

STATE OF ALASKA

SEAN PARNELL, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

DIVISION OF WATER

Wastewater Discharge Authorization Program

555 Cordova Street
Anchorage, AK 99501-2617

Phone: (907) 269-7564

Fax: (907) 334-2415

TTY: (907) 269-7511

<http://www.state.ak.us/dec/>

October 11, 2010

Certified Mail 7008-1830-0003-5208-0195

Mr. Chuck Pool
Ward Cove Seaport LLC
P.O. Box 6000
Ketchikan, AK 99901

Subject: Ward Cove, Ward Cove Seaport LLC, Bulkhead and Barge Ramp Repair
Reference No. POA-2010-0426
State ID No. AK 1008-08J

Dear Mr. Pool:

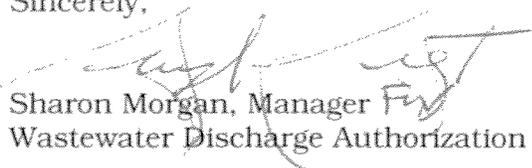
In accordance with Section 401 of the Federal Clean Water Act of 1977 and provisions of the Alaska Water Quality Standards, the Department of Environmental Conservation is issuing the enclosed Certificate of Reasonable Assurance for repairs to an existing bulkhead and barge ramp.

Department of Environmental Conservation (DEC) regulations provide that any person who disagrees with this decision may request an informal review by the Division Director in accordance with 18 AAC 15.185 or an adjudicatory hearing in accordance with 18 AAC 15.195 – 18 AAC 15.340. An informal review request must be delivered to the Director, Division of Water, 555 Cordova Street, Anchorage, AK 99501, within 15 days of the permit decision. Visit <http://www.dec.state.ak.us/commish/ReviewGuidance.htm> for information on Administrative Appeals of Department decisions.

An adjudicatory hearing request must be delivered to the Commissioner of the Department of Environmental Conservation, 410 Willoughby Avenue, Suite 303, PO Box 111800, Juneau, AK 99811-1800, within 30 days of the permit decision. If a hearing is not requested within 30 days, the right to appeal is waived.

By copy of this letter we are advising the U.S. Army Corps of Engineers and Division of Coastal and Oceans Management of our actions and enclosing a copy of the certification for their use.

Sincerely,


Sharon Morgan, Manager
Wastewater Discharge Authorization Program

Enclosure

cc: (with encl.)

Marcia Heer, USACE, Juneau

Tracy DeGering, EPA, AK Operations

Jill Taylor, DNR/DCOM, Juneau

Sean Palmer, ADEC Anchorage

Mark Minnillo, ADF&G/Habitat, Craig

U.S. Fish and Wildlife Service, Juneau

Trevor Sande, R&M Engineers, Juneau

STATE OF ALASKA
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
CERTIFICATE OF REASONABLE ASSURANCE

A Certificate of Reasonable Assurance (CRA), in accordance with Section 401 of the Federal Clean Water Act and the Alaska Water Quality Standards, is issued to Ward Cove Seaport, LLC for the construction of a marine and industrial seaport for the import and export of industrial goods on private tidelands. The proposed improvements include repairs to an existing bulkhead and barge ramp. The proposed activity will include a discharge of fill into waters of the U.S. of 528 cubic yards (cy) of shot rock and concrete block fill material below the plane of the high tide line (HTL) and mean high water (MHW) into 0.04 acres of Ward Cove. Repair to the bulkhead would include layers of geotextile fabric, new wood piles (if needed), new lashings, and shot rock fill.

The proposed activity is located within Section 34, T. 74 S., R. 90 E., Copper River Meridian in Ketchikan, Alaska.

Public notice of the application for this certification was given as required by 18 AAC 15.180.

Water Quality Certification is required under Section 401 because the proposed activity will be authorized by a U.S. Army Corps of Engineers permit, reference number POA-2010-0426, and a discharge may result from the proposed activity.

DEC reviewed the application and certifies that there is reasonable assurance that the proposed activity, as well as any discharge which may result, will comply with applicable provisions of Section 401 of the Clean Water Act and the Alaska Water Quality Standards, 18 AAC 70, provided that the following alternative measures are adhered to.

1. Reasonable precautions and controls must be used to prevent incidental and accidental discharge of petroleum products or other hazardous substances. Fuel storage and handling activities for equipment must be sited and conducted so there is no petroleum contamination of the ground, surface runoff, or water bodies.
2. During construction, spill response equipment and supplies such as sorbent pads shall be available and used immediately to contain and cleanup oil, fuel, hydraulic fluid, antifreeze, or other pollutant spills. For any spill amount, there are Discharge Notification and Reporting Requirements (AS 46.03.755 and 18 AAC 75 Article 3). Most importantly, the applicant must contact by telephone the DEC Area Response Team for Southeast Alaska at (907) 465-5340 during work hours or 1-800-478-9300 after hours. Also, the applicant must contact by telephone the National Response Center at 1-800-424-8802. Report all spills.

