



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

PUBLIC NOTICE DATE:	16 Nov 2023
EXPIRATION DATE:	18 Dec 2023
REFERENCE NUMBER:	POA-2023-00490
WATERWAY:	Tongass Narrows

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 Jennifer Mercer at (907) 753-2779, or by email at jennifer.a.mercer@usace.army.mil, if further information is desired concerning this public notice.

APPLICANT: Paul Cyr, EC Phillips and Son, 1775 Tongass Avenue, Ketchikan, AK 99901

AGENT: Trevor Sande, R&M Engineering-Ketchikan, Inc., 7180 Revilla Road, Suite 300, Ketchikan, AK 99901

LOCATION: The project site is located within Section 24, T. 75 S., R. 90 E., Copper River Meridian; USGS Quad Map Ketchikan B-6 SE; 55.3484° N., 131.66702° W.; 1775 Tongass Avenue in Ketchikan, Alaska.

PURPOSE: The applicant's stated purpose is to replace an existing fish processing plant that has exceeded its useful life.

PROPOSED WORK: The applicant proposed to discharge 12,250 cubic yards of shot rock fill into 0.35 acre below the High Tide Line (HTL, approximately 19.4 feet above the 0.0-foot contour), of Tongass Narrows, a navigable water of the U.S. (WOTUS), as well as the construction of a 304 linear foot concrete block wall. The proposed work also includes the removal of approximately 36,800 square feet of existing dock and 102 existing piles. The applicant proposes placing five hundred and seventy-five (575) new 12-inch galvanized steel piles to support 54,612 square feet of concrete dock with a 45,320 square foot building, all of which would be constructed below the Mean High Water Mark (MHW, 14.4 feet above the 0.0-foot contour) of Tongass Narrows. Construction would begin in Spring of 2024 and would likely take several years to complete. All work would be performed in accordance with the enclosed plan (sheets 1-8), dated October 23, 2023.

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 that avoidance is not practical because the project purpose is to remove and replace an existing marine facility.

b. Minimization: The applicant states that fill discharges have been limited to the minimum necessary to facilitate higher building loads, to bury key components of the facility such as stormwater controls and utilities, and to facilitate construction by allowing staging off the adjacent highway.

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 cultural resources within the vicinity of the permit area; however, the proposed project would not affect the integrity of the resources. The permit area has been determined to be the footprint of the proposed project within jurisdictional waters of the U.S. 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. 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 short-tailed albatross (*Phoebastria albatrus*), humpback whale (*Megaptera novaeangliae*) Western North Pacific distinct population segment (DPS), fin whale (*Balaenoptera physalus*), and the Steller sea lion (*Eumetopias jubatus*). The proposed activity is within the known range of the sunflower sea star (*Pycnopodia helianthoides*), which the National Marine Fisheries Service (NMFS) has proposed for listing on March 16, 2023, under the ESA as a threatened species (88 FR 16212). The Corps plans to request conferencing with NMFS on the sunflower sea star.

The proposed activity would have no effect to the fin whale and the short-tailed albatross due to the pelagic nature of these species. We have determined the described activity may affect the endangered Western North Pacific DPS humpback whale and the Steller sea lion. 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 (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 pink salmon (*Oncorhynchus gorbuscha*), chum salmon (*Oncorhynchus keta*), sockeye salmon (*Oncorhynchus nerka*), chinook salmon (*Oncorhynchus tshawytscha*), and coho salmon (*Oncorhynchus kisutch*). The proposed project has the potential environmental effects of loss and/or impairment of benthic, shoreline, and pelagic habitats; altered light regime and loss of submerged aquatic vegetation (SAV); altered temperature regimes, increased siltation, sedimentation, and turbidity; release of contaminants and debris; altered tidal, current, and hydrologic regimes; and introduction of invasive or nonnative species. Pile removal has the potential to reintroduce pollutants via suspended sediments into the water column, while pile driving may adversely affect prey species through pressure waves generated by sound.

The noise and suspended sediment from pile removal and driving are the primary potential effects to EFH. The project area consists of an existing overwater structure. No SAV is present. However, the proposed project would increase the footprint of the overwater structure, which would result in a minor loss of habitat. Based on site-specific factors, project scale, and the above analysis, the proposed action is anticipated to have only a minimal adverse effect to EFH with a minor reduction in quantity and no substantive reduction in quality of EFH. This public notice initiates EFH consultation with the NMFS.

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. If applicable this application will be coordinated with federally recognized tribes and other consulting parties. Any comments federal recognized tribes and other consulting parties may have concerning presently unknown archeological or historic data that may be lost or destroyed by the work under the requested permit will be considered in the Corps final assessment of the described work.

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:

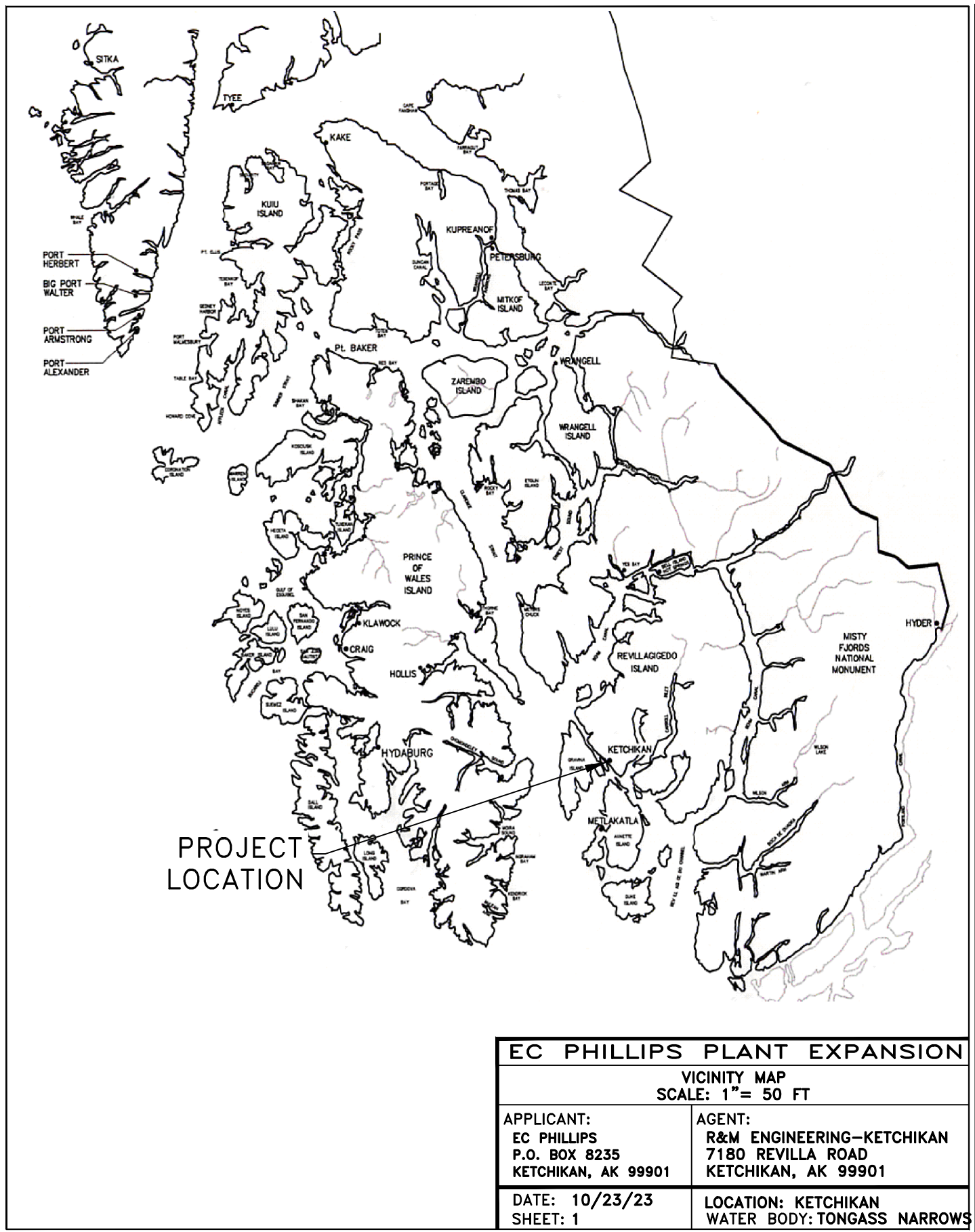
(X) Perform work in or affecting navigable waters of the United States – Section 10 Rivers and Harbors Act 1899 (33 U.S.C. 403).

