

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

DIVISION OF WATER

Wastewater Discharge Authorization Program

SEAN PARNELL, GOVERNOR

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<http://www.state.ak.us/dec/>

October 20, 2010

Certified Mail 7008-1830-0003-5208-0201

Environmental Program Manager
Aurora Energy, LLC
100 Cushman Street, #210
Fairbanks, AK 99701

Subject: Channel A, Aurora Energy, LLC, Work Pad
Reference No. POA-2010-241

Dear Environmental Program Manager:

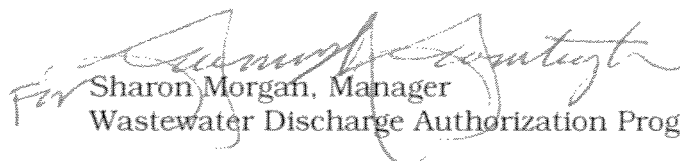
In accordance with Section 401 of the Federal Clean Water Act of 1977 and provisions of the Alaska Water Quality Standards, the Department of Environmental Conservation is issuing the enclosed Certificate of Reasonable Assurance for the development of the site as a work pad.

Department of Environmental Conservation (DEC) regulations provide that any person who disagrees with this decision may request an informal review by the Division Director in accordance with 18 AAC 15.185 or an adjudicatory hearing in accordance with 18 AAC 15.195 – 18 AAC 15.340. An informal review request must be delivered to the Director, Division of Water, 555 Cordova Street, Anchorage, AK 99501, within 15 days of the permit decision. Visit <http://www.dec.state.ak.us/commish/ReviewGuidance.htm> for information on Administrative Appeals of Department decisions.

An adjudicatory hearing request must be delivered to the Commissioner of the Department of Environmental Conservation, 410 Willoughby Avenue, Suite 303, PO Box 111800, Juneau, AK 99811-1800, within 30 days of the permit decision. If a hearing is not requested within 30 days, the right to appeal is waived.

By copy of this letter we are advising the U.S. Army Corps of Engineers of our actions and enclosing a copy of the certification for their use.

Sincerely,


For Sharon Morgan, Manager
Wastewater Discharge Authorization Program

Enclosure
cc: (with encl.)
Melissa Riordan, USACE, Fairbanks
Tracy DeGering, EPA, AK Operations

Sean Palmer, ADEC Anchorage
Robert Henszey, USF&WS, Fairbanks
Mac McLean, ADF&G/Habitat, Fairbanks

STATE OF ALASKA
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
CERTIFICATE OF REASONABLE ASSURANCE

A Certificate of Reasonable Assurance, in accordance with Section 401 of the Federal Clean Water Act and the Alaska Water Quality Standards, is issued to Aurora Energy, LLC, 100 Cushman Street, #210, Fairbanks, AK 99701, for the construction of a work pad for staging, storage, and the possible fabrication of pipe to be used in Aurora's district heat system. The applicant will fill 5.85 acres of wetlands with coal ash to bring the property up to grade, with the placement of approximately 47,000 cubic yards of fill with a top dressing of gravel. Along the south side of the slough a 50-foot buffer would be maintained.

The proposed activity is located within Section 20, T. 1 S., R. 1 W., Fairbanks Meridian in Fairbanks, Alaska.

Public notice of the application for this certification was given as required by 18 AAC 15.180.

A State Water Quality Certification is required under Section 401 because the proposed activity will be authorized by a U.S. Army Corps of Engineers permit, reference number POA-2010-241, and a discharge may result from the proposed activity.

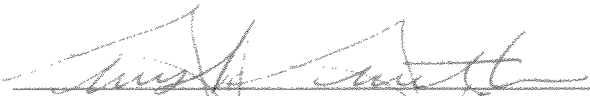
DEC reviewed the application and certifies that there is reasonable assurance that the proposed activity, as well as any discharge which may result, will comply with applicable provisions of Section 401 of the Clean Water Act and the Alaska Water Quality Standards, 18 AAC 70, provided that the following alternative measures are adhered to.

