



US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

KENAI FIELD OFFICE
Regulatory Division (1145)
CEPOA-RD
44669 Sterling Highway, Suite B
Soldotna, Alaska 99669-7915

PUBLIC NOTICE DATE:	May 8, 2020
EXPIRATION DATE:	May 26, 2020
REFERENCE NUMBER:	POA-1977-00242-M2
WATERWAY:	Chiniak Bay (Inner Harbor)

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

All comments regarding this Public Notice (PN) should be sent to the address noted above. If you desire to submit your comments by email, you should send it to the Project Manager's email as listed below.. All comments should include the PN reference number listed above.

All comments should reach this office no later than the expiration date of this PN to become part of the record and be considered in the decision. Please contact Ben Polley at (907) 753-2627 or by email at: Benjamin.L.Polley@usace.army.mil if further information is desired concerning this notice.

APPLICANT: Sun'aq Tribe of Kodiak, 312 West Marine Way, Kodiak, AK 99615.

AGENT: Trevor Sande, R&M Engineering-Ketchikan, Inc., Ketchikan, AK 99901.

LOCATION: The project site is located within Section 31, T. 27 S., R. 19 W., Seward Meridian; USGS Quad Map Kodiak D-2; Latitude 57.786492° N., Longitude 152.415310° W.; Alaska Tideland Survey 49, Tract N17B; 419 Shelikof Street, in Kodiak, Alaska.

PURPOSE: The applicant's stated purpose is "for moorage of small boats that are used for commercial activities associated with the custom processing building Wildsource as well as future businesses that will occupy the new multi-use structure. The harbor will also continue to accommodate recreational boaters as well as water taxi and tour operators. The shot rock fill will house a 30 feet x 40 feet metal building for a cold storage to facilitate the custom smokery already on site. The future multi-purpose building will house a combination of tribal activities".

PROPOSED WORK: The applicant requests authorization for the following work in and over Chiniak Bay (Inner Harbor), which is a navigable water of the U.S:

1. Discharge 4,622 cubic yards of shot rock and 250 cubic yards of concrete into an 8,022-square foot area below the High Tide Line (HTL, 10.7 feet above the 0.00-foot Mean Lower Low Water (MLLW) contour) to construct a solid fill dock and seawall. The seawall would be 212 linear feet and have an average height of 16 feet.
2. Repair 1,600 square feet of an existing, wooden dock extending beyond the Mean High Water Mark (MHW, 7.6 feet above the MLLW).

All work would be performed in accordance with the enclosed plan (sheets 1-6), dated April 21, 2020.

ADDITIONAL INFORMATION: This would be the second modification to an existing permit originally issued in 1978. The first modification was authorized in November 2019 under file number POA-1977-00242-M1 but has not been constructed. Changes to the plan required an additional PN and public interest review. The April 21, 2020 plan (sheets 1-6) identifies which portions of the project would be constructed under the existing authorization (POA-1977-00242-M1) and which would be constructed under the proposed authorization (POA-1977-00242-M2), if issued. Only those changes that would result in additional fill below the HTL and/or work and structures below the MHW that were not previously evaluated are currently being reviewed under POA-1977-00242-M2. Changes that would result in a reduction in work or structures below the MHW that were authorized by POA-1977-00242-M1 do not require additional evaluation or permitting. Changes from POA-1977-00242-M1 to POA-1977-00242-M2 include:

1. Reducing the number of 12-inch diameter steel piles capped with 14-inch deep galvanized steel beams to be installed from 46 to 18;
2. Increasing the footprint of fill from 300 square feet to 8,022 square feet to support a cold storage facility;
3. Increasing the length of the concrete block retaining wall from 40 feet to 212 feet;
4. Reducing the area of wood decked dock to be removed from 5,000 square feet to 3,400 square feet and repairing the remaining 1,600 square feet;
5. Reducing the concrete decked dock from 13,000 square feet to 3,800 square feet;
6. Constructing the project in phases as indicated on the plans.

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

a. Avoidance: The applicant states that “there are no practical alternatives for avoidance due to the water dependent nature of the custom fish processing plant and the marine related uses such as water taxi and small boat moorage. In addition, this facility has been in operation for many years and this permit request is for maintaining the facilities existing footprint with new materials”.

b. Minimization: The applicant states that “this modification is intended to reduce the impacts on Marine Mammals due to the work being performed during low tides. Our analysis determined that much of the site was heavily disturbed low value tidelands with no presence of aquatic plants. Because fill will allow the project to be done in phases and constructed from the street, a modified project with some fill and some pile supported structures was selected. The combination of fill and piling resulted in several positive outcomes as follows:

- 1) The permitted pile work is very accessible to a crane barge which greatly reduced the time of installation and a large reduction in potential interaction with marine mammals in the project vicinity.
- 2) The adjacent street and commercial properties will be minimally impacted by the project”.

c. Compensatory Mitigation: The applicant stated “no compensatory mitigation is proposed for this project”.