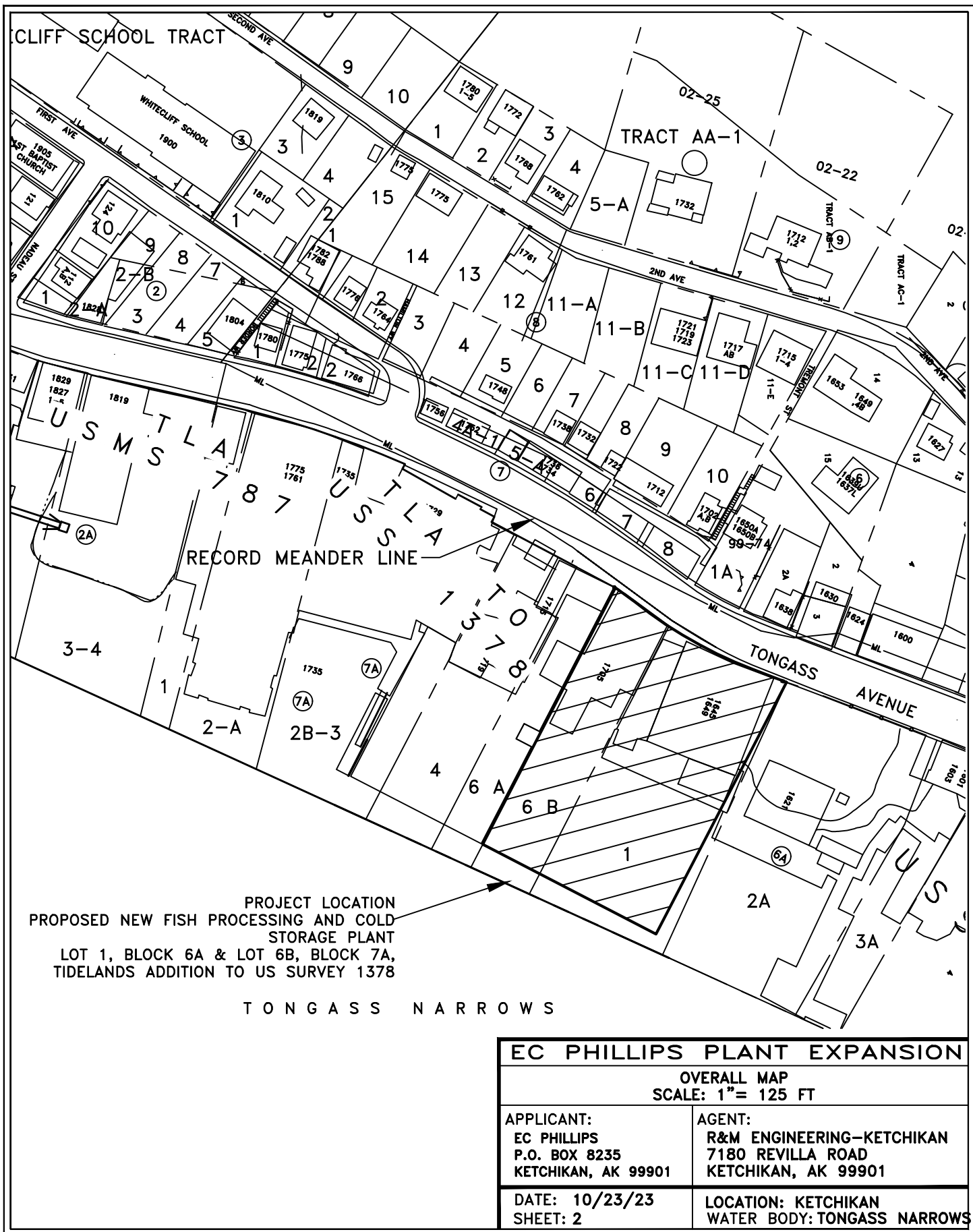
(X) Discharge dredged or fill material into waters of the United States – Section 404 Clean Water Act (33 U.S.C. 1344). Therefore, our public interest review will consider the guidelines set forth under Section 404(b) of the Clean Water Act (40 CFR 230).

