THE STATE of ALASKA
GOVERNOR MICHAEL J. DUNLEAVY

Department of Environmental Conservation
DIVISION OF WATER
Wastewater Discharge Authorization Program

555 Cordova Street
Anchorage, Alaska 99501
Main: 907.269.6285
Fax: 907.269.3487
www.dec.alaska.gov

June 17, 2019

Mr. Jason Ogilvie
President/CEO
Golden Harvest Alaska Seafood
#301 – 2219 Rimland Drive
Bellingham, WA 98228

DEC File No. WPC: 2501.54.001

**Re: Golden Harvest Alaska Seafood - Adak Facility, Draft Short-term Water Quality Variance for aeration of deposited seafood processing waste material in Kuluk Bay, Alaska**

Dear Mr. Ogilvie:

The Alaska Department of Environmental Conservation (Department or DEC) has completed its review of the Golden Harvest Alaska Seafood Short-term Water Quality Variance (WQV) application, received June 5, 2019, for aeration of deposited seafood processing waste material in Kuluk Bay. The application identifies that the activity will include aerating seafood processing waste deposits surrounding the current and historic outfall terminus locations at the Adak facility.

Regulatory requirements found in 18 AAC 70.080(a) state that the appropriate division director or designee notify the applicant within 60 days that the Department is proposing to issue a Short-term WQV. The attached draft Short-term WQV proposes terms and conditions for this temporary activity associated with the aeration of deposited material in Kuluk Bay. The Decision Document provides DEC's assessment of regulatory issues with respect to the requested WQV for Kuluk Bay.

If you have questions about the draft WQV, please contact me via phone at 907-269-7580, or by email at Gene.McCabe@alaska.gov. If you have questions about the technical merits of the draft WQV, please contact Anne Weaver by phone at 907-269-7483, or by e-mail at Anne.Weaver@alaska.gov.

Sincerely,

Gene McCabe
Program Manager
Wastewater Discharge Authorization Program

Enclosure: Draft WQV and Decision Document

## Public Comment

Public Comment Period Start Date: **June 17, 2019**

Public Comment Period Expiration Date: **July 18, 2019**

Alaska Online Public Notice System (http://dec.alaska.gov/commish/public-notices/)

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|---|---|
| Technical Contact: | Anne Weaver<br>Alaska Department of Environmental Conservation<br>Division of Water<br>Wastewater Discharge Authorization Program<br>555 Cordova Street<br>Anchorage, AK 99501<br><br>Phone: (907) 269-7483<br>Fax: (907) 269-3487<br>E-mail: Anne.Weaver@alaska.gov |

Persons wishing to comment on the draft short-term water quality variance (WQV) for this activity may do so in writing by **5pm, July 18, 2019**, the expiration date of the public comment period.

Commenters are requested to submit a concise statement on the WQV condition(s) and the relevant facts upon which the comments are based. Commenters are encouraged to cite specific regulatory requirements and/or applicable changes to WQV conditions in their submittals.

Consistent with 18 AAC 15.060(b), the Department will hold a public hearing for a short-term variance from Water Quality Standards if it determines good cause exists. In accordance with 18 AAC 15.060(c), a hearing will be held no sooner than 15 days, nor more than 30 days, following publication of the notice of public hearing.

All comments and requests for public hearings must be in writing and should be submitted to the Department at the technical contact address, fax, or email identified above (see also the public comments section of the attached public notice). Mailed comments and requests must be postmarked on or before the expiration date of the public comment period.

After the close of the public comment period and after a public hearing, if applicable, the Department will review the comments received on the draft WQV. If no substantive comments are received, the tentative conditions in the draft WQV will become the final WQV.

After the close of the public comment review period, the Department will issue a water quality variance as its final decision. The water quality variance's effective date will be the date it is issued.

The Department will transmit a copy of the final WQV to anyone who provided comments during the public comment period or who testified at the public hearing, if held, regarding the WQV application.

The Department has a formal administrative appeal process for final decisions. A person aggrieved by the Department's decision may request an adjudicatory hearing under 18 AAC 15.200. Interested persons can review 18 AAC 15.200 for the procedures and substantive requirements regarding a request for an adjudicatory hearing. See https://dec.alaska.gov/commish/review-guidance/adjudicatory-hearing-guidance for information regarding appeals of Department decisions.

