JNU has also requested a Special Areas Permit to construct a new channel for East Runway Slough on refuge land. East Runway Slough drains wetlands on the north side of the runway and is hydrologically connected to Fritz Cove on the west and Gastineau Channel to the east via Sunny Point Slough. To maintain these important hydrologic connections, JNU proposes to excavate a new slough channel around eastern end of the new RSA. That channel will maintain hydrologic connection with Fritz Cove and a

secondary channel at a slightly higher elevation will connect with Sunny Point Slough. For a separate, but related project (MALSR Lights, State ID # AK 0808-03J), JNU proposes to install 4 bottomless arch culverts that will span the new channel of East Runway Slough adjacent to the eastern end of the RSA. The culverts will support a service road used to access the MALSR lights. A separate ADF&G Special Areas permit (FH08-I-0150-SA) will be issued for that project.

Although final survey and design work have yet to be completed, construction of new channels for East Runway Slough will involve disturbing about 5.1 acres of MWSGR land. The proposed channels will vary from 120 to 160 feet wide, be excavated to a depth of about 5 feet below existing ground level, and have a slope of 0.07%. Creating the channels will require excavating approximately 20,000 cubic yards of material. Excavated material will be removed from the MWSGR.

Compensation for changes to refuge habitat brought about by re-routing East Runway Slough is addressed in the Juneau Airport Mitigation Plan dated July 24, 2008. Because this project will convert high marsh habitat to slough channel, rather than eliminating habitat value, the potential benefits to the refuge offered by the mitigation plan will sufficiently compensate ADF&G.

West End Wetlands Fill Project

JNU's WHMP has identified about 8.9 acres of refuge wetlands including side channels of the Mendenhall River and depressions that collect rain and tide water as bodies of water that attract waterfowl and other large birds. Because the habitat that attracts these large birds is immediately adjacent to the end of the runway, it represents a substantial hazard to aviation. The statute that created the MWSGR, AS 16.20.034, at paragraph (h) requires ADF&G and ADNR to "assist JNU with filling ponds, lakes, or other bodies of water adjacent to the runway to eliminate them as sites attractive to waterfowl". JNU has requested that ADF&G assist them in eliminating this hazard. In a letter to JNU's permitting agent, Tom Carson, dated August 28, 2008 ADF&G, Division of Habitat interpreted "assist" as used in AS 16.20.034 (h) to mean ADF&G will issue a Special Areas Permit for this project and require no compensation to the state beyond potential benefits to the MWSGR that may be realized through the Juneau Airport Mitigation Plan.

Land affected by this project will remain MWSGR land, but will no longer function as habitat. For this reason JNU will have the opportunity to acquire the West End Wetlands Fill parcel. If after fulfilling the requirement to replace the RSA lands, SEAL Trust is able to provide the SOA with additional land adjacent to the refuge boundary and having at least the FCU equivalent; ADF&G will support conveyance of this parcel to JNU in exchange for the replacement land. There will be no limit on the period JNU has to acquire replacement land for this parcel.

To eliminate this hazard to aviation, JNU proposes to implement alternative WH-2C described in the WHMP and permit application package dated July 20, 2007. For this project about 8.9 acres of MWSGR wetlands, including side channels and sloughs of the Mendenhall River and the current mouth of Duck Creek, will be selectively filled and graded. The channel of Duck Creek will be relocated to its final position under FH 08-I-0002 prior to filling its current channel. To minimize the amount of fill imported from elsewhere, material borrowed from higher portions of the area will be used to fill in lower portions. Re-contouring will focus on eliminating swales and depressions. New channels will be cut so tidal flows effectively drain. To avoid destabilizing the bank of the Mendenhall River, a 25-foot border of natural vegetation will be left undisturbed. The river bank adjacent to the

RSA and float pond will be hardened using riprap, but bioengineered bank stabilization techniques may be employed at the mouth of Duck Creek which will be relocated about four hundred feet up river.

JNU plans to allow the successful bidder(s) for projects addressed by this permit to develop construction scheduling, sequencing, and techniques. Because that information will not be available at the time this permit is issued, ADF&G will require that the successful bidder(s) obtain ADF&G's approval of the final design and construction plan for the slough and wetland fill projects at least 30 days prior to beginning work. The construction plans will include designated work areas, outside of which machinery will not operate.