Project drawings are enclosed with this public notice.

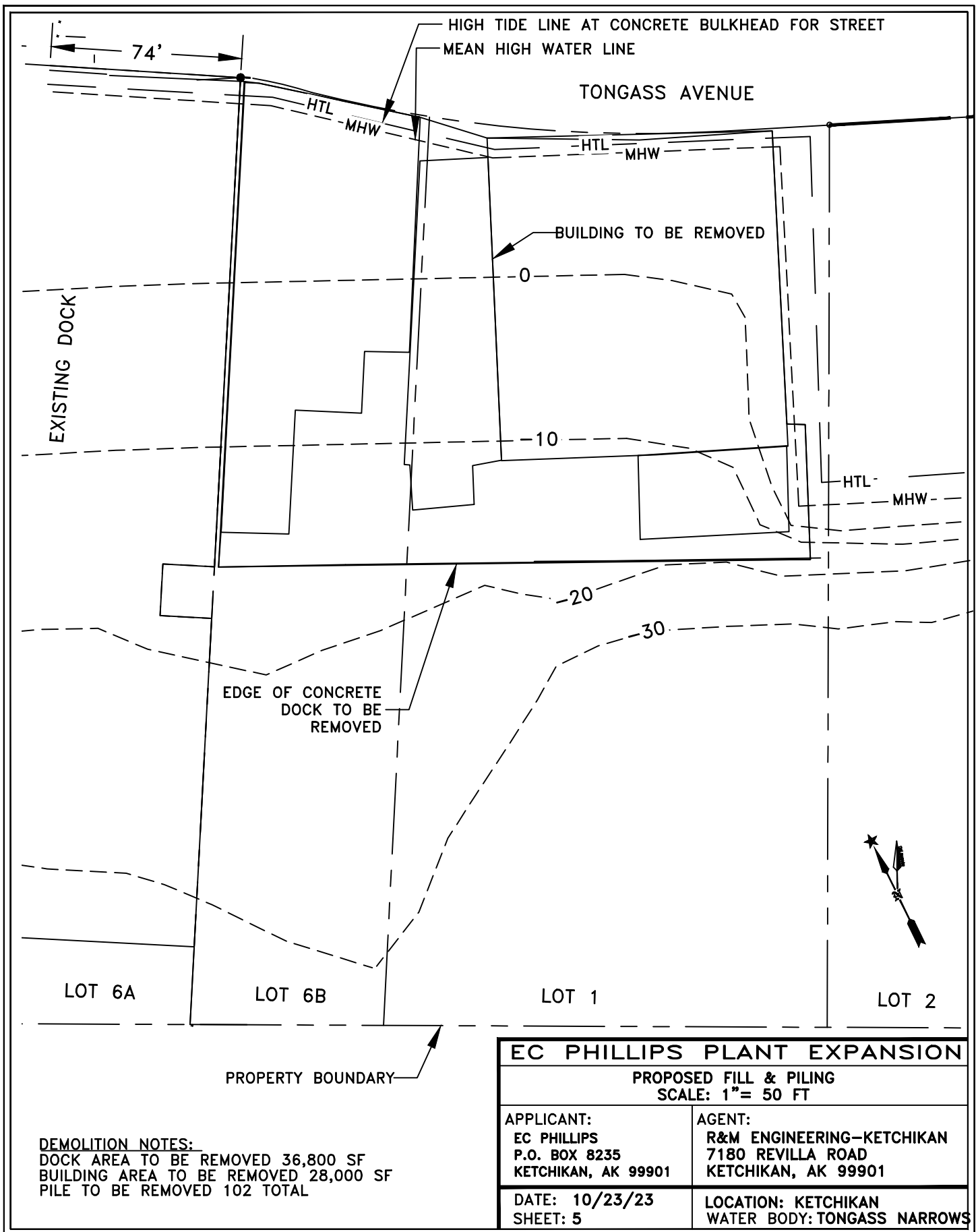
