



US Army Corps  
of Engineers  
Alaska District

# Public Notice of Application for Permit

ANCHORAGE  
Regulatory Division (1145)  
CEPOA-RD  
Post Office Box 6898  
JBER, Alaska 99506-0898

<b>PUBLIC NOTICE DATE:</b>	<b>February 7, 2019</b>
<b>EXPIRATION DATE:</b>	<b>March 8, 2019</b>
<b>REFERENCE NUMBER:</b>	<b>POA-2004-01238</b>
<b>WATERWAY:</b>	<b>Kal Creek</b>

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

All comments regarding this Public Notice 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 or to [regpagemaster@usace.army.mil](mailto:regpagemaster@usace.army.mil). All comments should include the Public Notice reference number listed above.

All comments should reach this office no later than the expiration date of this Public Notice to become part of the record and be considered in the decision. Please contact Jason Brewer at (907) 753-2823, toll free from within Alaska at (800) 478-2712, by fax at (907) 753-5567, or by email at [Jason.D.Brewer@usace.army.mil](mailto:Jason.D.Brewer@usace.army.mil) if further information is desired concerning this notice.

**APPLICANT:** Elton McGahan, Post Office Box 8013, Nikiski, Alaska 99635

**LOCATION:** The project site is located within Sections 1 and 12, T. 27 N., R. 21 E. and Sections 6-7, T. 27 N., R. 22 E., Copper River Meridian; USGS Quad Map Eagle A-1; Latitude 64.141876° N., Longitude -141.187177° W.; approximately 23 miles east of Chicken, Alaska.

**PURPOSE:** The applicant's stated purpose is to conduct placer mining activities for the recovery of gold.

**PROPOSED WORK:** Use heavy equipment to strip the vegetation and upper layers of the soil in 150-foot by 75-foot blocks (cuts) in rows parallel to Kal Creek. The stripped vegetation and

topsoil would be stockpiled along the edges of the cuts. One to two feet of the overburden material in the now exposed cuts would then be ripped and excavated every couple of days as it thaws, until the pay layer is reached. This excavated overburden material would be stockpiled along the edge of the cuts separately from the vegetation and topsoil. Once the exposed pay layer thaws, it would be excavated and hauled to the wash plant for processing. Tailings from the processing would then be hauled back and discharged into the cuts. Stockpiled overburden would be spread over the tailings, and the cut contoured closely to mimic pre-mine conditions. Lastly, the topsoil and vegetation are spread over the contoured ground to facilitate recovery of vegetation.

No temporary diversions or permanent relocations of the creek are proposed.

All work would be performed in accordance with the enclosed plan (sheets 1-6), dated February 6, 2019.

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

a. Avoidance: Portions of the mine operation infrastructure are sited in uplands or previously mined areas, avoiding direct impacts to wetlands. No diversions or relocations are proposed, avoiding direct impact to streams.

b. Minimization:

1. Vegetation and organic material stripped from the mine cuts would be stockpiled adjacent to the cuts to facilitate recovery of vegetation once mining of the cut is complete
2. Non-pay bearing material excavated from the cuts would also be stockpiled adjacent to the cuts and separate from the topsoil and vegetation to facilitate backfilling and re-contouring once mining is complete
2. A 25-foot wide strip of vegetation would be maintained between the mine operation and Kal Creek; if disturbed during mining, re-vegetation in this riparian strip would be initiated within one year of completed mining activities
3. Access roads at the mine site would be located to avoid or minimize water crossings as much as possible; access to the mine is on existing roads
4. Bedrock drainages and containment ponds would be constructed and maintained to capture and divert surface water and groundwater seepage in the mine area to minimize potential for sedimentation of Kal Creek
4. The wash plant would continue to use a single pond system disconnected from Kal Creek; sediment collected in the pond would be excavated and discharged back into mined cuts during reclamation; water in the sediment would filter back into the ground or collect in the bedrock drain system
5. Reclamation of the mine cuts would be completed in the same or subsequent year that mining in the cut would be completed, minimizing risk of erosion
6. Fuel would be stored on site in a lined and bermed pit
7. Upon completion of mining, the settling ponds, bedrock drains, and access roads through the mine site would be reclaimed and vegetation allowed to recover naturally

c. Compensatory Mitigation: the applicant does not propose compensatory mitigation because the proposed avoidance and minimization measures described above are appropriate and practicable to address the scope and degree of the environmental impacts of the project.

