US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

Regulatory Branch (1145b)
Post Office Box 6898
Elmendorf AFB, Alaska 99506-0898

PUBLIC NOTICE DATE: 22 August 2005

EXPIRATION DATE: 21 September 2005

REFERENCE NUMBER: POA-2004-702-1

WATERWAY NUMBER: Jakolof Bay

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

APPLICANT: Mr. Jesus Trejo, Post Office Box 2491, Homer, Alaska 99603.

LOCATION: Section 20, T. 8 S., R. 13 W., Seward Meridian, Latitude 59.66° N., Longitude 151.52° W., in Jakolof Bay, north of Seldovia, Alaska.

WORK: Establish a 1.8 acre mariculture site by placing four plastic corner buoys anchored by railcar wheels. Install two 300′ longlines and suspend lantern nets at 5′ intervals.

PURPOSE: Develop a commercial aquatic farm to raise Pacific oysters.

ADDITIONAL INFORMATION: The State of Alaska issued permit #ADL 225879 for mariculture activities at this site. The applicant plans to expand operations within this site as the product matures during the next 3 to 5 years.

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 that 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 Office of Project Management and Permitting, Department of Natural Resources has concurred with the applicant's certification.

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.

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 Engineer 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.

TRIBAL CONSULTATION: The Alaska District fully supports tribal self-governance and government-to-government relations between the Federal government and Federally recognized Tribes. This notice invites participation by agencies, Tribes, and members of the public in the Federal decision-making process. In addition, 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 Engineer during the public comment period.

ENDANGERED SPECIES: Preliminarily, the described activity will not affect threatened or endangered species, or their critical habitat designated as endangered or threatened, 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. 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 proposed work is being evaluated for possible effects to Essential Fish Habitat (EFH) pursuant to the Magnuson Stevens Fishery Conservation and Management Act of 1996 (MSFCMA), 16 U.S.C. et seq and associated federal regulations found at 50 CFR 600 Subpart K. The Alaska District includes areas of EFH as Fishery Management Plans. We have reviewed the January 20, 1999, North Pacific Fishery Management Council's Environmental Assessment to locate EFH area as identified by the National Marine Fisheries Service (NMFS). We have determined that the described activity within the proposed area will not adversely affect EFH, including anadromous fish and federally managed fishery resources.

SPECIAL AREA DESIGNATION: The project is located within the Kachemak Bay State Critical Habitat Area.

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 decision whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That 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 Engineer 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.

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 Jack Hewitt at (907) 753-2712, toll free from within Alaska at (800) 478-2712, or by email at regpagemaster@poa02.usace.army.mil if further information is desired concerning this notice.