District Commander
U.S. Army, Corps

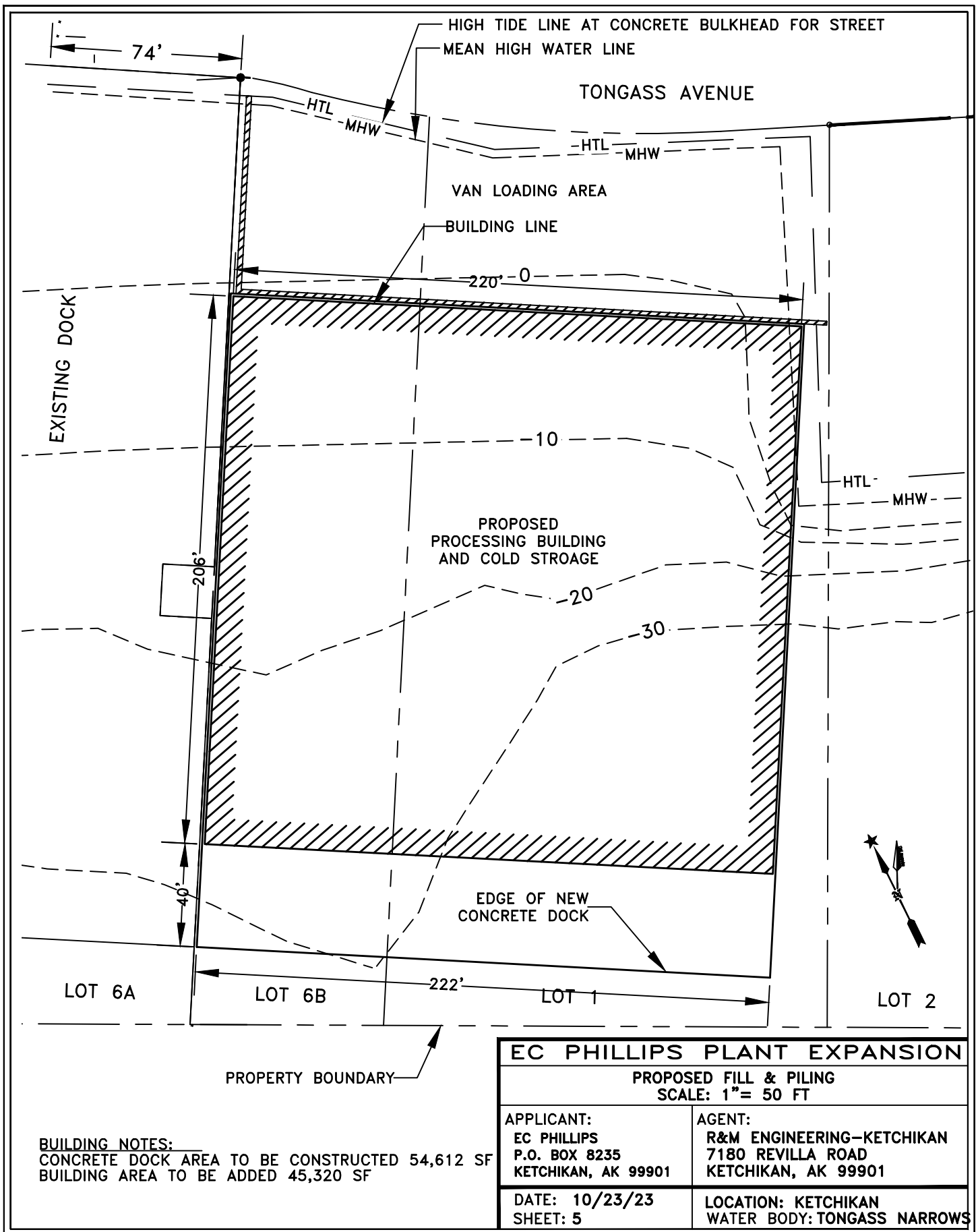
