Haines Borough
Planning Commission
Regular Meeting Agenda

COMMISSIONERS:

ROB GOLDBERG, CHAIR
LEE HEINMILLER, VICE-CHAIR
LARRY GEISE
HEATHER LENDE
DON TURNER III
BRENDA JOSEPHSON
ROB MILLER

Thursday, September 8, 2016 - 6:30 p.m. **Assembly Chambers, 213 Haines Hwy.**

1. **CALL TO ORDER / PLEDGE TO THE FLAG**
2. **ROLL CALL**
3. **APPROVAL OF AGENDA**
4. **APPROVAL OF MINUTES: August 11, 2016**
5. **PUBLIC COMMENTS** [Items not scheduled for public hearing]
6. **CHAIRMAN'S REPORT**
7. **STAFF REPORT**
   - **A. Planning & Zoning Report**
8. **PUBLIC HEARINGS:** None
9. **UNFINISHED BUSINESS: None**
10. **NEW BUSINESS:**
    - **A. Historic District/Building Review: None**
    - **B. Haines Borough Code Amendments**
      - **1. Temporary Use in Commercial Zone – Discussion Item –** This item is up for discussion again at the request of Bill Seward, Borough Manager.
    - **C. Project Updates: None**
    - **D. Other New Business**
      1. **Classification of Borough Lands for Sale – Discussion Item—**Foreclosure on property in Chilkat Acres, Lots 35, 36 & 37 has been finalized and deeded to the Haines Borough.
      2. **Land Use Permit: Portage Cove Harbor Expansion– Discussion Item—**The land use permit has been approved by the borough; this topic is up for public comment.
11. **COMMISSION COMMENTS**
12. **CORRESPONDENCE**
13. **SCHEDULE MEETING DATE**
    - **A. Regular Meeting – Thursday, October 13, 2016 6:30 p.m.**
14. **ADJOURNMENT**

Haines Borough
Planning Commission Meeting
August 11, 2016
MINUTES

Draft

1. **CALL TO ORDER/PLEDGE TO THE FLAG –** Chairman **Goldberg** called the meeting to order at 6:35 p.m. in Assembly Chambers and led the pledge to the flag.
2. **ROLL CALL – Present:** Chairman Rob **Goldberg**, and Commissioners Lee **Heinmiller**, Don **Turner** III, Heather **Lende** and Rob **Miller.** Larry **Geise** and Brenda **Josephson** absent.

   Staff Present: Bill **Seward**, Manager; Jan **Hill**, Mayor; Kathryn **Friedle**, Interim Planning and Zoning Technician; and Holly **Smith**, Planner.

   Also Present: Diana **Lapham/**Liaison, Paul **Nelson**, Michael **Case**, Margaret **Friedenauer**, Sue & Don **Braaten**, Dave **Long**, Bruce **Smith**, Karen & Don **Hess**, Kent **Dobbins**, Glenda **Gilbert**, and Emily **Files**.
3. **APPROVAL OF AGENDA**

   Motion: **Heinmiller** moved to "approve the agenda." **Lende** seconded it. The motion carried unanimously.
4. **APPROVAL OF MINUTES** – July 7, 2016 Regular Meeting Minutes.

   Motion: **Turner** moved to "approve the July 7, 2016 minutes as amended," and **Heinmiller** seconded it. The motion carried unanimously.
5. **PUBLIC COMMENTS—None**
6. **CHAIRMAN'S REPORT—Goldberg** introduced the Borough's new Planner, Holly **Smith**
7. **STAFF REPORTS**

   A. **Planning & Zoning Staff Report—Friedle** reported on several land use permits issued
8. **PUBLIC HEARINGS**

   A. **Sue & Otto (Don) Braaten—Vacation Purchase/Lease/ROW Easement Petition—Action Item**

   Goldberg opened the public hearing at 6:39 p.m.

   Sue **Braaten** described the problem of the 100' ROW and 60' ROW on FAA Road and how it changes to 30" above the Braaten property, with one corner of their property in the ROW. Sue suggested the Borough swap corners with the Braatens.

   Dave **Long** discussed ROW problem, discrepancies in previous surveys & plats done, and problem with BIA water line on the now Bear Trails Subdivision.

   Bruce **Smith** expressed his concern of the utilities, particularly the sewer line, on FAA Road and suggested the Braatens' lease the ROW section.

   Goldberg closed the public hearing at 7:20 p.m.

After discussion, the Commission agreed to follow the Manager's recommendation. They would also like the Borough staff to research the ROW width along FAA Road, as different plats show different widths. In some place the width is 60', in others 100', and in others 30'. The Commission suspects that a mistake was made years ago and copied in subsequent plats. Another issue is the 50' easement on the edge of the Braaten's property that goes to the Bear Trails Subdivision. Is the easement just on the Braaten's side of the property line, or is it on both side of the line?

Motion: **Turner** moved to "follow the Manager's recommendation and recommend that the Braatens be allowed to purchase part of the Borough ROW along FAA Road," and **Lende** seconded. Motion passed unanimously, 5-0 with 2 absent.

9. UNFINISHED BUSINESS—None

10. NEW BUSINESS

A. Historic District/Building Review—None

B. Haines Borough Code Amendments

1. **Allowing Accessory Apartments in Light Industrial/Commerical Zone—Discussion Item—**Karen **Hess** discussed their plan to shut down and remove the car wash, and to build apartments at the same location, with no change in current businesses located on each side. The Commission discussed zoning regulations and noise level in that area. The Commission did not take action on this topic. The discussion centered around residential uses and industrial uses being incompatible. Changing the Code to allow more residential uses in the LIC zone is not a good idea at this time.

   Motion: **No action taken—no change in code**.

2. **Reviewing Haines Coastal Zone Management Plan in Chapter 18.110 – Action Item—Goldberg** read and discussed the Haines Borough Attorney's memorandum in regards to the State repeal of all ordinances related to the Coastal Zone Mgt. Plan (CZMP) in 2011. After discussion, the Commission decided to deal with the Code revisions regarding the Coastal Management Plan separately from the review of public projects. A workshop will be scheduled for November to extract what they think is valuable from the plan and inset it into Code as per the recommendation from the Borough attorney. The Commissioners felt that if the plan were eliminated it might be more difficult to put parts of it into Code.

   Motion: **Goldberg** moved to "not change anything in Code regarding the Haines Coastal Management Plan at this time. However, the Commission would like the portion of the proposed ordinance that deals with the Commission's review of the Borough projects to go to the Assembly." **Heinmiller** seconded the motion and motion passed unanimously 5-0 with 2 absent.

C. Project Updates—None

D. Other New Business

1. **Right-of-Way for Roads in Rainbow Acres III Subdivision – Action Item—** Kent **Dobbins** discussed the problem of a neighbor's cabin in the ROW, road maintenance, and lot-line identification. Bill **Seward** discussed his tour of the area with Kathryn **Friedle**, notification of property owners for possible

variances and code enforcement, financial problems with getting a scrap barge to Haines, and the on-going civil matter.

Motion: No action taken—civil matter that will be handled by the Borough Manager.

11. COMMISSION COMMENTS—None

12. CORRESPONDENCE

13. SET MEETING DATES

A. Regular Meeting — **Thursday, September 8, 2016 6:30 p.m.**

14. ADJOURNMENT– 9:00 p.m.

7A

Staff Report for September 8, 2016

1. Permits Issued Since August 2, 2016

PERMIT	DATE	OWNER/AGENT	TAX ID	LOT	BLK	SUBDIVISION	DEVELOPMENT	ZONE
16-23A	8/5/16	William Prisciandara	C-STR-02-15NE	15		Haines Townsite	SFR	RMU
16-59	8/24/16	Roger Beasley	C-HTZ-00-0100	1	A	Hertz Subdivision	Sign Permit	ILC
16-60	8/25/16	Dan Harrington	C-OCV-00-1100	11		Ocean View Subdivsion	Site Prep	SR
16-61	8/29/16	Haines Borough Portage Cove Expansion	Haines Borough			Portage Cove Harbor	Harbor Expansion	WF
16-62	8/29/16	HARK (Haines Animal Rescue Kennel)	C-STR-02-40B0	40		Small Tract	Lot Line Adjust	RMU
16-63	8/29/16	Gary Hess	C-STR-02-25A1	1; Sec. 2		Hess Subdivision	Lot Line Vacate	RMU

2. Planner's Projects August-October 2016

PROJECT	SCOPE / TIMELINE	DESCRIPTION
Learning HBC	6 Months	Familiarizing myself with Title 18 and other parts of HBC
Addresses	1 Month	Using Tracy's Address Map, Finishing
Update Parcel Viewer	3 Months	
Comp Plan Review: Action Plan	3 Months	

ISSUE: *There is no definition for "**temporary structure**" in HBC, although it is used in **18.70.040** as a use and has the same set of conditions in each zoning district as "**temporary use**."*

POSSIBLE SOLUTION: *Add 'temporary structure' to **18.20.020**.*
Example 1: "Temporary use" or "Temporary Structure" means a building or structure that is capable of being immediately moved, or a use which is for a limited time up to 18 months.
Example 2: "Temporary structure " means a building or structure that is capable of being immediately moved, or a use by which is for a limited time up to 18 months. See also: Temporary use.

18.20.020 Definitions – Regulatory.

"**Structure**" means anything constructed or erected and located on or under the ground, or attached to something fixed to the ground, including:

1. A building, regardless of size, purpose or temporality;
2. A tower, sign, antenna, pole or similar structure;
3. A basement, foundation, or mobile home pad;
4. A fence;
5. A street, road, sidewalk, or storage area;
6. Television satellite dish.

"**Temporary use**" means a building or structure that is capable of being immediately moved, or a use which is for a limited time up to 18 months.

"**Use-by-right**" means a use, as set forth for each zone, which is subject only to a land use permit pursuant to Chapter 18.40 HBC.

"**Use**" includes any significant activity on a lot. A use includes the following:

1. Construction, reconstruction, relocation, placement, or alteration of a building;
2. Change in the use or material increase in the use of a site, including any development thereon;
3. Disturbance of the surface of the land. Disturbance includes clearing, dredging, excavation or fill activities; creation of an equipment or material storage site or tailing pile; creation of a refuse pile, dump or landfill; and
4. Subdivision or re-subdivision of land.

18.70.030 Zoning districts – Zones.

4. C – **Commercial Zone**. The intent of the commercial zone is to protect and enhance areas of existing commercial development and to provide areas for the continued growth of commercial enterprise. The uses in this zone are oriented toward serving the commercial needs of the residents of the borough, the surrounding area and visitors. The area is served by, or is planned to have, the necessary level of utilities and an adequate transportation system as deemed appropriate for the planned use.

18.70.040 Zoning use chart.

The following chart summarizes the uses allowed and the standards of review for each use, townsite planning/zoning district and the

GENERAL CLASSIFICATION →	INDUSTRIAL USES			COMMERCIAL/ Residential Uses			RESIDENTIAL USES ONLY	RESIDENTIAL/ Commercial Uses				RECREATIONAL USE
Specific Zoning Districts →	Heavy Industrial	Light Industrial/ Commercial	Waterfront Industrial	Commercial	Waterfront	Significant Structures Area	Single Residential	Multiple Residential	Rural Residential	Rural MixedUse	MultipleUse	Recreational
USES ↓	I/H	I/L/C	I/W	C	W	SSA	SR	MR	RR	RMU	MU	REC
Temporary Structure	UBR	UBR	UBR	UBR	CU	CU	UBR	UBR	UBR	UBR	UBR	CU
Temporary Use	UBR	UBR	UBR	UBR	CU	CU	UBR	UBR	UBR	UBR	UBR	CU

HAINES BOROUGH **DRAFT**

ORDINANCE No. 16-__-___

An Ordinance of the Haines Borough determining whether a foreclosed property deeded to the borough shall be retained for a public purpose or sold.

WHEREAS, delinquent property tax liens resulted in foreclosure of the following parcel within the Haines Borough (First Judicial District, state of Alaska):

- B-CKA-0B-3500 – Chilkat Acres (USS 1390), Block B, Lot 35, Juneau Recording District (0.09 Acres) **(Ray March, last owner of record)**;
- B-CKA-0B-3600 – Chilkat Acres (USS 1390), Block B, Lots 36 & 37, Juneau Recording District (0.1872 Acres) **(Peyton March Estate, c/o Ray March, last owner of record)**;and

WHEREAS, on August 18, 2016, the Court of the State of Alaska issued judgments finalizing the foreclosure and conveying all rights, titles, and interest in the real property by "clerk's deed" to the Haines Borough; and

WHEREAS, the parcel is now Haines Borough property, and HBC 14.20.040 provides that borough lands may be classified for sale by the assembly with the advice of the planning commission to discuss any such classification and designation before making any recommendations to the assembly, and

WHEREAS, following discussion of the parcel during a public meeting on September 8, 2016, the planning commission decided to recommend that the parcel be sold, and

WHEREAS, HBC 3.74.220 requires that the borough assembly determine by ordinance whether foreclosed property deeded to the borough shall be retained for a public purpose; and

WHEREAS, foreclosed properties conveyed to the borough and not required for a public purpose may be sold provided the borough assembly, by ordinance, determines that a public need for the properties does not exist,

NOW, THEREFORE BE IT RESOLVED that the Haines Borough Assembly that the aforementioned parcel is not required for a public purpose and may be sold according to HBC 14.20.

Section 1. Classification. This ordinance is a non-code ordinance.
Section 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held to be invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.
Section 3. Effective Date. This ordinance shall become effective immediately upon adoption.
Section 4. Purpose. To determine whether foreclosed properties deed to the borough shall be retained for a public purpose.

Adopted by a duly-constituted quorum of the Haines Borough Assembly on this _____ day of _____, 2016.

Jan Hill, Mayor

Attest:

Julie Cozzi, MMC, Borough Clerk

Date Introduced:
Date of First Public Hearing:
Date of Second Public Hearing:

Kathy Friedle

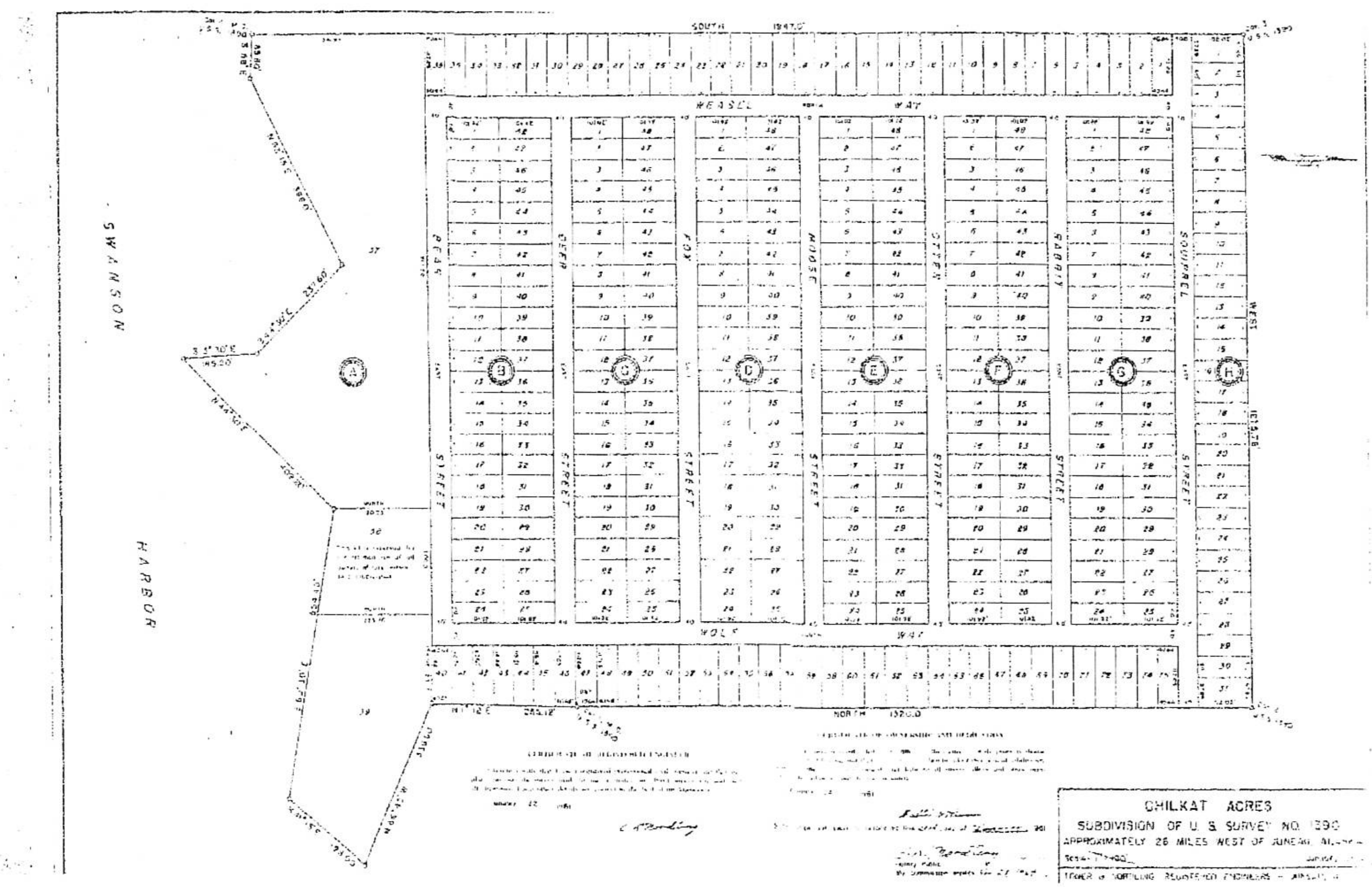
From: Charles Cacciola [CCacciola@bcfaklaw.com]
Sent: Thursday, August 18, 2016 11:23 AM
To: Julie Cozzi; Kathy Friedle
Subject: Clerk's Tax Deed

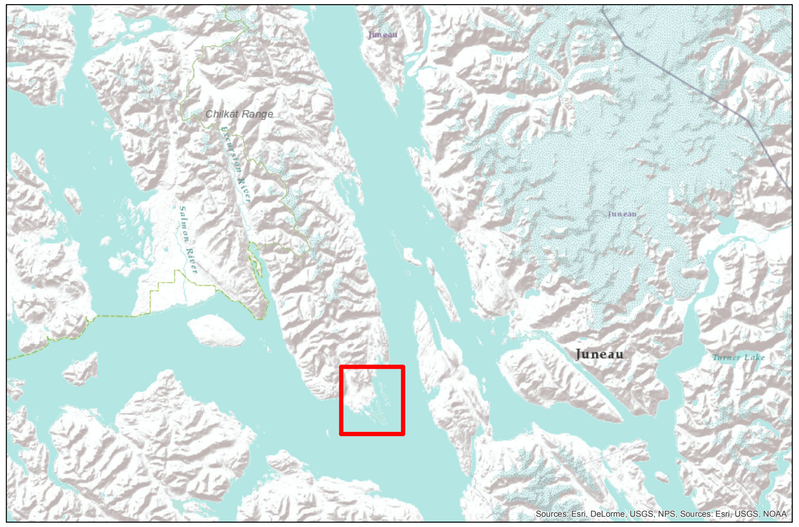
Greetings:

We received a certified copy of the clerk's deed to the foreclosed properties. We'll record the deed. I'd normally attach a scanned copy, but our network is wonky at the moment and won't connect to the scanner.

