



US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

Regulatory Division (1145)
CEPOA-RD-NF
2175 University Avenue, Suite
Fairbanks, Alaska 99709-4910

PUBLIC NOTICE DATE: August 27, 2008
EXPIRATION DATE: September 26, 2008
REFERENCE NUMBER: POA-2003-1402-M2
WATERWAY: Clear Creek

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.

Comments on the described work, with the reference number, 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 **Mary Romero** at (907) 753-5556, toll free from within Alaska at (800) 478-2712, by fax at (907) 753-5567, or by email at mary.r.romero@usace.army.mil if further information is desired concerning this notice.

APPLICANT: HC Contractors, Inc., Post Office Box 80688, Fairbanks, Alaska 99708

AGENT: Dr. Edmond Packee, Travis/Peterson Environmental Consulting Inc., 329 2nd Street, Fairbanks, Alaska 99701

LOCATION: The project site is located within Section 21, T. 1 S., R. 1 E., Fairbanks Meridian; USGS Quad Map Fairbanks D-2; Latitude 64.8121° N., Longitude 147.5468° W.; Tax Lot 2133, 1265 Dennis Road, near Fairbanks, Alaska.

PURPOSE: The applicant's stated purpose is expansion of a gravel operation.

PROPOSED WORK: Expansion of a gravel pit: initial clearing would be by chainsaw, trees would be cut and stacked for sale then hydro-axing and mulching of approximately 9.03 additional acres of wetlands with the stockpiling of approximately 72,800 cubic yards of organics and overburden in approximately 3.76 acres of wetlands for future reclamation. All work would be performed in accordance with the enclosed plan (sheets 1-8), dated August 21, 2008.

ADDITIONAL INFORMATION: The expansion would be completed in phases and would combine the current gravel operation with the concrete batch plant. In phase seven, proposed for spring of 2009 (phases 1-6 have been permitted previously) 7.73 acres of wetlands would be hydro axed with organics and overburden being stockpiled along the northern boundary of the subject property; in phase eight, scheduled for 2010, the remaining 1.3 acres of wetlands would be hydro axed and stockpiled. The applicant is completing an onsite wetland delineation which may affect the total acreage of wetland impacts.

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:

1. The proposed pit expansion maximizes the resource extraction potential of existing facilities, thereby minimizing potential impacts to wetlands in other areas.
2. The increase in surface area and creation of treatment capacity (pond) will result in definable water quality improvement and increased stormwater storage capacity.
3. The loss of approximately 500 feet of existing channel habitat will be offset by reclamation of the pit margins and the creation of near shore habitat.
4. At this time the applicant does not envision that compensatory mitigation of any kind should be required, due to the above avoidance and mitigation measures.

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 is an unevaluated property in the vicinity of the worksite. It has been designated FAI-00501, DRMO (building 5001), Ft Wainwright; no designation has been made on the property. Because the property has been determined to be outside of the project area, no further action is required. Consultation of the AHRS constitutes the extent of cultural resource investigations by the District Commander at this time. This application is being coordinated with 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.

ENDANGERED SPECIES: No threatened or endangered species are known to use the project area.

Preliminarily, the described activity will not affect threatened or endangered species, or modify their designated critical habitat, under the Endangered Species Act of 1973 (87 Stat. 844). This application is being coordinated with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service (NMFS). 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).

Preliminarily, the described activity will not affect EFH in the project area. This Public Notice initiates EFH consultation with the NMFS. Any comments or recommendations they may have concerning EFH 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 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 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
401 Certification Program
Non-Point Source Water Pollution Control Program

DEPARTMENT OF ENVIRONMENTAL CONSERVATION
WQM/401 CERTIFICATION
555 CORDOVA STREET
ANCHORAGE, ALASKA 99501-2617
PHONE: (907) 269-7564/FAX: (907) 334-2415

