



US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

Regulatory Division (1145)
CEPOA-RD
44669 Sterling Highway, Suite B
Soldotna, Alaska 99669-7915

PUBLIC NOTICE DATE:	November 16, 2017
EXPIRATION DATE:	December 18, 2017
REFERENCE NUMBER:	POA-1998-771-M3
WATERWAY:	RESURRECTION RIVER

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

Any comments regarding this Public Notice should be mailed to the address noted above. If you desire to submit your comments by email, you should send them to the following email address: cepoa-rd-kenai@usace.army.mil. All comments should include the Public Notice reference number listed above.

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 Katherine A. McCafferty, Project Manager, at (907) 753-2689, by fax at (907) 420-0813, or by email if further information is desired concerning this notice.

APPLICANT: Blaine Bardarson, Post Office Box 689, Seward, Alaska, 99664

AGENT: Matt Hemry, Shannon & Wilson, 5430 Fairbanks Street, Suite 3, Anchorage, Alaska, 99518

LOCATION: The project site is located within Section 26, T. 1 N., R. 1 W., Seward Meridian; USGS Quad Map AK-Seward- A-7; Latitude 60.1431° N., Longitude 149.4147° W.; Lots 9-11, 19-21, and 33; Seward, Alaska.

PURPOSE: The applicant's stated purpose is to construct additional space for existing storage operations at this location that includes boat storage, truck terminal, and ancillary support structures in a manner that limits adverse impacts to the local ecosystem, compensates for loss of wetland, and efficiently utilizes existing public infrastructure.

PROPOSED WORK: The applicant proposes to discharge 11,914 cubic yards of pit run gravel into 1.53 acres of wetlands, and in addition, to retain 1,300 cubic yards of gravel fill that was discharged into 0.2-acres of wetlands without previous authorization.

Of the total proposed new fill area, 1.2 acres would be used for storage, as a truck terminal, and for staging of freight from nearby docks prior to placing cargo on delivery trucks; 0.24-acres of proposed new fill and the proposed retention of 0.2-acres of existing unauthorized fill on Lot 33 would be used for overflow boat storage, and 0.09-acres of wetlands would be filled in order to construct access to Nash Road.

Site preparation activities would commence upon receipt of DA authorization, if issued. No mechanical clearing is proposed. Fill activities would coincide with the availability of fill from publicly funded projects in the Seward area. Potential sources of fill would include dredged material from the Resurrection River Flood Mitigation Project, area Alaska Department of Transportation and Public Facilities road improvement projects, or a local gravel pit. Fill would be visually inspected for potential contaminants prior to deposit and fill with a visual sheen and/or odor would not be used.

All work would be performed in accordance with the enclosed plan (sheets 1 and 4), dated October 2017, and (sheets 2 and 3) dated November 2017.

ADDITIONAL INFORMATION:

Other applications or permits which may be required for work described in this Notice:

- Multi-Agency Permit Application to the Kenai River Center
- Floodplain Development Permit
- Construction General Permit

Alternatives:

The applicant evaluated three other sites for potential to have the preferred location, size, amount of wetlands impacts, cost, configuration, accessibility and visibility. These sites are located at 511 Nash Road (site 2), at 1121 Nash Road (site 3), and at 2405 Seward Highway (site 4). The applicant stated that the first two sites do not have the required accessibility, visibility or location. The applicant stated that the last site is too small. The applicant asserts that the three sites have higher quality wetlands on them as compared to the applicant's proposed site (site 1). All the sites were described by the applicant as cost prohibitive to acquire. The applicant asserts that there are no alternatives that are suitable in terms of location for the proposed project.

Previous Permit Actions:

A Nationwide Permit (NWP) 18, Minor Discharges, was verified in a letter dated, June 22, 1999. The NWP authorized the discharge of fill into 0.1-acres of wetlands for the purpose of creating an area for parking and a tack shed.

An individual permit, file number POA-1998-771, Resurrection River, was issued to Mr. Bardarson on May 15, 2003. The permit authorized the discharge of 75,000 cubic yards of pit run gravel into 4.5 acres of wetlands in order to create a boat storage facility.

The individual permit has been modified two times. Modification 1, issued May 2, 2008, extended the time to complete construction to May 31, 2009; amended Special Condition 5 to require the installation of temporary sediment and erosion control measures until such time as a permanent drainage is constructed; and amended Special Condition 7 to extend the time to complete the construction of the additional open water habitat to December 31, 2008. In a letter dated, January 8, 2010, the permit was modified to remove Special Condition 7.

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: The applicant has modified a previous proposal to reduce proposed fill from 2.6 acres to 1.73 acres of fill and to remove the proposed permanent retail structure. The access road has been shifted further west to avoid the placement of fill in the flowing stream channel. No fill is proposed in any flowing stream channel.

b. Minimization:

- The project limits will be identified in the field by using staking and or flagging to prevent the filling of unpermitted wetlands and flowing stream channels.
- Prior to filling wetlands, any pools or channels will be inspected for fish presence by sweeping a net through the pool three times to confirm the absence of fish. If fish are observed, they will be collected and relocated using agency approved methods.
- The equipment used to fill the wetlands will operate, to the extent possible, from upland areas to minimize the disturbance to the adjacent stream and wetlands that will be retained.
- Silt fences will be installed parallel to and within 10 feet of the toe of the fill to minimize sediment and turbidity. The silt fences will be installed properly and maintained during the construction period.
- Construction activities within wetlands will not be accomplished during the bird breeding season of April 15 to July 15, when bird eggs and hatchlings are likely to be present, except in those area that have been previously cleared or filled.
- Equipment will not be stored, maintained, repaired, and fueled in the waters of the U.S. and will remain inside the project area.

c. Compensatory Mitigation: The applicant proposes preservation of wetlands, within the lower Salmon Creek watershed, on Kenai Peninsula Borough parcel number 145-022-18, to offset the proposed discharge of fill into waters of the U.S.. Compensatory mitigation has been proposed because all unfilled waters of the U.S. that remain on the site were designated for preservation to offset the loss of wetlands resulting from the authorized discharges of fill in the 2003 permit. The applicant proposes additional compensatory mitigation to replace previously preserved wetlands under the 2003 permit. The amount of preservation will be based on the need to offset impacts to the 1.53 acres of proposed new fill, the 0.2-acres of unauthorized fill, and to offset the loss of 1.64 acres of previously preserved wetlands. The applicant has assessed the quality of the wetlands to be impacted by the proposed project (site 1) as moderate in quality, as shown in the table below.

COMPARISON OF WETLAND FUNCTIONS IN PROPOSED AND ALTERNATE SITES

Wetland Function	Proposed Site	Alternate Sites		
	Site 1	Site 2	Site 3	Site 4
Flood Flow Alteration (Storage and Desynchronization)	Moderate	Moderate	Moderate	High
Sediment Removal	Moderate	High	Moderate	Moderate
Nutrient and Toxicant Removal (important with high adjacent land use/industrial areas)	High	High	High	High
Erosion Control and Shoreline Stabilization (If associated with watercourse or shoreline)	Low	High	High	Not applicable
Production of Organic Matter and its Export	Moderate/High	High	High	Moderate
General Habitat Suitability	Moderate	Moderate	Moderate	Moderate
General Fish Habitat (must be associated with a fish-bearing water)	High	High	High	Not applicable
Native Plant Richness	Moderate	High	High	High
Educational or Scientific Value	Low	Low	Low	Low
Uniqueness and Heritage	Low	Moderate	Moderate	Low
Average Score (Low = 1, Moderate = 2, High = 3)	1.95	2.5	2.4	2.13

Note: Cells shaded green indicate the wetland function of the alternate site is rated higher than the proposed site.

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.

We have defined our scope of analysis under Appendix C of 33 CFR 325 (permit area) to be the 1.53 acres of proposed fill and the 0.2-acres of unauthorized fill as the entire footprint of the fill lies within waters of the U.S..

There are cultural resources in the vicinity of the permit area. Site SEW-00029, the Alaska Railroad, is not within the permit area. Another agency has nominated the Railroad for the National Register of Historic Places (NRHP), but the alignment has not been listed on the NRHP. Site SEW-01557, the Seward Highway, is not within the permit area, and no determination of eligibility has been made. Site SEW-00007, named the Russian Trail, is listed as being in or around the Seward Airport, however recent survey efforts around the airport have failed to locate any remains of the trail. No determination of eligibility has been made for the Russian Trail. Site SEW-00148, the Seward-Moose Pass Trail, has been nominated for listing on the NRHP. The location of this trail is described as arbitrary, and also consists of a number of primary and connecting trails. 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. Areas abutting the permit area have been disturbed by road construction,

utility construction, and other fill activities. The permit area consists entirely of wetlands which, prior to clearing in 2003, contained mature trees. It is more likely that the trails were located where there are existing road or railroad alignments rather than being located in the permit area. 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.