1. Reasonable precautions and controls must be used to prevent incidental and accidental discharge of petroleum products or other hazardous substances. Fuel storage and handling activities for equipment must be sited and conducted so there is no petroleum contamination of the ground, surface runoff or water bodies.
2. During construction, spill response equipment and supplies such as sorbent pads shall be available and used immediately to contain and cleanup oil, fuel, hydraulic fluid, antifreeze, or other pollutant spills. For any spill amount, there are Discharge Notification and Reporting Requirements (AS 46.03.755 and 18 AAC 75 Article 3). Most importantly, the applicant must contact by telephone the DEC Area Response Team for Northern Alaska at (907) 451-2121 during work hours or 1-800-478-9300 after hours. Also, the applicant must contact by telephone the National Response Center at 1-800-424-8802. Report all spills.

3. Construction equipment shall not be operated in wetlands if equipment is leaking fuel, oil, hydraulic fluid, or any other hazardous material. Operation of tracked or wheeled equipment in the water shall be kept to a minimum. Equipment shall be inspected on a daily basis for leaks. If leaks are found, the equipment shall not be used and shall be pulled from service until the leaks are repaired.
4. This project shall apply for coverage under ADEC's APDES General Permit for Storm Water Discharges from Large and Small Construction Activities in Alaska (AKR10-0000). This permit requires that a Storm Water Pollution Prevention Plan (SWPPP), describing construction runoff and erosion control, be prepared and implemented. For projects that disturb greater than 5 acres, this SWPPP must also be submitted to ADEC (Greg Drzewiecki 907-269-7692) prior to construction. Please refer to ADEC's website for information concerning the APDES storm water permit.
5. Coal ash and gravel fill must be free from contamination by petroleum products or toxic substances.
6. The use of coal ash as fill material is allowable by ADEC but it requires prior authorization from the Division of Environmental Health, Solid Waste Program, under regulation 18 AAC 60.007. Please contact Doug Buteyn, Environmental Program Manager, at (907) 451-2135 prior to any placement of fill. More information can be found at:
<http://dec.alaska.gov/eh/sw/index.htm>.
7. Any disturbed ground and exposed soil not covered with fill must be stabilized and revegetated with endemic species, grasses, or other suitable vegetation in an appropriate manner to minimize erosion and sedimentation, so that a durable vegetative cover is established in a timely manner.
8. All work areas, material access routes, and surrounding wetlands involved with the coal ash and gravel pad development shall be clearly delineated and marked in such a way that equipment operators do not operate outside of this corridor.

This certification expires five (5) years after the date the certification is signed. If your project is not completed by then and work under Corps of Engineers Permit will continue, you must submit an application for renewal of this certification no later than 30 days before the expiration date (18 AAC 15.100).

Date 10/20/2010


Sharon Morgan, Manager
Wastewater Discharge Authorization Program



US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

FAIRBANKS FIELD OFFICE
Regulatory Division (1145)
CEPOA-RD
2175 University Avenue, Suite 201E
Fairbanks, Alaska 99709-4927

PUBLIC NOTICE DATE: July 2, 2010

EXPIRATION DATE: August 2, 2010

REFERENCE NUMBER: POA-2010-241

WATERWAY: Channel A

Interested parties are hereby notified that a Department of the Army permit application has been received for work in waters of the United States as described below and shown on the enclosed project drawings.

Comments on the described work, with the reference number, should reach this office no later than the expiration date of this Public Notice to become part of the record and be considered in the decision. Please contact **Melissa Riordan** at (907) 474-2166, by fax at (907) 474-2164, or by email at **Melissa.C.Riordan@usace.army.mil** if further information is desired concerning this notice.

APPLICANT: Aurora Energy, LLC., 100 Cushman Street, #210, Fairbanks, Alaska 99701

LOCATION: The project site is located within Section 20, T. 1 S., R. 1 W., Fairbanks Meridian; USGS Quad Map Fairbanks D-2; Latitude 64.8150° N., Longitude -147.8029° W.; in Fairbanks, Alaska.

