

SCR

6



JUNEAU, ALASKA

Alaska State Legislature

Senate

6 January 1981

SCR 6 BRIEF

In 1980, the Legislature passed and the voters approved \$5,000,000 for the construction of a deep water port facility. Since that time, the Bureau of Land Management has objected to the construction of a causeway that is needed to build the port facility. In turn, the Army Corp of Engineers who is responsible for issuing the permit to construct the causeway, has requested that the State of Alaska waive any claim to the submerged lands that would result from the extension of the causeway outward from the shoreline by 3600 feet.

The Department of Natural Resources and the Attorney General have both denied the request for the waiver. The DNR and AG state that to waive claim would constitute a challenge to the state's three mile territory authority. The DNR and AG's office opinion, coupled with the BLM objection, places the possibility of lengthy litigation to the forefront. This is not a viable option.

SCR 6 would direct the DNR and AG's office to waive claim to the to additional submerged lands. The AG's office says that they have only once given waiver to *additional* claims in a case that would have resulted in lengthy litigation and held up the project. Such is the case this time with the Nome port facility. If the project is delayed because of legal entanglements present funding amounts would prove inadequate which would result in more state funding above and beyond what has been appropriated. This is not a fair trade-off.

In addition, there would be severe economic loss in the region with lost jobs, excessive lieterage fees and delayed resource development that is dependent upon the port facility.

STATE OF ALASKA

JAN 26 1981
JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K-STATE CAPITOL
JUNEAU, ALASKA 99911
(907) 465-3656

January 21, 1981

Daniel L. Behnke
Project Engineer
TETRA TECH, INC.
Suite 101
909 W. 9th Ave.
Anchorage, AK, 99501

Re: Proposed Territory Waiver-Nome
Causeway. Our file J-66-450-81

Dear Mr. Behnke:

Your December 3, 1980 letter to Mr. Claud Hoffman regarding a possible waiver of any claim the state might make to additional submerged lands based on construction of the proposed Nome causeway has been referred to me.

Following discussion with Robert E. LeResche, Commissioner of the Department of Natural Resources, and Wilson L. Condon, Attorney General, I have been instructed to inform you that we cannot give the requested assurance that construction of the causeway will not extend the state's boundary seaward. The state has given such assurances only once in the past, and then only because failure to do so might have resulted in a failure to obtain maximum production from the Prudhoe Bay oil and gas field.

If you have additional questions, I will be happy to discuss this matter at your convenience.

Sincerely,

WILSON L. CONDON
ATTORNEY GENERAL

By: 

G. Thoams Koester
Assistant Attorney General

GTR:dlm

cc: Senator Frank R. Ferguson
Mr. I. Widom, City of Nome
Mr. J. Caruth, Corps of Engineers
Mr. Orin B. Collier, BLM
Mr. Louis F. Claiborne, Deputy Solicitor General
Representative John G. "Jack" Fuller

MEMORANDUM
TO: Wilson Condon, Attorney General
Department of Law

DATE: 12/23/80

Attn: Tom Koester, Assistant Attorney General
Department of Law

FILE NO: 2425

TELEPHONE NO: 263-2200

FROM: *John*
Claud M. Hoffman, Director
Division of Technical Services

SUBJECT: Apln. for Construction of
Causeway in Norton Sound

BY: *J. Z.*
Irving Zirpel, Jr., Chief
Coastal/Marine Boundary Section

The attached letters are self explanatory requesting a waiver of the State of Alaska's right to extend the boundary of its territorial sea due to the proposed construction of a causeway and docking facility.

We have examined the Norton Sound, Nome Harbor and Approaches Chart #16206 and compared the chart shoreline data with 1980 aerial photography (both black and white and color infrared). We find very little difference due to accretion or erosion. The area involved if the seaward boundary is extended due to the proposed causeway construction consist of approximately 665 acres.

Being as the shoreline in this area appears to be relatively stable and is adequately shown on chart #16206, and the proposed construction is not to extend seaward beyond the 31 ft. depth line, we recommend that the causeway construction be permitted without effecting the seaward boundary of the state's territorial sea.

The above is submitted for your perusal and comments.

RECEIVED
Department of Law
Juneau, Alaska

DEC 30 1980
AM PM
7,8,9,10,11,12,1,2,3,4,5,6



TETRA TECH, INC.
 SUITE 101
 808 W. 9TH AVE.
 ANCHORAGE, ALASKA 99501
 TELEPHONE (907) 274-4531
 TELEX NO 090-25424
 TETRATECH P80

Tom Coster
Jim Condon

DD: [unclear]
Please review
\$ let's discuss

December 3, 1980

JB

[Handwritten mark]

Mr. Claude Hoffman, Director
 Division of Technical Services
 Department of Natural Resources
 State of Alaska
 703 W. Northern Lights Blvd.
 Suite 200
 Anchorage, Alaska 99503

Dear Sir:

This is in regards to an application to the Corps of Engineers by the City of Nome for a permit for construction of a rubblemound causeway and docking facility in Norton Sound, Alaska. The location and orientation of the causeway are shown on the accompanying drawings.

The Corps of Engineers has received a protest from the Division of Cadastral Survey, Bureau of Land Management, (see attached letter) that the construction of the 3,400 foot causeway would alter the existing shoreline, affecting approximately 400 acres of Federal OCS lands. (The length of causeway and dock is presently proposed to be 3600 feet.) They request that permission to build the causeway be withheld unless they receive assurance from the State of Alaska that the construction will not extend the State boundary seaward into what is presently Federal OCS land.

The City of Nome would like to have this potential conflict resolved in a timely manner so that the construction of the port facility is not delayed. Tetra Tech is acting for the City of Nome in this matter, and will be happy to supply any additional information you require.

Sincerely,

Daniel L. Behnke

Daniel L. Behnke
 Project Engineer

DLB:am
 Enclosure

cc: Mr. I. Widom, City of Nome
 Mr. J. Caruth, Corps of Engineers
 Mr. Orin Collier, BLM



United States Department of the Interior (Corps of Engineers)

9640.2 (720)

BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240

November 5, 1980

Alaska District, Corps of Engineers
Attention: Regulatory Functions Branch
P.O. Box 7002
Anchorage, Alaska 99510

Gentlemen:

This is in regard to your notice NPACO Application No. Q7I-OYD-2-800311 dated 24 October 1980.

As shown on the plans enclosed with the notice, the proposed rubblemound causeway would extend the present shoreline seaward 3,400 feet to affect about 400 acres with a similar area coverage to the OCS.

This Bureau is always concerned where a shoreline alteration tends to extend a State boundary seaward to the detriment of the Federal ownership on the OCS.

Accordingly, we must protest the application unless there is assurance by the State of Alaska that the construction will not extend the State boundary seaward.

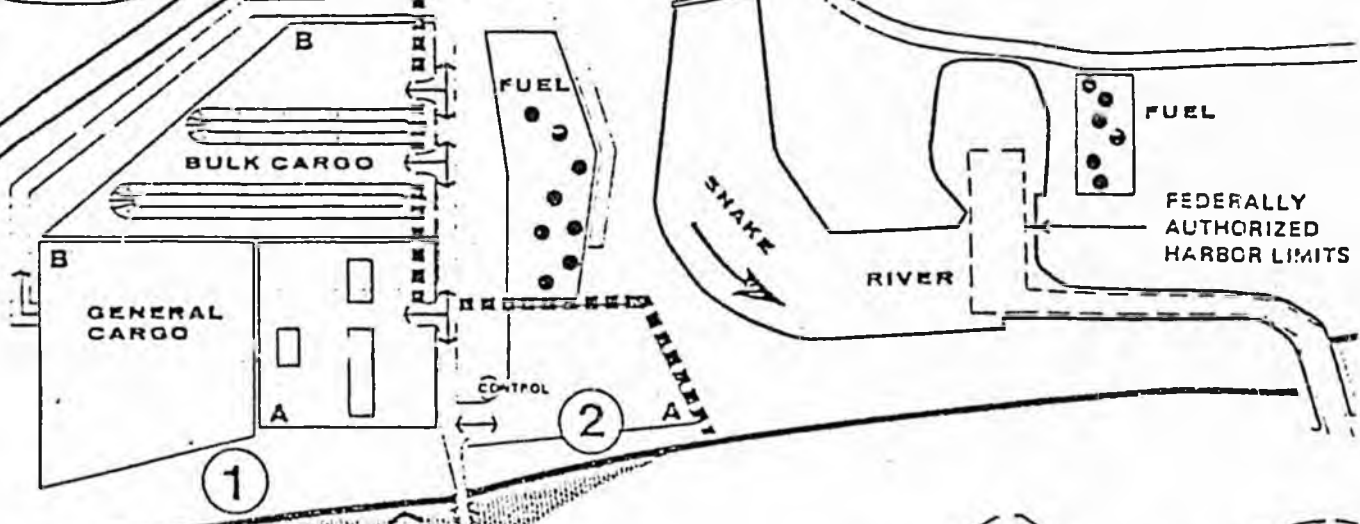
Sincerely yours,

Orin B. Collier
Acting Chief
Division of Cadastral Survey

RUNWAY 27

NOME AIRPORT

NOME



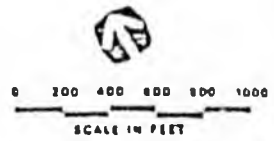
NOTES:

BATHYMETRY (FEET BELOW MLLW) -
 FROM NOAA CHART 16206 (1977)
 MEAN TIDAL RANGE = 1.6 FEET
 APPROXIMATE C. USEWAY FILL
 QUANTITIES TO BE TRUCKED TO SITE
 FROM NOME QUARRY SITE.

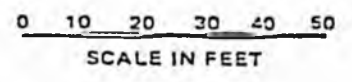
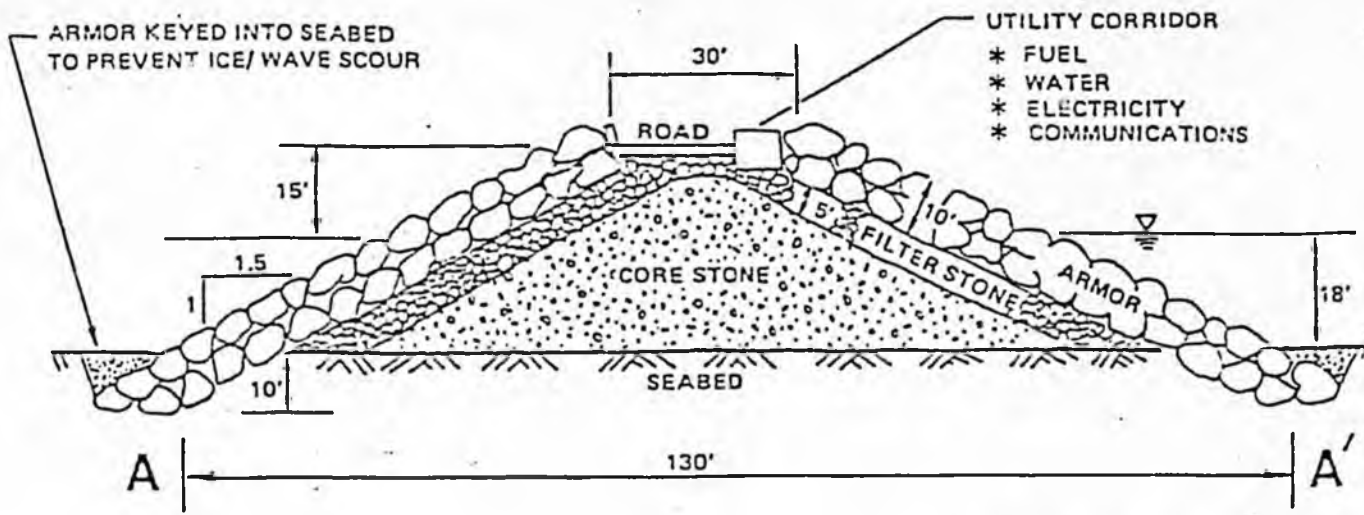
	APPROX. SIZE	QUANTITY, CY
ARMOR STONE	4 - 8 TCNS	313,000
FILTER STONE	100 - 500LBS.	130,000
CORE STONE	5 - 50LBS.	436,000

PURPOSE: TO PROVIDE PRIVATE AND COMMERCIAL
 MEDIUM DRAFT PORT FACILITIES TO
 CITY AND REGION.

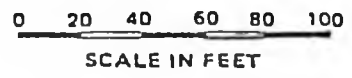
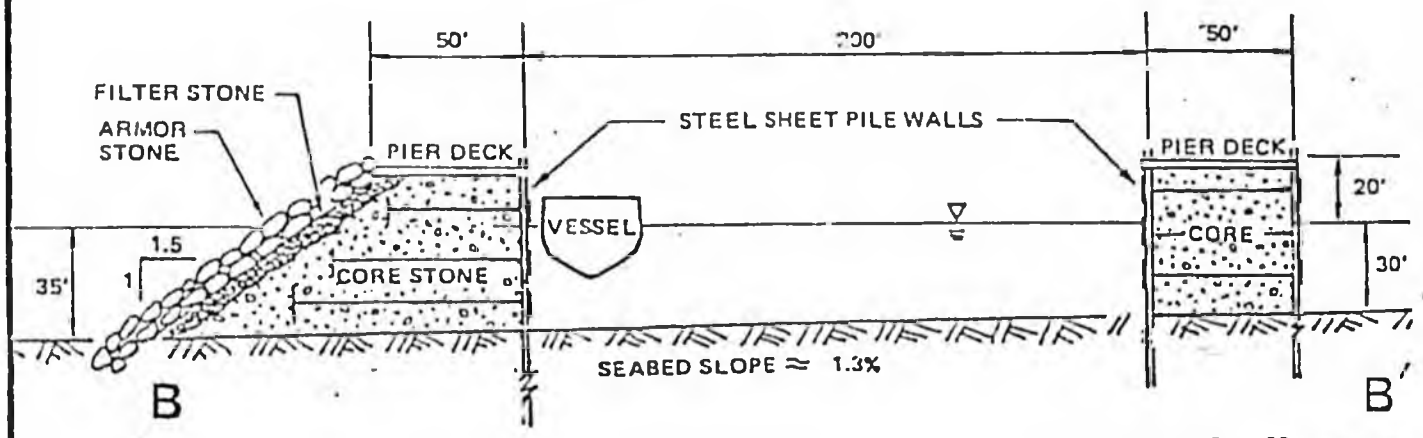
ADJACENT PROPERTY OWNERS: (1) (2) ALASKA GOLD COMPANY



PORT OF NOME
 BERING SEA, ALASKA
 APPLICANT: CITY OF NOME
 SHEET 2 OF 3 9/10/78



CAUSEWAY CROSS-SECTION, A-A'



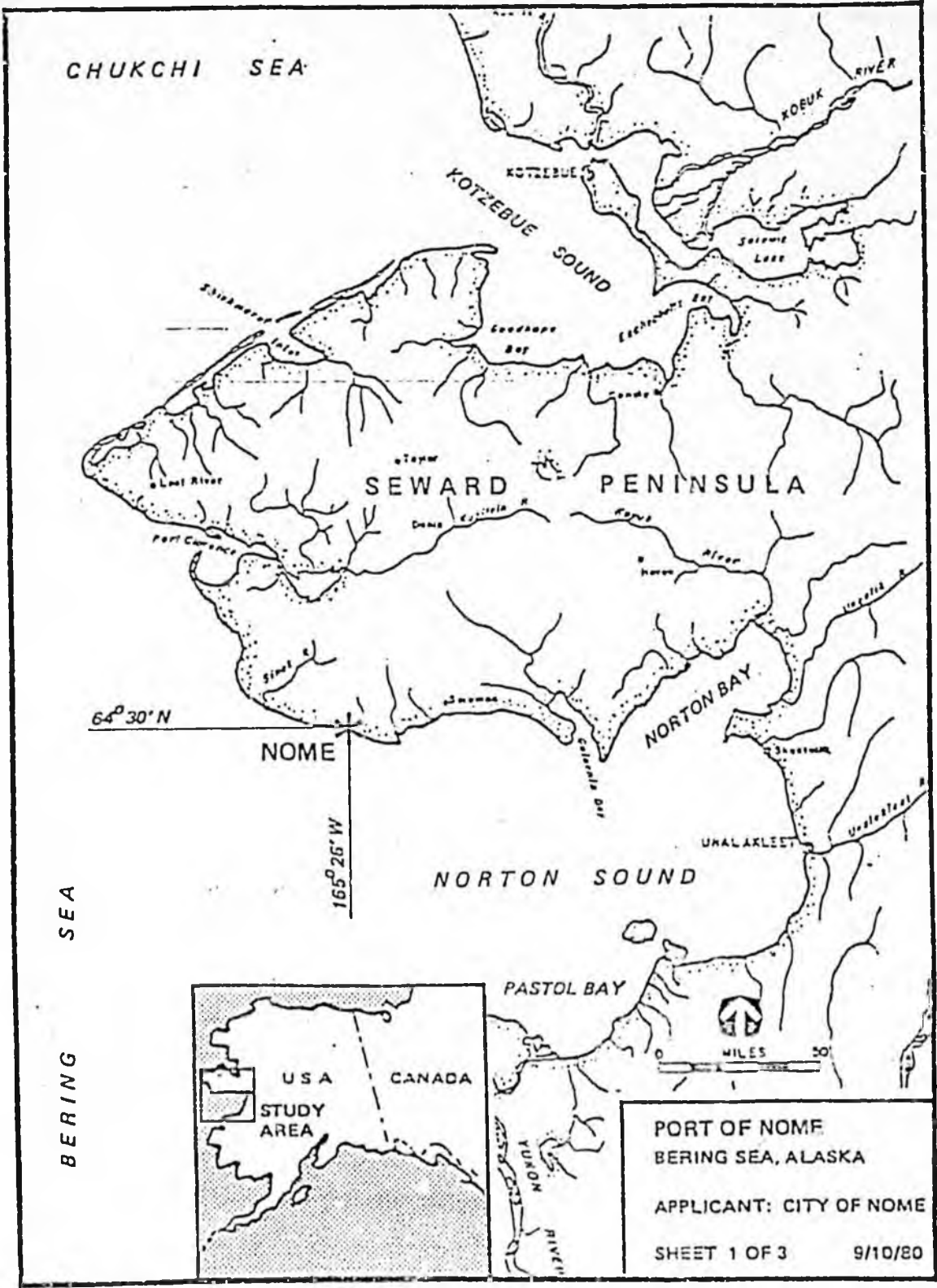
OFFSHORE TERMINAL CROSS-SECTION, B-B'

DATUM IS MEAN LOWER LOW WATER

PORT OF NOME
 BERING SEA, ALASKA

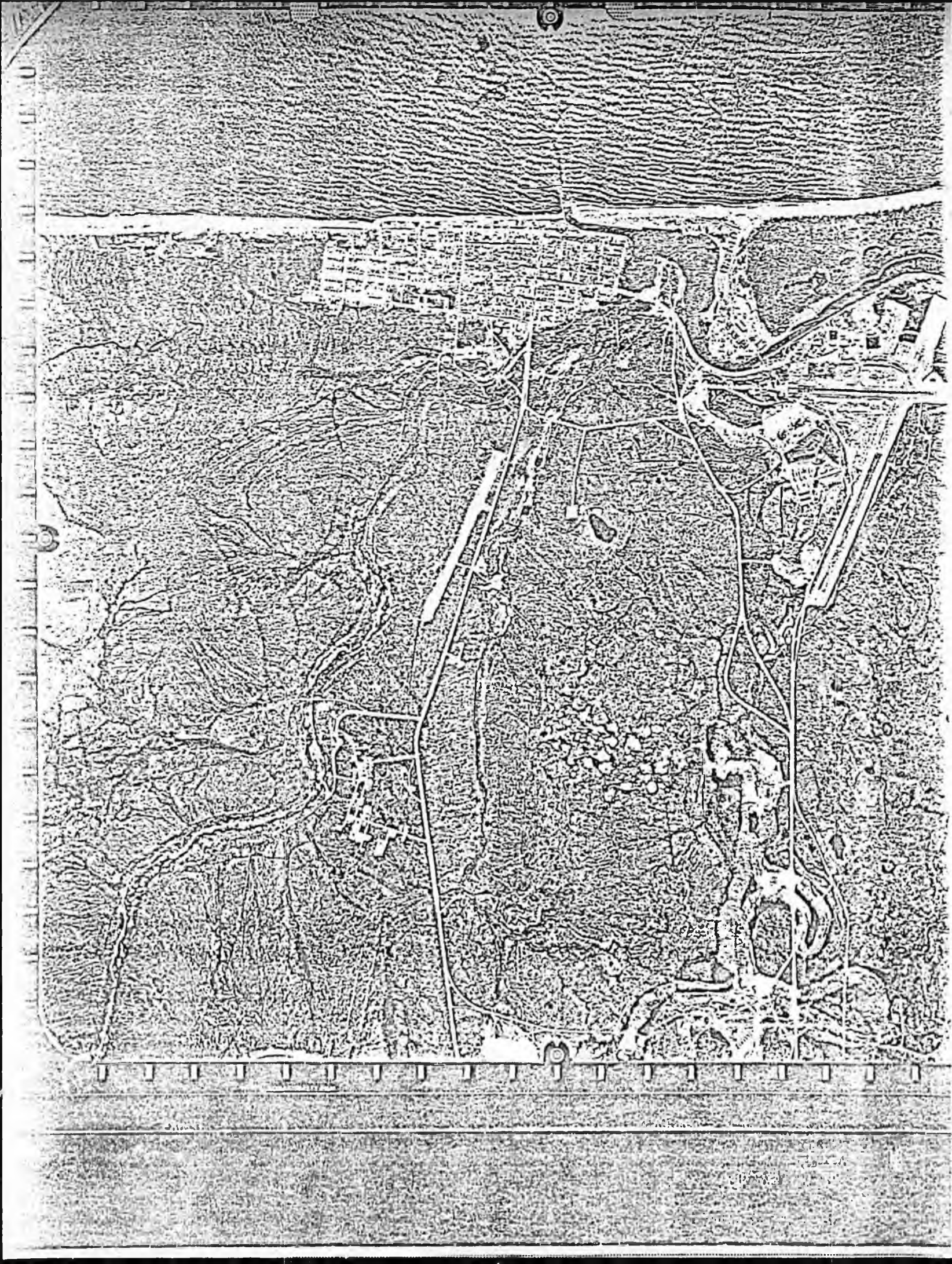
APPLICANT: CITY OF NOME

SHEET 3 OF 3 9/10/80

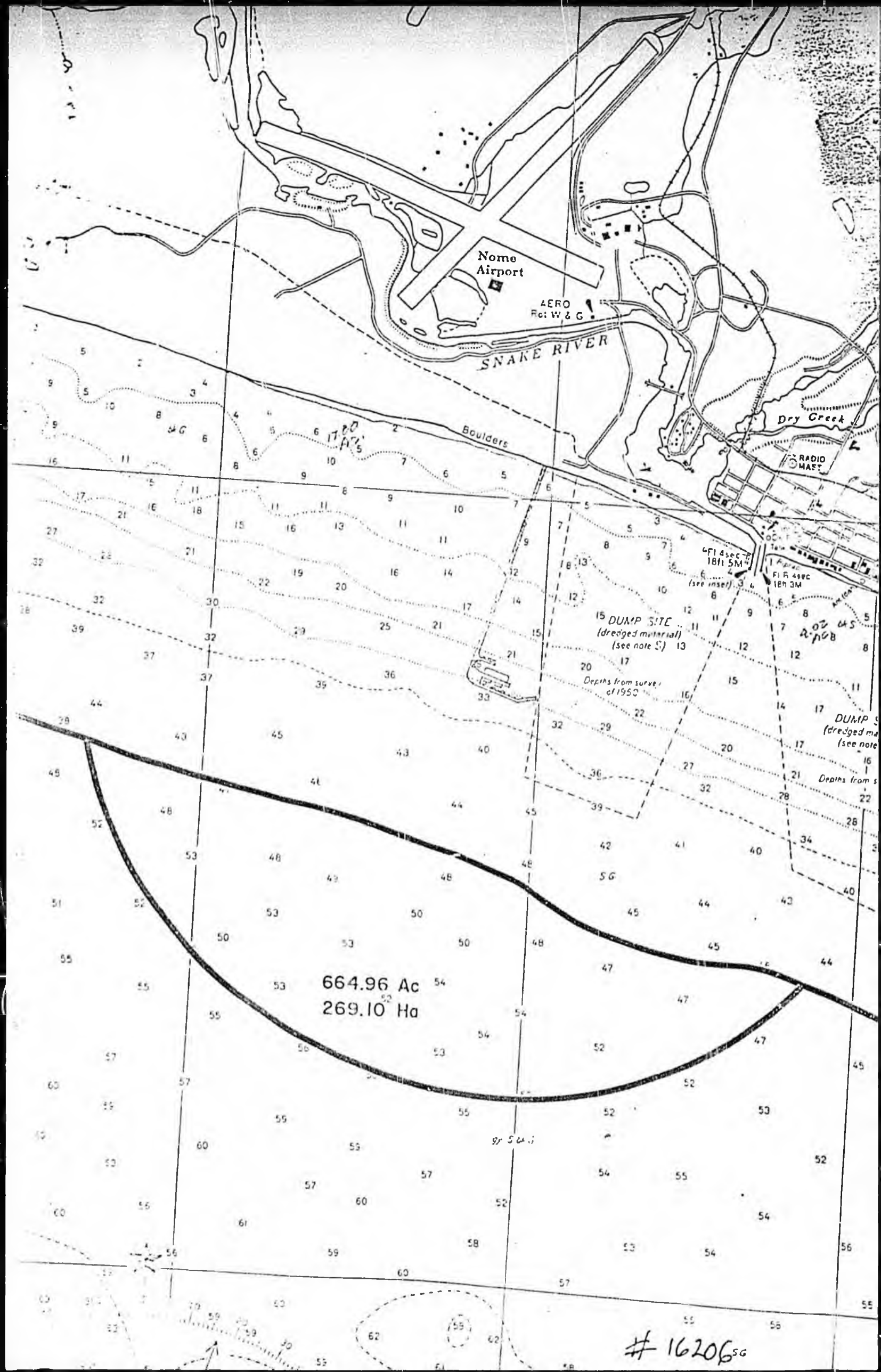


PORT OF NOME
 BERING SEA, ALASKA
 APPLICANT: CITY OF NOME
 SHEET 1 OF 3 9/10/80

THE FOLLOWING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.



THE PRECEDING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.



Nome
Airport

AERO
Rd: W & G

Snake RIVER

Boulders

Dry Creek

RADIO
MAST

4 Fl 4 sec
18 ft 5M
(see inset)

1 Fl 4 sec
18 ft 3M

15 DUMP SITE
(dredged material)
(see note 5)

Depths from survey
of 1950

DUMP SITE
(dredged material)
(see note 5)

Depths from survey
of 1950

664.96 Ac
269.10 Ha

16206 SG