



US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

ANCHORAGE
Regulatory Division (1145)
CEPOA-RD
P.O. BOX 6898
JBER, AK 99506-0898

PUBLIC NOTICE DATE:	May 3, 2023
EXPIRATION DATE:	June 2, 2023
REFERENCE NUMBER:	POA-2020-00423
WATERWAY:	Kotzebue Sound

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.

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. 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 Tyler Marye at (907) 753-5778, toll free from within Alaska at (800) 478-2712, or by email at Tyler.J.Marye@usace.army.mil if further information is desired concerning this public notice.

APPLICANT: Karen Kim Franklin, P.O. Box 776, Kotzebue, AK 99750,
Kimkim.franklin@gmail.com.

AGENT: MLP & Associates, LLC, 721 Depot Drive, Anchorage, AK 99501,
Lindsey@mlpassociates.com.

LOCATION: The project site is located within Section 3, T. 16 N., R. 18 W., Kateel River Meridian; Latitude 66.8123° N, Longitude 162.5543° W; near Kotzebue, Alaska.

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

PURPOSE: The applicant's stated purpose is to extract and stockpile sand and gravel materials for use in support of Alaska Department of Transportation & Public Facilities (ADOT&PF): Kotzebue to Cape Blossom Road - Stage 1, Project No. 0002469/NFHwy00418 roadway project; and the future project, Kotzebue to Cape Blossom Road - Stage 2.

PROPOSED WORK: The jurisdictional work that the applicant proposes to perform is work below Mean High Water (MHW) and to redistribute approximately 177,600 cubic yards of sand and gravel in 109.72 acres of tidal waters in order to extract fill material.

The applicant states heavy machinery for material extraction will operate from land. Machinery will drive along the shoreline, removing material from the tidelands, following the tides between Mean Lower Low Water (MLLW; 0.0 feet) and MHW (MHW; 0.8 feet; Sheets 2 through 4). The extraction process will occur out of water, to the greatest extent practicable; however, material may be extracted from water in the submerged lands. An excavator may be positioned adjacent to the waterline with the arm extending 32 feet seaward, extracting material at 1-foot in depth. It is anticipated that material extraction will occur from 2023 to 2026. Material extraction is estimated to begin each year in August and end in March the following year. Work will take place 12 hours per day, 7 days per week. All work would be performed in accordance with the enclosed plan (sheets 1–5), dated April 14, 2023.

ADDITIONAL INFORMATION: According to the applicant Northwest Arctic Borough Title 9 approval was received October 21, 2021 (#112-03-22). The applicant has also provided the following alternatives they considered for the proposed project:

Project alternatives, including no action, development of a gravel pit in Kotzebue, continued use of Nimiuk Point gravel pits, Iggy Hill material site, Sadie Creek upland beach berm, and the proposed project, were considered by the applicant considering site logistics, ADOT&PF construction requirements, noise pollution, and the overall project purpose. A description of the alternatives considered are as follows:

Alternative 1: No Action

The No Action alternative would not develop any of the site and leave it as it is currently undeveloped. This alternative provided no new source of sands and gravels or would 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 ADOT&PF 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 as well as ice rich permafrost. 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 workers and delivery of products to the ADOT&PF construction site.

Alternative 3: Continued Use of Nimiuk Point Gravel Pits

There are privately owned gravel pits along Nimiuk Point, not owned by the applicant. Based on review of aerial imagery, these pits appear to be near the end of their lifespan with limited sands and gravels available. Purchasing these properties for continued development is not economically an option.

Alternative 4: Iggy Hill Material Site

Iggy Hill Material site is located approximately 8-miles east of the City of Kotzebue. The material site was identified in the ADOT&PF Cape Blossom bid package. The site is an undeveloped 8.25 acre privately owned property, by Nana Corporation and Kikiktagruk, Inc. The site will require removal of 11- to 50-feet of ice-rich silt and overburden; development of a staging area for processing equipment and barge ramp; and permitting the site. An estimated 710,000 cubic yards of material is at the site. Winter mining was recommended by ADOT&PF due to ice-rich silt not being stable once thawed as well as the establishment of overland ice roads or sea ice haulage.

Alternative 5: Sadie Creek Upland Beach Berm

The site is located north of the mouth of Sadie creek on an undeveloped 158.90-acre property of which approximately 7.68 acres of land are available for sand and gravel extraction. Approximately 40,000 cubic yards of material is available at the site. There is insufficient material at the site to meet all the project needs. The applicant owns the property and subsurface rights. There are residential cabins adjacent to the site that could be impacted by equipment noise. There are no commercial developments in the area that would be impacted by equipment noise.

Alternative 6: New Sadie Creek Sand and Gravel Extraction (Proposed Development)

The proposed development requires the excavation of 109.72 acres of sands and gravels to a depth of approximately 1-foot. It is estimated that 177,600 cubic yards of material is present at the site. The project would create the sands and gravels that meet ADOT&PF requirements. There are no residential or commercial developments in the area that would be impacted by equipment noise. Depending on long shore sediment transport, the site could be used each year for additional sand and gravel. The site is located near the beginning of the road project (City of Kotzebue) and the road terminus Cape Blossom (future port facility).

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 applicant states complete avoidance of waters of the United States is not practicable to accomplish the purpose and need of this project.

b. Minimization: The applicant states the dedicated haul route to the stockpile site will minimize additional impacts to Waters of the United States (shown on Sheet 5 as the green dashed line). The limits of extraction, work areas, stockpile areas, and access drive areas would be surveyed so the project footprint is not exceeded during extraction. Extraction will occur in one 18-acre cell at a time until all usable material is exhausted. The sand and gravel will be stockpiled in the uplands, a minimum of 50-feet away from Waters of the United States for later use (Sheet 5). Stockpiles will be protected with a linear sediment barrier along the base of the downgradient perimeter areas of the stockpile (Sheet 5; orange dashed line). Additional unspecified best management practices (BMPs) will be implemented to reduce non-point source runoff from the stockpiles. During winter months an ice road will be established to haul the extracted sand and gravel material from the stockpile to the Cape Blossom Road project site. All refuse, garbage, or debris created during activities would be removed and disposed of in an approved facility.

c. Compensatory Mitigation: The applicant proposes no mitigation.

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 direct project footprint as well as the adjacent uplands for the stockpile area and the project specific heavy machinery movement and staging. Consultation of the AHRS constitutes the extent of cultural resource investigations by the U.S. Army Corps of Engineers (Corps) at this time, and we are otherwise unaware of the presence of such resources. Likewise, the project area has been dredged as a material source at least twice over the years; once in 1974 and then again around 2001. 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), Federally recognized Tribes, and other consulting parties. Any comments SHPO, Federally recognized Tribes, and other consulting parties 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 Bearded Seal (*Erignathus barbatus nauticus*), Ringed Seal (*Phoca [pusa] hispida*), Bowhead Whale (*Balaena mysticeta*), Finback Whale (*Balaenoptera physalus*), Polar bear (*Ursus maritimus*), Spectacled Eider (*Somateria fischerii*), Steller's eider (*Polistica stellari*).

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, and any designated critical habitat, we will follow the appropriate consultation procedures under section 7 of the Endangered Species Act of 1973 (87 Stat. 844). Any comments the U.S. Fish and Wildlife Service or the National Marine Fisheries Service (NMFS) 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 (Magnuson-Stevens 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 mapped EFH for saffron cod (*Eleginus gracilis*), arctic cod (*Arctogadus glacialis*), Alaska snow crab (*Chionoecetes opilio*), chum salmon (*Oncorhynchus keta*), pink salmon (*Oncorhynchus gorbuscha*), Chinook salmon (*Oncorhynchus tshawytscha*), sockeye salmon (*Oncorhynchus nerka*), 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 adversely affect EFH for 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 NMFS may have concerning EFH will be considered in our final assessment of the described work.