PURPOSE: The applicant's stated purpose is to develop the site as a work pad for staging, storage, and possible fabrication of pipe to be used in Aurora's district heat system. The plan calls for pipe to be delivered to this site and stored until it is needed for installation to the district heat system. At that time, the pipe would be sized, (cut, welded, or both), for a specific job for which it is needed, and then transported to the work location. It is likely that other material and equipment would be stored there as well. The site was chosen because of its location along convenient access routes into and out of Fairbanks, its size and shape, and the convenient route from their district heat system, which it would primarily support.

Also, the site was selected based on cost, approximate size needs, and ideal location for work intended.

PROPOSED WORK: Fill 5.85 acres of wetlands to bring property up to grade, (approximately 3-5 above existing ground surface elevation), with the placement of approximately 47,000 cubic yards of fill with a top dressing of gravel. Fill material would be coal ash from Usibeli Mine coal. There is a previously filled stockpile area that is 280' by 205' within Lot GL 36 that is not included in the 5.85 acre area proposed for fill. On Lot GL 20, 1.14 acres would be left unfilled on the north side of the Slough, and along the south side of the slough a 50' buffer would be maintained. All work would be performed in accordance with the enclosed plans, (sheets 1-6), dated July 1, 2010. Aurora Energy, LLC would start to place fill as soon as the permit is approved, and would likely have it finished and ready to use sometime in the next 18 to 24 months.

ADDITIONAL INFORMATION:

APPLICANT PROPOSED MITIGATION: The applicant proposes the following mitigation measures to avoid, minimize, and compensate for impacts to waters of the United States from activities involving discharges of dredged or fill material.

See plan Sheet 6 of 6 for applicant's proposed mitigation statement.

WATER QUALITY CERTIFICATION: A permit for the described work will not be issued until a certification or waiver of certification, as required under Section 401 of the Clean Water Act (Public Law 95-217), has been received from the Alaska Department of Environmental Conservation.

CULTURAL RESOURCES: The latest published version of the Alaska Heritage Resources Survey (AHRS) has been consulted for the presence or absence of historic properties, including those listed in or eligible for inclusion in the National Register of Historic Places. There are no listed or eligible properties in the vicinity of the worksite. Consultation of the AHRS constitutes the extent of cultural resource investigations by the District Commander at this time, and he is otherwise unaware of the presence of such resources. This application is being coordinated with the State Historic Preservation Office (SHPO). Any comments SHPO may have concerning presently unknown archeological or historic data that may be lost or destroyed by work under the requested permit will be considered in our final assessment of the described work.

ENDANGERED SPECIES: No threatened or endangered species are known to use the project area.

This application is being coordinated with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service (NMFS). Any comments they may have concerning endangered or threatened wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

ESSENTIAL FISH HABITAT: The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996, requires all Federal agencies to consult with the NMFS on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH).

No EFH species are known to use the project area.

TRIBAL CONSULTATION: The Alaska District fully supports tribal self-governance and government-to-government relations between Federally recognized Tribes and the Federal government. Tribes with protected rights or resources that could be significantly affected by a proposed Federal action (e.g., a permit decision) have the right to consult with the Alaska District on a government-to-government basis. Views of each Tribe regarding protected rights and resources will be accorded due consideration in this process. This Public Notice serves as notification to the Tribes within the area potentially affected by the proposed work and invites their participation in the Federal decision-making process regarding the protected Tribal right or resource. Consultation may be initiated by the affected Tribe upon written request to the District Commander during the public comment period.

PUBLIC HEARING: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, reasons for holding a public hearing.

EVALUATION: 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 impacts, which the proposed activity may have on the public interest, requires a careful weighing of all the factors that 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 outcome of the general balancing process would determine whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur. The 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, cultural values, 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. 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. Subject to the preceding sentence and any other applicable guidelines or criteria (see Sections 320.2 and 320.3), a permit will be granted unless the District Commander determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition,, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above.

Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

AUTHORITY: This permit will be issued or denied under the following authorities:

(X) Discharge dredged or fill material into waters of the United States - Section 404 Clean Water Act (33 U.S.C. 1344). Therefore, our public interest review will consider the guidelines set forth under Section 404(b) of the Clean Water Act (40 CFR 230).

