



US Army Corps  
of Engineers  
Alaska District

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

# Public Notice of Application for Permit

<b>PUBLIC NOTICE DATE:</b>	<b>August 10, 2018</b>
<b>EXPIRATION DATE:</b>	<b>August 25, 2018</b>
<b>REFERENCE NUMBER:</b>	<b>POA-2007-00394-M1</b>
<b>WATERWAY:</b>	<b>Bourbon Creek</b>

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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 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 Public Notice reference number listed above.

All 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 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](mailto:mary.r.romero@usace.army.mil) if further information is desired concerning this notice.

**APPLICANT:** Shane Smithhisler, P.O. Box 745, Nome AK, 99762, 907.304.1498.  
[ssmithhisler23@hotmail.com](mailto:ssmithhisler23@hotmail.com)

**LOCATION:** The project site is located within Section 25, T. 11 S., R. 34 W., Kateel Meridian; USGS Quad Map Nome C-1; Latitude 64.5123° N., Longitude 165.3943° W.; in Nome, Alaska.

**PURPOSE:** The applicant's stated purpose is for residential/commercial construction of three pads for housing/shops.



PROPOSED WORK: The applicant proposes to place approximately 10,000 cubic yards of fill material for the construction of buildings into 3.23 acres of Palustrine emergent wetlands. There would be three residential/commercial developments as proposed on the attached drawings. No access road would be required as portions of the surrounding property have already been filled and an access road was previously constructed. All work would be performed in accordance with the enclosed plan (sheets 1-6), dated August 8, 2018.

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 stated... "This site was selected because there is already existing fill in place. I wish to expand that area that has already been filled. There are other places on our property, to the south of this area, but those would require a much greater amount of fill to be utilized. This area also seems to be free of permafrost, which provides for very good foundation for buildings. I have also provided some pictures of areas in the filled area that I believe have been mined at one time."

b. Minimization: The applicant states, working off of the current fill minimizes the impacts to wetlands because there is no need to build access roads to create the needed building space. Once fill material is placed, it will be track walked and hydro seeded to minimize any runoff into wetlands. Any where there is not a vegetative buffer, a silt fence will be placed to not allow run off to impact waterways or wetlands.

c. Compensatory Mitigation: The applicant has stated he will provide BMP's such as silt fences where needed, straw wattles, and track walk and re-seed all new slopes, and any areas that will not have traffic for normal day to day use.

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 Army 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 polar bear. We have initiated 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 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 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

Wastewater Discharge Authorization Program (WDAP) / 401 Certification

DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
WDAP/401 CERTIFICATION

555 CORDOVA STREET

ANCHORAGE, ALASKA 99501-2617

PHONE: (907) 269-6285 | EMAIL: [dec-401cert@alaska.gov](mailto:dec-401cert@alaska.gov)

## 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 (PN) Reference Number **POA-2007-00394, Bourbon Creek**, 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 or via email to [dec-401cert@alaska.gov](mailto:dec-401cert@alaska.gov) by the expiration date of the Corps of Engineer's Public Notice. All comments should include the PN reference number listed above. Mailed comments must be postmarked on or before the expiration date of the public notice.

### Disability Reasonable Accommodation Notice

The State of Alaska, Department of Environmental Conservation complies with Title II of the Americans with Disabilities Act of 1990. If you are a person with a disability who may need special accommodation in order to participate in this public process, please contact Theresa Zimmerman at 907-465-6171 or TDD Relay Service 1-800-770-8973/TTY or dial 711 within 30 days of publication of this notice to ensure that any necessary accommodations can be provided.



POA-2657-00394

**LEGEND:**

- PRIMARY ADJACENT OF RECORD FOUND ON SET THIS SURVEY
- SECONDARY ADJACENT TO BE SET THIS SURVEY
- LINES VACATED BY THIS PLAT
- (M) UNCLAIMED
- (C) COMPLETED
- (R) RECORD FOR U.S.A.S. 685
- (N) RECORD FOR U.S.A.S. 686
- (H) RECORD FOR PLAT 2006-25

**NOTES:**

1. THE ORDER OF CLAIMING OF THIS SURVEY DOES NOT EXCEED 1,500
2. ALL CLAIMS ARE TRUE EXCEPT AS OTHERWISE NOTED TO THE BASIS OF DISTANCE.
3. ALL WATERWAY DEPOSITS, SYSTEMS ARE SUBJECT TO THE PROVISIONS OF TITLE 18 OF THE ALASKA ADMINISTRATIVE CODE CHAPTER 12 (18 AAC 12).