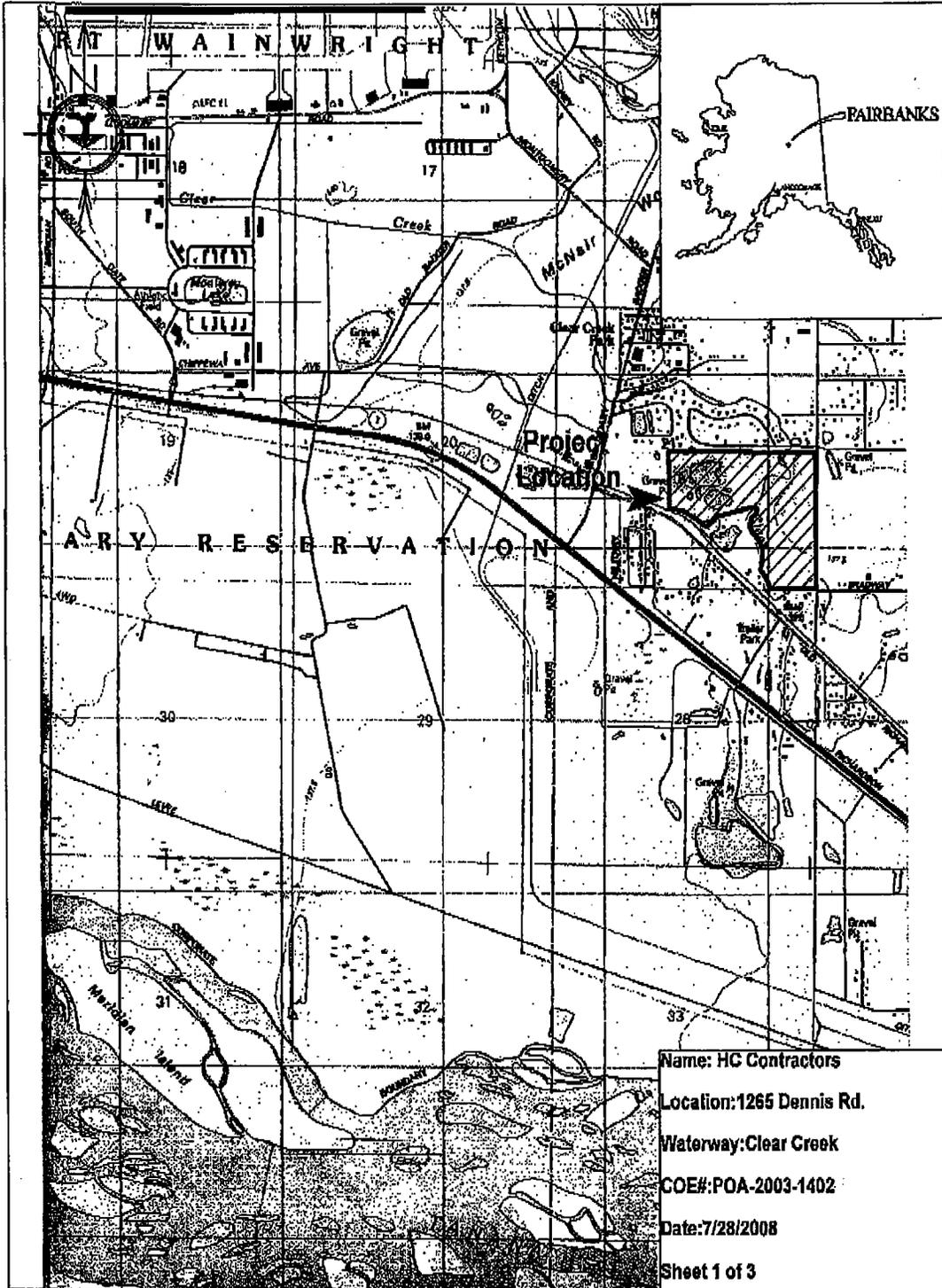
NOTICE OF APPLICATION
FOR
STATE WATER QUALITY CERTIFICATION

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 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 No. **POA-2003-1402-M2, Clear 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 by the expiration date of the Corps of Engineer's Public Notice.



TRAVIS/PETERSON ENVIRONMENTAL CONSULTING, INC.
 329 2ND STREET
 FAIRBANKS, AK 99701

LOCATION & VICINITY

HC CONTRACTORS, INC.

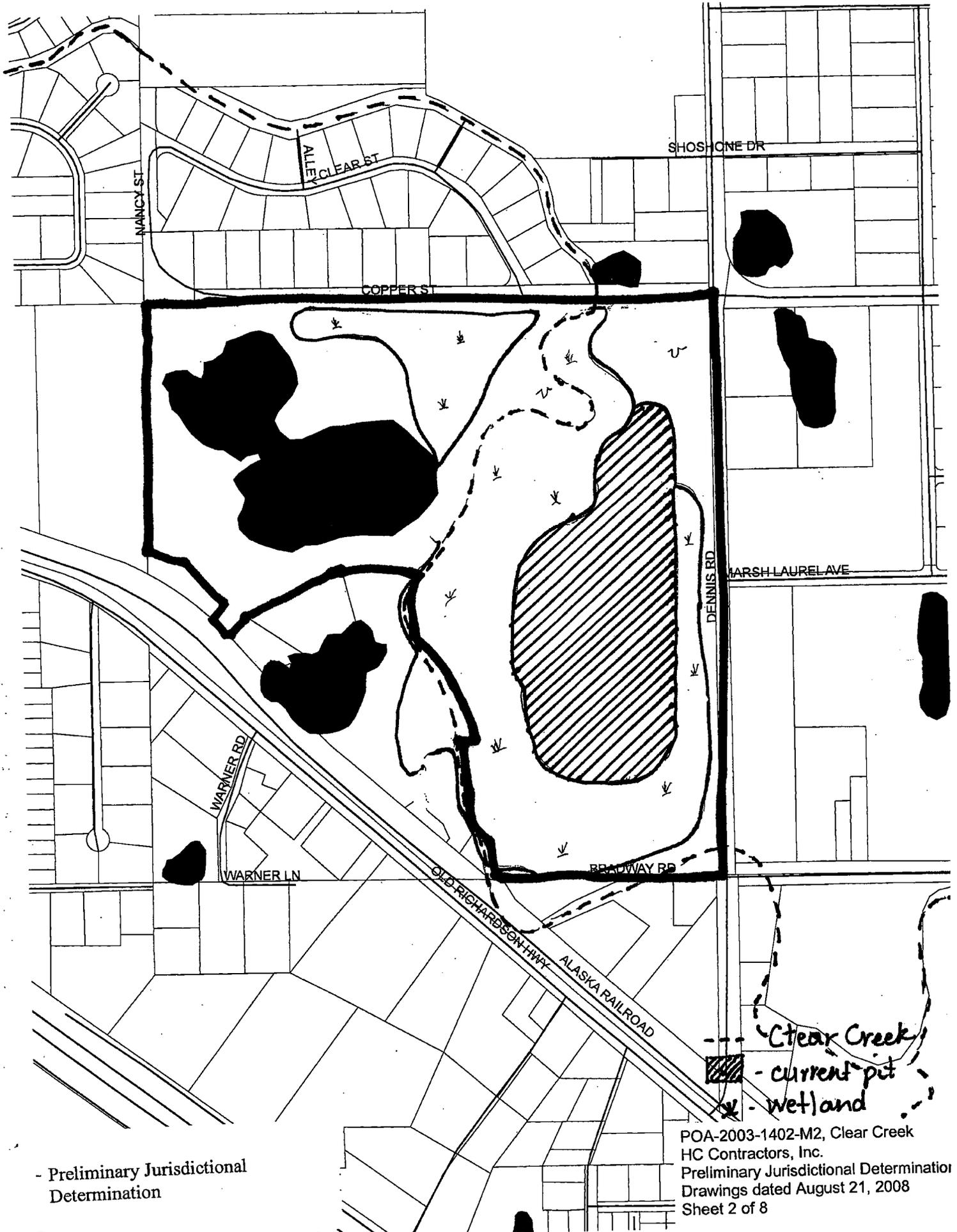
PROJECT NO.: 1070-27

FILE: 107027\Figures\COE Template Figure 1

DATE: 7/28/08

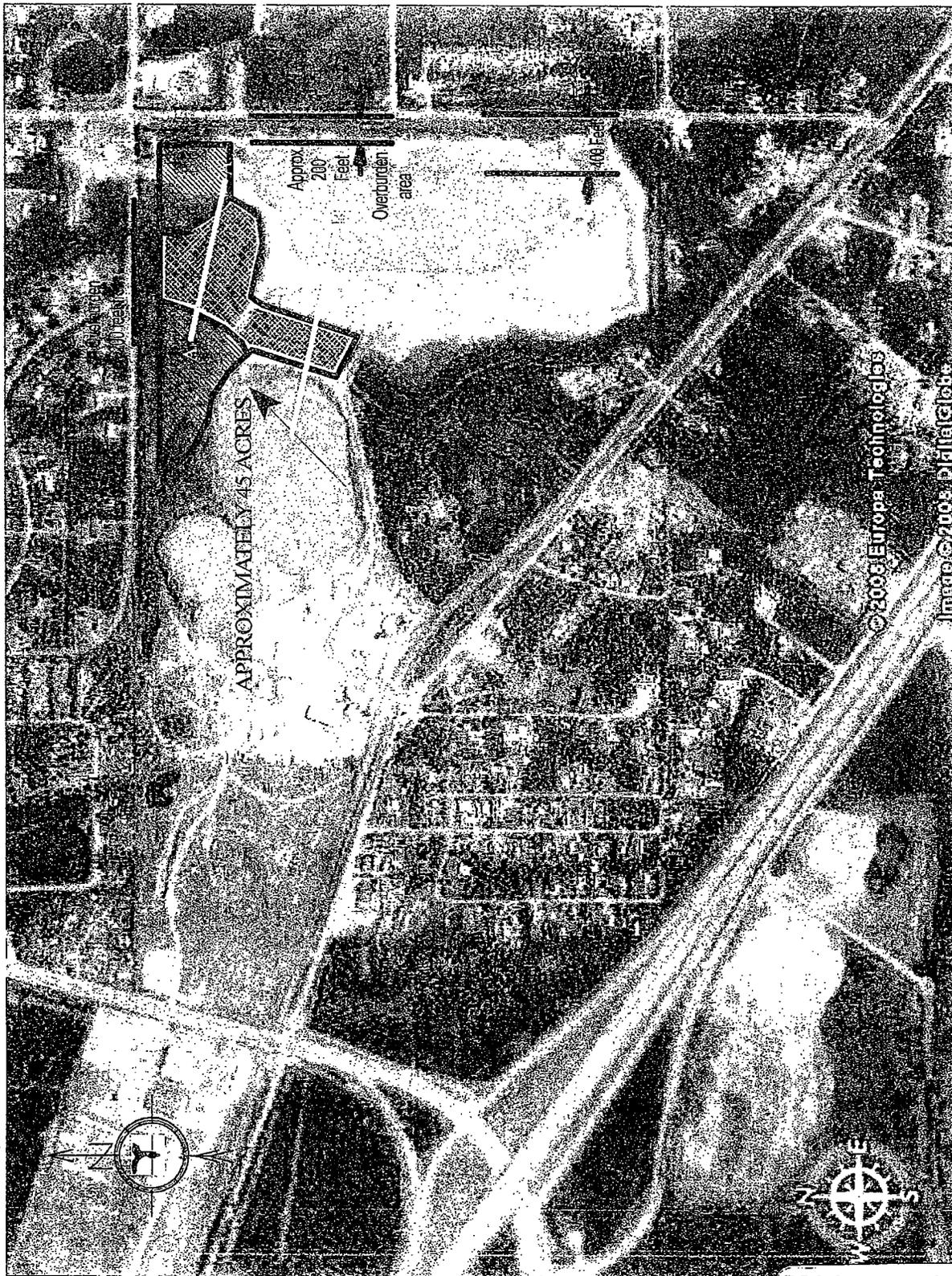
SCALE: 1 INCH = 4,593 FEET

POA-2003-1402-M2, Clear Creek
 HC Contractors, Inc.
 Project Location
 Drawings dated August 21, 2008
 Sheet 1 of 8



- Preliminary Jurisdictional Determination

POA-2003-1402-M2, Clear Creek
 HC Contractors, Inc.
 Preliminary Jurisdictional Determination
 Drawings dated August 21, 2008
 Sheet 2 of 8



WETLAND AREA

UPLAND AREA

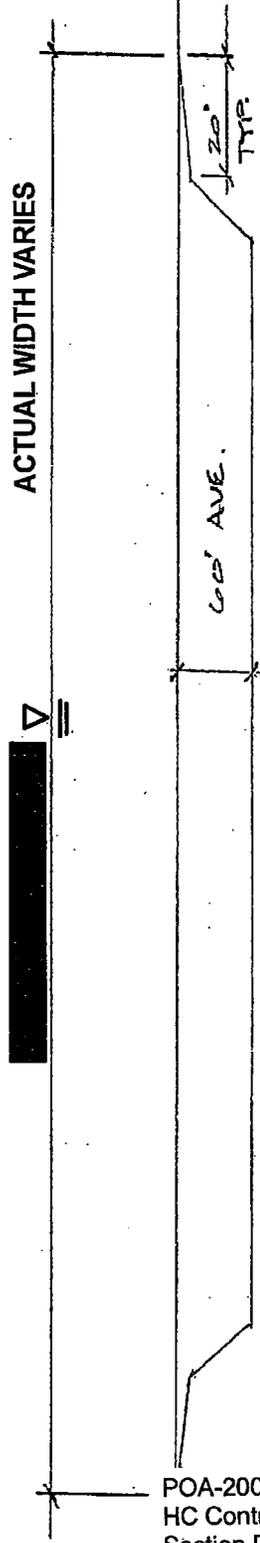
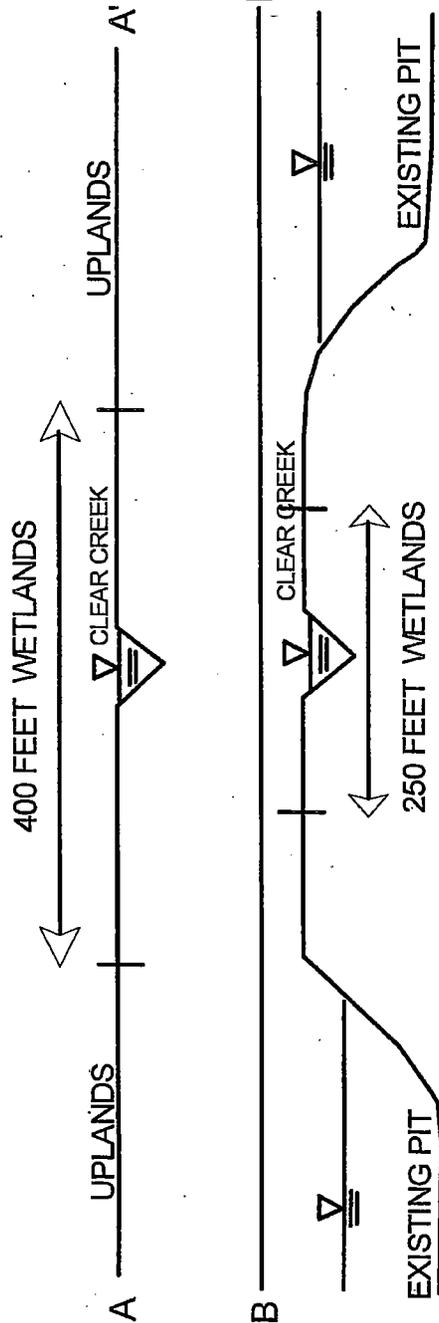
SITE PLAN

ERSON ENVIRONMENTAL CONSULTING, INC. HC CONTRACTORS, INC.

ST
K 99701

IO.: 1070-27 FILE: S/PROJECTS/1070/27 DATE: 2/26/08 SCALE: 1 INCH = 900 FEET

POA-2003-1402-M2, Clear Creek
 HC Contractors, Inc.
 Proposed new expansion
 Drawings dated August 21, 2008
 Sheet 4 of 8



PIT RECLAMATION TO INCLUDE AT 7:1 SHALLOW SHOULDER 20' TYP.

PIT RECLAMATION CROSS SECTION

POA-2003-1402-M2, Clear Creek
 HC Contractors, Inc.
 Section Drawings
 Drawings dated August 21, 2008
 Sheet 5 of 8

ETERSON ENVIRONMENTAL CONSULTING, INC. DET ALASKA 99701	HC CONTRACTORS, INC.	PIT PROFILE
P No: 1070-27	FILE: S:\Projects\1070\27\Figures\Pit Profile-SKF	DATE: 06/09/08
		SCALE: AS SHOWN



FINAL PIT
MARGIN



FINAL
SITE PLAN

HC CONTRACTORS, INC.

ERSON ENVIRONMENTAL CONSULTING, INC.
ET
VK-99701

SCALE: 1 INCH = 900 FEET

DATE: 2/26/08

NO: 1070-27 FILE: S/PROJECTS/1070/27

ATTACHMENT

AVOIDANCE

The following discussion is prefaced upon the fact that neither the U.S. Army Corps of Engineers nor the U.S. Fish and Wildlife Service has indicated that the existing gravel resource is unavailable using current technology and conventional methods. Given that the existing pit is in use and has been expanded, the *in-situ* gravel resources north of the existing pit must also be considered extractable under current economic conditions. Additionally, the customary and normal use of properties for gravel extraction in this area predates the passage of the Clean Water Act (as documented in a 1970 aerial photograph). A loss of this resource beneath the wetland area of Clear Creek has an estimated gross commercial value in excess of 5 million dollars.

A review of the existing extraction operation is instructive. At the existing operation, overburden has been stockpiled and spread along the Dennis Road side. The existing configuration provides for:

- Physical separation of the gravel pit from Dennis Road;
- Motorist safety in the event of a vehicle leaving Dennis Road;
- Operational safety by providing a single access point to the material source area, and;
- Economically attractive pit side storage of overburden required for reclamation.

It is H.C. Contractors intent to maintain this berm along Dennis Road for the expansion. Hence, the final pit margin (edge of open water) will start 100 feet from Dennis Road. Assuming a 3h:1v final pit slope starting at water edge, the bottom of a 30 foot deep pit will be approximately 90 feet from shore.

On the west side of the existing pit is an approximately 100 foot wide digging bench used for tramping equipment and stockpiling gravel. At the widest point of the meander, the waters edge would start approximately 100 feet from the existing vegetation buffer. Again assuming 3h:1v final pit slopes, the bottom of pit would be 290 feet from the existing meander bend.

Based upon aerial photography, the distance between the existing 100 foot vegetation buffer and the proposed overburden stockpile along Dennis Road renders the entire northern part of the property unusable for its intended purpose. As stated previously, avoidance of the Clear Creek meander loop is not a practical or reasonable alternative.

MINIMIZATION

The applicant recognizes the potential habitat value of the remnant portion of the Clear Creek distributary and U.S. Fish and Wildlife Service's concerns. As proposed in the original permit application, the applicant desires to maintain the residual hydrological integrity of Clear Creek. To that end, the applicant has proposed maintaining the hydrologic integrity of Clear Creek by insuring proper inlets and outlets to the undisturbed channel sections. Additionally, the applicant had proposed pit reclamation

that will result in the creation of near shore habitat, points and coves along the pit margins along the final extraction. Since Clear Creek's main hydrologic function is to provide treatment and storage of runoff from adjacent areas, the proposed project will dramatically expand the storage and treatment capabilities of the Clear Creek system over those that currently exist.

Mitigation.

At this time the applicant does not envision that mitigation, compensatory or in kind, will be required because:

1. The proposed pit expansion maximizes the resource extraction potential of existing facilities;
2. The increase in surface area and creation of treatment capacity (pond) will result in definable water quality improvement and increased stormwater storage capacity; and
3. The loss of approximately 500 feet of existing channel habitat will be offset by reclamation and the creation of near shore habitat.

CONCLUSION

The impacts to the meander bend in Clear Creek are unavoidable. Retaining the meander bend by regulatory fiat will strand in excess of 5 million dollars of otherwise extractable resource and necessitate relocating the material source area to another likely wetland area within the floodplain between the Chena and Tanana rivers. Minimization efforts have been described and would result in this stretch of Clear Creek retaining its hydrologic and wildlife values.