(X) Transport dredged material for the purpose of dumping it into ocean waters - Section 103 Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413). Therefore, our public interest review will consider the criteria established under authority of Section 102(a) of the Marine Protection, Research and Sanctuaries Act of 1972, as amended (40 CFR Parts 220 to 229), as appropriate.

Project drawings, and a Notice of Application for State Water Quality Certification are enclosed with this Public Notice.

District Commander
U.S. Army, Corps of Engineers

Enclosures

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION
DIVISION OF WATER
401 Certification Program
Non-Point Source Water Pollution Control Program

ANCHORAGE

DEPARTMENT OF ENVIRONMENTAL CONSERVATION
WQM/401 CERTIFICATION
555 CORDOVA STREET
ANCHORAGE, ALASKA 99501-2617
PHONE: (907) 269-7564/FAX: (907) 334-2415

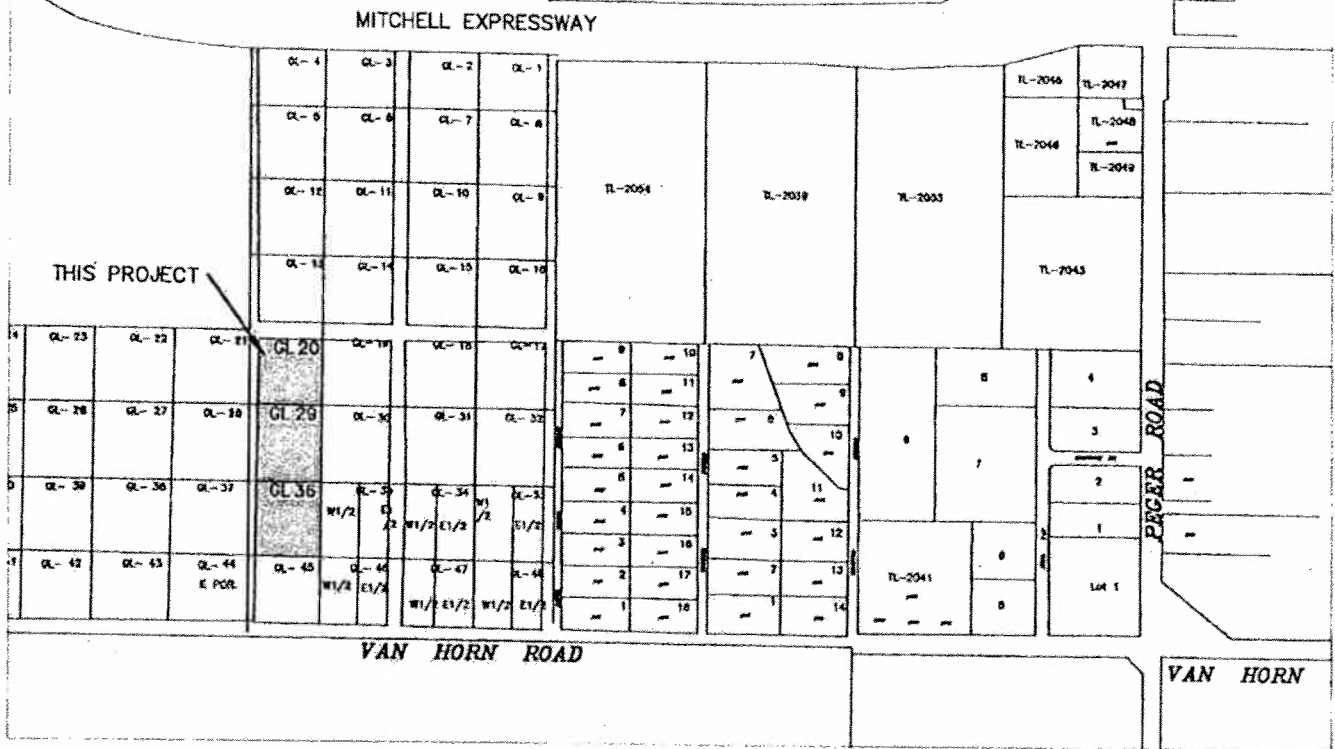
NOTICE OF APPLICATION FOR STATE WATER QUALITY CERTIFICATION

Any applicant for a federal license or permit to conduct an activity that might result in a discharge into navigable waters, in accordance with Section 401 of the Clean Water Act of 1977 (PL95-217), also must apply for and obtain certification from the