



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: September 11, 2017

EXPIRATION DATE: September 26, 2017

REFERENCE NUMBER: POA-2016-162-M2

WATERWAY: Resurrection Bay

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 Katherine A. McCafferty at (907) 753-2692 by fax at (907) 420-0813, or by email at Katherine.a.mccafferty2@usace.army.mil if further information is desired concerning this notice.

APPLICANT: Seward Wildlife Cruises, Attention: Mr. Colby Lawrence, Post Office Box 1571, Seward, Alaska 99664

AGENT: Ms. Willow Hetrick, Salix Group, 2351 Yorktown Circle, Anchorage, Alaska 99507

LOCATION: The project site is located within Section 3, T. 1 S., R. 1 W., Seward Meridian; USGS Quad Map AK-Seward-A-7; Latitude 60.120536° N., Longitude 149.438506° W.; 1412 4th Avenue; Seward, Alaska.

PURPOSE: The applicant's stated purpose is to remove accumulated sediment to allow tour boats to navigate to the dock and avoid vessel damage from potential grounding.

PROPOSED WORK: The applicant proposes to conduct maintenance dredging of a previously dredged area, as needed, between October 1 and April 1 of each year until 2027.

The applicant proposes to dredge up to 7,600 cubic yards (CY) of bottom sediment per year, in the form of silt, sand, and gravel, using either a clamshell dredge or a hydraulic excavator from below the mean high water mark of the Seward Harbor, which is part of Resurrection Bay mean high water mark (MHW, 9.71 feet above the mean lower low water mark of 0 feet elevation), a Navigable Water of the United States (U.S.). In addition, the applicant proposes to dispose of the 7,600 CY of material into an 88.4 acre area below the high tide line (HTL, 13.8 feet above the mean lower low water mark) of Resurrection Bay.

The dredging activity would remove material down to 15 feet below the mean lower low water mark (MLLW). The dredge would work from an anchored barge.

The minimum water depth at the disposal area is 230 feet below MLLW. The dredged material would be transported and discharged using a bottom dump barge. Filter material would be placed over the barge scuppers to clear return water.

Disposal of the dredged material is estimated to occur a maximum of 1 time per day, but likely every other day. Disposal would occur on an outgoing tide.

Work is estimated to take 14 days to complete, with dredging activities occurring over approximately five days.

All work would be performed in accordance with the enclosed plan (sheets 1-5), dated January 18, 2016.

ADDITIONAL INFORMATION: The applicant was originally authorized to dredge this location under file number POA-2016-162, issued on May 1, 2017. The applicant was authorized to dredge up to 7,600 cubic yards (CY) of bottom sediment per year, in the form of silt, sand, and gravel, using either a clamshell dredge or a hydraulic excavator from below the mean high water mark of the Seward Harbor, which is part of Resurrection Bay (MHW, 9.71 feet above the mean lower low water mark of 0 feet elevation), a Navigable Water of the United States (U.S.). In addition, the applicant was authorized to dispose of the 7,600 CY of material into an 88.4 acre area below the high tide line (HTL, 13.8 feet above the mean lower low water mark) of Resurrection Bay.

Under POA-2016-162-M1, the applicant was authorized additional time to complete the originally authorized dredging. The modified permit expires April 1, 2018.

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: Avoiding disturbance to Waters of the U.S. during dredging is not possible.
- b. Minimization: The proposed action meets the purpose and need while minimizing the impacts to the greatest extent possible. The minimum amount of material is being removed to provide safe access to the project area. The lengths and width of the proposed dredge area have been minimized while providing adequate coverage to ensure vessel safety.