3. Construction equipment shall not be operated below the ordinary high water mark if equipment is leaking fuel, oil, hydraulic fluid, or any other hazardous material. Operation of tracked or wheeled equipment in the water shall be kept to a minimum. Equipment shall be inspected on a daily basis for leaks. If leaks are found, the equipment shall not be used and shall be pulled from service until the leaks are repaired.
4. Fill materials must consist of rock fill and riprap that are free from fines and suspendible material to the extent practicable and free from contamination by petroleum products or toxic substances.
5. This CRA only provides coverage for the proposed work as it applies to work in waters of the U.S. and Section 401 of the CWA. It does not provide any other permit or authorization coverage for your project, which you may need from DEC. Please visit our website:
http://dec.alaska.gov/water/wwdp/online_permitting/permitentry to determine if your project requires any other permits. You can also call the DEC office in your area at (907) 465-5180 for further assistance.

This certification expires five (5) years after the date the certification is signed. If your project is not completed by then and work under U.S. Army Corps of Engineers Permit will continue, you must submit an application for renewal of this certification no later than 30 days before the expiration date (18 AAC 15.100).

Date 10/11/2010


Sharon Morgan, Manager
Wastewater Discharge Authorization Program
Sharon Morgan



US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

JUNEAU FIELD OFFICE
Regulatory Division (1145)
CEPOA-RD
8800 Glacier Highway, Suite 106
Juneau, Alaska 99801-8079

PUBLIC NOTICE DATE: August 10, 2010
EXPIRATION DATE: September 8, 2010
REFERENCE NUMBER: POA-2010-0426
WATERWAY: Ward Cove

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 **Marcia L. Heer** at (907) 790-4496 or by email at marcia.l.heer@usace.army.mil if further information is desired concerning this notice.

APPLICANT: Mr. Chuck Pool, Ward Cove Seaport LLC, P.O. Box 6000, Ketchikan, Alaska 99901

AGENT: Mr. Trevor Sande, R&M Engineering, (907) 225-7917

LOCATION: The project site is located within Section 34, T. 74 S., R. 90 E., Copper River Meridian; USGS Quad Map Ketchikan B-6; Latitude 55.4050° N., Longitude -131.7192° W.; in Ketchikan, Alaska.

PURPOSE: The applicant's stated purpose is to construct a marine and industrial seaport for the import and export of industrial goods such as concrete, scrap metal, etc.

PROPOSED WORK: Discharge a total of 528 cubic yards (cy) of shot rock and concrete block fill material below the plane of the high tide line (HTL) (approximate elevation +19.4 above the 0.0 foot contour) and mean high water (MHW) (approximate elevation 14.4 above the 0.0 foot contour) into 0.04-acres of Ward Cove to repair an existing bulkhead and barge ramp. Repair to the bulkhead would include layers of geotextile fabric, new wood piles (if needed), new lashings, and shot rock fill.

Placement of two new concrete docks (100- by 33-foot and 100- by 10-foot) and associated 80- by 10-foot access ramp below the MHW. The docks would be supported by two 24-inch, two 20-inch, and one 12-inch diameter steel piles.

Placement of a new 150- by 9-foot barge tie up float with a 50- by 6-foot ramp and 50- by 9-foot walkway below the MHW. The float would be supported by four 24-inch, six 20-inch, and two 12-inch diameter steel piles.

All work would be performed in accordance with the enclosed plan (sheets 1-7), dated July 26, 2010.

ADDITIONAL INFORMATION:

An existing barge ramp in the project area is under current operation to transfer goods. The applicant has stated that new docks and floats proposed for the project would allow barges with their own ramps to transfer goods and repairs proposed for the existing bulkhead would allow them to load/off load barges that do not have their own ramps.

An existing fill pad is located on the parcel which is used to transport and stockpile goods.

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 the project area is zoned as Heavy Industrial to be used for marine related uses and that the "Covenants of Subdivision", as established by EPA during the closure of the Ketchikan Pulp Mill, do not allow this property to be rezoned. They also stated that using the property as a marine transportation facility to provide goods to isolated communities is a practical choice for development.

b. Minimization: The applicant states that by using the most efficient configuration of floats possible, along with the least number of anchor pilings allowable, the design of this project minimizes construction impacts on the waters and tidelands of Ward Cove to the lowest degree possible. In lieu of new construction, repairs will be made to the existing bulkhead and loading ramp. These repairs require substantially less backfill materials than new construction and will also reduce sediments washed into Ward Cove. They also stated they have further avoided the northern shoreline of the parcel because of its proximity to Ward Creek.

c. Compensatory Mitigation: The applicant believes, "the construction and operation of this facility will not adversely affect either critical habitat or navigable waters", and requested that compensatory mitigation be waived for this project.