Alaska Department of Environmental Conservation that the discharge will comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws. By agreement between the U.S. Army Corps of Engineers and the Department of Environmental Conservation, application for a Department of the Army permit to discharge dredged or fill material into navigable waters under Section 404 of the Clean Water Act also may serve as application for State Water Quality Certification.

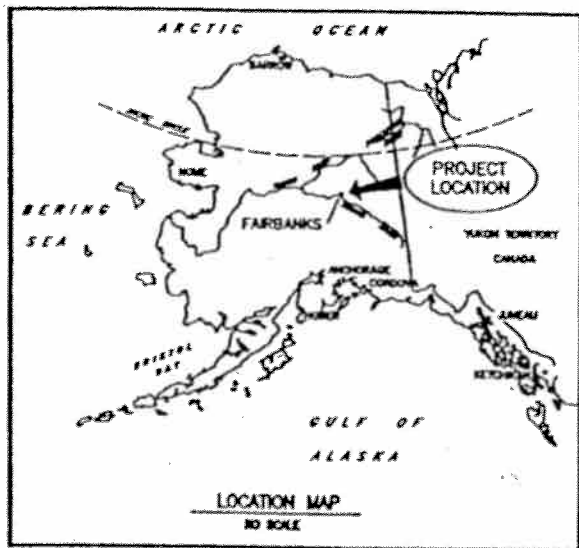
Notice is hereby given that the application for a Department of the Army Permit described in the Corps of Engineers' Public Notice No. **POA-2010-241, Channel A**, serves as application for State Water Quality Certification from the Department of Environmental Conservation.

After reviewing the application, the Department may certify there is reasonable assurance the activity, and any discharge that might result, will comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws. The Department also may deny or waive certification.

Any person desiring to comment on the project, with respect to Water Quality Certification, may submit written comments to the address above by the expiration date of the Corps of Engineer's Public Notice.

