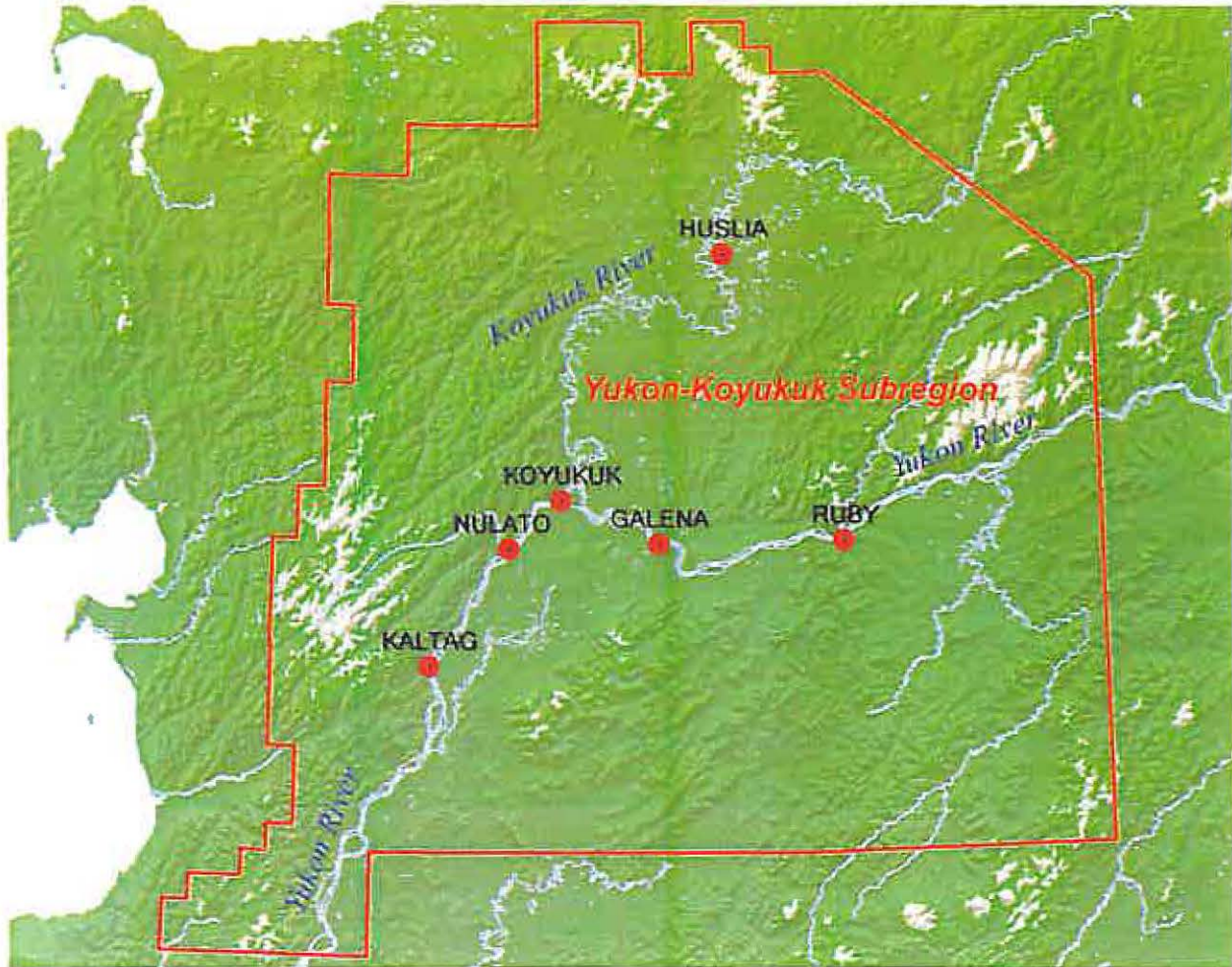


DEC and Yukon-Koyukuk Tribal Communication Protocol



DEC and YUKON-KOYUKUK TRIBAL COMMUNICATION PROTOCOL

A COLLABORATIVE EFFORT BY THE YUKON-KOYUKUK TRIBES OF ALASKA,
THE ENVIRONMENTAL PROTECTION AGENCY AND THE
ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION

MARCH 2011

DEC and Yukon-Koyukuk Tribal Communication Protocol

Table of Contents

- 1.0. Introduction
 - 2.0. Guiding Principles
 - 3.0. Communication Principles
 - 4.0. Communication Procedures
 - 4.1. Points of Contact
 - 4.2. Documents
 - 4.3. Public Notices
 - 4.4. Other Considerations
 - 5.0. DEC and Tribal Coordination During APDES Permitting
 - 5.1. Supplemental Communication Tools for APDES Permitting
 - 5.2. Permit Issuance Plan
 - 5.3. Early Notification to Tribes
 - 5.4. Preliminary Draft Permit
 - 5.5. Public Notice, Draft Permit and Draft Fact Sheet
 - 5.6. Proposed Final Permit
 - 5.7. Final Permit
 - 5.8. Improving the Public Participation Process
 - 6.0. Sovereignty and Disclaimers
 - 7.0. Continuity of Communication Protocol and Amendments
 - 8.0. Responsibilities
-
- Appendix A** Yukon-Koyukuk Community Descriptions
 - Appendix B** Subsistence Calendar
 - Appendix C** Travel to the Villages
 - Appendix D** DEC and Tribal Contacts
 - Appendix E** List of Acronyms
 - Appendix F** Definitions
 - Appendix G** APDES Permitting and Public Participation Summary

DEC and Yukon-Koyukuk Tribal Communication Protocol

Message from the Commissioner of the Department of Environmental Conservation:

Community involvement is fundamental to the work we do at the Alaska Department of Environmental Conservation (DEC). This document describes communications between DEC and tribal governments of the Yukon-Koyukuk region during permitting for wastewater discharges under the Alaska Pollutant Discharge Elimination System (APDES) Program.

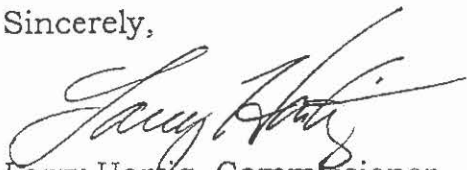
I thank the tribal representatives of the Yukon-Koyukuk Region villages of Galena, Huslia, Kaltag, Koyukuk, Nulato and Ruby for their assistance and willingness to work closely with DEC in developing this communications protocol.

Many Alaskans live in unique and remote geographic locations in the state, where their culture and environment are critical to subsistence ways of life. Thoughtful consideration when establishing communication processes that fit this unique situation is an important part of this effort.

The document is both a guide to improve communication and coordination during permitting and a potential model for other Tribes and communities. Two-way communications offer the most effective means for balancing environmental impacts and economic opportunities and are most successful when a foundation of knowledge, trust, solid relationships, basic courtesy, and adequate resources exist.

This collaborative approach details sensible processes, practical tools, and helpful background information to prepare DEC employees and tribal representatives for successful communication. This protocol will be used as a hands-on guide for DEC's APDES program staff and tribal representatives.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry Harrig", with a stylized flourish extending from the end.

Larry Harrig, Commissioner
Department of Environmental Conservation

DEC and Yukon-Koyukuk Tribal Communication Protocol

Message from the Tribal Chiefs of the Yukon-Koyukuk Region:

In early 2010, the Alaska Department of Environmental Conservation (DEC) asked the Tribal Chiefs of the Yukon-Koyukuk region to help develop a communication protocol that would improve DEC's ability to respond to Tribal interests in wastewater permitting issues. We were pleased to accept this offer and found DEC responsive to our guidance to meet and work with our Tribal Administrators, and to provide monthly updates.

The Yukon-Koyukuk region is not on the road system; our villages are considered both rural and remote. DEC has limited presence here. As generational inhabitants of the Yukon-Koyukuk region, we have unique knowledge and wisdom about the natural world we live in; our worldview recognizes the connectedness of humans with our natural environment and the spirituality of living close to the land and waters that sustain us.

Our families and ancestors have been here for thousands of years, put here by the Creator. We value the land and waters as resources that provide our food and sustenance, allowing us to be self-sufficient. We consider ourselves the Caretakers for the Creator - caring for these lands and waters that will also sustain many generations ahead.