**SURVEYOR'S CERTIFICATE**

I HEREBY CERTIFY THAT I AM PROPERLY REGISTERED AND LICENSED TO SURVEY IN THE STATE OF ALASKA AND THAT I HAVE PERSONALLY EXAMINED THE SURVEY AND THAT THE SURVEY IS IN ACCORDANCE WITH THE ALASKA SURVEYING ACT AND ALL APPLICABLE RULES AND REGULATIONS. I HAVE ALSO EXAMINED THE PLAT AND THAT IT IS IN ACCORDANCE WITH THE ALASKA SURVEYING ACT AND ALL APPLICABLE RULES AND REGULATIONS.

REGISTERED LAND SURVEYOR

PLAT

DATE



**PRELIMINARY PLAT OF**

**SUNSHINE SUBDIVISION**

**CREATING LOTS 1-4 AND TRACT A**

A SURVEY PREPARED BY GEORGE A. ENIGMA, LAND SURVEYOR, FOR THE SUBDIVISION OF THE SUNSHINE SUBDIVISION, PLAT 2006-25, SHOWING THE LOTS AND TRACTS AND THE BENCH CLAIMS AND THE RIGHT-OF-WAY FOR THE NOME-TELLER HIGHWAY.

DATE OF SURVEY 2018  
SCALE 1"=100'

BY GEORGE A. ENIGMA, LAND SURVEYOR  
STATE OF ALASKA

**TAX CERTIFICATE**

THIS CERTIFICATE IS VALID FOR THE YEAR 2018 AND IS VALID FOR THE PROPERTY PLATTED HEREON HAVE BEEN PAID IN ACCORDANCE WITH THE CITY OF NOME SUBDIVISION REGULATIONS AND IS HEREBY APPROVED.

CITY OF NOME TAX COLLECTION OFFICIAL

DATE

**MINOR SUBDIVISION APPROVAL**

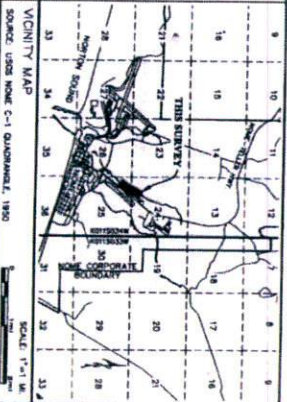
THIS SUBDIVISION HAS BEEN REVIEWED IN ACCORDANCE WITH THE CITY OF NOME SUBDIVISION REGULATIONS AND IS HEREBY APPROVED.

MANAGER, CITY OF NOME

DATE



GRAPHIC SCALE  
0 100 200  
U.S. SURVEY FEET



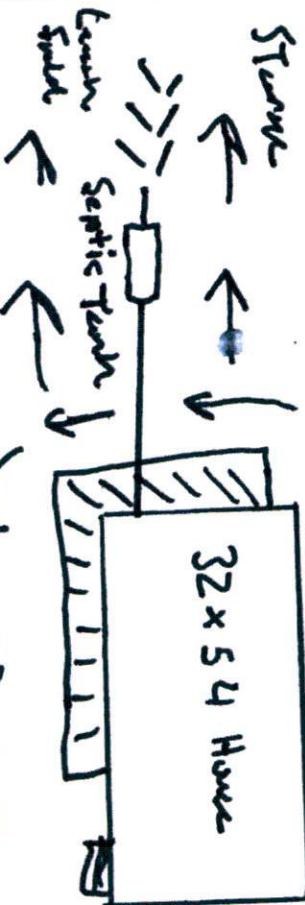
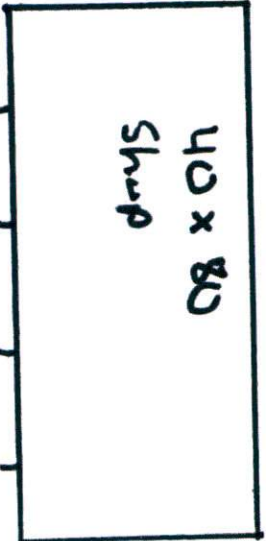
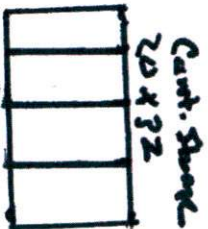
# Proposed layout of Lot 1