Enclosures

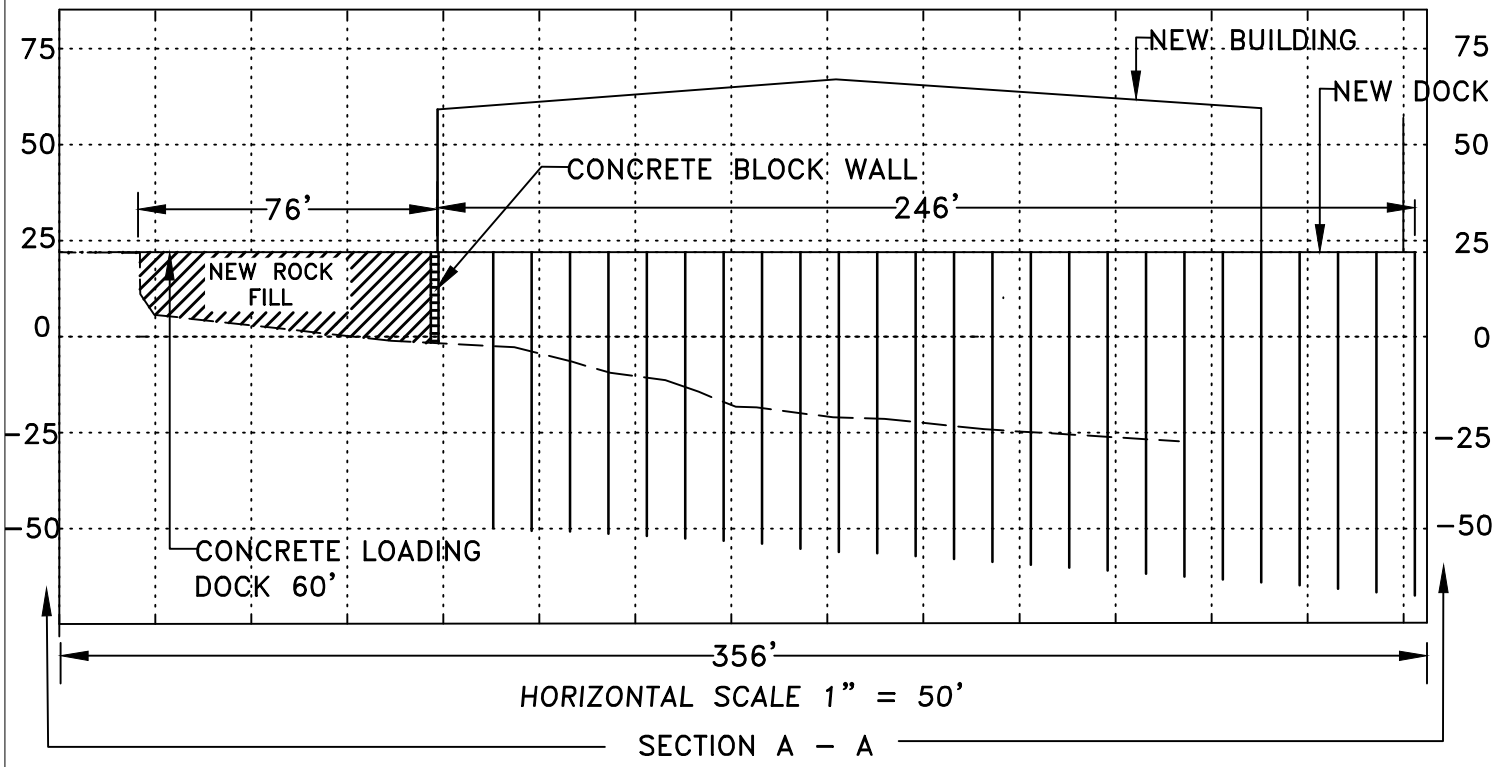




