



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, ALASKA
REGULATORY DIVISION
P.O. BOX 6898
JBER, ALASKA 99506-0898

MAY 13 2013

Regulatory Division
POA-2012-516

Marble Island, LLC
Attention: Mr. Trevor Sande
355 Carlanna Lake Road
Ketchikan, Alaska 99901

Dear Mr. Sande:

Enclosed are two copies of Department of the Army permit POA-2012-516, Tongass Narrows, which would authorize the construction of a new road and building pads for a new subdivision. The project site is located within Section 29, T. 74 S., R. 90 E., Copper River Meridian; USGS Quad Map Ketchikan B-6; Latitude 55.4284° N., Longitude 131.7740° W.; Marble D1 Subdivision, Lot 4B; in Ketchikan, Alaska.

The Alaska Department of Environmental Conservation has issued a Certificate of Reasonable Assurance pursuant to Section 401 of the Clean Water Act for your project and found it to be in accordance with the Alaska Water Quality Standards. This certification is attached to the Department of the Army permit and will become a part of this permit when it is finalized.

Additionally, we have enclosed a Notification of Administrative Appeal Options and Process and Request for Appeal form regarding this Department of the Army Permit (see section labeled "Initial Proffered Permit").

If you accept the conditions of the enclosed permit, please sign and date both copies and return them to us, along with your \$100.00 permit fee. Your check or money order should be made payable to FAO, USACE, Alaska District. The permit will not be valid until we have returned a finalized copy to you. This is not an authorization to commence construction. No work is to be performed in wetlands until you have received a validated copy of the permit.

Nothing in this letter shall be construed as excusing you from compliance with other Federal, State, or local statutes, ordinances, or regulations which may affect this work.

Please contact me via email at roberta.k.budnik@usace.army.mil, by mail at the address above, by phone at (907) 753-2785, or toll free from within Alaska at (800) 478-2712, if you have questions.

Sincerely,

A handwritten signature in black ink that reads "Roberta K. Budnik".

Roberta K. Budnik
Regulatory Specialist

Enclosures

DEPARTMENT OF THE ARMY PERMIT

Permittee: Marble Island, LLC

Permit No.: POA-2012-516, Tongass Narrows

Issuing Office: U.S. Army Engineer District, Alaska

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: Place up to 4,952 cubic yards of clean fill into 1.51 acres of wetlands for a road and building pads for a new subdivision. The project will include the creation of 15 residential homesites on 0.5-acre lots. Each lot will have a typical 5,000 square foot (0.11-acre) fill pad constructed, not all of which will be within wetlands. Rather, 1.18 acres of wetlands will be filled for house pads and driveways. A 980-foot long by 28-foot top width road will be constructed for access to these lots, and a total of 0.33-acre of wetlands will be filled for road construction. Up to 2,242 cubic yards of fill would be placed within a total of 2,447 linear feet (or 0.21-acre) of streams within the project area in order to reroute them for the project construction.

All work will be performed in accordance with the attached plan, sheets 1-7, dated November 2012.

Project Location: Section 29, T. 74 S., R. 90 E., Copper River Meridian, USGS Quad Map Ketchikan B-6, Latitude 55.4284° N., Longitude 131.7740° W.; Marble D1 Subdivision, Lot 4B, Ketchikan Gateway Borough; in Ketchikan, Alaska.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on **May 31, 2018**. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

1. Fill material shall consist of clean fill, free of unsuitable material (e.g. trash, debris, car bodies, asphalt, etc.) and free of toxic pollutants.
2. Project boundaries shall be clearly identified in the field (e.g., staking, flagging, silt fencing, etc.) prior to site clearing and construction to ensure avoidance of impacts to waters of the U.S., including wetlands, beyond the project footprint.
3. Effective sediment control structures (i.e., silt fences) shall be installed and maintained before, during, and after construction to prevent erosion and the introduction of sediments and/or contaminants into adjacent waters of the U.S., including wetlands. These structures shall remain in place until all fills (including side slopes) or other disturbed areas subject to potential erosion have been permanently stabilized. Active sloughing, increased water turbidity and sediment in drainage ditches, streams, sloughs, and/or adjacent wetlands shall be evidence of insufficient stabilization.
4. Disturbed areas, without fill placement, shall be stabilized immediately after construction to prevent erosion. Revegetation of the site shall begin as soon as site conditions allow and in the same growing season as the disturbance unless climatic conditions warrant additional time and is approved by the Corps. Native vegetation and soils removed for project construction shall be stockpiled separately and used for site rehabilitation. If soil and/or organic materials are not available from the project site for rehabilitation, other locally-obtained native materials may be used. Species to be used for seeding and planting shall follow this order of preference: 1) species native to the site; 2) species native to the area; 3) species native to the state. Regevetated areas shall have enough cover to sufficiently control erosion without silt fences, hay bales, or other mechanical means by the end of the first fall growing season. There must be 70% vegetative cover to be in compliance with this special condition.
5. As compensatory mitigation for the unavoidable permanent loss of 1.51 acres of wetlands and 0.11-acre of perennial stream, please contact the in-lieu fee program, the Southeast Alaska Land Trust, for the monetary requirements to compensate for these losses at a 1:1 ratio. You shall submit the Southeast Alaska Land Trust's calculation, along with proof of payment to our office (U.S. Army Corps of Engineers, Regulatory Division (CEPOA-RD), Post Office Box 6898, JBER, Alaska 99506-0898), prior to beginning the construction of the permitted activity.

