



US Army Corps  
of Engineers  
Alaska District

U.S. Army Corps of Engineers  
Regulatory Division (1145)  
CEPOA-RD  
Post Office Box 6898  
JBER, Alaska 99506-0898

U.S. Environmental Protection Agency  
Pacific Northwest, Region 10  
1200 Sixth Avenue, Mail Stop 14-D12  
Seattle Washington 98101-3140  
Telephone: (206) 553-6384  
Attention: Linda Storm

# Joint Public Notice

## Application for a Department of the Army Permit and an Environmental Protection Agency Water Quality Certification

<b>PUBLIC NOTICE DATE:</b>	<b>September 5, 2019</b>
<b>EXPIRATION DATE:</b>	<b>October 7, 2019</b>
<b>REFERENCE NUMBER:</b>	<b>POA-2019-00282</b>
<b>WATERWAY:</b>	<b>Nichols Passage</b>

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Interested parties are hereby notified that a Department of the Army 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.

The U.S. Army Corps of Engineers (Corps) will review the work in accordance with Section 404 of the Clean Water Act (CWA). The Environmental Protection Agency (EPA) will review the work in accordance with Section 401 of the CWA.

All comments regarding this Public Notice (PN) should be received no later than the expiration date of this PN to become part of the record and be considered in the decision. Please contact Andrew Gregory at (907) 753-2791, toll free from within Alaska at (800) 478-2712, by fax at (907) 753-5567, or by email at: [andrew.w.gregory@usace.army.mil](mailto:andrew.w.gregory@usace.army.mil) if further information is desired concerning this notice.

**CORPS COMMENTS:** Comments regarding this 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 above or to [regpagemaster@usace.army.mil](mailto:regpagemaster@usace.army.mil). All comments should include the PN reference number listed above.

**EPA COMMENTS:** Any person desiring to present views on the project pertaining to a request for water quality certification under Section 401 of the CWA, may do so by submitting written comments to the address noted above or by email at [storm.linda@epa.gov](mailto:storm.linda@epa.gov).

APPLICANT: Metlakatla Indian Community, Post Office Box 8, Metlakatla, Alaska 99926

AGENT: DOWL, 4041 B Street, Anchorage, Alaska 99503

LOCATION: The project site is located within Section 8, T. 78 S., R. 92 E., Copper River Meridian; USGS Quad Map Ketchikan A-5; Latitude 55.118005° N., Longitude -131.594669° W.; in Metlakatla, Alaska.

PURPOSE: The applicant's stated purpose is to establish a Veteran's Administration cemetery in Metlakatla, Alaska.

PROPOSED WORK: Placement of approximately 16,940 cubic yards of fill material into 3.5 acres of wetlands for the construction of a cemetery and its associated access road and structures. All work would be performed in accordance with the enclosed plan (sheets 1-4), dated July 2019.

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: Avoiding impacts to wetlands is not practicable as there is a high proportion of wetlands in the area. Uplands alternatives to avoid all wetland impacts are not feasible.

b. Minimization: Emphasis has been placed on minimizing unavoidable impacts to waters of the U.S. by limiting fill discharges to the minimum amount and size necessary to achieve the project purpose.

c. Compensatory Mitigation: No compensatory mitigation is proposed. The agent, on behalf of the applicant, has stated they do not believe compensatory mitigation is warranted for rural development projects that are small in size.

WATER QUALITY CERTIFICATION: This notice will also serve as a PN that the U.S. Environmental Protection Agency (EPA) is evaluating whether to certify that the discharge of dredged and/or fill material proposed for this project will not violate existing water quality standards. A Department of the Army Permit will not be issued until water quality certification has been issued or waived by the EPA, as required by Section 401 of the Clean Water Act. Additionally, within 30 days of this PN, any person may provide written comments to EPA and/or request in writing that EPA provide them notice of their preliminary 401 Certification decision. Comments concerning water quality certification for this project should be mailed to the EPA at the contact address provided at the beginning of this notice.

