



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 18, 2017
EXPIRATION DATE:	October 3, 2017
REFERENCE NUMBER:	POA-2017-336
WATERWAY:	China Poot 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 Ms. 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: Ms. Gail Fisher (China Bay, LLC), 952 Alameda Padre Serra, Santa Barbara, California 93103

AGENT: Mr. John Bishop (Bishop Engineering, LLC) Post Office Box 2501, Homer, Alaska 99603

LOCATION: The project site is located within Section 15, T. 7 S., R. 12 W., Seward Meridian; USGS Quad Map Seldovia C-4; Latitude 59.5755° N., Longitude 151.3146° W.; China Poot Bay; Kenai Peninsula Borough tax parcel 193-270-03; 4.4 miles southeast of Homer, Alaska.

SPECIAL AREA DESIGNATION: The project is located within the Kachemak Bay National Estuarine Research Reserve and the Kachemak Bay State Critical Habitat Area.

PURPOSE: The applicant's stated purpose is to develop a mixed use site, with a commercial lodging facility and a residential house for the owners, with boat access at all tide elevations.

PROPOSED WORK: The applicant proposes to construct a 125 foot by 8 foot wide long floating dock, a 100 foot long by 4 foot wide aluminum gangway, and a 607 foot long by 6 foot wide timber boardwalk below the mean high water mark (MHW, 17.2 feet above the mean lower low water elevation of 0 feet) of China Poot Bay, which is a navigable water of the U.S. In addition, the applicant proposes to temporarily sidecast 360 cubic yards of native substrate into 0.08-acres below the high tide line (HTL, 23.1 feet above the mean lower low water elevation) of China Poot Bay.

The floating dock would be supported by six 16-inch diameter steel pilings. The dock would be constructed of timber decking and interconnected plastic floats containing polystyrene fill.

The boardwalk would be supported by sixty-eight 12-inch diameter steel or recycled creosote treated timber piles. The recycled timber piles were previously installed in the marine environment in southcentral Alaska. The wood deck and cross bracing would consist of micronized copper quaternary treated wood.

The piles would be installed by excavating the native substrate down to bedrock at low tide using a track mounted excavator, installing rock anchors or drilling to embed the piling where the substrate is shallow, placing the pilings, and then replacing the sidecast substrate back around the piling. All excess substrate, approximately 6 cubic yards of material, would be permanently disposed of in uplands.

The 16-inch piles would be embedded in the bedrock using a drill and a crane mounted on a 120 foot long by 30 foot wide spud barge. The applicant estimates that it would take 6 working days, with two piles set over each 8 hour day, to install the 16-inch pilings.

Thirty-four of the 12-inch piles would require a rock anchor, which would consist of a ¾ inch diameter by 4 foot long, galvanized steel threaded rod, embedded in a 2 inch hole and set with rapid set hydraulic cement grout. The rock anchors would be installed during low tide. Rock anchor drilling is anticipated to take 34 days with about 2 hours of drilling per day, at low tide.

The applicant proposes to begin work as soon as October 2017 and to complete work by the end of August 2018.

All work would be performed in accordance with the enclosed plan (sheet 1), dated September 6, 2017, (sheet 2), dated September 12, 2017, and (sheet 3), dated September 13, 2017.

ADDITIONAL INFORMATION: Work above the HTL, which does not require Department of the Army authorization, includes the construction of a 4 bedroom residence and a 10 bedroom lodge and a material and equipment staging area in the uplands at the north end of the local bay. The residence is currently under construction and the lodge construction is proposed for summer of 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: The boardwalk alignment was kept as close to the bluff as feasible and would attach to the bluff where feasible to avoid installation of additional pilings.

b. Minimization: The boardwalk would be located above the mean high water (MHW) where feasible. Temporary stockpiling of excavated materials would be placed above the MHW where feasible. Excavations and backfilling would be performed sequentially to minimize disturbed materials. Work along the boardwalk would commence from the dock and work toward the beach, and equipment and stockpiling would be limited to a 6 foot wide zone.

c. Compensatory Mitigation: No compensatory mitigation was proposed as no permanent discharges of dredged or fill material are proposed.