TRIBAL CONSULTATION: The Corps 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 Corps, 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 rights or resources. 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 impact which the proposed activity may have on the public interest requires a careful weighing of all those factors which 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

decision whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur, are therefore determined by the outcome of this general balancing process. That 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, historic properties, 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 and 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:

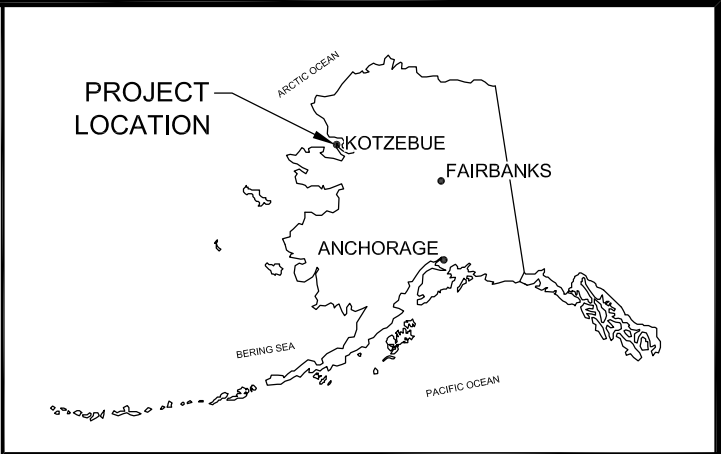
(X) Perform work in or affecting navigable waters of the United States – Section 10 Rivers and Harbors Act 1899 (33 U.S.C. 403).

(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).

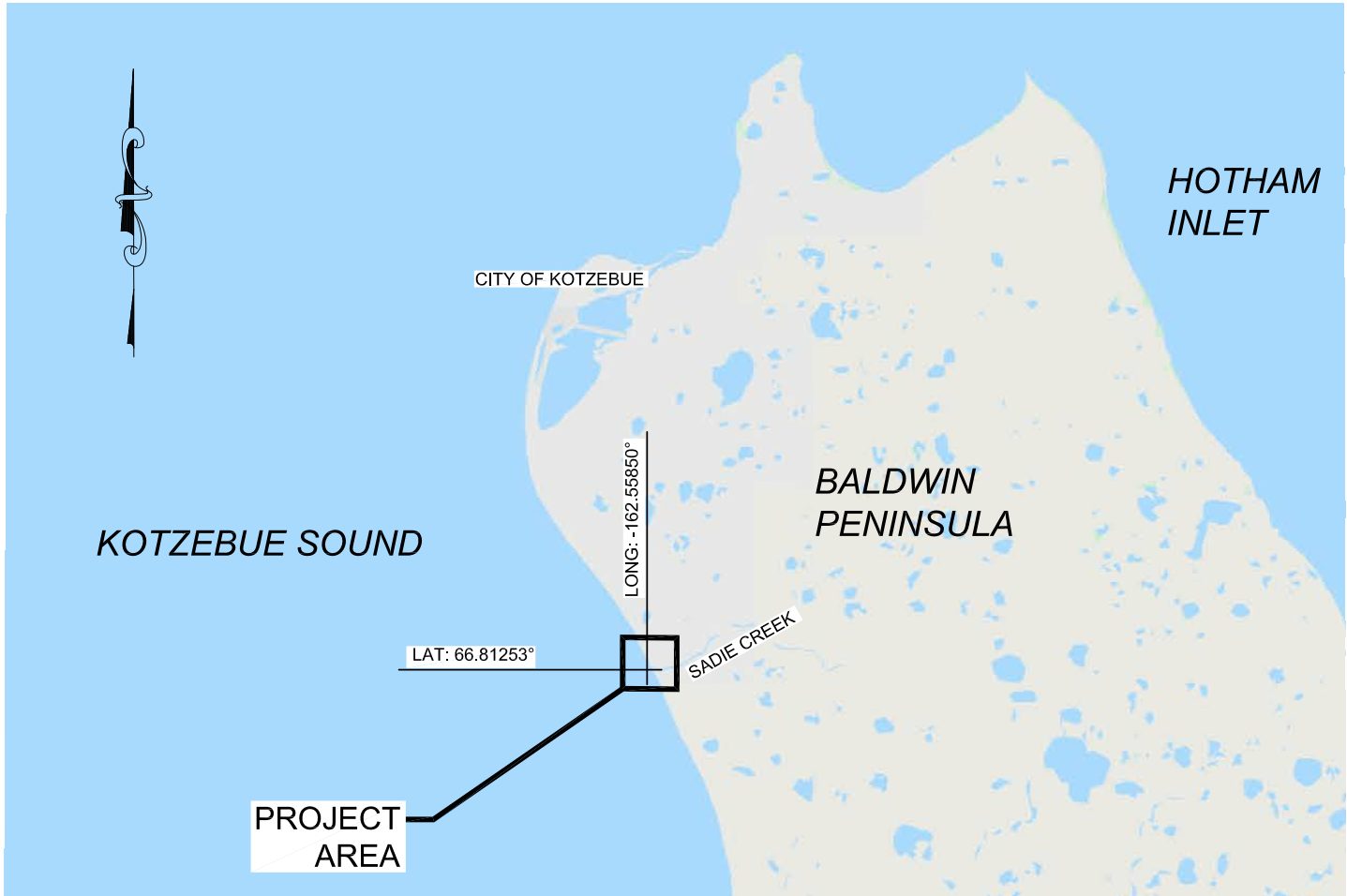
Project drawings are enclosed with this public notice.