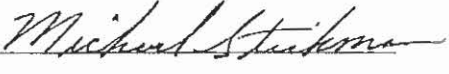
Comparing our connections in more western terms can add understanding. We rely on and utilize our land and waters to collect berries, fish and meat, while leaving behind enough to ensure a new generation can "re-stock" itself. This is akin to urban residents going to the grocery store, including the system that re-stocks the shelves.

We share our harvests, much like those in urban areas, with our families and neighbors both in our communities, and wherever they live - many in urban Alaska. All the while, we are mindful that the Creator has provided us with these gifts. We are proud to have contributed to this model communication protocol. This model is a living document and will grow as the needs of the communities and DEC change. It is our hope that it will allow for open and honest communications between our governments.

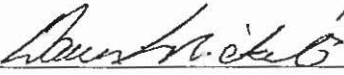
Patrick McCarty, First Chief, Native Village of Ruby 

Leo Lolnitz, First Chief, Koyukuk Native Village 

Chris Sommer, First Chief, Loudon Village 

Michael Stickman, First Chief, Nulato Tribal Council 

N. Carl Burgett, First Chief, Huslia Village 

Donna Esmailka, First Chief, Village of Kaltag 

DEC and Yukon-Koyukuk Tribal Communication Protocol

1.0 Introduction

The purpose of the DEC – Yukon Koyukuk Tribal Communication Protocol is two-fold. First, the document will enhance communications between DEC and the Tribes by recognizing Tribal culture and traditional way of life and reliance on the natural and subsistence resources of their region. Second, it will promote early notification during Alaska Pollutant Discharge Elimination System (APDES) permitting and support DEC's mission:

To conserve, improve, and protect Alaska's natural resources and environment and control water, land, and air pollution, in order to enhance the health, safety, and welfare of the people of the state and their overall economic and social well being.

Complex procedures, regulations and timing for comments can make environmental permitting confusing. The communication protocol will:

1. Facilitate early notification of permit applications received.
2. Facilitate effective coordination between DEC and the Tribes by communicating clear information about APDES permitting.
3. Provide DEC APDES permit staff with information for effective tribal communication and participation in permitting.
4. Facilitate the incorporation of pertinent local and traditional knowledge into permits through early notification and engagement.

2.0 Guiding Principles

DEC and the Tribes recognize the challenges posed by Alaska's geography, climate and weather, transportation and communications technology for coordination and cooperation between state agencies and Tribes and agree to work together in good faith to make sound permitting decisions to protect the waters of the State.

APDES permits and supporting documents are complex, highly technical documents based on site-specific conditions. DEC and the Tribes acknowledge that wastewater discharge permit development is a dynamic process that requires respectful interaction and consideration of federal and state laws and regulations, state standards, and scientific and local information.

DEC and the Tribes intend for this document to assist in developing permits that reflect a full understanding of local conditions and resolving conflicts prior to permit issuance.

The guiding principles are:

- To provide for meaningful and timely participation in the APDES permitting process through early and clear communication.
- To recognize that the resulting permit will reflect relevant local conditions and tribal concerns and will help to achieve DEC's mission.
- To consider geographic distances and other unique circumstances, such as critical subsistence, cultural or community-wide activities, when scheduling opportunities for public involvement¹.
- To consider subsistence, cultural places and activities and other socioeconomic factors.
- To communicate with mutual respect, be open to and consider new information, understand how proposed wastewater discharges may affect a Tribe and to consider possible alternatives.
- To dedicate the appropriate level of resources to achieve effective communication.

¹ Cultural and community-wide activities include potlatches, deaths, weddings, and celebrations.

3.0 Communication Principles

Effective communication is two-way and has four primary elements:

- It is meaningful by sharing useful and appropriate information.
- It is timely; early information can be used in developing a permit.
- It is respectful, acknowledging the experience and needs of each other.
- It is clear, which often requires asking for mutual understanding about intent, terms and timelines.

DEC staff and Tribal representatives will use permitting and training opportunities to build understanding about how to communicate effectively with each other.

As communications technologies across Alaska continue to develop and advance, DEC and the Tribes will adapt the procedures in this protocol to reflect improvements and enhance coordination during permitting.

Continuity and knowledge transfer will occur among both DEC and Tribal staff by:

- Maintaining up-to-date contact lists.
- Conducting education and training sessions.
- Developing procedures to share information when turnover occurs.

4.0 Communication Procedures

4.1 Points of Contact

1. Communications will be coordinated through the Tribal Administrators of the Yukon-Koyukuk Tribal Governments and DEC's APDES contact for each permit.
2. Tribes will notify DEC of changes to tribal government contact information. DEC will then update tribal contact lists.
3. A translator or facilitator will be used as needed to foster communications.

4.2 Documents

1. Permit communications will be addressed to the Tribal Administrator.

DEC and Yukon-Koyukuk Tribal Communication Protocol

2. Early notification letters and other communications will be clear, concise, and written in plain language. Use of jargon will be avoided and acronyms will be defined.
3. Maps and technical data will be included when appropriate and available.
4. Notifications that are time-sensitive will be made by the most efficient means available, including email, fax, or mail.
5. In recognition of Alaska's unique geography, faxed signature or electronically signed documents will be treated as if they were originals, unless otherwise required by law.
6. Information provided by Tribes to DEC permit staff will be in writing and signed by the Tribal First Chief, or designated tribal authority such as the Tribal Administrator.
7. DEC will provide the projected schedule for a new or reissued permit to any affected Tribe.

4.3 Public Notices

1. DEC will publish public notices for major permits and general permits as required by regulation in the local or regional newspapers nearest the potentially affected Tribes.
2. Public notices for all draft permits, as well as notices to review for preliminary draft and proposed final permits, will be published on the State of Alaska's Online Public Notice System and DEC's website.
3. DEC will mail the public notice for a draft permit and the notices to review for a preliminary draft and proposed final permit to potentially affected Tribes as required under APDES regulations.
4. Tribal governments will post hard copy public notices will be posted on local bulletin boards.

4.4 Other Considerations

DEC will consider the following when communicating with Tribes:

- Phone calls and teleconferences may be an effective means to notify Tribes of activities that may affect them and to gather local input. Email is not accessible to everyone and is subject to outages.

DEC and Yukon-Koyukuk Tribal Communication Protocol

- Mail may be slow, unreliable and unpredictable.
- Telephones may be subject to frequent outages.
- Regional/state newspapers are not always delivered in a timely manner in rural areas.

5.0 DEC and Tribal Coordination during APDES Permitting

DEC's Tribal and public participation opportunities are described in the document *Public Participation in the APDES Permitting Process*, http://www.dec.state.ak.us/water/npdes/pdfs/AppendixH_PublicParticipationAPDESProcessOCT08FINAL.pdf

This document is summarized in Appendix G of this document.

The major purpose of this communications protocol is to describe procedures for coordination with Tribes to implement the public participation plan. Coordination will be between Division of Water staff and the Tribal government, may be conducted in person or by teleconference, and may take place in a single session or in multiple discussions over time. The purpose of coordination will be to understand, and when relevant, to resolve concerns raised by the Tribal government regarding a proposed discharge. Notes from coordination will be entered into the administrative record for the permit.

The steps below and the Early Notification Flow Chart (page 8) summarize the process:

5.1 Supplemental Communication Tools for APDES Permitting:

It is recognized that some permitted activities are of greater interest or concern to the public than others. Supplemental public participation opportunities may be employed for:

- Large, complex projects with multiple permitted discharges,
- Projects that are locally or regionally important or controversial,
- Projects that raise recreational or subsistence resource and use concerns,
- Projects that are proximal to sensitive or protected resources or areas, or
- Projects that may involve the use of new or complex technologies.

DEC will use the supplemental communication tools for permitting actions that are described in the APDES Public Participation document and summarized below.

DEC and Yukon-Koyukuk Tribal Communication Protocol

If a Tribe believes that a permitting action meets the level of concern that would benefit from additional engagement, the Tribal government may request DEC include one or more of the following supplemental communication tools in the process. Requests should be made in a letter signed by the Tribal Chief or designated tribal authority.

DEC will weigh such requests according to proposed permitting action, public concern, and agency resources. A written response explaining DEC's decision will be provided to the Tribe.