Charles

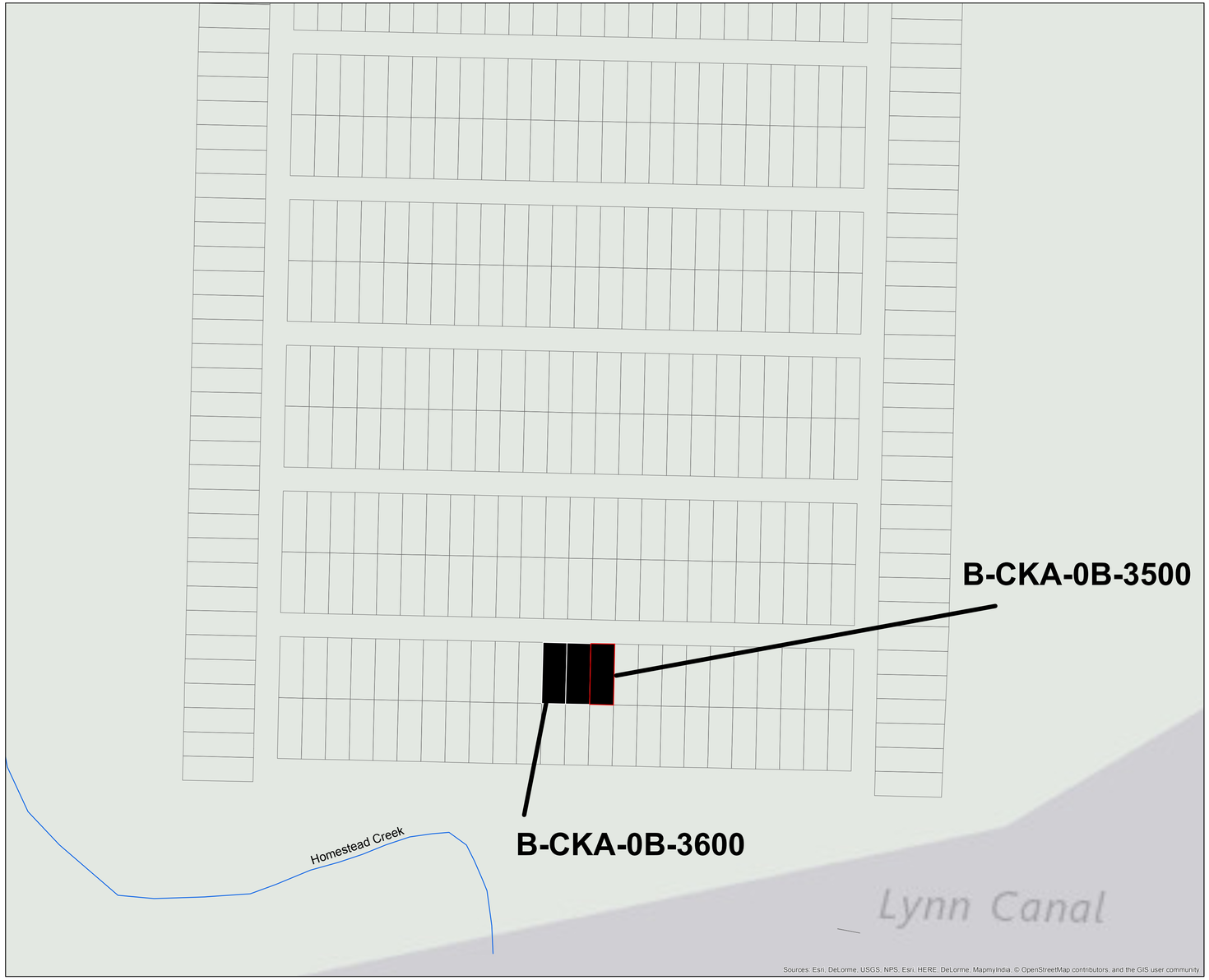
Charles Cacciola
Boyd, Chandler & Falconer, LLP
911 W. 8th Ave, Suite 302
Anchorage, AK 99501
(907) 272-8401


SWANSON HARBOR
SOUTH 1947.0'
WEASEL WAY
WOLF WAY
NORTH 1320.0
BEAR STREET
DEER STREET
FOX STREET
MOOSE STREET
OTTER STREET
RABBIT STREET
SQUIRREL STREET
WEST
CHILKAT ACRES
SUBDIVISION OF U. S. SURVEY NO. 1390
APPROXIMATELY 26 MILES WEST OF JUNEAU, ALASKA



Overview

0 10 20 40 60
Miles



0 0.0225 0.045 0.09 0.135 0.18
Miles

Property 1: B-CKA-0B-3500
BLOCK B, LOT 35
4,077 SQ FT (PLAT #277-JUNO)

Property 2: B-CKA-0B-3600
BLOCK B, LOTS 36 & 37
8,154 SQ FT (PLAT #277-JUNO)

N

Coordinate System: NAD 1983 StatePlane Alaska 1 FIPS 5001 Feet
Projection: Hotine Oblique Mercator Azimuth Natural Origin
Datum: North American 1983
false easting: 16,404,166.6667
false northing: -16,404,166.6667
scale factor: 0.9999
azimuth: -36.8699
longitude of center: -133.6667
latitude of center: 57.0000
Units: Foot US

10D2

Haines Borough

Planning and Zoning
103 Third Ave. S., Haines, Alaska, 99827
Telephone: (907) 766-2231 * Fax: (907) 766-2716

APPLICATION FOR LAND USE PERMIT

I. Owner/Authorized Representative	Owner's Contractor(If Any)
Name: Haines Borough	Name:
Mailing Address: PO Box 1209	Haines Borough Business License #:
Contact Phone: Day Night 907-314-0648	Alaska Business License #:
Fax:	Contractor's License #:
E-mail: bryan@haines.ak.us	Mailing Address:
	Contact Phone: Day Night
	Fax:
	E-mail:

II. Property Information

Property Tax ID #:

Size of Property: Portage Cove Harbor Expansion

Site Street Address: (If Any)

Legal Description: Lot (s)_____ Block_____ Subdivision_____

OR

Parcel/Tract_____ Section_____ Township_____ Range_____

[Attach additional sheets if necessary.] See Attached Map and Drawings

Zoning: ☒Waterfront ☐Single Residential ☐Rural Residential ☐Significant Structures Area
☐Rural Mixed Use ☐Multiple Residential ☐Heavy Industrial ☐Waterfront Industrial
☐Commercial ☐Industrial Light Commercial ☐Recreational ☐Mud Bay Zoning District
☐Lutak Zoning District ☐General Use

III. Description of Work

Type of Application (Check all that apply)	**Project Description** (Check all that apply)	**Water Supply** Existing or Proposed	**Sewage Disposal** Existing or Proposed
☐Residential ☐Commercial _____sq. ft. _____seating capacity if eating/drinking establishment ☐Industrial ☐Church ☒Other Harbor	☐Single Family Dwelling ☐Change of Use ☐Multi-Family Dwelling Total # of Units _____ ☐Cabin ☐Addition ☐Accessory Structure ☒Other Harbor Expansion	☐None ☐Community well ☐Private well ☒Public Water System ☐Other _____	☐None ☐Septic Tank ☐Holding Tank ☒Public Sewer System ☐Pit Privy ☐Composting Toilet ☐Other _____

Estimate Cost of Work:

Land Use Requested For: (Describe the project, and use additional sheets if necessary)
Portage Cove Harbor Expansion
Required Attachments: ☐Completed Application Form ☐Site plan (see Attachment A) showing lot lines, building dimensions, setbacks, streets, etc. ☐$50 Non-Refundable Fee (Checks must be made payable to the Haines Borough)

IV. CERTIFICATION

I hereby certify that I am the owner or authorized representative of the property described above and that I petition for a land use permit in conformance with all of the provisions in the Haines Borough Code. I also certify that the site plan submitted is a complete and accurate plan showing any and all existing and proposed structures on the subject property. I understand that payment of the application fee is nonrefundable and is to cover the costs associated with processing this application, and that it does not assure approval of the proposed use. I also understand that all contract work on this project will be done by a contractor holding valid licenses issued by the State of Alaska and the Haines Borough. **I am aware that if I begin work prior to receiving permit approval, I may be assessed a penalty fee, as per HBC 18.30.070.**

_____ 12 Aug 2016

Signature (Representatives must provide written proof of authorization) Date

PROVISIONS: The applicant is advised that issuance of this permit will not relieve responsibility of the owner or authorized representative to comply with the provisions of all laws and ordinances, including federal, state and local jurisdictions, which regulate construction and performance of construction, or with any private deed restrictions.

Office Use Only Below This Line

Non-Refundable Application Fee $ 50.00	If Application is Complete: ☐Yes ☒No
Payment Method: Finance Charge to Harbor Project	Notified Via: In Person
Receipt #:	Notified By: L.F.
Received By: L.F.	Date: 8/12/16
Date: 8/12/16	Contractor to be assigned in October 2016
If application is approved: ☑Yes ☐No	
If yes,	If no,
Approved By: _____ Borough Manager/P&Z Tech/Designee	Denied By: _____ Borough Manager/P&Z Tech/Designee
Permit ID #: 16-61	Date:
Permit Effective Date: 8/29/16	Reason:

Notice of Right to Appeal: All decisions of the Borough Officials are appealable per HBC 18.30.050

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

ATTACHMENT A

SITE PLAN REQUIREMENTS

1. Drawing showing dimensions, including elevations, of lot on which activity/construction is planned.
2. Existing streets, alleys, sidewalks, driveways, easements, including widths.
3. Existing buildings/structures on the property, their location, dimension and proximity to lot lines or other structures. (Measured from closest point on structure to other lot lines, structures, etc.)
4. Proposed construction—including location, dimensions, and proximity to lot lines or other structures. (Measured from closest point on structure to other lot lines, structures, etc.)
5. Existing and proposed non-building improvements, including surface water drainage plan, driveway placement, culvert(s), off street parking (location and dimensions), on-site water and/or wastewater handling systems.
6. Shore lines, steep slopes, or other evidence of natural hazards.
7. If zero lot line construction proposed, show plan for handling snowdrop onto adjoining properties.

It is <u>strongly recommended</u> that an as-built survey be performed prior to submittal of the application.

Please See Attached Design Sheets

We will provide 404 + 408 USACE Permits

THIS DOCUMENT CONTAINS A COLORED BACKGROUND AND MICRO PRINTED SIGNATURE LINES

HAINES BOROUGH
P.O. BOX 1209 907-766-2231
HAINES, ALASKA 99827

FIRST NATIONAL BANK ALASKA
HAINES BRANCH
HAINES, ALASKA
89-6-1252-12

CHECK NO. No. 322663

8/19/2016
DATE

322663
AMOUNT

Fifty and 00/100 Dollars

50.00

PAY TO THE ORDER OF

HAINES BOROUGH
P. O. BOX 1209
HAINES AK 99827

Dana S Dapham MP

Julie Cozzi MP
AUTHORIZED SIGNATURE(S)

⑈322663⑈ ⑆125200060⑆ 3002 523 3⑈

HAINES BOROUGH

No. 322663

VENDOR: 2125 HAINES BOROUGH

8/19/2016 Check No: 322663

INVOICE #	INV DATE	DESCRIPTION	INV AMOUNT
081516	8/15/2016	HARBOR EXPN - LAND USE PERMIT	50.00

TOTAL AMOUNT 50.00

HAINES BOROUGH
P.O. BOX 1209
HAINES, ALASKA 99827
Phone (907) 766-2231 * Fax (907) 766-2716

CRB 117-3

CASH RECEIPT

Date 8/19/16 024687

Received From Haines Borough

Address P.O. Box 1209, Haines

Fifty and 00/100 Dollars $ 50.00

For H.B. Land Use Permit - Harbor Expansion

ACCOUNT			HOW PAID		
AMT. OF ACCOUNT			CASH		
AMT. PAID			CHECK	X	
BALANCE DUE			MONEY ORDER ☐ CREDIT CARD ☐		

By Kathryn Trimble

Operation and Maintenance Branch

Public Notice

Alaska District
U.S. Army Corps of Engineers

Date 29 April 2016 Identification No. ER-16-03
Please refer to the identification number when replying.

Haines Harbor
Section 408 Permit Request

The Alaska District, U.S. Army Corps of Engineers (USACE) has received a request for a Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. 408) permit, hereafter referred to as a Section 408 permit, from PND Engineers Inc., on behalf of the Haines Borough, to modify an existing Corps project to provide harbor and wave protection facilities to increase capacity while providing safe vessel navigation, moorage, and launching among other navigation improvements.

Section 408 authorizes the Secretary of the Army, on the recommendation of the Chief of Engineers of the U.S. Army Corps of Engineers, to grant permission for the alteration or occupation or use of a USACE civil works project if the Secretary determines that the activity will not be injurious to the public interest and will not impair the usefulness of the project. This Section 408 request is being considered in conjunction with Section 404 and Section 10 applications through the USACE's Regulatory Division.

The proposed work would construct a new pile supported wave barrier wall that would tie into the southern end of the USACE 905-foot-long detached rubble mound breakwater and other items incidental to the development of an expanded harbor.

A complete description of the proposed work may be found on the USACE Alaska District's Regulatory website at the link below:
http://www.poa.usace.army.mil/Missions/Regulatory/PublicNotices/tabid/3350/Article/620454/poa-2005-1976-portage-cove.aspx

This public notice will expire 15 days after the date of this notice. If you have any questions about the proposed action, please contact me at (907) 753-5685 or at Julie.L.Anderson@usace.army.mil

Julie L. Anderson
Chief, Operation and Maintenance Branch

DEPARTMENT OF THE ARMY
ALASKA DISTRICT, U.S. ARMY CORPS OF ENGINEERS
REGULATORY DIVISION
P.O. BOX 22270
JUNEAU, AK 99802-2270

June 15, 2016

Regulatory Division
POA-2005-1976

Mr. Brad A. Ryan
Haines Borough
PO Box 1209
Haines, AK 99827

Dear Mr. Ryan:

Enclosed are two copies of Department of the Army permit POA-2005-1976, Portage Cove, which would authorize dredging, the discharge of fill and dredged material, and the installation of structures in waters of the United States to expand the Portage Cove Harbor.

The project site is located within Section 26, T. 30 S., R. 59 E., Copper River Meridian; USGS Quad Map Skagway A-2; Latitude 59.233º N., Longitude 135.440º W.; Portage Cove Harbor in Haines, Alaska.

The Alaska Department of Environmental Conservation has issued a Certificate of Reasonable Assurance pursuant to Section 401 of the Clean Water Act for your project and found it to be in accordance with the Alaska Water Quality Standards. This certification is attached to the Department of the Army permit and will become a part of this permit when it is finalized.

Additionally, we have enclosed a Notification of Administrative Appeal Options and Process and Request for Appeal form regarding this Department of the Army Permit (see section labeled “Initial Proffered Permit”).

If you accept the conditions of the enclosed permit, please sign and date both copies and return them to us. The permit will not be valid until we have returned a finalized copy to you. This is not an authorization to commence construction. No work is to be performed in Portage Cove until you have received a validated copy of the permit.

Nothing in this letter shall be construed as excusing you from compliance with other Federal, State, or local statutes, ordinances, or regulations which may affect this work.

Please contact me via email at Randal.P.Vigil@usace.army.mil, by mail at the address above, by phone at (907) 790-4491, if you have questions.

Sincerely,

Randal P. Vigil
Project Manager

Enclosures

CF:

dsomerville@pndengineers.com
baustin@pndengineers.com

DEPARTMENT OF THE ARMY PERMIT

Permittee: Haines Borough

Permit No.: POA-2005-1976 (Portage Cove)

Issuing Office: U.S. Army Engineer District, Alaska

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

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

Project Description:

1. Dredge 110,000 cubic yards (cy) of marine sediment from 7 acres below the Mean High Water mark (MHW), (approximate elevation +15.8 feet above the 0.0 foot contour), to provide sufficient water depth vessels at all tidal ranges. The disposal of 84,500 cy of the dredged material is proposed through the discharge over 50 acres of the seafloor at a location approximately 2.8 miles northeast of the proposed dredging site at Latitude 59.238333º N., Longitude 135.400639º W. in Chilkoot Inlet.

2. Discharge 23,380 cubic yards of armor rock and 25,500 cy of dredged material into 3.73 acres below the plane of the High Tide Line (HTL), (approximate elevation +21.2 feet above the 0.0 foot contour), to construct a parking area, boat launch ramp, and protect the dredged area slopes.

3. Remove from 0.073 acres below the MHW 900 cubic yards of existing armor rock from the rubble mound breakwater and replace with 900 cubic yards of larger armor rock to increase wave protection.

4. Remove from below MHW and dispose one 11 feet wide by 136 feet long transient float including six 12-inch diameter steel piles and all miscellaneous mounting hardware and appurtenances.

5. Remove from below MHW and relocate one 36 feet wide by 42 feet long seaplane float including two 16-inch diameter steel piles and all miscellaneous mounting hardware and appurtenances.

6. Replace from below MHW three 12-inch diameter steel piles from transient float designated to remain.

7. Replace from below MHW 2,534 linear feet of 16-inch diameter High Density Polyethylene (HDPE) sewer outfall pipe; replace 70 linear feet of 16-inch diameter ductile iron pipe sewer outfall diffuser.

8. Relocate from below MHW one 28 feet wide by 50 long, pile-supported, (four 24- inch diameter steel) work float.

9. Install below MHW one 10 feet wide by 300 feet long, pile-supported, (fourteen 16-inch diameter steel), headwalk float.

10. Install below MHW one 10 feet wide by 275 feet, pile-supported, (ten 16-inch diameter steel), long mainwalk float.

11. Install below MHW one 10 feet wide by 194 feet long, pile-supported, (eight 16- inch diameter steel), mainwalk float.

12. Install below MHW one 10 feet wide by 120 feet long, pile-supported, (eight 16- inch diameter steel), transient float.

13. Install below MHW six 5 feet wide by 42 feet long, pile-supported, (six 16-inch diameter steel), finger floats.

14. Install below MHW ten 4 feet wide by 32 feet long finger floats.

15. Install below MHW one 44 feet wide by 300 feet long, pile-supported, (ten 12-inch diameter steel), boarding float.

16. Install below MHW one 50 feet wide by 180 feet long drive down float with one 17 feet wide by 145 feet long transfer bridge supported with a total of twenty 24-inch diameter and 16-inch diameter steel piles.