WATER QUALITY CERTIFICATION (WQC): A permit for the described work will not be issued until a certification or waiver of certification, as required under Section 401 of the Clean Water Act (Public Law 95-217), has been received from the Alaska Department of Environmental Conservation. An additional WQC or a modification to the WQC issued on March 30, 2018 is required due to the increase in size of the proposed discharge of fill material.

CULTURAL RESOURCES: On March 30, 2018, the Alaska State Historic Preservation Office (SHPO) stated (SHPO File No.: 3130-1R COE/2018-00205) they concurred with a finding of **no historic properties affected** in relation to POA-1977-00242-M1. The permit area for POA-1977-00242-M1 and POA-1977-00242-M2 is the same. We have determined that POA-1977-00242-M2 would have no effect on historic properties and that additional consultation with the SHPO is not required.

ENDANGERED SPECIES: The project area is within the known or historic range of the Shorttailed Albatross (*Phoeastria (=Diomedea) albatrus*), Steller’s Eider (*Polysticta stelleri*), Northern Sea Otters (*Enhydra lutris kenyoni*), the western Distinct Population Segment (DPS) of Steller sea lions (*Eumetopias jubatus*), the Western North Pacific and the Mexico DPS of Humpback whales (*Megaptera novaeangliae*), Sperm whales (*Physeter macrocephalus*), Fin whales (*Balaenoptera physalus*) and North Pacific right whales (*Eubalaena japonica*). Additionally, the project area is within designated Critical Habitat for Steller sea lions and northern Sea Otters. The project area is within proposed Critical Habitat for both DPS of Humpback whales.

We are currently gathering information regarding these species and have yet to make a determination of effect. Should we find that the described activity may affect the species listed above, and/or their critical habitat, we will follow the appropriate consultation procedures under section 7 of the Endangered Species Act of 1973 (87 Stat. 844). Any comments the U.S. Fish and Wildlife Service or the National Marine Fisheries Service (NMFS) may have concerning

endangered or threatened wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

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

The project area is within the known range of the Arrowtooth Flounder (*Atheresthes stomias*), Sculpins (*cottidae* spp.), Dover Sole (*Microstomus pacificus*), Dusky Rockfish (*Sebastes ciliatus*), Flathead Sole (*Hippoglossoides elassodon*), Thornyhead Rockfish (*Sebastolobus* spp.), octopus spp., Pacific Cod (*Gadus macrocephalus*), Sablefish (*Anoplopoma fimbria*), Walleye Pollock (*Theragra calcogramma*), Alaska plaice (*Pleuronectes quadrituberculatus*), silvergray rockfish (*Sebastes brevispinis*), Yellowfin Sole (*Limanda aspera*), Southern Rock Sole (*Lepidopsetta bilineata*), Pink Salmon (*Oncorhynchus gorbuscha*), Chum Salmon (*Oncorhynchus keta*), Sockeye Salmon (*Oncorhynchus nerka*), Chinook Salmon (*Oncorhynchus tshawytscha*), and Coho Salmon (*Oncorhynchus kisutch*).

We are currently gathering information regarding these species and have yet to make a determination of effect. Should we find that the described activity may affect the species listed above, we will follow the appropriate course of action under Section 305(b)(2) of the Magnuson-Stevens Act. Any comments the National Marine Fisheries Service may have concerning essential fish habitat will be considered in our final assessment of the described work.

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

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

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts, which the proposed activity may have on the public interest, requires a careful weighing of all the factors that become relevant in each particular case. The benefits, which reasonably may be expected to accrue from the

proposal, must be balanced against its reasonably foreseeable detriments. The outcome of the general balancing process would determine whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur. The decision should reflect the national concern for both protection and utilization of important resources. All factors, which may be relevant to the proposal, must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving 404 discharges, a permit will be denied if the discharge that would be authorized by such permit would not comply with the Environmental Protection Agency's 404(b)(1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria (see Sections 320.2 and 320.3), a permit will be granted unless the District Commander determines that it would be contrary to the public interest.

The Corps of Engineers (Corps) is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

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

(X) Perform work in or affecting navigable waters of the United States – Section 10 Rivers and Harbors Act 1899 (33 U.S.C. 403).