Special Information:

Any condition incorporated by reference into this permit by General Condition 5, remains a condition of this permit unless expressly modified or deleted, in writing, by the District Engineer or his authorized representative.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:
 - () Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
 - (X) Section 404 of the Clean Water Act (33 U.S.C. 1344).
 - () Section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

- a. This permit does not obviate the need to obtain other Federal, State, or local authorization required by law.
- b. This permit does not grant any property rights or exclusive privileges.
- c. This permit does not authorize any injury to the property or rights of others.
- d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

(PERMITTEE) AND TITLE

(DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

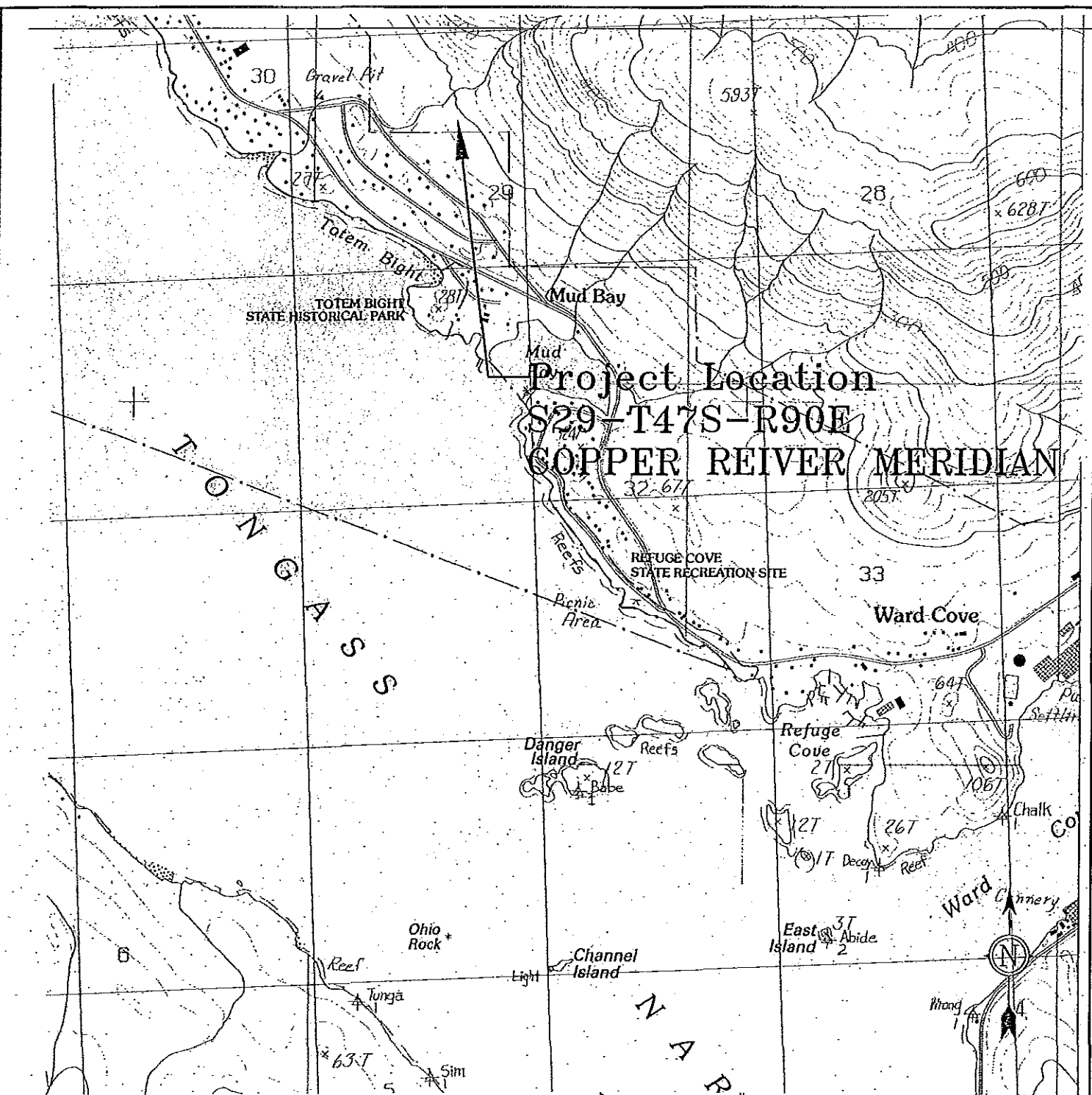
FOR (DISTRICT COMMANDER)
Colonel Christopher D. Lestochi
Katie McCafferty, Team Leader
South Branch, Regulatory Division

(DATE)

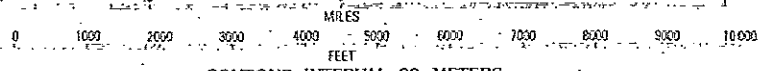
When the structures or work authorized by this permit are still in existence at the time the property is transferred the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions have the transferee sign and date below.

(TRANSFEREE)

(DATE)



Location Map: Not To Scale
 Barrow

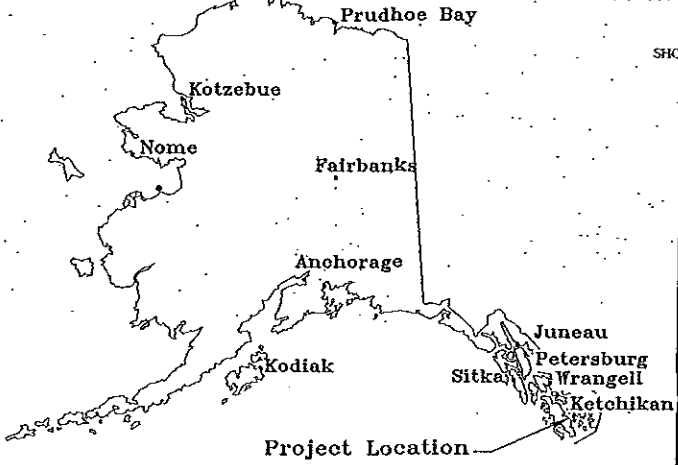


CONTOUR INTERVAL 20 METERS
 SHORELINE SHOWN REPRESENTS THE APPROXIMATE LINE OF MEAN HIGH WATER
 THE MEAN RANGE OF TIDE IS APPROXIMATELY 4.0 METERS
 CONTROL ELEVATIONS SHOWN TO THE NEAREST 0.1 METER
 OTHER ELEVATIONS SHOWN TO THE NEAREST METER
 To convert meters to feet multiply by 3.2808
 To convert feet to meters multiply by .3048

MARBLE D1 SUBDIVISION

LOCATION & VICINITY MAP
 SCALE: AS NOTED

Marble Island LLC
 POA-2012-516
 Tongass Narrows
 November 2012
 Sheet 1 of 7



TRACT E
USS 813

LOT 4A

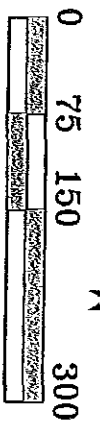
LOT 4B

TRACT K
USS 815

MARBLE D1 SUBDIVISION

EXISTING CONDITIONS
SCALE: AS NOTED

Marble Island LLC
POA-2012-516
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Sheet 2 of 7



(EAST)
N89°54'00" W
1320.00'

BASIS OF BEARINGS
(N56°26'24" W
1507.69'
N18°36' W)

WETLANDS
6670 S.F.
.153 ACRES±

WETLANDS
1506 S.F.
.350 ACRES±

WETLANDS
21604 S.F.
0.496 ACRES±

WETLANDS
10655 S.F.
0.245 ACRES±

WETLANDS
11989 S.F.
.278 ACRES±

WETLANDS
42933 S.F.
0.983 ACRES±

EXISTING ROAD

EXISTING ROAD

EXISTING ROAD

DRAINAGE DITCH

PERENNIAL CREEK (6')

PERENNIAL CREEK (3')

INTERMITTENT CREEK (<1.5')

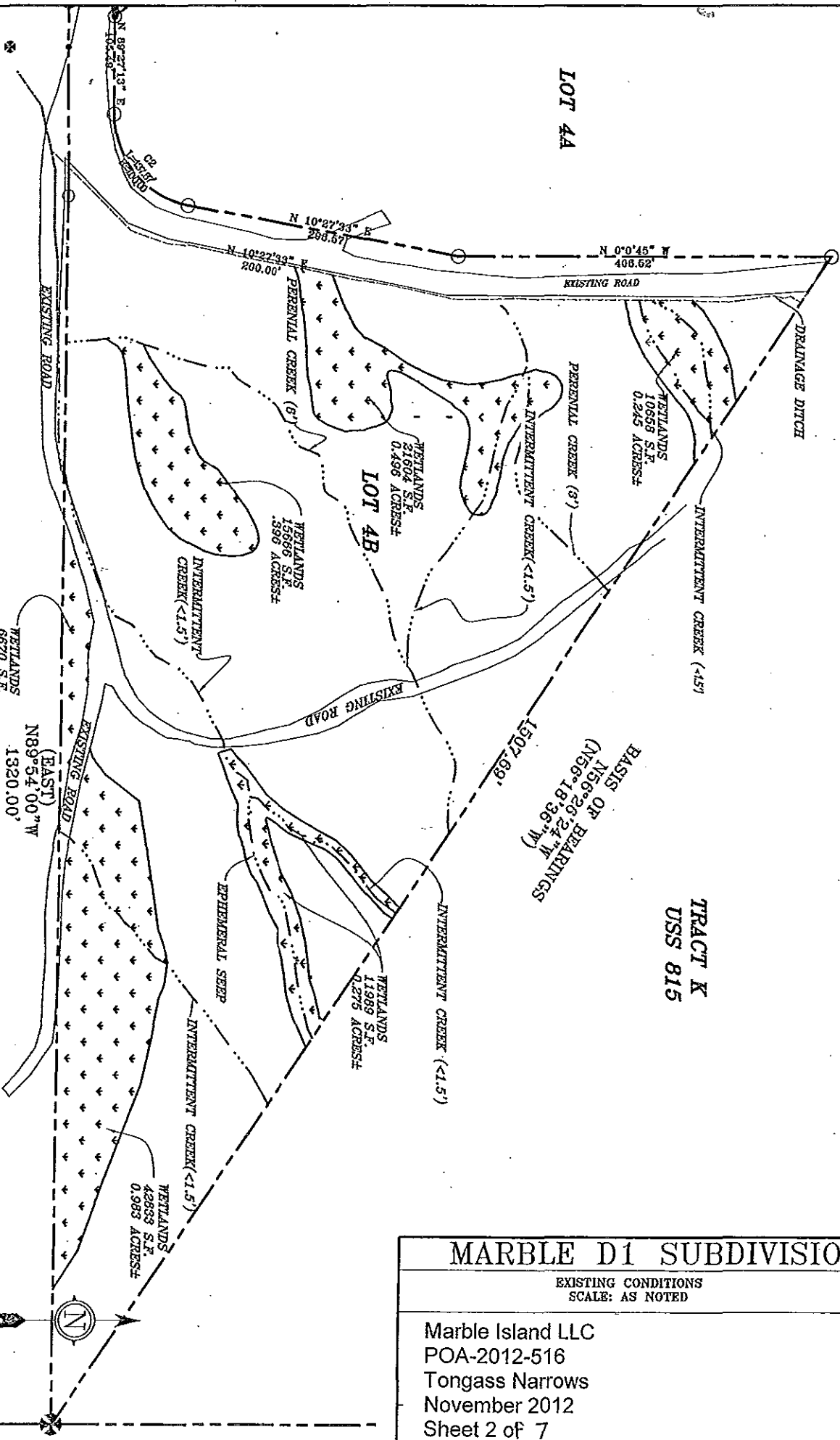
INTERMITTENT CREEK (<1.5')

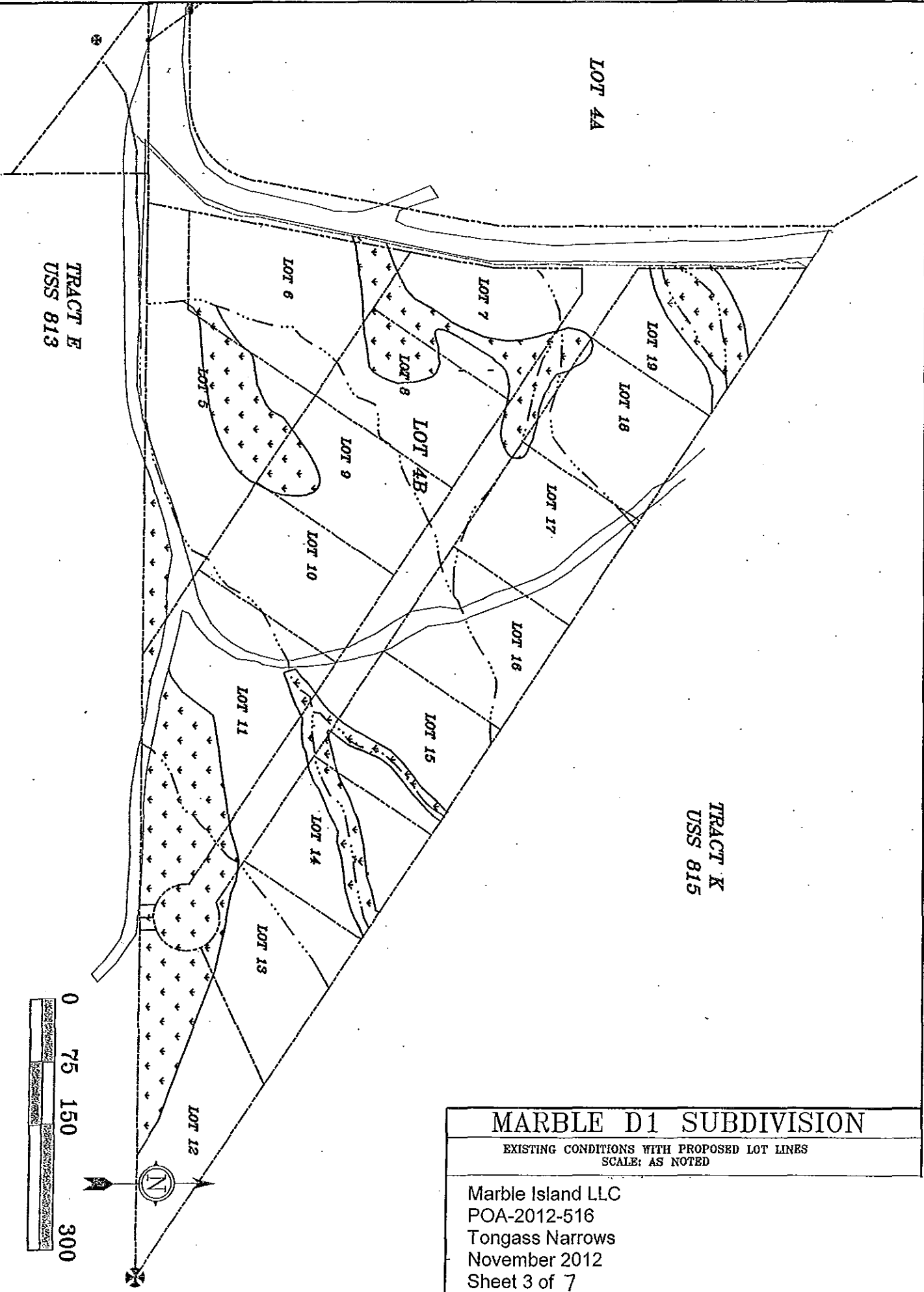
INTERMITTENT CREEK (<1.5')

INTERMITTENT CREEK (<1.5')

INTERMITTENT CREEK (<1.5')

EPHEMERAL SEEP





TRACT E
USS 813

TRACT K
USS 815

MARBLE D1 SUBDIVISION

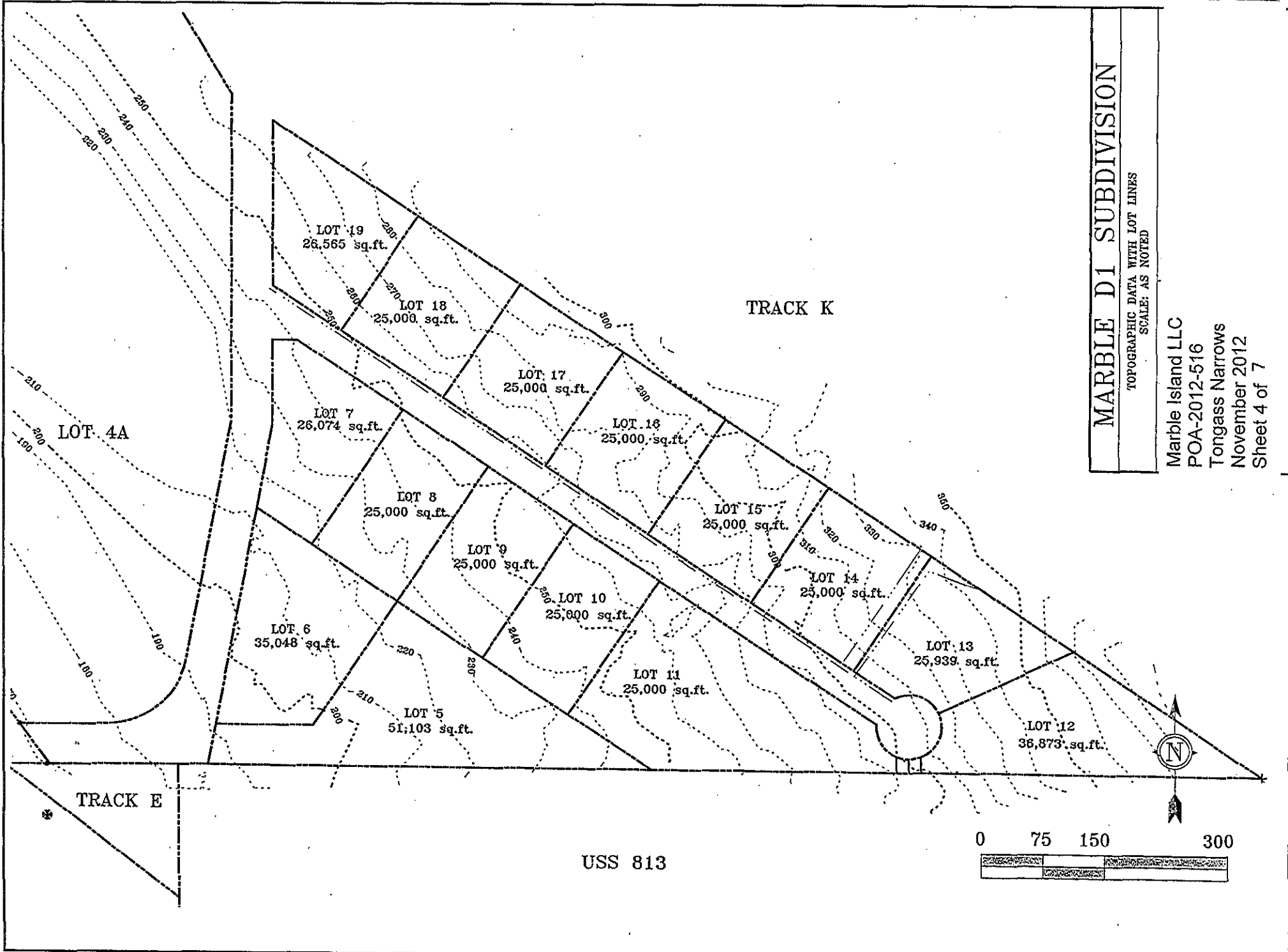
EXISTING CONDITIONS WITH PROPOSED LOT LINES
SCALE: AS NOTED

Marble Island LLC
POA-2012-516
Tongass Narrows
November 2012
Sheet 3 of 7

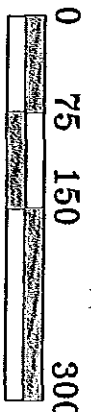
TRAC AREA

0 75 150 300



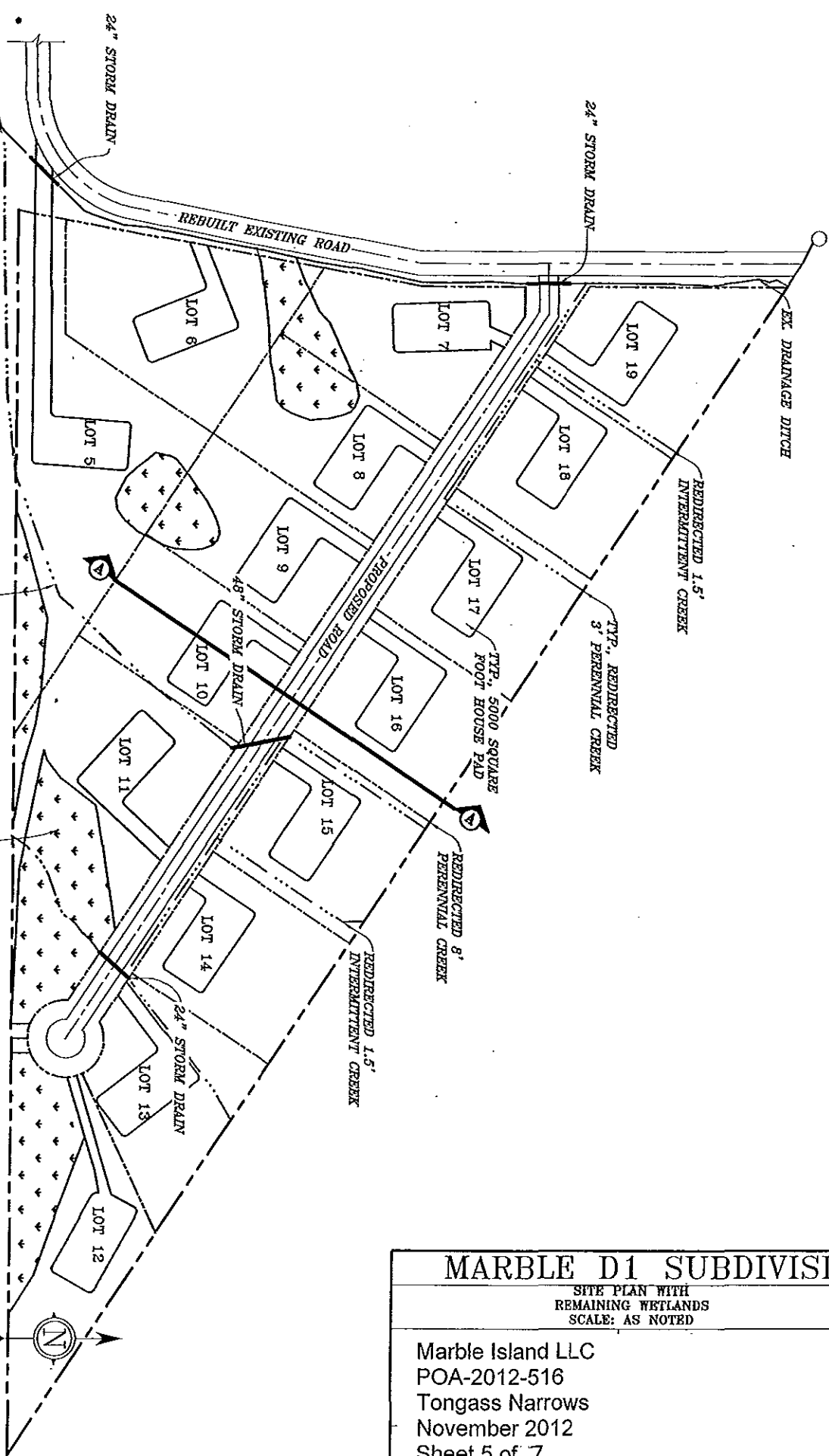


TRACT E
USS 813



ENLARGED 8' WIDE PERENNIAL CREEK

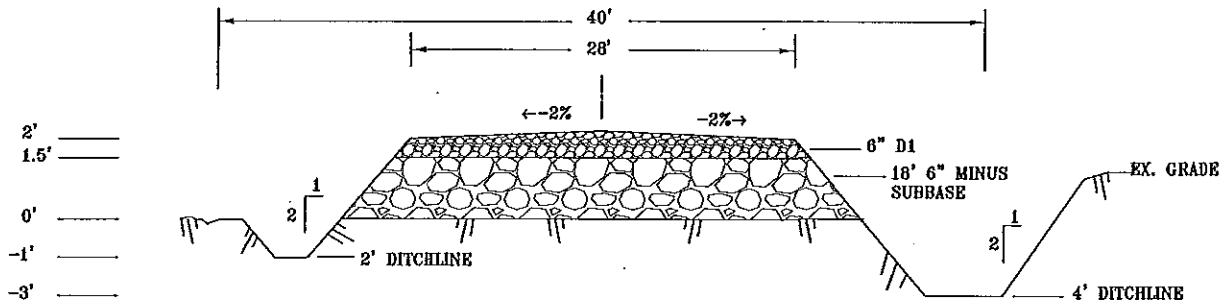
TYP. EXISTING UNDISTURBED WETLANDS



MARBLE D1 SUBDIVISION

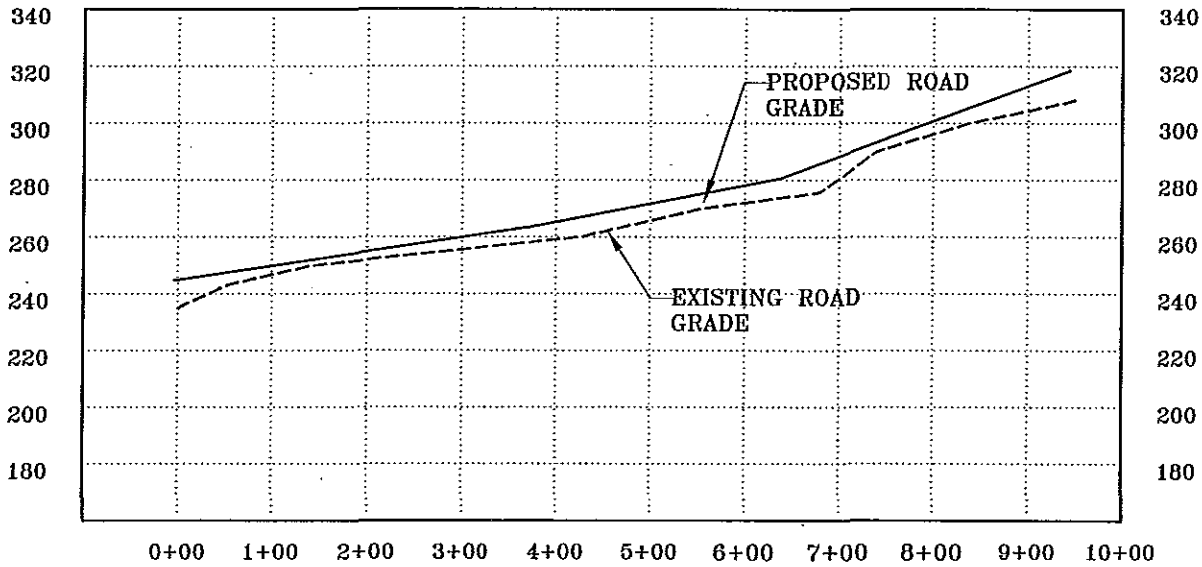
SITE PLAN WITH
REMAINING WETLANDS
SCALE: AS NOTED

Marble Island LLC
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Sheet 5 of 7



SECTION OF ROAD "B"

HORIZONTAL 1"=10'
2X VERTICAL SCALE

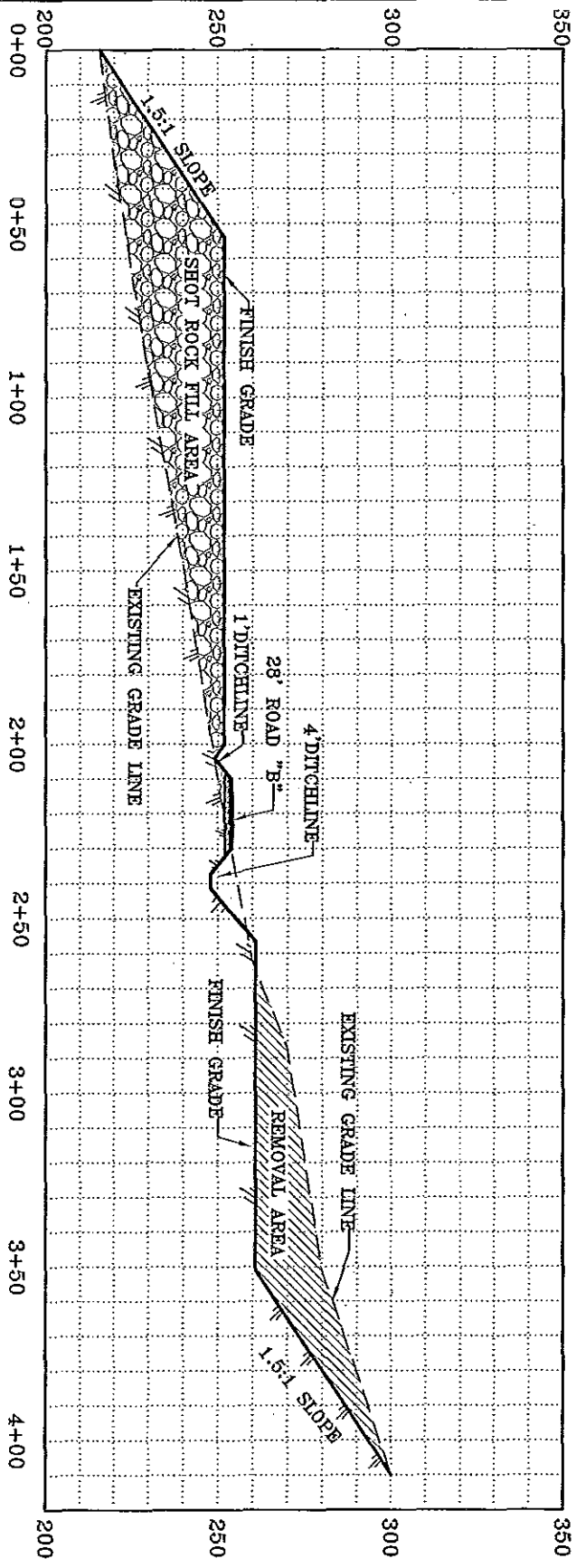


CENTER LINE PROFILE OF NEW ROAD

MARBLE D1 SUBDIVISION

ROAD PROFILE & SECTION
SCALE: AS NOTED

Marble Island LLC
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TYP., SECTION A-A
 HORIZONTAL 1"=50'
 IX VERTICAL SCALE

MARBLE D1 SUBDIVISION

LOT SECTION

Marble Island LLC
 POA-2012-516
 Tongass Narrows
 November 2012
 Sheet 7 of 7

**STATE OF ALASKA
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
CERTIFICATE OF REASONABLE ASSURANCE**

A Certificate of Reasonable Assurance, in accordance with Section 401 of the Federal Clean Water Act and the Alaska Water Quality Standards is issued to Marble Island LLC, 355 Carlanna Lake Road, Ketchikan, Alaska 99901 for placement of fill material in waters of the U.S. in association with the development of a subdivision in Ketchikan, Alaska. A State 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-2012-516, and a discharge of pollutants to waters of the U.S. located in the State of Alaska may result from the proposed activity. Public notice of the application for this certification was given as required by 18 AAC 15.180 in the Corps Public Notice POA-2012-516 posted from December 27, 2012 to January 28, 2013.

The proposed activity is located within Section 29, T. 74 S., R. 90 E., Copper River Meridian; USGS Quad Map Ketchikan B-6; Latitude 55.4284° N., Longitude 131.7740° W.; Marble D1 Subdivision, current Lot 4B, future Lots 5-19; in Ketchikan, Alaska.

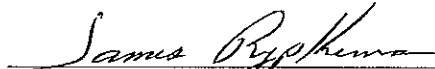
The Department of Environmental Conservation (DEC) reviewed the application and certifies that there is reasonable assurance that the proposed activity, as well as any discharge which may result, will comply with applicable provisions of Section 401 of the Clean Water Act and the Alaska Water Quality 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. Any spill amount must be reported in accordance with Discharge Notification and Reporting Requirements (AS 46.03.755 and 18 AAC 75 Article 3). The applicant must contact by telephone the DEC Area Response Team for Southeast Alaska (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.
3. Runoff discharged to surface water (including wetlands) from a construction site disturbing one or more acres must be covered under Alaska's General Permit for Storm Water Discharges from Large and Small Construction Activities in Alaska (AKR100000). This permit requires a Storm Water Pollution Prevention Plan (SWPPP). For projects that disturb more than five acres, this SWPPP must also be submitted to DEC (William Ashton, 907-269-6283) prior to construction.
4. 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. Equipment shall be inspected on a daily basis for leaks. If leaks are found the equipment shall not be used and pulled from service until the leak is repaired.

5. All work areas, material access routes, and surrounding wetlands involved in the construction project shall be clearly delineated and marked in such a way that equipment operators do not operate outside of the marked areas.
6. Prior to fill placement in the spring or summer, a silt fence or similar structure shall be installed on a line parallel to and within five feet of the proposed fill toe of slope within all wetland areas that contain standing water that is connected to any natural body of water or where the fill toe is within 25 feet of such a water body. This structure shall remain in place until the fill has been stabilized or contained in another manner.
7. Any disturbed ground and exposed soil not covered with fill must be stabilized and re-vegetated with endemic species, grasses, or other suitable vegetation in an appropriate manner to minimize erosion and sedimentation, so that a durable vegetative cover is established in a timely manner.

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: February 8, 2013



James Rypkema, Section Manager
Storm Water and Wetlands

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND
REQUEST FOR APPEAL**

Applicant: Marble Island, LLC		File Number: POA-2012-516	Date: 05/20/2013
Attached is:		See Section below	
X	INITIAL PROFFERED PERMIT (Standard Permit or Letter of Permission)	A	
	PROFFERED PERMIT (Standard Permit or Letter of Permission)	B	
	PERMIT DENIAL	C	
	APPROVED JURISDICTIONAL DETERMINATION	D	
	PRELIMINARY JURISDICTIONAL DETERMINATION	E	

THIS REQUEST FOR APPEAL FORM MUST BE RECEIVED BY: 07/19/2013

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://www.usace.army.mil/CECW/Pages/reg_materials.aspx or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the District Engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the District Engineer. Your objections must be received by the District Engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the District Engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or, (c) not modify the permit, having determined that the permit should be issued as previously written. After evaluating your objections, the District Engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the District Engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the Division Engineer. This form must be received by the Division Engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the Division Engineer. This form must be received by the Division Engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION (JD): You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the Division Engineer. This form must be received by the Division Engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the Preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also, you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

In order for a Request For Appeal to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the Division Office within 60 days of the date of the Notice of Appeal Process. It is not necessary to submit a Request For Appeal form to the Division office if you do not object to the decision.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process please contact:

Roberta K. Budnik
Alaska District Corps of Engineers
CEPOA-RD-S
P.O. Box 6898
JBER, AK 99506-0898
(907) 753-2785
(800) 478-2712 (toll free in AK)

If you only have questions regarding the appeal process you may also contact:

Commander
USAED, Pacific Ocean Division
ATTN: CEPOD-PDC/Cindy Barger
Building 525
Fort Shafter, HI 96858-5440

To submit this form, mail to the address above

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15-day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number: