



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

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| PUBLIC NOTICE DATE: | May 12, 2021 |
| EXPIRATION DATE: | June 11, 2021 |
| REFERENCE NUMBER: | POA-2018-00463 |
| WATERWAY: | Mariner Park Slough |

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. 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 Jen Martin at (907) 753-2730 or by email at: Jen.L.Martin@usace.army.mil if further information is desired concerning this notice.

APPLICANT: City of Homer, Attention: Mr. Aaron Yeaton, 491 East Pioneer Avenue, Homer, Alaska 99603

LOCATION: The project site is located within Section 28, T. 6 S., R. 13 W., Seward Meridian; USGS Quad Map Seldovia C-5; Latitude 59.6324° N., Longitude 151.4980° W.; Kenai Peninsula Borough (KPB); KPB Parcel # 181-010-25; northwest of Mariner Park off of Homer Spit Road, in Homer, Alaska.

PURPOSE: The applicant's stated purpose is to reestablish tidal flushing within Mariner Park Slough. Tidal flushing is important in maintaining the area's shorebird habitat.

PROPOSED WORK: To excavate 275 cubic yards of native beach material from a 6,000 square foot (sf) area below the high tide line (HTL), 23.4 foot above the mean lower low water (MLLW) elevation of 0.0 foot) of Mariner Park Slough and Kachemak Bay, a navigable water of the U.S., and discharge the dredged material into a 6,000 sf area below the HTL in order to

reestablish the tidal outlet between Mariner Park Slough and Kachemak Bay which would reestablish natural flows in Mariner Park Slough. Discharged material would block an existing side channel which frequently becomes naturally dammed and does not provide adequate tidal flushing. Material would be excavated/moved with a bulldozer, excavator or similar machinery during lower tide cycles. No work would occur below the mean high water mark (MHW, 17.3 foot above the MLLW elevation of 0.0 foot) of Kachemak Bay. Work would be performed on a recurring basis, as needed to address future slough mouth closures.

All work would be performed in accordance with the enclosed plan (sheets 1-4), dated November 29, 2018.

ADDITIONAL INFORMATION: The outlet of Mariner Park Slough into Kachemak Bay migrates based on tidal influence, storm tides and deposition of varying amounts of native material. High tides and storms rework the material on the beach, often resulting in a berm which has restricted flow into a minor side channel, which has itself been cut off by another berm preventing regular tidal flushing. The impounded water floods several acres of wetland and beachfront vegetation. The flooded area is important habitat to birds, fish, mollusks and crustaceans. Extended flood conditions result in elevated salinity concentrations and anaerobic conditions, both of which reduce the quality of the habitat. Additionally, home and business owners to the north of the slough have experienced erosion due to the wave action during storm events. This results in increased turbidity and sedimentation, which further exacerbates the issues within the estuarine system. Placement of the material into the recently eroded side channel would aid in maintaining the tidal outlet opening, thus allowing natural tidal flushing to resume.

A DA Nationwide Permit verification was issued to the City of Homer on November 30, 2018, to perform the work described above, however, work was limited to one period of construction. The slough channel has continued to migrate, and the applicant has requested authorization to maintain the location of the mouth of the slough on a continual basis over a ten-year period of time.

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: Avoidance would not be possible, as the work would include removal and deposition of material below the HTL to reestablish tidal flows.

b. Minimization: The activity would restore aquatic function to an estuarine system which has been cut off from its natural tidal outlet through a series of sand/gravel berms. The material that would be excavated would be placed in the same size footprint as the removal area (no net loss of open water). There would be no wetlands directly impacted by the proposed work. However, if the work is not accomplished, a large intertidal marsh would be negatively affected.

c. Compensatory Mitigation: No mitigation has been proposed as the activity would consist entirely of restoration activities.

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 0.28-acre project area described above. 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 area of excavation and the area of discharge are continually re-worked by natural tidal processes. Any historical properties that may have been present in the past would have long ago been lost or destroyed due to extreme wave action and sediment transport. The Corps has made a No Potential to Cause Effects determination for the proposed project. Consultation with the State Historic Preservation Office (SHPO) is not required, however, 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.

ENDANGERED SPECIES: The project area is within the known or historic range of the Steller's eider (*Polysticta stelleri*), short-tailed albatross (*Phoebastria (=Diomedea) albatrus*), Cook Inlet beluga whale (*Delphinapterus leucas*), fin whale (*Balaenoptera physalus*) and the Western North Pacific and Mexico Distinct Population Segments of humpback whale (*Megaptera novaeangliae*).

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 Yellowfin sole (*Limanda aspera*), Sculpin (cottidae), Rex sole (*Glyptocephalus zachirus*), Walleye pollock (*Theragra calcogramma*), Flathead sole (*Hippoglossoides elassodon*), Pacific cod (*Gadus macrocephalus*), Arrow tooth flounder (*Atheresthes stomias*), chum salmon (*Oncorhynchus keta*), pink salmon (*O. gorbuscha*), coho salmon (*O. kisutch*), sockeye salmon (*O. nerka*), and Chinook salmon (*O. tshawytscha*).