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 has been determined to be the footprint of the structures described above, as well as the footprint of the spud barge, the 6 foot wide construction area along the path of the proposed boardwalk, and the material and equipment staging area in the uplands at the north end of the local bay.

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. AHRs site SEL-00012 is in the immediate vicinity of the permit area. AHRs site SEL-00013 is located within less than 1,000 feet of the permit area. A determination of eligibility has not yet been made for either site. 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.

We will initiate the appropriate consultation procedures under Appendix C of 33 CFR 325 and Section 106 of the National Historic Preservation Act with the Alaska SHPO. 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.

ENDANGERED SPECIES: The project area is within the known or historic range of the Western DPS Steller Sea Lion (*Eumetopias jubatus*) (Endangered), Cook Inlet Beluga Whales (*Delphinapterus leucas*) (Endangered), Western North Pacific Humpback Whale (*Megaptera novaeangliae*) (Endangered), the Mexico DPS Humpback Whale (*Megaptera novaeangliae*) (Threatened) and the short-tailed albatross (*Phoebastria albatrus*).

We have determined the described activity would have no effect on the short-tailed albatross, under the Endangered Species Act of 1973 (87 Stat. 844). Therefore, no consultation with the U.S. Fish and Wildlife Service 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.

We have determined the described activity may affect the threatened or endangered Western DPS of the Steller sea lion, the Cook Inlet beluga whale, and the Western North Pacific and the Mexico DPS of the humpback whale, and the Cook Inlet beluga whale designated critical habitat. We will initiate the appropriate consultation procedures under section 7 of the Endangered Species Act with the National Marine Fisheries Service (NMFS). 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*), and the coho salmon (*Oncorhynchus kisutch*).