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

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

District Commander
U.S. Army, Corps of Engineers

Enclosures

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION
DIVISION OF WATER

Wastewater Discharge Authorization Program (WDAP) / 401 Certification

DEPARTMENT OF ENVIRONMENTAL CONSERVATION
WDAP/401 CERTIFICATION
555 CORDOVA STREET
ANCHORAGE, ALASKA 99501-2617
PHONE: (907) 269-6285 | EMAIL: dec-401cert@alaska.gov

NOTICE OF APPLICATION FOR STATE WATER QUALITY CERTIFICATION

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

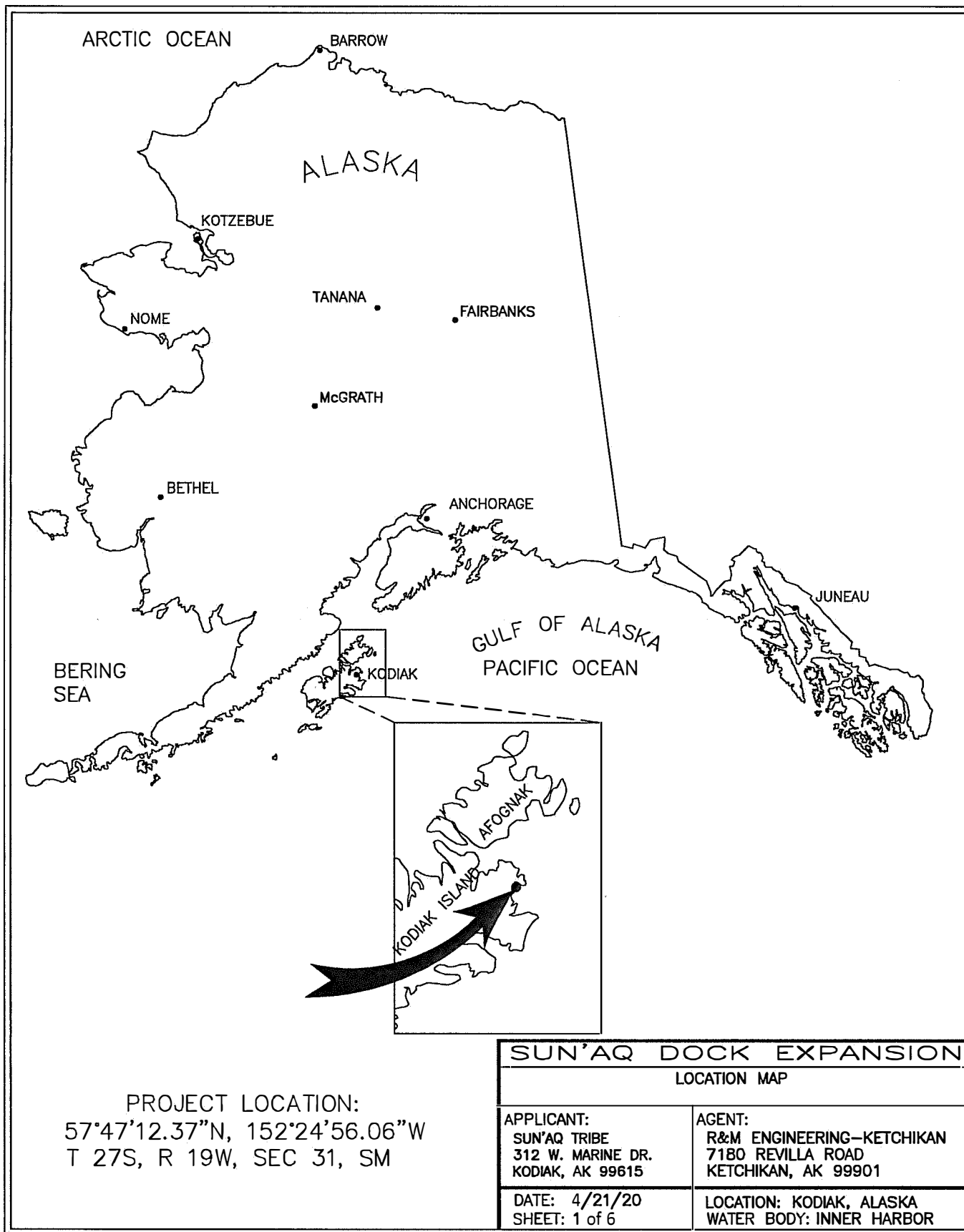
Notice is hereby given that the application for a Department of the Army Permit described in the Corps of Engineers' Public Notice (PN) Reference Number **POA-1977-00242-M2, Chiniak Bay (Inner Harbor)**, serves as application for State Water Quality Certification from the Department of Environmental Conservation.