DEC may employ one or more of the supplemental tools described below:

- Assign a Project Liaison to coordinate communications between Tribes, the public, DEC and other agencies' staff.
- Hold a pre-application or post-application public workshop to inform Tribes and the public about the project and permitting process, potential impacts, and solicit public input into the process. Public workshops are an opportunity for Tribes to provide traditional and local knowledge, subsistence and cultural information, and potential solutions for inclusion in a permit.
- Hold a public hearing for Tribes and the public to provide formal comments in person or by teleconference. Public hearings are recorded and entered into the administrative record for the permit.
- Extend the public comment period to 45 or 60 days.
- Provide additional information to Tribes and the public through a supplemental public notice, dedicated webpage, or distribution of additional information.

5.2 Permit Issuance Plan:

DEC annually develops a Permit Issuance Plan (PIP) that details the permits expected to be issued during the next three years. At the beginning of each year, DEC will provide the PIP to Tribes and will identify the ANCSA region for each permitting action to help Tribes determine whether the proposed discharge will affect them.

Tribes will review the PIP and may contact the designated APDES staff for more information about any permit listed in the plan. Tribes recognize that this is an opportunity to begin determining whether there is any traditional or local knowledge, subsistence or cultural concerns that should be considered in the development of a specific permit.

DEC and Yukon-Koyukuk Tribal Communication Protocol

If a Tribe wishes to provide local information for consideration during the development of a permit, the information will be submitted to DEC in a letter from the Tribal government signed by the Tribal First Chief or designated tribal authority.

5.3 Early Notification to Tribes:

DEC has a responsibility to provide certain notifications to “any affected Tribe” during the APDES permitting process. DEC developed guidelines for staff to determine which Tribes may be affected by a discharge to be permitted. A Tribe may contact DEC to be included in the notifications for any permit.

After a permit writer is assigned to a permit, DEC will send an early notification letter to any affected Tribe when the permit writer begins work on the permit. The letter will include the permit name and number, a description of the discharge to be permitted, the geographical location of the discharging facility, and a description of the opportunities for Tribal participation in the process. DEC will also provide the name of the designated staff contact for the permit.

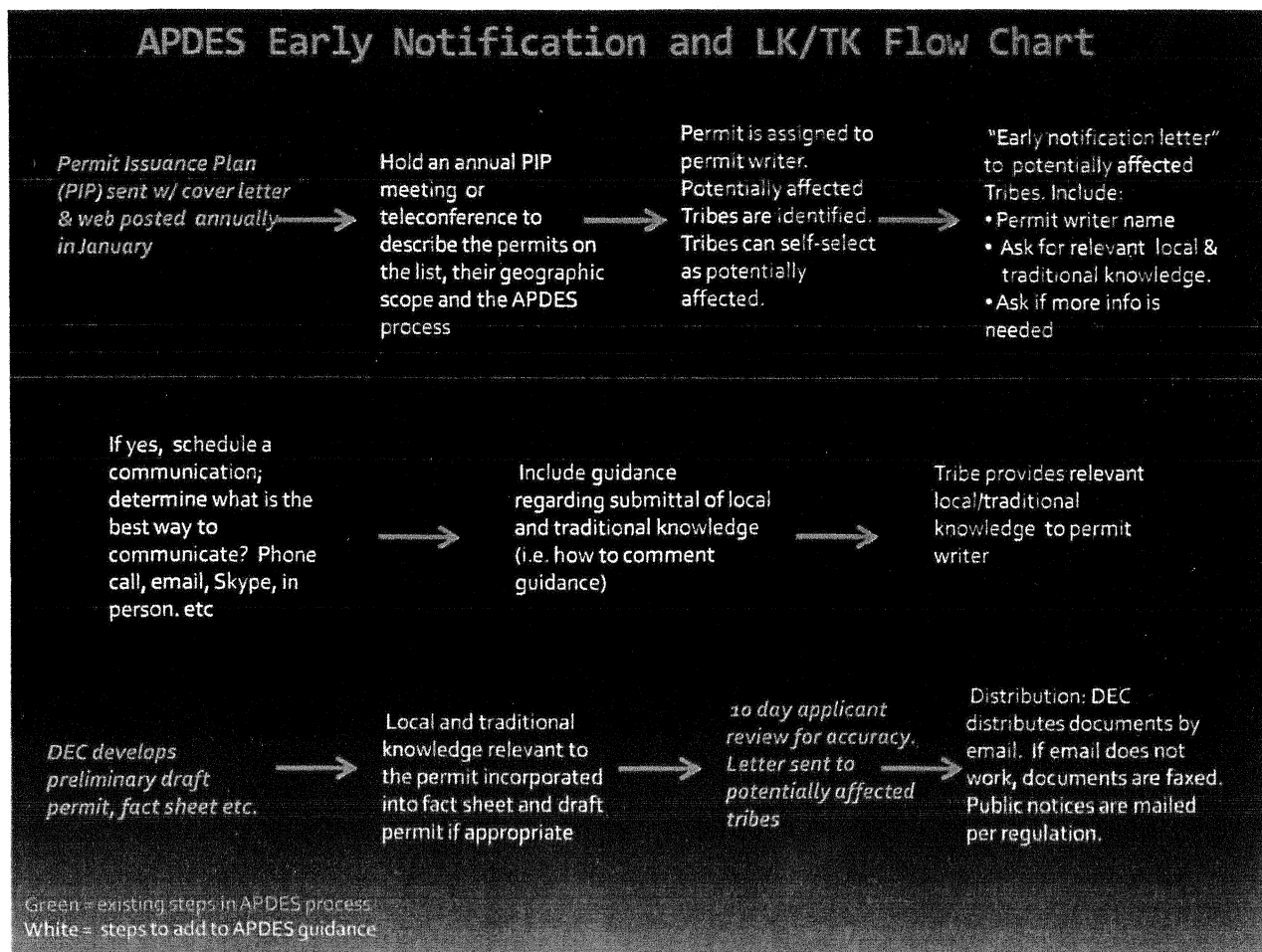
If a Tribe receiving an early notification determines that they are not likely to be affected by the permitted activity, they may decline to receive further notifications and documents concerning the permit. In this instance, the Tribe should send a letter, signed by the Tribal First Chief or designated tribal authority, waiving the right to receive the public notice and permit documents.

A Tribe receiving an early notification may request further information about the proposed permit by contacting the DEC staff designated in the letter. A Tribe may submit information or concerns to DEC in response to the notification or may request to receive no further information on this project.

DEC will contact the Tribal First Chief or designated tribal authority if more information is needed to fully consider any traditional or local knowledge, subsistence, or cultural concerns.

All communications will be retained in the administrative record for the permit.

DEC and Yukon-Koyukuk Tribal Communication Protocol



5.4 Preliminary Draft Permit:

DEC will notify any affected Tribe when a Preliminary Draft Permit is available on its website during the 10-day applicant review for accuracy prior to public notice.

An applicant may waive the 10-day applicant review. In that case, DEC will notify affected Tribes of the applicant's waiver, if there is sufficient time and opportunity.

5.5 Public Notice, Draft Permit, and Draft Fact Sheet:

A copy of the Public Notice will be mailed to any affected Tribe at the start of the public comment period for every permit, unless an affected Tribe waives its right to receive a mailed copy. A Tribe can contact DEC and request a hard copy of the Draft Permit, Draft Fact Sheet, and any supporting documentation. The comment period may be extended to accommodate distribution challenges.

DEC and Yukon-Koyukuk Tribal Communication Protocol

The Public Notice, Draft Permit, Draft Fact Sheet, and permit application, if any, will be posted on the DEC website and available for download.

APDES regulations require a minimum 30-day public review period for every APDES permit. DEC will consider geographic and local conditions such as accessibility, seasonal activities, etc., in determining the length of the public review period and may extend the review time beyond 30 days to make certain that Tribes have sufficient opportunity to comment.

Comments on an APDES permit must be submitted in writing to DEC. If DEC conducts a public hearing, comments may be submitted verbally or in writing. Any member of a Tribe or the public may submit comments during the public review period.

After the close of the public review period, DEC will develop a Response to Comments document that explains how comments were considered by DEC and describes any changes made to the permit or fact sheet based on the comments received. The Response to Comments will be mailed to any person who submitted comments, and the document will be posted on DEC's website. A Tribe may request a mailed copy of the Response to Comments document.

