



US Army Corps  
of Engineers  
Alaska District

# Public Notice of Application for Permit

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

**PUBLIC NOTICE DATE:** 22 September 2008

**EXPIRATION DATE:** 22 October 2008

**REFERENCE NUMBER:** POA-2004-8

**WATERWAY:** Kaktovik Lagoon

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 **Ms. Julie McKim** at (907) 753-2773, toll free from within Alaska at (800) 478-2712, by fax at (907) 753-5567, or by email at [julie.w.mckim@usace.army.mil](mailto:julie.w.mckim@usace.army.mil) if further information is desired concerning this notice.

**APPLICANT:** Native Village of Kaktovik, Post Office Box 130, Kaktovik, Alaska 99747; Contact: Fenton Rexford, (907) 640-2042

**AGENT:** WHPacific, 300 West 31<sup>st</sup> Avenue, Anchorage, Alaska 99503; Contact: Ms. Diana Rigg, (907) 339-6500

**LOCATION:** The project site is located within Section 19, T. 9 N., R. 34 E., Umiat Meridian; USGS Quad Map Barter Island A-5; Latitude 70.1234° N., Longitude 143.6029° W.; KIC Shareholders Homesite Subdivision; in Kaktovik, Alaska.

**PURPOSE:** The applicant's stated purpose is to provide access to a new location of a subdivision for the expansion of the community.

**PROPOSED WORK:** The applicant proposes to place 29,265 cubic yards of gravel fill material in up to 7.6 acres of wetlands for the construction of 1.69 miles of subdivision access roads. The roads would be 37-feet at the bottom and 22-feet wide at the top, consisting of two, 11-foot travel lanes. The fill would be placed over geotextile fabric and would have a 2-inch insulation board within the subbase. The side slopes of the roads would be 2.5:1. All work would be performed in accordance with the enclosed plan (sheets 1-6), dated September 2008.

**ADDITIONAL INFORMATION:** Per Special Public Notice 2005-08, the applicant has proposed to use the Alternative 2 process.

The following information was provided:

- Maximum development would be 121 homes, 1 per lot
- The typical site plan would be a house on piles (see Figure 4) with a parking area
- The approximate amount of fill that would be required for the parking area would be 180 cy of fill into 0.0388 acres of wetlands
- Full build out of the subdivision would be about 21,780 cy of fill in approximately 4.7 acres of wetlands
- Garages that would be constructed would be constructed on piles
- Water and sewer connections (when developed) would be in trenches or on piles
- There would be no fill for yards
- Figure 6 shows the locations of the culverts and drainage plan
- All material and equipment would be staged on previously developed property
- Individual lot owners would have to apply for their own permits for lot development

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:

- As the entire area of Kaktovik is wetland or other waters of the United States, the applicant cannot avoid impacts to waters of the United States.
- The applicant has minimized impacts to waters of the United States by including polystyrene foam within the cross-section of and geotextile underneath the proposed roads to increase insulation and decrease the amount of fill required.
- The lane width was proposed at the minimum necessary (11 feet each lane) and side slopes are designed to ensure optimal stability and the least amount of impact.
- Culverts have been placed in appropriate locations to ensure the natural hydrology of the area is maintained.

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.

COASTAL ZONE MANAGEMENT ACT CERTIFICATION: Section 307(c)(3) of the Coastal Zone, Management Act of 1972, as amended by 16 U.S.C. 1456(c)(3), requires the applicant to certify the described activity affecting land or water uses in the Coastal Zone complies with the Alaska Coastal Management Program. A permit will not be issued until the Division of Coastal and Ocean Management, Department of Natural Resources has concurred with the applicant's certification.

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 listed or eligible properties in the vicinity of the worksite. Consultation of the AHRS constitutes the extent of cultural resource investigations by the District Commander at this time, and he is otherwise unaware of the presence of such resources. 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.

ENDANGERED SPECIES: The project area is within the known or historic range of the spectacled eider (*Somateria fischeri*), Steller's eider (*Polysticta stelleri*), and polar bear (*Ursus maritimus*).