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

CULTURAL RESOURCES: The latest published version of the Alaska Heritage Resources Survey (AHRS) has been consulted for the presence or absence of historic properties, including those listed in or eligible for inclusion in the National Register of Historic Places. There are no known cultural resources in the permit area. There is an old trench excavated in the hillside outside the permit area that was used for hydraulic mining downstream many decades ago, and there may be other mining related resources in the vicinity. The permit area has been determined to be those areas comprising waters of the United States that would be directly impacted by the proposed work. Consultation of the AHRS constitutes the extent of cultural resource investigations by the Corps at this time, and we are otherwise unaware of the presence of such resources. The Corps has made a No Historic Properties Affected (No Effect) determination for the proposed project. This application is being coordinated with the State Historic Preservation Office (SHPO). Any comments SHPO may have concerning presently unknown archeological or historic data that may be lost or destroyed by work under the requested permit will be considered in our final assessment of the described work. The Corps is requesting the SHPO's concurrence with this determination.

ENDANGERED SPECIES: No threatened or endangered species are known to use the project area. The project is not sited in or near designated Critical Habitat.

We have determined the described activity would have no effect on any listed or proposed threatened or endangered species, and would have no effect on any designated or proposed critical habitat, under the Endangered Species Act of 1973 (87 Stat. 844). Therefore, no consultation with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service (NMFS) is required. However, any comments they may have concerning endangered or threatened wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

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

No EFH species are known to use the project area. We have determined the described activity would not adversely affect EFH in the project area.

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

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

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

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

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

(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](mailto: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-2004-01238, Kal Creek**, 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](mailto: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 Theresa Zimmerman 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.

# APMA 9440 Planning Document

## POA-2004-01238 Kal Creek

Note: Aug 2016 imagery (old)



- Legend**
- Kal Creek
  - No Name Creek
  - Historic Trench
  - Trail
  - Bedrock drain
  - Road
  - Reclaimed
  - Proposed Cuts



Proposed Cuts  
150' x 75' each

Kal Creek

Historic Trench

Wash Plant

CAMP

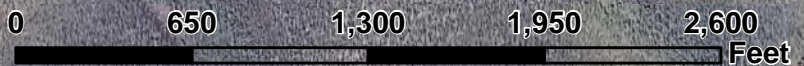
Trail

625' x 140'