17. Install below MHW one 20 feet wide by 40 feet long, pile-supported (twelve 16-inch diameter steel), approach dock with one 7 feet wide by 80 feet long covered aluminum gangway and one 20 feet wide by 20 feet long gangway landing float.

18. Install below MHW 633 linear feet of wave barrier with navigational lighting; supported with a total of one hundred fifty nine 30-inch diameter steel vertical bearing piles and 24-inch diameter steel barrier piles with sheet pile wings

19. Install below MHW 2,650 linear feet of HDPE sewer outfall pipe with diffuser. Work would include installation of 900 linear feet of corrugated polyethylene drainage pipe, three concrete storm drain manholes, one storm drain oil water separator, and one concrete storm drain outfall with check valve and debris protection grate.

All work will be performed in accordance with the attached plan, sheets 1 - 20, dated June 2016.

Project Location:

Section 35, T. 30 S., R. 59 E., Copper River Meridian; USGS Quad Map Skagway A-2; Latitude 59.233733º N., Longitude 135.440287º W.; Portage Cove Harbor, in Haines, Alaska.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on **June 30, 2021**. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.

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

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

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

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

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

Special Conditions:

1. Your use of the permitted activity must not interfere with the public's right to free navigation on all navigable waters of the United States.

2. You must install and maintain, at your expense, any safety lights and signals prescribed by the United States Coast Guard (USCG), through regulations or otherwise, on your authorized facilities. The USCG may be reached at the following address and telephone number: Commander (dpw), 17th Coast Guard District, P.O. Box 25517, Juneau, Alaska 99802; or by telephone at (907) 463-2272.

3. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

4. The permittee shall comply with the National Marine Fisheries Service Marine Mammal and/or Construction Conditions dated March 15, 2016, and provided as an attachment to this permit.

The permittee shall comply with the Federal Endangered Species Act, you must implement all of the mitigating measures identified in the enclosed National Marine Fisheries Service letter of concurrence (Number NMFS #AKR-2016-9528, dated March 15, 2016), including those ascribed to the Corps therein. If you are unable to implement any of these measures, you must immediately notify the Corps and the National Marine Fisheries Service so we may consult as appropriate, prior to initiating the work, in accordance with Federal law.

5 The Permittee shall use only clean fill material for this project. The fill material shall be free from items such as trash, debris, automotive parts, asphalt, construction materials, concrete blocks with exposed reinforcement bars, and soils contaminated with any toxic substance, in toxic amounts in accordance with Section 307 of the Clean Water Act.

To prevent sedimentation into adjacent Waters of the U.S. outside of the authorized footprint the Permittee shall install silt curtain barriers with weighted skirts that extend around all in-water work areas to include work that is adjacent to surface waters. The turbidity barriers shall remain in place, monitored for effectiveness and maintained until the authorized work has been completed and all suspended and erodible materials have been stabilized. Turbidity barriers shall be removed upon stabilization of the work area.

The Permittee shall install erosion control measures along the perimeter of all work areas to prevent the displacement of fill material outside the authorized work area as detailed on Drawing 4 of 20. The erosion control measures shall remain in place and be maintained until all authorized work is completed and the work areas are stabilized. Immediately after completion of the final grading of the land surface, all slopes, land surfaces, and filled areas shall be stabilized using sod, degradable mats, barriers, or a combination of similar stabilizing materials to prevent erosion.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

(X) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

( ) Section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, State, or local authorization required by law.

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

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

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

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

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

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

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

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

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

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a revaluation include, but are not limited to, the following:

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

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

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

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

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

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

Brad A. Ryan (DATE)
Haines Borough (Interim) Manager

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

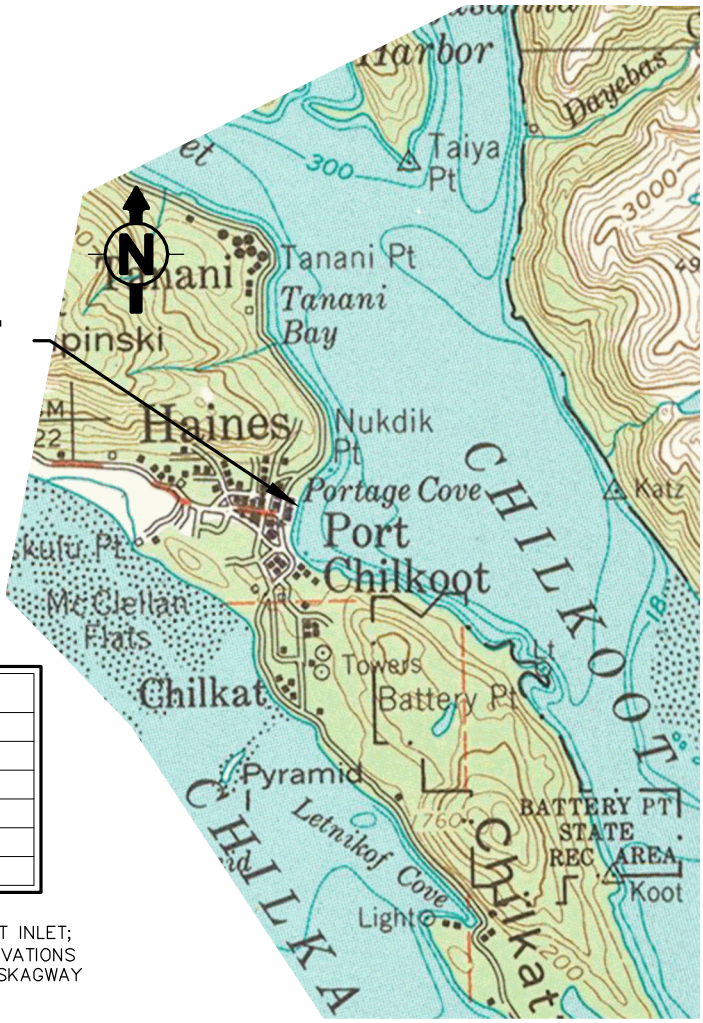
FOR: DISTRICT COMMANDER (DATE)
Colonel Michael S. Brooks
Randal P. Vigil
South Branch, Regulatory Division

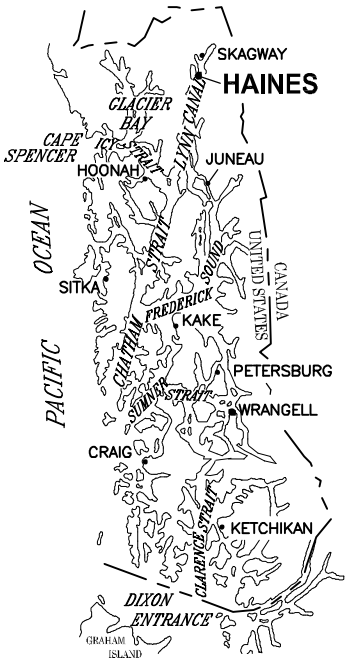
When the structures or work authorized by this permit are still in existence at the time the property is transferred the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated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

(TRANSFEREE) (DATE)

LOCATION MAP

THIS PROJECT





SOUTHEAST ALASKA

TIDAL DATA	
MAX. OBS	26.5'
MHHW	16.5'
MHW	15.5'
MLW	+1.6'
MLLW	0.0'
MIN. OBS	−6.5'

FROM:
STATION 9452421 CHILKAT INLET;
MAXIMUM/MINIMUM OBSERVATIONS
FROM STATION 9452400 SKAGWAY

VICINITY MAP

SCALE IN MILES

0 2 4

MAP FROM:
USGS ALASKA TOPOGRAPHIC SERIES
SKAGWAY, ALASKA–CANADA, 1982.

PURPOSE:

CONSTRUCT HARBOR AND WAVE PROTECTION FACILITIES TO INCREASE CAPACITY WHILE PROVIDING SAFE VESSEL NAVIGATION, MOORAGE, LAUNCHING, LOADING, STAGING & PARKING IMPROVEMENTS

DATUM:

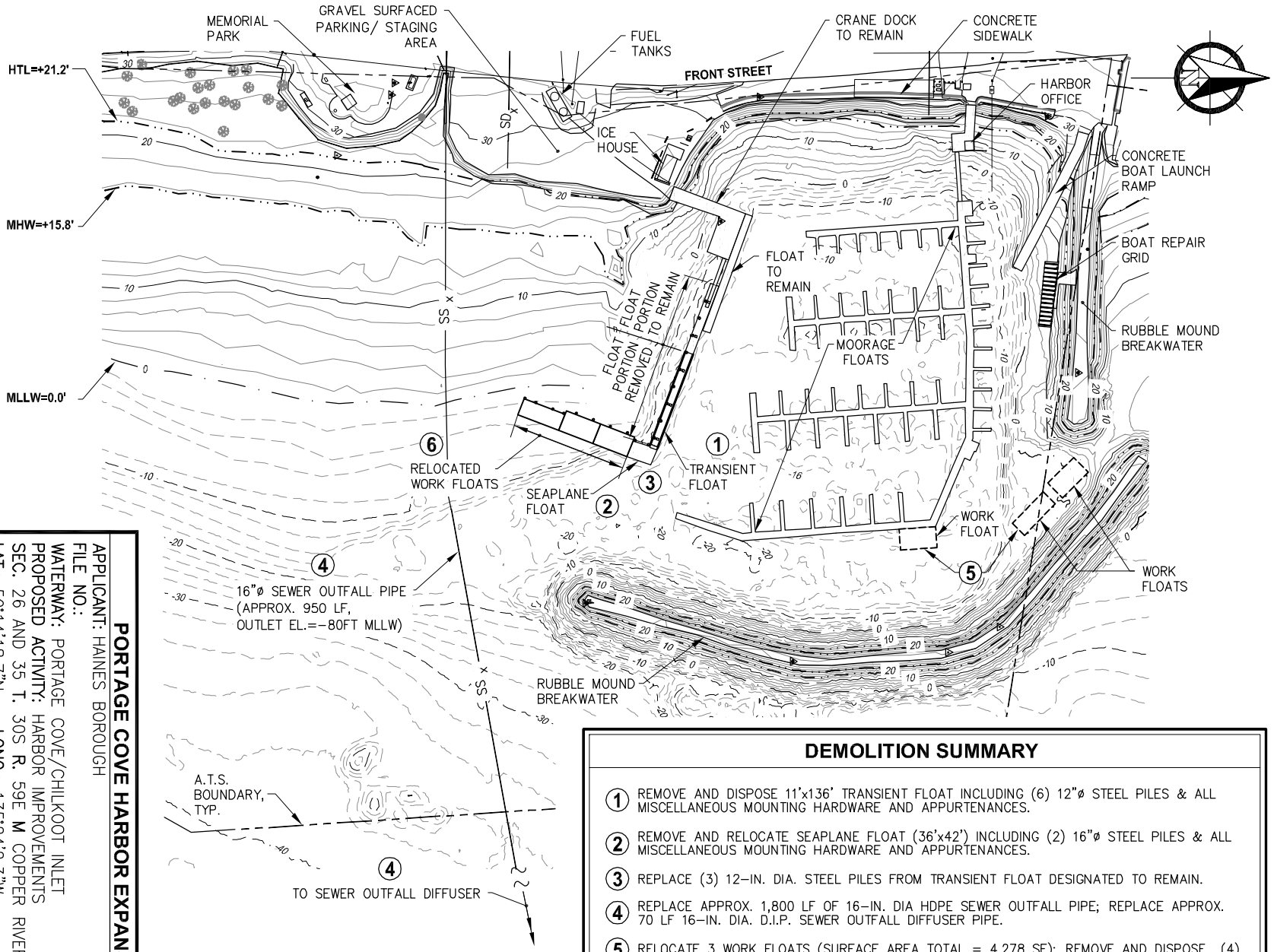
MLLW = 0.0' HTL = 21.2'

VICINITY MAP

PND PROJECT NO. 102029.09

PORTAGE COVE HARBOR EXPANSION

APPLICANT: HAINES BOROUGH
FILE NO.:
WATERWAY: PORTAGE COVE/CHILKOOT INLET
PROPOSED ACTIVITY: HARBOR IMPROVEMENTS
SEC. 26 AND 35 T. 30S R. 59E M COPPER RIVER MERIDIAN
LAT.: 59°14'18.7"N LONG.: 135°24'2.3"W
DATE: JUNE 2016



EXISTING CONDITIONS AND DEMOLITION PLAN

SCALE IN FEET

0 100 200 FT.

DEMOLITION SUMMARY

1. REMOVE AND DISPOSE 11'x136' TRANSIENT FLOAT INCLUDING (6) 12"ø STEEL PILES & ALL MISCELLANEOUS MOUNTING HARDWARE AND APPURTENANCES.
2. REMOVE AND RELOCATE SEAPLANE FLOAT (36'x42') INCLUDING (2) 16"ø STEEL PILES & ALL MISCELLANEOUS MOUNTING HARDWARE AND APPURTENANCES.
3. REPLACE (3) 12-IN. DIA. STEEL PILES FROM TRANSIENT FLOAT DESIGNATED TO REMAIN.
4. REPLACE APPROX. 1,800 LF OF 16-IN. DIA HDPE SEWER OUTFALL PIPE; REPLACE APPROX. 70 LF 16-IN. DIA. D.I.P. SEWER OUTFALL DIFFUSER PIPE.
5. RELOCATE 3 WORK FLOATS (SURFACE AREA TOTAL = 4,278 SF); REMOVE AND DISPOSE (4) PILES
6. TEMPORARY WORK FLOAT RELOCATION WITH (8) 12"ø STEEL PILES

NOTE:

EXISTING SEWER OUTFALL PIPE TO BE RELOCATED WITHIN PROJECT LIMITS, DIFFUSER LOCATION TO REMAIN SAME.

PORTAGE COVE HARBOR EXPANSION

APPLICANT: HAINES BOROUGH
FILE NO.:
WATERWAY: PORTAGE COVE/CHILKOOT INLET
PROPOSED ACTIVITY: HARBOR IMPROVEMENTS
SEC. 26 AND 35 T. 30S R. 59E M COPPER RIVER MERIDIAN
LAT.: 59°14'18.7"N LONG.: 135°24'2.3"W
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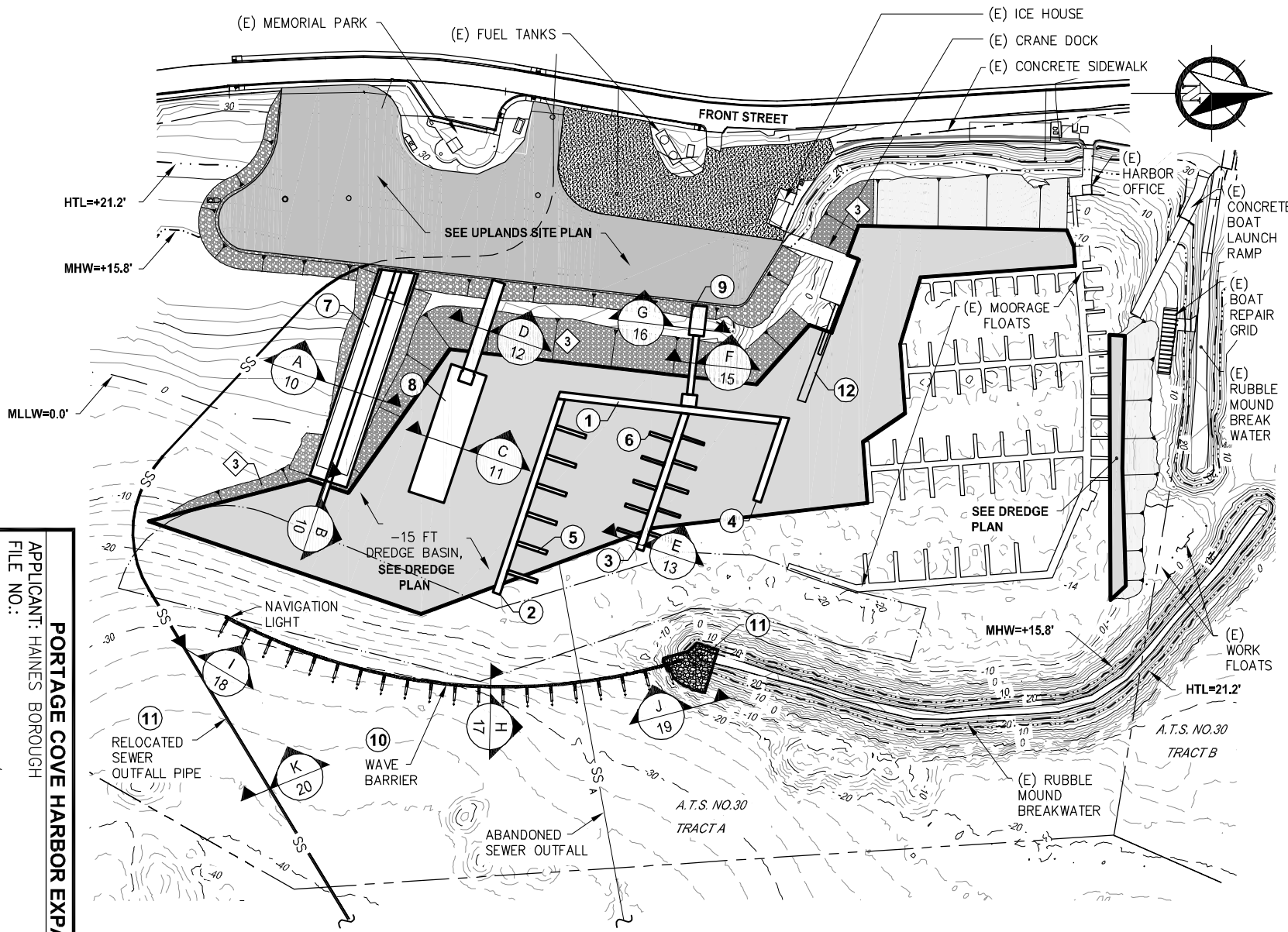

PROPOSED GENERAL SITE PLAN

SCALE IN FEET
0 100 200 FT.