Preliminarily, the described activity may 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, Notice of Application for Certification of Consistency with the Alaska Coastal Management Program, 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

DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF COASTAL AND OCEAN MANAGEMENT

DIVISION OF COASTAL AND OCEAN MANAGEMENT  
550 WEST 7<sup>TH</sup> AVENUE, SUITE 705  
ANCHORAGE, ALASKA 99501-3559  
PHONE: (907) 269-7470/FAX: (907) 269-3981

**NOTICE OF APPLICATION  
FOR  
CERTIFICATION OF CONSISTENCY WITH THE  
ALASKA COASTAL MANAGEMENT PROGRAM**

Notice is hereby given that a request is being filed with the Division of Coastal and Ocean Management for a consistency determination, as provided in Section 307(c)(3) of the Coastal Zone Management Act of 1972, as amended [16 U.S.C. 1456(c)(3)], that the project described in the Corps of Engineers Public Notice No. **POA-2004-8, Kaktovik Lagoon**, will comply with the Alaska Coastal Management Program and that the project will be conducted in a manner consistent with that program.

This project is being reviewed for consistency with the Alaska Coastal Management Program. Written comments about the consistency of the project with the applicable ACMP statewide standards and district policies must be submitted to the Division of Coastal and Ocean Management (DCOM). For information about this consistency review, contact DCOM at the address or phone number above, or visit the ACMP web site at <http://www.alaskacoast.state.ak.us//Projects/projects.html>.

# 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  
410 WILLOUGHBY AVENUE  
JUNEAU, ALASKA 99801-1795  
PHONE: (907) 465-5321/FAX: (907) 465-5274