- Seward Wildlife Cruises will require the contractor to use a barge that allows dredged material to be discharged below the water surface to minimize turbidity.
- During dredging, the contractor will use a floating silt curtain to minimize the silt that could potentially spread throughout the harbor. If petroleum sheen appears on the water during the dredging activities, a sorbent boom will be installed to enclose the dredge area and clean up procedures will be commenced.
- Spill cleanup materials will be kept on-site and will be used should any petroleum products be spilled as a result of the dredging activities.
- Prior to completion of the work, the contractor will conduct a hydro-graphic check and certification that the area has indeed been dredged to the defined depth. The contractors will place the barge such that public's safe navigation in the harbor is maintained at all times.
- Upon reaching the deep-water disposal site, the barge will stop its propellers for a few minutes after the dredge material is discharge to ensure that prop wash does not agitate the slurry while it is in the upper water column.
- If petroleum sheen appears on the water during the disposal, a sorbent boom will be installed to enclose the disposal area and clean up procedures will be commenced. Spill cleanup materials will be kept on-site and will be used should any petroleum products be spilled as a result of the disposal activities.
- SWC proposes the following conservation and mitigation measures to minimize adverse impacts that may occur as part of the project:
 - o Ensure contractors implement BMPs to minimize the introduction of suspended sediment and siltation to Resurrection Bay.
 - o BMPs may include, but are not limited to, the following: Eliminating multiple bites while the bucket is on the seafloor; No stockpiling of dredged material on the seafloor; No seafloor leveling; Slowing the velocity (i.e., increasing the cycle time) of the ascending loaded clamshell bucket through the water column; Pausing the dredge bucket near the bottom while descending and near the water line while ascending; and Placing filter material over the barge scuppers to clear return water.
 - o Ensure contractors implement standard spill-prevention measures during construction to minimize and prevent spills or leaks of hazardous materials and ensure spill clean-up equipment (e.g., oil absorbent pads) is available onsite during construction.
 - o Ensure contractors keep construction staging, fueling, and servicing operations a minimum of 100 feet from any freshwater wetlands, streams and water bodies to the extent possible.
 - o Ensure contractor takes reasonable precautions and controls to prevent incidental and accidental discharge of petroleum products or other hazardous substances.
 - o Ensure fuel storage and handling activities for equipment be sited and conducted so there is no petroleum contamination of the ground, surface runoff or water bodies.
 - o Ensure that contractor shall not operate construction equipment below the ordinary high water mark if equipment is leaking fuel, oil, hydraulic fluid, or any other hazardous is material.

- c. Compensatory Mitigation: There is no practical way to avoid impacts to waters of the U.S. given the existence, location, and function of the harbor. The project area is previously disturbed site consisting of an existing, developed facility and basin used for vessels and harbor operations. The area to be dredged is part of the originally permitted basin. Dredging activities would transport the sediment that has been accumulated in over area of Resurrection Bay (the harbor) to a nearby deep-water location with similar sediment composition resulting in no long-term impacts. The applicant requests that no compensatory mitigation should be required due to the inability to avoid and that this is the minimum dredging required accomplishing the purpose of the project.

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 permit area for the proposed project is the footprint of the proposed dredge area and the footprint of the proposed discharge area.

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 permit area. 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.

Based on the lack of known resources in the area, the previous history of disturbance in the dredge area and the disposal area, the Corps of Engineers (Corps) has determined that the proposed project would have no potential to cause effects to historic properties.

Any comments the State Historic Public Office (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 short-tailed albatross (*Phoebastria albatrus*), the Steller sea lion (*Eumetopias jubatas*), the humpback whale (*Megaptera novaengliae*), fin whale (*Balaenoptera physalus*), North Pacific right whale (*Eubalaena japonica*), and the sperm whale (*Physeter macrocephalus*).

The increase in turbidity levels within the adjacent water column due to dredging and the discharge of dredged material would be minimal and temporary and any consequences from habitat alteration would not have measurable effects to listed species, and are, therefore, insignificant. We have determined the described activity would have no effect on any listed species or 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 pink salmon (*Oncorhynchus gorbuscha*), chum salmon (*Oncorhynchus keta*), sockeye salmon (*Oncorhynchus nerka*), Chinook salmon (*Oncorhynchus tshawytscha*), coho salmon (*Oncorhynchus kisutch*), pacific cod (*Gadus macrocephalus*), walleye pollock (*Theragra calcogramma*), and Flathead sole (*Hippoglossoides elassodon*).