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

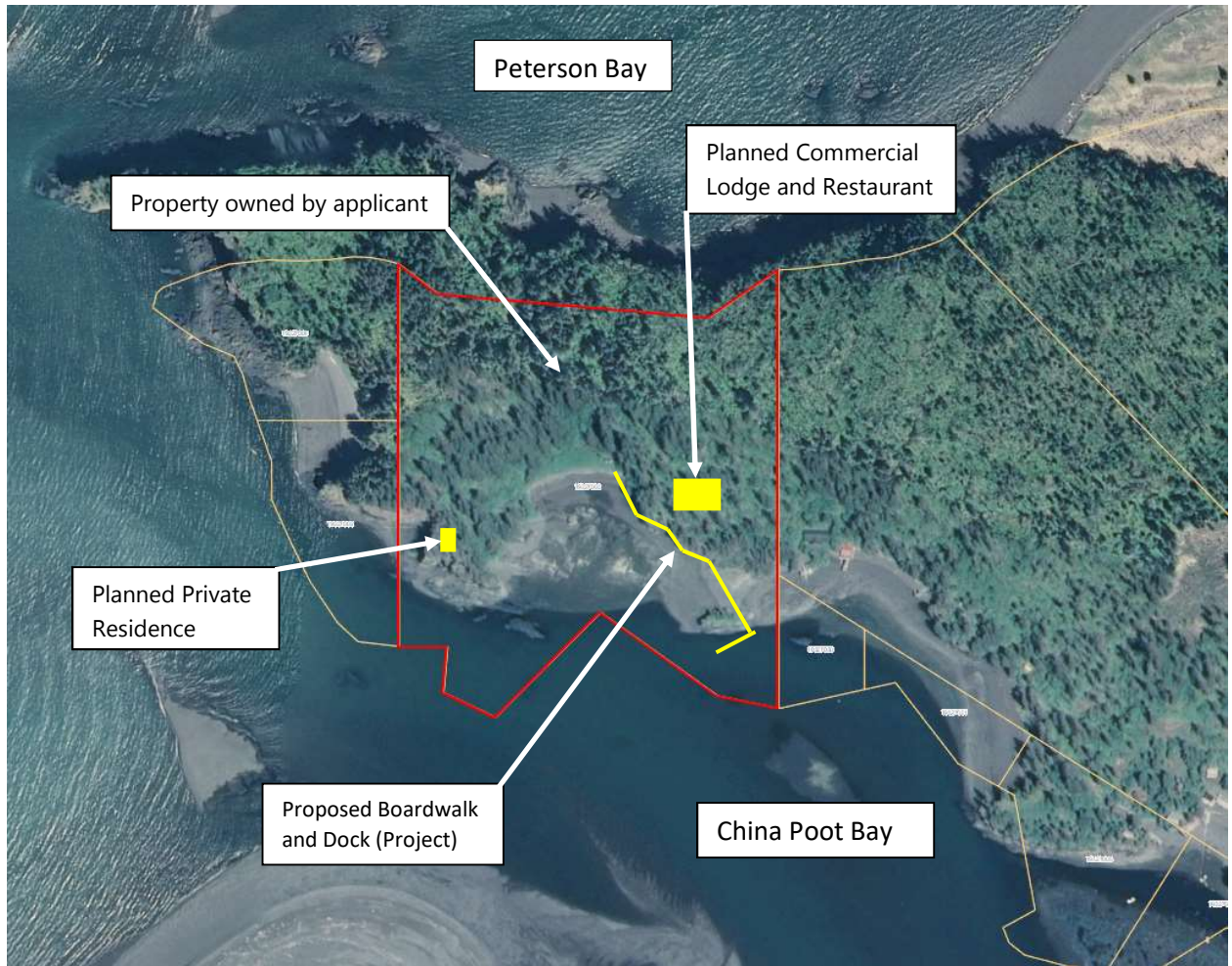
NOTICE OF APPLICATION FOR STATE WATER QUALITY CERTIFICATION

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-2017-336, China Poot 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.