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.

COASTAL ZONE MANAGEMENT ACT CERTIFICATION: Section 307(c)(3) of the Coastal Zone, Management Act of 1972, as amended by 16 U.S.C. 1456(c)(3), requires the applicant to certify the described activity affecting land or water uses in the Coastal Zone complies with the Alaska Coastal Management Program. A permit will not be issued until the Division of Coastal and Ocean Management, Department of Natural Resources has concurred with the applicant's certification.

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 listed or eligible properties in the vicinity of the worksite. Consultation of the AHRS constitutes the extent of cultural resource investigations by the District Commander at this time, and he is otherwise unaware of the presence of such resources. 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: No threatened or endangered species are known to use the project area.

Preliminarily, 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). This application is being coordinated with the U.S. Fish and Wildlife Service and 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.

This application is being coordinated with the U.S. Fish and Wildlife Service and 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 juvenile and adult coho (*Oncorhynchus kisutch*), chum (*O. keta*), pink (*O. gorbuscha*), and sockeye salmon (*O. nerka*).

Preliminarily, we have determined the described activity would not adversely affect EFH in the project area.

This Public Notice initiates EFH consultation with the NMFS. Any comments or recommendations they may have concerning EFH 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 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, Notice of Application for Certification of Consistency with the Alaska Coastal Management Program, and 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

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF COASTAL AND OCEAN MANAGEMENT

DIVISION OF COASTAL AND OCEAN MANAGEMENT
POST OFFICE BOX 111030, MS 1030
JUNEAU, ALASKA 99811-1030
PHONE: (907) 465-3562/FAX: (907) 465-3075

**NOTICE OF APPLICATION
FOR
CERTIFICATION OF CONSISTENCY WITH THE
ALASKA COASTAL MANAGEMENT PROGRAM**

Notice is hereby given that a request is being filed with the Division of Coastal and Ocean Management for a consistency determination, as provided in Section 307(c)(3) of the Coastal Zone Management Act of 1972, as amended [16 U.S.C. 1456(c)(3)], that the project described in the Corps of Engineers Public Notice No. POA-2010-0426, Tongass Narrows will comply with the Alaska Coastal Management Program and that the project will be conducted in a manner consistent with that program.

This project is being reviewed for consistency with the Alaska Coastal Management Program. Written comments about the consistency of the project with the applicable ACMP statewide standards and district policies must be submitted to the Division of Coastal and Ocean Management (DCOM). For information about this consistency review, contact DCOM at the address or phone number above, or visit the ACMP web site at <http://www.alaskacoast.state.ak.us//Projects/projects.html>.

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
410 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801-1795
PHONE: (907) 465-5321/FAX: (907) 465-5274