POA-2007-00394

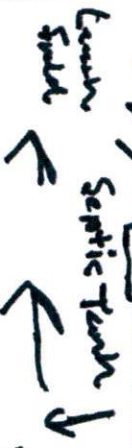
200'

North ↑

Limit of New Fill



Snow Storage



60' Easement

Lot 4

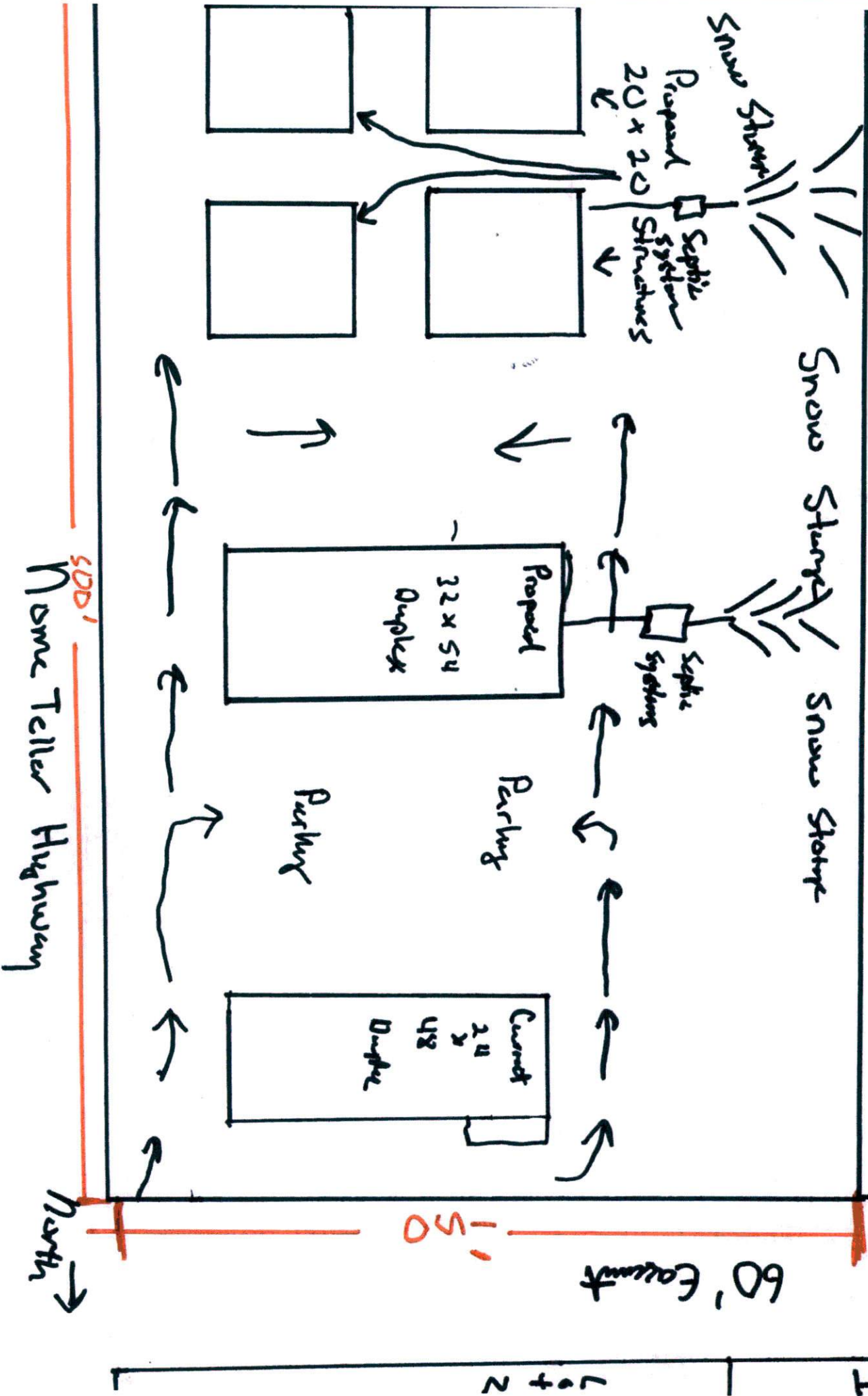
Lot 3

Lot 2

CON.