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 cultural resources in the permit area or within the vicinity of the permit area. The permit area has been determined to be the entire 3.5 acre project site. Consultation of the AHRS constitutes the extent of cultural resource investigations by the Corps at this time, and we are otherwise unaware of the presence of such resources. The Alaska State Historic Preservation Office has provided a letter to the applicant stating 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.

ENDANGERED SPECIES: The project area is within the known or historic range of the Steller Sea Lion (*Eumetopias jubatus*). 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 pink salmon (*Oncorhynchus gorbuscha*), chum salmon (*Oncorhynchus keta*), and coho salmon (*Oncorhynchus kisutch*).

We are currently gathering information regarding these species and have yet to make a determination of effect. Should we find that the described activity may affect the species listed above, we will follow the appropriate course of action under Section 305(b)(2) of the Magnuson-Stevens Act. Any comments the National Marine Fisheries Service may have concerning essential fish habitat will be considered in our final assessment of the described work.

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.

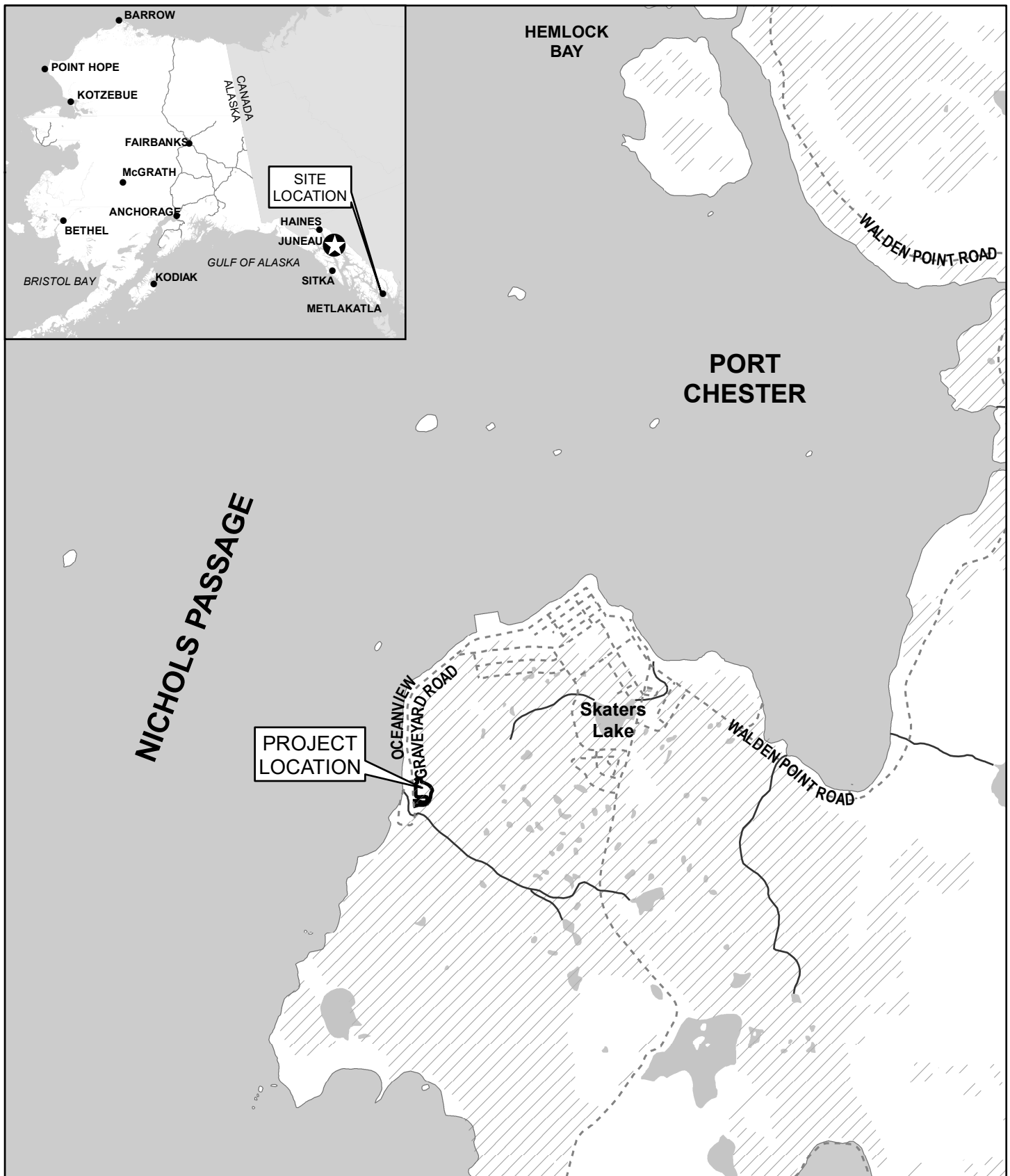
AUTHORITY: This permit will be issued or denied under the following authorities:

(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



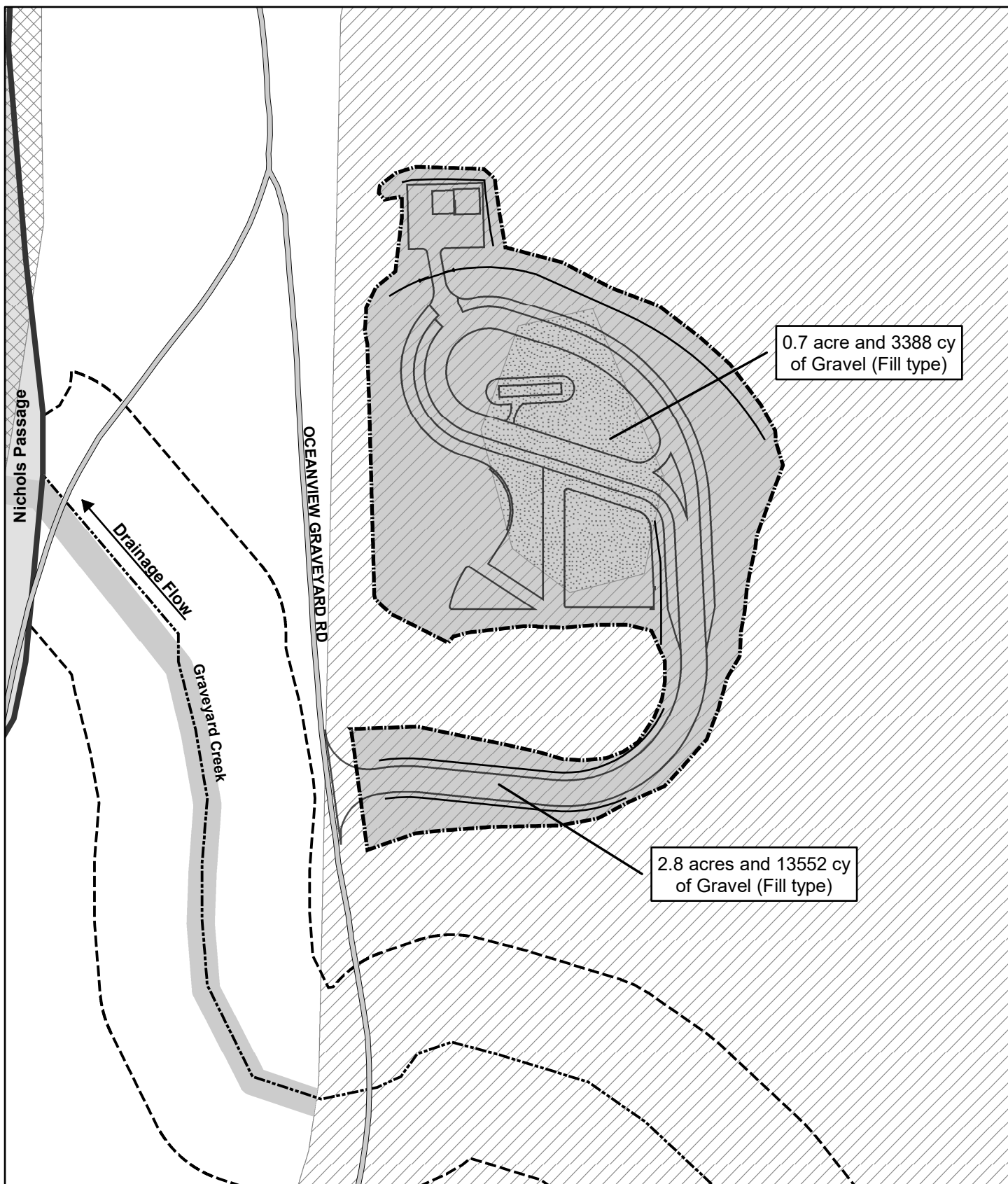
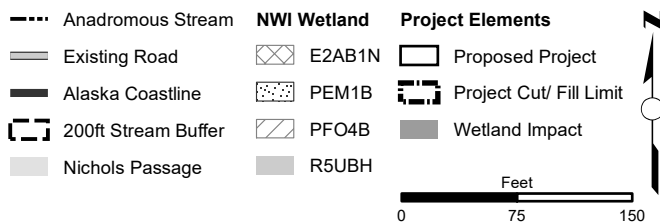


FIGURE 2: Plan View

Applicant: Metlakatla Indian Community  
 Proposed Activity: Annette Islands Reserve Veterans Cemetery  
 T 78 S, R 92 E Copper River Meridian USGS  
 Lat.: 55.118005° N Long.: 131.594669° W  
 Sheet: 2 of 4

Date: 7/26/2019



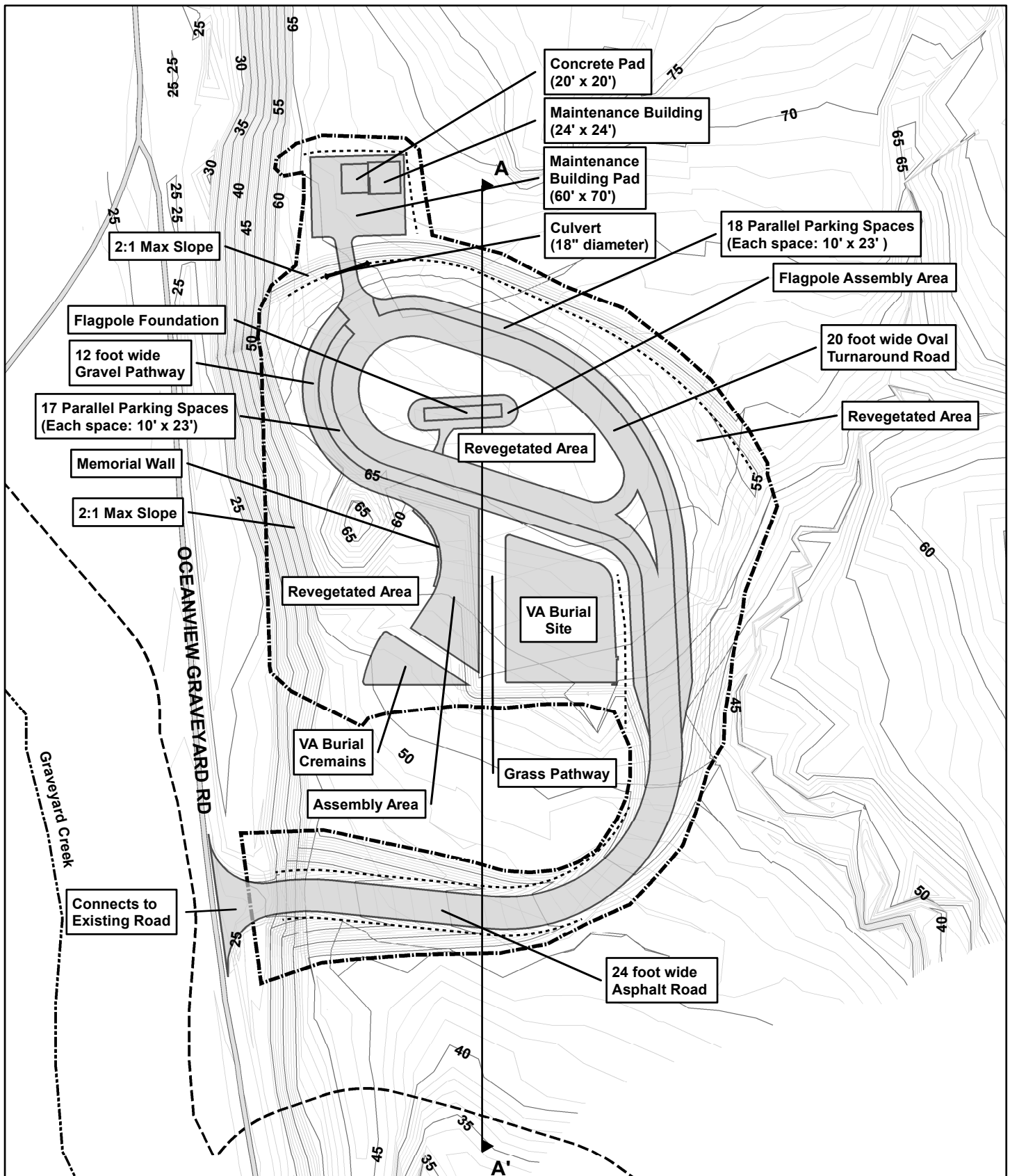
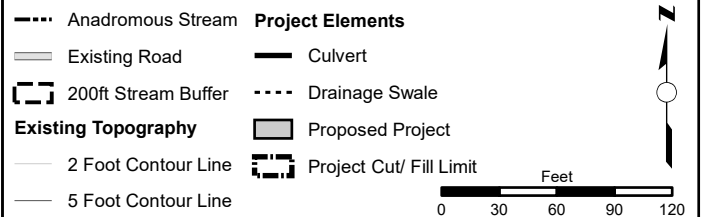


FIGURE 3: Nature of Activity

Applicant: Metlakatla Indian Community  
 Proposed Activity: Annette Islands Reserve Veterans Cemetery  
 T 78 S, R 92 E Copper River Meridian USGS  
 Lat.: 55.118005° N Long.: 131.594669° W  
 Sheet: 3 of 4

Date: 7/29/2019



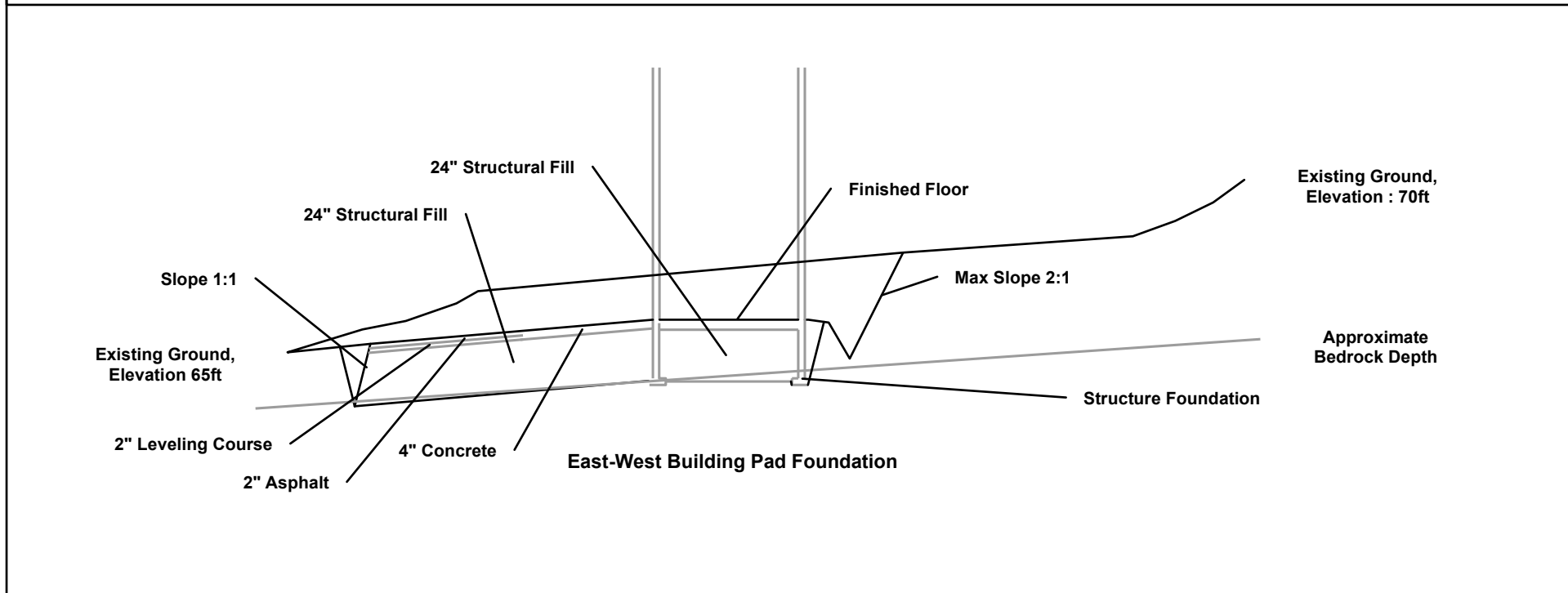
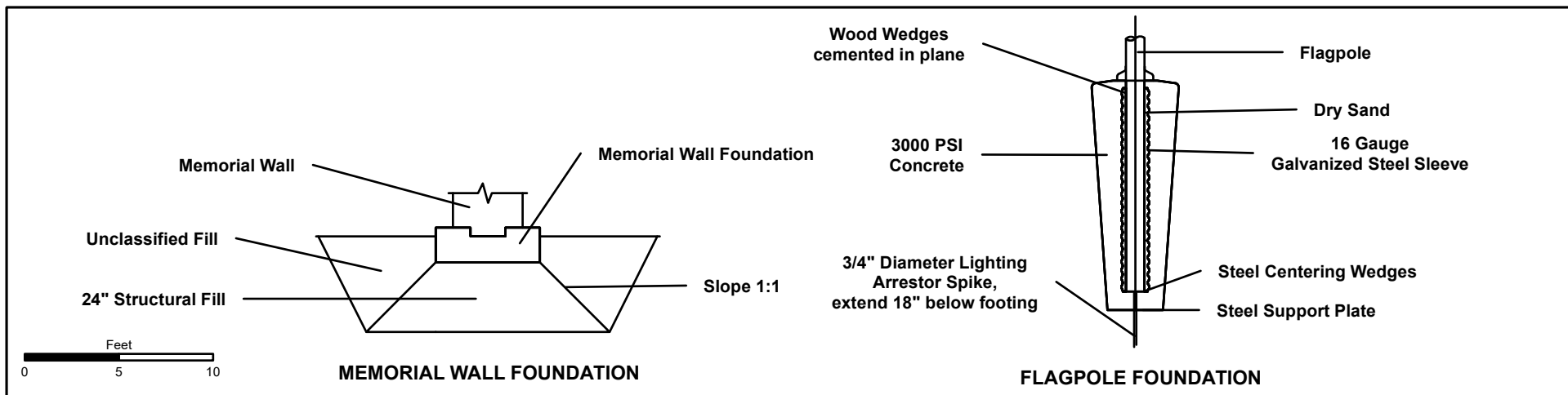


FIGURE 4B: Elevation View of Additional Structures

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