Due to the time of year of the proposed work and the limited size of the dredged area, and the short time frame during which turbidity would be increased, we have determined the described activity would not adversely affect EFH in 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 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 authorities:

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

(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

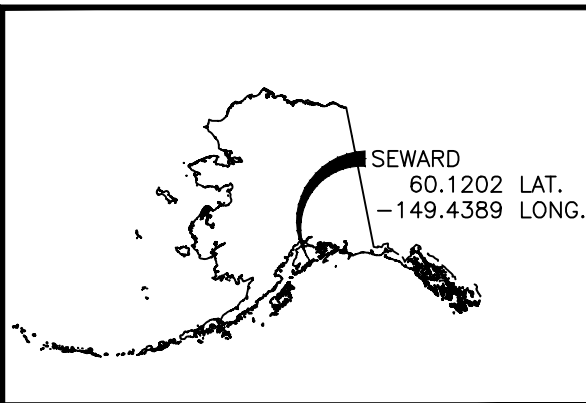
NOTICE OF APPLICATION FOR STATE WATER QUALITY CERTIFICATION

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-2016-162-M2, Resurrection Bay**, 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.



LOCATION MAP



TIDAL LEVELS	
HIGH TIDE LINE (HTL)	+13.8 FT.
MEAN HIGH WATER (MHW)	+9.71 FT.
MEAN LOWER LOW WATER (MLLW)	0.00 FT.

PURPOSE:
 REMOVE DEPOSITED SEDIMENTS
 TO ALLOW VESSEL TO SAFELY
 BERTH

DATUM: MLLW = ELEV. 0.0

LAT: 60.1202°
LONG: -149.4389°

SEC: 3 **T:** 1S **R:** 1W

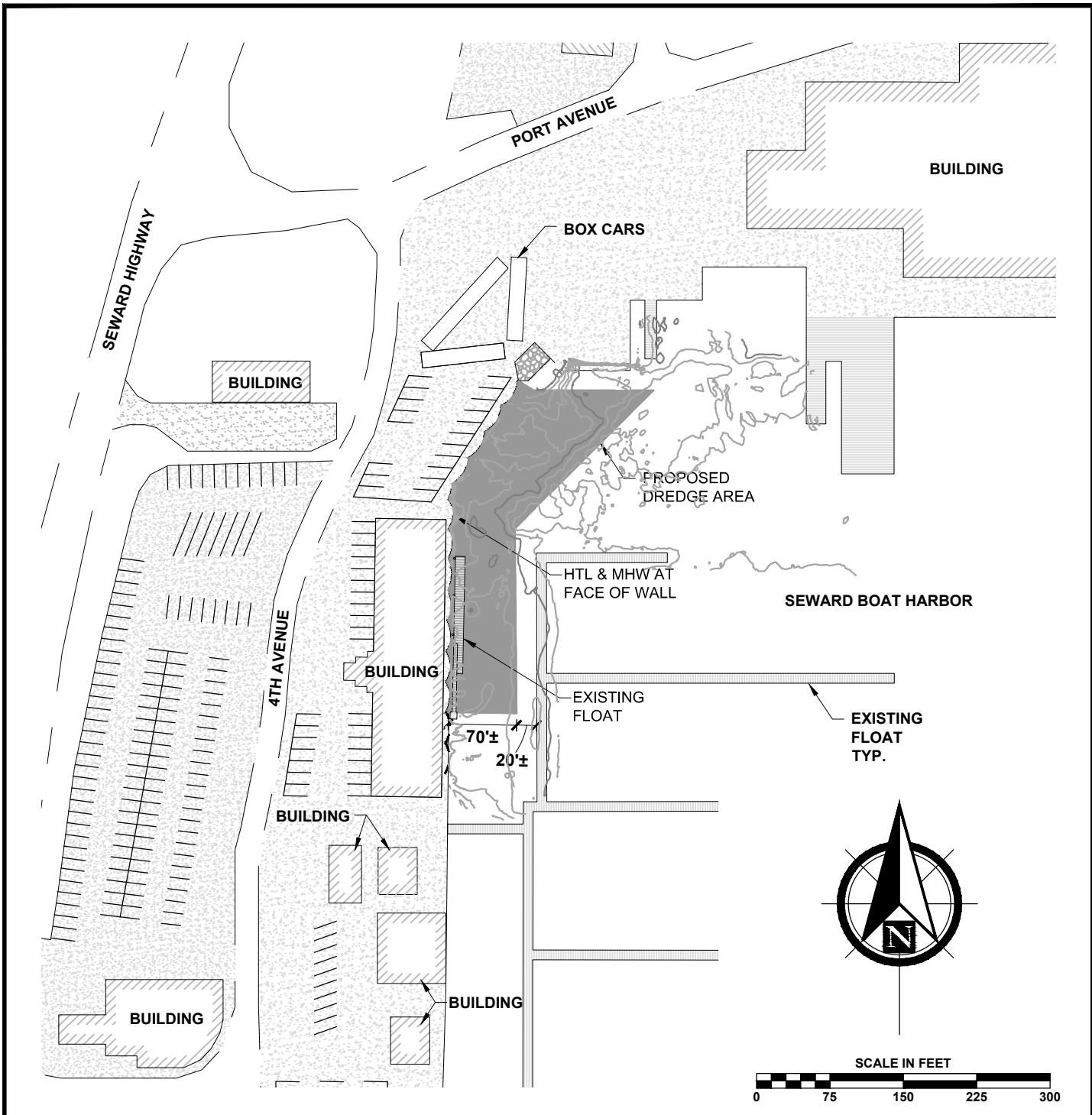
VICINITY MAP

MAJOR MARINE TOURS, INC.
 P.O. BOX 1571
 SEWARD, AK 99664

**HARBOR 360 HOTEL
 DREDGING**

IN: SEWARD BOAT HARBOR
 IN: RESURRECTION BAY
 BY: CITY OF SEWARD

JAN 18, 2016 Sheet 1 of 5



PURPOSE:
 REMOVE DEPOSITED SEDIMENTS
 TO ALLOW VESSEL TO SAFELY
 BERTH

DATUM: MLLW = ELEV. 0.0

LAT: 60.1202°
LONG: -149.4389°

SEC: 3 **T:** 1S **R:** 1W

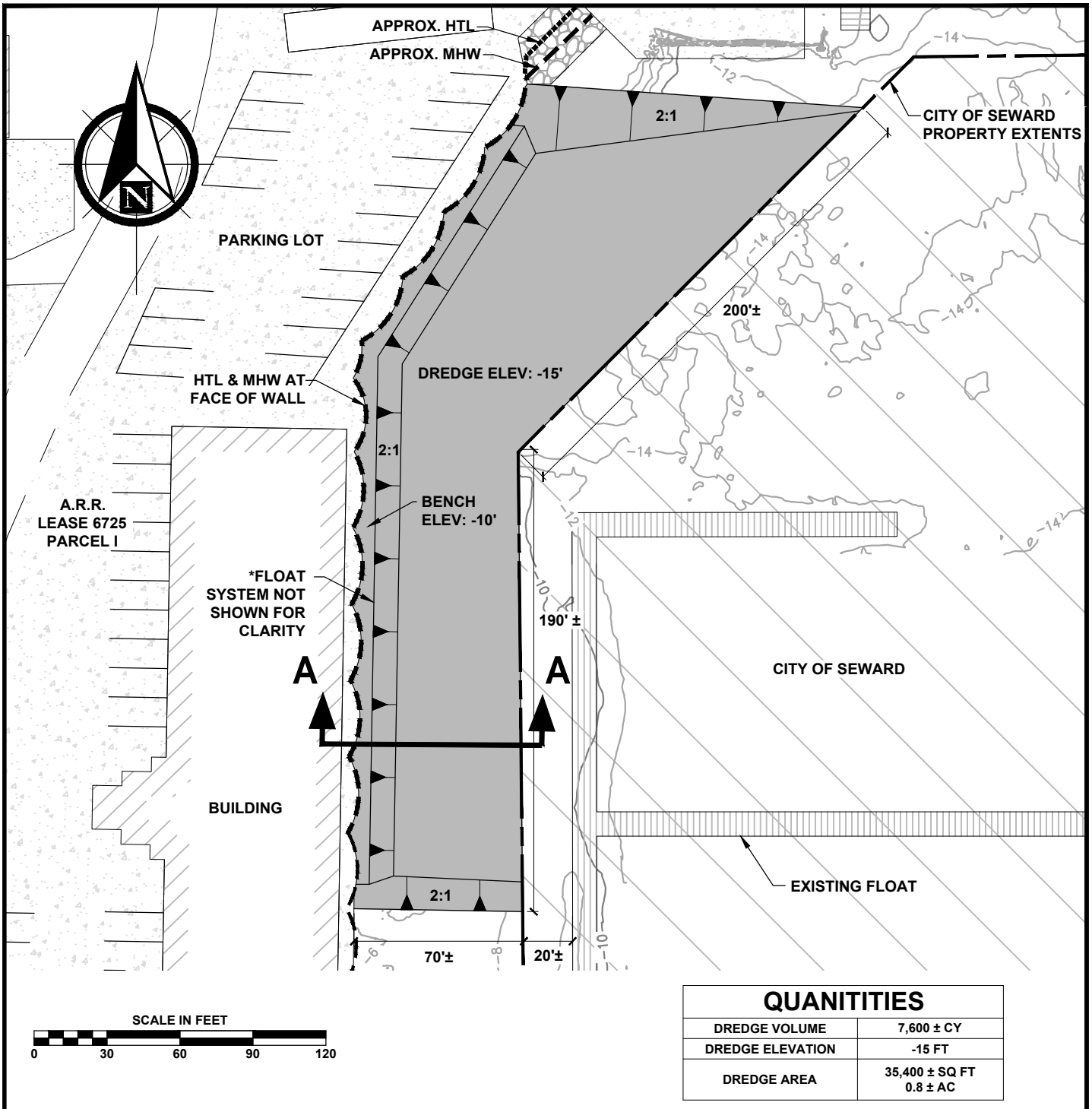
EXISTING CONDITIONS

MAJOR MARINE TOURS, INC.
 P.O. BOX 1571
 SEWARD, AK 99664

**HARBOR 360 HOTEL
 DREDGING**

IN: SEWARD BOAT HARBOR
 IN: RESURRECTION BAY
 BY: CITY OF SEWARD

JAN 18, 2016 Sheet 2 of 5



QUANTITIES	
DREDGE VOLUME	7,600 ± CY
DREDGE ELEVATION	-15 FT
DREDGE AREA	35,400 ± SQ FT 0.8 ± AC

PURPOSE:
REMOVE DEPOSITED SEDIMENTS TO ALLOW VESSEL TO SAFELY BERTH

DATUM: MLLW = ELEV. 0.0

LAT: 60.1202°
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SEC: 3 **T:** 1S **R:** 1W