Coastal Consistency Requirements

Your project is consistent with the Standards of the Alaska Coastal Management Program.

In accordance with AS 16.20.060 and 11 AAC 110, your project is approved subject to the project description, standard alternative measures, and the terms of this permit.

1. To minimize effects on migratory fish and disturbance to migrating waterfowl and waterfowl hunters, all work creating a new channel for East Runway Slough on the MWSGR shall be completed from November 1st to March 15th.
2. Excavation in tidal areas and within the Mendenhall River shall take place during low tides when the sites are most dewatered.
3. Machinery used on these projects shall remain within a work area designated by the contractor and approved by ADF&G prior to beginning work.
4. Petroleum product spill clean-up materials (absorbent pads, buckets, shovels, etc.) will be available on site when mechanical equipment is used.
5. Servicing and re-fueling of equipment shall not be conducted on lands of the MWSGR.
6. Equipment leaking fuel, oil, hydraulic fluid or other pollutants shall not be operated within the bounds of the MWSGR. Any petroleum product spills within the Refuge shall be cleaned up immediately, and contaminated earth, debris, or other materials shall be disposed of as required by the Alaska Department of Environmental Conservation regulations.

You are responsible for the actions of contractors, agents, or other persons who perform work to accomplish the approved project. For any activity that significantly deviates from the approved plan, you shall notify ADF&G and obtain written approval in the form of a permit amendment before beginning the activity. Any action that increases the project's overall scope or that negates, alters, or minimizes the intent or effectiveness of any stipulation contained in this permit will be deemed a significant deviation from the approved plan. The final determination as to the significance of any deviation and the need for a permit amendment is the responsibility of the Division of Habitat. Therefore, it is recommended you consult the Division of Habitat immediately when a deviation from the approved plan is being considered.

This letter constitutes a permit issued under the authority of 5 AAC 95 and AS 16.05.871(d). This permit must be retained on site during construction. This permit provides reasonable notice from the

commissioner that failure to meet its terms and conditions constitutes violation of AS 16.05.861; no separate notice under AS 16.05.861 is required before citation for violation of AS 16.05.871 can occur. Please be advised that this determination applies only to activities regulated by the Division of Habitat; other agencies also may have jurisdiction under their respective authorities. This approval does not relieve you of your responsibility to secure other permits; state, federal, or local. You are still required to comply with all other applicable laws.

In addition to the penalties provided by law, this permit may be terminated or revoked for failure to comply with its provisions or failure to comply with applicable statutes and regulations. The permittee shall mitigate any adverse effect upon fish or wildlife, their habitat, or any restriction or interference with public use that the commissioner determines may be expected to result from, or which actually results from, the permittee's activity, or which was a direct result of the permittee's failure to: 1) comply with a permit condition or a provision of 5 AAC 95, AS 16.05.871(b); or 2) correct a condition or change a method foreseeably detrimental to fish and wildlife, or their habitat.

Pursuant to 11 AAC 112.020(b)(2), the conditions of this permit are consistent with the standards of the Alaska Coastal Management Program.


You shall indemnify, save harmless, and defend the department, its agents, and its employees from any and all claims, actions or liabilities for injuries or damages sustained by any person or property arising directly or indirectly from permitted activities or your performance under this permit. However, this provision has no effect if, and only if, the sole proximate cause of the injury is the department's negligence.

This permit decision may be appealed in accordance with the provisions of AS 44.62.330-630.

If you have any questions regarding this permit, please contact Tom Schumacher at (907) 465-4346 or email tom.schumacher@alaska.gov.

Sincerely,
Denby Lloyd
Commissioner



 Jackie Timothy
Regional Supervisor
Division of Habitat

Email cc:

Al Ott, ADF&G Habitat, Fairbanks
Ryan Scott, ADF&G, Douglas
Brian Glynn, ADF&G, Douglas
Kevin Monagle, ADF&G, Douglas
Mark Fink, ADF&G, Anchorage

Jim Anderson, ADNR, Juneau
Fran Roche, DEC, Juneau
Erin Allee, DNR/DCOM, Juneau
Randy Vigil, COE, Juneau
Chiska Derr, NMFS, Juneau
Richard Enriquez, USFWS, Juneau
Chris Meade, USEPA, Juneau
Teri Camery, Juneau Coastal District
Lt. Todd Sharp, AWT, Juneau
Tom Carson, Carson-Dorn Inc., Juneau