District Commander
U.S. Army, Corps

Enclosure



LOCATION



VICINITY MAP



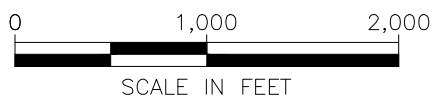
DONALD GALLAHORN
GRAVEL EXTRACTION KOTZEBUE, ALASKA
WATERBODY: KOTZEBUE SOUND
SECT.: 3,4,9&10 TOWNSHIP: 16N RANGE: 18W MERIDIAN: KATEEL RIVER USGS QUADRANGLE KOTZEBUE D-2 SE LAT: 66.81253° LONG: -162.55850°
LOCATION AND VICINITY MAP
4/14/2023 SHEET 1 OF 5



PROJECT SITE

NOTES:

1. IMAGE SOURCE: WEBSITE dnr.alaska.gov/mapper/ OBTAINED ON 3 AUGUST 2020. IMAGE IS NOT GEO-REFERENCED.
2. PROPERTY BOUNDARY INFORMATION FROM PLAT No. 2006-8 DATED 6 DECEMBER 2006 AND U.S. SURVEY No. 10663 DATED 14 FEBRUARY 1991.
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 AND HYDROGRAPHIC SURVEYS HAVE 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 MATERIAL WILL BE STOCKPILED IN UPLANDS.
6. CONTRACTOR STAGING OF EQUIPMENT AND MATERIALS IN UPLANDS.



DONALD GALLAHORN

GRAVEL EXTRACTION
KOTZEBUE, ALASKA

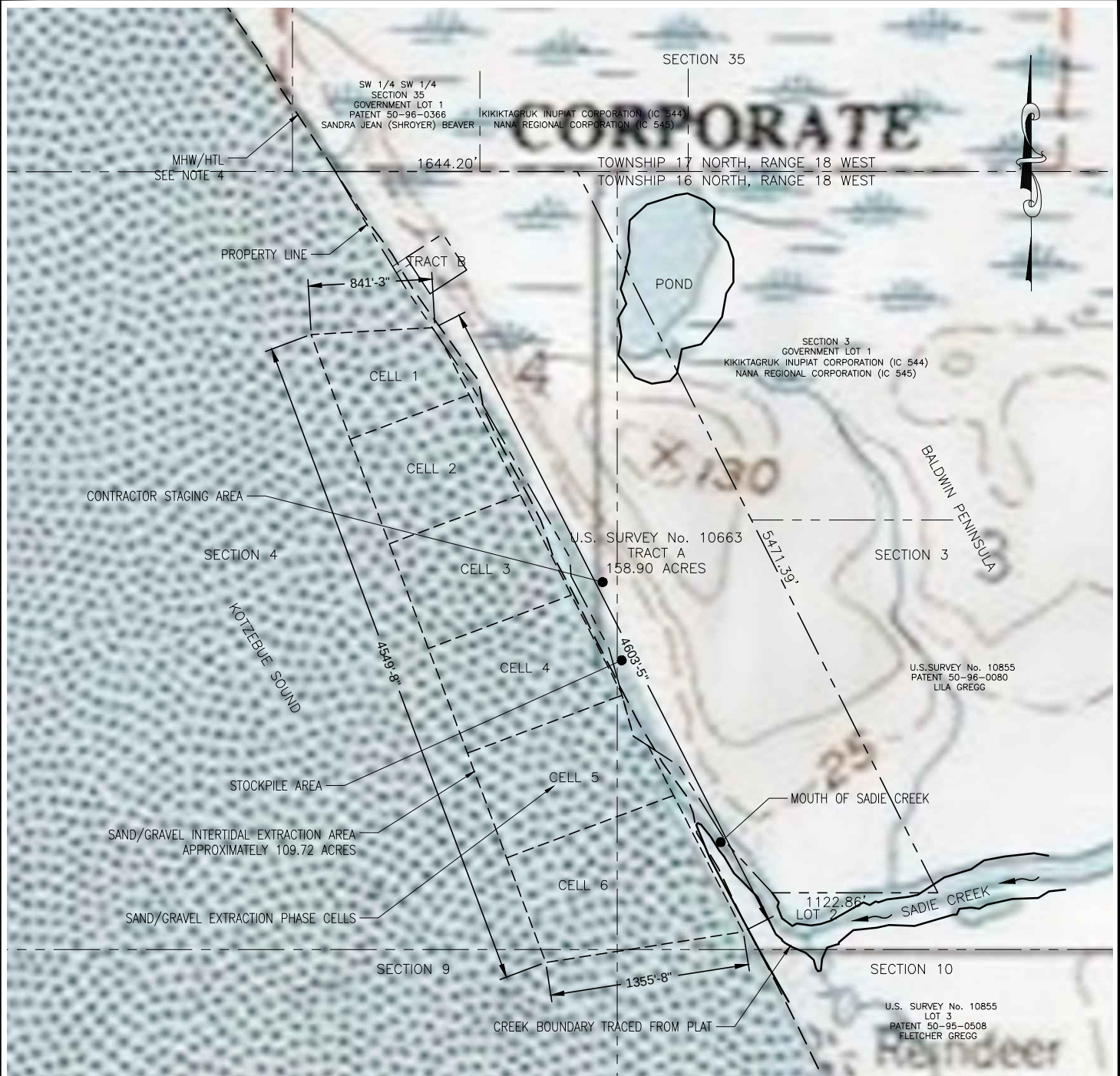
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4/14/2023

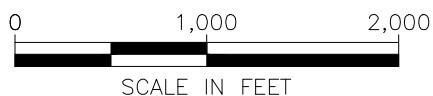
SHEET 2 OF 5



PROJECT SITE TOPOGRAPHIC

NOTES:

1. IMAGE SOURCE: WEBSITE dnr.alaska.gov/mapper/ OBTAINED ON 16 SEPTEMBER 2020. IMAGE IS NOT GEO-REFERENCED.
2. PROPERTY BOUNDARY INFORMATION FROM PLAT No. 2006-8 DATED 6 DECEMBER 2006 AND U.S. SURVEY No. 10663 DATED 14 FEBRUARY 1991.
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DONALD GALLAHORN

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KOTZEBUE, ALASKA

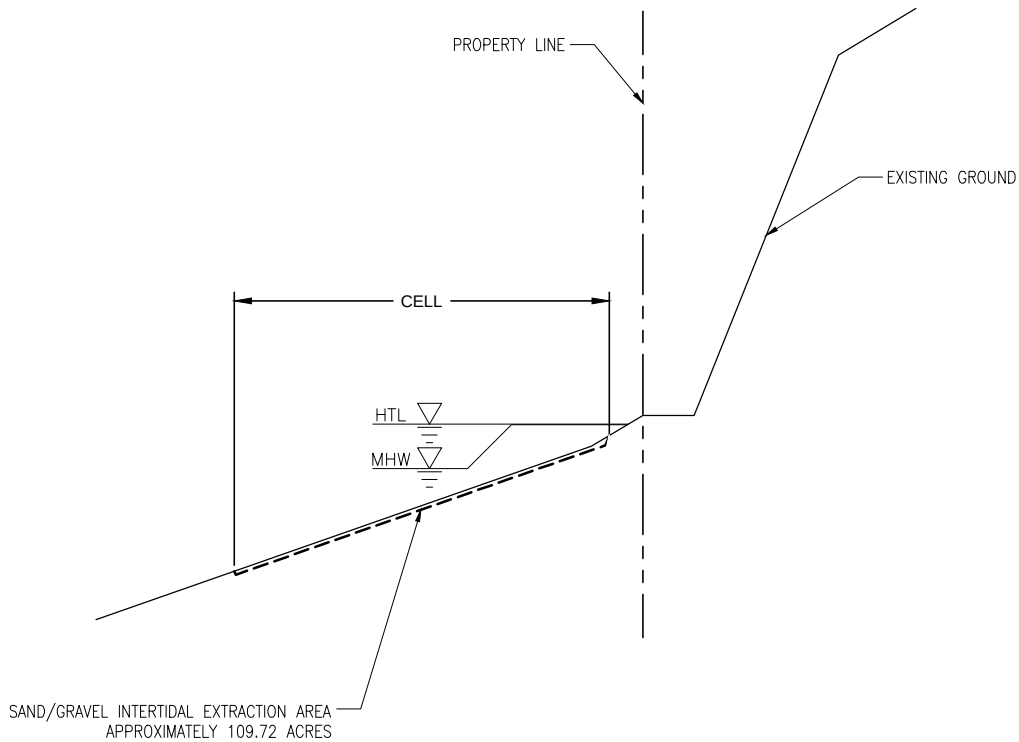
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PROJECT SITE TOPO

4/14/2023

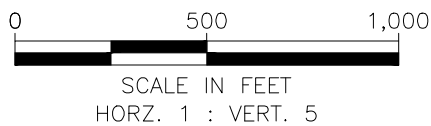
SHEET 3 OF 5



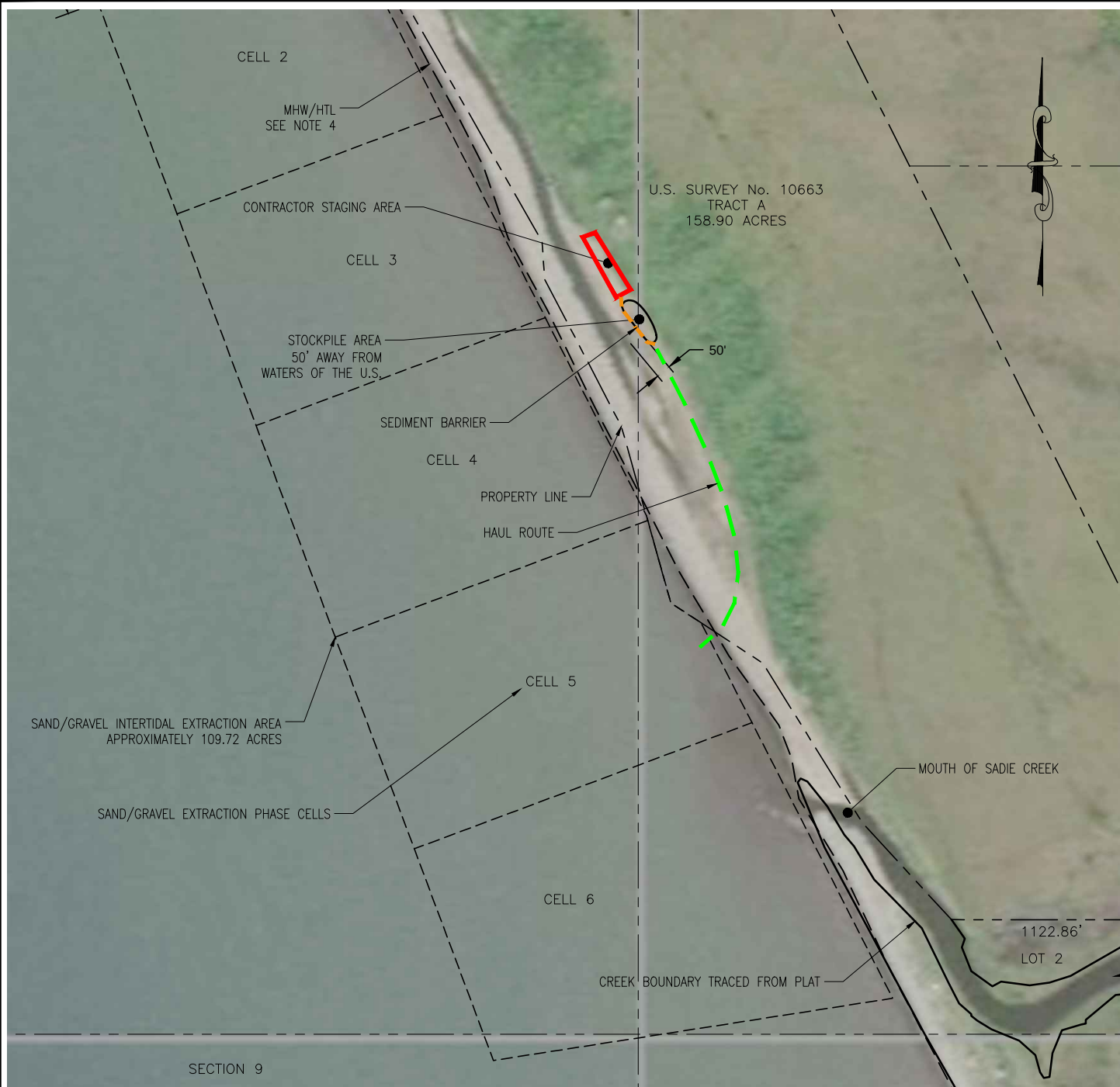
1 SITE SECTION

NOTES:

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2. TOPOGRAPHIC AND HYDROGRAPHIC SURVEYS HAVE NOT BEEN PERFORMED FOR PROJECT AREA. HTL AND MHW LINES ARE APPROXIMATE.



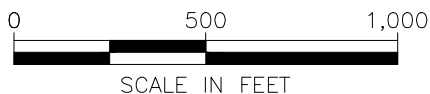
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SITE SECTION
4/14/2023 SHEET 4 OF 5



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KOTZEBUE, ALASKA

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STOCKPILE AREA

4/14/2023

SHEET 5 OF 5