Reclaimed or to be  
Reclaimed 2019

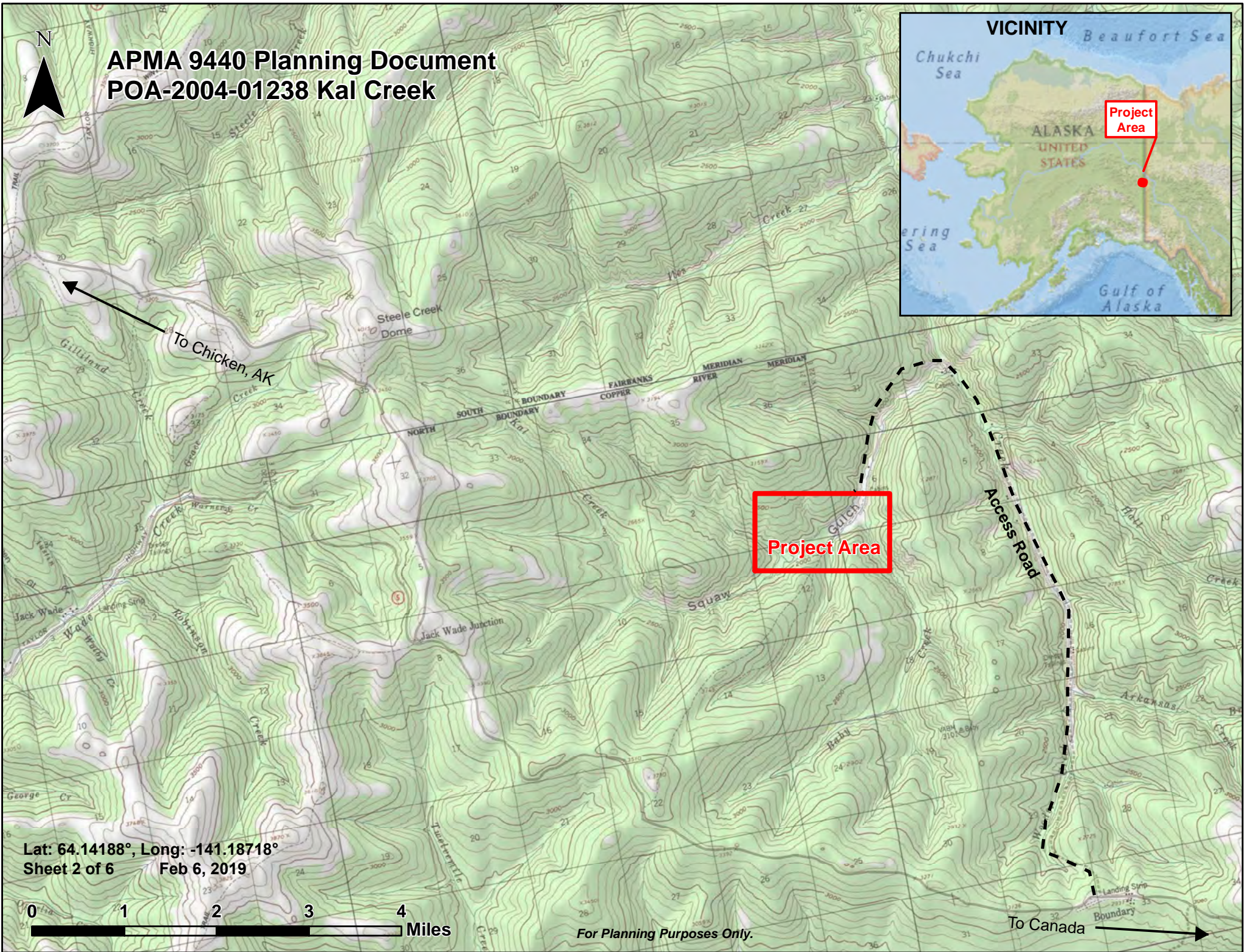
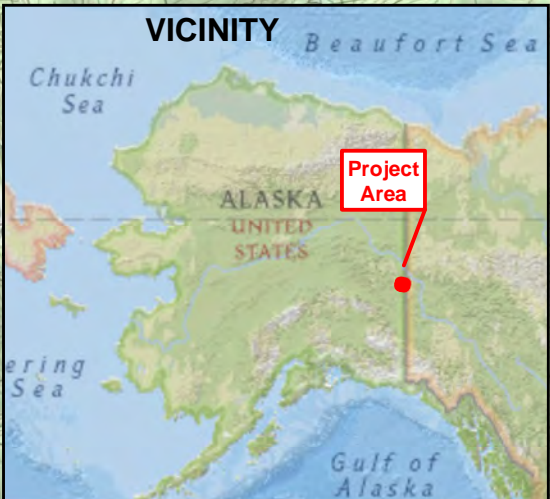
Mine Claim Boundary

Lat: 64.14188°, Long: -141.18718°  
Sheet 1 of 6 Feb 6, 2019

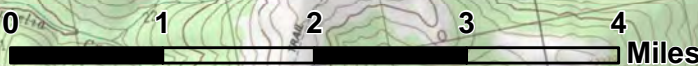




# APMA 9440 Planning Document POA-2004-01238 Kal Creek



Lat: 64.14188°, Long: -141.18718°  
Sheet 2 of 6 Feb 6, 2019



For Planning Purposes Only.



# APMA 9440 Planning Document

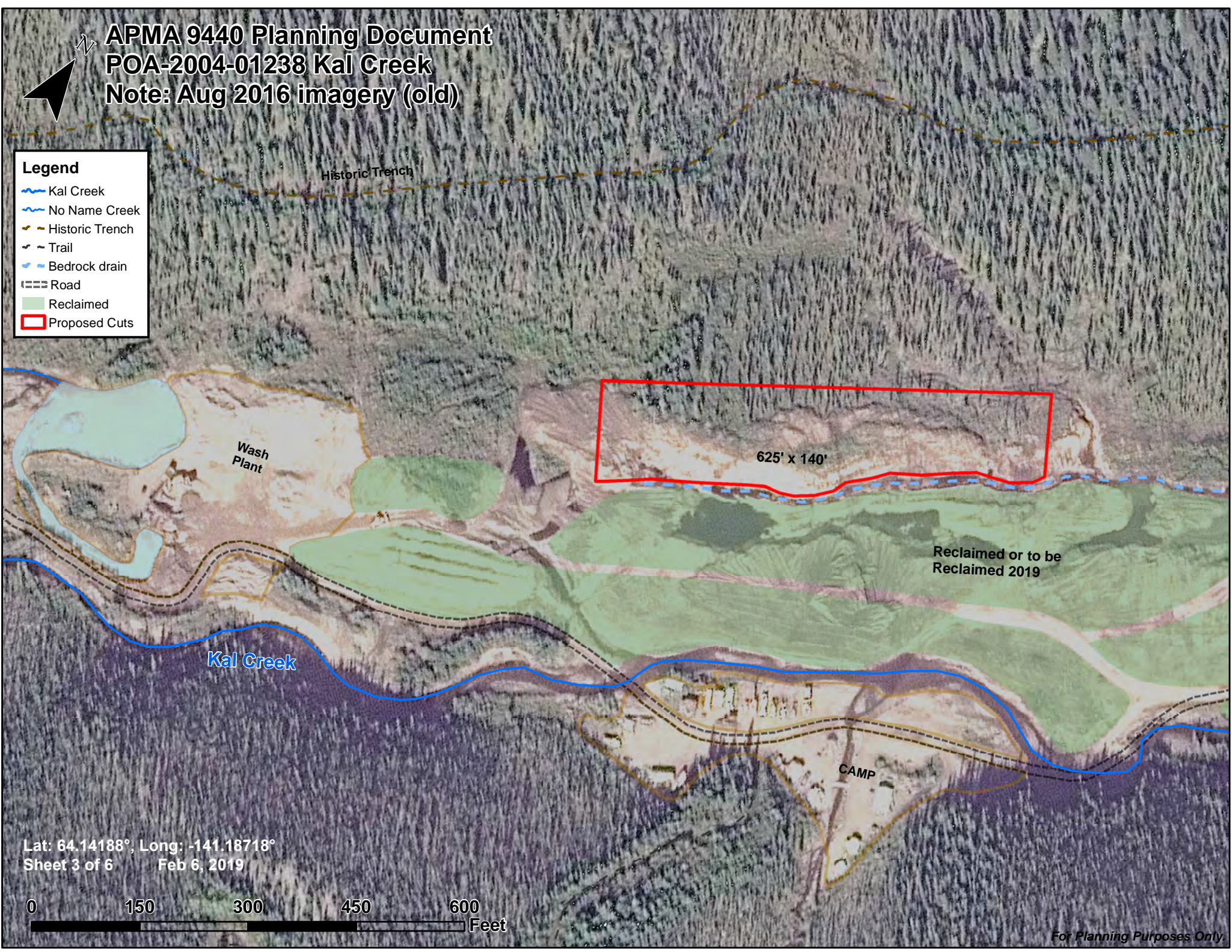
## POA-2004-01238 Kal Creek

Note: Aug 2016 imagery (old)

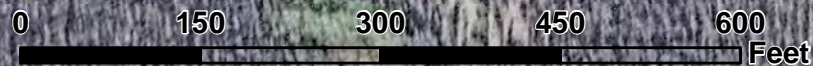


**Legend**

- Kal Creek
- No Name Creek
- Historic Trench
- Trail
- Bedrock drain
- Road
- Reclaimed
- Proposed Cuts



Lat: 64.14188°, Long: -141.18718°  
Sheet 3 of 6 Feb 6, 2019





**APMA 9440 Planning Document**  
**POA-2004-01238 Kal Creek**  
**Note: Aug 2016 imagery (old)**

**Legend**

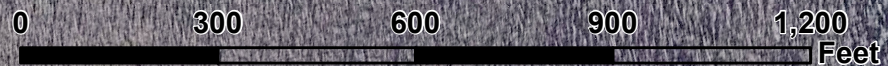
- Kal Creek
- No Name Creek
- Historic Trench
- Trail
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Proposed Cuts  
150' x 75' each