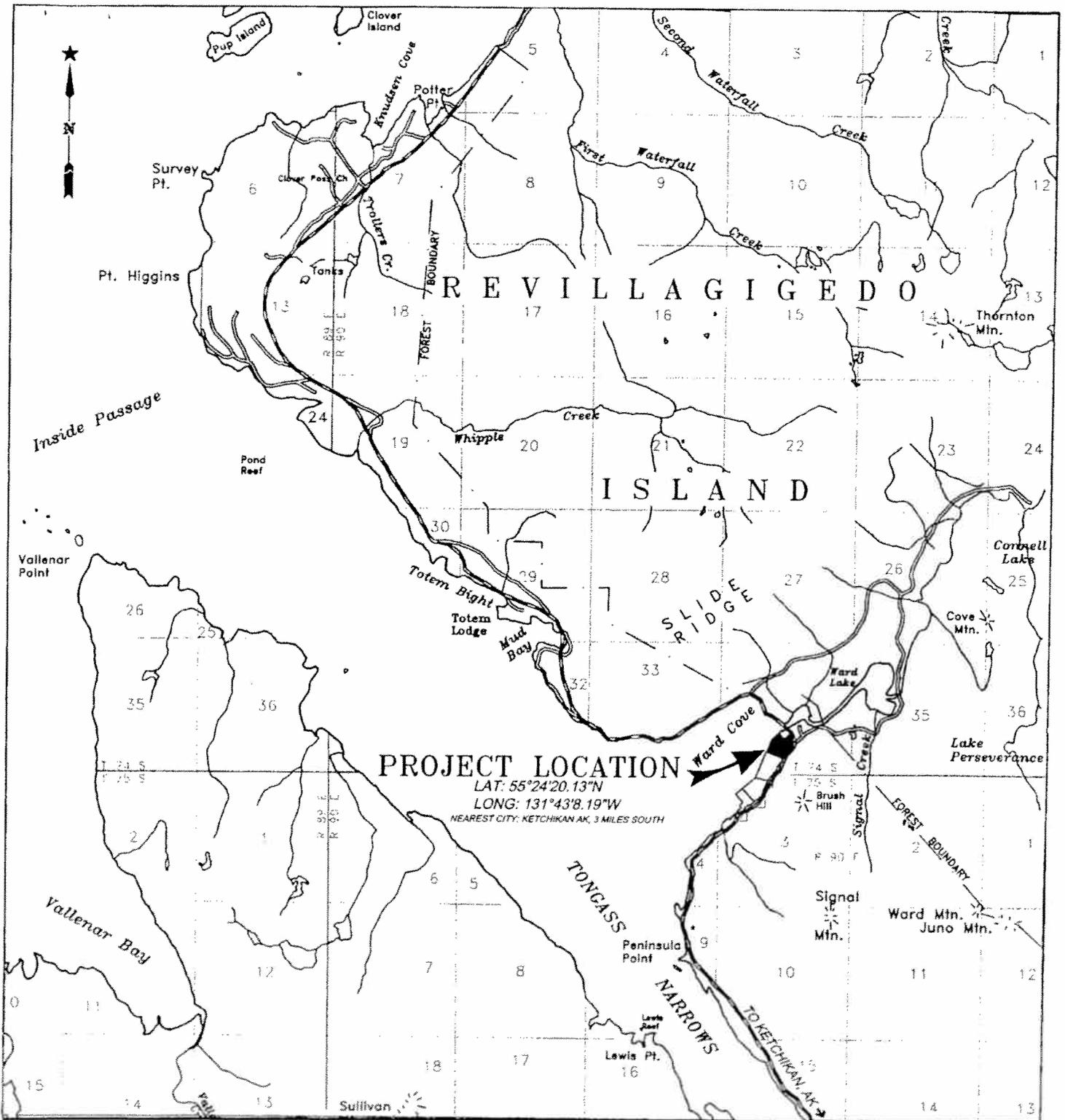
**NOTICE OF APPLICATION
FOR
STATE WATER QUALITY CERTIFICATION**

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-2010-0426, Tongass Narrows 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.