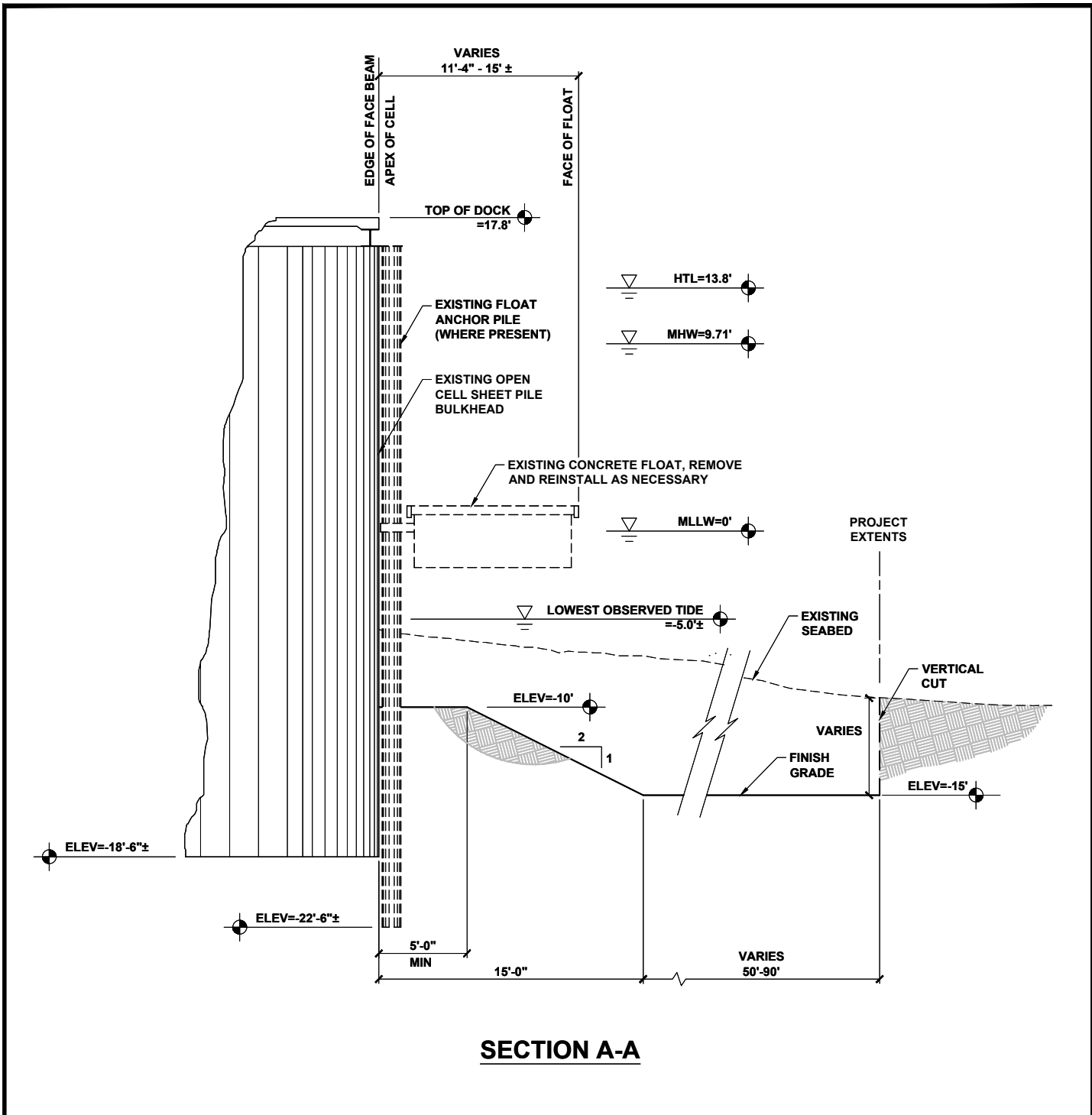
DREDGING PLAN

MAJOR MARINE TOURS, INC.
P.O. BOX 1571
SEWARD, AK 99664

**HARBOR 360 HOTEL
DREDGING**

IN: SEWARD BOAT HARBOR
IN: RESURRECTION BAY
BY: CITY OF SEWARD

JAN 18, 2016 Sheet 3 of 5



SECTION A-A

PURPOSE:
 REMOVE DEPOSITED SEDIMENTS
 TO ALLOW VESSEL TO SAFELY
 BERTH

DATUM: MLLW = ELEV. 0.0

LAT: 60.1202°
LONG: -149.4389°

SEC: 3 **T:** 1S **R:** 1W

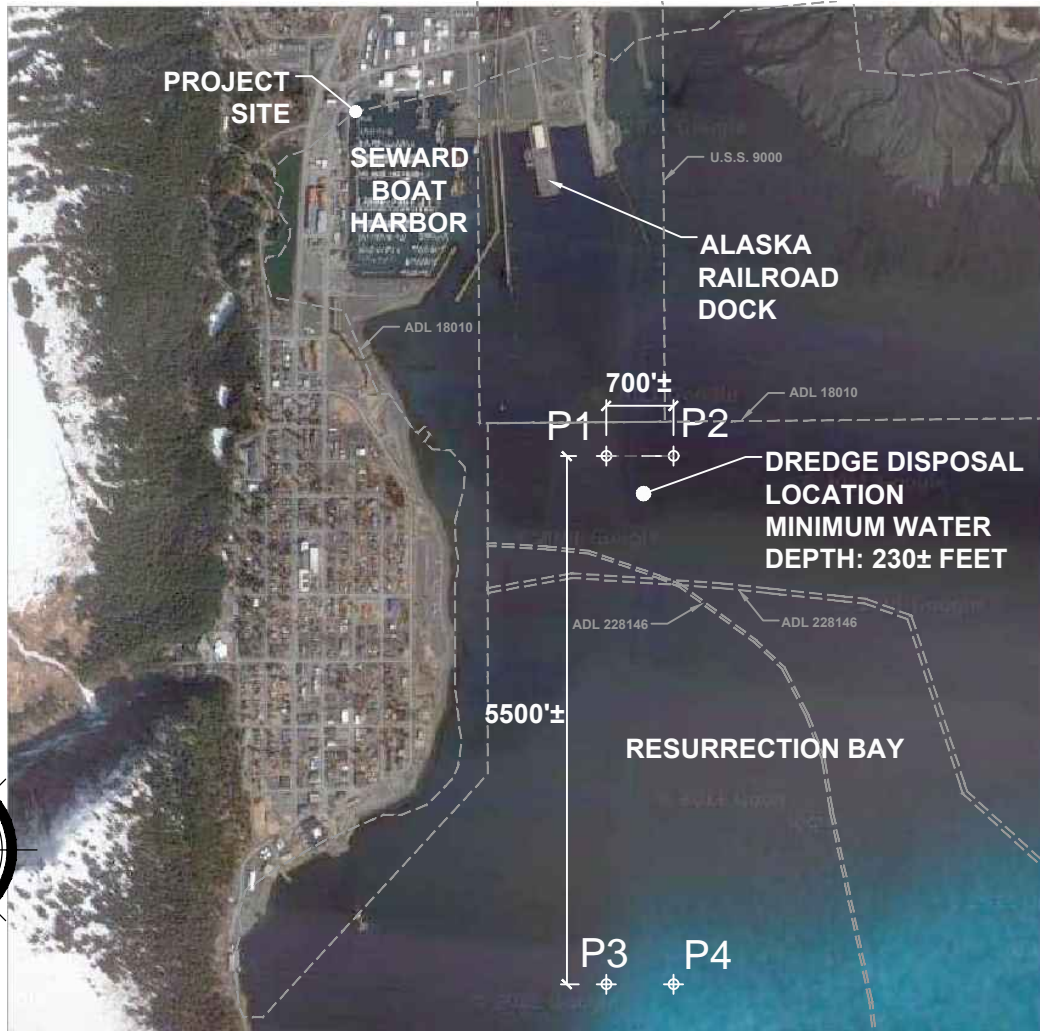
**DREDGE
 SECTION**

MAJOR MARINE TOURS, INC.
 P.O. BOX 1571
 SEWARD, AK 99664

**HARBOR 360 HOTEL
 DREDGING**

IN: SEWARD BOAT HARBOR
 IN: RESURRECTION BAY
 BY: CITY OF SEWARD

JAN 18, 2016 Sheet 4 of 5



DISPOSAL LOCATION ADJACENT LANDOWNERS

ADL 18010
CITY OF SEWARD
PO BOX 167
SEWARD, AK 99664