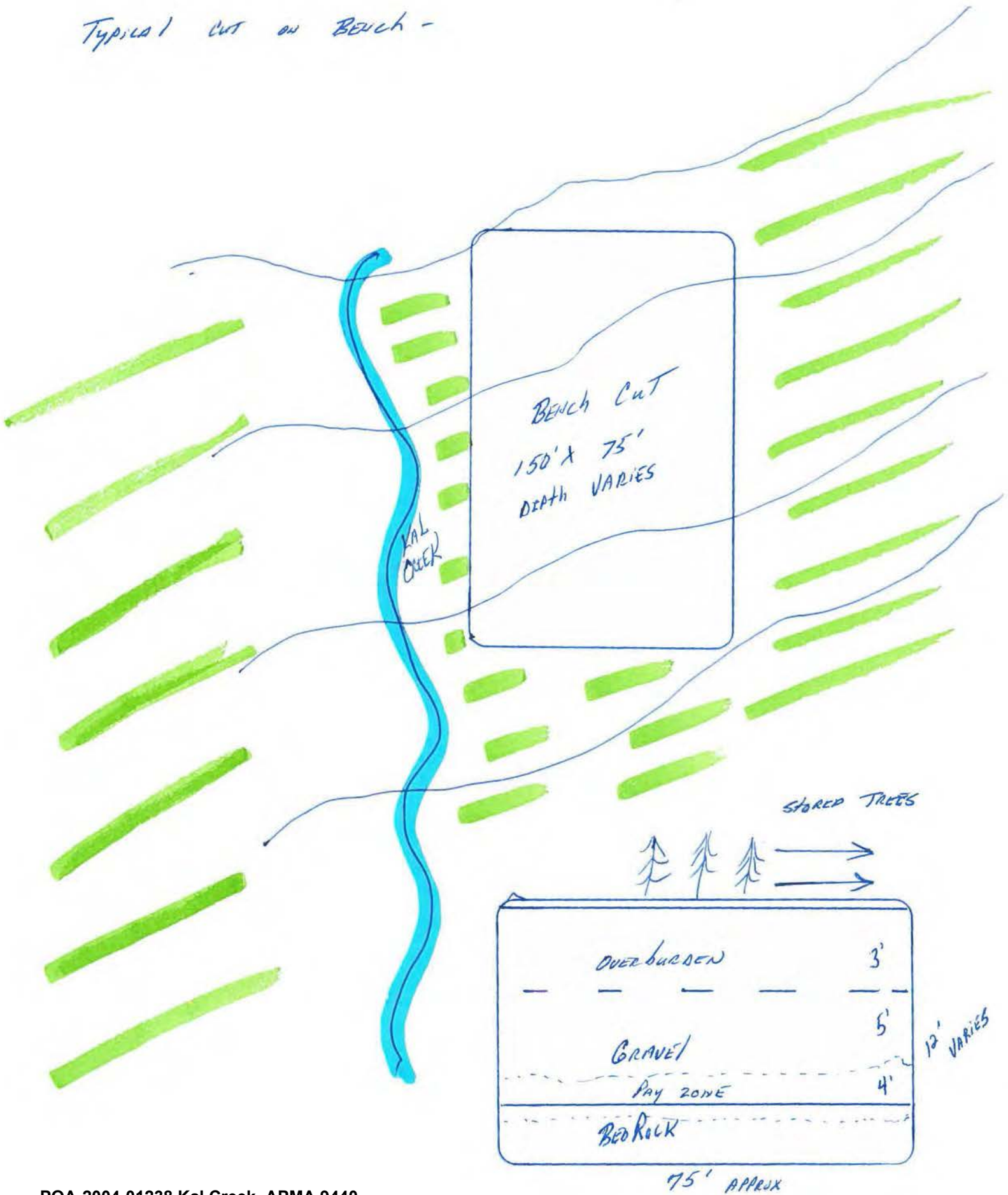


Kal Creek

Lat: 64.14188°, Long: -141.18718°  
Sheet 4 of 6 Feb 6, 2019



Typical cut on bench -



2018 - 2022

T 27H 21E S0212

ADL - Lease 585795

N  
W + E  
S



Not to scale. For planning purposes only.