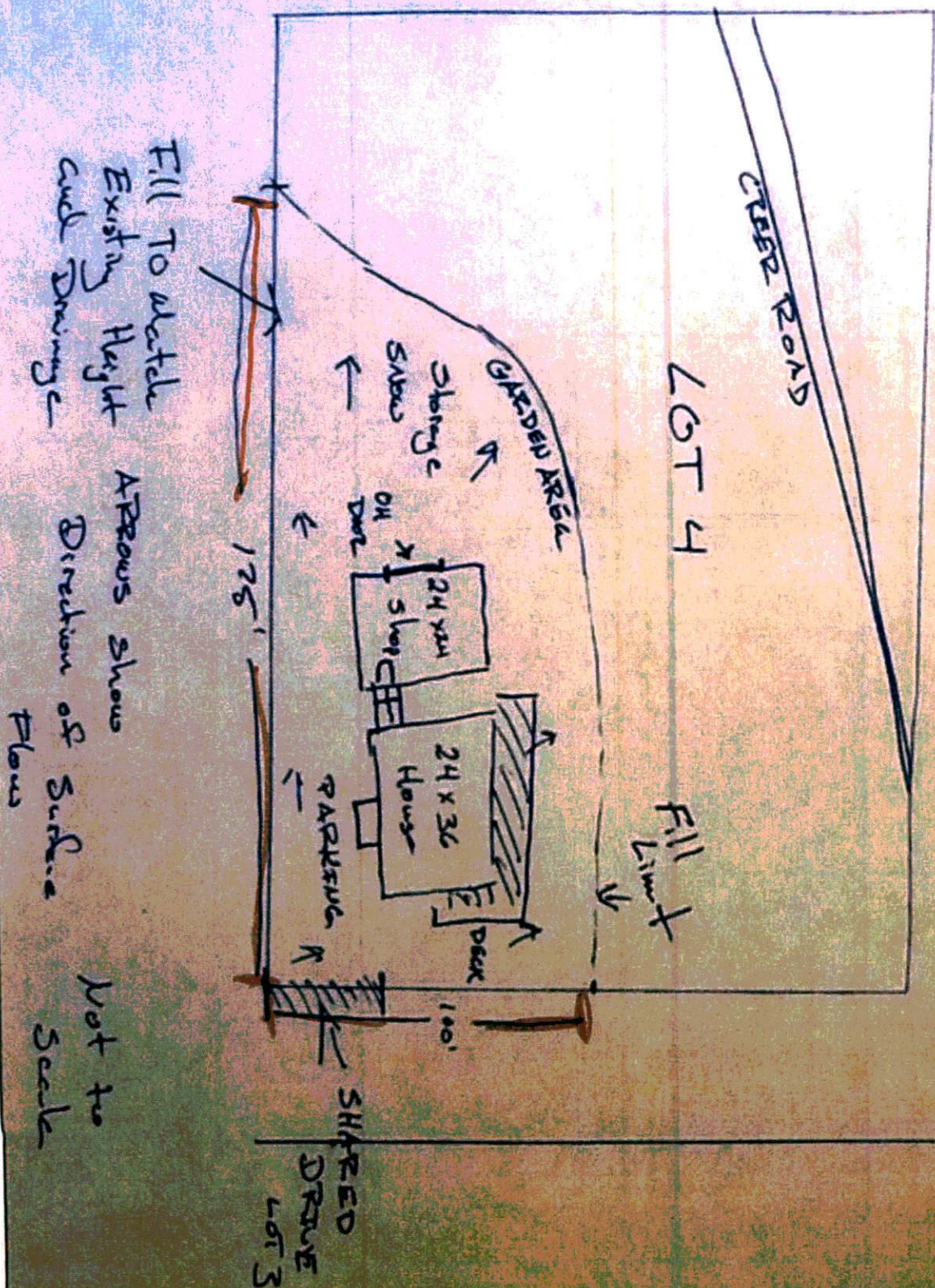


# Proposed Layout of Lot 3 Lot 4 POA-2007-00394

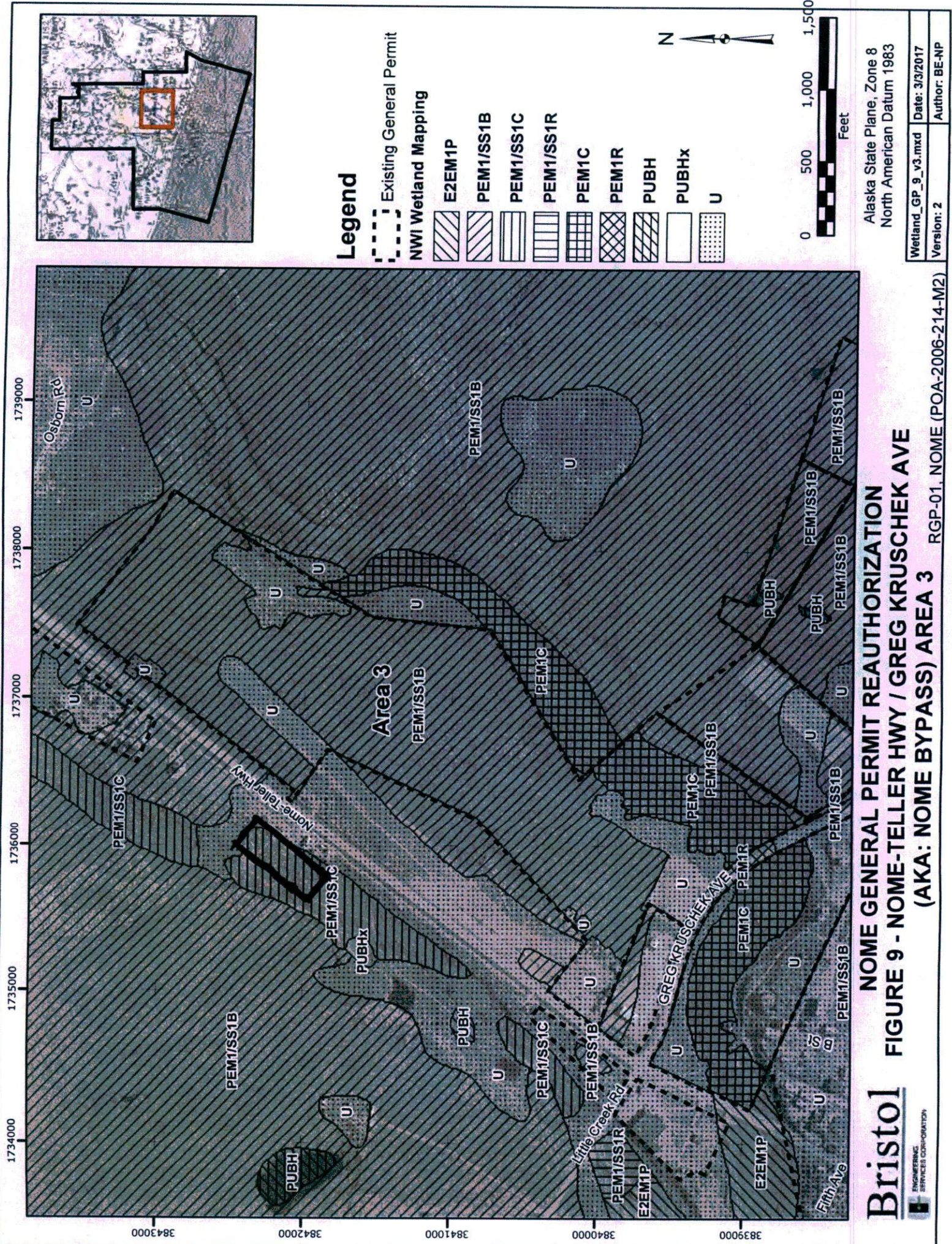




# Proposed layout of Lot 4 POA-2007-00394







Alaska State Plane, Zone 8  
North American Datum 1983

Wetland\_GP\_9\_v3.mxd Date: 3/3/2017  
Version: 2 Author: BE-NP

**NOME GENERAL PERMIT REAUTHORIZATION**  
**FIGURE 9 - NOME-TELLER HWY / GREG KRUSCHEK AVE**  
**(AKA: NOME BYPASS) AREA 3**

RGP-01, NOME (POA-2006-214-M2)



POA-2007-00394



Google Maps



Imagery ©2018 DigitalGlobe, Map data ©2018 Google 500 ft

Area's Previously mined ???