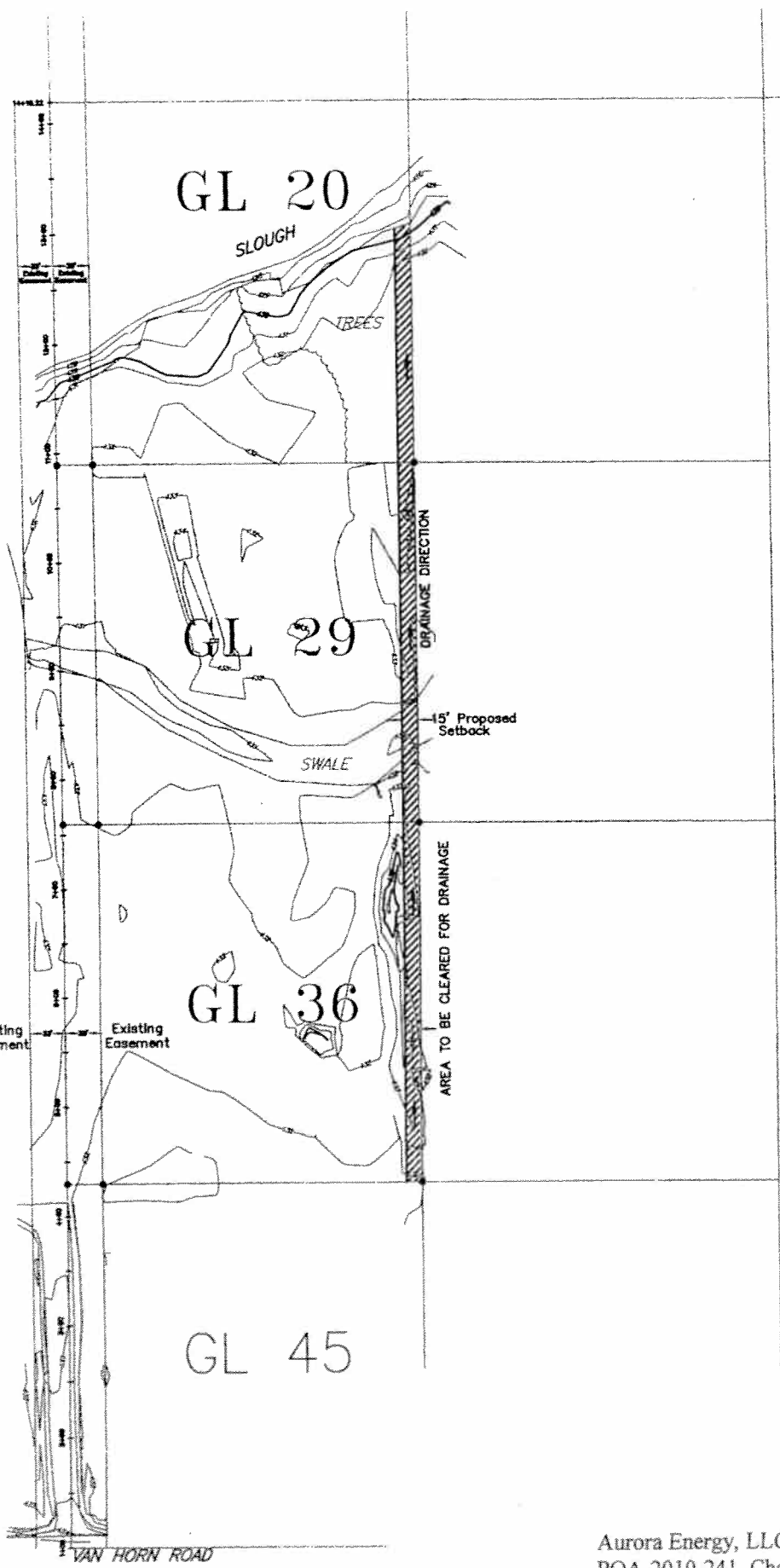


VICINITY MAP



Aurora Energy, LLC
 POA-2010-241, Channel A
 Conger St. Lots 36, 29, 20
 Vicinity Map
 Sheet 1 of 6

dated: July 1, 2010



PLAN SCALE: 1" = 150'

DESIGNED	MJB
DRAWN	
CHECKED	

Aurora Energy, LLC
 POA-2010-241, Channel A
 Conger St. Lots 36, 29, 20
 Property plan view
 Sheet 2 of 6 dated: July 1, 2010

GL 29

GL 36

PREVIOUSLY FILLED
STOCKPILE AREA



DRAINAGE DIRECTION

330'

330'

330'

CONGER ST.

33' Existing Easement - Existing Easement

11+00
10+00
9+00
8+00
7+00
6+00
5+00
4+00

33'

50'

75'

50'