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

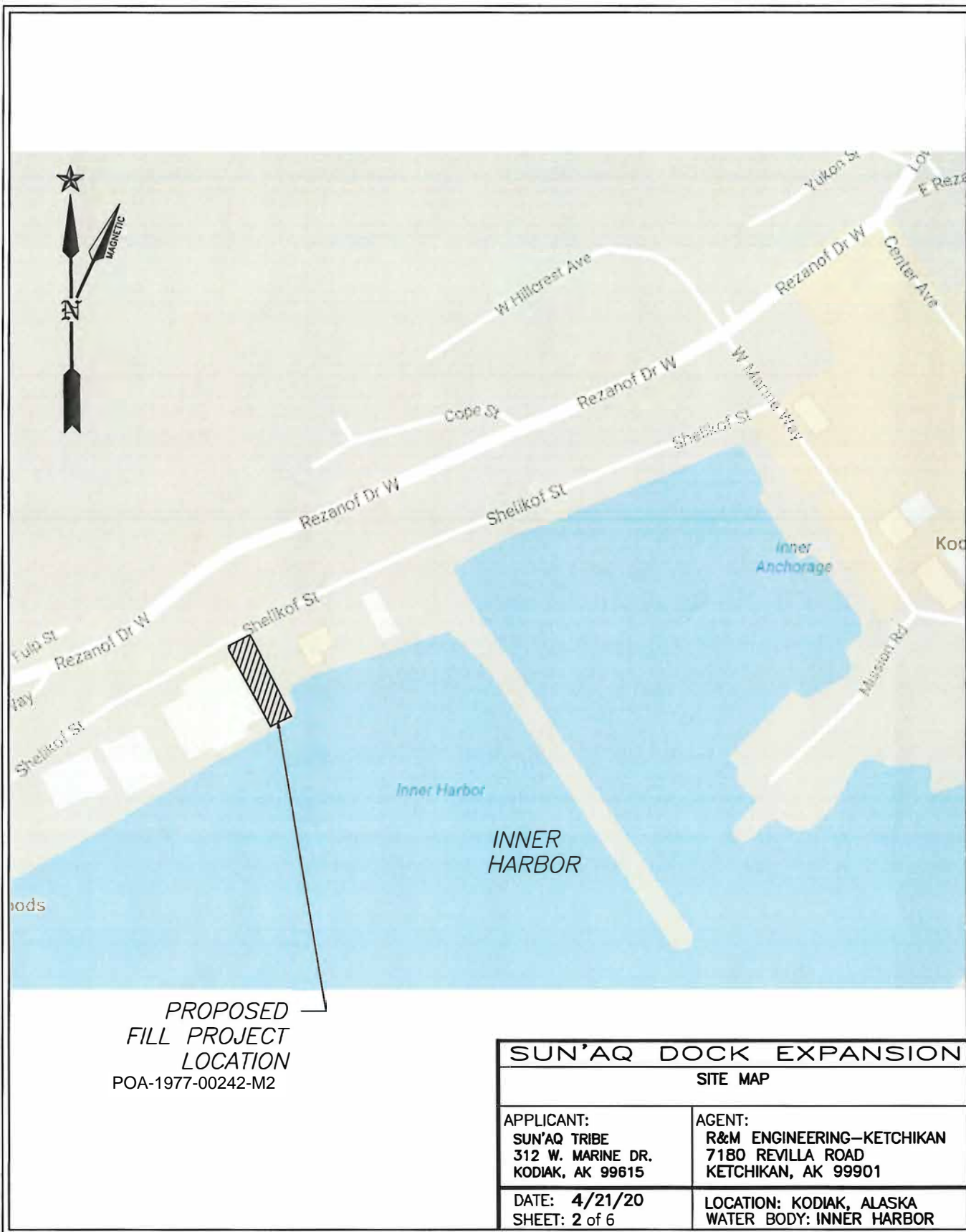
Any person desiring to comment on the project with respect to Water Quality Certification, may submit written comments to the address above or via email to dec-401cert@alaska.gov by the expiration date of the Corps of Engineer's Public Notice. All comments should include the PN reference number listed above. Mailed comments must be postmarked on or before the expiration date of the public notice.

Disability Reasonable Accommodation Notice

The State of Alaska, Department of Environmental Conservation complies with Title II of the Americans with Disabilities Act of 1990. If you are a person with a disability who may need special accommodation in order to participate in this public process, please contact Kate Orozco at 907-465-6171 or TDD Relay Service 1-800-770-8973/TTY or dial 711 within 5 days of the expiration date of this public notice to ensure that any necessary accommodations can be provided.



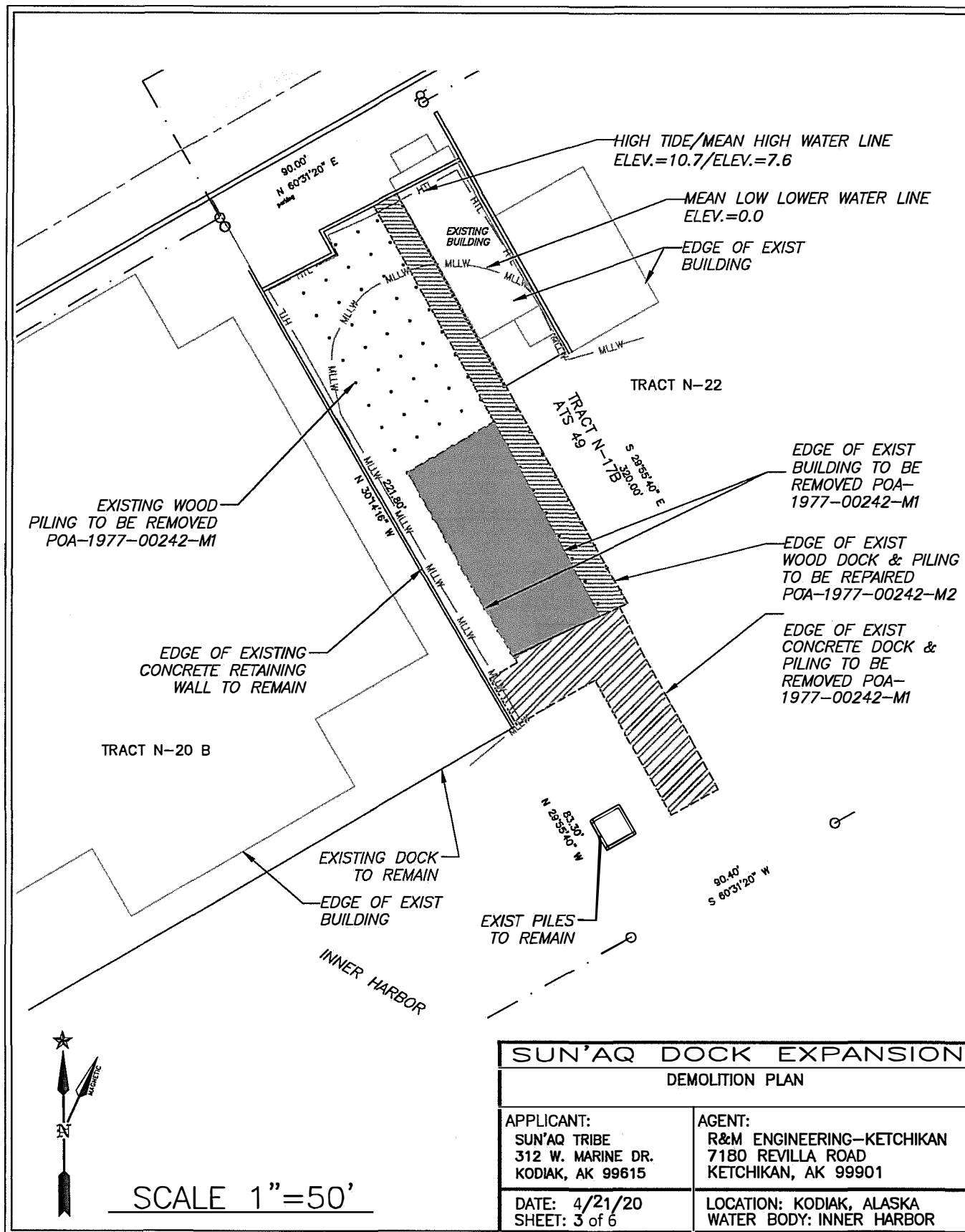
POA-1977-00242-M2



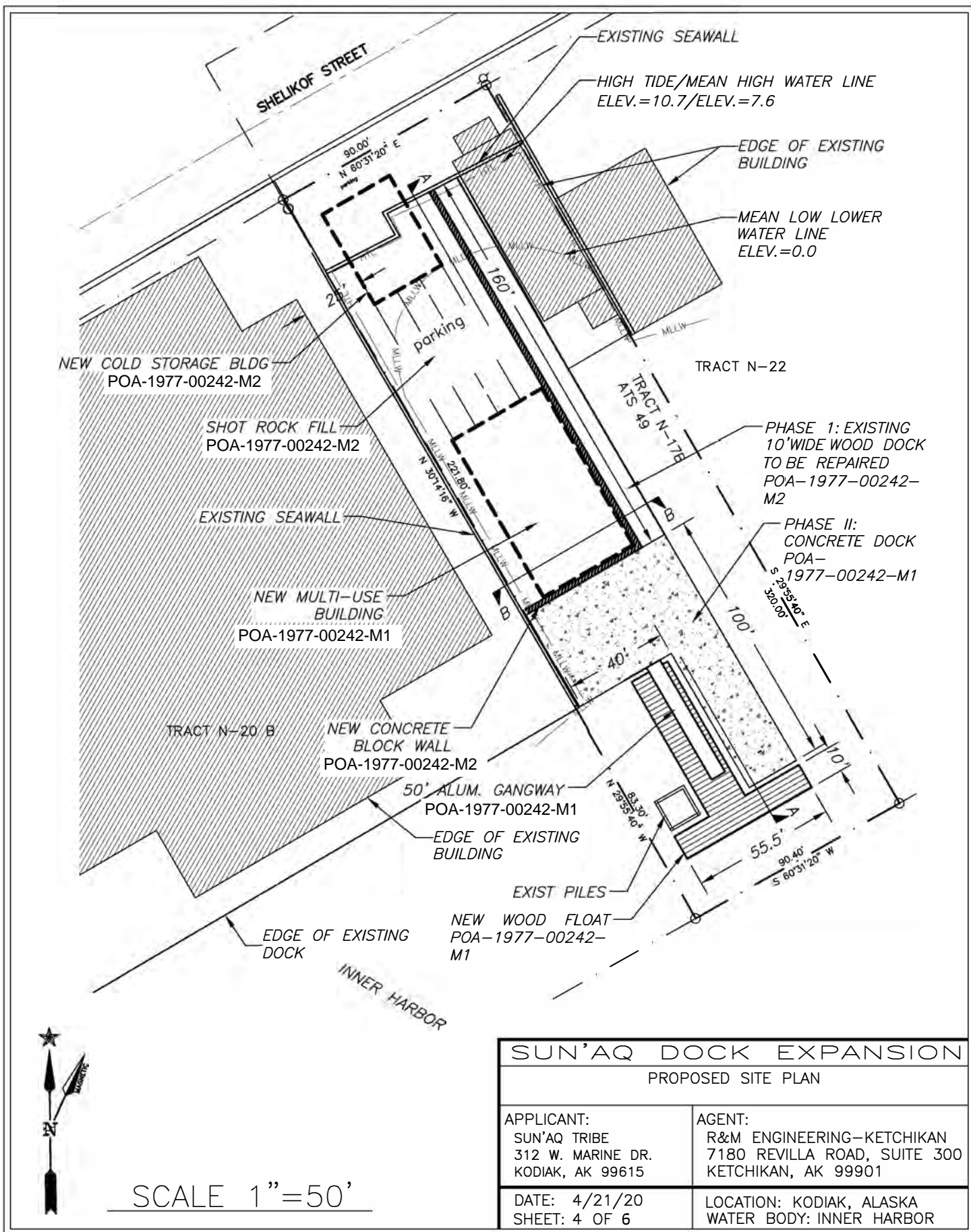
PROPOSED
FILL PROJECT
LOCATION
POA-1977-00242-M2

SUN'AQ DOCK EXPANSION	
SITE MAP	
APPLICANT: SUN'AQ TRIBE 312 W. MARINE DR. KODIAK, AK 99615	AGENT: R&M ENGINEERING-KETCHIKAN 7180 REVILLA ROAD KETCHIKAN, AK 99901
DATE: 4/21/20 SHEET: 2 of 6	LOCATION: KODIAK, ALASKA WATER BODY: INNER HARBOR

