



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

PUBLIC NOTICE DATE: November 3, 2020

EXPIRATION DATE: December 3, 2020

REFERENCE NUMBER: POA-2020-00461

WATERWAY: Hotham Inlet

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 (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. 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 Mary Romero at (907) 753-2773, toll free from within Alaska at (800) 478-2712, by fax at (907) 753-5567, or by email at: Mary.R.Romero@usace.army.mil if further information is desired concerning this notice.

APPLICANT: Mr. William G. Azar, 4530 Montrose Circle, Anchorage, Alaska 99502, 907.297.9212 jungazar@aol.com

AGENT: Ms. Maria Lewis, MLP & Associates, LLC, 721 Depot Drive, Anchorage, Alaska 99501, 907.885.0271, maria@mlpassociates.com

LOCATION: The project site is located within Sections 24 & 25, T.16 N., R. 16 W., and Sections 19 & 30, T. 16 N., R. 15 W., Kateel Meridian; USGS Quad Map Kotzebue D-1; Latitude 66.7653° N., Longitude 162.0154° W.; approximately 18 air miles southeast of Kotzebue, Alaska.

SPECIAL AREA DESIGNATION: The project is located within an area that is considered polar bear critical habitat.

PURPOSE: The applicant's stated purpose is to develop a gravel pit in order to supply material for the Cape Blossom Road project as well as other public and private projects throughout the Kotzebue area.

PROPOSED WORK: The proposed work would develop a five-cell gravel pit by mechanically land clearing up to 34 acres of Palustrine wetlands for the purpose of extracting 500,000 cubic yards of material, which would be used for the development of Cape Blossom and miscellaneous projects around Kotzebue. Additionally, the applicant proposes to construct a 100' x 30' access road in 0.07 acre of Palustrine wetlands to the edge of Hotham Inlet for loading the material onto barges, this along with the mechanized land clearing, would have a total impact to 34.07 acres of Palustrine wetlands. All work would be performed in accordance with the enclosed plan (sheets 1-5), dated October 30, 2020.

The first year would include the mechanized land clearing of the first cell, with all overburden being stored on-site within the first cell area to be used for reclamation purposes. The gravel pit would be developed within five different approximately seven-acre cells; each cell is proposed for development from May through September in consecutive years (2021 – 2025). Previous cells would be reclaimed when the materials have been depleted from the cell. All materials would be stockpiled on-site within the cell in development until the material could be loaded onto a barge for delivery to Kotzebue.

ADDITIONAL INFORMATION: The applicant has provided the following alternatives they considered for the proposed project:

Alternative 1: No Action

The No Action alternative would not develop any of the property and leave it as it is currently undeveloped. This alternative provided no new source of sands and gravels or generate construction jobs.

Alternative 2: Development of Gravel Pit in Kotzebue

There are no known gravel sources in the City of Kotzebue that would meet Alaska Department of Transportation (ADOT) requirements for gradation and quality of fill materials. The applicant does not own any large parcels of land within the roadway network of Kotzebue for development. The cost to purchase the land and subsurface rights or royalties are additional costs to consider. Numerous wetlands and waterbodies are present in and around Kotzebue. Noise and truck traffic from a gravel pit may be a disturbance for residential and commercial properties in the area. A site in Kotzebue would be easily accessible for work and delivery of products to construction projects.

Alternative 3: Continued Use of Other Nimiuk Point Gravel Pits. There are privately-owned gravel pits along Nimiuk Point, not owned by the applicant. These pits appear to be near the end of their useful life with limited sands and gravels available. Purchasing these properties for continued development is not economically an option.

Alternative 4: New Nimiuk Point Gravel Pit (Proposed Development)

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: The applicant states, “The project requires excavation in freshwater emergent wetlands for extraction of suitable sands and gravels for construction of regional projects. The applicant has ownership of the property and subsurface. The subject property is in a central location with access to the City of Kotzebue and other regional communities along the river systems.

Wetlands are located on the subject property, and it is not practicable to avoid all wetlands to meet the project purpose and need. Project alternatives, including no action, development of a gravel pit in Kotzebue, continued use of other Nimiuk Point gravel pits, and the proposed project were evaluated to identify the most practicable alternative, after taking into consideration site logistics, ADOT construction requirements, noise pollution, and the overall project purpose.”

b. Minimization: For minimization, the applicant proposes, “The selection of the proposed site is based on utilization of the applicant’s property as well as a soil analysis completed by R&M Consultants, Inc. The soil analysis indicates good quality sands and gravels are present at the project site.

To further minimize impacts to waters of the U.S., the project is designed to reduce wetland impacts to the greatest extent practicable. Complete avoidance of wetlands and waters of the U.S. is not practicable to accomplish the purpose and need of this project. To minimize the impact of this project on the environment, the following measures are proposed:

- The limits of extraction will be clearly identified in the field prior to extraction to ensure the permitted project footprint is not exceeded during development;
- Extraction will occur in one seven-acre cell at a time until all usable material is exhausted;
- Movement of construction equipment would be restricted to within the identified project boundaries to minimize disturbance to native vegetation;
- Stockpiles; if any, would not occur in wetlands that are not proposed for permanent fill placement and would be covered to protect from stormwater runoff;
- BMPs such as silt fence and fiber rolls would be installed and implemented to minimize the introduction of additional suspended sediment into the wetlands;

c. Compensatory Mitigation: The applicant has stated, “After aggregate material has been mined and the site reclaimed, the site will naturally be restored to a wetland/aquatic resource. Compensatory mitigation is not practicable for this project as the site will ultimately remain a wetland/aquatic resource after the project is complete.

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 complete project area. 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 threatened polar bear (*Ursus maritimus*), Steller's eider (*Polysticta stelleri*), and spectacled eider (*Somateria fischeri*); additionally, it is located in critical habitat for the polar bear.

We have determined the described activity may affect the threatened polar bear (*Ursus maritimus*), Steller's eider (*Polysticta stelleri*), and spectacled eider (*Somateria fischeri*) and the polar bear designated critical habitat. 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 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.

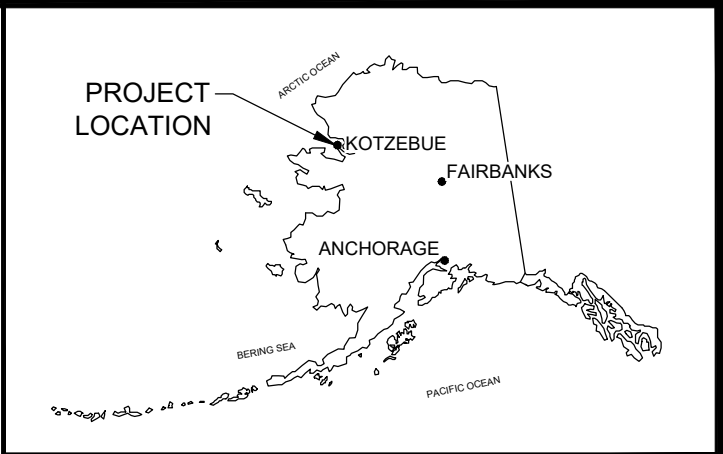
AUTHORITY: This permit will be issued or denied under the following authority:

(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).

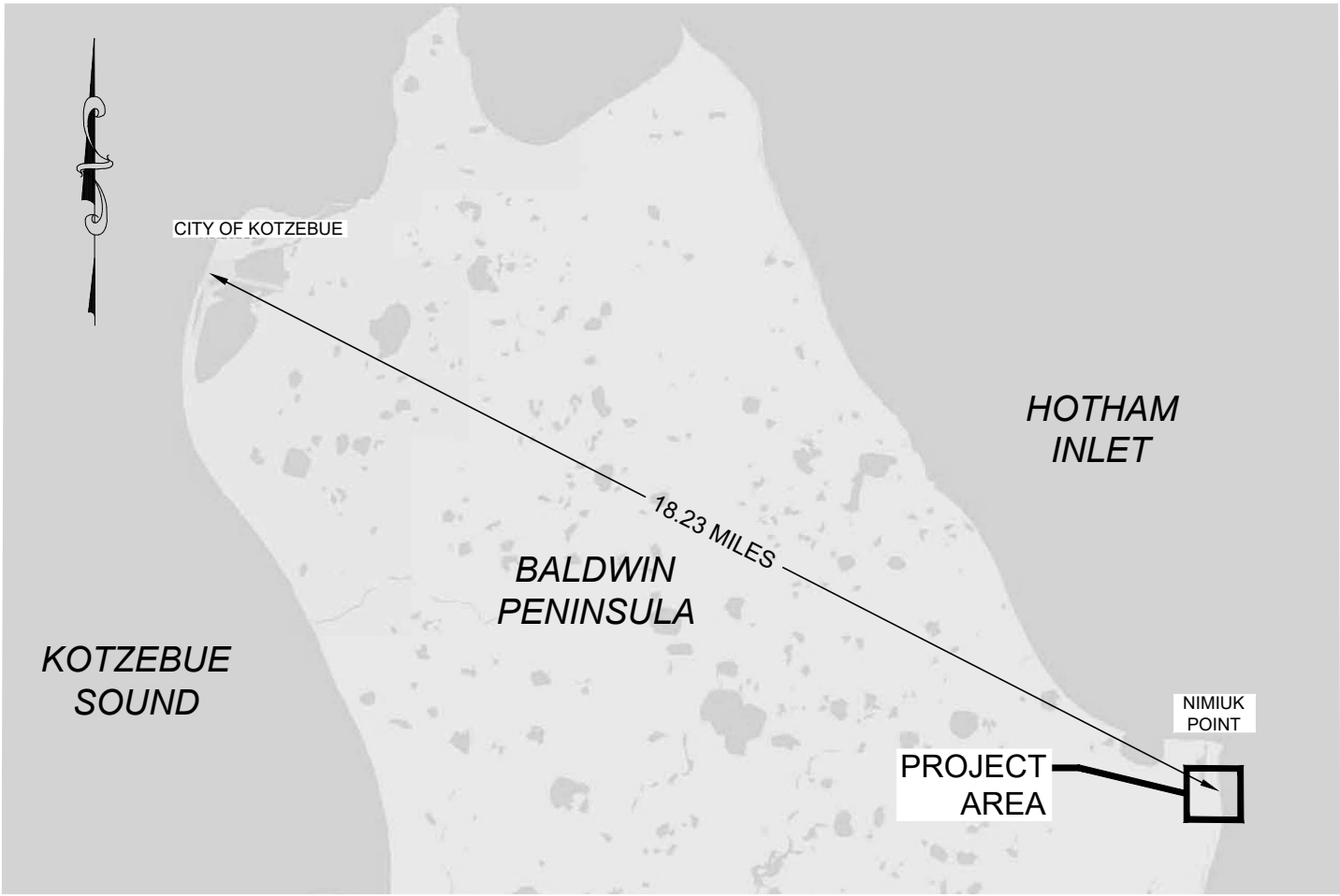
Project drawings are enclosed with this Public Notice.

District Commander
U.S. Army, Corps of Engineers

Enclosures



LOCATION



VICINITY MAP



NIMIUK POINT LOT 2B
GRAVEL EXTRACTION KOTZEBUE, ALASKA
WATERBODY: HOTHAM INLET
SECS. 19,24,25,&30; T16N; RS. 15&16W

POA-2020-00461, Hotham Inlet
Nimiuk Point Gravel Pit
Drawings dated Oct. 30, 2020
Sheet 1 of 5

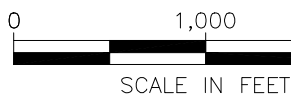


PROJECT SITE

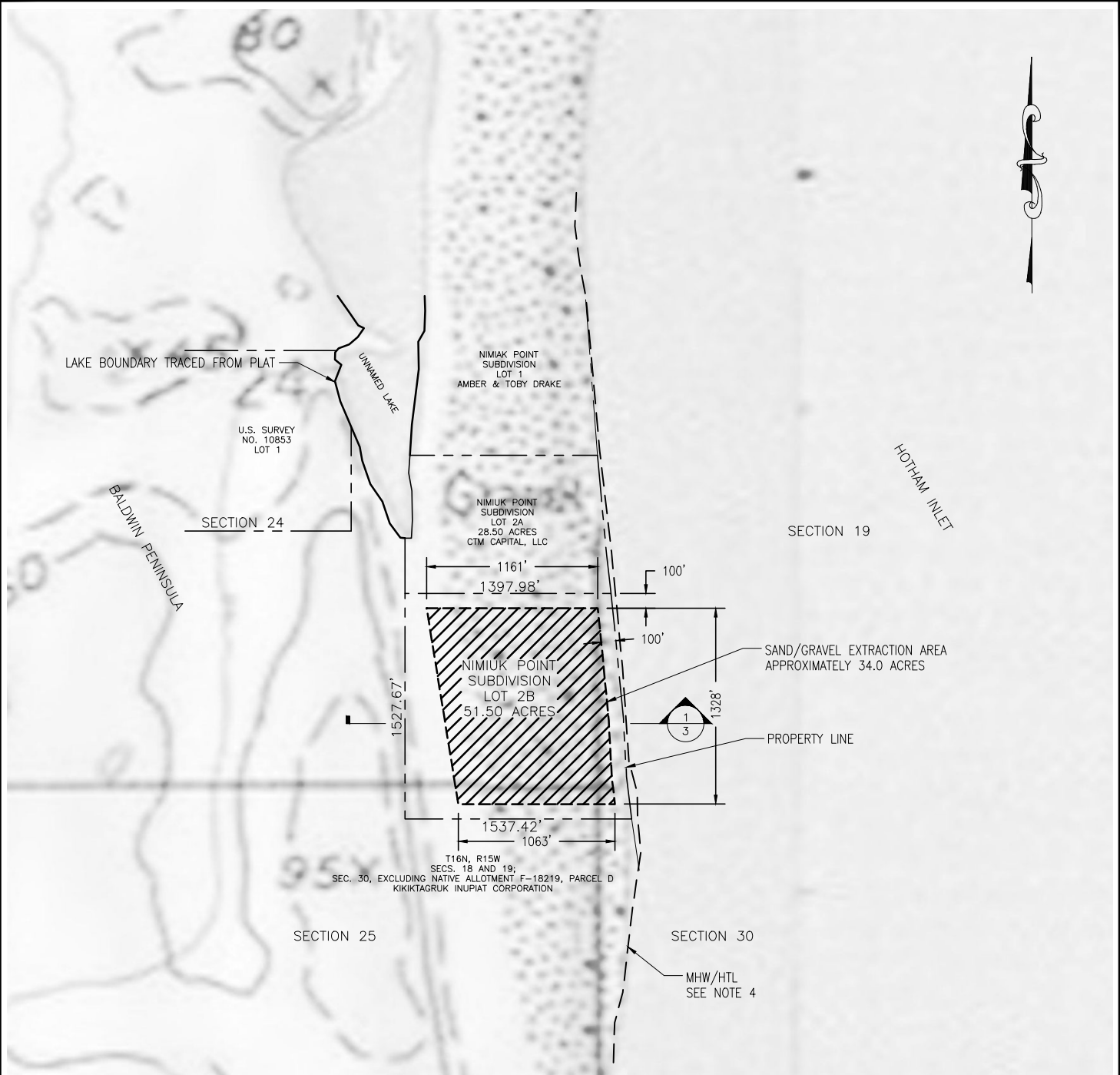
NOTES:

1. IMAGE SOURCE: WEBSITE dnr.alaska.gov/mapper/ OBTAINED ON 7 SEPTEMBER 2020. IMAGE IS NOT GEO-REFERENCED.
2. PROPERTY BOUNDARY INFORMATION FROM PLAT No. 98-8 DATED 23 JUNE 1998.
3. TIDAL INFORMATION FROM NOAA STATION 9491094, RED DOG DOCK, ALASKA (NAVD88).
 - 3.1. HTL (HIGH TIDE LINE) = 1.1'
 - 3.2. MHW (MEAN HIGH WATER) = 0.8'
 - 3.3. MLLW (MEAN LOWER-LOW WATER) = 0.0'
4. TOPOGRAPHIC SURVEY HAS NOT BEEN PERFORMED FOR PROJECT AREA THEREFORE HTL AND MHW LINE ARE APPROXIMATED BASED ON WATERS EDGE FROM IMAGE. A SURVEY WILL BE PERFORMED PRIOR TO START OF EXTRACTION TO DETERMINE MHW, HTL, AND PROPERTY LINE LOCATIONS.
5. EXTRACTED MATERIALS WILL BE STOCKPILED IN UPLANDS.
6. CONTRACTOR STAGING OF EQUIPMENT AND MATERIALS IN UPLANDS.

NIMIUK POINT LOT 2B
GRAVEL EXTRACTION KOTZEBUE, ALASKA
WATERBODY: HOTHAM INLET
SECS. 19,24,25,&30; T16N; RS. 15&16W MERIDIAN: KATEL RIVER



POA-2020-00461, Hotham Inlet
Nimiuk Point Gravel Pit
Drawings dated Oct. 30, 2020
Sheet 2 of 5



PROJECT SITE TOPOGRAPHIC

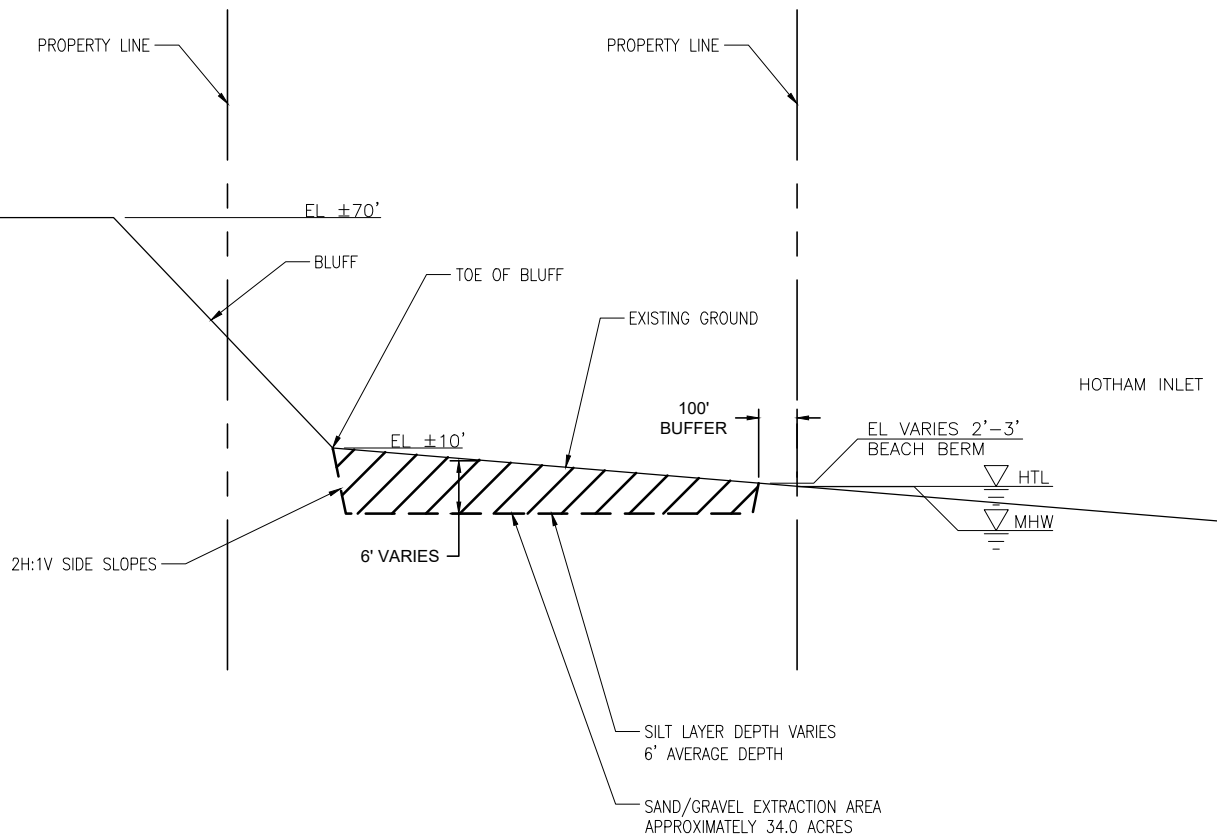
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NIMIUK POINT LOT 2B
GRAVEL EXTRACTION KOTZEBUE, ALASKA
WATERBODY: HOTHAM INLET
SECS. 19,24,25,&30; T16N; RS. 15&16W MERIDIAN: KATEEL RIVER USGS QUADRANGLE: KOTZEBUE D. 1 SE



POA-2020-00461, Hotham Inlet
Nimiuk Point Gravel Pit
Drawings dated Oct. 30, 2020
Sheet 3 of 5