5.6 Proposed Final Permit:

Prior to issuing an APDES permit, DEC will post the Proposed Final Permit on its website for five days to give the applicant an opportunity to review the document for errors. There is no opportunity for public comment on the permit or fact sheet during this review. However, any person may report errors in the permit or fact sheet to DEC.

If the applicant waives the five-day Proposed Final Permit review, DEC will proceed to finalize and issue the permit. Due to time constraints, Tribes will not be notified of the waiver.

5.7 Final Permit:

DEC will post the Final Permit and Final Fact Sheet on its website. The permit becomes effective 30 days after DEC signs the permit. The permit will be in effect for a maximum of five years.

5.8 Improving the Public Participation Process: DEC and the Tribes agree to participate in an ongoing assessment of this communication protocol in an effort to consider improvements. DEC welcomes feedback from Tribes during and after key permitting efforts.

DEC and Yukon-Koyukuk Tribal Communication Protocol

6.0 Sovereignty and Disclaimers

Through the guidance in this document, the parties strengthen their collective ability to successfully address and resolve issues of mutual concern. This document does not create legally binding or enforceable rights. It does not affect rights or jurisdiction. It does not diminish any rights or protections afforded any persons or entities under any law. This document may not be used in any court of law.

7.0 Continuity of Communication Protocol and Amendments

The Yukon-Koyukuk Tribes and DEC recognize the importance of continuity of this agreement. Enhancing communications and coordination to more effectively protect human health and the environment will benefit all Alaskans.

The Tribes and DEC also recognize the importance of the transfer of knowledge during management and staff transitions and will establish measures to maintain this Protocol and continue its implementation.

DEC and the Tribes commit to providing and participating in training and education that will enhance implementation.

8.0 Responsibilities

8.1 DEC will:

Provide for meaningful and timely participation in the APDES permitting process through early notification and clarity about the steps in the permit process.

Schedule public involvement with consideration for subsistence and cultural activities, geographic distances and socioeconomic factors, while not adversely affecting permit development schedules

Communicate clearly by identifying and defining acronyms and technical terms.

Consider information submitted by tribal representatives; facilitate opportunities, as needed, to understand how APDES permits may affect a Tribe and work to identify alternatives, if appropriate.

Inform Tribes about how to most effectively participate in the permitting process.

8.2 Yukon-Koyukuk Tribes will:
Review the annual Permit Issuance Plan for proposed permits that may affect them.

Provide DEC with information about how to most effectively communicate with the Tribe.

Identify and provide the permit writer with relevant local and traditional knowledge about how proposed wastewater discharges may affect Tribal interests or resources.

Appendix A - Yukon-Koyukuk Communities

Louden Tribe (Galena)

Location and Climate

Galena is located on the north bank of the Yukon River, 45 miles east of Nulato and 270 air miles west of Fairbanks. It lies northeast of the Innoko National Wildlife Refuge. The area experiences a cold, continental climate with extreme temperature differences. The average daily high temperature during July is in the low 70s; the average daily low temperature during January ranges from 10 to below 0 °F. The river is ice-free from mid-May through mid-October.

History, Culture and Population

The federally-recognized tribe is the Louden Village Council, and is located in the community of Galena. In 1920, Athabascans living 14 miles upriver at the original Louden site began moving to Galena to sell wood to steamboats and to work hauling freight for the mines as Galena had become a supply and trans-shipment point for nearby lead ore mines. Many of Galena's residents are originally from Louden or are descendants of Louden inhabitants. Traditional festivals still attract visitors from other river villages. Private land owner is Doyon and Gana-A'Yoo Ltd. The townsite is owned by the City of Galena, native allottees and individuals.

The area's Koyukon Athabascans had spring, summer, fall, and winter camps and moved as the wild game migrated. In the summer, many families would float on rafts to the Yukon to fish for salmon. Subsistence food sources still include salmon, whitefish, moose, and berries. 12 summer fish camps were located on the Yukon River between the Koyukuk River and the Nowitna River. Galena was originally established in 1918 near an old Athabascan fish camp called Henry's Point. The population of the community consists of 67% Alaska Native or part Native. The population in Galena is mixed Athabascan and non-Native.

A school was established in the mid-1920s, and a post office opened in 1932. The Galena Air Field was constructed in World War II. In 1945, the community suffered a major flood. During the 1950s, military facilities at the Galena and Champion Air Force Stations and airport and road developments sparked growth in the community. Due to another severe flood in 1971, a new community site was developed at Alexander Lake, about 1.5 miles east of the original townsite. City offices, the health clinic, schools, a washeteria, a store, and more than 150 homes were constructed at "New Town." A city government was also formed. The Air Force Station went into cold storage in 1998 and was closed in 2008, and the facilities are currently being used by the Galena School District as a

DEC and Yukon-Koyukuk Tribal Communication Protocol

boarding school. The base facilities are maintained under contract by the Chugach Development Corporation.

Quality of Life

Subsistence activities, coordinating activities among the various community employers, ensuring community functions are fulfilled, are all accomplished in an effort to improve the quality of life and economic opportunities for Loudon tribal members.

Galena is a regional hub and serves as the transportation, government, and commercial center for the western Interior. In addition to the subsistence economy, Galena has federal, state, city, school, and village government jobs, and other jobs too in air transportation and retail businesses. In 2009, 14 residents held commercial fishing permits. Other seasonal employment, such as construction work and BLM firefighting, provide some income. The Illinois Creek gold mine, 50 miles southwest of Galena, closed in 2005.

The state-owned Edward G. Pitka, Sr., Airport provides the only year-round access, as part of the regional transport center for the other surrounding villages. There is a paved, lighted gravel strip adjacent to the main runway. The rivers allow access by cargo barges from mid-May through mid-October. Pickups, cars, snowmachines, skiffs, and ATVs are all used for local travel. During winter, the frozen rivers are used for travel to Ruby, Koyukuk, Kaltag, and Nulato. A winter trail is available to Huslia.

There are 4 schools located in the community. There is a home school program (over 5000 students). GILA has 205 students. The city school has 159 students.

The Edgar Nollner Health Clinic and Galena Public Health Office provide health care. The clinic is a qualified Emergency Care Center. X-Ray, Laboratory, Dental, Dental X-Ray, and Dark Room are available. Emergency service is provided by volunteers and a health aide. University and adult vocational training facilities exist as well.

Water is provided by a municipal system for treated well-water. Twenty-eight residences and the school are connected to a piped water and sewer system. One-hundred-ten households use a flush/haul system. Some homes use honeybuckets, and others have individual septic tanks. The electrical utility is owned and operated by the City of Galena. Refuse collection and a landfill are provided by the city. There is a 200,000 gallon waste reservoir and a community leach field.

DEC and Yukon-Koyukuk Tribal Communication Protocol

Huslia

Location and Climate

Huslia is located on the north bank of the Koyukuk River, about 170 river miles northwest of Galena and 290 air miles west of Fairbanks. It lies within the Koyukuk National Wildlife Refuge. The area has a cold, continental climate with extreme temperature differences. The average daily maximum temperature is 72 °F during July; the average minimum is below 0 °F during January. The Koyukuk River is ice-free from May through September.

History, Culture and Population

The Huslia Village is the federally-recognized tribe and is located in the community and 95% of the residents are Alaska Native or part Native. Huslia is an Athabascan village, and most residents are related by birth or marriage. Private land owner is Koyitl'ots'ina Village Corporation and the townsite is owned by the Huslia tribal government and native allottees.

Subsistence is central to the local economy and salmon, whitefish, moose, bear, caribou, small game, waterfowl, and berries provide most food sources. The Koyukon Athabascans lived between the south fork of the Koyukuk River and the Kateel River. They had spring, summer, fall, and winter camps and moved as the wild game migrated. In the summer, many families would float on a raft to the Yukon to fish for salmon. The Koyukon often traded with the Kobuk River Eskimos.