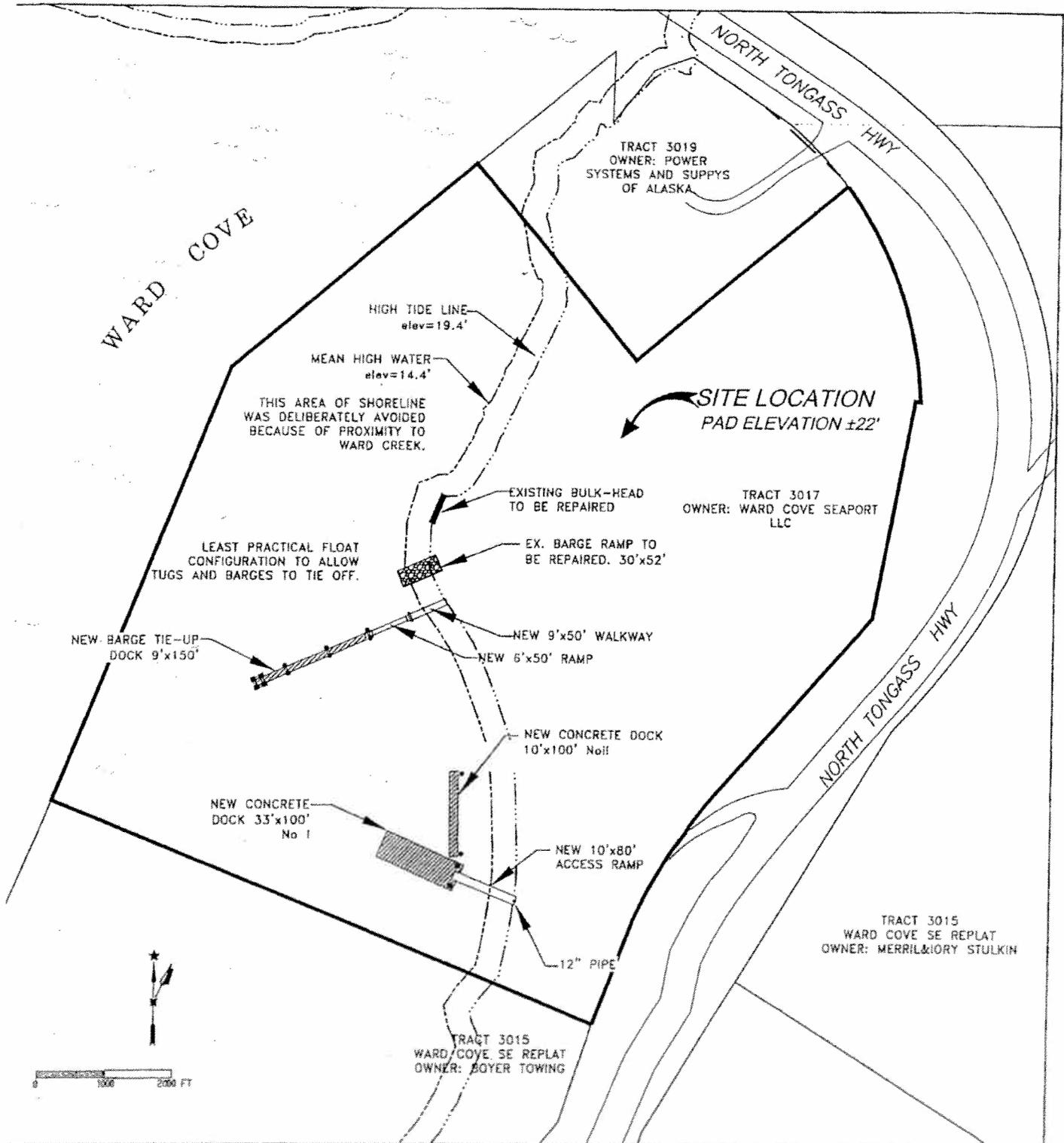
VICINITY MAP

APPLICATION BY:
 WARD COVE SEAPORT LLC
 P.O. BOX 6000
 KETCHIKAN, ALASKA 99901

WARD COVE
 SEAPORT

POA-2010-0426

AT: KETCHIKAN
 LOCATED IN: T.74S., R.90E., SECTION 33
 DATE: 6-10-10 SHEET 1 OF 7



PILE LEGEND

- 24" DIAMETER •
- 20" DIAMETER •
- 12" DIAMETER •

NOTE: ALL PILES TO BE STEEL PIPE.