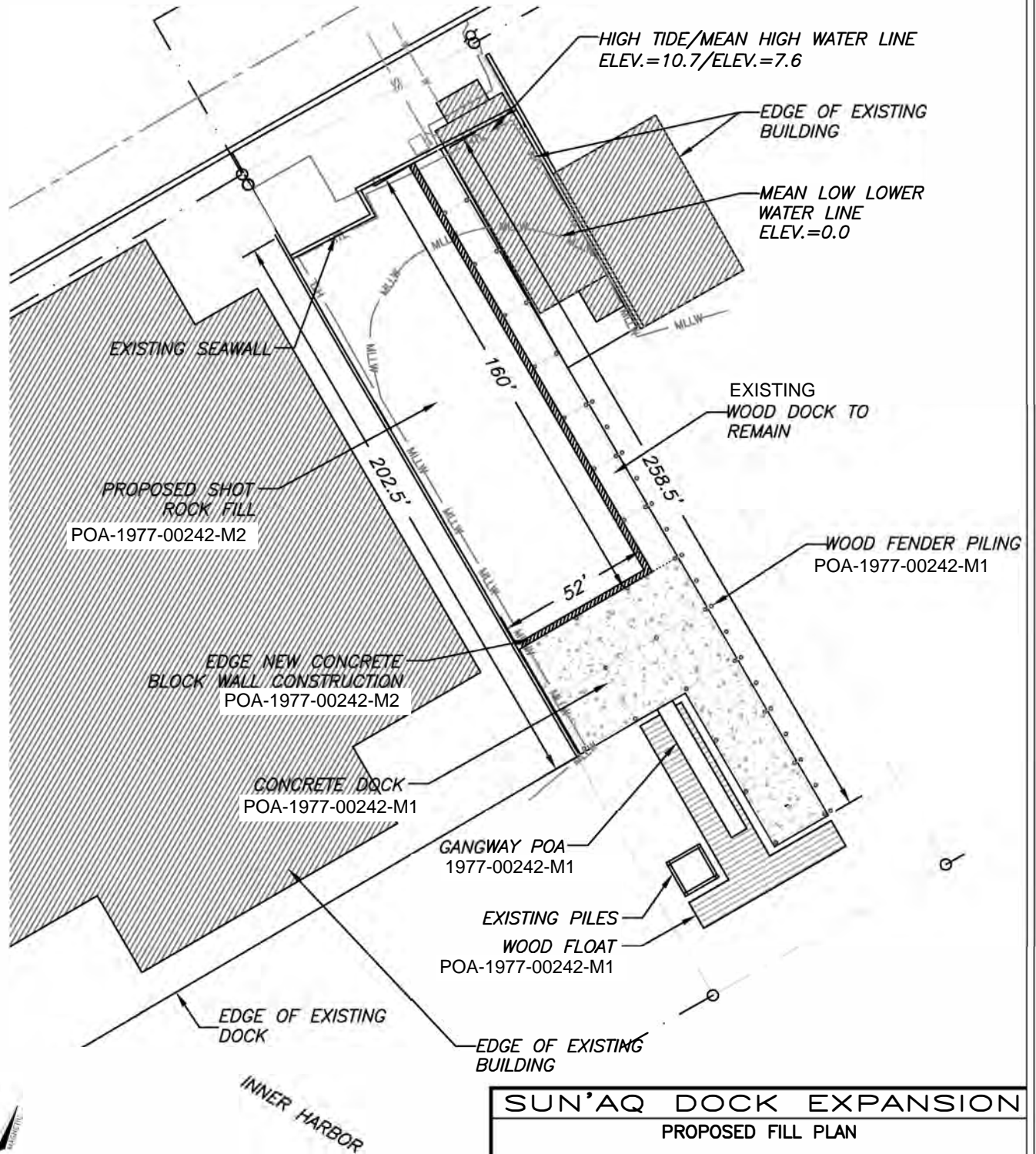
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POA-1977-00242-M2



SUN'AQ DOCK EXPANSION

PROPOSED FILL PLAN

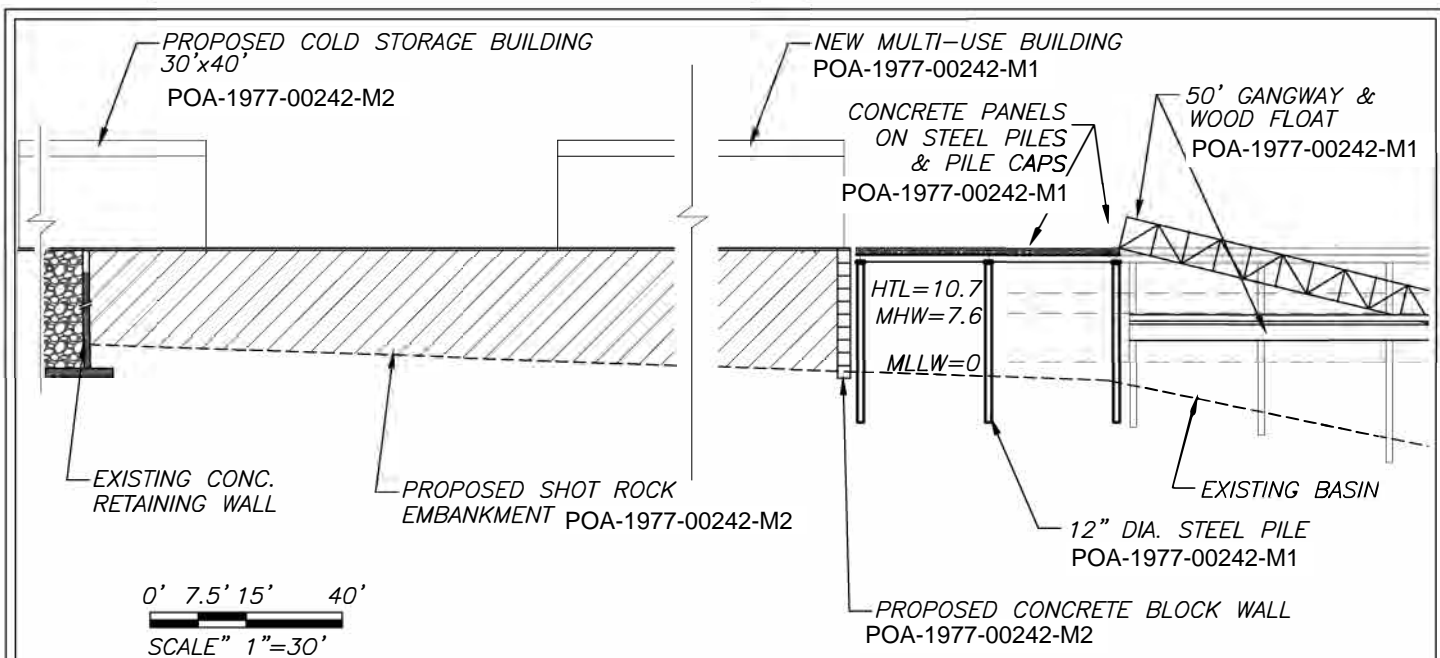
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312 W. MARINE DR.
KODIAK, AK 99615

