

How would a State 404 program help for building new homes and buildings in Rural Alaska?

There are a number of ways a State run 404 program would benefit and help rural housing, infrastructure, and resource development. The most significant benefit is through the implementation of the compensatory mitigation requirements. Under the 404 program, projects that are unable to adequately avoid or minimize impacts to wetlands need to compensate for those impacts. In Alaska, the existing U.S. Army Corps of Engineer (USACE) approach has been to require lands be set aside either by requiring the project proponent to purchase comparable wetlands through a land trust compensatory mitigation bank or setting a portion of their lands aside in perpetuity. In a housing scenario, that is costly to both the developer and the public, described as follows.

One 9-acre proposed development here in Juneau was required to provide 3.89 acres in compensatory mitigation offset, and with his land and the land trust mitigation banks as the only USACE approved source of mitigation, he was required to pay \$145,000 to the local land trust and set aside (i.e., not develop) 2 of his 9 acres. This particular developer highlighted for us the increasing cost of the mitigation credits per acre – what used to cost him \$30,000 per acre as mitigation last year is now costing \$125-135,000 per acre. As he described, when you factor in the payment to land trusts, the set-aside of property for non-use (now and in the future) and the continued tax liability for that unused land, the permit development and land development expenses, it is costing him approximately \$400,000 to develop a single acre for housing, BEFORE any housing is even developed.

Another proposed subdivision development, a 90 acre parcel with approximately 65% wetlands, was determined to be undevelopable for the precise cost reasons outlined above. A large parcel of developable land for housing, which could be serviced by water and sewer, will remain undeveloped due to cost.

Another housing and subdivision developer in Bethel explained that filling 18.6 acres of wetlands required that he repair three culverts and set aside 28.6 acres of land as compensatory mitigation. These examples show the USACE imposed costs of housing/subdivision development. Those costs are then passed along to the purchasing public making housing any but affordable.

Under a State-assumed 404 Program, the State plans to take full advantage of the flexibility provided under the law for compensatory mitigation. One mitigation option the State is exploring is through an in-lieu fee program. With this option, developers may choose to pay a fee instead of paying a land trust for lands to be set aside. The fees collected under this program will be used to help with water quality improvement projects that will benefit Alaskans, to include the cleanup of contaminated sites, funding for Village Safe Water improvements, fixing perched culverts, and other water quality improvement projects. This option will allow for the development of housing without the constraints of setting aside lands where limited housing and land is already an issue and will fight against the inflation of trust lands mitigation banks since it will provide an alternative option. The general public will benefit by the improved water quality the in-lieu fee program projects provide as well as the reduced cost of housing development.

While these are examples of housing development projects, the in-lieu fee program will be available to other project types as well including, but not limited to, utilities, driveways, roads, and other rural, residential, commercial, and industrial development. Anything the State can do to reduce permitting time and costs will generally translate favorably to resource development interest and investment in the state.

For many small, routine, and easily categorized projects, quick over-the-counter types of approvals would be appropriate. The State 404 program would develop that and expand beyond what the USACE is currently capable of doing based on the local project needs and area knowledge – that will save time for project proponents and staff. For larger or more complex projects, increased communication throughout the permitting and public notice phase of the project, the efficiencies of working with one State agency, and the reduction of NEPA required provisions will be a significant time and cost savings for both permittees and permittees.

***Will a State 404 program help Village Safe Water program projects happen faster?
Why/How?***

A State-run 404 program will help streamline the permitting review of VSW projects by having all programs located within one agency. Having the VSW Program, Drinking Water Program, Alaska Pollution Discharge Elimination System (APDES) Program, and the 404 Program all co-located within DEC will allow further streamlining and a proactive approach by enabling earlier project meetings so that any program's concerns are addressed early in the project development process. Currently, under a USACE administered 404 Program, DEC must wait until the 404 permit is under public review before seeing the permit, and this has resulted in delays to correct potential issues.

What does the department imagine will be the dredge and/or fill material activity in rural Alaska and Rural Villages?

There are about 30 unserved communities in Alaska for which Indian Health Services has funded planning and design for piped water and sewer services. Most, if not all, of these water and sewer infrastructure projects are located within waters (and wetlands) of the United States and subject to the Section 404 permitting. A State 404 program would ensure smooth and coordinated permitting and approval conditions that are specific to the State's and communities' unique conditions and needs. State permitting of these and other types of projects, combined with ongoing and improved service and support to our communities, will result in monumental and sustainable water and sewer infrastructure solutions in our rural communities. Once these infrastructure projects are installed, there may be an expansion in those communities by businesses and others that would not otherwise choose to invest there simple due to the lack of infrastructure.

Additional information:

The 401 Certification process adds complexity to USACE 404 permitting since the 401 Certification may, and does, add additional stipulations to the permit in order to comply with Alaska Water Quality Standards. Under a State issued 404 permit, all requirements to comply with Water Quality Standards would be in the body of the permit, and reviewed as a single document by the public.