SITE PLAN
ENLARGED VIEW

APPLICATION BY:
WARD COVE SEAPORT LLC
P.O. BOX 6000
KETCHIKAN, ALASKA 99901

WARD COVE
SEAPORT

POA-2010-0426

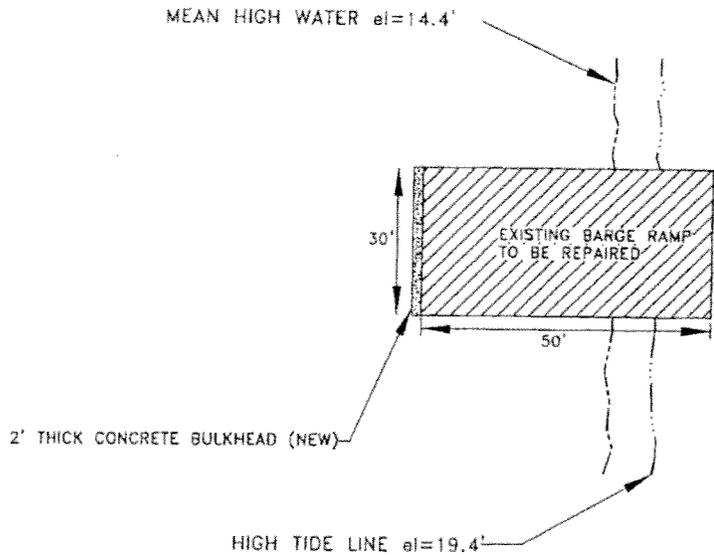
AT: KETCHIKAN

LOCATED IN: T.74S., R.90E., SECTION 33

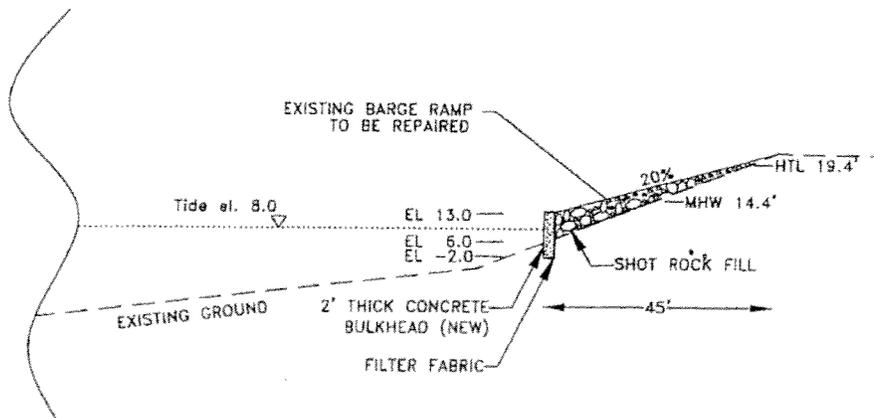
REVISION 1 EJC

DATE: 7-15-10

SHEET 3 OF 7



1 EX. BARGE RAMP-TO BE REPAIRED
 S4 PLAN VIEW SCALE 1"=40'



2 EX. BARGE RAMP-TO BE REPAIRED
 S4 CROSS SECTION SCALE 1"=40'

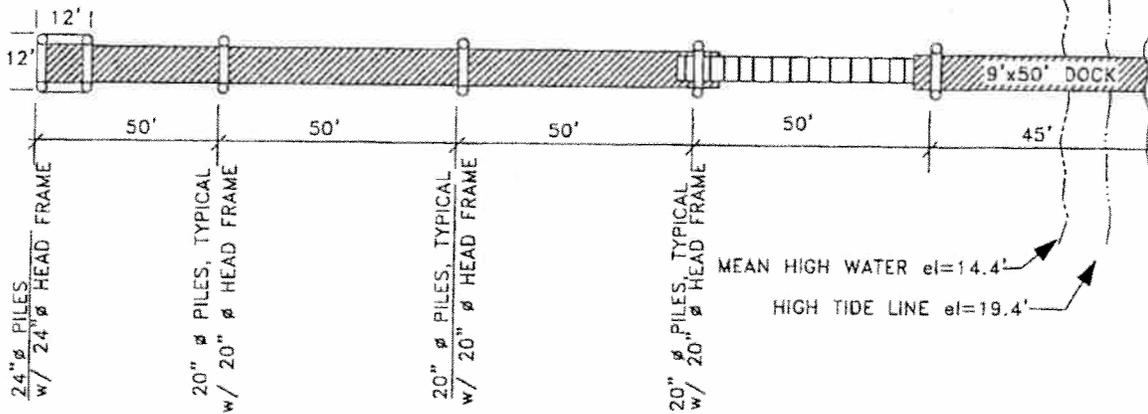
BARGE RAMP

APPLICATION BY:
 WARD COVE SEAPORT LLC
 P.O. BOX 6000
 KETCHIKAN, ALASKA 99901

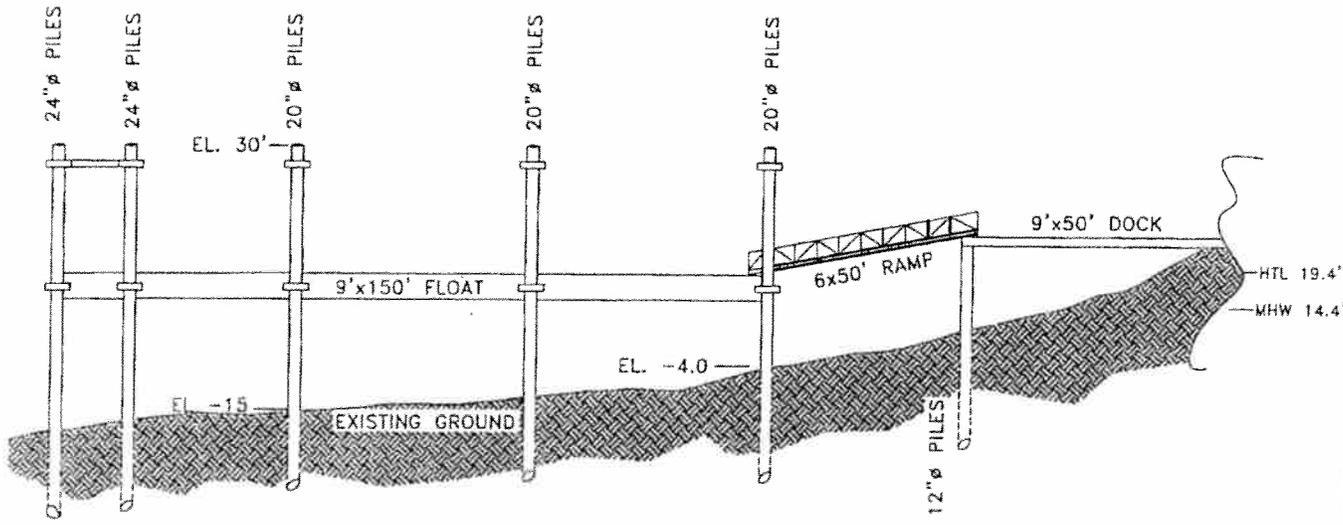
WARD COVE
 SEAPORT

POA-2010-0426

AT: KETCHIKAN
 LOCATED IN: T.74S., R.90E., SECTION 33
 REVISION 1 EJC