An adjudicatory hearing request must be delivered to the Commissioner of the Department within 30 days of the final decision. An adjudicatory hearing will be conducted by an administrative law judge in the Office of Administrative Hearings within the Department of Administration. A written request for an adjudicatory hearing shall be delivered to the Commissioner at the following address:

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| Commissioner<br>Alaska Department of Environmental Conservation<br>PO Box 111800<br>Juneau, AK 99811 |

**Documents are Available**

The application and draft WQV documents can be obtained by visiting or contacting DEC between 8:00 a.m. and 4:30 p.m. Monday through Friday at the address below, or may be accessed from the Department's Wastewater Discharge Authorization Program website: http://dec.alaska.gov/water/wastewater/public-notices

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|---|
| Alaska Department of Environmental Conservation<br>Division of Water<br>Wastewater Discharge Authorization Program<br>555 Cordova Street<br>Anchorage, AK 99501<br>(907) 269-6285 |

# Alaska Department of Environmental Conservation

## Division of Water

## Draft Short-Term Water Quality Variance

AUTHORIZATION OF A SHORT-TERM WATER QUALITY VARIANCE

**DEC File Number: 2501.54.001**

In accordance with the Short-term Water Quality Variance terms and conditions, sampling and monitoring requirements, and other conditions set forth herein:

This Short-term Water Quality Variance is issued under provisions of Alaska Statutes (AS) 46.03; Alaska Administrative Code (AAC) 18 AAC 70.200 as amended; and other applicable State laws and regulations.

The Short-term Water Quality Variance effective date is **[DRAFT].**

This Short-term Water Quality Variance shall expire at midnight, **December 31, 2019**. In no case shall this Short-term Water Quality Variance be extended past five years from the effective date.

Golden Harvest Alaska Seafood shall post or maintain a copy of this Short-term Water Quality Variance on board the vessel as well as at the facility, and it shall be made available to the public, employees, and subcontractors performing the remediation activity.

| **SECTION 1 – RESPONSIBLE PARTY INFORMATION** | |
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| Issued to: | **JASON OGILVIE, PRESIDENT/CEO** |

| **SECTION 2 – FACILITY INFORMATION** | |
|---|---|
| Facility Name: | **GOLDEN HARVEST ALASKA SEAFOOD – ADAK** |
| Facility Location: | 100 Seawall Road, Adak, AK 99546 |
| Description of Activity: | Aerating seafood processing waste seafloor deposits in a four-acre area of Kuluk Bay |

## SECTION 3 – REGULATED ACTIVITY AREA

| Aeration Area | Latitude | Longitude |
|---|---|---|
| Kuluk Bay – Southwest Boundary (Pt. 1) | 51.862174 | -176.628799 |
| Kuluk Bay – West Boundary (Pt. 2) | 51.863037 | -176.628799 |
| Kuluk Bay – Northwest Boundary (Pt. 3) | 51.863583 | -176.627858 |
| Kuluk Bay – Northeast Boundary (Pt. 4) | 51.863583 | -176.626882 |
| Kuluk Bay – East Boundary (Pt. 5) | 51.863204 | -176.626882 |
| Kuluk Bay – Southeast Boundary (Pt. 6) | 51.862174 | -176.627552 |

## SECTION 4 – WATER QUALITY VARIANCE TERMS AND CONDITIONS

The Short-term Water Quality Variance (WQV) is limited in scope to those activities described in the WQV application dated May 31, 2019. Aeration activity is limited to the **Section 3** 'Regulated Activity Area,' above and as depicted in WQV application Figure 2 (attached).

In accordance with 18 AAC 15.090, this WQV sets terms and conditions covering the aeration of deposited seafood processing waste materials in Kuluk Bay, Alaska that Golden Harvest Alaska Seafood and its contractors and/or subcontractors must adhere to, including fully implementing and following the monitoring plans as described in the WQV application dated May 31, 2019. These include, but are not limited to: daily turbidity measurements before and after aeration; daily turbidity background measurements and sea surface observations; daily dissolved oxygen measurements before and after aeration; and seafloor surveying before, during, and after the remediation. The aeration activity will cease and consultation with DEC will commence if there is any noticeable deposition of waste material on the shoreline or if the dissolved oxygen readings at the seafloor drop under 5.0 mg/L.

