



Public Notice

US Army Corps
of Engineers

Alaska District
Regulatory Division (1145)
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Date:

December 10, 2009

Identification No:

POA-2009-336

In reply refer to above Identification Number

Expiration Date: December 31, 2015

**GENERAL PERMIT (GP) 2009-336
PREVIOUSLY IDENTIFIED AS GP 89-4N**

Floathouses in Navigable Waters of the United States within the State of Alaska

Under the authority of Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 403), and in accordance with the Department of the Army (DA) Regulations (33 CFR Part 320-330), the Alaska District, Corps of Engineers (Corps), hereby reissues this general permit (GP) which would authorize the moorage of floating houses in navigable waters of the United States (U.S.) within Alaska.

Based upon our evaluation, we have determined that activities authorized under this GP are similar in nature and in their impact upon water quality and the aquatic environment; would cause only minimal adverse effects when performed separately; and would have only minimal cumulative adverse effects on water quality and the aquatic environment [40 CFR 230.7(a)].

In response to Public Notice reference number GP 2009-336, issued May 19, 2009, the proposed GP was revised to reflect comments and address concerns submitted by the interested public and resource agencies. The primary revisions include the addition of a 10-day agency review period to address site specific concerns for each proposal and to limit the GP to state-owned tidelands to allow for full compliance with the Coastal Zone Management Act of 1972, as amended [16 U.S.C. 1456(c)(3)]. Based on a review of all pertinent information including a prepared environmental assessment, I have concluded that issuance of this GP will not have more than minimal impacts on the environment and is not contrary to the public interest.

The attached GP 2009-336, describes the terms and conditions which must be met in order for work to be authorized by the GP. An individual wishing to moor a floathouse with authorization under this GP must review these conditions carefully and follow the application procedures. Sample plans are attached to the GP for reference when preparing applications. If the proposed floathouse does not meet the requirements of the terms and conditions, the GP will not apply and an individual Department of the Army permit application must be submitted to us at the letterhead address. Failure to comply with the terms and conditions of the GP could result in suspension, modification, or revocation of the permit, and/or imposition of penalties as provided by law.

GP 2009-336 has been re-issued for a period of five (5) years, effective the date of the signature shown on the last page of the attached permit. At the end of this (5) five-year period, an evaluation of the GP will be made, and at that time it will be decided whether or not this GP should be renewed. The District Commander may at any time during this five-year period, alter, modify, suspend, or revoke this permit, if he deems such action to be in the public interest.

Any questions or requests for additional information should be directed to: Alaska District, Corps of Engineers, Regulatory Division, CEPOA-RD, Post Office Box 6898, Elmendorf AFB, Alaska 99506-0898, phone (907) 753-2712, toll free in Alaska at (800) 478-2712, or by email at: Regpagemaster@usace.army.mil.

District Commander
U.S. Army Corps of Engineers

GENERAL PERMIT (GP) POA-2009-336
PREVIOUSLY IDENTIFIED AS GP 89-4M

General Permitting Procedure for Floating Houses in Navigable Waters of the United States within Alaska

Under the authority of Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 403), and in accordance with the Department of the Army (DA) Regulations (33 CFR Part 320-330), the Alaska District, Corps of Engineers (Corps), hereby issues this general permit (GP) which would authorize the moorage of floating houses in navigable waters of the United States (U.S.) within Alaska.

Navigable waters of the U.S. are defined as those marine and estuarine waters subject to the ebb and flow of the tide, within the limits of the Territorial Seas, and certain inland waters. A copy of the list of inland navigable waters can be found on the Alaska District, Corps of Engineers, Regulatory Division web site at <http://www.poa.usace.army.mil/reg/NavWat.htm>.

This GP authorizes:

Floathouses are defined as a building or other structure constructed on a floating platform, designed and intended for residential use or for commercial short-term residential lodging. This definition includes private residences as well as commercial camps and lodges.

Flotation for these floathouses may include barges, logs, or other forms of flotation. The maximum total surface area of the floating platform permitted by this GP shall not exceed 5,000 square feet with a maximum length of 100 linear feet. These floating houses shall be adequately secured by anchors and/or shore ties and shall not ground or touch bottom at any time.

The floathouse may be secured by anchors on the sea-bottom, to rocks, or to anchors or ties on shore. Be advised that landowner or tideland owner permission is required for all shore ties, utility lines and mooring anchors.

This GP process, unless specifically modified, suspended or revoked, in part or in whole, is in effect for a period of five (5) years from the date of issuance.

LIMITATIONS:

This GP **does not apply** to the following:

- a. Floathouses for use in connection with larger projects, e.g., timber harvest, if such projects require DA authorization, or were previously authorized, by an individual DA permit.
- b. Floathouses associated or used in conjunction with aquaculture projects.
- c. State designated Critical Habitat Areas, Refuges, Sanctuaries, and habitat areas identified as important by the various Alaska Coastal Districts and Alaska Department of Natural Resources, unless the activity is specifically authorized by the agency with jurisdiction over these areas.
- d. Floathouses placed in tidelands not owned by the State of Alaska, unless the applicant shows proof of consistency with the Alaska Coastal Management Program.

This GP **does not authorize** any activities on, or uses of, adjacent or nearby terrestrial lands (uplands or wetlands) nor on other waters of the U.S., including wetlands, e.g., anchoring, hunting, fishing, commercial outfitting, commercial guiding etc.

DA authorization under this GP can be granted **only** after the Corps has determined that the proposed floathouse at the specified location complies with the terms and conditions of this GP **AND** the Alaska Department of Natural Resources (ADNR) Division of Coastal and Ocean Management (DCOM) has determined that it is consistent with the Alaska Coastal Management Program (ACMP). Authorization of a floathouse under this GP is contingent upon a finding by the ADNR DCOM **that it is** consistent with the ACMP. This consistency determination **requires an individual site-specific evaluation.**

APPLICANT RESPONSIBILITY:

1. The **applicant** shall contact the **ADNR DCOM** for instructions on submitting their project for consistency review. At a minimum, the **ADNR DCOM** will require the following:
 - a. A completed State of Alaska Coastal Project Questionnaire (CPQ)
 - b. A complete set of project drawings that shall include the following:
 - Project location map
 - Plan view drawing, showing Mean High Water (MHW)
 - Side view drawing, showing MHW
2. The **applicant** shall concurrently submit the following to the Corps of Engineers:
 - a. A complete DA permit application (ENG Form 4345);
 - b. A complete set of project drawings that shall include the following:
 - Project location map
 - Plan view drawing, showing MHW
 - Side view drawing, showing MHW
 - c. A completed CPQ

ADNR DCOM RESPONSIBILITIES:

3. The **ADNR DCOM** will review the proposal for consistency with the ACMP.
4. The **ADNR DCOM** will send the applicant and the Corps their final ACMP Consistency Determination.

CORPS RESPONSIBILITIES:

5. The Corps will determine whether the application is complete, and will evaluate the proposal to determine if it would meet the terms and conditions of this GP.
6. The Corps will send the project plans to appropriate agencies for review. The agencies have ten calendar days from the date the Corps sends the project plans to contact the Corps, in writing, by fax, email, or telephone, with comments on the project. If the agencies need additional time to provide substantive, site-specific comments, the Corps will wait an additional 15 calendar days before making a permit decision. Specific condition recommendations by the agencies will be incorporated as appropriate. If the applicant can provide documentation of recent coordination regarding their specific project with these agencies, the agency coordination could potentially be waived.
7. If the ADNR DCOM determines that the proposal **is consistent with** the ACMP, and the proposal **does meet the terms and conditions** of this GP, the Corps will submit a letter stating this finding to the ADNR DCOM and the applicant.
8. If the ADNR DCOM determines that the proposal **is consistent with** the ACMP, but the Corps determines that the proposed floathouse **does not meet the terms and conditions** of this GP, the application will be evaluated in accordance with DA procedures for individual permits [33 CFR 325.2(a)].