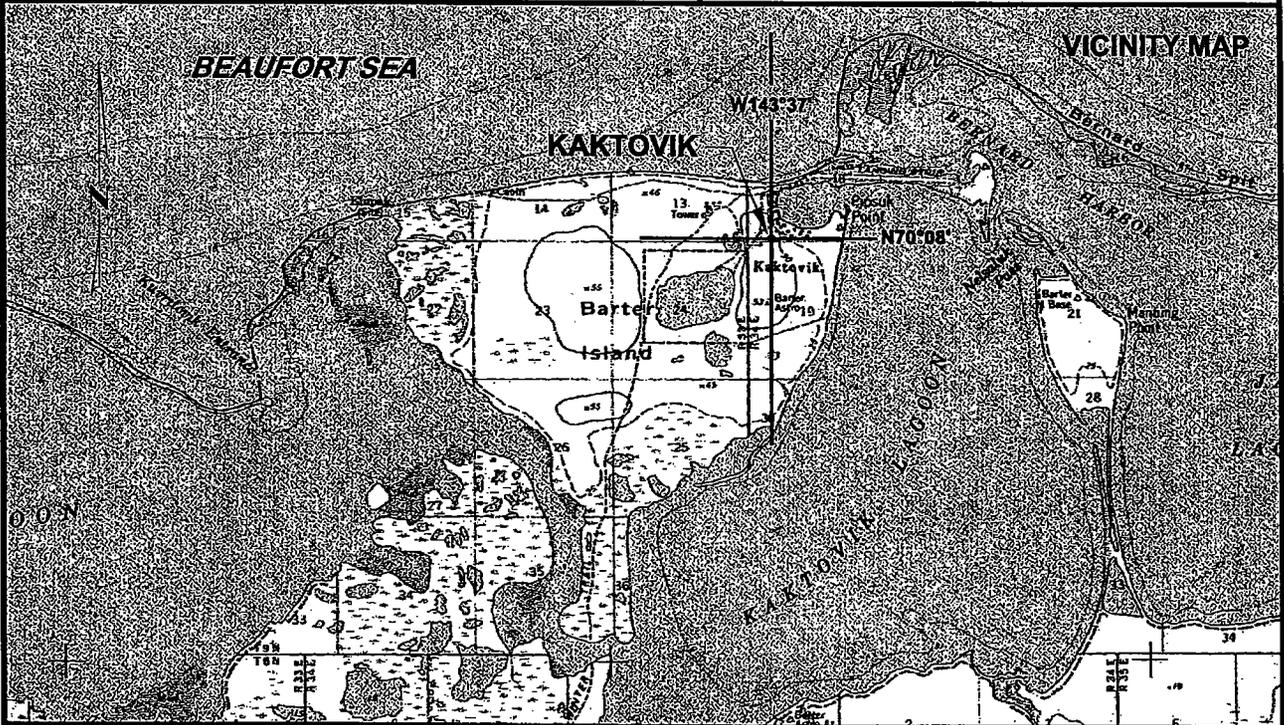
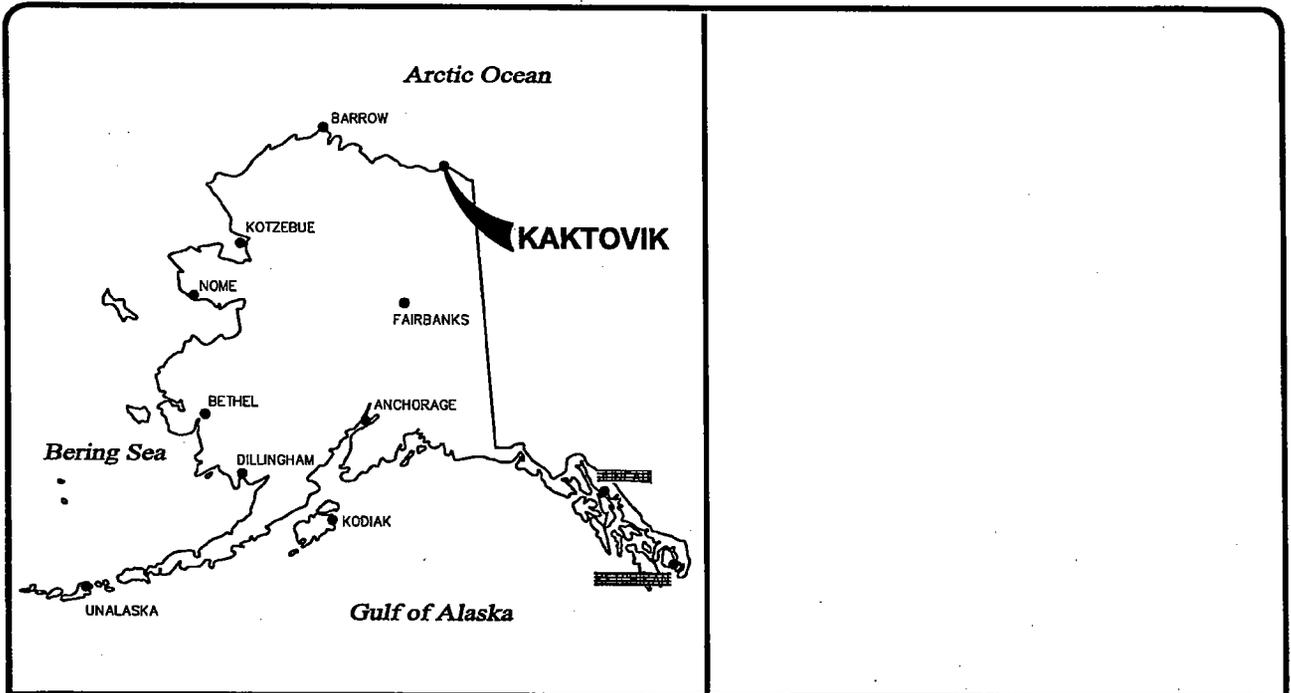
**NOTICE OF APPLICATION  
FOR  
STATE WATER QUALITY CERTIFICATION**

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 No. POA-2004-8, Kaktovik Lagoon, 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.