LEGEND

(1) (3) PROPOSED IMPROVEMENTS, SEE SHEET 6 FOR DESCRIPTIONS

(E) EXISTING

PORTAGE COVE HARBOR EXPANSION

APPLICANT: HAINES BOROUGH
FILE NO.:
WATERWAY: PORTAGE COVE/CHILKOOT INLET
PROPOSED ACTIVITY: HARBOR IMPROVEMENTS
SEC. 26 AND 35 T. 30S R. 59E M COPPER RIVER MERIDIAN
LAT.: 59°14'18.7"N LONG.: 135°24'2.3"W
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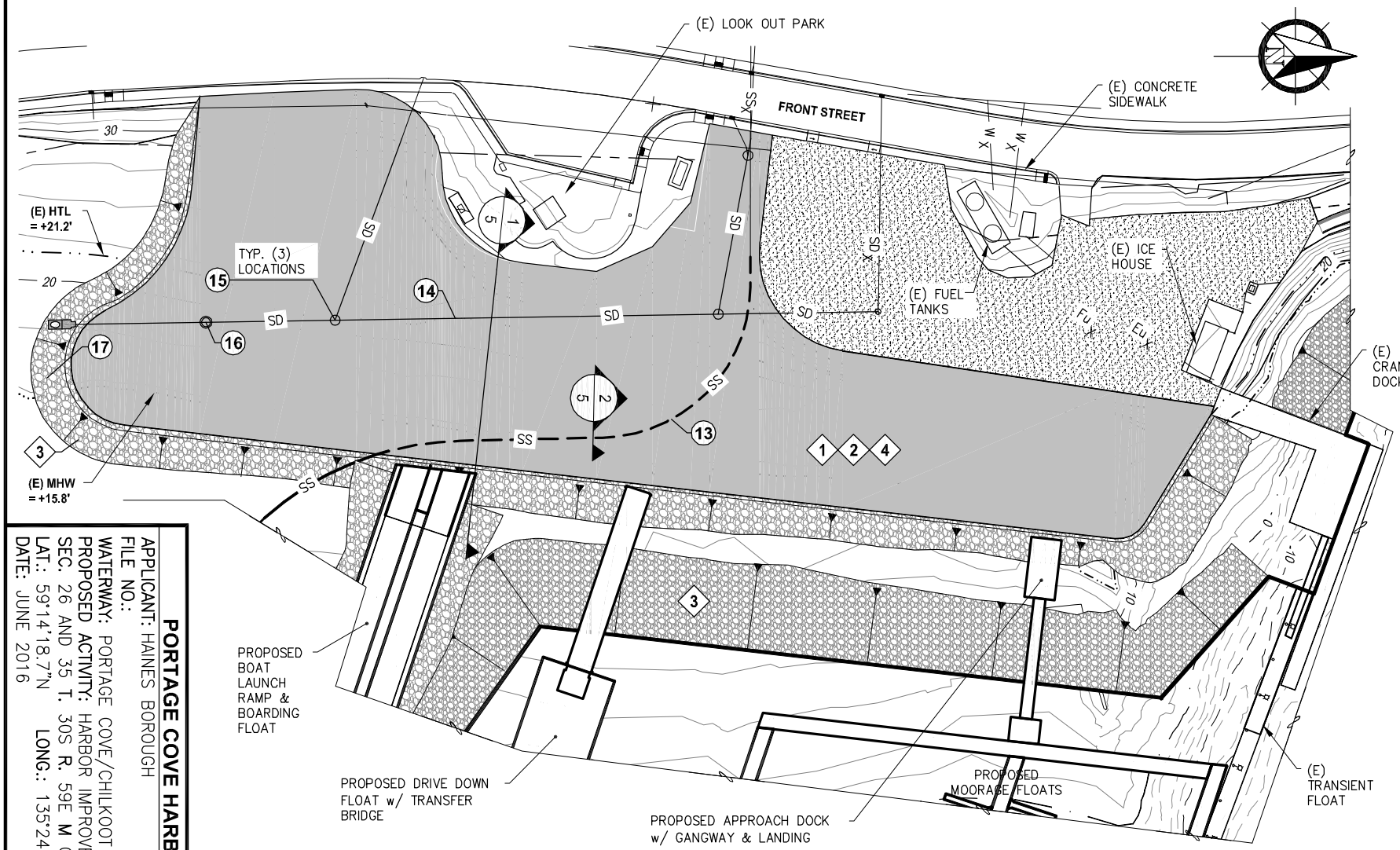

AREA OF FILL

ABOVE HTL	= 1.86 AC
BELOW HTL	= 3.73 AC
TOTAL	= 5.59 AC

UPLANDS PARKING AND STAGING AREA SITE PLAN

SCALE IN FEET

0 50 100 FT.

LEGEND

(12) (1) PROPOSED IMPROVEMENTS, SEE SHEET 6 FOR DESCRIPTIONS

(E) EXISTING

PORTAGE COVE HARBOR EXPANSION

APPLICANT: HAINES BOROUGH
FILE NO.:
WATERWAY: PORTAGE COVE/CHILKOOT INLET
PROPOSED ACTIVITY: HARBOR IMPROVEMENTS
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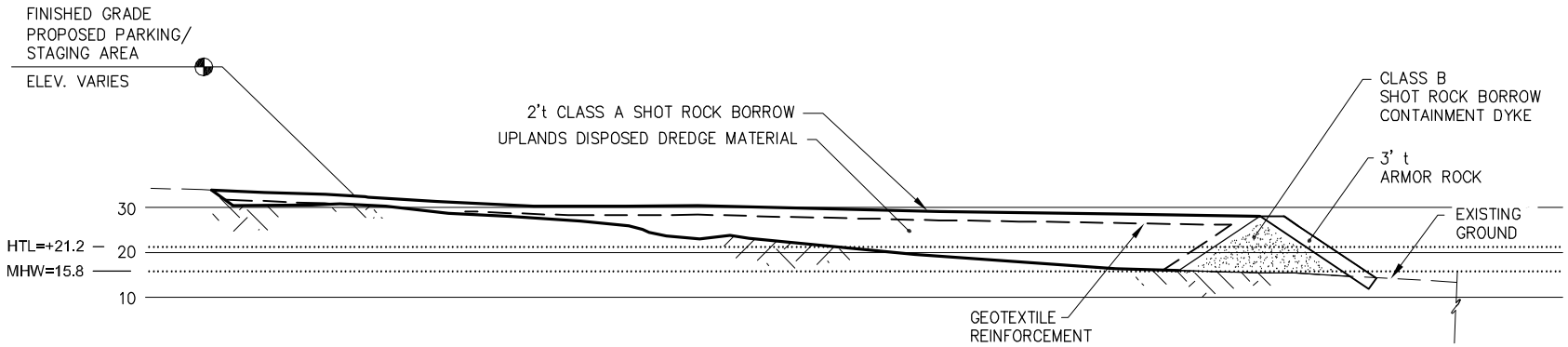
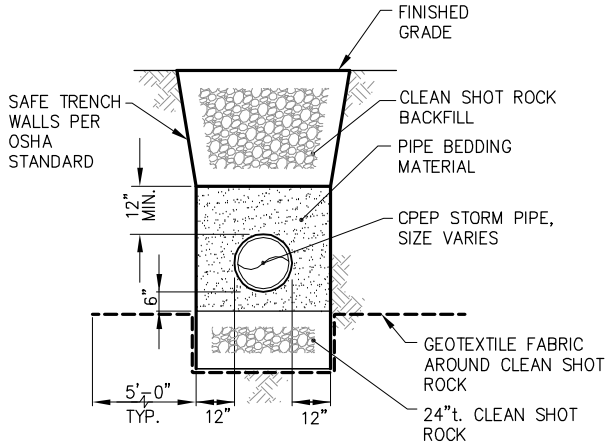


1/4 **TYPICAL UPLAND SECTION**

NOT TO SCALE



2/4 **TYPICAL UPLAND PIPE SECTION**

NOT TO SCALE

PORTAGE COVE HARBOR EXPANSION

APPLICANT: HAINES BOROUGH
FILE NO.:
WATERWAY: PORTAGE COVE/CHILKOOT INLET
PROPOSED ACTIVITY: HARBOR IMPROVEMENTS
SEC. 26 AND 35 **T.** 30S **R.** 59E **M** COPPER RIVER MERIDIAN
LAT.: 59°14'18.7"N **LONG.:** 135°24'2.3"W
DATE: JUNE 2016

SUMMARY OF PROPOSED STRUCTURAL IMPROVEMENTS

SYMBOL	ITEM	PILE SIZE DIA.	QUANTITY
1	HEADWALK FLOAT – 10' x 300'	16"ø	14
2	MAINWALK FLOAT – 10' x 275'	16"ø	10
3	MAINWALK FLOAT – 10' x 194'	16"ø	8
4	TRANSIENT FLOAT – 10' x 120'	16"ø	8
5	(6) FINGER FLOATS – 5' X 42'	16"ø	6
6	(10) FINGER FLOATS – 4' X 32'	N/A	
7	BOAT LAUNCH RAMP & BOARDING FLOAT – 44' x 300'	12"ø	10
8	DRIVE DOWN FLOAT (DDF) – 50' x 180' WITH TRANSFER BRIDGE (TB) – 17' x 145'	DDF – 24"ø / TB – 16"ø	20
9	20' x 40' APPROACH DOCK WITH 7' x 80' COVERED ALUMINUM GANGWAY AND 20' x 20' GANGWAY LANDING FLOAT	16"ø	12
10	WAVE BARRIER WITH NAVIGATION LIGHT – APPROX. 633 LF	30"ø VERTICAL BEARING PILES; 30"ø BATTER BEARING PILES; 24"ø BARRIER PILES WITH SHEET PILE WINGS	159
11	EXISTING RUBBLE MOUND MODIFICATIONS	REMOVE AND REPLACE ARMOR ROCK AND NAVIGATION AID ON EXISTING RUBBLE MOUND BREAKWATER	900 CY (3,190 SF)
12	REPLACE EXISTING TRANSIENT FLOAT PILES	16"ø	4

NOTE:

TOTAL AREA OF OVER WATER COVERAGE: APPROX. 38,790 SF
TOTAL PILES: APPROX. 280

SUMMARY OF PROPOSED UTILITY IMPROVEMENTS

SYMBOL	STRUCTURE
13	16" DIA. HDPE SEWER OUTFALL PIPE WITH DIFFUSER – APPROX. 2,650 LF
14	900 LF CPEP STORM DRAIN PIPE
15	(3) CONCRETE STORM DRAIN MANHOLES
16	(1) STORM DRAIN OIL WATER SEPARATOR
17	(1) CONCRETE STORM DRAIN OUTFALL STRUCTURE WITH CHECK VALVE & DEBRIS PROTECTION GRATE

MATERIAL SCHEDULE

SYMBOL	DESCRIPTION	QUANTITY SEAWARD OF HTL
◇1	DREDGED MATERIAL – UPLAND DISPOSAL	25,500 CY
◇2	DREDGE MATERIAL – OFFSHORE DISPOSAL	84,500 CY
◇3	ARMOR ROCK	7,120 CY
◇4	CLEAN SHOT ROCK FILL	16,260 CY

PORTAGE COVE HARBOR EXPANSION

APPLICANT: HAINES BOROUGH
FILE NO.:
WATERWAY: PORTAGE COVE/CHILKOOT INLET
PROPOSED ACTIVITY: HARBOR IMPROVEMENTS
SEC. 26 AND 35 **T.** 30S **R.** 59E **M** COPPER RIVER MERIDIAN
LAT.: 59°14'18.7"N **LONG.:** 135°24'2.3"W
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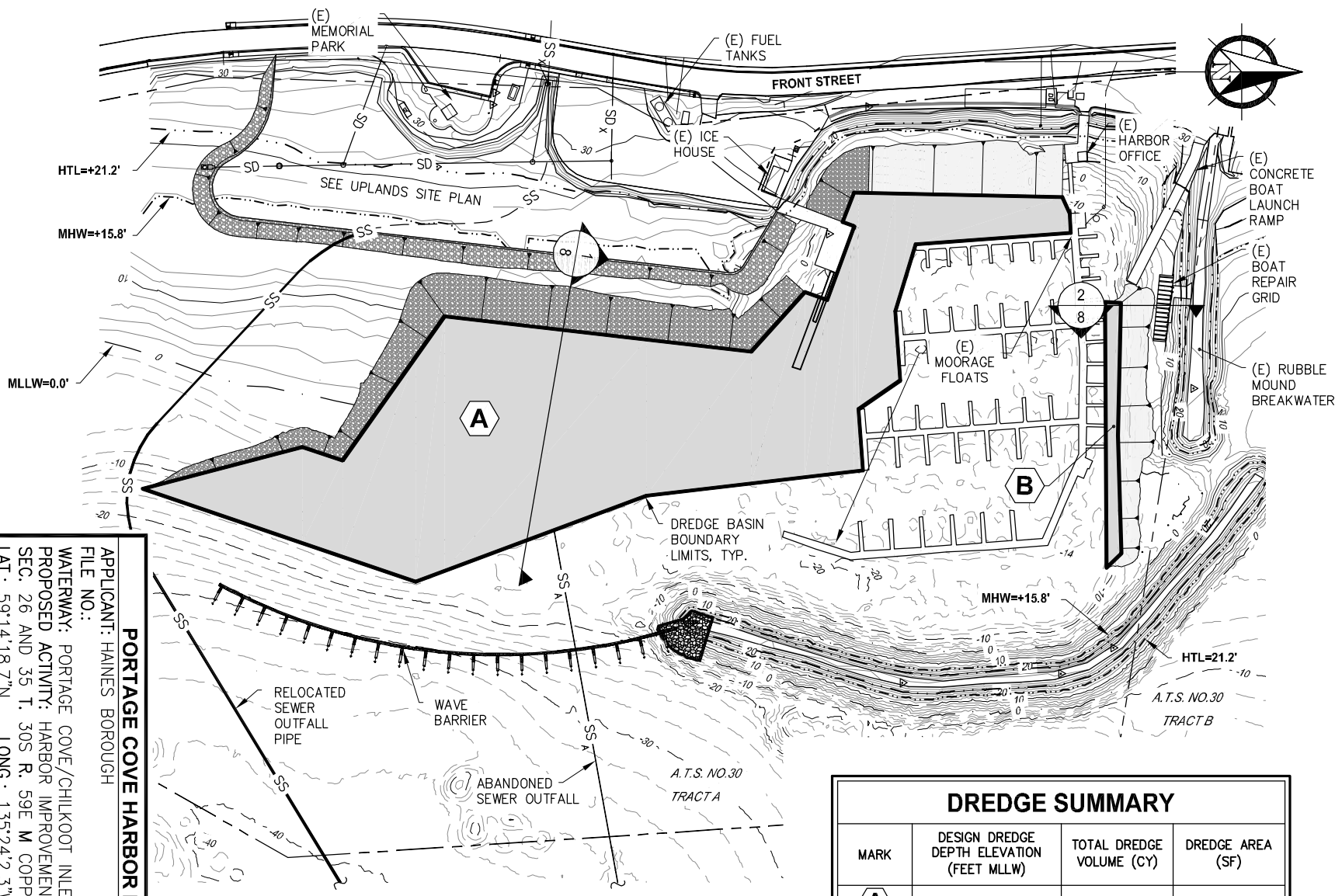

DREDGING PLAN

SCALE IN FEET
0 100 200 FT.

DREDGE SUMMARY

MARK	DESIGN DREDGE DEPTH ELEVATION (FEET MLLW)	TOTAL DREDGE VOLUME (CY)	DREDGE AREA (SF)
A	–15	107,450	283,341
B	–12	2,550	19,854

TOTAL DREDGE VOLUME = 110,000 CY
TOTAL DREDGE AREA = 303,195 SF (APPROX. 7 ACRES)

NOTE:
VOLUMES INCLUDE 1' OF OVERDREDGE TO MEET SPECIFICATION TOLERANCES. NEAT LINE VOLUME IS APPROXIMATELY 120,000 CY

PORTAGE COVE HARBOR EXPANSION

APPLICANT: HAINES BOROUGH
FILE NO.:
WATERWAY: PORTAGE COVE/CHILKOOT INLET
PROPOSED ACTIVITY: HARBOR IMPROVEMENTS
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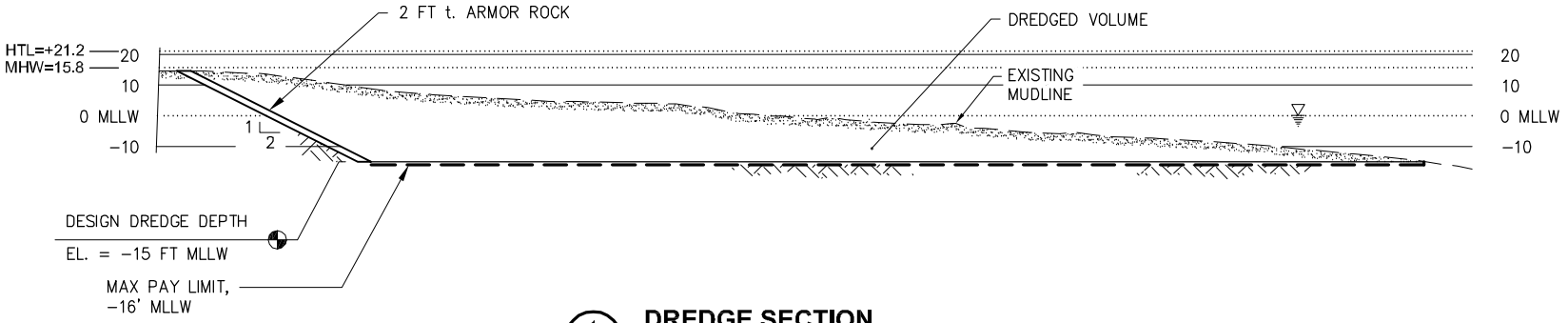
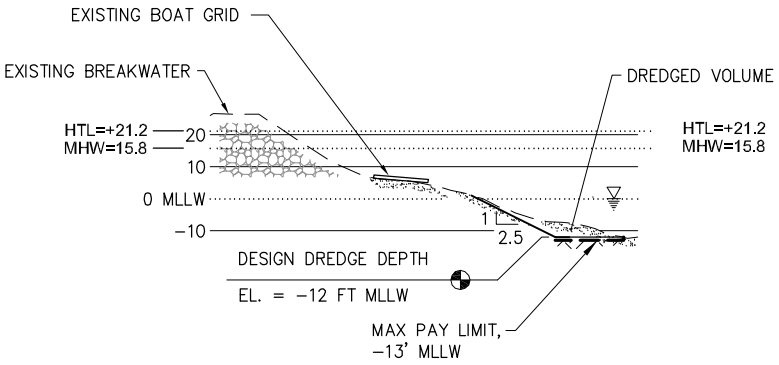