KEY: FILL AREA



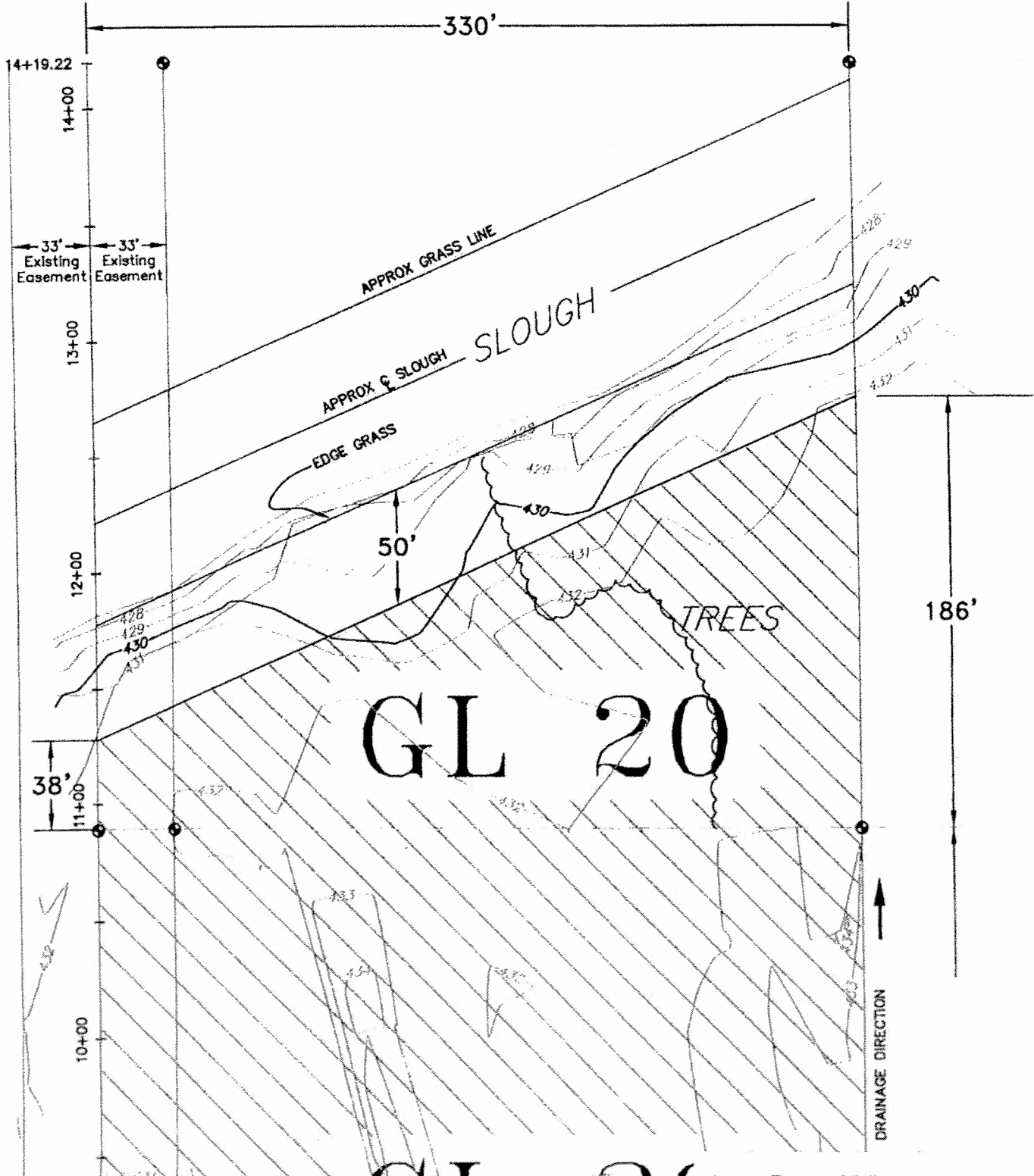
PERMIT REQUEST AREA
265,133 SF
(5.66 ACRES)
Lots 36,29,20

PROPERTY CORNER TYP.

Aurora Energy, LLC
POA-2010-241, Channel A
Conger St. Lots 36, 29, 20
Proposed fill area -1
Sheet 3 of 6 dated: July 1, 2010

PLAN SCALE: 1" = 80'