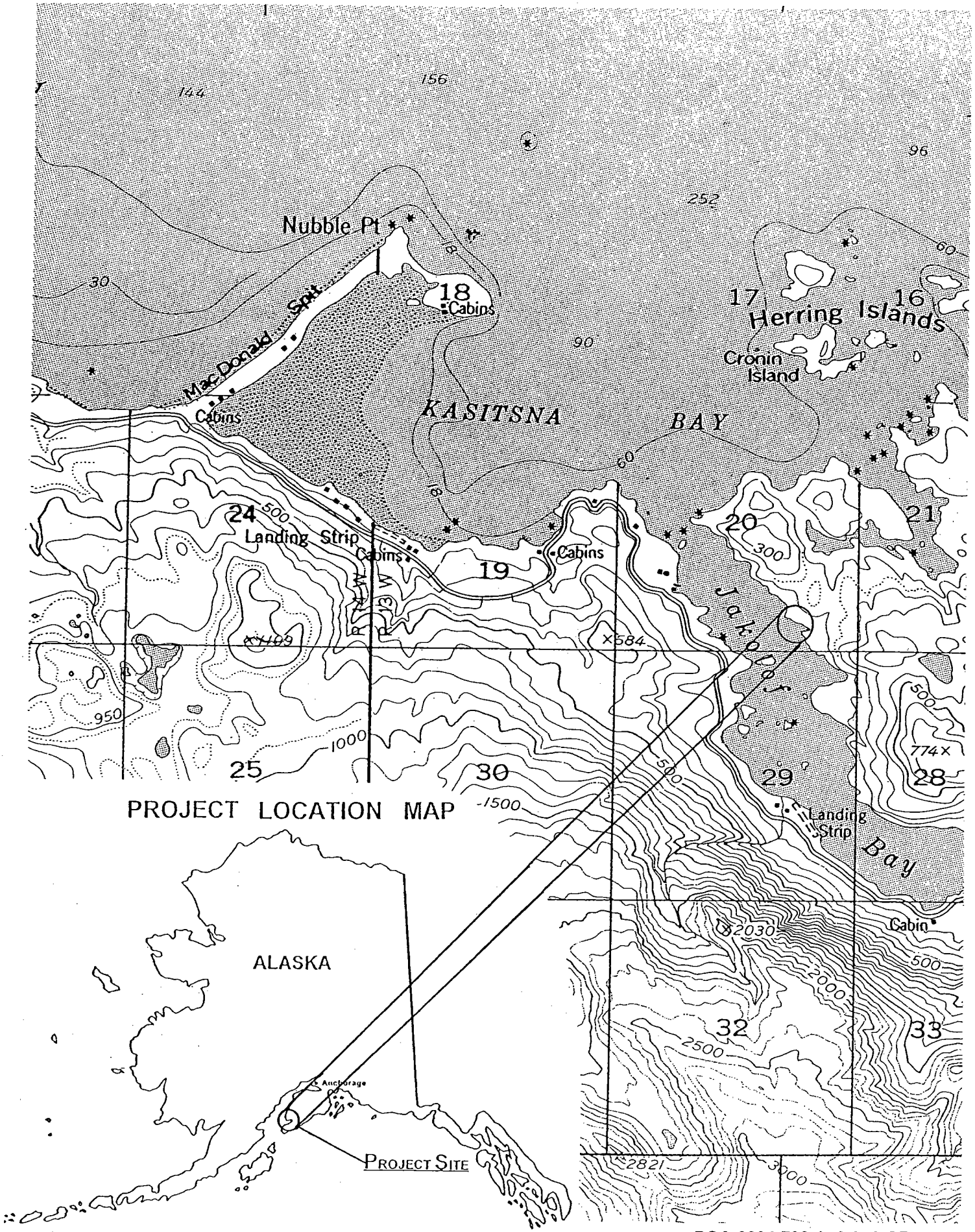
AUTHORITY: This permit will be issued or denied under the following authority:

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

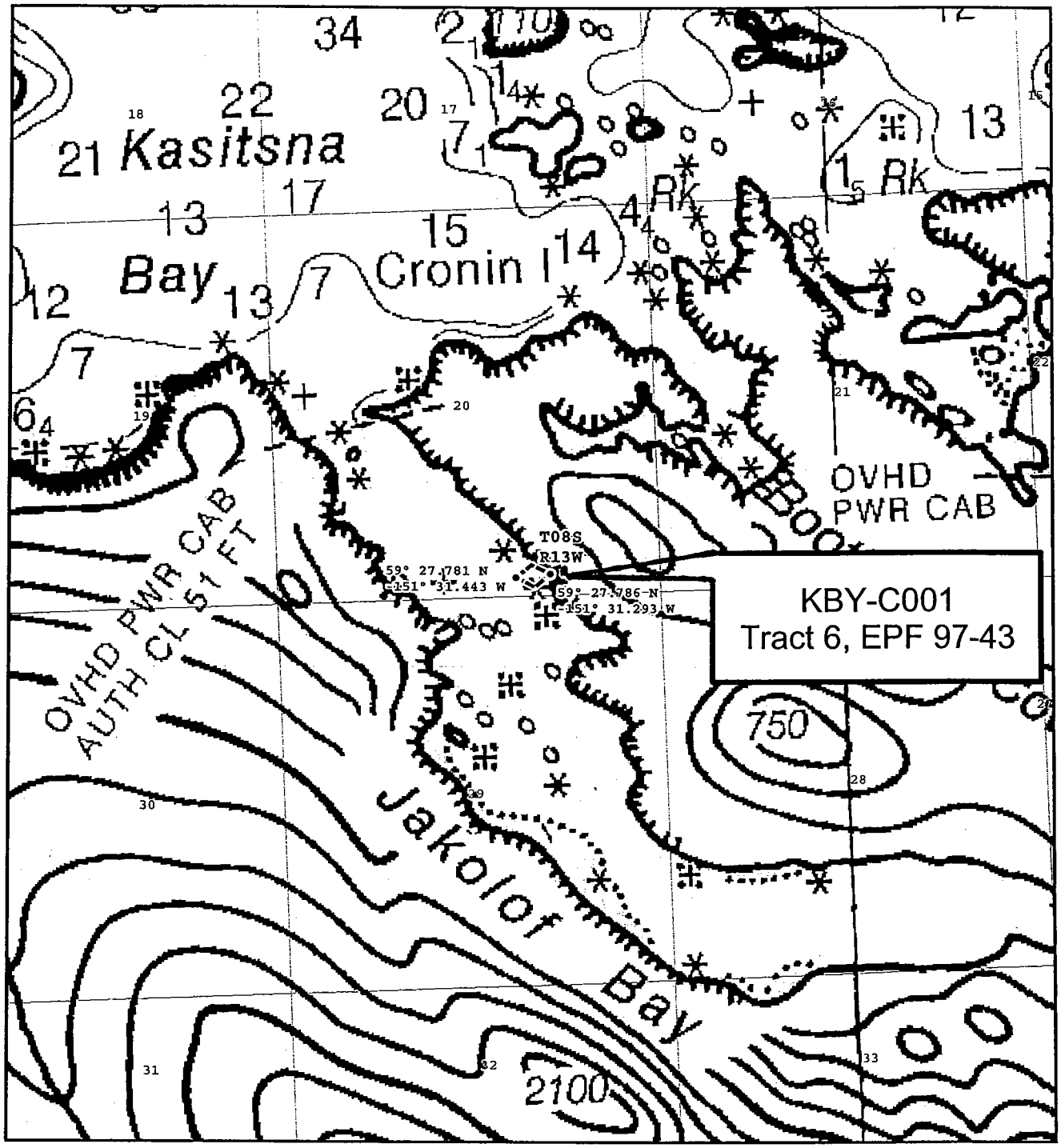
A plan, Notice of Application for Certification of Consistency with the Alaska Coastal Management Program, and Notice of Application for State Water Quality Certification are attached to this Public Notice.

District Engineer
U.S. Army, Corps of Engineers

Attachments



POA-2004-702-1, Jakolof Bay
Sheet 1 of 4, Dated: August 2005



LEGEND

- DESIGNATED AREA BOUNDARIES
- COORDINATE REFERENCE POINTS (NAD83) LAT LON
- PREAUTHORIZED SITE LOCATIONS
- ANADROMOUS FISH STREAMS
- EXISTING FARMSITES
- TOWNSHIP/RANGE SECTION