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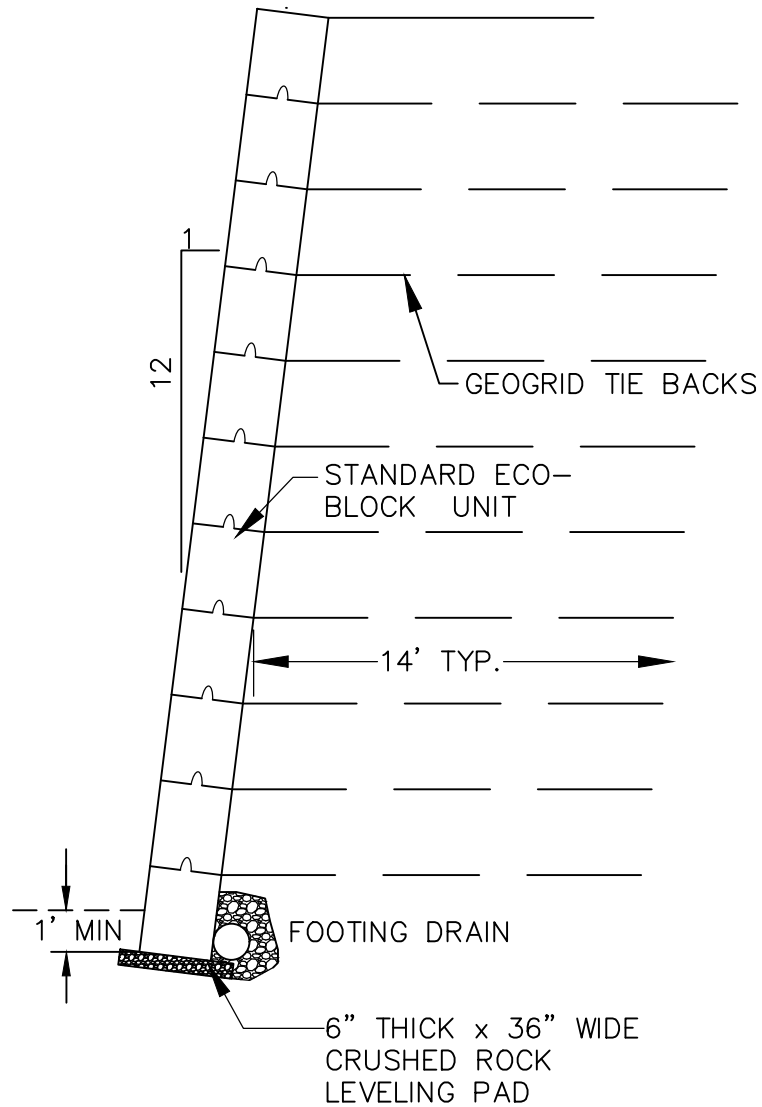