 DATE: 7-15-10 SHEET 4 OF 7



1 NEW BARGE TIE UP FACILITY
 S5 PLAN VIEW SCALE: 1"=40'



2 NEW BARGE TIE UP FACILITY
 S5 SECTION VIEW SCALE: 1"=40'

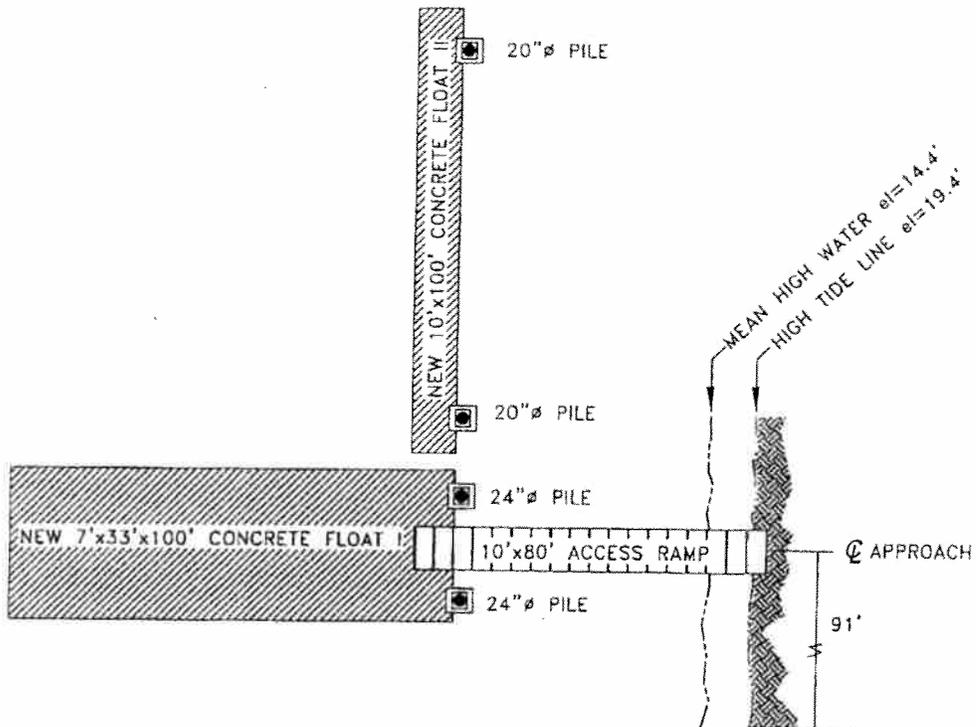
TIE UP FACILITY

APPLICATION BY:
 WARD COVE SEAPORT LLC
 P.O. BOX 6000
 KETCHIKAN, ALASKA 99901

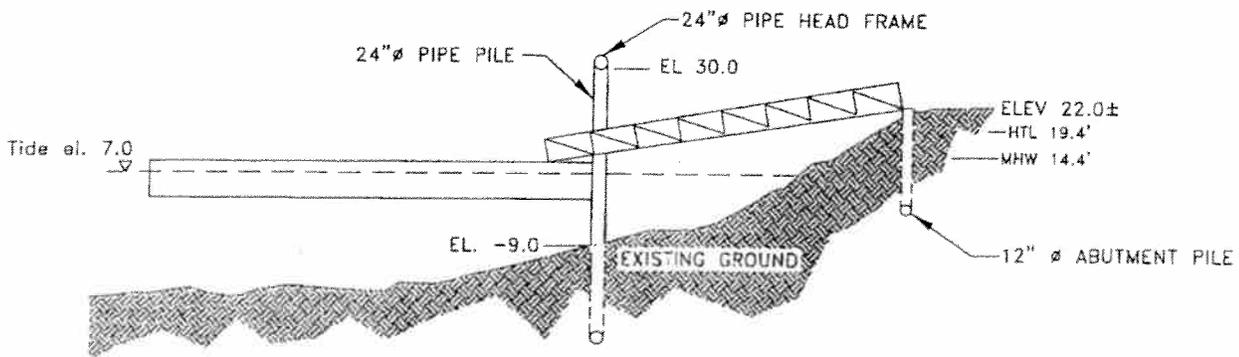
WARD COVE
 SEAPORT

POA-2010-0426

AT: KETCHIKAN
 LOCATED IN: T.74S., R.90E., SECTION 33
 REVISION 1 EJC
 DATE: 7-15-10 SHEET **5** OF **7**

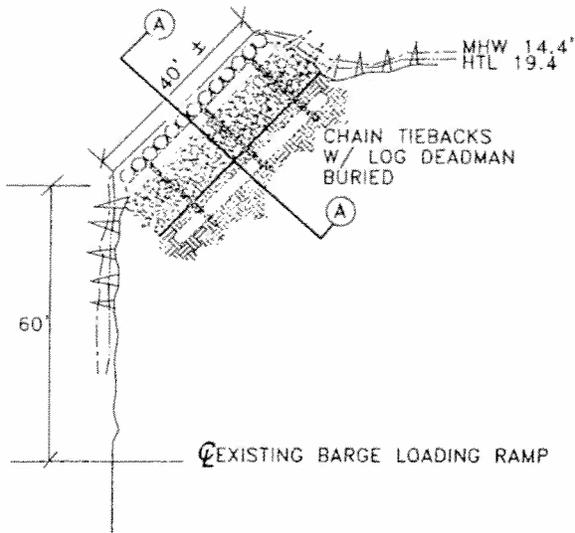


1 NEW CONCRETE BOAT FLOATS
 S6 PLAN VIEW SCALE 1" = 40'

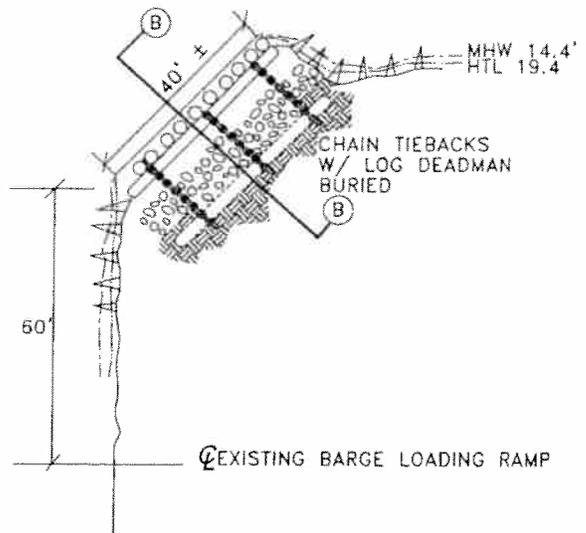


2 NEW CONCRETE BOAT FLOAT
 S6 SECTION VIEW SCALE 1" = 40'

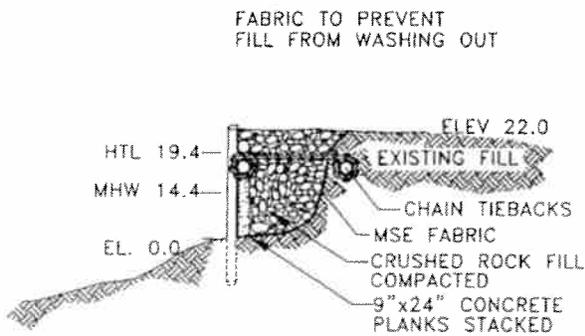