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).

The project area is within the known range of the coho salmon (*Oncorhynchus kisutch*). In a Memorandum dated November 18, 2016, Alaska Department of Fish and Game reported the results of a fish trapping effort in the wetlands and stream channels adjacent to the proposed project. As a result, additional lengths of unnamed streams on Lots 20, 21, and 33 were added to the Catalog of Waters Important for the Spawning, Rearing or Migration of Anadromous Fishes (AWC-No. 231-30-10080-2010-3011). Coho salmon were found in both the stream channels and in still waters off the main channel. In addition, the memorandum stated that the stream and wetlands are a productive area for juvenile coho salmon and the wetland adjacent to the Alaska Railroad tracks, Old Nash Road, and Nash Road serves as the main water source creating the anadromous stream.

Freshwater Essential Fish Habitat for the salmon fisheries in Alaska includes all streams, lakes, ponds, wetlands, and other water bodies currently or historically accessible to salmon in the state. The applicant proposes to permanently fill 1.53 acres of wetlands and retain unauthorized fill in 0.2-acres of wetlands. All wetlands impacted by fill would no longer provide baseline flows to the nearby stream, nor rearing habitat for coho salmon.

The application states that no fill would be placed in any flowing water. In addition, the application states that a cataloged stream may be located on Lot 33, as well as on lots 20 and 21. The minimization measures state that pools or channels will be swept for fish and fish would be relocated prior to placing fill. The applicant is proposing to preserve wetland habitat off-site to offset the proposed loss of 1.73 acres of wetlands.

We have determined the described activity may adversely affect EFH in the project area for coho salmon.

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 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
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

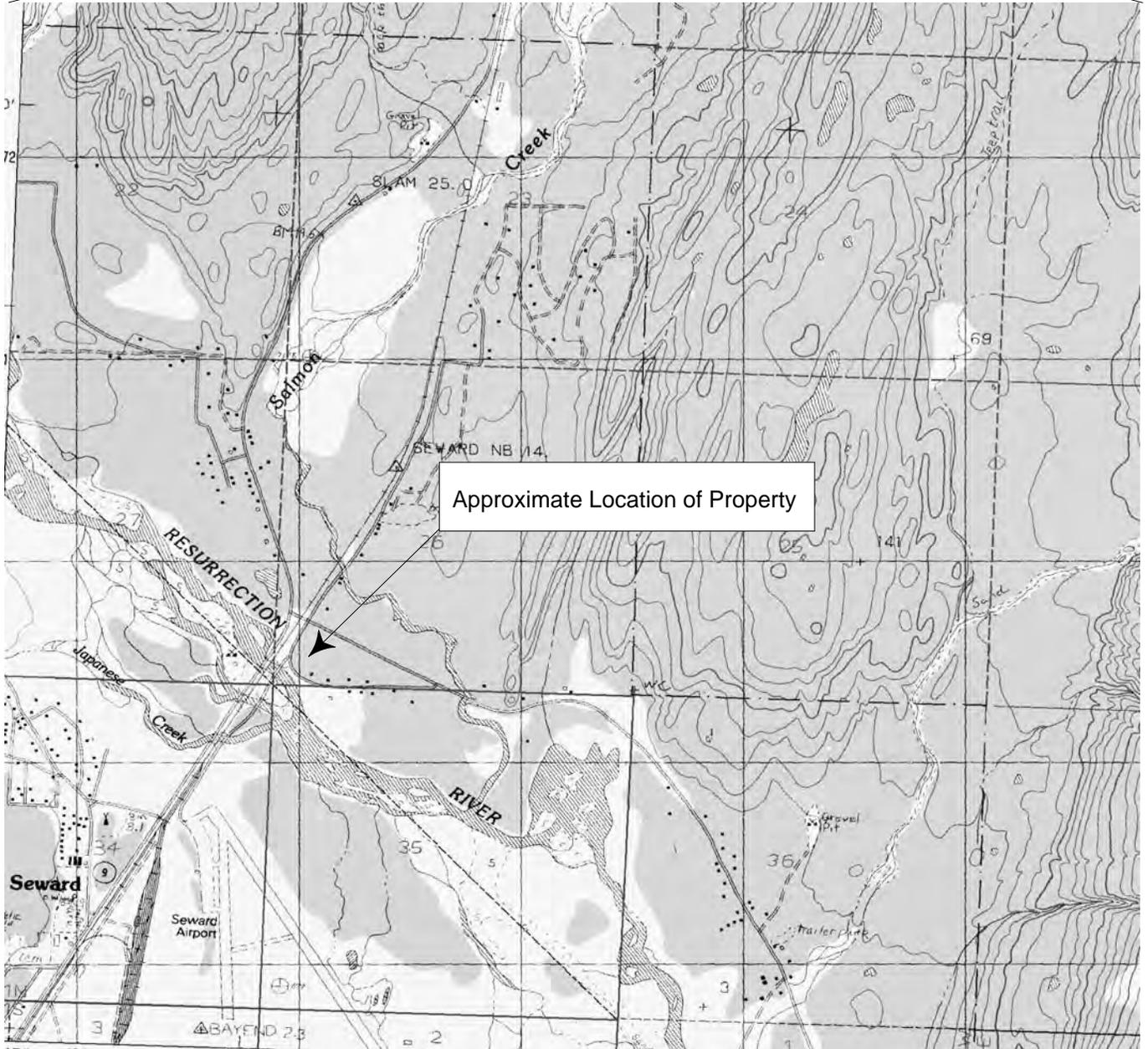
Any applicant for a federal license or permit to conduct an activity that might result in a discharge into navigable waters, in accordance with Section 401 of the Clean Water Act of 1977 (PL95-217), also must apply for and obtain certification from the Alaska Department of Environmental Conservation that 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-1998-771-M3, Resurrection River**, 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.

VICINITY MAP



Elevation in Meters
Contour Interval 5 meters
Taken from AK Seward A-7 NE
U.S. Geological Survey Quadrangle (1986)



Applicant: Blaine Bardarson
File No.: POA-4-1998-771-M3
Waterway: Resurrection River
Proposed Activity: Fill for commercial development
Balmat Subdivision, Seward, Alaska
Section 26, Township 1N, Range 1W, Seward Meridian
Latitude: 60.1431 N Longitude: 149.4147 W
Sheet 1 of 4 Date: October 2017

ALTERNATIVE SITES EVALUATED

Project Location
Property Proposed for Potential Compensatory Mitigation



LEGEND

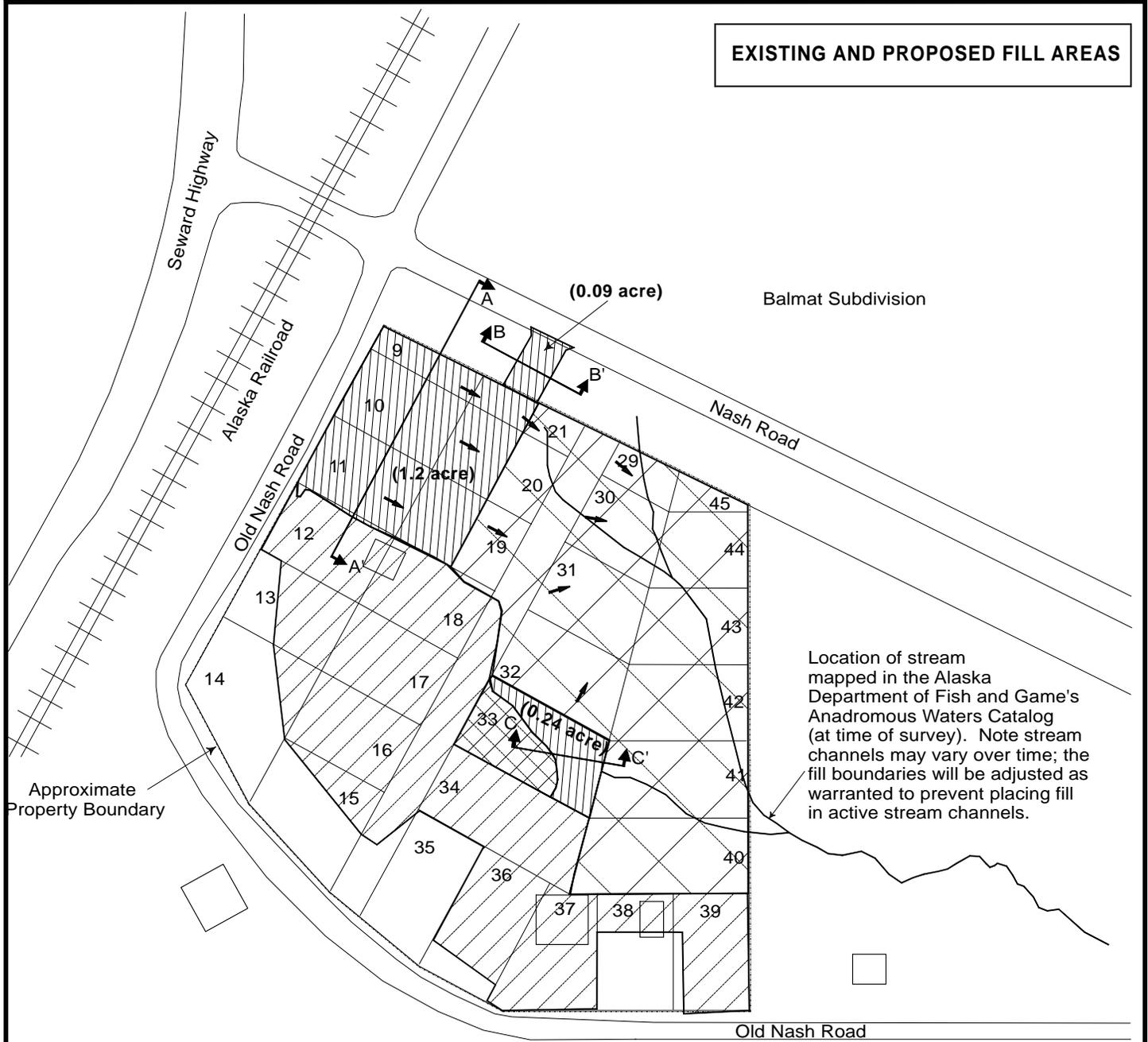
- ◆ Approximate Project Location
- ◆ Alternate Site Evaluated
 - 2 511 Nash Road
 - 3 1211 Nash Road
 - 4 2405 Seward Highway



Map obtained from the KPB Website on February 12, 2014

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 Latitude: 60.1431 N Longitude: 149.4147 W
 Sheet 2 of 4 Date: November 2017

EXISTING AND PROPOSED FILL AREAS



Location of stream mapped in the Alaska Department of Fish and Game's Anadromous Waters Catalog (at time of survey). Note stream channels may vary over time; the fill boundaries will be adjusted as warranted to prevent placing fill in active stream channels.

LEGEND

-  Location of wetland area permitted and filled under the May 15, 2003 Department of the Army (DOA) Permit 4-1998-0771, Resurrection River 27 (3.4 acres)
-  Location of wetland area filled but not permitted under the May 15, 2003 DOA Permit 4-1998-0771, Resurrection River 27 (0.2 acre)
-  Location of wetlands proposed to be filled (1.53 acres)
-  Wetland Preservation Area (designated under 2003 permit)

 Apparent drainage direction based on site topography

 Cross section line (see Figure 4)

 Approximate location of structure

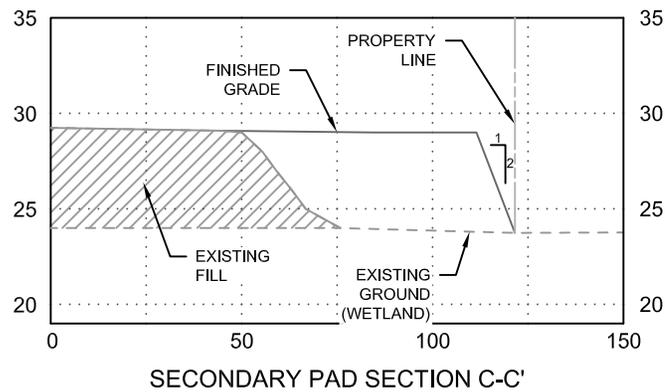
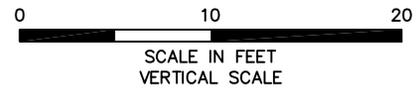
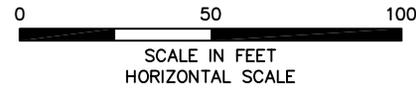
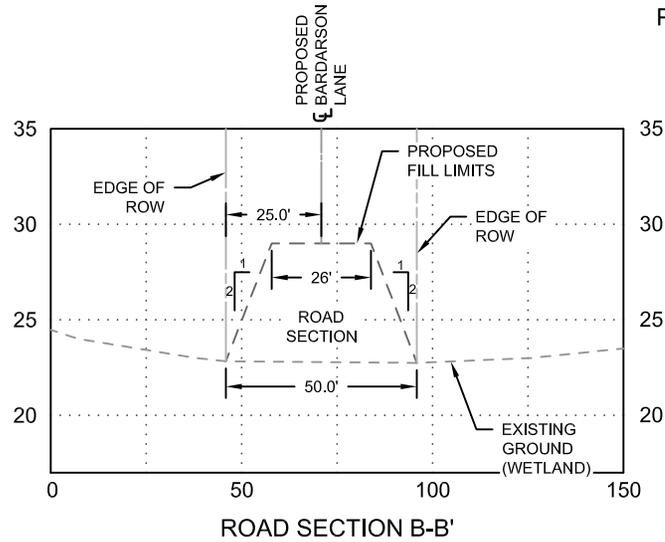
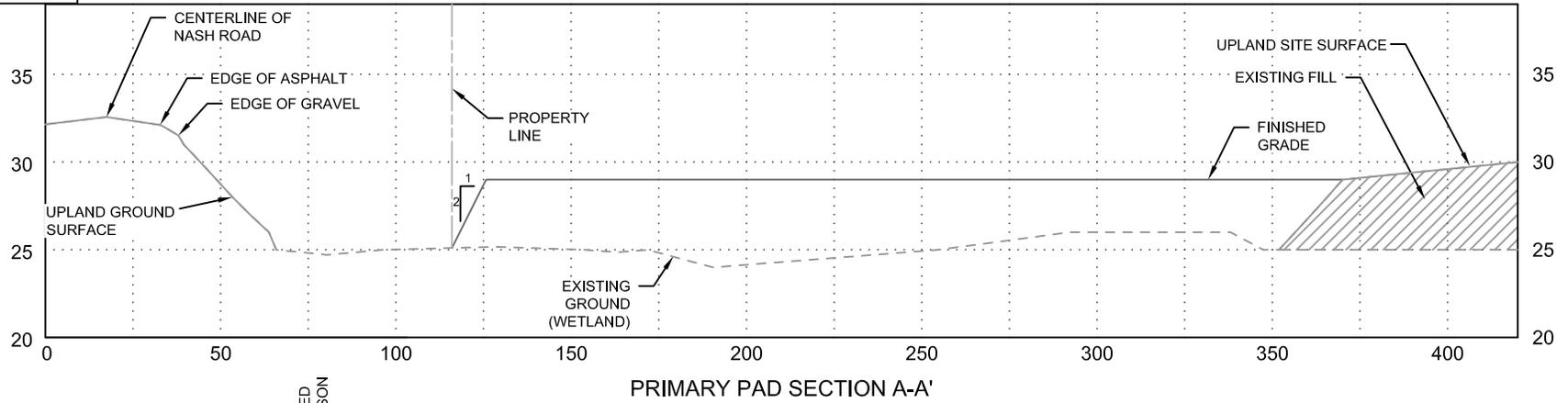


Base figure provided by Dowl Engineers



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CROSS SECTIONS



PROPOSED FILL AREAS		
	AREA IN ACRES	FILL VOLUME (CY)
PRIMARY PAD	1.2	10,182 CY
PROPOSED ROAD	0.09	378 CY
SECONDARY PAD	0.24	1,354 CY

BASE FIGURE PROVIDED BY DOWL ENGINEERS

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