1/7 **DREDGE SECTION**

NOT TO SCALE



2/7 **DREDGE SECTION**

NOT TO SCALE

PORTAGE COVE HARBOR EXPANSION

APPLICANT: HAINES BOROUGH
FILE NO.:
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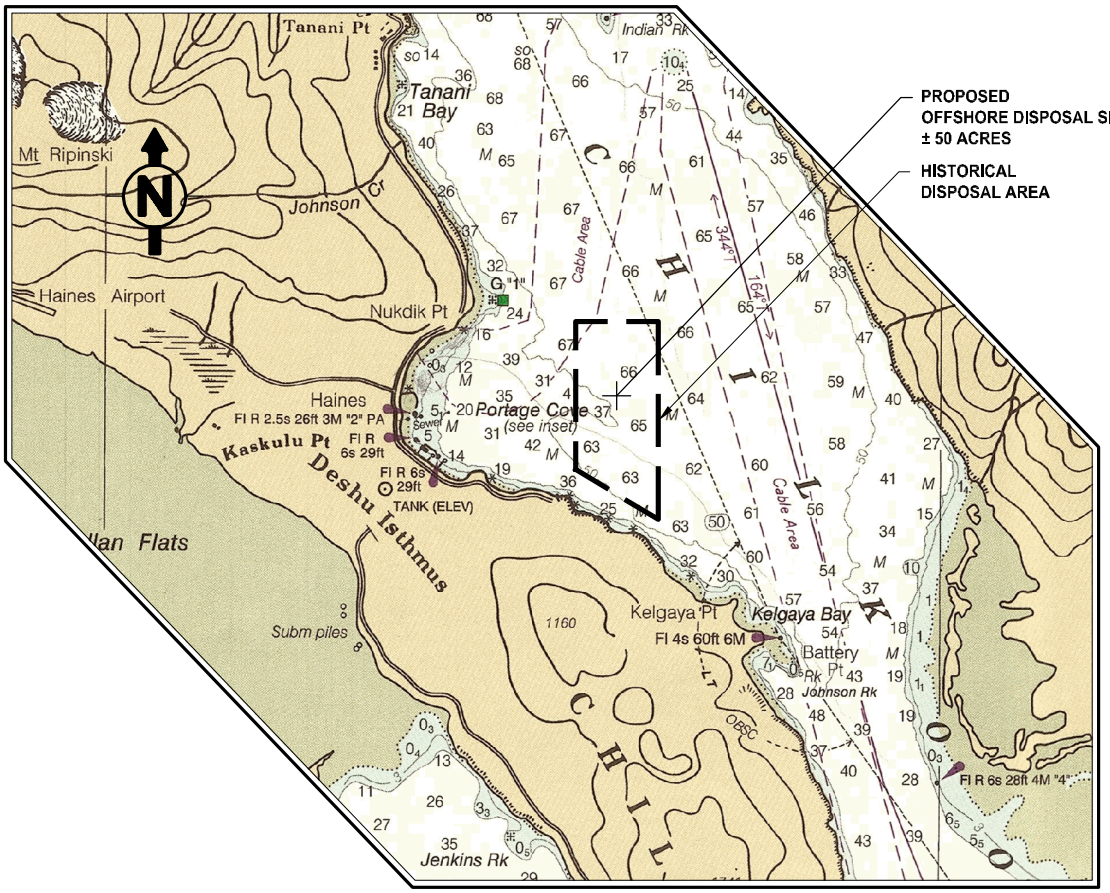

BATHYMETRY FROM: NOAA 17317
LYNN CANAL – SHERMAN POINT
TO SKAGWAY

OFFSHORE DISPOSAL SITE

SCALE IN MILES

0 ½ 1

OFFSHORE DISPOSAL SITE CENTER:

LAT: N 59°14'18"

LONG: W 135°24'2.3"

NOTE:
CENTER LOCATION APPROXIMATE

PORTAGE COVE HARBOR EXPANSION

APPLICANT: HAINES BOROUGH
FILE NO.:
WATERWAY: PORTAGE COVE/CHILKOOT INLET
PROPOSED ACTIVITY: HARBOR IMPROVEMENTS
SEC. 26 AND 35 **T.** 30S **R.** 59E **M** COPPER RIVER MERIDIAN
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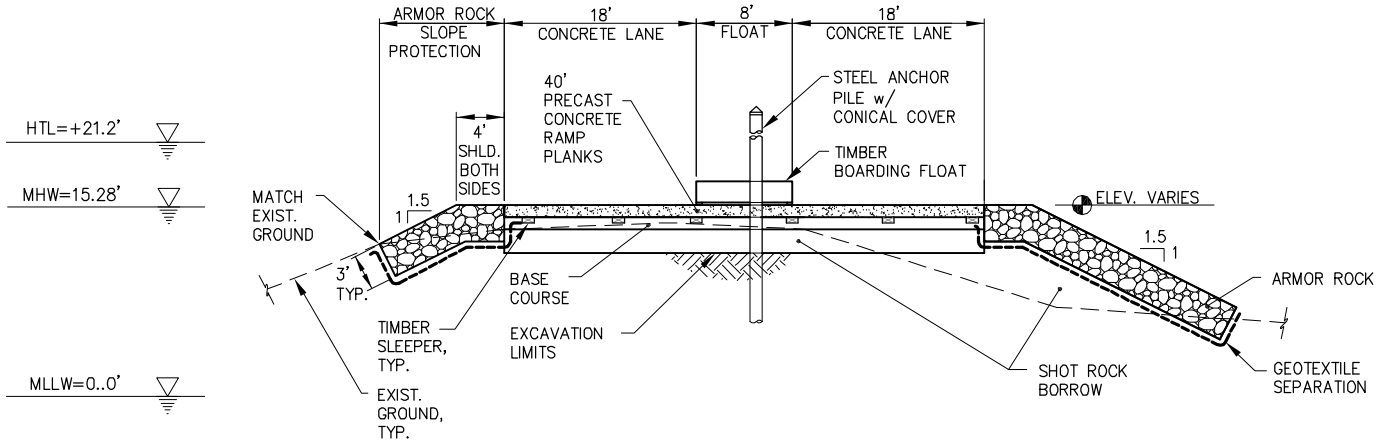
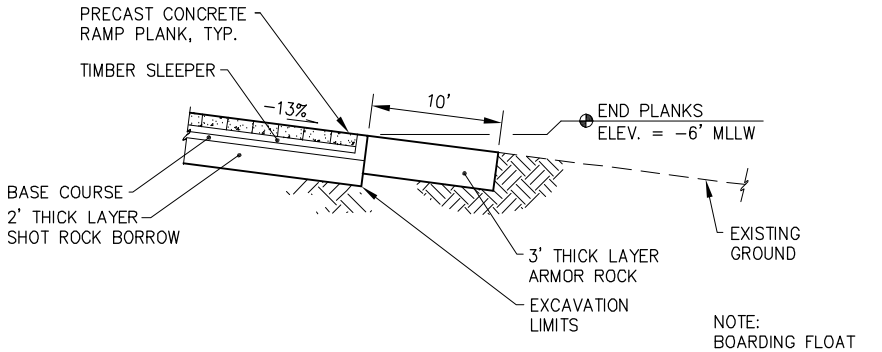


A/3 TYPICAL BOAT LAUNCH RAMP AND BOARDING FLOAT SECTION

NOT TO SCALE



B/3 LAUNCH RAMP EXCAVATION SECTION

NOT TO SCALE

PORTAGE COVE HARBOR EXPANSION

APPLICANT: HAINES BOROUGH
FILE NO.:
WATERWAY: PORTAGE COVE/CHILKOOT INLET
PROPOSED ACTIVITY: HARBOR IMPROVEMENTS
SEC. 26 AND 35 **T.** 30S **R.** 59E **M** COPPER RIVER MERIDIAN
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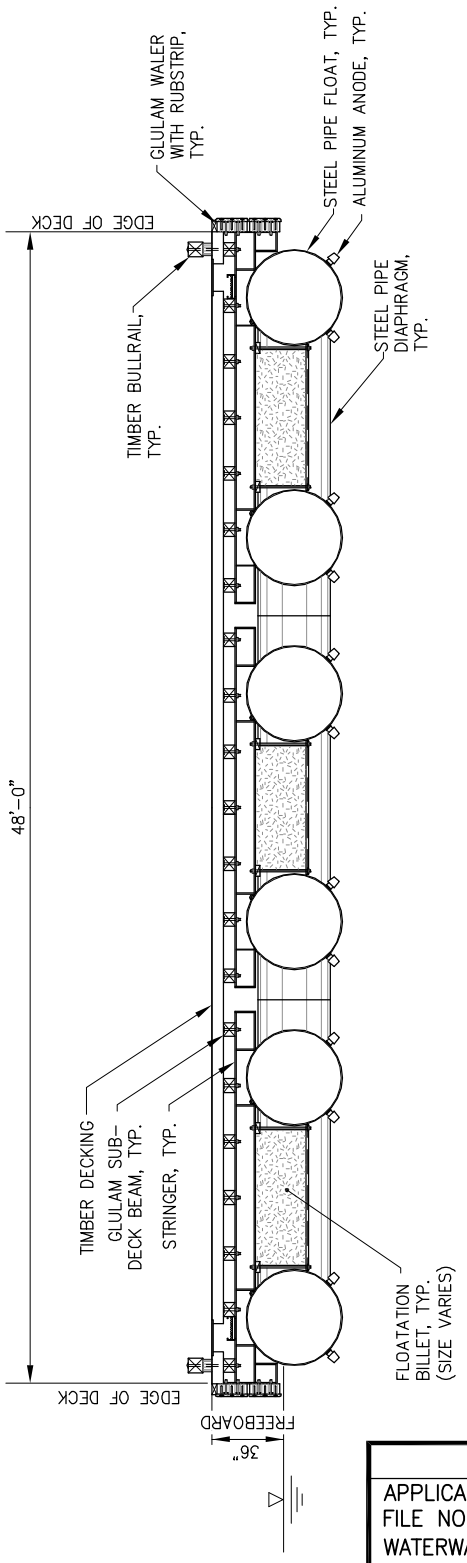

C/3 **TYPICAL DRIVE DOWN FLOAT SECTION**

NOT TO SCALE

PORTAGE COVE HARBOR EXPANSION

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FILE NO.:
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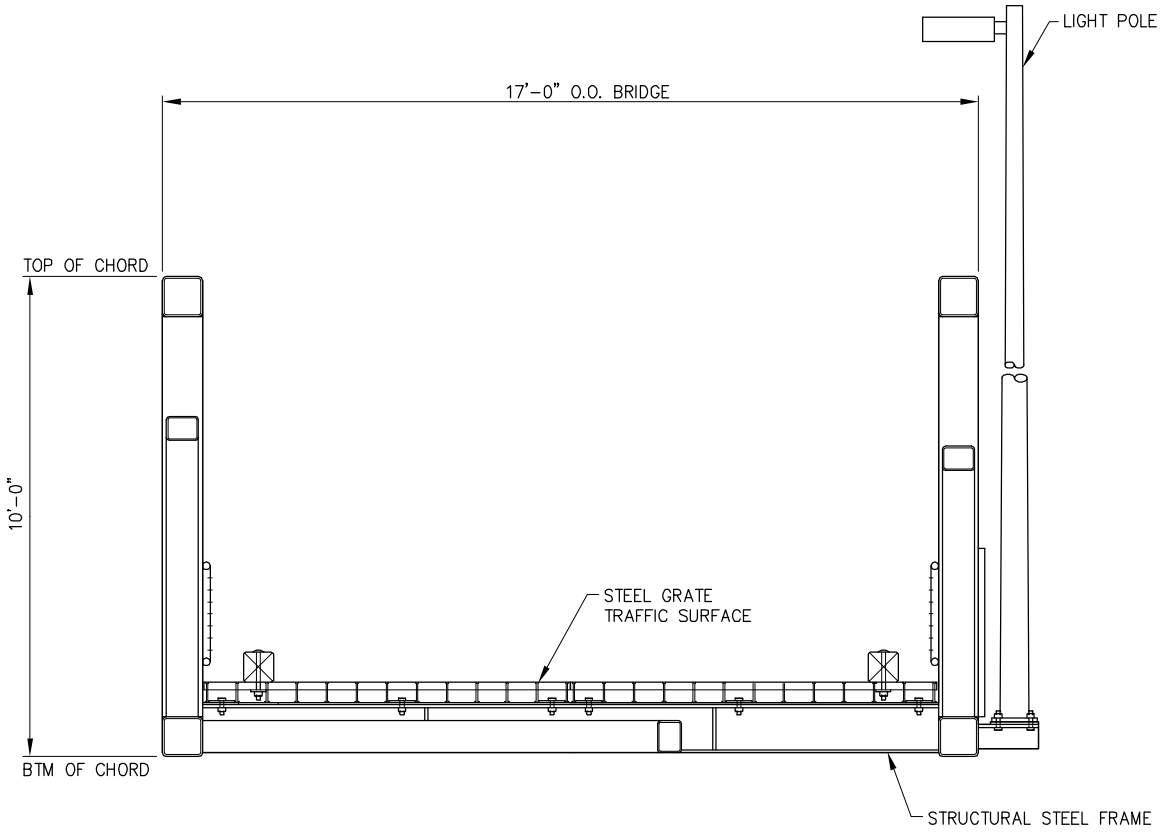

D/3 **TYPICAL TRANSFER BRIDGE SECTION**

NOT TO SCALE

PORTAGE COVE HARBOR EXPANSION

APPLICANT: HAINES BOROUGH
FILE NO.:
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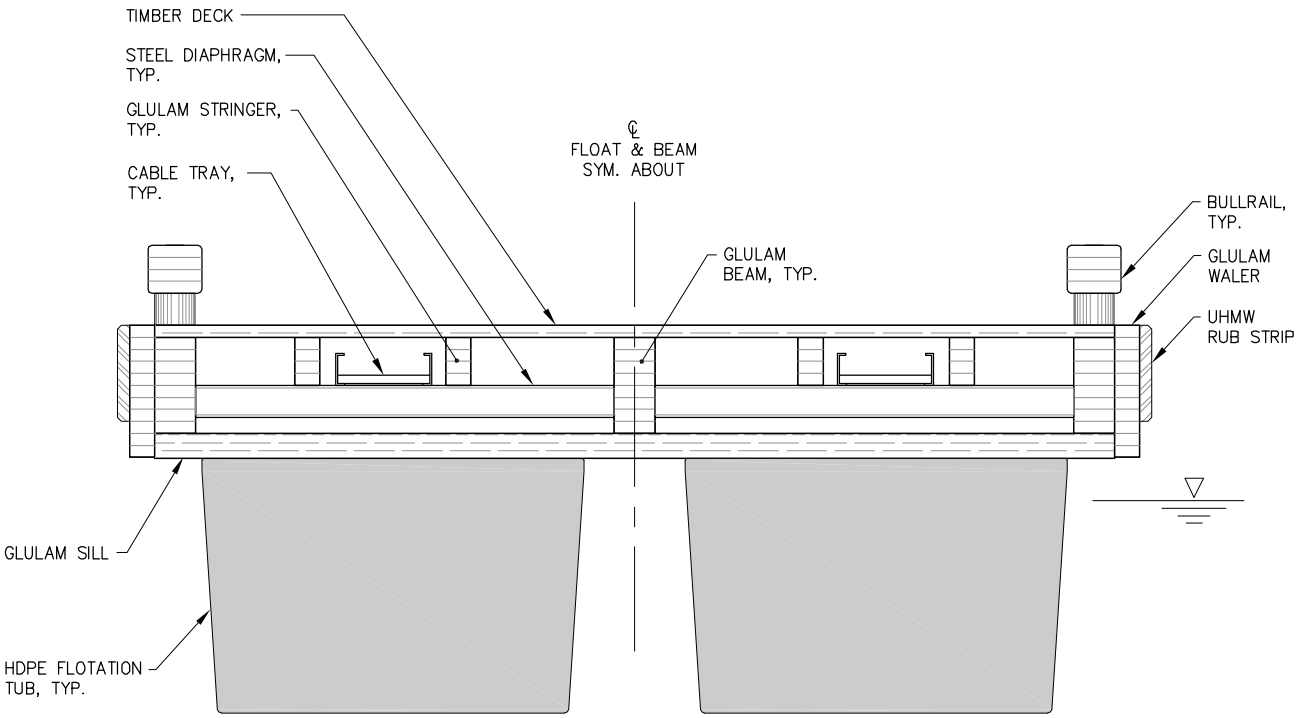
SEC. 26 AND 35 **T.** 30S **R.** 59E **M** COPPER RIVER MERIDIAN
LAT.: 59°14'18.7"N **LONG.:** 135°24'2.3"W
DATE: JUNE 2016

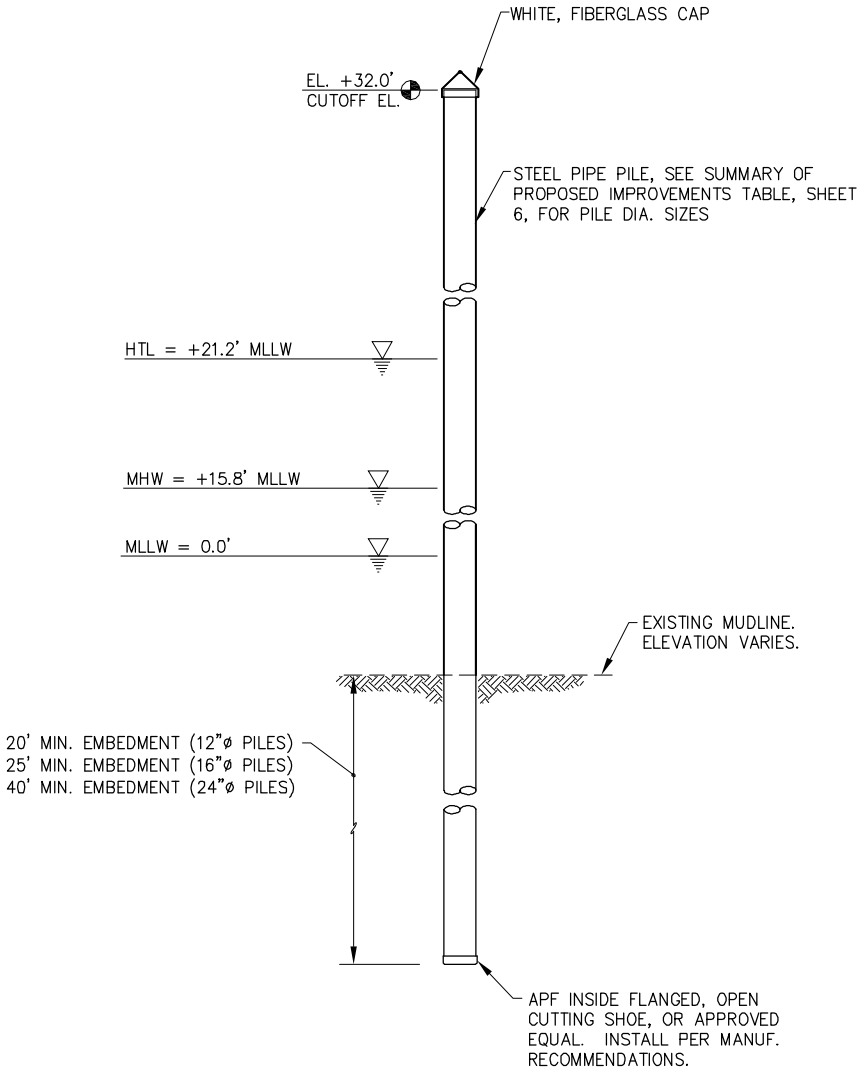


E/3 **MOORAGE FLOAT TYPICAL SECTION**

(SIZE VARIES)