PROJECT SITE MAP

China Bay, LLC – Dock and Boardwalk

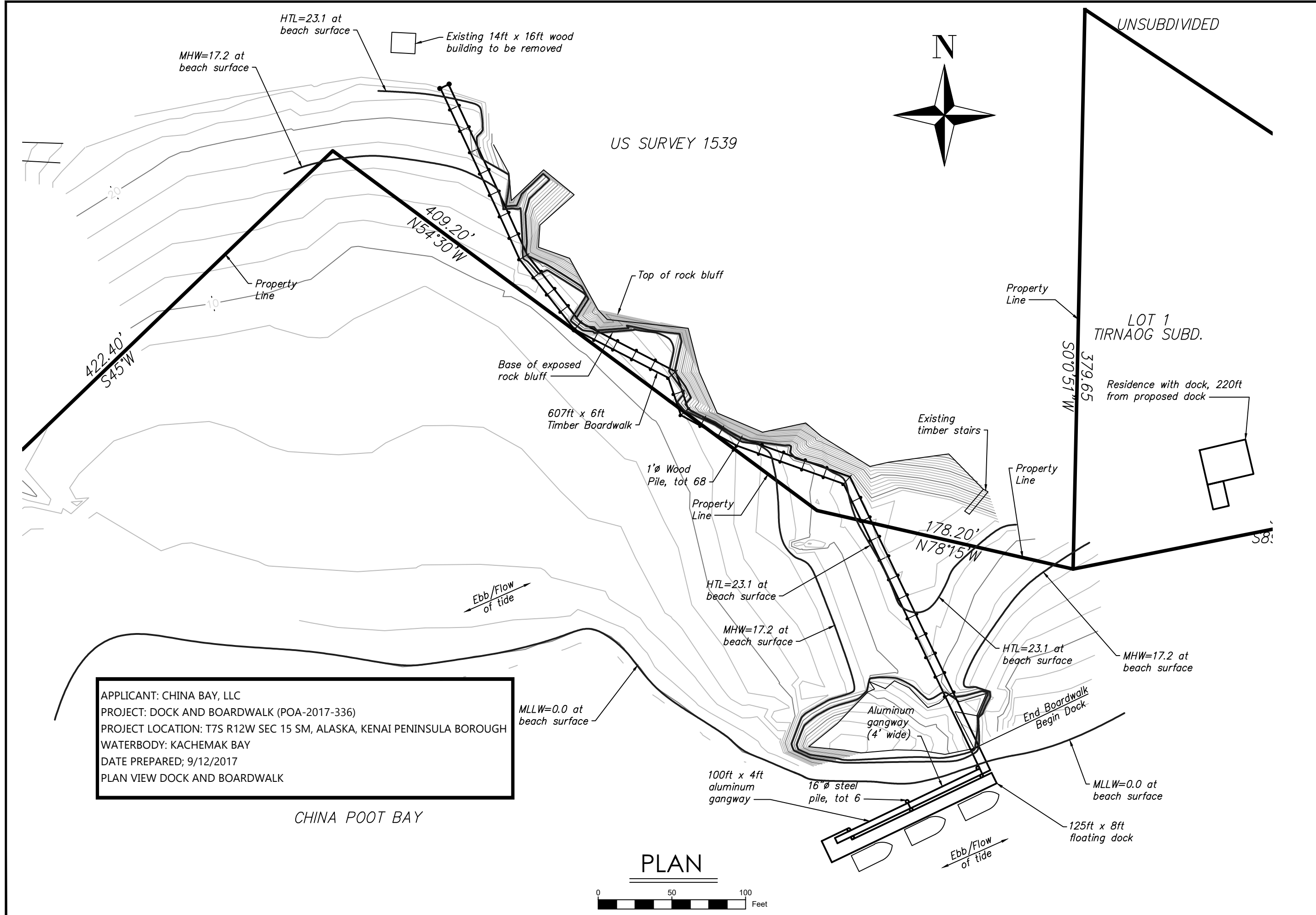
POA-2017-336

Lat: 59°34'32"N Long: 151°18'53"W

Seldovia C-4 SE Quadrangle

500 Feet





APPLICANT: CHINA BAY, LLC
 PROJECT: DOCK AND BOARDWALK (POA-2017-336)
 PROJECT LOCATION: T7S R12W SEC 15 SM, ALASKA, KENAI PENINSULA BOROUGH
 WATERBODY: KACHEMAK BAY
 DATE PREPARED; 9/12/2017
 PLAN VIEW DOCK AND BOARDWALK

BISHOP ENGINEERING, LLC
 PO BOX 2501 HOMER, ALASKA 99603-2501
 (907) 295-7609
 JBISHOP@BISHOP-ENGINEERING.COM

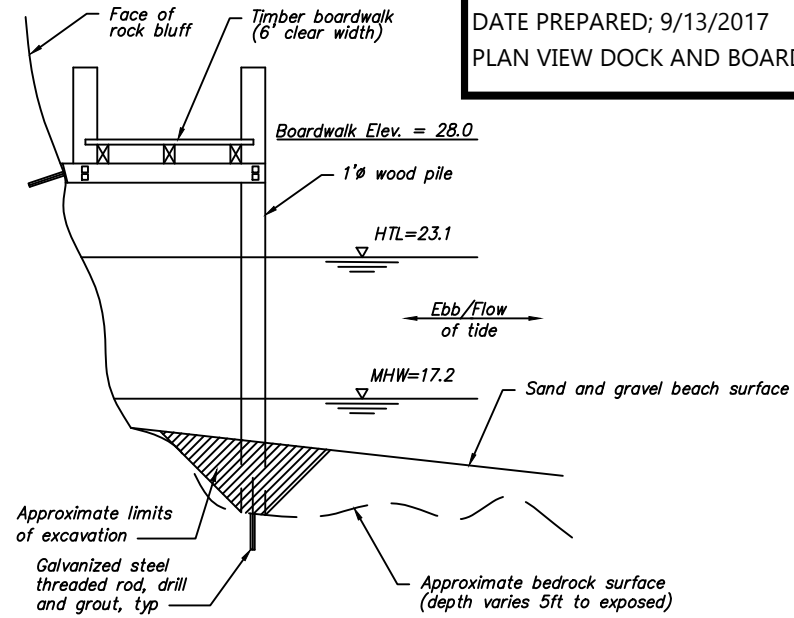
CHINA BAY LLC LODGE DEVELOPMENT
 CHINA POOT, ALASKA
 FOR PERMITTING PURPOSES ONLY

Revisions: 1. Revised MLLW=0.0 2. Gangway callout
Date: 9/12/2017 Drawn: JSB Checked: JSB Project: 2017040 File Name: 2017040.DWG
Sheet Title: SITE PLAN
Sheet: S1.1
1 of 3

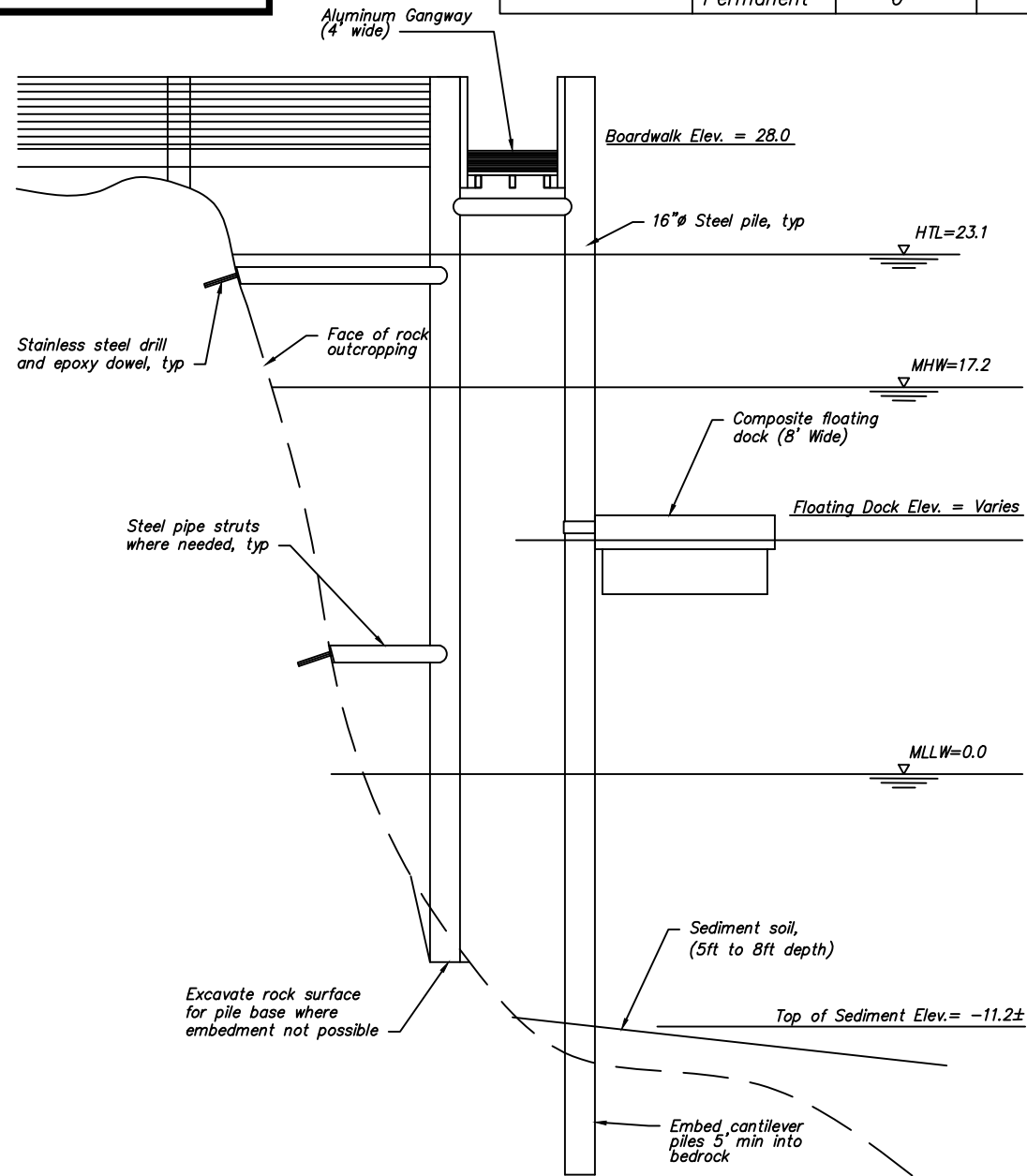
APPLICANT: CHINA BAY, LLC
 PROJECT: DOCK AND BOARDWALK (POA-2017-336)
 PROJECT LOCATION: T7S R12W SEC 15 SM, ALASKA, KENAI PENINSULA BOROUGH
 WATERBODY: KACHEMAK BAY
 DATE PREPARED; 9/13/2017
 PLAN VIEW DOCK AND BOARDWALK

IMPACT TO WATERS OF THE US

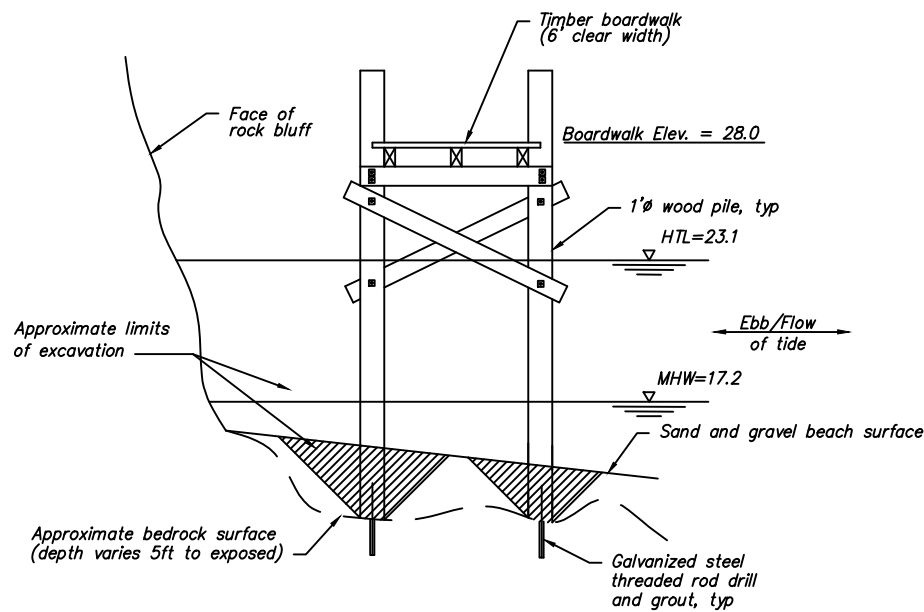
FOUNDATION TYPE	IMPACT TYPE	NUMBER	TOTAL AREA (square feet)	TOTAL VOLUME (cubic yards)
Boardwalk Piles	Temporary	N/A	3500	305
	Permanent	68	54	4
Dock Piles	Temporary	N/A	640	55
	Permanent	6	9	2



BOARDWALK PIER - TYPE 1 (TOTAL 10)



DOCK SECTION



BOARDWALK PIER - TYPE 2 (TOTAL 29)



BISHOP ENGINEERING, LLC

PO BOX 2501 HOMER, ALASKA 99603-2501
 (907) 299-7609
 JBISHOP@BISHOP-ENGINEERING.COM

CHINA BAY LLC LODGE DEVELOPMENT
 CHINA POOT, ALASKA
 FOR PERMITTING PURPOSES ONLY

Revisions:
 1. Revised MLLW=0.0
 1. Add sediment elev.

Date: 9/13/2017
 Drawn: JSB
 Checked: JSB
 Project: 2017040
 File Name: 2017040.DWG

Sheet Title:
 TYPICAL SECTIONS

Sheet:
 S1.2