NOT FOR NAVIGATIONAL PURPOSES

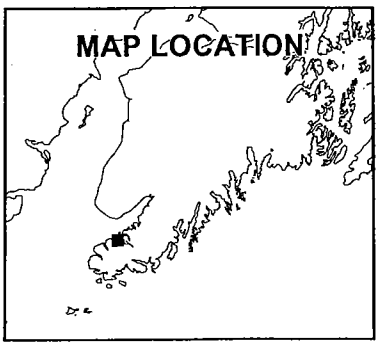
0.3 0.15 0 0.3
Miles

Alaska Albers Equal Area Conic, NAD83

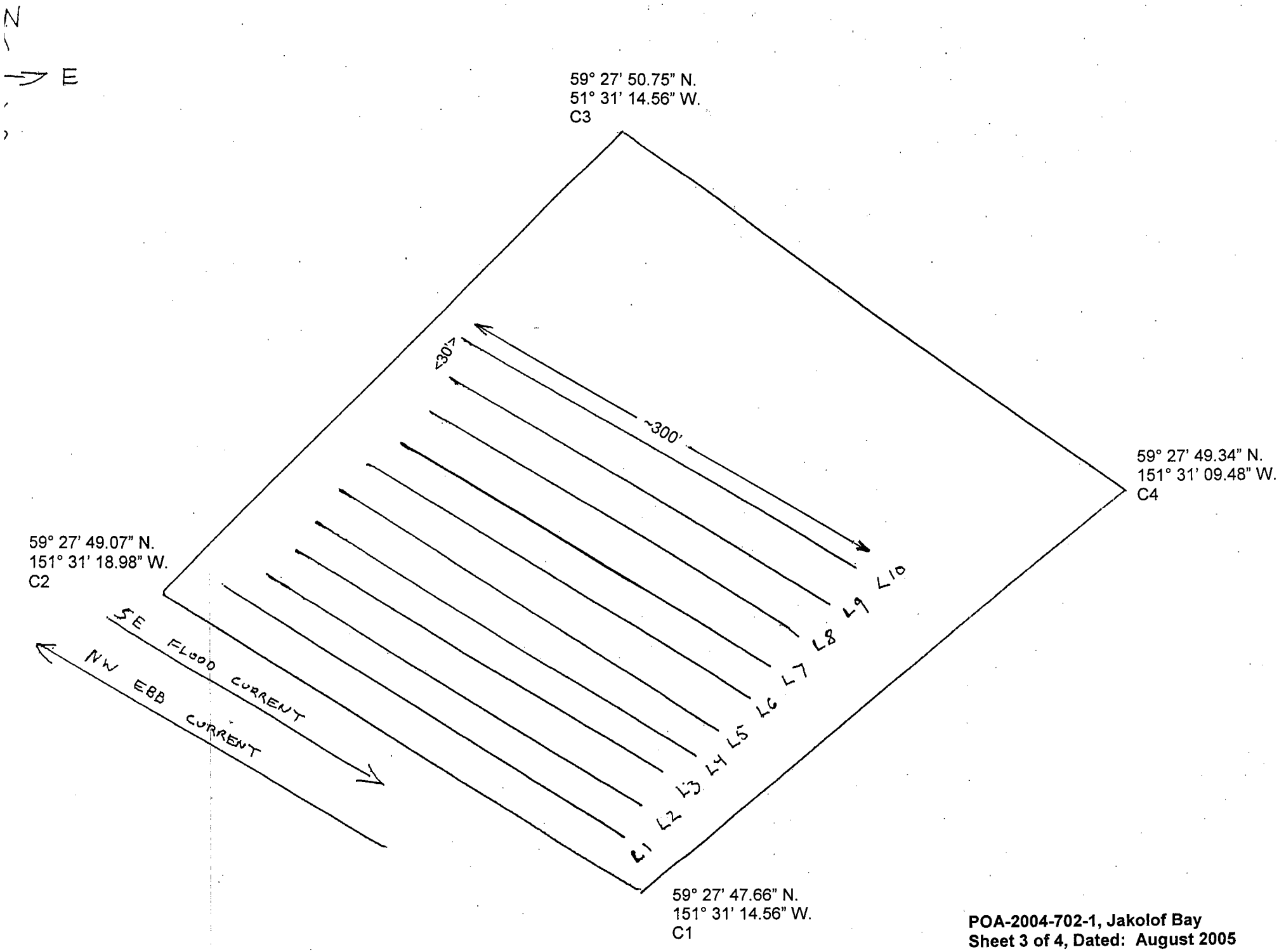
STATE OF ALASKA, DEPT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER
AQUATIC FARM DISPOSAL PROGRAM

JAKALOF BAY

REFERENCE NUMBER	FARM SITE BID NUMBER	CULTURE METHOD	MAXIMUM FARM SIZE
KBY-C001	ADL 225879	Suspended Culture	2 acres

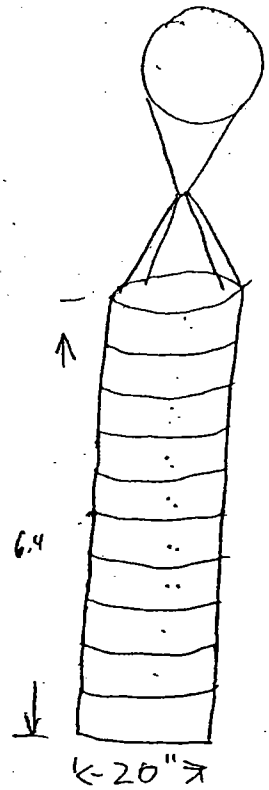


POA-2004-702-1, Jakolof Bay
Sheet 2 of 4, Dated: August 2005

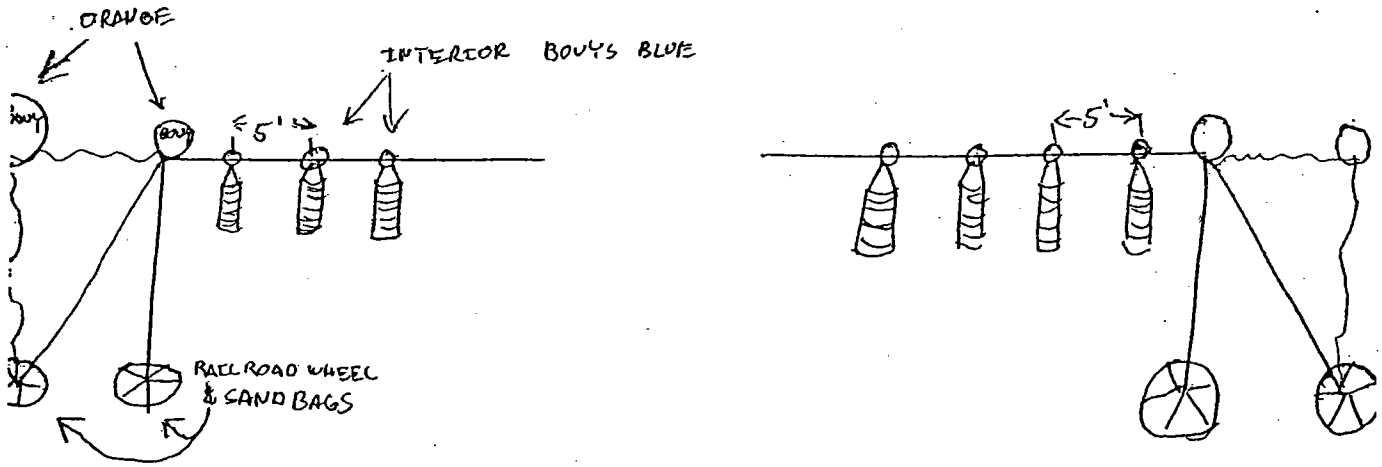


POA-2004-702-1, Jakolof Bay
Sheet 3 of 4, Dated: August 2005

CROSS SECTION



CROSS SECTIONAL VIEW OF LONGLINE FOR SUSPENDED LANTERN NETS



STATE OF ALASKA

TONY KNOWLES, GOVERNOR

OFFICE OF THE GOVERNOR

OFFICE OF MANAGEMENT AND BUDGET
DIVISION OF GOVERNMENTAL COORDINATION

SOUTHCENTRAL REGIONAL OFFICE
3601 "C" STREET, SUITE 370
ANCHORAGE, ALASKA 99503-5930
PH: (907) 561-6131/FAX: (907) 561-6134

STATE OF ALASKA
DIVISION OF GOVERNMENTAL COORDINATION
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 Governmental Coordination 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-2004-702-1, Jakolof Bay will comply with the Alaska Coastal Management Program and that the project will be conducted in a manner consistent with that program.

The Division of Governmental Coordination requests your comments, particularly on the proposed project's consistency with the affected local coastal district management program. For more information on the consistency review process, comment deadlines, and the affected coastal district status, or to submit written comments, please contact the Division of Governmental Coordination at 3601 C Street, Suite 370, Anchorage, AK 99503-5939, (907) 269-7470.

Attachment 2

POA-2004-702-1
Jakolof Bay

APPLICANT: Mr Jesus Trejo, Post Office Box 2491, Homer, Alaska 99603.

AGENT: NA

ADJACENT PROPERTY OWNERS: Mr. Mike Nakada PO Box 1838, Homer Alaska 99603-1838

Mr. Eric Olsen, PO Box 2713, Homer Alaska 99603-2713
Mr Jesus Trejo, Post Office Box 2491, Homer, Alaska 99603

MUNICIPAL OFFICIALS: City of Seldovia
Kenai Peninsula Borough

City Clerk, City of Seldovia, Drawer B, Seldovia, AK 99663-0149

Postmaster, Seldovia, AK 99663-9998

MAILING LISTS USED

List Used	Date of list used	# on list
Master list	(Dated 4 August 2003)	24
South Central list	(Dated 24 July 2003)	9