ADL 228146
KODIAK-KENAI CABLE COMPANY, LLC
2702 DENALI ST. SUITE 100
ANCHORAGE, AK 99503

ADL 228283
GCI COMMUNICATION CORP.
2550 DENALI ST. SUITE 1000
ANCHORAGE, AK 99503

U.S.S. 9000
ALASKA RAILROAD CORPORATION
PO BOX 107500
ANCHORAGE, AK 99510

DREDGE DEPOSIT LOCATION	
P1	66° 41' 10" N 159° 51' 10" W
P2	66° 41' 10" N 159° 51' 10" W
P3	66° 41' 10" N 159° 51' 10" W
P4	66° 41' 10" N 159° 51' 10" W

*NAD83 PROJECTION COORDINATES

PURPOSE:

REMOVE DEPOSITED SEDIMENTS TO ALLOW VESSEL TO SAFELY BERTH

DATUM: MLLW = ELEV. 0.0

LAT: 60.1202°

LONG: -149.4389°

SEC: 3 **T:** 1S **R:** 1W

DREDGE DISPOSAL AREA

MAJOR MARINE TOURS, INC.
P.O. BOX 1571
SEWARD, AK 99664

HARBOR 360 HOTEL DREDGING

IN: SEWARD BOAT HARBOR
IN: RESURRECTION BAY
BY: CITY OF SEWARD