By 1843, Russian explorers had made contact with Athabascans approximately 50 miles downriver from the current site. The Western Union Telegraph Company explored the river around 1867, and missionary activity increased after 1870. Cutoff Trading Post (also called Old Town) was established in the 1920s about 4 miles overland or 16 river miles from modern Huslia. In 1949, the community moved to the present site, because Cutoff flooded frequently, and the ground was swampy. Huslia (originally spelled Huslee) was named after a local stream. Huslia had been used as a burial site since 1886, but, by the time of the move, most of the old cemetery had been destroyed by erosion. In 1950, the first school was established, followed by a post office, airport, and road construction in 1952. At this time, families began to live year-round at Huslia. In 1960, a health clinic was constructed, and, in 1963, 29 individual hand-pumped water wells were installed. The city government was incorporated in 1969. Running water and indoor plumbing arrived in 1974.

Quality of Life

Subsistence activities, coordinating activities among the various community employers, ensuring community functions are fulfilled, are all accomplished in an effort to improve the quality of life and economic opportunities for the residents of Huslia.

DEC and Yukon-Koyukuk Tribal Communication Protocol

Piped water and sewer have existed in Huslia since 1974. Water is from a well and is treated. Electricity is provided by AVEC. There is one school located in the community, attended by 130 students. Local hospitals or health clinics include Huslia Clinic. Emergency Services have river and air access. Emergency service is provided by volunteers and a health aide.

In addition to the subsistence economy, the city, tribe, school, clinic, and stores provide the full-time jobs available. During summer months, BLM firefighting and construction jobs outside of the village supplement income. The sale of alcohol is banned in the community; importation or possession is allowed.

Water travel is the principal mode of transportation during the summer. Cargo arrives by barge twice each year. Huslia is accessible by plane year-round, and has a lighted gravel airstrip that is owned by the state. Snowmachines, ATVs, and skiffs are used for local transportation. Huslia has a network of winter trails, and the frozen river is used as an ice road to neighboring villages.

Kaltag

Location and Climate

Kaltag is located on the west bank of the Yukon River, 75 miles west of Galena and 335 miles west of Fairbanks. It is situated on a 35-foot bluff at the base of the Nulato Hills, west of the Innoko National Wildlife Refuge. The area experiences a cold, continental climate with extreme temperature differences. The average daily high temperature during July is in the low 70s °F; the average daily low temperature during January ranges from 10 to below 0 °F. Sustained temperatures of -40 °F are common during winter. Annual precipitation is 16 inches, with 74 inches of snowfall annually. The river is ice-free from mid-May through mid-October.

History, Culture and Population

The Village of Kaltag is the federally-recognized tribe and is located in the community. Subsistence is an important part of the local economy with salmon, whitefish, moose, bear, waterfowl, and berries being harvested. The population of 172 consists of 87% Alaska Native or part Native. Kaltag's residents are Koyukon Athabascans. The Stick Dance Festival draws visitors from many neighboring villages. This one-week festival of potlatches is sponsored by relatives of the recently deceased, in appreciation of those who helped during their time of mourning.

Kaltag is located in Koyukon Athabaskan territory and was used as a cemetery for surrounding villages. It was located on an old portage trail that led east through the mountains to Unalakleet. The Athabascans had spring, summer, fall, and winter camps and moved as the wild game migrated. There were 12 summer fish camps located on the Yukon River between the Koyukuk River and the Nowitna River. The village was named by Russians for the Yukons called Kaltaga. A smallpox epidemic, the first of several major epidemics, struck the

DEC and Yukon-Koyukuk Tribal Communication Protocol

Koyukon in 1839. Private land owner is Doyon and Gana-A'Yoo Ltd and the townsite is owned by the city of Kaltag, and native allottees and individuals.

A military telegraph line was constructed along the north side of the Yukon around 1867. Missionary activity was intense along the Yukon, and a Roman Catholic mission and school opened upriver in Nulato in 1887. The number of steamboats on the Yukon, which supplied gold prospectors, peaked in 1900 with 46 operating on the river at that time. During 1900, food shortages and a measles epidemic struck down one-third of the Native population. Kaltag was established shortly thereafter, when survivors from three nearby seasonal villages moved to the area to rely on one another. A post office opened in 1903 but closed in 1904. Gold seekers left the mid-Yukon after 1906, but other mining activity, such as the Galena lead mines, began operating in 1919. As a downriver village on a major transportation route, Kaltag witnessed rapid economic change. The post office reopened in 1909 and operated until 1920. Kaltag's first school opened in 1925. The post office reopened again in 1933. The old cemetery, which was located on Front Street, caved into the river around 1937. A watering point, airport, and clinic were constructed during the 1960s. The city government was incorporated in 1969.

Quality of Life

Subsistence activities, coordinating activities among the various community employers, ensuring community functions are fulfilled, are all accomplished in an effort to improve the quality of life and economic opportunities for the residents of Kaltag.

Piped water and sewer has existed since 1982 in Kaltag. A circulating water and gravity sewage system is used. Water is derived from a well and is treated. The majority of households are fully plumbed. A washeteria is also available. Electricity is provided by AVEC. There is one school located in the community, attended by 27 students. Local hospitals or health clinics include Kaltag Clinic. Emergency Services include river and air access. Emergency service is provided by volunteers and a health aide. Auxiliary health care is provided by Kaltag Rescue.

In addition to the subsistence economy, most cash jobs are with the tribe, school, local government, BLM firefighting, commercial fishing, or fish processing. In 2009, nine residents held commercial fishing permits.

The state-owned lighted gravel airstrip provides Kaltag with year-round air service. Barges typically deliver heavy cargo three times a year. Snowmachines, ATVs, and riverboats are used for local transportation. The frozen river, local trails, and the 90-mile Old Mail Trail to Unalakleet are used during the winter for woodcutting and trap lines.

DEC and Yukon-Koyukuk Tribal Communication Protocol

Koyukuk

Location and Climate

Koyukuk is located at the mouth of the Koyukuk River near the Yukon River, 30 miles west of Galena and 290 air miles west of Fairbanks. It lies adjacent to the Koyukuk National Wildlife Refuge and the Innoko National Wildlife Refuge. The average daily high temperature during July is in the low 70s; the average daily low temperature during January ranges from 10 to below zero. The Koyukuk River is ice-free from mid-May through mid-October. The community has experienced increased flooding from both the Yukon and Koyukuk Rivers and a major issue facing residents is how to address this, which may mean moving the community to higher ground.

Culture, History, and Population

Residents are primarily Koyukon Athabascans with a subsistence lifestyle. The Koyukon Athabascans traditionally had spring, summer, fall, and winter camps, and moved as the wild game migrated. There were 12 summer fish camps located on the Yukon River between the Koyukuk River and the Nowitna River. Friendships and trading between the Koyukon and Inupiat Eskimos of the Kobuk area has occurred for generations. Private land owner is Doyon and Gana-A'Yoo Ltd and the townsite is owned by the City of Koyukuk and native allottees.

The Koyukuk Native Village is the federally-recognized tribe. Koyukuk has a population of approximately 95 people, consisting of ~90% Alaska Native or part Native.

A Russian trading post was established at nearby Nulato in 1838. A smallpox epidemic, the first of several major epidemics, struck the Koyukon in 1839. A military telegraph line was constructed along the north side of the Yukon around 1867, and Koyukuk became the site of a telegraph station. A trading post opened around 1880, just before the gold rush of 1884-85. The population of Koyukuk at this time was approximately 150. Missionary activity was intense along the Yukon, and a Roman Catholic Mission and school opened downriver in Nulato in 1887. A post office operated from 1898 to 1900. Steamboats on the Yukon, which supplied gold prospectors, peaked in 1900 with 46 boats in operation. A measles epidemic and food shortages during 1900 tragically reduced the Native population by one-third. Gold seekers left the Yukon after 1906, but other mining activity, such as the Galena lead mines, began operating in 1919. The first school was constructed in 1939. After the school was built, families began to live at Koyukuk year-round. The City was incorporated in 1973.

Quality of Life

Subsistence activities, coordinating activities among the various community employers, ensuring community functions are fulfilled, are all accomplished in an effort to improve the quality of life and economic opportunities for the residents of Koyukuk. The City provides treated well water at the washeteria.

DEC and Yukon-Koyukuk Tribal Communication Protocol

Homes are not plumbed, and residents use honeybuckets. The school and washeteria use City water, with sewage disposal into a lagoon.

There is one school located in the community, attended by 12 students. Often visitors to the community will need to stay overnight in the school. The Koyukuk Health Clinic provides local medical services with emergency service provided by volunteers and a health aide.