EC PHILLIPS PLANT EXPANSION

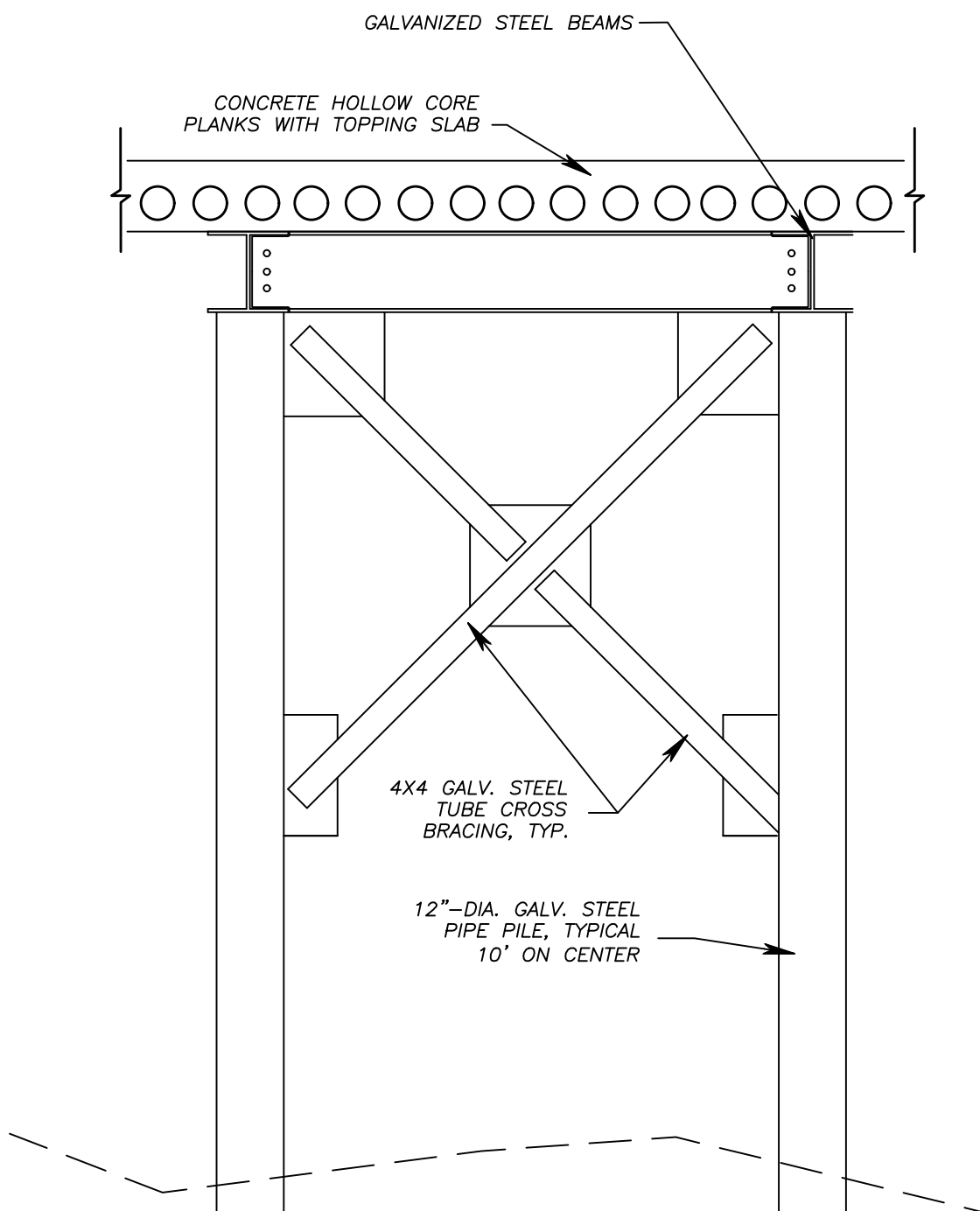
SECTION VIEW
SCALE: 1" = 50 FT

APPLICANT: EC PHILLIPS P.O. BOX 8235 KETCHIKAN, AK 99901	AGENT: R&M ENGINEERING-KETCHIKAN 7180 REVILLA ROAD KETCHIKAN, AK 99901
DATE: 10/23/23 SHEET: 6	LOCATION: KETCHIKAN WATER BODY: TONGASS NARROWS



TYPICAL WALL SECTION

EC PHILLIPS PLANT EXPANSION	
BLOCK WALL SCALE: 1"= 50 FT	
APPLICANT: EC PHILLIPS P.O. BOX 8235 KETCHIKAN, AK 99901	AGENT: R&M ENGINEERING-KETCHIKAN 7180 REVILLA ROAD KETCHIKAN, AK 99901
DATE: 10/23/23 SHEET: 7	LOCATION: KETCHIKAN WATER BODY: TONGASS NARROWS



EC PHILLIPS PLANT EXPANSION

PIILING & DECK CONSTRUCTION
SCALE: 1"= 50 FT

APPLICANT:
EC PHILLIPS
P.O. BOX 8235
KETCHIKAN, AK 99901

AGENT:
R&M ENGINEERING-KETCHIKAN
7180 REVILLA ROAD
KETCHIKAN, AK 99901

DATE: 10/23/23
SHEET: 8

LOCATION: KETCHIKAN
WATER BODY: TONGASS NARROWS

NOTICE TO EDITORS:

This public notice is provided as background information and is not a request or contract for publication.

NOTICE TO POSTMASTERS:

It is requested that this notice be conspicuously and continually placed until the expiration date.

**Project drawings
are available online at:**

<http://www.poa.usace.army.mil/Missions/Regulatory/PublicNotices.aspx>