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 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, 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.

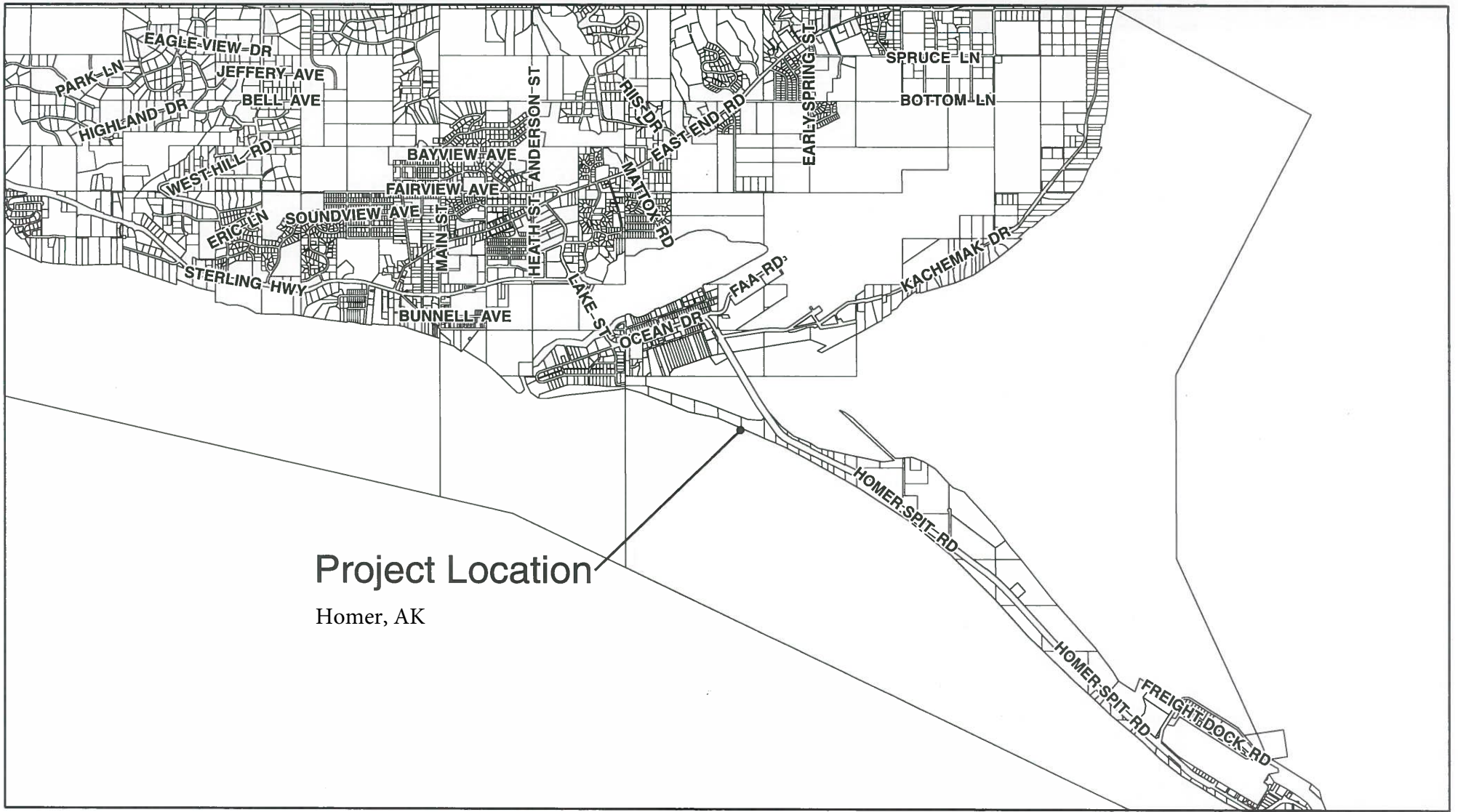
AUTHORITY: This permit will be issued or denied under the following authority:

(X) Discharge dredged or fill material into waters of the 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

Enclosures



Project Location

Homer, AK

VICINITY MAP



"MARINER PARK"
SLOUGH



1 inch = 200 feet

MUD
BAY

HOMER
SPIT ROAD
(STERLING HWY)

AREA OF DISPOSAL
(EXCAVATED
MATERIAL)