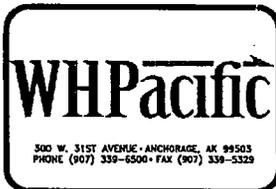
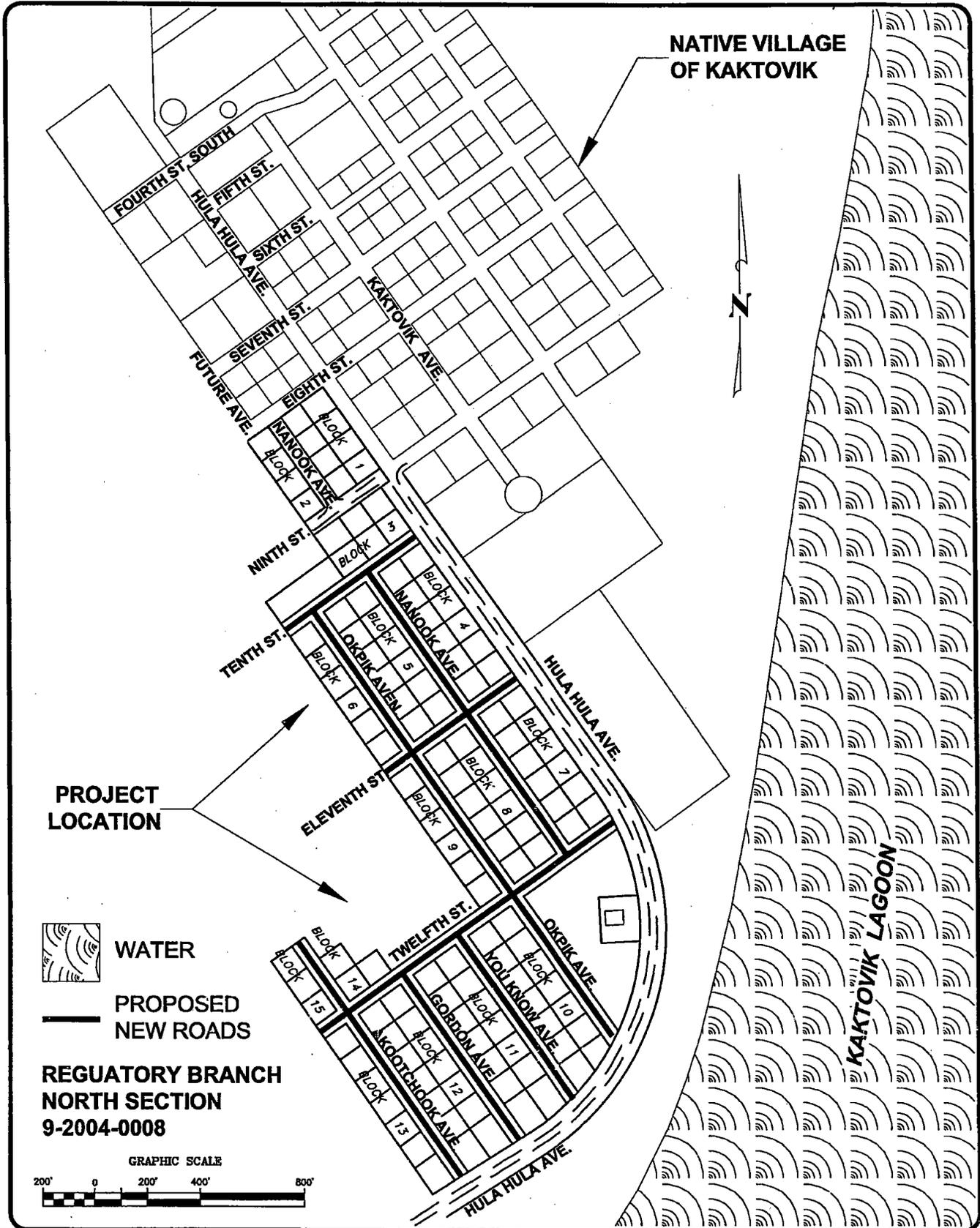


**REGUATORY BRANCH  
NORTH SECTION  
9-2004-0008**



**Location Map  
KIC Subdivision Roads  
Kaktovik, Alaska  
Native Village of Kaktovik**

Job No.:	4516
Date:	July 2008
Drawn By:	EJM
Checked By:	DKR
Figure No.	<b>1 of 6</b>

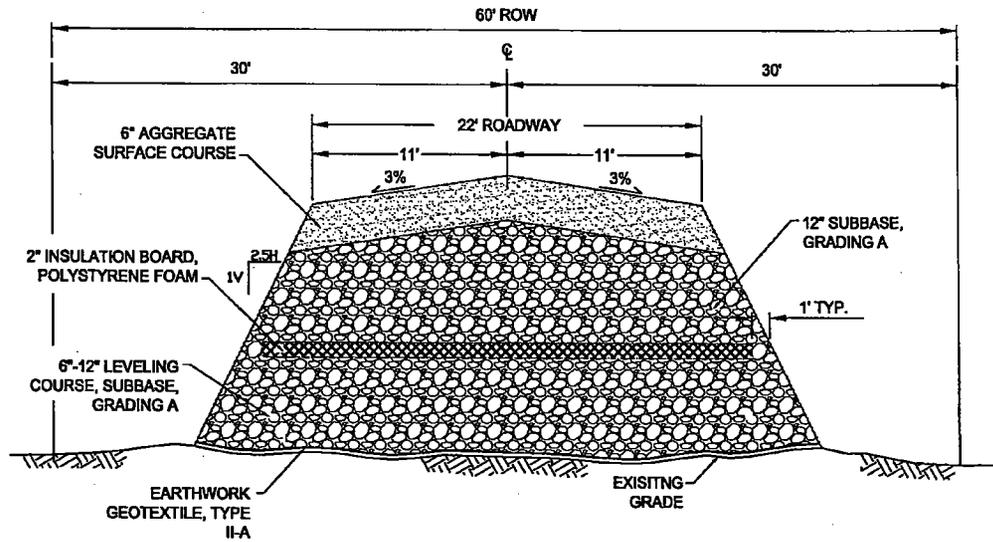


**Project Map**  
**KIC Subdivision Roads**

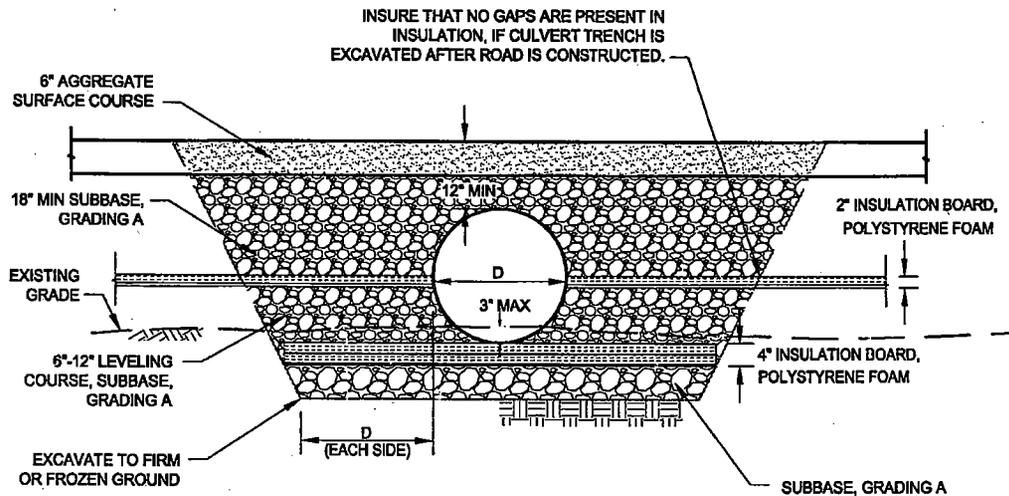
**Kaktovik, Alaska**  
**Native Village of Kaktovik**

Job No.:	4516
Date:	July 2008
Drawn By:	EJM
Checked By:	DKR
Figure No.	
<b>2 of 6</b>	

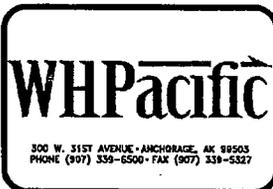
QUANTITIES	
AGGREGATE SURFACE COURSE	3,891 CY
SUBBASE, GRADING A	9,172 CY
LEVELING COURSE, GRADE A	16,716 CY
POLYSTYRENE FOAM	29,808 CY
GEOTEXTILE	35,712 SY
TOTAL ROAD LENGTH	8,945 FT = 1.69 MILES
ROAD WIDTH	22 FT



TYPICAL SECTION

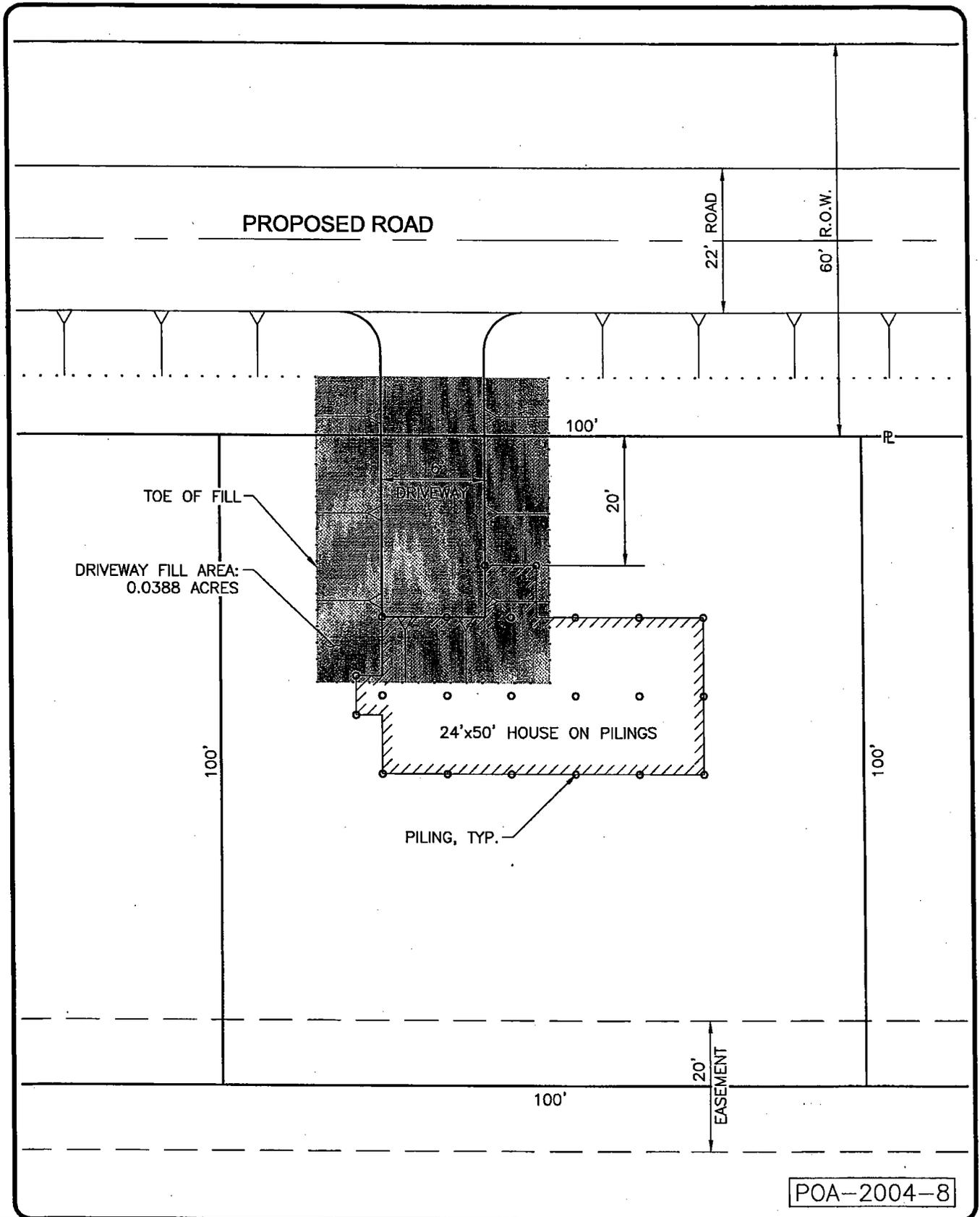


CULVERT SECTION

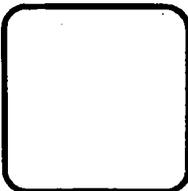


Typical Sections  
KIC Subdivision roads  
Kaktovik, Alaska  
Native Village of Kaktovik

Job No.: 4516  
Date: July 2008  
Drawn By: EJM  
Checked By: DKR  
Figure No.  
**3 of 6**



POA-2004-8



**WHPacific**  
300 W. 31ST AVENUE - ANCHORAGE, AK 99503  
PHONE (907) 339-8500 - FAX (907) 339-5327

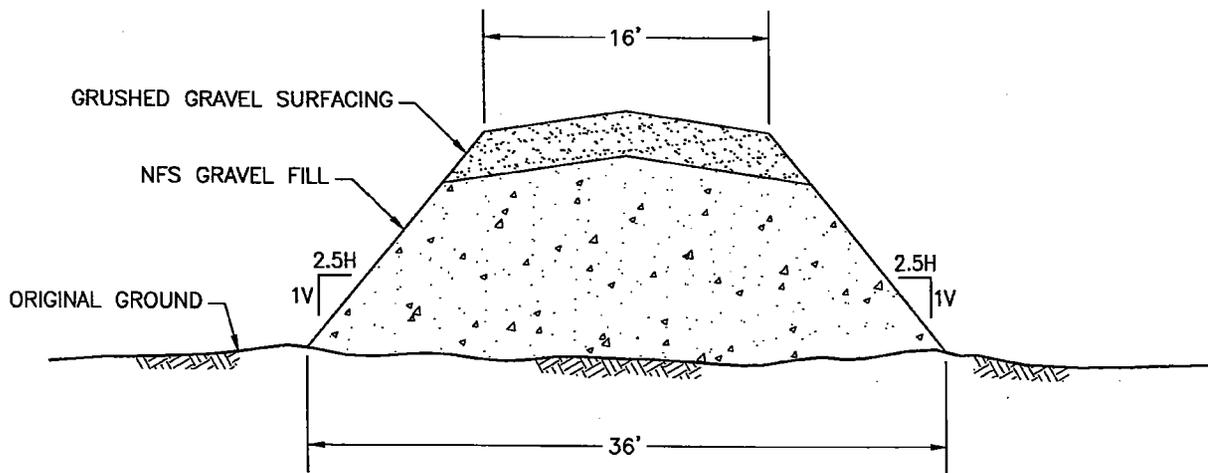
**Typical Lot Development  
KIC Subdivision Roads**

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**Native Village of Kaktovik  
Kaktovik, Alaska**

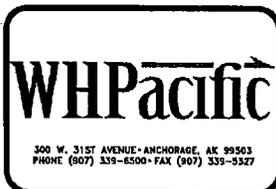
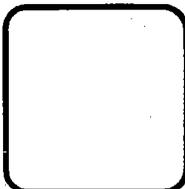
Job No.:	4516
Date:	7/21/08
Drawn By:	GKJ
Checked By:	DKR

Figure No.  
**4 of 6**



HORIZONTAL SCALE: 1" = 10'  
VERTICAL SCALE: 1" = 5"

POA-2004-8

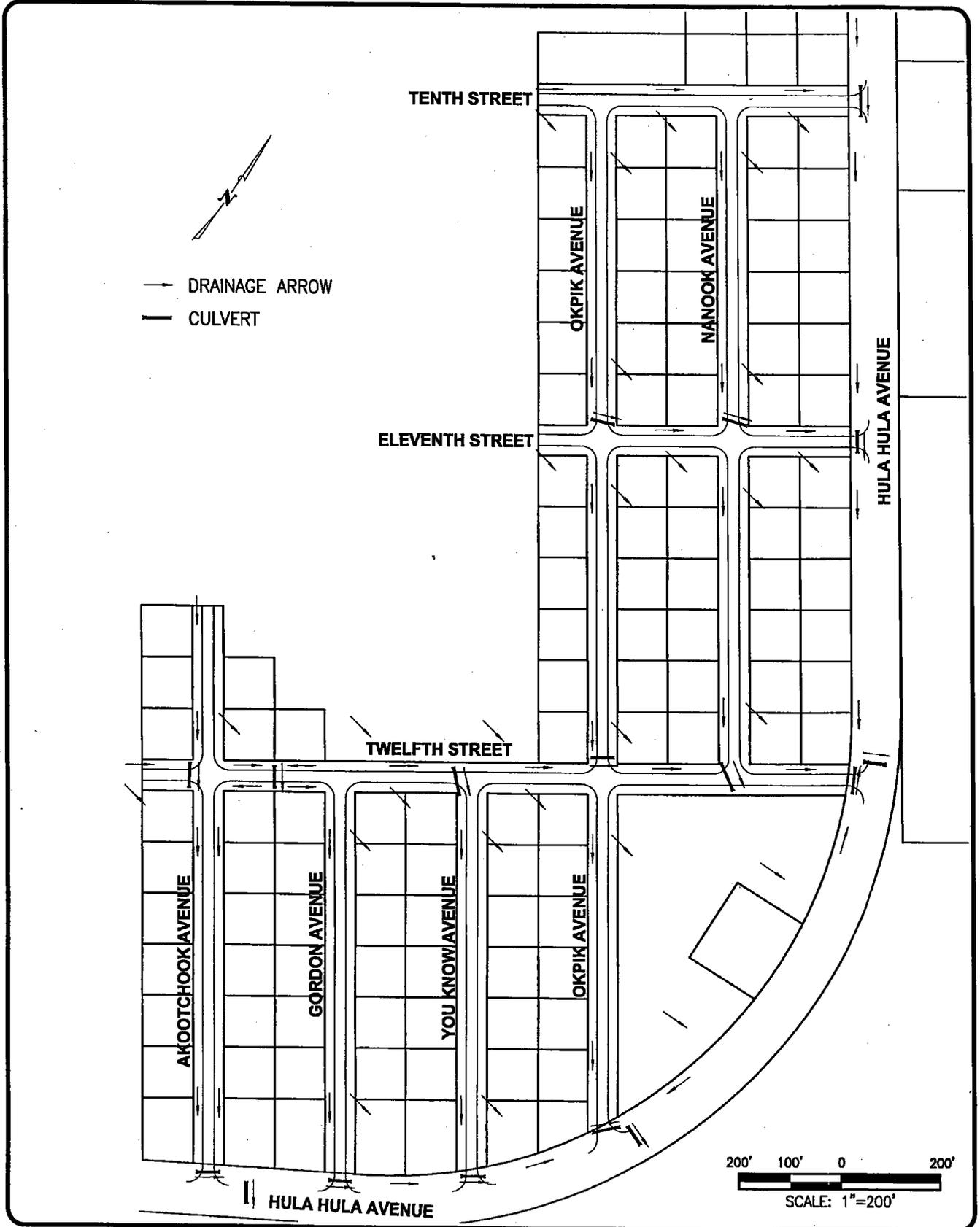


Typical Driveway Section  
KIC Subdivision Roads

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Native Village of Kaktovik  
Kaktovik, Alaska

Job No.:	4516
Date:	7/24/08
Drawn By:	GKJ
Checked By:	DKR
Figure No.	
<b>5 of 6</b>	



**WHPacific**

300 W. 31ST AVENUE - ANCHORAGE, AK 99503  
 PHONE (907) 338-8500 - FAX (907) 338-5327

**Drainage Plan**  
**Kaktovik Subdivision Roads**

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**Kaktovik, Alaska**  
**Native Village of Kaktovik**

Job No.:	4516
Date:	July 2008
Drawn By:	EJM
Checked By:	DAR
Figure No.	
<b>6</b>	