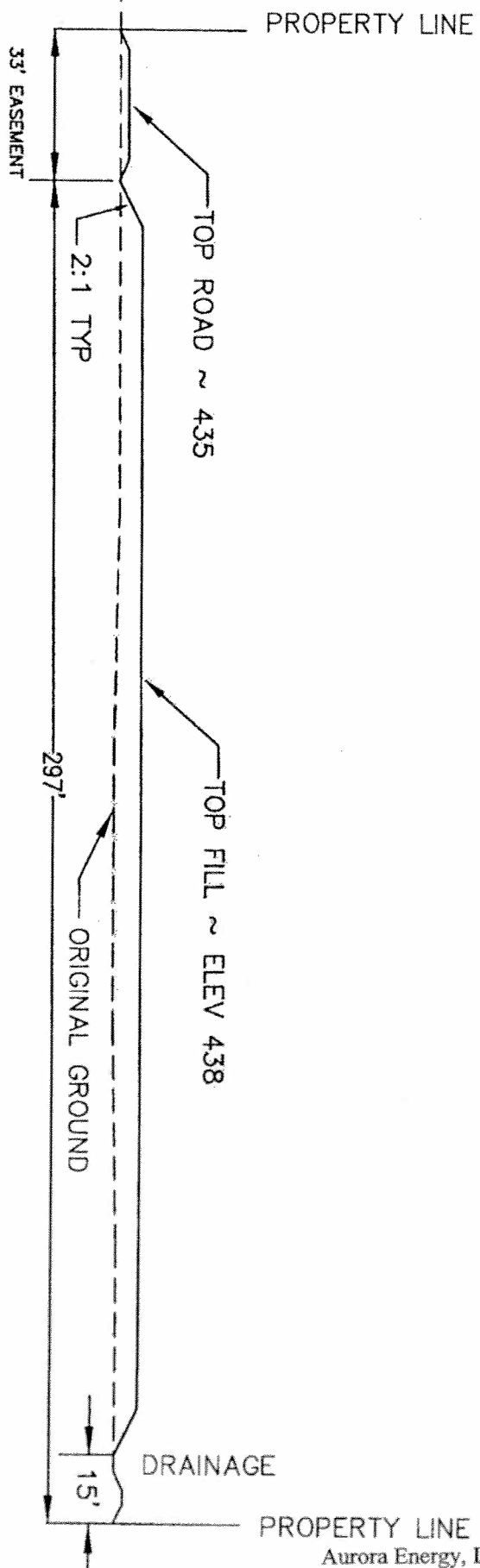
DESIGNED	MJB
DRAWN	
CHECKED	
DATE	JUNE 24, 2010



PLAN SCALE: 1" = 60'

DESIGNED	MJB
DRAWN	
CHECKED	
DATE	JUNE 24, 2010

Aurora Energy, LLC
POA-2010-241, Channel A
Conger St. Lots 36, 29, 20
Proposed fill area - 2
Sheet 4 of 6 dated: July 1, 2010



Aurora Energy, LLC
 POA-2010-241, Channel A
 Conger St. Lots 36, 29, 20
 East-west typical x-section

PLAN SCALE: NTS

DESIGNED	LAB
DRAWN	
DATE/REVISION: 24, 2010	

COE PERMIT REQUEST CONGER ST. LOTS 36, 29, 20
 TYPICAL X-SECTION (FACING NORTH)

4



Proposed Mitigation

Aurora Energy

Conger Street Lots

1. Avoidance of impacts to waters of the U.S.:

Aurora Energy would avoid impacts to waters of the U.S. by maintaining a 50-foot setback from the slough that crosses Lot GL 20.

In addition, we have provided drainage on the up-gradient portion (eastern) of the lots to the slough to prevent run-on to the fill.

The impact to the waters of the U.S. will be less with the use of coal ash as fill on these lots than what they were previously used for. UCM coal ash has been determined by DEC not to be a hazardous material and is considered to be clean fill and does not contain garbage, oils, liquid fuels or solvents.

2. Minimization of unavoidable impacts to waters of the U.S., including wetlands:

Aurora Energy is requesting to fill approximately 5.86 acres of assumed wetlands. As has been observed and confirmed by the COE and Aurora Energy staff, not all of this area is wetlands. Those portions of the site deemed to be uplands and/or previously filled land will not require a COE permit. Aurora Energy has also provided up gradient drainage to prevent run-on to the fill.

The fill area will be compacted and a top dressing of gravel will be put in place to keep surface runoff clean. After the fill is complete and the improvements are finished to the final purpose and use, appropriate areas of the property will be seeded, to further stabilize the fill.

3. Compensation for unavoidable impacts to waters of the U.S., including wetlands:

Aurora Energy is providing compensation via permittee-responsible mitigation by preserving the portion of Lot GL 20 50-feet south of the edge of the slough and north. Approximately 1.14 acres will not be developed. In addition, a culvert will not be installed to provide access to develop this area.