<p>SITE PLAN</p> <p>APPLICATION BY: WARD COVE SEAPORT LLC P.O. BOX 6000 KETCHIKAN, ALASKA 99901</p>	<p>WARD COVE SEAPORT POA-2010-0426</p> <p>AT: KETCHIKAN LOCATED IN: T.74S., R.90E., SECTION 33 REVISION 1 EJC DATE: 7-15-10</p> <p>SHEET <u>6</u> OF <u>7</u></p>
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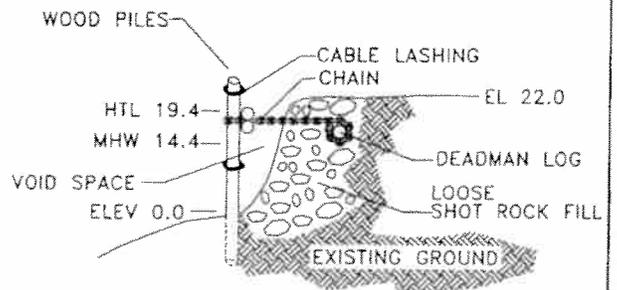
1 PROPOSED BULKHEAD REPAIRS
S7 PLAN VIEW



2 EXISTING LOG AND PILE BULKHEAD
S7 PLAN VIEW



3 PROPOSED BULKHEAD REPAIRS
S7 SECTION VIEW A - A



4 EXISTING LOG AND PILE BULKHEAD
S7 SECTION VIEW B - B

SITE PLAN

APPLICATION BY:
WARD COVE SEAPORT LLC
P.O. BOX 6000
KETCHIKAN, ALASKA 99901

WARD COVE
SEAPORT

POA-2010-0426

AT: KETCHIKAN
LOCATED IN: T.74S., R.90E., SECTION 33
DATE: 6-10-10 SHEET 7 OF 7