In accordance with 18 AAC 15.100(b), the variance may not be assigned to another party without prior written approval of the Director of the Division of Water. The Director will grant approval only upon finding that the assignee has assumed the obligations of Golden Harvest Alaska Seafood and that the assignment will not result in an appreciable change in the operation.

In accordance with 18 AAC 15.100(c), the variance only authorizes the operation described in Golden Harvest Alaska Seafood's WQV application submitted June 5, 2019 and specified in this variance. Any expansion, modification, or other change in an operation which might result in an increase in discharges, or might cause other detrimental environmental impacts from the operation, requires a new variance. Any other change in the operation, not provided for in the contingency planning by Golden Harvest Alaska Seafood, requires an amendment to the variance.

In accordance with 18 AAC 15.100(d), an application for a renewal of, or amendment to, the variance will be treated in the same manner as the initial application, except that public notice or hearing will not be provided for the application for renewal or amendment. Application for renewal or amendment must be made no later than 30 days before the expiration of the variance, or 30 days prior to the planned effective date of the amendment. The Department will, however, approve an amendment to the variance on an emergency basis if necessary to protect public health, life, or property. The water quality variance effective term, including all requests for extension(s), will not exceed a total of five years from the date of issuance.

## SECTION 5 – LEGAL OBLIGATIONS AND REPORTING REQUIREMENTS

This WQV does not relieve the applicant from the duty to obtain any other necessary permits from the Department or from other local, state, or federal agencies and to comply with the requirements contained in any such permits. All activities conducted by the applicant pursuant to the terms of this WQV shall comply with all applicable local, state, and federal laws and regulations.

If you have questions regarding compliance with any WQV requirement, please contact Katrina Chambon at Katrina.Chambon@alaska.gov or 907-269-7550.

The two dedicated phone numbers are to be used for verbal notification within 24 hours of an incident of non-compliance. The required written follow-up notification can be provided via fax, email, or U.S. Postal Service.

Toll Free Nationwide: 1-877-569-4114
Anchorage or International: 1-907-269-4114
The Compliance fax number is: 1-907-269-4604
Emails can be sent to: dec-wqreporting@alaska.gov

**Mailing Address is**:
Alaska Department of Environmental Conservation
Attn: Compliance and Enforcement Program
555 Cordova Street
Anchorage, Alaska 99501

## SECTION 6 – CERTIFICATION/SIGNATURE

| **DRAFT** | **DRAFT** |
|---|---|
| Signature | Date |
| Gene McCabe | Program Manager |
| Printed Name | Title |

## SECTION 7 – ATTACHMENTS

1. Decision Document
2. WQV Application Figures 1, 2

Golden Harvest Alaska Seafood – Adak (Golden Harvest) submitted a Short-term Water Quality Variance (WQV) application on June 5, 2019 for aeration of deposited seafood processing waste materials on the seafloor in Kuluk Bay. The map in Appendix A depicts the location of the proposed aeration area (Figure 2) requested to be covered by a WQV.

This Decision Document presents an assessment of regulatory issues with respect to the requested WQV.

## APPLICANT

The Short-term Water Quality Variance is for the following entity:

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| Name of Facility: | Golden Harvest Alaska Seafood – Adak Facility |
| Facility Location: | 100 Seawall Road<br>Adak, AK 99546 |
| Mailing Address: | #301 – 2219 Rimland Drive<br>Bellingham, WA 98228 |
| Corporate Contact: | Mr. Jason Ogilvie |

## BACKGROUND

The Alaska Department of Environmental Conservation (DEC) requested a remediation plan from Golden Harvest on December 31, 2018 to address seafood processing waste deposits exceeding one-acre coverage area present on the seafloor adjacent to the Golden Harvest facility.

In March 2019, Golden Harvest submitted a seafood waste remediation plan to DEC which described the proposed approach to remediate the seafood waste pile(s) on the seafloor near the Adak facility. As part of the remediation plan, Golden Harvest will be conducting aeration of seafood waste pile(s). The aeration will focus on the recently-deposited thin layer of soft tissue waste.

Golden Harvest will conduct mechanical aeration (see Figure 1) of the seafood waste pile within the four-acre remediation zone determined based on the February 2019 seafloor survey identifying the extent and size of the seafood waste deposits (zone of deposits). The goal of the mechanical aeration is to reduce the seafood waste pile deposit to less than 1.0 acre.