9. If the ADNR DCOM determines that the proposal is not consistent with the ACMP, DA authorization for the proposal would be denied without prejudice [33 CFR 320.4(j)(1)].

ADDITIONAL INFORMATION:

The drawings shall include all necessary information as described in the attached "Checklist for Drawings." Be advised that complete and accurate applications and drawings will expedite the evaluation and processing of the application.

Be advised that the necessary case-by-case ACMP review and decision process would typically take 50 days. Plan accordingly to avoid project delays.

CONDITIONS OF GP POA-2009-336

1. No floathouse shall be anchored, tied, or otherwise secured within 660 feet of any bald eagle nest tree. Additional help determining whether your activity may disturb eagles, and suggestions for avoiding disturbance are available at <http://alaska.fws.gov/birds/guidelines/index.html>
2. No floathouse shall be placed in sensitive fish, shellfish or important wildlife areas. These areas include, but are not limited to, within 600 feet of the mouth of any anadromous fish stream identified in the State of Alaska's Catalogue of Waters Important to Spawning, Rearing or Migration of Anadromous Fishes; or over kelp or eelgrass beds or vegetated shallows.
3. No Floathouse shall be moored within 0.5 mile of seal or sea lion pupping/calving areas; or within a one-mile radius of Pacific walrus haul-out habitat. Please call the U.S. Fish and Wildlife Service's Marine Mammal Program at (907)786-3800 for information.
4. No floathouse shall be moored within any area designated as critical habitat by the U.S. Fish and Wildlife Service, or within any buffer zones established by the National Marine Fisheries Service to protect the Steller Sea Lion.
5. No floathouse shall be moored within a one-mile radius of a seabird colony.
6. The floathouse shall not ground at any tidal stage. Consideration shall be given to extreme low tides and low water in non-tidal systems in order to comply with this condition.
7. All preservatives for wooden structures shall be applied by pressure treatment. Wood structures treated with pentachlorophenol preservative shall not be used. For the reuse of previously treated wood products in marine waters the wood preservative product's use shall be consistent with its original use and may not be treated with any additional wood preservative (e.g., the reuse for dock piling of creosote treated wood for dock piling is allowable, the reuse for a retaining wall of creosote treated railroad ties is not allowed, etc.).
8. All in-water anchors and floatation components for floathouses shall be free of pollutants that could leak into surrounding waters. No machinery, vehicles, or parts thereof, shall be used as anchors. No contaminated barrels or other containers shall be used for floatation.
9. Any polystyrene or other foam flotation shall be limited to that which is fabricated and commercially manufactured and warranted for marine use. Any polystyrene or other foam flotation shall be fully encased or

encapsulated within impact resistant plastic or other material that shall be resistant to puncture, penetration, and damage by animals and other causes. No drums or similar containers, whether made of plastic, metal, or other material, shall be used for flotation.

10. This GP in no way obviates the need to obtain other permits, licenses, authorizations, or approvals from any local, Regional, State, and Federal Agencies that may be required for the proposal or for any related activities associate with the proposal. This shall include compliance with the Alaska Pollutant Discharge Elimination System. Information on this can be found at <http://www.dec.alaska.gov/water/wwdp/index.htm>
11. You shall keep on board the floathouse a full copy of this permit, drawings, your verification letter, the ACMP consistency finding, and any federal, state, or local authorizations.
12. You shall prominently display on the floathouse the yellow placard provided with your verification letter from the Corps. This placard demonstrates that DA authorization has been obtained.
13. You shall prominently display the permittee's name and mailing address in a conspicuous location on the structure. A minimum of three inch lettering shall be used to display this information.
14. The District Engineer may at any time make such inspections as she/he deems necessary to assure that floathouses are placed and utilized in accordance with the terms and conditions of this GP.
15. You are responsible for the proper maintenance of the floathouse and all associated fixtures. You shall maintain in good condition any floathouse authorized through this GP, including the structure and all associated fixtures including, but not limited to, flotation, shore ties, and anchors. No debris, derelict structures, or parts thereof, shall be abandoned or disposed of in any waterways or wetland.
16. Your use of the permitted activity must not interfere with the public's right to free navigation on all navigable waters of the United States.
17. You must install and maintain, at your expense, any safety lights and signals prescribed by the United States Coast Guard (USCG), through regulations or otherwise, on your authorized facilities. The USCG may be reached at the following address and telephone number: Commander (oan), 17th Coast Guard District, P.O. Box 25517, Juneau, Alaska 99802, (907) 463-2272.
18. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

19. This GP does not convey property rights either in real estate or material or any exclusive privileges; and it does not authorize any injury to private property or invasion of private rights, or any infringement of Federal, State, or local laws or regulations.
20. The time limit for mooring the floathouse at the specified location ends five years from the date of the verification letter. If you find that you need more time to complete the authorized activity, you should submit a written request for a time extension to this office for consideration **at least two months before the expiration date.**
21. If you wish to relocate the floathouse and associated structures authorized herein, you shall apply for and have received DA authorization for the floathouse at the intended new location prior to moving the floathouse and associated structures. Further, the permittee shall receive, prior to relocation, all approvals, permits, and authorization necessary from all local, regional, State, and Federal Agencies.
22. If you wish to remove or take the floathouse authorized herein, out of service, the permittee shall notify the Corps of Engineers and the ADNR DCOM.
23. Upon relocation or removal, the permittee shall also relocate or remove all associated structures, anchors, tie downs, and other portions of the structure. No associated debris shall be left at the site.
24. 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 structure, although you may make a good faith transfer to a third party in compliance with **Condition 25**. 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.
25. If you sell the property associated with this permit, you must obtain the name, address, and signature of the new owner in the space provided on your letter verifying authorization under this general permit, and forward it to this office to validate the transfer of this authorization.

LIMITS OF FEDERAL LIABILITY:

In authorizing the structure under this GP, 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.

RELIANCE ON APPLICANT'S DATA:

The determination and verification by this office that the structure under this permit is not contrary to the public interest was made in reliance on the information you provided.

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 Reliance on Applicant's Data, above).
- c. Significant new information surfaces which this office did not consider in reaching the original 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.

MONITORING:

All floathouses authorized under this GP may be subject to annual review and/or inspection by this office. You must allow representatives from this office to inspect the authorized structure at any time deemed necessary to ensure that it complies with the terms and conditions of your permit.

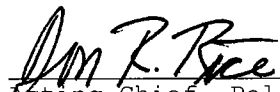
If any problems or conflicts arise from the placement of any authorized floathouse, e.g., hindrance to navigation, this office shall take appropriate remedial action. Such action may include modification, suspension or revocation of this GP authorization, in whole or in part, and/or specific corrective action directed to the permittee.

The Corps will prepare an annual report of the results of this monitoring review and will provide it to interested parties upon request.

RENEWAL OF GENERAL PERMIT:

This GP will be re-evaluated for renewal by this office prior to the end of its five-year term. The decision to renew it will be based on monitoring results and records of floathouses authorized through this GP process.

FOR THE DISTRICT ENGINEER:



Acting Chief, Policy Administration
Regulatory Division
U.S. Army Corps of Engineers, Alaska District

Alaska District Corps of Engineers Offices:

Regulatory Division, CEPOA-RD
P.O. Box 6898
Elmendorf AFB, AK 99506-0898
Phone: (907) 753-2712 (Anchorage or Outside AK)
(800) 478-2712 (toll free within AK)
Fax: (907) 753-5567

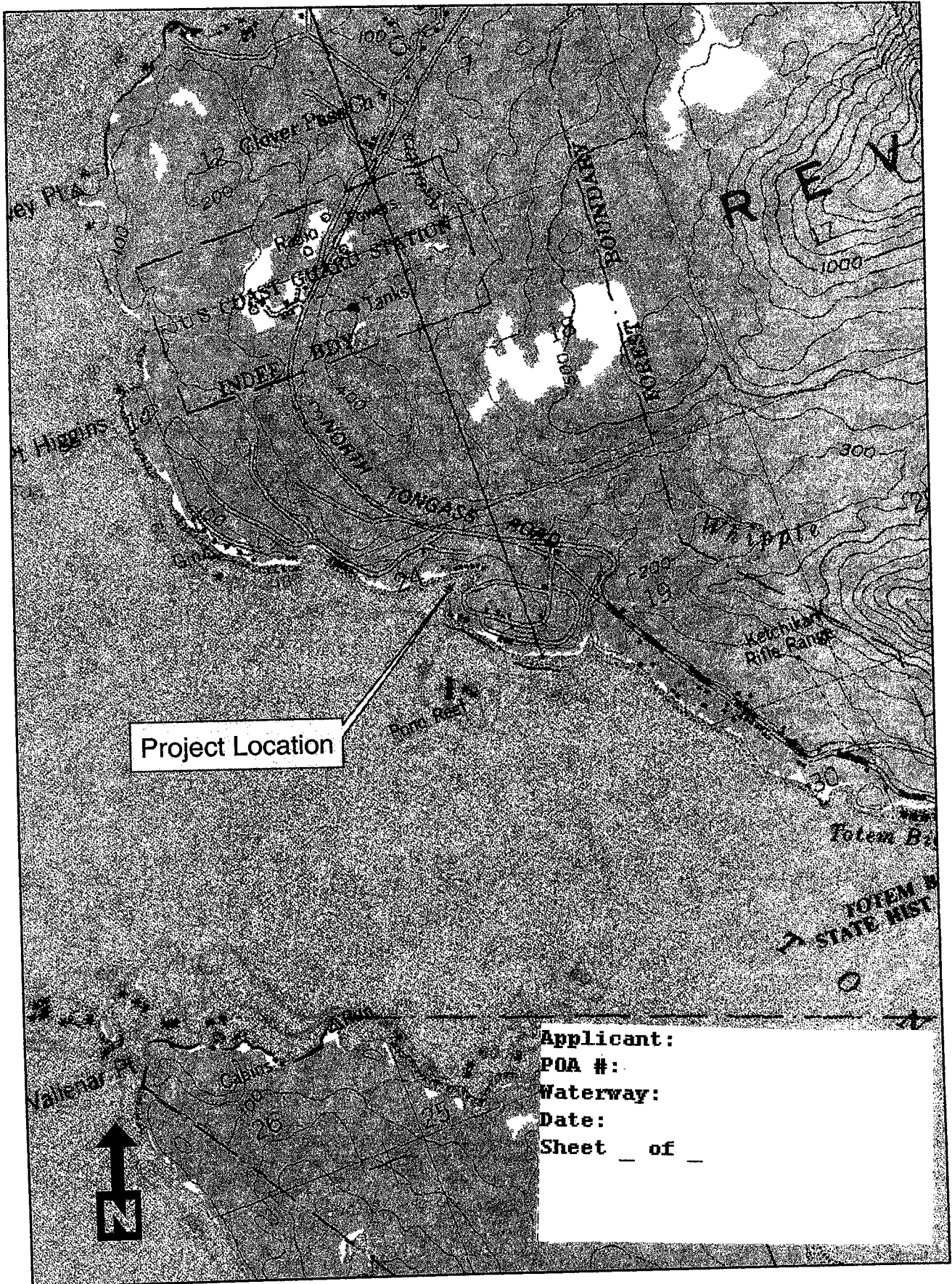
Juneau Field Office
U.S. Army Corps of Engineers
8800 Glacier Highway, Suite 106
Juneau, AK 99801-8079
Phone: (907) 790-4490
Fax: (907) 790-4499

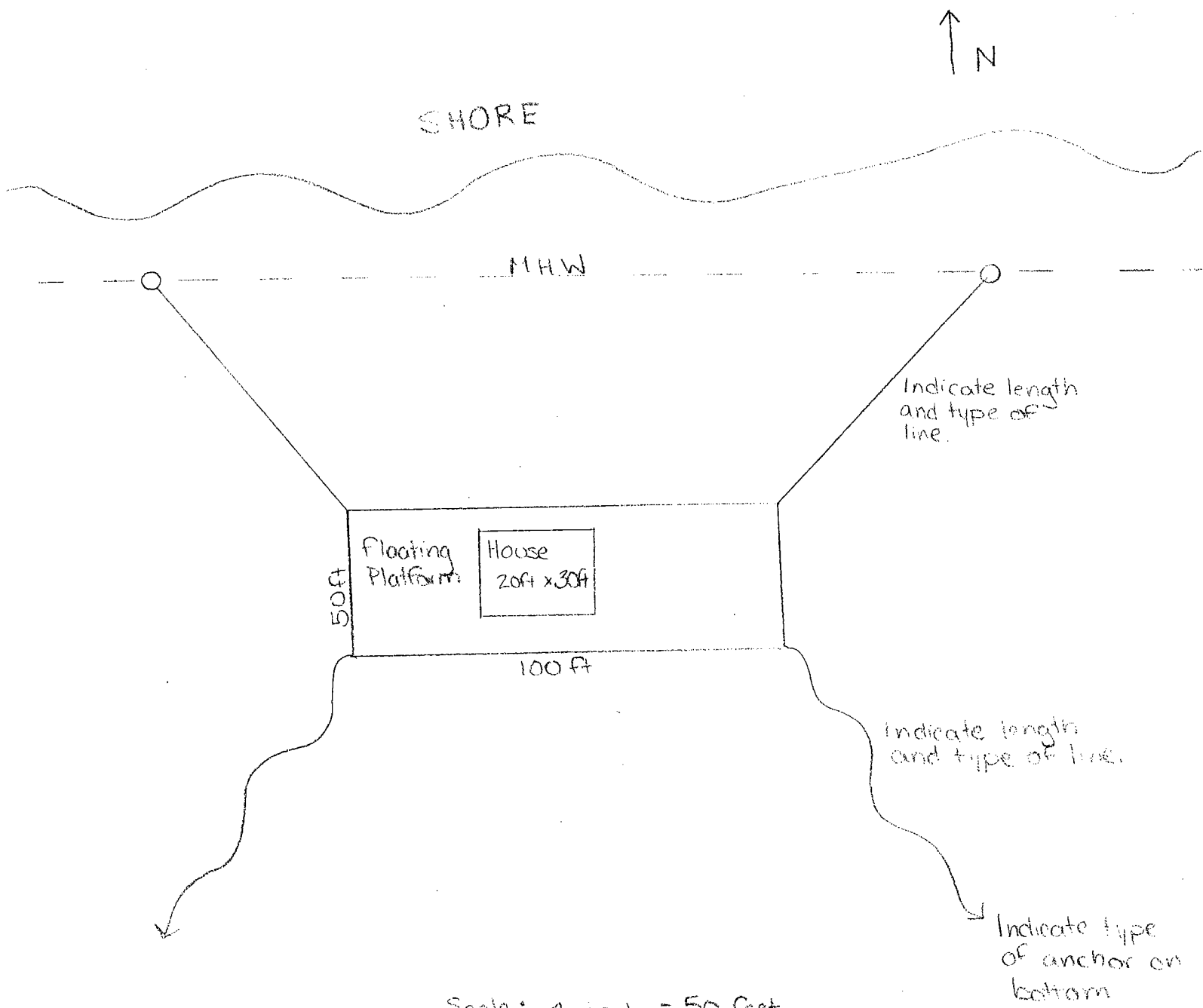
Sitka Field Office
U.S. Army Corps of Engineers
Phone: (907) 350-5102

Kenai Field Office
U.S. Army Corps of Engineers
Benco Building
805 Frontage Road, Suite 200C
Kenai, Alaska 99611-7755
Phone: (907) 283-3519
Fax: (907) 283-3981

Fairbanks Field Office
U.S. Army Corps of Engineers
3437 Airport Way, Suite 206
Fairbanks, AK 99709-4777
Phone: (907) 474-2166
Fax: (907) 474-2164

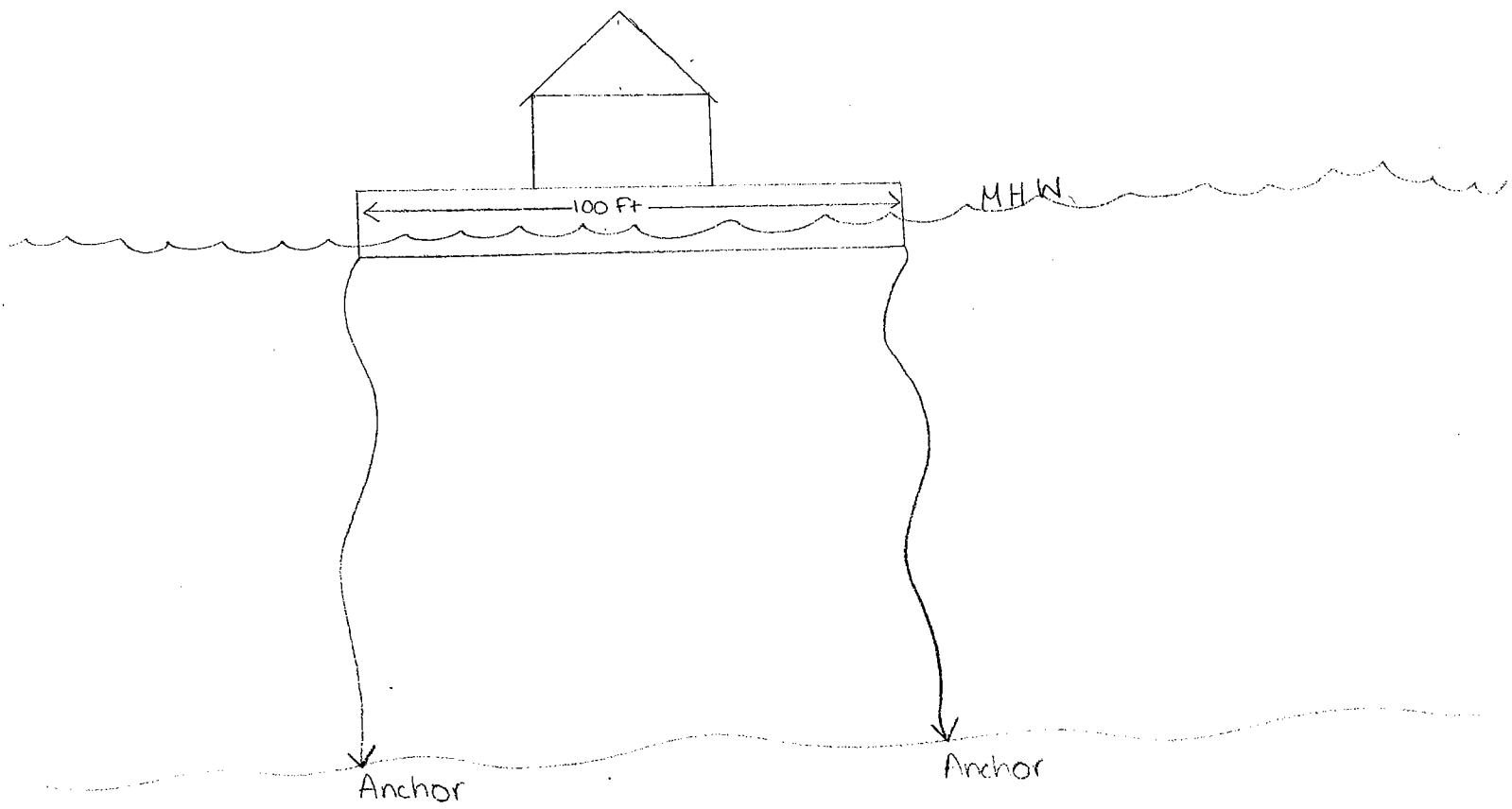
Sample Vicinity Map





Sample Plan View

Applicant:
Waterway:
Date:
Sheet _ of _



Sample Cross-Section View

Applicant: _____
Waterway: _____
Date: _____
Sheet ___ of ___