



US Army Corps  
of Engineers  
Alaska District

# Public Notice of Application for Permit

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

<b>PUBLIC NOTICE DATE:</b>	<b>February 16, 2021</b>
<b>EXPIRATION DATE:</b>	<b>March 18, 2021</b>
<b>REFERENCE NUMBER:</b>	<b>POA-2020-00406</b>
<b>WATERWAY:</b>	<b>Snake River</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 (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 or to [regpagemaster@usace.army.mil](mailto:regpagemaster@usace.army.mil). 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 Nicholas Lucore at (907) 753-5783, toll free from within Alaska at (800) 478-2712, by fax at (907) 753-5567, or by email at [Nicholas.Lucore@usace.army.mil](mailto:Nicholas.Lucore@usace.army.mil) if further information is desired concerning this notice.

**APPLICANT:** Ken Kerr; Post Office Box 1489; Nome, Alaska 99762

**AGENT:** Robert Murray; 1612 East 43<sup>rd</sup> Avenue; Eugene, Oregon 97405

**LOCATION:** The proposed project is located within Section 5 & 8, T. 11 S., R. 34 W., Kateel River Meridian; USGS Quad Map Nome C-2; Snake River Subdivision, Lot E & F; Plat 77-1; in Nome, Alaska.

**PURPOSE:** The applicant's stated purpose is to construct a residential housing pad and road access to the lot.

PROPOSED WORK: The applicant has proposed to discharge 2269 cubic yards (CY) of fill into 0.702-acres of palustrine wetlands for the construction of an 825-foot-long 25-foot-wide access road and a 100 by 100-foot housing pad. All work would be performed in accordance with the enclosed plan (sheets 1-3), dated February 12, 2021.

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: Due to the small area and location of Lot F it is not possible to avoid depositing fill within areas delineated as wetland or outside a 300-foot buffer along the Snake River
- b. Minimization: This project's disturbance has been reduced from the original proposal by reducing the length of the drive/airstrip from 950 feet to 825 feet (1,759 CY to 1,528 CY of fill) and the pad from 175 by 200 feet to 100 by 100 feet (2,593 CY to 741 CY of fill). All areas to be filled will be surveyed and staked out, and silt fence erected where necessary to avoid filling any wetlands outside the proposed drive and pad.
- c. Compensatory Mitigation: With the minimization measures and the small area to be filled no compensatory mitigation is proposed.

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 cultural resources in the permit area or within the vicinity of the permit area. The permit area has been determined to be the footprint of the proposed project which would occur only in waters of the U.S., including wetlands. Consultation of the AHRs constitutes the extent of cultural resource investigations by the Corps of Engineers (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: The project area is within the known or historic range of the Polar Bear (*Ursus maritimus*).

We have determined the described activity may affect the threatened Polar Bear. We will initiate the appropriate consultation procedures under section 7 of the Endangered Species Act with the U.S. Fish and Wildlife 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 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.

**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 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 authority:

Discharge dredged or fill material into waters of the U.S. – 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 are enclosed with this Public Notice.

District Commander  
U.S. Army, Corps of Engineers

Enclosure

Project Location Map



Pad Location  
on Lot F  
Lat 64.555750°  
Long -165.513286°

Sunrise  
Subdivision

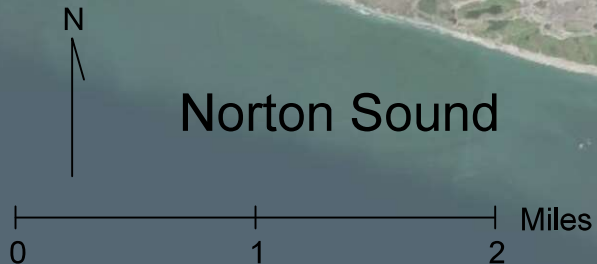
Snake River  
Subdivision

Dredge Tailings  
Gravel Source for Fill  
Lat 64.543368°  
Long -165.425768°

Nome Airport

City of  
Nome

Norton Sound



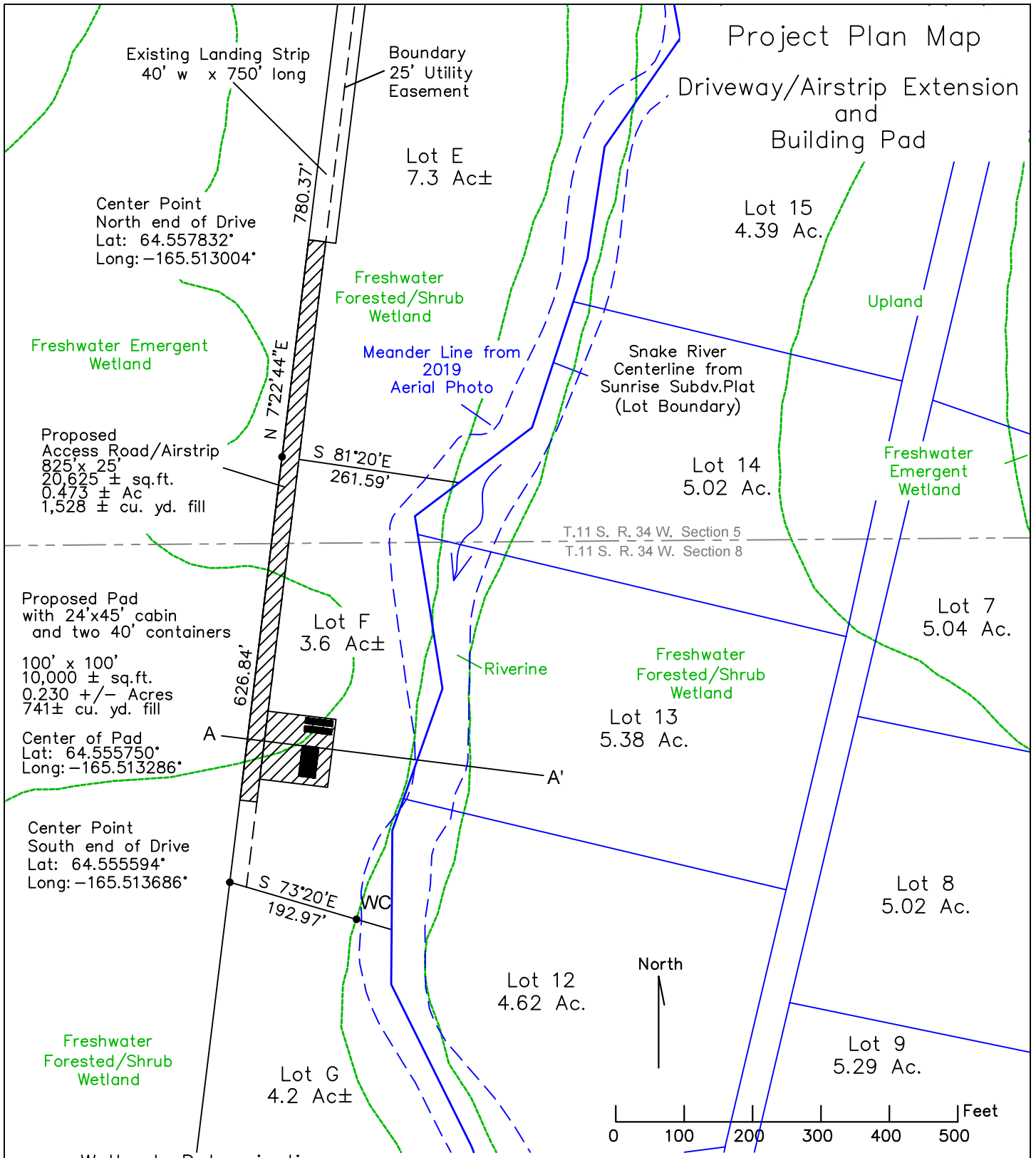
Lots E and F, Snake River Subdivision  
Just past MP 7 on Nome-Teller Hwy  
Northwest of Nome, AK

Applicant: Ken Kerr  
File Number: POA-2020-00406  
Waterway: Snake River  
Proposed Activity: Residential Fill  
SE 1/4 Sec. 5, NE 1/4 Sec. 8  
T.11 S., R. 34 W. Kateel River Meridian  
Lat: 64.555750° Long: -165.513286°  
Sheet 1 of 5 Date: 2021-01-14



# Project Plan Map

## Driveway/Airstrip Extension and Building Pad

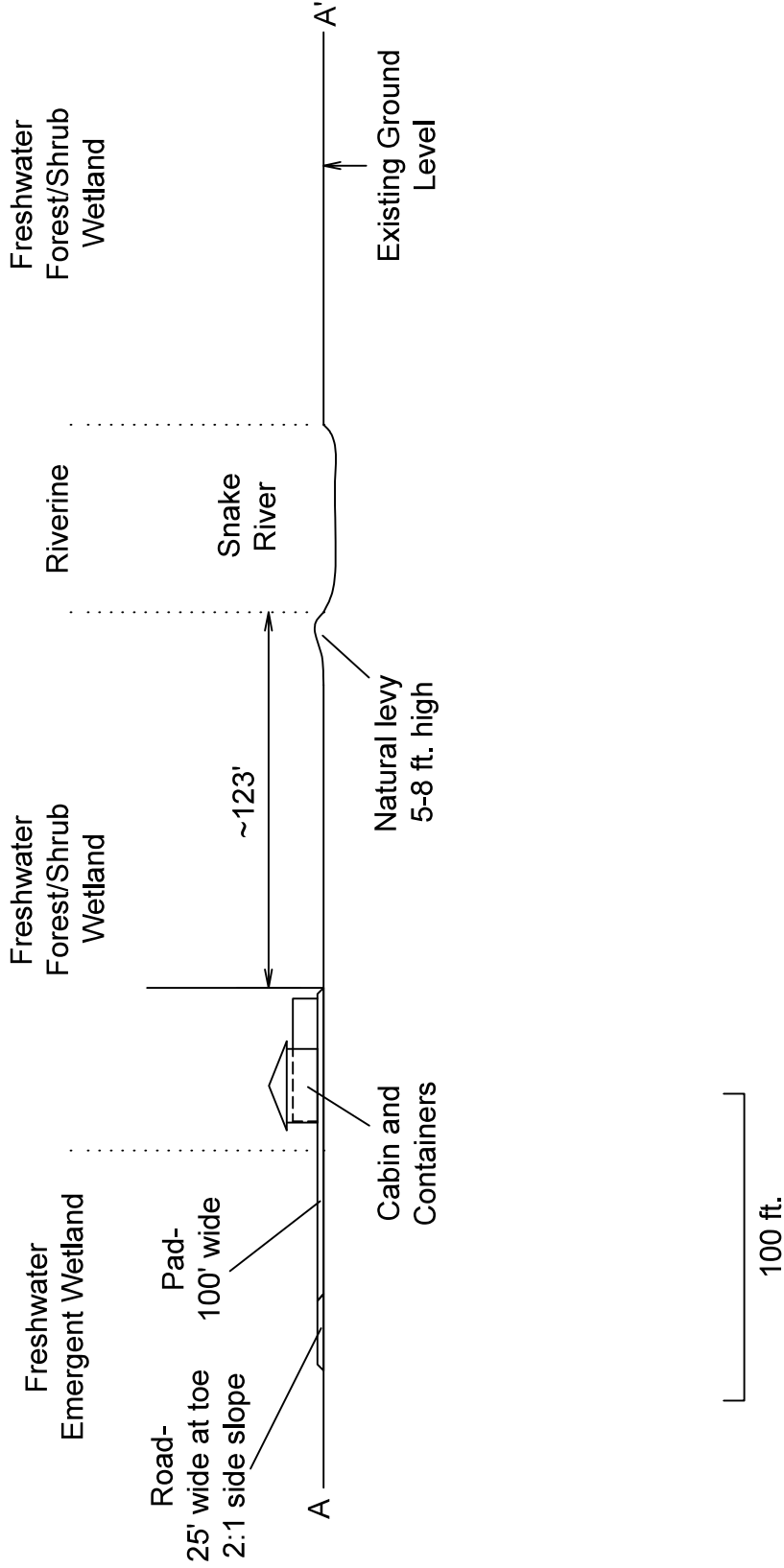


Wetlands Determination  
from 1979  
Fish & Wildlife Service Map

Lots E and F, Snake River Subdivision  
Just past MP 7 on Nome-Teller Hwy  
Northwest of Nome, AK

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Sheet 2 of 5 Date: 2021-01-14

# Cross Section A-A'



Lots E and F, Snake River Subdivision  
 Just past MP 7 on Nome-Teller Hwy  
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 Sheet 3 of 5 Date: 2021-01-14