The Water Quality Variance application submitted June 5, 2019 provides the methodologies for water quality sampling and performance of visual seafloor surveys at the remediation area.

## BASIS FOR THE DEPARTMENT'S DECISION TO ISSUE A SHORT-TERM WATER QUALITY VARIANCE

Federal regulations implementing the Clean Water Act (40 CFR 131.13) allow states to adopt variance provisions. Under 18 AAC 70.200(a)(1), which is approved for use by EPA, the Department of Environmental Conservation (DEC or the Department) has the discretion to grant a WQV from the antidegradation policy standard of 18 AAC 70.015 or the water quality criteria of 18 AAC 70.020(b) for a temporary activity that is a nonpoint source of water pollution. DEC has determined that a WQV is an appropriate regulatory tool for the seafood waste pile mechanical aeration activity.

The following analysis provides DEC's regulatory step-through determination concluding that, as proposed in the application, the WQV is authorized.

*18 AAC 70.200(a)(1)*
As proposed, the activity meets 18 AAC 70.200(a)(1) in that it is a temporary activity proposed to span six months, with all work completed by December 31, 2019. The work is to take place for a total of nine days (three sessions, each three days long) per month.

*18 AAC 70.200(b)(1-3)* DEC is satisfied through the review of the WQV application package, and through the implementation of the required WQV terms and conditions, that the applicant has met the conditions of 18 AAC 70.200(b)(1-3).

*18 AAC 70.200(b) The Department will grant a short-term variance only if an applicant shows to the Department's satisfaction that:*

- *18 AAC 70.200(b)(1) wastes or substances that might adversely affect water quality are controlled, using methods the Department finds most effective.* The WQV application states the soft tissue waste will not be removed from the seafloor where it resides. Instead, a mechanical aeration technique will be conducted in order to accelerate the rate of natural recovery. Although some seafood waste may be briefly suspended in the water column during the activity, the large majority of the waste will be dragged along the seafloor and consolidated with the natural substrate.

- *18 AAC 70.200(b)(2) the activity will be conducted in a manner to mitigate water quality impacts, using methods the Department finds most effective.* The WQV application proposes that prior to beginning full-scale operations, the tow operator will conduct trials to identify the towing speed that minimizes the generation of any visible turbidity plumes. The duration of remediation activities will be limited to two hours before and after slack water, when tidal currents are expected to be lower, to minimize the distance that potentially turbid waters caused by the remediation activity are transported.

- *18 AAC 70.200(b)(3) the activity, when completed, will not cause a long-term, chronic, or recurring violation of the water quality standards.* The WQV application specified that the only water quality standard expected to be exceeded was turbidity, and that any exceedances were expected to last no more than four hours on any given remediation day (the length of time when aeration is ongoing). The purpose of the remediation activity is to bring the seafloor at the facility back into compliance with the residues water quality standard. A seafloor survey will be conducted by remotely operated vehicle (ROV) prior to beginning the remediation to better define the remediation zone boundaries. Additional ROV surveys will be conducted one, three, and six months after the onset of the remediation to assess the effectiveness of the remediation activity. A final remediation report describing the results from each seafloor monitoring survey and all water quality monitoring will be provided to DEC within 30 days of completing the remediation and the post-remediation seafloor survey.

**18 AAC 70.200(c)** The Department has determined from the application that the geographic scope for this project is limited to an approximately four-acre area of Kuluk Bay. The term of the WQV is as short as practicable and will expire when the project is completed on December 31, 2019, after up to 54 days of aeration activity over the six-month period.

*18 AAC 70.200(d)(1-5) A person seeking a short-term variance shall submit a written request and proceed in accordance with 18 AAC 15.020 - 18 AAC 15.100.* Golden Harvest submitted a written WQV application on June 5, 2019. *The request must state the:*

- *18 AAC 70.200(d)(1) location, time, duration, and type of activity for which the variance is sought;* Golden Harvest has established a remediation zone in Kuluk Bay, as shown in Figure 2, to conduct remediation over a six-month period beginning in July 2019. Three sessions (each three days long) will be conducted each month, for a total of nine days per month. Remediation activities will be conducted within a four-hour window each day, consisting

of two hours both before and after a slack tide period. Remediation activities will consist of mechanical aeration using a metal sled (Figure 1) towed through the seafood waste deposit toward the legacy bone pile at the western margin of the remediation zone.

- *18 AAC 70.200(d)(2) reasons why the activity is required*; Seafloor monitoring surveys conducted at Golden Harvest in May 2018 and February 2019 documented seafood waste deposits that covered a larger area than the one-acre Zone of Deposit allowed by the AKG520000 Seafood Processors in Alaska General Permit. The pile size was 5.71 acres in May 2018 and found to be reduced in February 2019, but the exact size was unclear due to logistics difficulties during that survey. DEC issued a Notice of Violation to the Golden Harvest facility based on the results of the May 2018 survey directing the preparation of a seafood waste remediation plan. The activity described in the WQV application is part of that remediation plan.

- *18 AAC 70.200(d)(3) areal extent and quantified degree of variance from the applicable criteria;* The estimated aerial extent of surface water that may be impacted is eight acres. The planned remediation activity is likely to re-suspend some solid seafood waste material from the seafloor into the water column, and it may increase the turbidity in a localized area, particularly close to the seafloor. However, the turbidity increases are not expected to result in exceedances of the turbidity water quality criteria. Golden Harvest has proposed in its WQV application both pre- and post-aeration water quality monitoring to track any variance from the turbidity water quality criteria.

- *18 AAC 70.200(d)(4) detailed construction and operating plans, including water pollution control and mitigation measures;* The tow operator will deploy the aeration sled (Figure 1) just outside the boundary of the remediation zone and proceed toward the bone pile at a speed of 0.5-1.5 knots. Upon reaching the bone pile, the tow operator will lift the device, return to the boundary of the remediation area, reposition to the next transit point (approximately 10 feet away from the previous transect starting point), and redeploy the drag just outside the boundary to repeat the process. The tow direction toward the bone pile will minimize the chance of waste dispersion outside the remediation zone. Water pollution control measures include the slow tow speed to optimize lateral movement of material and to minimize the re-suspension of solids and the remediation timeframe of two hours before and after slack tide to minimize potential for re-suspended material to be transported outside the remediation zone by tidal currents. Golden Harvest will measure turbidity on each day of aeration, within the center of the day's aeration area, both before and after the aeration. Golden Harvest will also measure turbidity in a background area each day to provide a baseline for comparison. In addition, throughout the remediation activity, Golden Harvest's representative will observe for and record turbidity plumes that persist at the surface for one hour or longer. If there is any noticeable deposition of waste material on the shoreline, the aeration procedure will cease and a shoreline cleanup will take place as deemed necessary in consultation with DEC. Finally, Golden Harvest will measure dissolved oxygen on each day of aeration, within the center of the day's aeration area and within one meter of the seafloor, both before and after the aeration. If dissolved oxygen values are reduced to below 5.0 mg/L, the aeration procedure will be halted and re-evaluated in consultation with DEC.

- *18 AAC 70.200(d)(5) activity's estimated impact on the uses of the water involved, including recreation and use for habitat, rearing, growth, or migration by fish, shellfish, other aquatic life, and wildlife;* Based on the proposed water pollution control measures and monitoring , no adverse impacts to designated uses of the water body are anticipated.

## BASIS FOR RECEIVING WATER SAMPLING AND MONITORING

In accordance with 18 AAC 15.090, the Department may specify in a water quality variance the terms and conditions applicable to a variance. Terms and conditions include operating, monitoring, sampling, and reporting requirements. Water quality protection, sampling, and monitoring must be performed as described in the WQV application.

## OTHER WATER QUALITY VARIANCE CONDITIONS

### Quality Assurance Procedures

Golden Harvest is required to follow developed procedures to ensure that the monitoring data submitted are accurate and can explain data anomalies if they occur. The quality assurance procedures shall be retained on the vessel(s) and at the facility and made available to the Department upon request.

### Management Practices

In accordance with 18 AAC 15.090, the Department may specify in a WQV the terms and conditions under which the remediation activity may occur. The WQV requires Golden Harvest to follow the WQV application in order to prevent, minimize, and monitor the potential for the release of pollutants to waters of the State of Alaska. The WQV application must be kept on site and made available to the Department upon request.

### Water Quality Variance Expiration

The WQV will expire no later than five years from the effective date of the final WQV or will terminate sooner upon submittal of the final documents required by the WQV unless enforcement actions are pending as a result of the authorized activities.

# Appendix A

(Figures 1, 2)

Figure 1. Example of augur-based sled to be used for mechanical aeration

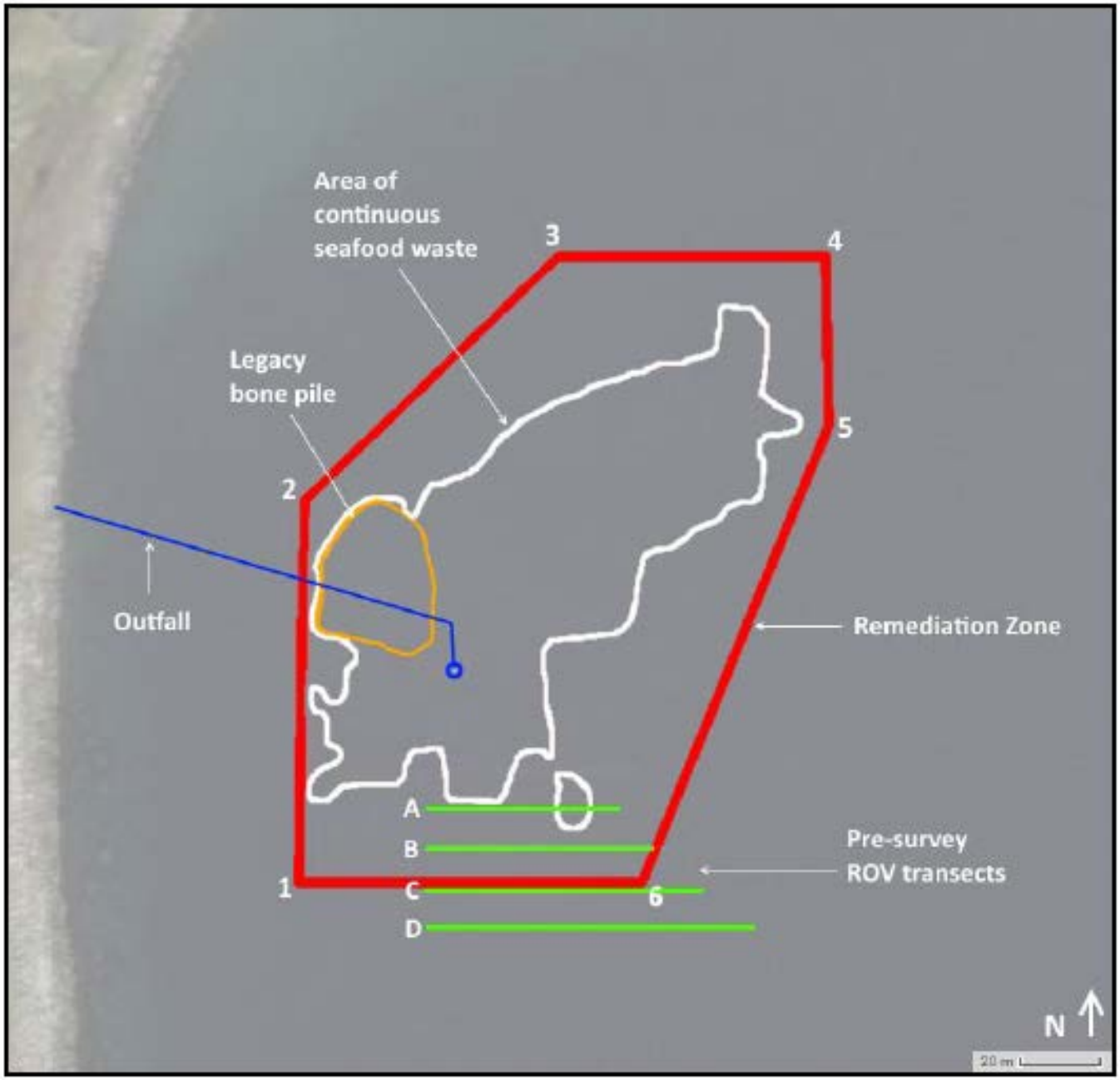


Figure 2. Proposed remediation zone