In addition to the subsistence economy, the city, tribe, clinic, school, post office, and store provide some year-round employment. BLM fire fighting, construction work, and other seasonal jobs are usually available, but may conflict with subsistence opportunities. Trapping and beadwork supplement incomes. Primary subsistence foods include salmon, whitefish, moose, bear, waterfowl, and berries.

The State owns the lighted gravel runway which allows for year-round air transportation. The river is heavily traveled when ice-free, from mid-May through mid-October. Cargo is delivered by barge about four times each summer. Numerous local trails and winter trails to Chance and Nulato are used by residents. Snowmachines, ATVs, and riverboats are used for local transportation.

Cell phones and wireless communication is not available. Internet access and long-distance phone service is, but there can be frequent outages.

Nulato

Location and Climate

Nulato is located on the west bank of the Yukon River, 35 miles west of Galena and 310 air miles west of Fairbanks. It lies in the Nulato Hills, across the river from the Innoko National Wildlife Refuge. The average daily maximum during July is in the lower 70s °F; the average daily minimum during January is well below 0 °F. Several consecutive days of -40 °F is common each winter. The highest temperature ever recorded is 90 °F; the lowest is -55 °F. Average annual precipitation is 16 inches, with 74 inches of snowfall. The Yukon River is ice-free from mid-May through mid-October.

History, Culture and Population

The Nulato Village is the federally-recognized tribe is located in the community. The population of 240 consists of 94% Alaska Native or part Native, and are Catholic. Nulato residents are predominantly Koyukon Athabascans, with a trapping and subsistence lifestyle. Subsistence foods are a major portion of the diet, with many families traveling to fish camp each summer. Salmon, moose, bear, small game, and berries are utilized.

The Koyukon Athabascans traditionally had spring, summer, fall, and winter camps and moved as the wild game migrated. There were 12 summer fish

DEC and Yukon-Koyukuk Tribal Communication Protocol

camps located on the Yukon River between the Koyukuk and Nowitna Rivers. Nulato was the trading site between Athabascans and Inupiat Eskimos from the Kobuk area. Private land owner is Doyon and Gana-A'Yoo Ltd and the townsite is owned by the City of Nulato and native allottees.

Western contact increased rapidly after the 1830s. The Russian explorer Malakov established a trading post at Nulato in 1839. A smallpox epidemic, the first of several major epidemics, struck the region in 1839. Disputes over local trade may have been partly responsible for the Nulato massacre of 1851, in which Koyukuk River Natives decimated a large portion of the Nulato Native population. The Western Union Telegraph Company explored the area around 1867. Nulato was a center of missionary activity, and many area Natives moved to the village after a Roman Catholic mission and school, Our Lady of Snows Mission, was completed in 1887. Epidemics took heavy tolls on Native lives after the onset of the Yukon and Koyukuk gold rush in 1884. For instance, food shortages and a measles epidemic combined to kill as much as one-third of the Nulato population during 1900. In 1900, steamboat traffic peaked, with 46 boats in operation. Through the turn of the century, two steamers a day would stop at Nulato to purchase firewood. A post office was opened in 1897. Gold seekers left the Yukon after 1906. Lead mining began in the Galena area in 1919. Nulato incorporated as a city in 1963. A clinic, water supply, new school, and telephone and television services were developed through the 1970s. In 1981, large-scale housing development began at a new townsite on the hills north of the city, about 2 miles from the old townsite.

Quality of Life

In addition to the subsistence economy, most full-time employment in Nulato is with the city, tribe, school, clinic, and stores. During the summer, BLM firefighting positions, construction work, and fish processing are important sources of cash. In 2009, eight residents held commercial fishing permits. Trapping provides an income source in winter. Sale of alcohol is restricted to the city-owned package store.

Water from wells is treated and a piped water and sewer system provides services for 53 homes in the Nulato new (upper) townsite, with bathroom and kitchen plumbing. Thirty-four (34) unserved residences in the lower townsite haul water from the Blackberry Well or the church and use honeybuckets or outhouses. Electricity is provided by AVEC. There is one school located in the community, attended by 30 students. Local hospitals or health clinics include Nulato Clinic. Emergency Services have limited highway, river and air access. Emergency service is provided by volunteers and a health aide. Auxiliary health care is provided by Nulato Emergency Medical Services.

The state-owned lighted airstrip provides year-round access. The river is the primary mode of local transportation -- barges deliver cargo during summer months, and it becomes an ice road during winter for vehicles and snowmachines. Numerous trails are used for trapping and woodcutting. Cars, trucks, snowmachines, ATVs, and skiffs are used by residents.

DEC and Yukon-Koyukuk Tribal Communication Protocol

Ruby

Location

Ruby is located on the south bank of the Yukon River, in the Kilbuck-Kuskokwim Mountains. It is about 50 air miles east of Galena and 230 air miles west of Fairbanks. Ruby lies adjacent to the Nowitna National Wildlife Refuge. The average daily high temperature during July is in the low 70s; the average daily low temperature during January ranges from 10 to below 0 °F. The river is ice-free from mid-May through mid-October.

Culture, History, and Population

The traditional Athabascan culture and subsistence practices are the focal point of village life. Ruby's current residents are Koyukon Athabascans of the Nowitna-Koyukuk band, a nomadic group who followed game with the changing seasons. There were 12 summer fish camps located on the Yukon River between the Koyukuk River and the Nowitna River. Private land owners include Doyon and Dineega Corp and the townsite is owned by the City of Ruby, individuals and native allottees.

The Native Village of Ruby is the federally-recognized tribe and is located in the community. Ruby has a population of approximately 150 people and ~ 85% are Alaska Native or part Native.

Ruby developed as a supply point for gold prospectors. It was named after the red-colored stones found on the riverbank that prospectors thought were rubies. Two gold strikes, one at Ruby Creek in 1907 and another at Long Creek in 1911, attracted hundreds of prospectors to the area. At one time, over 1,000 white miners lived in Ruby and the nearby creeks. Placerville, Poorman, Sulatna Crossing, Kokrines, and Long Creek were some of the area's boom settlements. A post office was established in 1912, and Ruby incorporated as a city in 1913. Initially, the city was governed by miners' meetings, then later by Pioneer Igloo Number 5. After the gold rush, the population declined rapidly. By 1939, there were only 139 residents. During World War II, the mining operations were shut down, and most of the white residents left. After the war, the remaining residents of nearby Kokrines relocated to Ruby, and the population began to increase. Ruby incorporated as a second-class city in 1973. A clinic, a watering point, and schools were constructed in the 1970s. During the 1980s, telephones and television services were provided.

Quality of Life

Subsistence activities, coordinating activities among the various community employers, ensuring community functions are fulfilled, and working with organizations such as the Yukon River Inter-Tribal Watershed Council, are all accomplished in an effort to improve the quality of life and economic opportunities for the residents of Ruby. Electricity is provided by City of Ruby. The City also provides treated water at the washeteria. Some homes and facilities have individual wells and septic systems. Many homes are not

DEC and Yukon-Koyukuk Tribal Communication Protocol

plumbed and honeybuckets and outhouses are used. One school is located in the community, attended by approximately 40 students.

The Ruby Health Clinic provides local medical services, staffed with two health aides. Emergency services are also provided by networking with the Tanana Chiefs Health services and the Galena Health Clinic.

The city, school, tribal council, Dineega Corporation, and clinic are the largest employers. BLM firefighting, construction work, Native handicrafts, and trapping all provide part-time jobs and cash sources. Subsistence activities provide a large portion of the population's food sources. Salmon, whitefish, moose, bear, ptarmigan, waterfowl, and berries are utilized. In 2009, seven residents held commercial fishing permits.

Ruby is accessible by air and water. A state-owned lighted gravel airstrip is available. There are no docking facilities on the Yukon River, but a boat launch and barge off-loading area are available. Barges make several deliveries each summer. Float planes land on the Yukon River. Trucks, snowmachines, ATVs, and riverboats are used for local transportation. Numerous trails and the 35-mile road to Long Creek Mine to the south are used for subsistence activities.

DEC and Yukon-Koyukuk Tribal Communication Protocol

Appendix B – Subsistence Calendar

January

Trapping resumes late in the month
Ice Fishing
Bear Hunting

February

Beaver trapping
Ice fishing
Bear hunting
Wolf Hunting

March

Beaver trapping continues
Ice fishing
Trapping for all fur animals concludes
end of March
Wolf and wolverine
Bear hunting

April

Spring harvest for migratory birds
Bear hunting

May

Fishing for whitefish, sheefish, pike
Bear hunting
Driftwood collecting begins after
breakup

June

Spring migratory bird hunting
Fish for king salmon*
Highbush cranberries
Driftwood harvest (during high water)
Sheefish (1-2-week window)

July

Fishing for summer chum*
Berry picking for high bush, salmon
and blueberries
Driftwood harvest (during high water)

August

and raspberry picking continues

Early moose harvest season* (last week)
Fishing for silver salmon*
Bear hunting begins
Driftwood harvest (during high water)
Spruce chicken harvest

September

chicken harvest

DEC and Yukon-Koyukuk Tribal Communication Protocol

Moose Hunting*
Bear hunting
Duck and goose hunting
Cranberry picking
Fishing for fall chum salmon*

October

Wood cutting for winter
Blackfish traps set
Grayling and trout fishing
Cutting grass for the dogs
Put in fish nets under the ice
Put in fish hooks for burbot
Bear hunting

November

Trapping open for all fur animals
Bear hunting
Traditional Thanksgiving feast

December

Trapping first half of the month
Traditional Christmas feast

*Salmon fishing and moose hunting are important activities. Scheduling of meetings should be avoided, if possible, during these times.

Appendix C: Travel to the Villages

What You Need to Bring and What You Need to Know

Traveling to the Yukon-Koyukuk (Y-K) area presents some unique challenges. Flights are less reliable. For example, planes will not fly in white-out conditions or temperatures below 45 degrees below zero F. Flights are limited; planes may fly into and out of certain villages only on certain days of the week, and usually only once per day, requiring at least an overnight stay. These are small bush planes, with limited seating. Reserve flights early. Build flexibility into your schedule. Watch the weather forecast for the villages before you go (www.weather.com is one resource; NOAA's Alaska Regional Office website is also recommended www.arh.noaa.gov). Make contingency planning a priority. Airlines that fly to Y-K communities include Wright's Air, ERA and Warbelows. When you arrive, let the airline agent know when you expect to depart and how to reach you while in the village, as flights can be cancelled or departure times changed due to weather and other events.

Lodging: Arranging lodging in certain Y-K communities can be a challenge. In Galena the largest community in the Y-K, there are several B&Bs and limited public accommodations. In other villages there are fewer accommodations. For example, you may need to sleep in the gym or perhaps on the floor of the community center. To find out, discuss arrangements with village staff during your early communications. Ruby has two B&B's. Huslia has one B&B.

Getting Around: As with lodging, call to find out how to manage local transportation. There may be no rental car companies but generally there are vehicles available for rent. Again, work with village staff and others living in the community.

Dining: Dining options and hours of operation are limited. You may need to bring your own food. Check in advance with your community contacts to find out what your available options are at that time. Plan ahead. Include in your planning that flights do not have food, and there can be delays.

Money: ATM's are rare in the Y-K. Galena has an ATM with a withdrawal limit. Bring plenty of cash as many places cannot process credit or debit cards or take personal checks. Money orders can be purchased with debit and credit cards at the local post office.

Packing: Plan your packing with layering in mind. Also, it's in your best interest to pack as lightly as possible—you may have to carry it a long way and in poor weather. Consider the time of year, and pack accordingly.

DEC and Yukon-Koyukuk Tribal Communication Protocol

Packing List:

- Sunglasses (summer and winter) insect repellent, snacks, casual clothes and tough footwear
- Sleeping gear (depending on your lodging arrangements)
- Clothing with pockets near the body to hold things you do not want to freeze (like eyedrops, lip balm, moisturizer, camera, small flashlight, hand wipes, water bottle, etc.)
- Sturdy boots (well insulated with no steel toes in winter; insulated mud-boots in summer)
- Wool socks and pants (wool is better than cotton)
- Thermal underwear warm (down)
- Jacket with hood
- Hat that covers ears, scarf, gloves
- Flashlight
- Sleeping mask (accommodations in the villages do not always have curtains on the windows to block out the light)
- Flip-flops (bathrooms may be communal at some village accommodations)
- Ear plugs (you may be sharing a room with someone who snores)

Hint: In winter, put on your warm wear when you board the plane. The walk into a building can be a long one if you are not prepared for the cold. The plane can be cold, too!

Agency Equipment and Meeting Supplies

Each trip will have a particular purpose(s). Consequently, it is important that you give early, thoughtful consideration to the equipment and supplies that you will need to bring so that your trip is effective and productive. It is not possible to compile a complete list of equipment and supplies that may be required, but you should consider the fact that there may not be office supply stores in the villages. Consult with the village tribal administrators to learn what is available for your meeting and what you should plan to bring.

Suggestions:

- Visual aids (graphics) for your discussion are very valuable – they help to bridge the cultural and language differences that you will be working with and, if done well, convey a great deal of information in a small space. Remember that when participants speak in languages other than English, a table with numbers and words is often meaningless; instead use graphics, drawings, pictures, maps.
- Consider the possible need for a flip chart or white dry erase board. If you are going to be outdoors, markers freeze and are unusable.
- Do you need a projector? Does your location have electricity? Do you need to bring long extension cords, etc.?
- If there will be a formal hearing, bring sign-in sheets, pens, etc.

DEC and Yukon-Koyukuk Tribal Communication Protocol

Other considerations:

There may not be indoor plumbing; cell phone or Wi-Fi coverage. Land-line telephones and internet service may be limited due to weather or other conditions. Note that buildings are kept quite warm, usually 75 degrees or more --- the temperature differential between inside and outside can be extreme. Layer up so you can layer down inside. Check with the tribal administrators for cultural norms to honor and for the appropriate length of your visit.

Appendix D – DEC and Tribal Contacts

APDES Program: 465-5300

APDES Tribal Liaison: 465-5300

DEC Commissioner's Office: 465-5065

Yukon-Koyukuk Subregion

- **Louden Tribal Council** P.O. Box 244, Galena, AK, 99741
Phone: (907) 656-1711, Fax: (907) 656-1716
Health Clinic: Phone: (907) 656-1266, Fax: (907) 656-1525
- **Huslia Traditional Council** P.O. Box 70, Huslia, AK 99746
Phone: (907) 829-2294, Fax: (907) 829-2214
Health Clinic: Phone: (907) 829-2204, Fax: (907) 829-2203
- **Kaltag Traditional Council** P.O. Box 129, Kaltag, AK 99748
Phone: (907) 534-2224, Fax:
Health Clinic: Phone: (907) 534-2209, Fax: (907) 534-2245
- **Koyukuk Traditional Council** P.O. Box 109, Koyukuk, AK 99754
Phone: (907) 927-2253, Fax: (907) 927-2220
Health Clinic: Phone: (907) 927-2221, Fax: (907) 927-2221
- **Nulato Tribal Council** P.O. Box 65049, Nulato, AK, 99765
Phone: (907) 898-2339, Fax: (907) 898-2207
Phone: (907) 898-2209, Fax: (907) 898-2304
- **Ruby Tribal Council** P.O. Box 210, Ruby, AK, 99768
Phone: (907) 468-4479, Fax: (907) 468-4474

EPA Environmental Justice Coordinator Region 10:

Running-Grass
Regional Environmental Justice Coordinator
ETPA/Ecosystems and Community Health Unit
U.S. EPA, Region 10
1200 Sixth Ave, Suite 900, 086
Seattle, Washington 98101
206.553.2899

Appendix E – List of Acronyms

AAC	Alaska Administration Code
APDES	Alaska Pollutant Discharge Elimination System
AS	Alaska Statutes
CWA	Clean Water Act
DEC	(Alaska) Department of Environmental Conservation
ECHO	Enforcement Compliance History Online
EPA	Environmental Protection Agency
GILA	Galena Interior Learning Academy
NPDES	National Pollutant Discharge Elimination System
PIP	Permit Issuance Plan
Y-K	Yukon-Koyukuk

Appendix F – Definitions

Local knowledge: information about a given area by local residents based on direct observations.

Traditional knowledge: the information that indigenous people of an Alaskan region have developed through generations of experience with the lands, waters, fish, plants, wildlife and other natural resources based on experience and adaptation. This knowledge is used to maintain the resources necessary to sustain communities and their culture.

Tribe: any Tribe in Alaska listed in the Federal Register as referred to at 25 USC 479a-1(a)

Appendix G - APDES Permitting and Public Participation Overview

This appendix summarizes the Alaska Pollutant Discharge Elimination System (APDES) permitting process and opportunities for public participation. More information about APDES permitting and public participation opportunities may be found on the Alaska Department of Environmental Conservation (DEC) web page: <http://dec.alaska.gov/water/npdes/index.htm>

TRANSFER OF PERMITTING AUTHORITY

In October 2008, DEC began a phased transfer of permitting authority for the National Pollutant Elimination Discharge System (NPDES) program from the federal Environmental Protection Agency (EPA). The APDES Program involves permitting for discharges of pollutants covered by the federal Clean Water Act which includes discharges of wastewater into navigable waters (waters of the United States).² Since 2008, DEC has taken over responsibility for issuing most discharge permits other than oil and gas, cooling water intakes, munitions, pesticide application, and miscellaneous discharges which will be transferred at a later date.³

DEC PROGRAMS

DEC's mission is to protect the environment and human health. APDES permitting is one component of DEC's many responsibilities which also include air permitting, oil spill prevention and response, and solid waste permitting. The Division of Water implements the APDES program through its three main offices in Fairbanks, Anchorage, and Juneau and field offices in Soldotna and Wasilla. This division also issues permits for wastewater discharges into upland areas under State of Alaska permitting authority.

APDES PERMITTING PROCESS

This section summarizes some of the most important parts of the APDES permitting process. The October 29, 2008 *Alaska Pollutant Discharge Elimination System Program Description (Program Description)* provides a detailed explanation of the APDES Program.⁴

² Section 402(b) of the Clean Water Act and federal regulations (40 CFR § 123.22) provide the authority for wastewater permitting.

³ EPA retains NPDES permitting for certain facilities including those within the Denali National Park and Preserve, facilities in Indian Country, and facilities granted a waiver under Section 301(h) of the Clean Water Act.

⁴ The *Program Description* is posted on the DEC website:

http://dec.alaska.gov/water/npdes/Final_Application_2008/Application_Program_Description.htm

DEC and Yukon-Koyukuk Tribal Communication Protocol

Individual and General Permits

An individual permit is issued to a single facility and is specifically tailored to the unique aspects of that facility and the receiving water body. A general permit covers discharges from more than one facility with similar operations in a defined geographic area (which may be statewide). A general permit involves facilities with discharges of the same type of wastes that require similar effluent limits and similar monitoring (see 18 AAC 83.205). Both types of permits undergo a similar review process, but general permits are implemented differently because they apply to more than one facility. There is no public review when someone applies to operate under a general permit.

Application Reviews

After receipt of an application, DEC reviews it to determine if it is complete. If the application is incomplete, DEC requests additional information from the applicant. When an application is deemed complete, DEC begins a technical review to determine if enough information has been provided to draft a permit. There is no application for the development or reissuance of a general permit.

Developing Permit Conditions

DEC completes complex analyses during the development of a draft permit. These analyses lead to the development of technology-based and water-quality based effluent limits. Technology-based limits are based on a number of factors including best professional judgment, best available technology that is economically achievable, and new source performance standards. DEC develops technology-based limits on a case-by-case basis when no effluent limitation guideline exists for a discharge. Water-quality based effluent limits are used when there is a reasonable potential that state water quality may be exceeded for individual pollutants. The more stringent of the technology-based or water-quality based limitations are placed in the permit.

In certain situations, DEC authorizes a mixing zone. A mixing zone is an area within a water body where water quality standards may be exceeded, but the standards must be met at the outside edges of the mixing zone. Variances from water quality standards may be granted under certain conditions as provided for under the Clean Water Act. If DEC approves a request for a variance, EPA must also approve it.

Additional analyses may be conducted for some situations. For example, discharges proposed to marine waters require an Ocean Discharge Criteria Evaluation (40 CFR 125.120, Subpart M).

DEC and Yukon-Koyukuk Tribal Communication Protocol

Although APDES regulations require DEC to prepare a Fact Sheet for APDES permits for major facilities, when waivers are proposed and for facilities where there are major issues or public interest (18 AAC 83.115(b)), DEC will prepare a Fact Sheet for every permit. The Fact Sheet explains the basis for permit limits, why a waiver is needed, compliance schedules, and special conditions.

Permits include monitoring requirements to make sure permit limits are met. The permit writer includes a requirement for applicants to implement a Quality Assurance Project Plan. This plan describes procedures the applicant must follow to assure proper controls are in place for water quality testing. In addition, DEC provides the permittee with a Discharge Monitoring Report for documenting the results.

Permit Term and Reissuance

APDES permits are effective for a maximum of five years. An applicant must apply for reissuance of a permit at least 180 days before it expires. In the event that DEC does not reissue a permit before its expiration date, the permit can be administratively extended under certain conditions (AS 46.03.110(d) and 18 AAC 83.155(c)). A reissued permit must include effluent limits, standards, and conditions that are at least as stringent as in the previous permit.

Minor modifications may be made to an existing permit if the changes would not result in an increase in the discharge or a pollutant in the environment. Conditions for approval of a minor permit modification are outlined at 18 AAC 83.145. A minor modification to a permit is not required to be public noticed.

Public Participation in the APDES Permitting Process:

http://www.dec.state.ak.us/water/npdes/pdfs/AppendixH_PublicParticipationAPDESProcessOCT08FINAL.pdf

COMMUNICATIONS REGARDING COMPLIANCE AND ENFORCEMENT

DEC's Compliance and Enforcement Program conducts compliance reviews and inspections of facilities covered by APDES permits. The program has four major components: 1) compliance monitoring, 2) compliance assistance, 3) compliance incentives, and 4) enforcement. Section 9 of the *Program Description* provides details about the Compliance and Enforcement Program.

DEC and Yukon-Koyukuk Tribal Communication Protocol

When a facility is out of compliance with permit terms, DEC may either apply administrative remedies or civil or criminal remedies. Administrative remedies are less formal actions that usually require agreement of the violator.

Examples of administrative remedies include a compliance letter, notice of violation, and a compliance order by consent, which may assign a stipulated penalty or provision for agency reimbursement for its costs.

Civil and criminal remedies require filing actions in court. Civil remedies include consent decrees, civil suits for injunctive relief and damages, preliminary injunctions and temporary restraining orders, and permanent injunctions. Criminal remedies are reserved for severe and willful violations and often involve criminal penalties.

DEC enters citizen complaints of an alleged or suspected violation of law in its Complaint Automated tracking System (CATS) database. Complaints may be anonymous and investigations are confidential during investigation. Upon close of the investigation, DEC notifies the complainant of the results if requested.

In addition, an EPA maintains a database website that tracks permitted wastewater facilities, inspections, and violations. This website is called Enforcement and Compliance History Online (ECHO) <http://www.epa-echo.gov/echo/>

APPEALS

DEC intends to work closely with Tribes to resolve issues raised during the permit process. The intent of the communication process is to identify local concerns and pertinent local and traditional knowledge early in the APDES permitting process. Communication provides an opportunity to develop permit conditions that reflect local conditions. While neither this Tribal Communication Protocol nor activities taken pursuant to it create legally enforceable rights, a Tribe maintains the appeal rights it would otherwise have. In addition to the APDES public participation process, Tribes may use their government-to-government relationship with EPA to address project issues if those issues involve a concern that the permit may not comply with Clean Water Act requirements.

After approval of a permit, several appeal processes apply including an informal review, a formal review and appeal to the Superior Court. An informal review by the Division of Water Director may be requested under 18 AAC 15.185. The Director will issue a final decision within 15 days of receipt of the request or 15 days after receiving additional information it has been requested. A formal appeal process may be requested under 18 AAC 83.175 within 30 days after of issuance of the permit decision. The formal process involves an adjudicatory

DEC and Yukon-Koyukuk Tribal Communication Protocol

hearing, and the Commissioner's decision becomes the final agency decision. An appeal of that decision to the Superior Court must be made within 30 days of the final agency decision.

**NOTE: This project was funded by EPA through the States Environmental Justice Cooperative Agreement program.*