AGENT:
R&M ENGINEERING-KETCHIKAN
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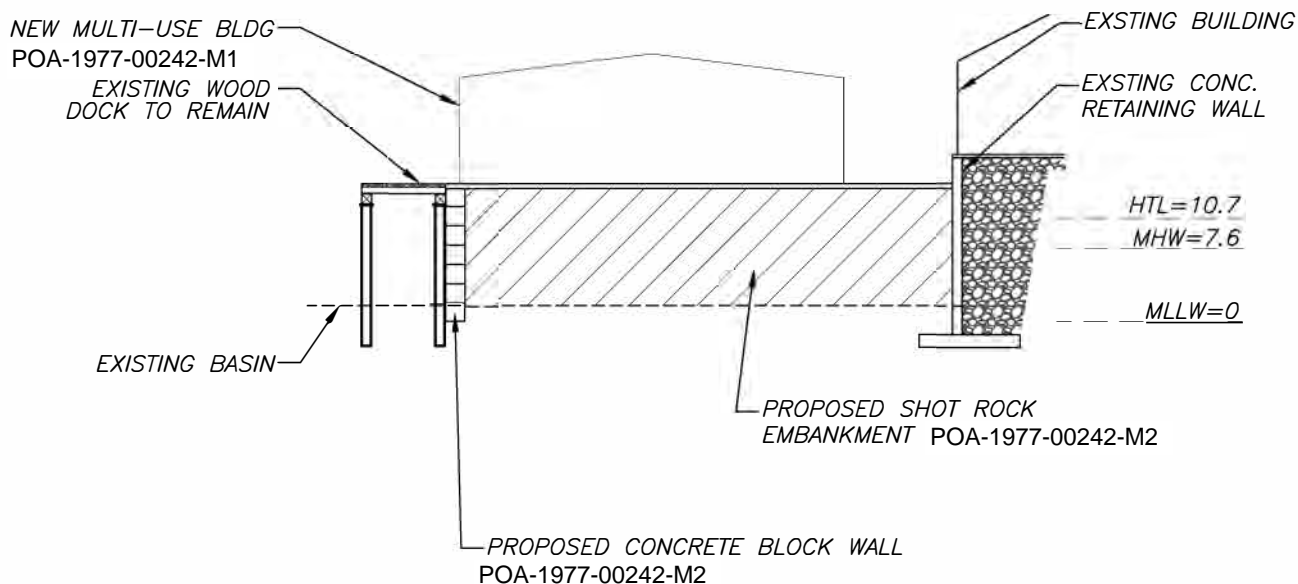
DATE: 4/21/20
SHEET: 5 of 6

LOCATION: KODIAK, ALASKA
WATER BODY: INNER HARBOR

POA-1977-00242-M2



SECTION A-A



SECTION B-B

0' 5' 10' 20'
SCALE" 1"=20'

SUN'AQ DOCK EXPANSION	
SECTIONS	
APPLICANT: SUN'AQ TRIBE 312 W. MARINE DR. KODIAK, AK 99615	AGENT: R&M ENGINEERING-KETCHIKAN 7180 REVILLA ROAD KETCHIKAN, AK 99901
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POA-1977-00242-M2