1 SITE SECTION

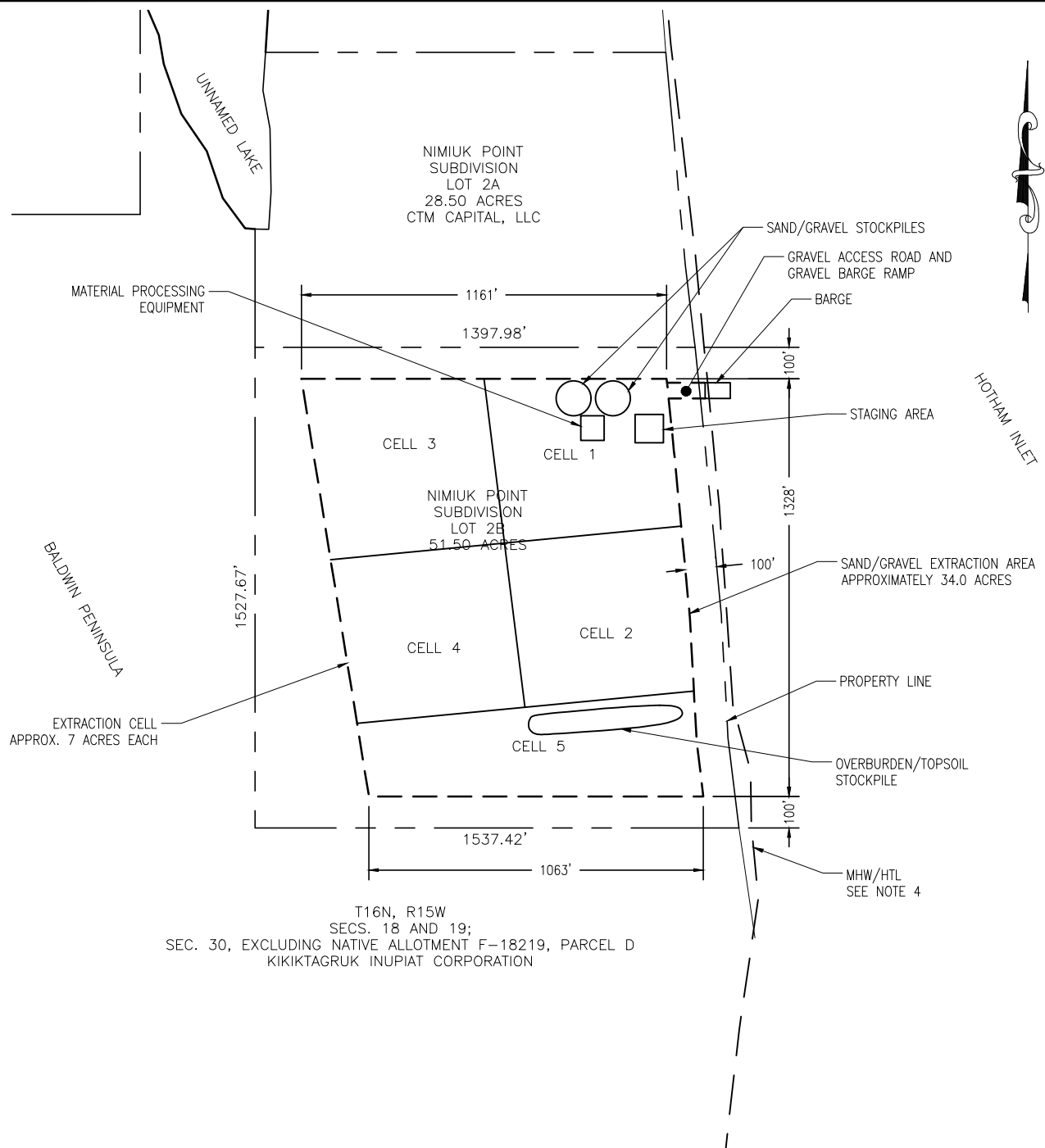
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2. TOPOGRAPHIC SURVEY HAS NOT BEEN PERFORMED FOR PROJECT AREA. HTL AND MHW LINES ARE APPROXIMATE.



NIMIUK POINT LOT 2B
GRAVEL EXTRACTION KOTZEBUE, ALASKA
WATERBODY: HOTHAM INLET
SECS. 19,24,25,&30; T16N; RS. 15&16W MERIDIAN: KATEEL RIVER

**POA-2020-00461, Hotham Inlet
Nimiuk Point Gravel Pit
Drawings dated Oct. 30, 2020
Sheet 4 of 5**



PROJECT SITE

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POA-2020-00461, Hotham Inlet
Nimiuk Point Gravel Pit
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Sheet 5 of 5