MARINER PARK

EXIST OUTLET
BLOCKED

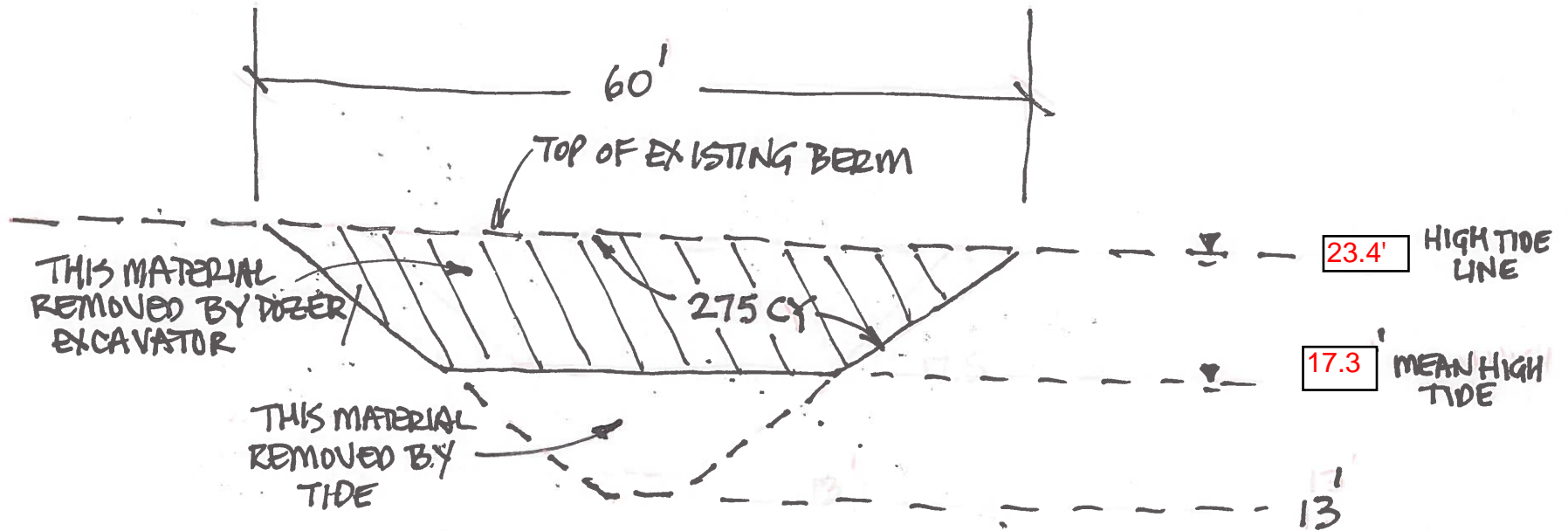
EXCAVATION
AREA

NEW
OUTLET

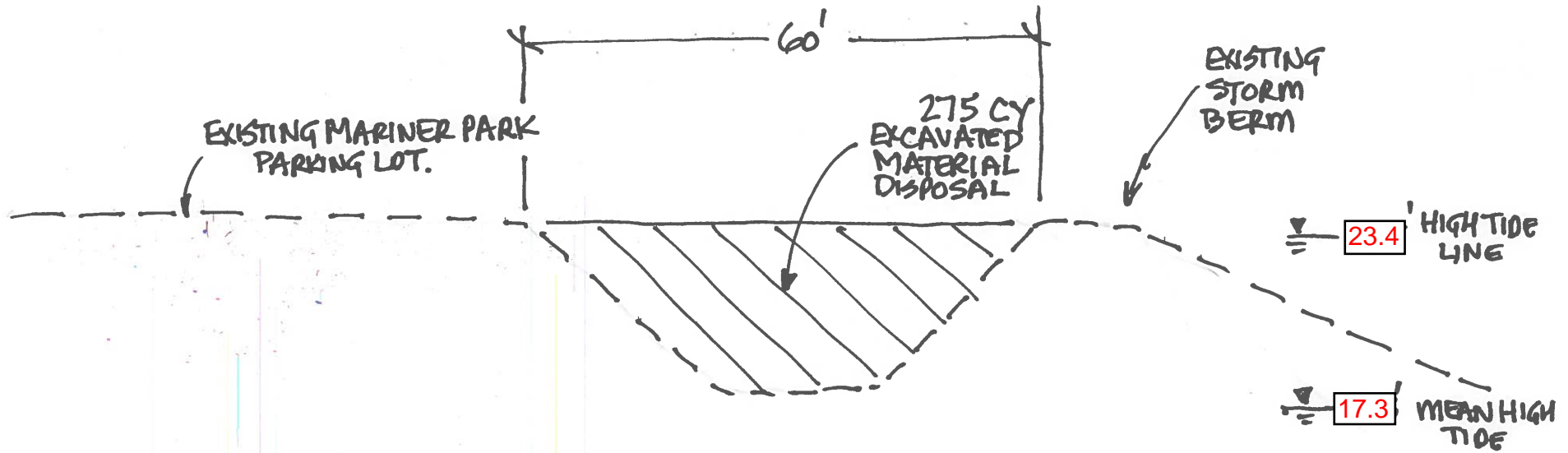
EXISTING NATURALLY
OCCURRING BERM

CURRENT
OUTLET

KACHEMAK BAY



SECTION A-A (TYP.)
NTS
 (NEW OPENING EXCAVATION)



SECTION B-B (TYP.)

NTS
 (DISPOSAL AREA - BLOCKING EXISTING)