PORTAGE COVE HARBOR EXPANSION

APPLICANT: HAINES BOROUGH
FILE NO.:
WATERWAY: PORTAGE COVE/CHILKOOT INLET
PROPOSED ACTIVITY: HARBOR IMPROVEMENTS
SEC. 26 AND 35 **T.** 30S **R.** 59E **M** COPPER RIVER MERIDIAN
LAT.: 59°14'18.7"N **LONG.:** 135°24'2.3"W
DATE: JUNE 2016

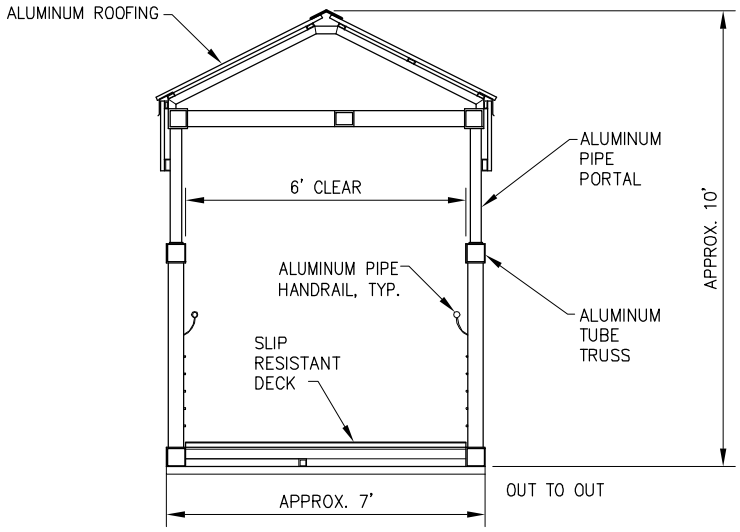


TYPICAL MOORING PILE DETAIL

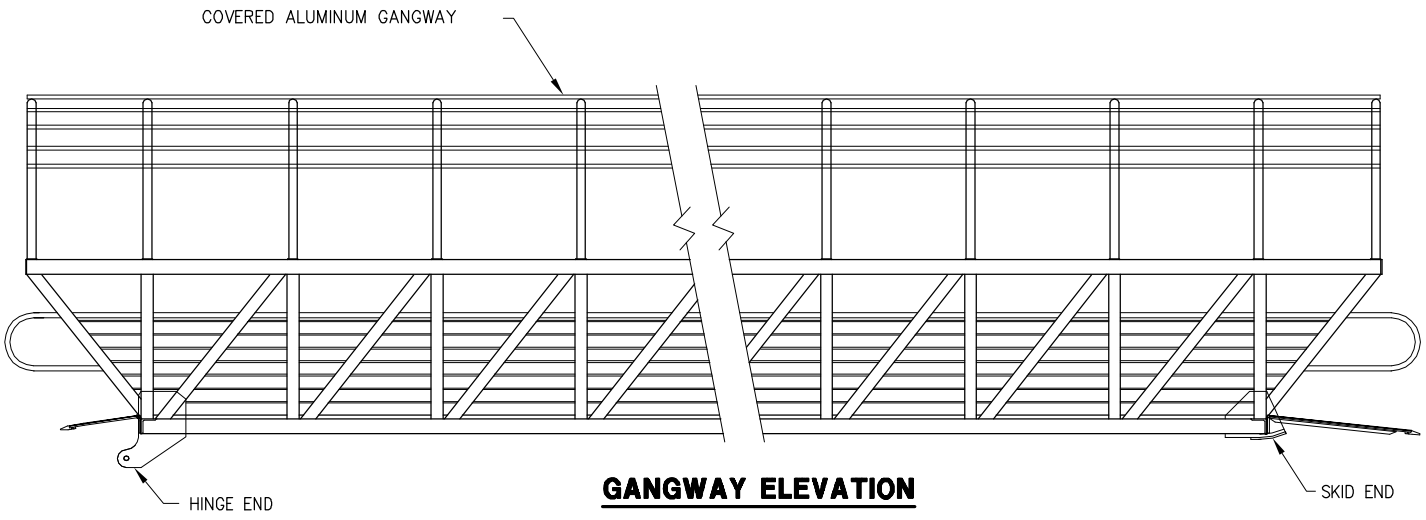
NOT TO SCALE

PORTAGE COVE HARBOR EXPANSION

APPLICANT: HAINES BOROUGH
FILE NO.:
WATERWAY: PORTAGE COVE/CHILKOOT INLET
PROPOSED ACTIVITY: HARBOR IMPROVEMENTS
SEC. 26 AND 35 **T.** 30S **R.** 59E **M** COPPER RIVER MERIDIAN
LAT.: 59°14'18.7"N **LONG.:** 135°24'2.3"W
DATE: JUNE 2016



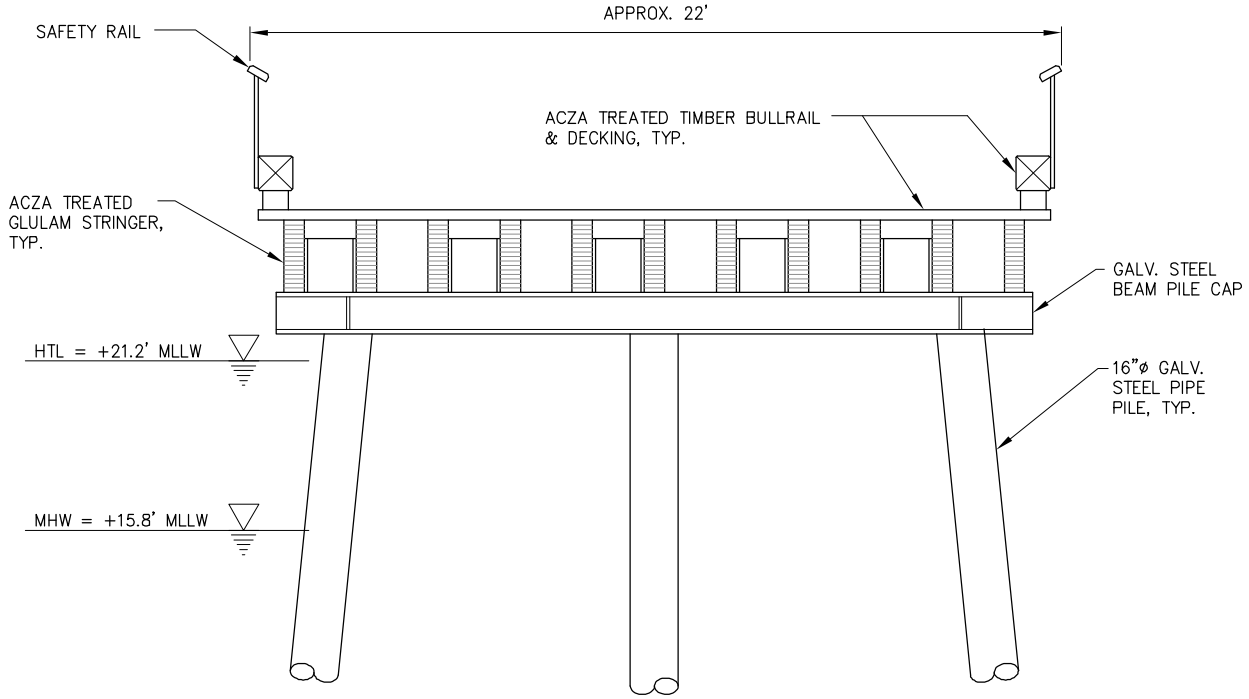
F/3 **GANGWAY TYPICAL SECTION**



GANGWAY ELEVATION

PORTAGE COVE HARBOR EXPANSION

APPLICANT: HAINES BOROUGH
FILE NO.:
WATERWAY: PORTAGE COVE/CHILKOOT INLET
PROPOSED ACTIVITY: HARBOR IMPROVEMENTS
SEC. 26 AND 35 **T.** 30S **R.** 59E **M** COPPER RIVER MERIDIAN
LAT.: 59°14'18.7"N **LONG.:** 135°24'2.3"W
DATE: JUNE 2016

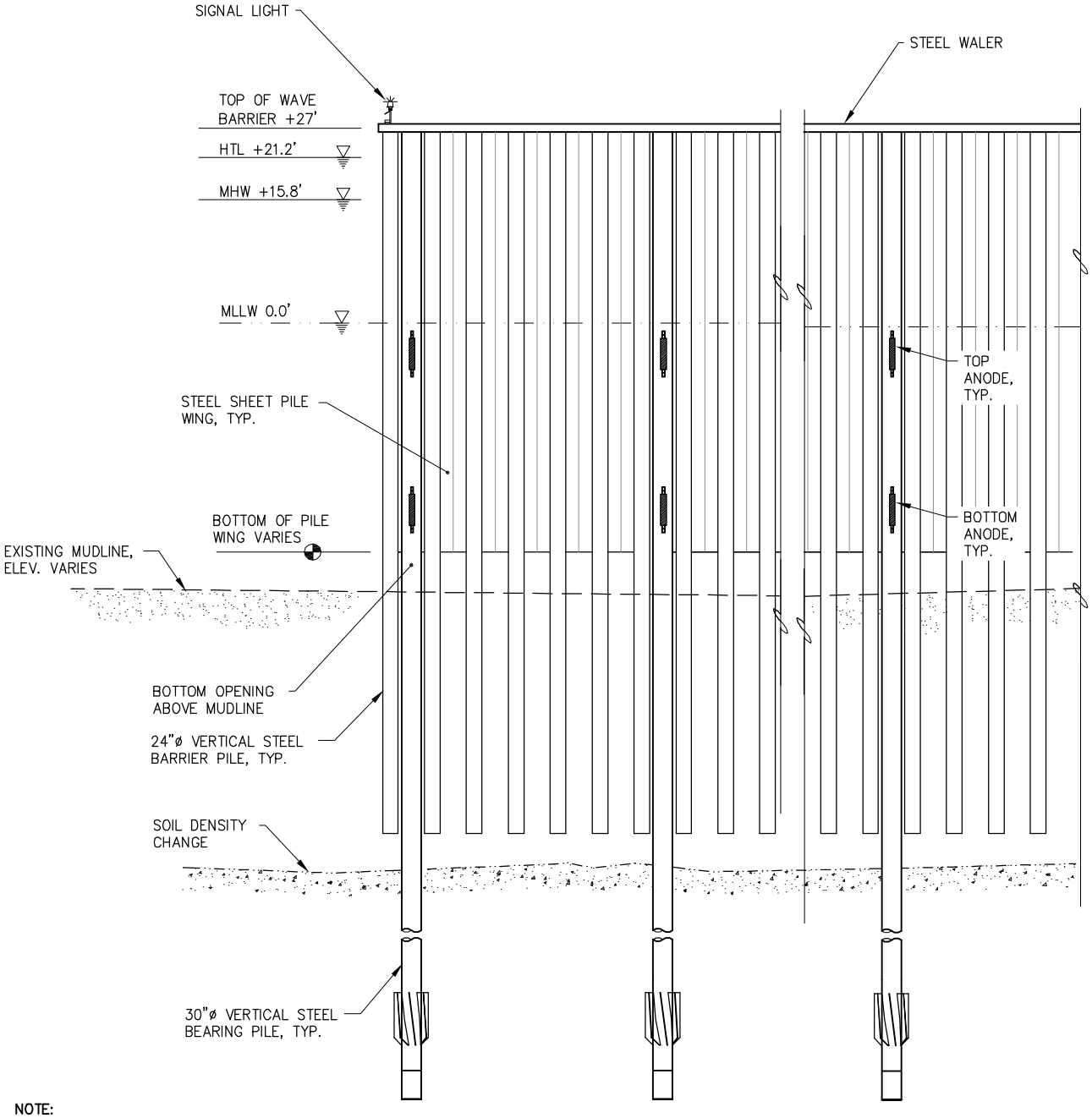


G
3

APPROACH DOCK - SECTION

PORTAGE COVE HARBOR EXPANSION

APPLICANT: HAINES BOROUGH
FILE NO.:
WATERWAY: PORTAGE COVE/CHILKOOT INLET
PROPOSED ACTIVITY: HARBOR IMPROVEMENTS
SEC. 26 AND 35 **T.** 30S **R.** 59E **M** COPPER RIVER MERIDIAN
LAT.: 59°14'18.7"N **LONG.:** 135°24'2.3"W
DATE: JUNE 2016



NOTE:

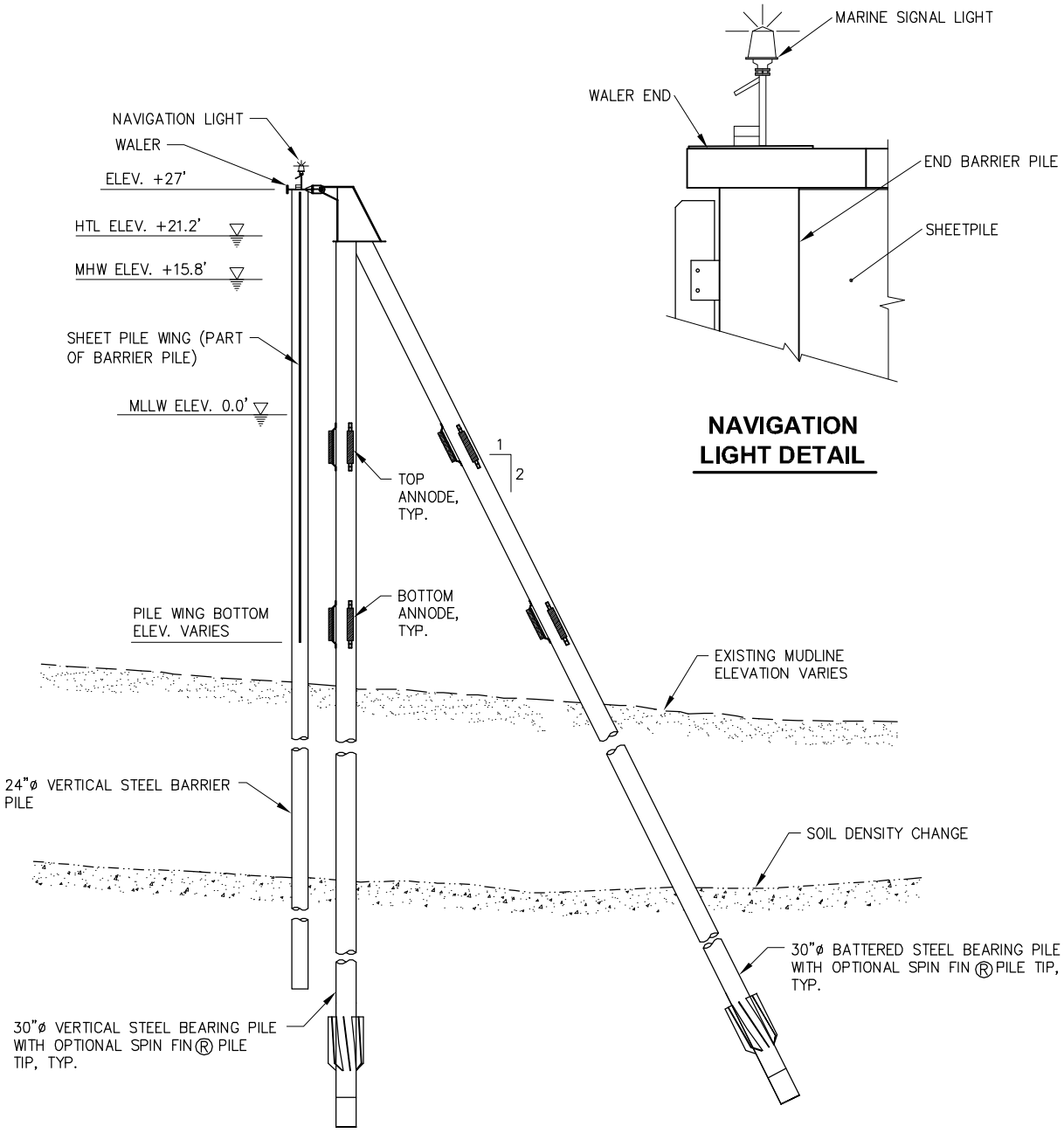
30"ø BATTERED STEEL BEARING PILES NOT SHOWN FOR CLARITY

1/3 **WAVE BARRIER ELEVATION**

NOT TO SCALE

PORTAGE COVE HARBOR EXPANSION

APPLICANT: HAINES BOROUGH
FILE NO.:
WATERWAY: PORTAGE COVE/CHILKOOT INLET
PROPOSED ACTIVITY: HARBOR IMPROVEMENTS
SEC. 26 AND 35 **T.** 30S **R.** 59E **M** COPPER RIVER MERIDIAN
LAT.: 59°14'18.7"N **LONG.:** 135°24'2.3"W
DATE: JUNE 2016



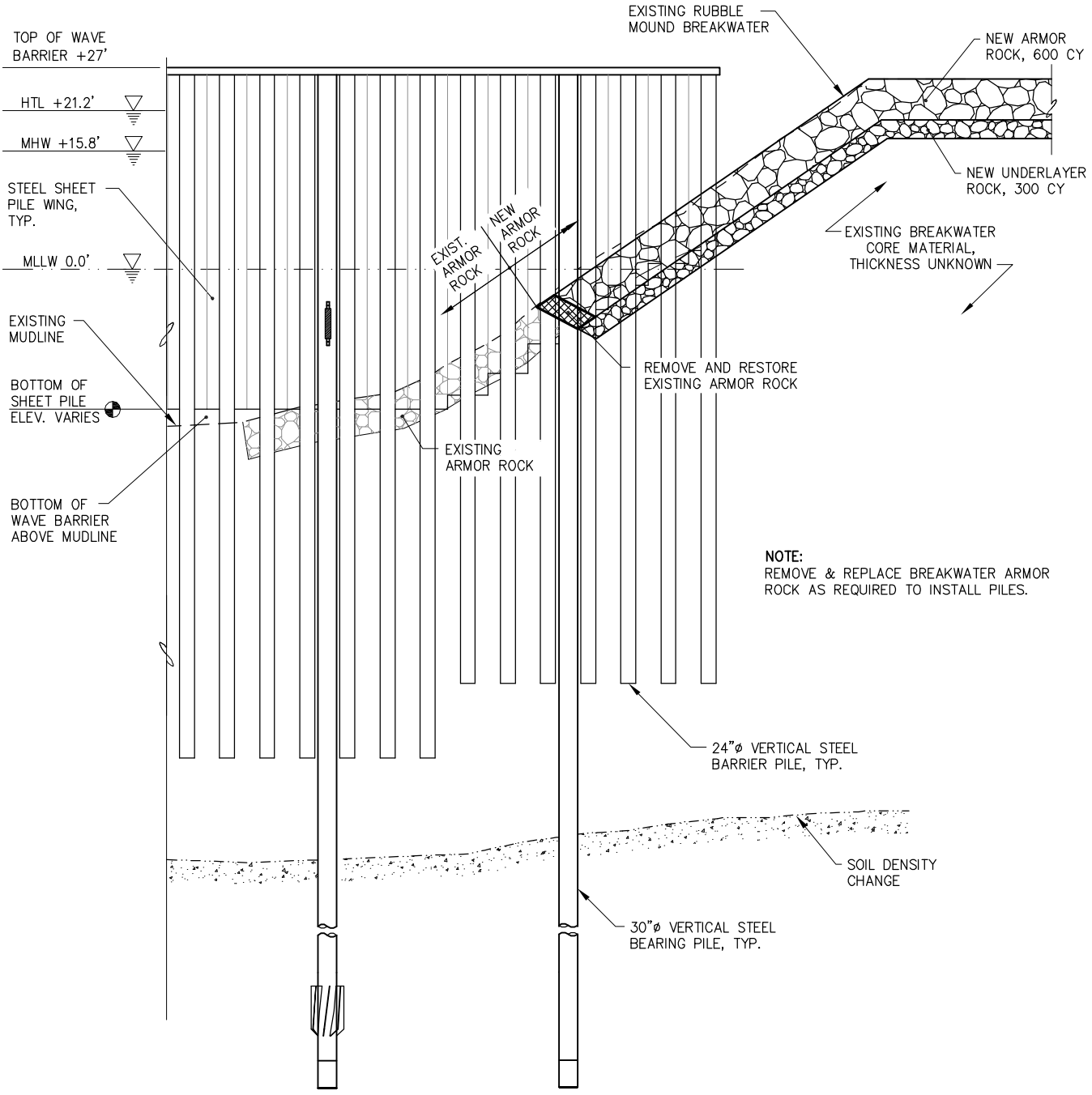
NAVIGATION LIGHT DETAIL

H/3 **TYPICAL WAVE BARRIER SECTION**

NOT TO SCALE

PORTAGE COVE HARBOR EXPANSION

APPLICANT: HAINES BOROUGH
FILE NO.:
WATERWAY: PORTAGE COVE/CHILKOOT INLET
PROPOSED ACTIVITY: HARBOR IMPROVEMENTS
SEC. 26 AND 35 **T.** 30S **R.** 59E **M** COPPER RIVER MERIDIAN
LAT.: 59°14'18.7"N **LONG.:** 135°24'2.3"W
DATE: JUNE 2016



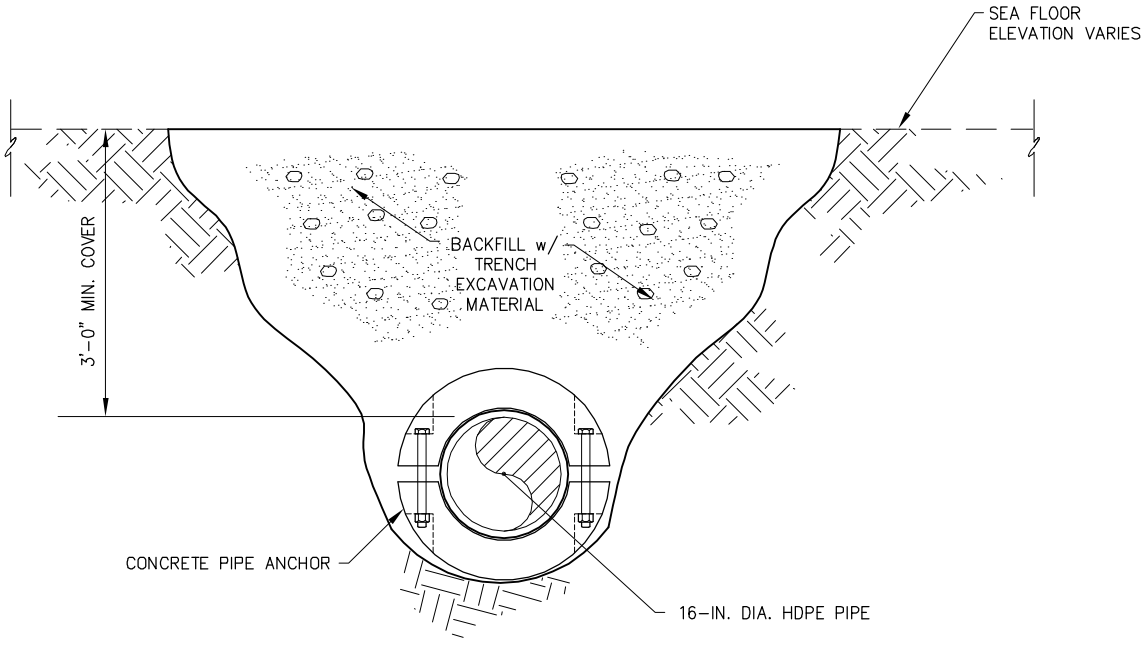
NOTE:
30"ø BATTERED STEEL BEARING PILES NOT SHOWN FOR CLARITY

J/3 **WAVE BARRIER END ELEVATION**

NOT TO SCALE

PORTAGE COVE HARBOR EXPANSION

APPLICANT: HAINES BOROUGH
FILE NO.:
WATERWAY: PORTAGE COVE/CHILKOOT INLET
PROPOSED ACTIVITY: HARBOR IMPROVEMENTS
SEC. 26 AND 35 **T.** 30S **R.** 59E **M** COPPER RIVER MERIDIAN
LAT.: 59°14'18.7"N **LONG.:** 135°24'2.3"W
DATE: JUNE 2016



K/3 **TYPICAL SEWER OUTFALL LINE SECTION**

NOT TO SCALE

PORTAGE COVE HARBOR EXPANSION

APPLICANT: HAINES BOROUGH
FILE NO.:
WATERWAY: PORTAGE COVE/CHILKOOT INLET
PROPOSED ACTIVITY: HARBOR IMPROVEMENTS
SEC. 26 AND 35 **T.** 30S **R.** 59E **M** COPPER RIVER MERIDIAN
LAT.: 59°14'18.7"N **LONG.:** 135°24'2.3"W
DATE: JUNE 2016

THE STATE of ALASKA
GOVERNOR BILL WALKER

Department of Environmental Conservation
DIVISION OF WATER
Wastewater Discharge Authorization Program

555 Cordova Street
Anchorage, Alaska 99501-2617
Main: 907.269.6285
Fax: 907.334.2415
www.dec.alaska.gov/water/wwdp

October 30, 2015

Haines Borough
Attention: David Sosa, Borough Mayor
P.O. Box 1209
Haines, AK 99827

Re: Portage Cove
Reference No. POA–2005-1976

Dear Mayor Sosa:

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 (DEC) is issuing the enclosed Certificate of Reasonable Assurance for placement of dredged and/or fill material in waters of the U.S., including wetlands and streams, associated with the upgrade and maintenance of the Haines Harbor in Portage Cove, Haines, Alaska.

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,

James Rypkema
Program Manager, Storm Water and Wetlands

Enclosure: 401 Certificate of Reasonable Assurance

cc: (with encl.)
Randy Vigil, USACE, Juneau
Dick Somerville, P.E. PND Engineers, Inc.
Jackie Timothy, ADF&G
USFWS Field Office Juneau
Mark Jen, EPA Operations, Anchorage

STATE OF ALASKA
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
CERTIFICATE OF REASONABLE ASSURANCE

In accordance with Section 401 of the Federal Clean Water Act (CWA) and the Alaska Water Quality Standards (18 AAC 70), a Certificate of Reasonable Assurance, is issued to Haines Borough, attention Mayor Sosa, at P.O. Box 1209, Haines, AK 99827, for placement of dredged and/or fill material in waters of the U.S. including wetlands and streams in association with the upgrade of the Haines Harbor in Portage Cove, Haines, Alaska. The applicant's purpose is to construct harbor and wave protection facilities to increase capacity while providing safe vessel navigation, moorage, launching, loading, staging and parking improvements, and to provide clearance for proposed boat launch, drive down float, and additional vessel moorage.

The work will entail the following efforts:

- Dredge approximately 129,450 cubic yards (cy) of marine sediment from 7.93 acres below the Mean High Water mark (MHW), approximate elevation of +15.8 feet above the 0.0 foot contour, to provide sufficient water depth vessels at all tidal ranges. The disposal of 104,450 cy of the dredged material will be discharged over 50 acres of the seafloor at a location approximately 1.5 miles northeast of the dredging site at Latitude 59.238333° N., Longitude -135.400639° W. in Chilkoot Inlet.
- Discharge approximately 23,380 cy of armor rock and 19,320 cy of dredged material into 3.73 acres below the plane of the High Tide Line (HTL), with an approximate elevation of +21.2 feet above the 0.0 foot contour, to construct a parking area, boat launch ramp, and to protect the dredge area slopes.
- Remove from below the MHW and dispose of one 11 feet wide by 136 feet long transient float including six 12-inch diameter steel piles and all miscellaneous mounting hardware and appurtenances.
- Remove from below MHW and relocate one 36feet wide by 42 feet long seaplane float including two 16-inch diameter steel piles and all miscellaneous mounting hardware and appurtenances.
- Replace from below MHW 1,800 linear feet of 16-inch diameter High Density Polyethylene (HDPE) sewer outfall pipe; replace 70 linear feet of 16-inch diameter ductile iron pipe sewer outfall diffuser.
- Relocate from below MHW one 28 feet wide by 50 feet long, pile-supported, (four 24-inch diameter steel) work float.
- Install below MHW one 10 feet wide by 320 feet long, pile-supported, (sixteen 16-inch diameter steel) headwalk float.
- Install below MHW one 10 feet wide by 230 feet long, pile-supported, (ten 16-inch diameter steel), long mainwalk float.
- Install below MHW one 10 feet wide by 275 feet long, pile-supported, (ten 16-inch diameter steel), long mainwalk float.

- Install below MHW one 10 feet wide by 124 feet long, pile-supported, (ten 16-inch diameter steel), transient float.
- Install below MHW six 5 feet wide by 42 feet long, pile-supported, (six 16-inch diameter steel), finger floats.
- Install below MHW twelve 4 feet wide by 32 feet long finger floats.
- Install below MHW one 44 feet wide by 300 feet long, pile-supported, (ten 12-inch diameter steel), boarding float.
- Install below MHW one 50 feet wide by 180 feet long, pile-supported, (twelve 24-inch diameter steel), drive down float with one 17 feet wide by 145 feet long, pile-supported, (eight 16-inch diameter steel), transfer bridge.
- Install below MHW one 20 feet wide by 40 feet long, pile-supported, (twelve 16-inch diameter steel), approach dock with one 7 feet wide by 80 feet long covered aluminum gangway and one 20 feet wide by 20 feet long gangway landing float.
- Install below MWH 700 linear feet of wave barrier with navigational lighting; supported with forty-eight 30-inch diameter steel bearing piles and one hundred thirty-one 24-inch diameter steel barrier piles with sheet pile wings.
- Install below MHW 2,650 linear feet of HDPE sewer outfall pipe with diffuser. Work will include installation of 900 linear feet of corrugated polyethylene drainage pipe, three concrete storm drain manholes, one storm drain oil water separator, and one concrete storm drain outfall with check valve and debris protection grate.

Additional information

The borough submitted a sediment characterization and analysis report dated December 2014 to the U.S. Corps of Engineers and DEC for the project. According to the report, no historical or present contamination exists at the proposed dredge site. A portion of the dredged material will be used as fill material for the proposed parking area. Any excess material not incorporated into the project will be disposed of through unconfined open water disposal in Chilkoot Inlet.

A state issued water quality certification is required under Section 401 because the proposed activity will be authorized by a U.S. Army Corps of Engineers permit (POA-2005-1976) and a discharge of pollutants to waters of the U.S. located in the State of Alaska may result from the proposed activity. Public notice of the application for this certification was given as required by 18 AAC 15.180 in the Corps Public Notice POA-2005-1976 posted from September 25, 2015 to October 24, 2015.

The proposed activity is located within Section 35, T. 30 S., R. 59 E., Copper River Meridian; Latitude 59.233861° N., Longitude -135.440193° W.; in Haines, Alaska.

The Department of Environmental Conservation (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 CWA and the Alaska Water Quality Standards, 18 AAC 70, provided that the following additional 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, subsurface, or surface waterbodies.
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. Any spill amount must be reported in accordance with Discharge Notification and Reporting Requirements (AS 46.03.755 and 18 AAC 75 Article 3). The applicant must contact by telephone the DEC Area Response Team for Southeast Alaska (907) 465-5340 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.
3. Runoff discharged to surface water (including wetlands) from a construction site disturbing one or more acres must be covered under Alaska's General Permit for Storm Water Discharges from Large and Small Construction Activities in Alaska (AKR100000). This permit requires a Storm Water Pollution Prevention Plan (SWPPP). For projects that disturb more than five acres, this SWPPP must also be submitted to DEC (William Ashton, 907-269-6283) prior to construction.
4. Construction equipment shall not be operated below the ordinary high water mark if equipment is leaking fuel, oil, hydraulic fluid, or any other hazardous material. Equipment shall be inspected and recorded in a log on a daily basis for leaks. If leaks are found, the equipment shall not be used and pulled from service until the leak is repaired.
5. All work areas, material access routes, and surrounding wetlands involved in the construction project shall be clearly delineated and marked in such a way that equipment operators do not operate outside of the marked areas.
6. Natural drainage patterns shall be maintained, to the extent practicable, without introducing ponding or drying.
7. Excavated or fill material, including overburden, shall be placed so that it is stable, meaning after placement the material does not show signs of excessive erosion. Indicators of excess erosion include: gullying, head cutting, caving, block slippage, material sloughing, etc. The material must be contained with siltation best management practices (BMPs) to preclude reentry into any waters of the U.S., which includes wetlands.
8. Include the following BMPs to handle stormwater and total stormwater volume discharges as they apply to the site:
    a. Divert stormwater from off-site around the site so that it does not flow onto the project site and cause erosion of exposed soils;
    b. Slow down or contain stormwater that may collect and concentrate within a site and cause erosion of exposed soils;
    c. Place velocity dissipation devices (e.g., check dams, sediment traps, or riprap) along the length of any conveyance channel to provide a non-erosive flow velocity. Also place velocity dissipation devices where discharges from the conveyance channel or structure join a water course to prevent erosion and to protect the channel embankment, outlet, adjacent stream bank slopes, and downstream waters.

9. The permittee must stabilize any dredged material (temporarily or permanently) stored on upland property to prevent erosion and subsequent sedimentation into jurisdictional waters of the United States. The material must be contained with siltation control measures to preclude reentry into any waters of the U.S., including wetlands.
10. If during dredging a petroleum sheen appears on the water, a sorbent boom shall be installed to enclose the dredge area and the applicant shall contact the DEC Area Response Team for Southeast Alaska (907) 465-5340 during work hours or 1-800-478-9300 after hours. Sediment and water column testing may be required at that time.
11. Fill material (including dredge material) must be clean sand, gravel or rock, free from petroleum products and toxic contaminants in toxic amounts.
12. All dredging shall be conducted so as to minimize the amount of dredge material and suspended sediments that enter Portage Cove. Appropriate Best Management Practices (BMPs) will be employed to minimize sediment loss and turbidity generation during dredging. BMPs may include, but are not limited to, the following:

    - Eliminating multiple bites while the bucket is on the seafloor
    - No stockpiling of dredged material on the seafloor
    - No seafloor leveling
    - Slowing the velocity (i.e., increasing the cycle time) of the ascending loaded clamshell bucket through the water column
    - Pausing the dredge bucket near the bottom while descending and near the water line while ascending
    - Placing filter material over the barge scuppers to clear return water
    - If dewatering runoff is discharged from the barge, silts must be removed prior to direct or indirect discharge to Portage Cove.

13. Any disturbed ground and exposed soil not covered with fill must be stabilized and re-vegetated 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.

This certification expires five (5) years after the date the certification is signed. If your project is not completed by then and work under U.S Army 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: October 30, 2015

James Rypkema, Program Manager
Storm Water and Wetlands

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668

March 15, 2016

Col. Michael Brooks
US Army Corps of Engineers, Alaska District
Regulatory Division
PO Box 6898
JBER, Alaska 99506-0898

Re: Haines Portage Cove, POA-2005-1976, NMFS #AKR-2016-9528

Dear Colonel Brooks:

The National Marine Fisheries Service (NMFS) has completed informal consultation under section 7(a)(2) of the Endangered Species Act (ESA) regarding the proposed Portage Cove dock located in Chilkoot Inlet near Haines, Alaska (see Figure 1). The US Army Corps of Engineers (Corps) proposes to permit the Haines Borough to make improvements to the facilities in Portage Cove.

NMFS received your September 25, 2015 request for written concurrence that the proposed action may affect, but is not likely to adversely affect, the endangered humpback whale (*Megaptera novaengliae*) or the endangered western Distinct Population Segment (DPS) of the Steller sea lion (*Eumetopias jubatus*). Based on our analysis of the information you provided to us and additional literature cited below, NMFS concurs with your determination. A complete administrative record of this consultation is on file in this office.

Consultation History
NMFS received your request for consultation on September 28, 2015. NMFS requested more information about the project via email in October 2015 and February 2016. In March 2016, the Haines Borough via PND Engineers, Inc. provided NMFS with additional information regarding the project schedule and proposed mitigation measures.

Description of the Proposed Action and Action Area
The Haines Borough is proposing to construct harbor and wave protection facilities to increase capacity while providing safe vessel navigation, moorage, launching, loading, staging, and parking improvements, and provide clearance for proposed boat launch, drive down float, and additional vessel moorage. The harbor currently serves commercial fishing vessels, recreational vessels, ferries, cruise ships, and tugs.

Aspects of the project that may affect listed species include:

- Driving steel piles of varying diameter with a hydraulically operated vibratory hammer during the summer and fall months into silt sands over clay and gravelly sands, as

follows:
    - forty-eight 30-inch piles,
    - one hundred forty-seven 24-inch piles,
    - seventy-two 16-inch piles,
    - ten 12-inch piles
- Clamshell and conventional hydraulic excavator dredging approximately 129,450 cubic yards of marine sediment
- Disposal of 104,450 cubic yards of the dredged material by discharge over 50 acres of the seafloor at a location approximately 1.5 miles northeast of the proposed dredging site at Latitude 59.238333° N., Longitude 135.400639° W. in Chilkoot Inlet

The action area is defined in the ESA regulations (50 CFR 402.02) as the area within which all direct and indirect effects of the project will occur. The action area is distinct from and larger than the project footprint because some elements of the project may affect listed species some distance from the project footprint. The action area, therefore, extends out to a point where no measurable effects from the project are expected to occur.

Since 1997 NMFS has used generic sound exposure thresholds to determine whether an activity produces underwater sounds that might result in impacts to marine mammals (70 FR 1871). NMFS is currently developing comprehensive guidance on sound levels likely to cause injury and behavioral disruption to marine mammals. However, until such guidance is available, NMFS uses the following conservative thresholds of underwater sound pressure levels[1], expressed in root mean square[2] (rms), from broadband sounds that cause behavioral disturbance, and referred to as Level B harassment under section 3(18)(A)(ii) of the Marine Mammal Protection Act (MMPA):

- impulsive sound: 160 dB re 1 μPa_{rms}
- continuous sound: 120 dB re 1μPa_{rms}

NMFS uses the following conservative thresholds for underwater sound pressure levels from broadband sounds that cause injury, referred to as Level A harassment under section 3(18)(A)(i) of the MMPA:

- 180 dB re 1μPa_{rms} for whales
- 190 dB re 1μPa_{rms} for pinnipeds (seals and sea lions)

NMFS defines the action area for this project as the area within which project-related noise levels are ≥120 dB re 1μPa_{rms} (i.e., the point where no measurable effect from the project would occur). However, if the Haines Borough or the Corps, in coordination with NMFS, chooses to perform Sound Source Verification to determine the actual area that would be ensonified to at

[1] Sound pressure is the sound force per unit micropascals (μPa), where 1 pascal (Pa) is the pressure resulting from a force of one newton exerted over an area of one square meter. Sound pressure level is expressed as the ratio of a measured sound pressure and a reference level. The commonly used reference pressure level in acoustics is 1 μPa, and the units for underwater sound pressure levels are decibels (dB) re 1 μPa.

[2] Root mean square (rms) is the square root of the arithmetic average of the squared instantaneous pressure values.

least 120 dB re 1μPa_{rms}, the size of the action area (and thus the area within which effects to listed species are expected) may be altered to reflect those site-specific measurements.

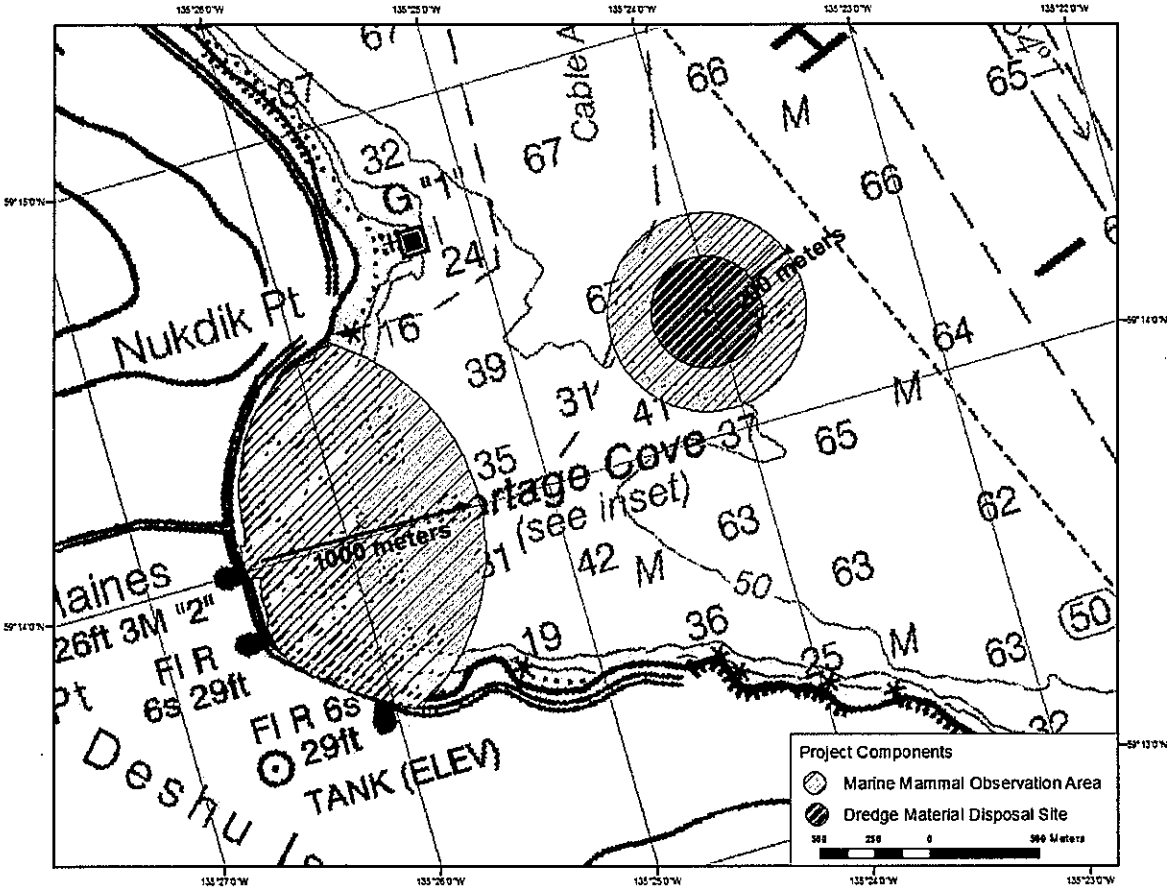


Figure 1. Project location and proposed marine mammal observation areas associated with this project.

Mitigation Measures

The Corps informed NMFS via email dated March 4, 2016, that the project will incorporate the following mitigation measures to avoid impacts to Steller sea lions and humpback whales.

- The steel piles will be driven with a vibratory hammer. Impact hammers (with pile cushions between impact hammer and piling) shall only be used if piles encounter soils too dense to penetrate with vibratory equipment.
- Ramp up or soft-start procedures will be applied to all pile driving activities to provide a chance for Steller sea lions and humpback whales to leave the area prior to pile driving at full capacity. For impact pile driving, contractors will be required to provide an initial set of three strikes from the hammer, followed by a 30 second waiting period, then two subsequent three-strike sets.
- A marine mammal observer will be present before and during all pile driving activity.
- The marine mammal observer will be able to identify Steller sea lions and humpback whales accurately and will observe the entire area within 1000 meters of the project site (i.e., the observation zone, as shown in Figure 1) from a platform or boat using binoculars as needed.
- For 15 minutes before any pile driving activities take place, the observer will scan the zone for the presence of any Steller sea lions and/or humpback whales.
- If any Steller sea lions or humpback whales are present within the zone, pile driving activities will not begin until the animal(s) has left the zone.
- During all pile driving activity, the observer will scan the zone for any Steller sea lions and humpback whales. If any enter the zone during pile driving activity, pile driving will cease immediately, and will not begin again until the animal(s) has left the zone.
- A 200 meter monitoring area will be established for all other in-water work activities, including dredging and disposal, centered on the work area. A marine mammal monitor would record observations of Steller sea lions and humpback whales within these areas and implement a shut-down of in-water work if a listed marine mammal approaches the observation zone.
- The marine mammal observer will have no other primary duties than watching for and reporting on events related to ESA-listed marine mammals.
- The Corps will require the applicant to provide NMFS with a report of all Steller sea lion or humpback whale sightings (or confirmation on absence of sightings), estimated distance from project operations, and any shutdown during pile driving or pile removal activities due to Steller sea lions or humpback whales approaching or occurring within the exclusion zone. The applicant will provide the Corps and NMFS with this report within 60 days of project completion.

Listed Species and Critical Habitat

Endangered humpback whales and endangered western DPS Steller sea lions may occur in the action area (Table 1). Critical habitat has not been designated for the humpback whale, and the nearest Steller sea lion critical habitat is the Gran Point haulout (over 10 miles southeast of the action area).

Table 1. Listing status and critical habitat designation for marine mammal species considered in this determination.

Species	Scientific Name	Status	Listing	Critical Habitat
Humpback Whale	*Megaptera novaeangliae*	Endangered	December, 2, 1970 35 FR 18319	Not designated
Western DPS Steller Sea Lion	*Eumetopias jubatus*	Endangered	May 5, 1997 62 FR 24345	August 27, 1993 58 FR 45269

Western DPS Steller Sea Lions

The Steller sea lion was listed as a threatened species under the ESA on November 26, 1990 (55 FR 49204). In 1997, NMFS reclassified Steller sea lions as two DPSs based on genetic studies and other information (62 FR 24345); at that time the eastern DPS was listed as threatened and the western DPS was listed as endangered. On November 4, 2013, the eastern DPS was removed from the endangered species list (78 FR 66139). Information on Steller sea lion biology and habitat (including critical habitat) is available at:
http://alaskafisheries.noaa.gov/protectedresources/stellers/default.htm
The ability to detect sound and communicate underwater is important for a variety of Steller sea lion life functions, including reproduction and predator avoidance. NMFS categorizes Steller sea lions in the otariid pinniped functional hearing group, which likely can hear frequencies between 0.1 and 40 kHz in water (NOAA 2013).

We assume Steller sea lions may occasionally be present in Portage Cove for the following reasons:

- Steller sea lions are highly mobile and have large ranges. Nearby observations are documented in the Platform of Opportunity database (Lewis, 2011).
- Potential prey sources in the form of spawning salmon are located, seasonally, near the project area. Several nearby rivers and creeks are documented in the Anadromous Waters Catalog maintained by the Alaska State Department of Fish and Game (ADF&G 2014).

Steller Sea Lion Critical Habitat

NMFS designated critical habitat for Steller sea lions on August 27, 1993 (58 FR 45269). In Alaska, designated critical habitat includes: 1) a 37-km (23-mi) seaward buffer around all major haulouts and rookeries west of 144° W longitude; 2) 0.9-km (0.6-mi) terrestrial, air, and aquatic zones around major haulouts and rookeries east of 144° W longitude, and 3) three special aquatic foraging areas: the Shelikof Strait, Bogoslof, and Seguam Pass areas. The project area is over 10 miles away from the nearest critical habitat location, Gran Point.

Humpback Whales
The humpback whale was listed as endangered under the Endangered Species Conservation Act (ESCA) on December 2, 1970 (35 FR 18319). Congress replaced the ESCA with the ESA in 1973, and humpback whales continued to be listed as endangered. NMFS recently conducted a global status review and proposed changing the status of humpback whales under the ESA. Under this proposal, the Western North Pacific DPS (which includes whales found in the Aleutian Islands and Bering Sea) would be listed at threatened and the Hawaii DPS (which includes whales found in southeast Alaska) and Mexico DPS (which includes whales found in the northern and western Gulf of Alaska, Aleutian Islands, and Bering Sea) would not be listed (80 FR 22304; April 21, 2015). Information on humpback whale biology and habitat is available at:
http://www.fisheries.noaa.gov/pr/species/mammals/whales/humpback-whale.html
http://www.nmfs.noaa.gov/pr/sars/2013/ak2013_humpback-wnp.pdf

Humpback whales produce a variety of vocalizations ranging from 0.02 to 10 kHz (Winn et al. 1970, Tyack and Whitehead 1983, Payne and Payne 1985, Silber 1986, Thompson et al. 1986, Richardson et al. 1995, Au 2000, Frazer and Mercado III 2000, Erbe 2002, Au et al. 2006a, Vu et al. 2012). NMFS categorizes humpback whales in the low-frequency cetacean functional hearing group, which likely can hear frequencies between 0.007 and 30 kHz (NOAA 2013).

Humpback whale observations near the project area are documented in the POP database (Lewis 2011). Given the documented presence of humpback whales in the area, we assume humpback whales may be present during the proposed project activities.

Effects of the Action
For purposes of the ESA, "effects of the action" means the direct and indirect effects of an action on the listed species or critical habitat, together with the effects of other activities that are interrelated or interdependent with that action (50 CFR 402.02). The applicable standard to find that a proposed action is "not likely to adversely affect" listed species or critical habitat is that all of the effects of the action are expected to be insignificant, discountable, or completely beneficial. Insignificant effects relate to the size of the impact and are those that one would not be able to meaningfully measure, detect, or evaluate, and should never reach the scale where take occurs. Discountable effects are those that are extremely unlikely to occur. Beneficial effects are contemporaneous positive effects without any adverse effects to the species.

The potential effects of the proposed action on listed species and critical habitat include acoustic disturbance (noise) and habitat alteration.

Acoustic Disturbance
Possible impacts to marine mammals exposed to loud underwater or in-air noise include mortality (directly from the noise, or indirectly from a reaction to the noise), injury, and disturbance ranging from severe (e.g., abandonment of vital habitat) to mild (e.g., startle response). Noise is the primary concern for both species covered in this consultation. Dredging and pile driving and extraction introduce noise into the underwater environment that has the

potential to negatively impact marine mammals (Thompson et al. 2013). See the "Action Area" section above for a description of NMFS sound exposure thresholds.

The potential impact pile driving is expected to be the loudest sound source from the proposed action. Impact pile driving methods can generate peak pulsed sound pressure levels of 237 decibels (re 1 μPa) (Hildebrand 2009). The 160 decibel isopleth for the pile driving associated with the Port MacKenzie project was measured to be approximately 1500 meters from the source (Blackwell 2005). However, that project used 36-inch pilings, whereas this proposed project uses smaller, 30-inch, 24-inch, 16-inch, and 12-inch pilings, therefore the sound source levels and resulting 160 decibel isopleth should be smaller. Impact pile driving equipment for this project will use pile cushions to further reduce the sound levels.

Vibratory pile driving generates lower peak pressure levels than impact pile driving, but the total energy imparted to the pile is comparable because the vibratory hammer operates continuously, and requires more time to install the pile (ICF 2009). Vibratory hammer methods used at the Port MacKenzie project under similar conditions as the proposed action generated peak pulses of 179 decibels (re 1 μPa) (Blackwell 2005). The 120 decibel isopleth at the Port MacKenzie project was measured to be approximately 1400 meters (Blackwell 2005). However, as stated above, the Port MacKenzie project used larger, 36-inch pilings, so the sound source level and resulting 120 decibel isolpeth are larger than expected for this project, which proposes to use 30-inch, 24-inch, 16-inch, and 12-inch pilings.

Clamshell dredging activities cause a continuous noise source that have the potential to impact marine mammals (Todd et al. 2015). Clamshell dredging in Cook Inlet measured 124 decibels (re 1 μPa) at the 150 meter isopleth (Dickerson et al. 2001). The peak sound levels were associated with the dredger striking the hard ocean floor (Dickerson et al. 2001). The proposed dredging in Portage Cover is similar to the Cook Inlet dredging project and will likely generate similar sound levels.

The significance of potential impacts of noise to marine mammals is dependent on a number of factors including the magnitude of sound pressure levels, species receiving the sound, exposure type (e.g., continuous vs. pulse), duration, site characteristics, species' auditory characteristics, and individual marine mammal characteristics (e.g., habituation, season, motivation) (Dazey et al. 2012, Ellison et al. 2012).

In addition to the mitigation measures included as part of this action, NMFS expects that two factors will minimize the potential impacts of the pile driving and drilling noise associated with this project:

- The silty sediment marine seafloor where the work is proposed. Sound dissipates more rapidly over soft seafloors.
- This harbor is often in use by large vessels and Steller sea lions and humpback whales may recognize this as a noisy area. Tug boat with barges in Southeast Alaska have been recorded to exceed sound pressure levels of 180 decibels (re 1 μPa) (Kipple and Gabriele 2004). This type of activity can mask the sounds of pile driving, extraction, and dredging.

> Marine mammals transiting this area are routinely exposed to sounds louder than 120 decibels, and continue to use this area; therefore, there does not appear to be evidence that they are harassed by these sounds, or they have become habituated to the noise.

The noise created by this proposed project is expected to be within the auditory range of humpback whales and Steller sea lions. Humpback whales are not common in Chilkoot Inlet, although they have been observed there. Steller sea lions are expected to occur in Chilkoot Inlet in greater numbers when salmon begin to enter streams in the inlet to spawn. Since pile driving is anticipated to occur in summer and fall months, greater Steller sea lion presence could overlap with pile driving. However, if a humpback whale or Steller sea lion approaches the action area while pile driving is underway, the 1000-meter marine mammal observation shut-down area is large enough to prevent injury (decibel levels outside of the 1000-meter shut-down area are expected to be below the NMFS harm exposure threshold for impulsive noise sources). We do not have precise measurements for the sound source levels of vibratory pile driving of 30-inch pilings under similar conditions, but our extrapolations based on the best available information indicate that the 1000-meter shut-down area is likely large enough to prevent exposure of humpback whales and Steller sea lions to non-injurious (Level B) continuous levels of noise (above 120 decibels). Likewise, if a humpback whale or Steller sea lion approaches the action area while dredging is underway, the 200-meter observation and shutdown area should prevent injury. In addition, sound levels from existing Portage Cove activities have likely resulted in habituation to noise among whales and sea lions occurring in the area. Thus, we do not expect any measureable negative responses from humpback whales or Steller sea lions that might occur in the action area.

Noise generated from vibratory or impact hammers can reduce the fitness and survival of fish in areas used by foraging Steller sea lions; however, given the small area of the project site and the fact that any physical changes to this habitat would not be likely to reduce the localized availability of fish (Fay and Popper 2012), it is unlikely that listed species would be affected.

Based on the discussion above, NMFS considers effects from noise associated with the proposed action to be insignificant.

Habitat Alteration

We do not expect detectable effects of the proposed dredging and deposition of dredged materials on humpback whales, Steller sea lions, or their habitat. Humpback whales and Steller sea lions do not commonly use the shallow waters where dredging will occur, and indirect effects to prey or due to sediment in the water at the dredge site are expected to be undetectable to humpback whales and Steller sea lions. A marine mammal observer will be present on the tug/barge during the dredge materials disposal operation and will shut down disposal activities if humpback whales or Steller sea lions are observed approaching a 200 meter radius from the vessels. The sediments are expected to be deposited over a 50 acre area of the seafloor. This will likely avoid any detectable impacts to humpback whales, Steller sea lions, or their prey. The effects of habitat alteration are therefore discountable.

Conclusion
Based on this analysis, NMFS concurs with your determination that the proposed action may affect, but is not likely to adversely affect, humpback whales or western DPS Steller sea lions.

Reinitiation of consultation is required where discretionary federal involvement or control over the action has been retained or is authorized by law and if (1) take of listed species occurs, (2) new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered, (3) the action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in this concurrence letter, or (4) a new species is listed or critical habitat designated that may be affected by the identified action (50 CFR 402.16).

Please direct any questions regarding this letter to Kristin Mabry at Kristin.Mabry@noaa.gov or (907) 586-7490.

Sincerely,

James W. Balsiger, Ph.D.
Administrator, Alaska Region

Cc: Sheila.M.Newman@usace.army.mil
randal.p.vigil@usace.army.mil

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NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Haines Borough	File Number: POA-2005-1976	Date: 6/15/2016
Attached is:		See Section below
X	**INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)**	**A**
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL	C
	APPROVED JURISDICTIONAL DETERMINATION	D
	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://www.usace.army.mil/CECW/Pages/reg_materials.aspx or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- OBJECT: If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- APPEAL: If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- ACCEPT: You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- APPEAL: If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

Randal Vigil
Alaska District Corps of Engineers
Juneau Regulatory Field Office (CEPOA-RD-SE)
Post Office Box 22270
Juneau, Alaska 99802-2270
(907) 790-4491

If you only have questions regarding the appeal process you may also contact:

Regulatory Program Manager
U.S. Army Corps of Engineers, Pacific Ocean Division
CEPOD-PDC, Bldg 525
Fort Shafter, HI 96858-5440

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.	Date:	Telephone number: