

E. NEW BUSINESS

3. Conditional Land Use Permit; MS2022-004

Applicant: Colaska Inc. DBA OAP

Request: Modification to PC Resolution 2022-21 to expand the permit area, additional ingress/egress, and create a 100' wide access to the ARRCC right-of-way.

Location: 27083 Seward Highway

Moose Pass Area



Colaska Inc DBA QAP, Laydown Yard

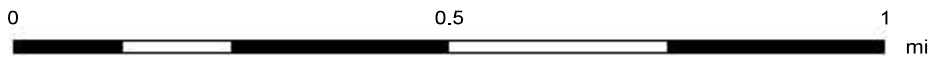
 Project Area

KPB Parcel(s):

12509028, 12509011, 12509010

Project Description:

Vicinity: Primrose



Map created by Raidmae, Ryan
Tuesday, August 20, 2024

The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



Ownership Map

Colaska Inc DBA QAP, Laydown Yard






 **Project Area**

KPB Parcel(s):

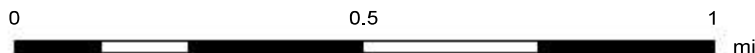
12509028, 12509011, 12509010

Parcel Ownership Type

Parcel Ownership

-  Federal
-  Private
-  State

Map created on Tuesday,
August 20, 2024





Wetlands Map

Colaska Inc DBA QAP, Laydown Yard



Project Area

KPB Parcel(s):

12509028, 12509011, 12509010

Tax Parcels

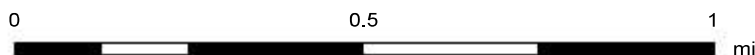


Landcover Features

KWF Wetlands Assessment

- DISTURB
- Depression
- Discharge Slope
- Drainageway
- Floating Island
- Headwater Fen
- Kettle
- LAKE
- Lakebed
- Late Snow Plateau
- Riverine
- Tidal
- Wetland / Upland Complex

Map created on Tuesday,
August 20, 2024





Habitat Protection Area Map Colaska Inc DBA QAP, Laydown Yard



 **Project Area**

KPB Parcel(s):

12509028, 12509011, 12509010





Tax Parcels







Habitat

KPB 2118 - KPB 2118 Districts

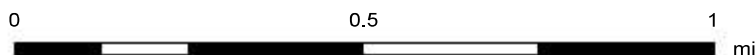
KPB 2118 - KPB 2118 Anadromous Streams

-  Exempt
-  Managed
-  Unregulated
-  others

KPB 2118 - KPB 2118 Anadromous Lakes and Areas

-  Exempt
-  Managed
-  Unregulated
-  n/a


Map created on Tuesday,
August 20, 2024





LOZ and Materials Sites Map Colaska Inc DBA QAP, Laydown Yard



 **Project Area**
KPB Parcel(s):
12509028, 12509011, 12509010

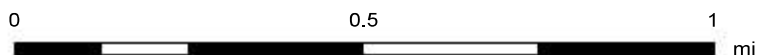
Tax Parcels



Material Sites



Map created on Tuesday,
August 20, 2024

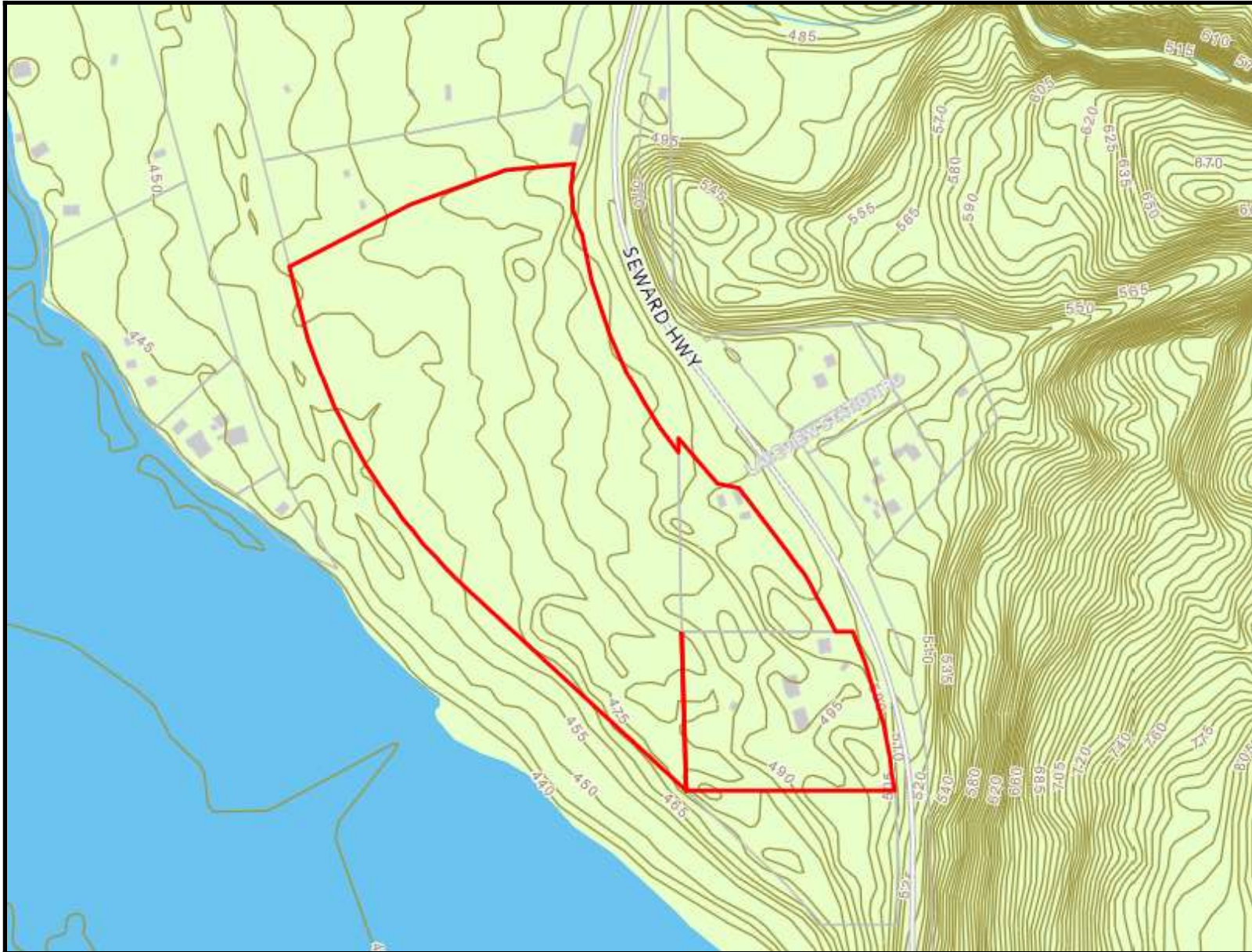




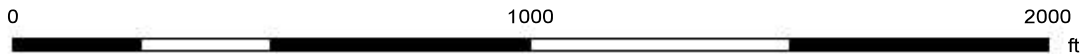
Terrain Map
Colaska Inc DBA QAP, Laydown Yard

 **Project Area**

KPB Parcel(s):
12509028, 12509011, 12509010



Tax Parcels



**Conditional Land Use Permit
Materials Site
Staff Report**

PC Res No.	2024-13
Planning Commission Meeting:	Monday, September 9, 2024
Applicant	COLASKA INC DBA QAP
Mailing Address	240 W. 68th Ave., Anchorage, AK 99518
Legal Description	RENFRO'S LAKESIDE RETREAT NO 6 LOT 2F EXC THAT PTN CONVEYED TO STATE OF AK DOT IN WD 2017-633, LAKEVIEW GROUP OF HOMESITES-USS 2534 LOT I (HS 88) and LOT J (HS 60)
Physical Address	27083 Seward Hwy
KPB Parcel Number	12509028, 12509010 and 12509011

Project Description

The applicant wishes to obtain a Conditional Land Use Permit Modification, to Permit Resolution 2022-21, to allow the permit area to expand and to add two additional access points along the Seward Highway. A third access will be constructed along the Alaska Railroad Right of Way.

The site plan indicates that the material haul route will access the site from three locations, corresponding to parcels 12509028, 12509010 and 12509011. Each access will lead directly to the Seward Highway. A fourth access will be constructed, on the West Side of parcel 12509028, that will allow train cars to be loaded with material.

The site plan and application propose the following buffers:

- North: 50 ft. of natural or improved vegetation
- South: 50 ft. of natural or improved vegetation
- East: 50 ft. of natural or improved vegetation
- West: 50 ft. of natural or improved vegetation

The subject property is bordered on the North and South by occupied private property. On the East and West sides of the property are the Right of Ways of the Seward Highway and Alaska Railroad Cooperation.

The site plan completed by McLane Consulting Inc., states ground water is deeper than 10 feet below the existing surface based on five test holes. Existing wells adjacent to the property collect groundwater from a depth of 42 to 52 feet based on data from Alaska Department of Natural Resources Well Log Tracking System. Monitor wells have not been installed at the site. The application states that no excavation of material is planned for this site, but suitable material is found to a depth of 10 feet. Plan notes state that there are no wetlands or surface waters within the property boundaries. A central area will be maintained for processing, screening, crushing and making asphalt pavement. This processing area is greater than 300 feet from all property lines except the Western line. The site plan shows that the Western property line is 157 feet from the processing area. The applicant requests a waiver from the 300 feet processing

distance on the West side of the property due to the approximately 180 feet of adjacent Railroad Right of Way. Native vegetation will provide surface water protection by way of phytoremediation, according to the McLane report. The site plan also indicates one well is located within 100 feet of the property boundary.

Plan notes state that reclamation will include stabilization of the gravel pad and re-contouring using strippings, overburden, waste import and topsoil to a condition that allows for the re-establishment of natural vegetation outside the gravel pad area. Slopes steeper than 2:1 will be seeded. The application also states that 2-5 acres will be reclaimed each year and reclamation will be completed annually before the growing seasons ends.

The applicant estimates using the site as a processing, storage and laydown facility for four years.

Public Notice

Public notice of the application was mailed on 8/21/2024 to the 37 landowners or leaseholders of the parcels within a half-mile of the subject parcel. Public notice was sent to the postmaster covering the Moose Pass vicinity requesting that it be posted at the Post Office.

Agency Review

Agency review was distributed on August 16, 2024 to pertinent KPB staff and other agencies.

Findings of Fact pursuant to KPB 21.25 and 21.29:

1. KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough.
2. KPB 21.29 governs material site activity within the rural district of the Kenai Peninsula Borough.
3. KPB 21.29 provides that a Conditional Land Use Permit is required for material extraction that disturbs more than 2.5 cumulative acres or processes material.
4. A public hearing of the Planning Commission was held on Monday, September 9, 2024 and notice of the meeting was published, posted, and mailed in accordance with KPB 21.25.060 and KPB 21.11.
5. The proposed cumulative disturbed area within the parcel is approximately 21.1 acres.

Parcel Boundaries

6. All boundaries of the subject parcel shall be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter. Field verification and staking will require the services of a professional land surveyor. The site plan indicates the property boundary within 300 feet of the work area was staked in 2024.

Buffer Zone

7. A buffer zone shall be maintained around the excavation perimeter or parcel boundaries. The site plan and application propose the following buffers, which shall not overlap an easement:
 - a. North: 50 ft. of natural or improved vegetation
 - b. South: 50 ft. of natural or improved vegetation
 - c. East: 50 ft. of natural or improved vegetation
 - d. West: 50 ft. of natural or improved vegetation

8. A 2:1 slope shall be maintained between the buffer zone and excavation floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.
9. Per KPB 21.19.050(A)(c), buffers provided using vegetation and/or a fence shall be of sufficient height and density to provide visual and noise screening of the proposed use as deemed appropriate by the planning commission.
10. Buffers shall not cause surface water diversion which negatively impacts adjacent properties or waterbodies.
11. At its discretion, the planning commission may waive buffer requirements where the topography of the property or the placement of natural barriers makes screening not feasible or not necessary. Buffer requirements shall be made in consideration of and in accordance with existing uses of adjacent property at the time of approval of the permit. There is no requirement to buffer the material site from uses which commence after the approval of the permit.

Processing

12. The applicant indicates that material processing will take place on the property. Any equipment used for conditioning or processing materials will be operated at least 300 feet from the North, East and South parcel boundaries.
13. The applicant requests a waiver to process materials within 157 feet of the West property line.
14. Any equipment used for crushing rock or other materials will not be operated between 10:00 p.m. and 6:00 a.m., to minimize noise disturbance to other properties.

Water Source Separation

15. Material extraction is prohibited within 100 horizontal feet of any water source existing prior to the original permit issuance.
16. The site plan indicates that there is 1 well located within 300 feet of the proposed laydown area.
17. The applicant is required to maintain a 2-foot vertical separation from the seasonal high-water table.
18. The application indicates that the seasonal high-water table is greater than 12 feet below grade and was determined by test holes excavated by applicant.
19. The applicant may not dewater by pumping, ditching or some other form of drainage unless an exemption is granted by the planning commission.

Excavation in the Water Table

20. The application states that work is not anticipated to be completed in the water table.

Waterbodies

21. The site plan states that there are no wetlands or surface waters within the proposed excavation area.
22. An undisturbed buffer shall be left and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains as defined in KPB 21.06. In order to prevent discharge, diversion, or capture of surface water, an additional setback from lakes, rivers, anadromous streams, and riparian wetlands may be required.

Fuel Storage

23. The applicant is required to store fuel containers larger than 50 gallons in impermeable berms and basins capable of retaining 110 percent of storage capacity. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.

Haul Route

24. The site plan indicates that the material haul route will be as follows: Haul route will access the site from three locations, corresponding to parcels 12509028, 12509010 and 12509011. Each access will lead directly to the Seward Highway. A fourth access will be constructed, on the West Side of parcel 12509028, that will allow train cars to be loaded with material.

Roads

25. Operations shall be conducted in a manner so as not to damage borough roads as required by KPB 14.40.175 and will be subject to the remedies set forth in KPB 14.40.

Dust Control

26. Dust suppression is required on haul roads within the boundaries of the material site by application of water or calcium chloride.

Hours of Operation

27. Rock crushing equipment may only be operated between 6:00 a.m. and 10:00 p.m.

Reclamation

28. The applicant has submitted a reclamation plan consistent with KPB 21.29.050(12)(a).
29. No extraction of material is proposed.
30. Material sites that exceed 50,000 cubic yards per year must meet the bonding requirement of KPB 21.29.050(12)(b). The amount of bond will be according to AS 27.19.040 unless the State of Alaska waives these requirements. In the case of a waiver the Kenai Peninsula Borough (KPB) would require the applicant to post bond to cover the anticipated reclamations costs and will be in the amount to be determined by the planning director as stated in KPB 21.29.050.

Other Permits

31. The permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the Borough's floodplain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives.

Signage

32. For permitted parcels on which the permittee does not intend to begin operations for at least 12 months after being granted a Conditional Land Use Permit, the permittee shall post notice of intent on parcel corners or access, whichever is more visible. Sign dimensions shall be no more than 15" by 15" and must contain the following information: the phrase "Permitted Material Site" along with the permittee's business name and a contact phone number.

Permit Conditions

1. The boundaries of the subject parcel shall be staked at sequentially visible intervals where the parcel boundaries are within 300 feet of the excavation perimeter. Stakes must be in place and visible as long as the material site is permitted.
2. The permittee shall maintain the following buffers around the excavation perimeter or parcel boundaries. The site plan and application propose the following buffers, which shall not overlap an easement:
 - a. North: 50 ft. of natural or improved vegetation
 - b. South: 50 ft. of natural or improved vegetation
 - c. East: 50 ft. of natural or improved vegetation
 - d. West: 50 ft. of natural or improved vegetation
3. The permittee shall maintain a 2:1 slope between the buffer zone and pit floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.
4. The permittee shall not allow buffers to cause surface water diversion which negatively impacts adjacent properties or water bodies.
5. The permittee shall operate all equipment which conditions or process material at least 300 feet from the North, East and South parcel boundaries. The applicant requests a waiver from the 300-foot processing distance on the West side of the property.
6. The permittee shall not extract material within 100 horizontal feet of any water source existing prior to issuance of this permit.
7. The permittee shall maintain a 2-foot vertical separation from the seasonal high-water table.
8. The applicant may not dewater by pumping, ditching or some other form of drainage unless an exemption is granted by the planning commission.
9. The permittee shall maintain an undisturbed buffer and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and regulatory floodplains.
10. The permittee shall ensure that fuel storage containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
11. The permittee shall notify the planning department of any further subdivision or return to acreage of this parcel. The planning director may issue a written exemption from the permit amendment requirement if it is determined that the subdivision is consistent with the use of the parcel as a material site and all original permit conditions can be met.
12. The permittee shall conduct operations in a manner so as not to damage borough roads as required by KPB 14.40.175, and will be subject to the remedies set forth in KPB 14.40 for

violation of this condition.

13. The permittee shall provide dust suppression on haul roads within the boundaries of the material site by application of water or calcium chloride.
14. The permittee shall not operate rock crushing equipment between the hours of 10:00 pm and 06:00 am.
15. The permittee shall reclaim the site as described in the reclamation plan for this parcel and approved by the planning commission.
16. The permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the Borough's floodplain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives.
17. The permittee shall post notice of intent on parcel corners or access, whichever is more visible if the permittee does not intend to begin operations for at least 12 months after being granted a conditional land use permit. Sign dimensions shall be no more than 15" by 15" and must contain the following information: the phrase "Permitted Material Site" along with the permittee's business name and a contact phone number.
18. The permittee shall operate in accordance with the application and site plan as approved by the planning commission. If the permittee revises or intends to revise operations so that they are no longer consistent with the original application, a permit modification is required in accordance with KPB 21.29.090.
19. This Conditional Land Use Permit is subject to annual review by the planning department to ensure compliance with the conditions of the permit. In addition to the penalties provided by KPB 21.25.090, the planning commission may revoke a permit issued pursuant to this chapter if the permittee fails to comply with the provisions of this chapter or the conditions of the permit. The planning director shall provide at least 30 days written notice to the permittee of a revocation hearing before the planning commission.
20. Once effective, this Conditional Land Use Permit is valid for five years. A written request for permit extension must be made to the planning department at least 30 days prior to permit expiration, in accordance with KPB 21.29.070. The request must be accompanied by the applicable permit renewal and recording fees.
21. All permits, permit extensions, modified permits, prior existing uses, and terminations shall be recorded.
22. The Planning Department is responsible for filing the Planning Commission resolution. The applicant will provide the recording fee for the resolution to the Planning Department.

Staff Recommendation

In reviewing the application staff has determined that the six standards contained in KPB 21.29.040 will be met and recommends that the Planning Commission approve the Conditional Land Use Permit subject to the conditions and findings listed conditions, and adopt the findings of fact subject to the following: Filing of the PC Resolution in the appropriate recording district after the deadline to appeal the Planning Commission's approval has expired (15 days from the date of the notice of decision) unless there are no parties with appeal rights.

Material Site Standards

1. The proposed activity must protect against lowering of water sources serving other properties. Findings 15-22 and Conditions 6-9 appear to meet this standard.
2. The proposed activity must protect against physical damage to adjacent properties. Findings 6-11 and Conditions 1-4, 10, 12 appear to meet this standard.
3. The proposed activity must minimize the off-site movement of dust. Findings 12, 26 and Condition 13 appear to meet this standard.
4. The proposed activity must minimize noise disturbance to other properties. Findings 7, 9, 12, 14, 27 and Conditions 2, 5, 14 appear to meet this standard.
5. The proposed activity must minimize visual impacts. Findings 7, 9 and Condition 2 appear to meet this standard.
6. The proposed activity must provide for alternate post-mining land uses. Findings 28-30 and Condition 15 appear to meet this standard.

Attachments

1. Maps
2. Application
3. Site Plan
4. Land Use Agreements
5. Staff Report
6. Resolution
7. Public Hearing Notice
8. Public Comment

NOTE: Any party of record may file an appeal of a decision of the Planning Commission in accordance with the requirements of the Kenai Peninsula Borough Code of Ordinances, Chapter 21.20.250. An appeal must be filed with the Borough Clerk within 15 days of date of the notice of the decision using the proper forms and be accompanied by the filing and records preparation fee.

END OF STAFF REPORT

KPB 21.29

Conditional Land Use Permit Application

For a new or modified Sand, Gravel or Material Site

I. APPLICANT INFORMATION New Modification

Applicant Colaska Inc. DBA QAP c/o Matt Schram Landowner Colaska Inc. DBA QAP
Address 240 W 68th Avenue Address 240 W 68th Avenue
City, State, Zip Anchorage, Alaska 99518 City, State, Zip Anchorage, Alaska 99518
Telephone 907-350-8467 Cell _____ Telephone _____ Cell _____
Email dbelanger@colaska.com Email _____

II. PARCEL INFORMATION

KPB Tax Parcel ID# 12509028, 12509010 & 11 Legal Description T3N R1E Section 18 SM Renfro's Lakeside Retreat
No. 6 Lot 2F Excl ptn conveyed to SOA DOT in WD 2017-633 & Lakeview Groups Homesites USS2534 Lot I & Lot J
If permit is not for entire parcel, describe specific location within parcel to be material site, e.g.; "N1/2 SW1/4 NE1/4 – 10 acres", or "5 acres in center of parcel".

III. APPLICATION INFORMATION "Check" boxes below to indicate items included.

- \$1,000.00 permit processing fee payable to: Kenai Peninsula Borough. (Include Parcel # on check comment line.)
- Site Plan, to scale, prepared by a professional surveyor (licensed and registered in Alaska) showing, where applicable:
 - parcel boundaries
 - location of boundary stakes within 300 ft. of excavation area (to be in place at time of application)
 - proposed buffers, or requested buffer waiver(s)
 - proposed extraction area(s), and acreage to be mined
 - proposed location of processing area(s)
 - all encumbrances, including easements
 - points of ingress and egress
 - anticipated haul routes
 - location/depth of testholes, and depth to groundwater, if encountered
 - location of all wells within 300 ft. of parcel boundary
 - location of water bodies on parcel, including riparian wetlands
 - surface water protection measures
 - north arrow and diagram scale
 - preparer's name, date and seal
- Site Plan Worksheet (attached)
- Reclamation Plan (attached) and bond, if required. Bond requirement does not apply to material sites exempt from bonding requirements pursuant to AS 27.19.050

Please Note: If a variance from the conditions of KPB 21.29 is requested, a variance application must be attached. (A variance is NOT the same thing as a waiver.)

IV. CERTIFICATION STATEMENT

The information contained on this form and attachments are true and complete to the best of my knowledge. I grant permission for borough staff to enter onto the property for the purpose of processing the permit application.

Matthew Schram 8/1/24
Applicant Date Landowner (required if not applicant) Date

Site Plan Worksheet for Conditional Land Use Permit Application

Use additional space provided on next page, if necessary. Indicate item # next to comments.

Applicant Colaska, Inc. DBA QAP Owner Colaska, Inc. DBA QAP

KPB Tax Parcel ID # 12509028, 12509010 & 11 Parcel Acreage 26.0

1. Cumulative acres to be disturbed (excavation plus stockpiles, berms, etc.) 21.1 acres
2. Material to be mined (check all that apply): gravel sand peat other(list) _____
3. Equipment to be used (check all that apply): excavation processing other _____
4. Proposed buffers as required by KPB 21.29.050.A.2 (check all types and directions that apply):

- | | | | | | | | | | | | | | | | | | |
|---|--|---------------------------------------|---------------------------------------|---------------------------------------|---------------------------------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|----------------------------|
| <input checked="" type="checkbox"/> 50 ft. of natural or improved vegetation
<input type="checkbox"/> minimum 6 ft. earthen berm
<input type="checkbox"/> minimum 6 ft. fence
<input type="checkbox"/> other _____ | <table border="0" style="width: 100%;"> <tr> <td><input checked="" type="checkbox"/> N</td> <td><input checked="" type="checkbox"/> S</td> <td><input checked="" type="checkbox"/> E</td> <td><input checked="" type="checkbox"/> W</td> </tr> <tr> <td><input type="checkbox"/> N</td> <td><input type="checkbox"/> S</td> <td><input type="checkbox"/> E</td> <td><input type="checkbox"/> W</td> </tr> <tr> <td><input type="checkbox"/> N</td> <td><input type="checkbox"/> S</td> <td><input type="checkbox"/> E</td> <td><input type="checkbox"/> W</td> </tr> <tr> <td><input type="checkbox"/> N</td> <td><input type="checkbox"/> S</td> <td><input type="checkbox"/> E</td> <td><input type="checkbox"/> W</td> </tr> </table> | <input checked="" type="checkbox"/> N | <input checked="" type="checkbox"/> S | <input checked="" type="checkbox"/> E | <input checked="" type="checkbox"/> W | <input type="checkbox"/> N | <input type="checkbox"/> S | <input type="checkbox"/> E | <input type="checkbox"/> W | <input type="checkbox"/> N | <input type="checkbox"/> S | <input type="checkbox"/> E | <input type="checkbox"/> W | <input type="checkbox"/> N | <input type="checkbox"/> S | <input type="checkbox"/> E | <input type="checkbox"/> W |
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5. Proposed depth of excavation: 0 ft. Depth to groundwater: >12' ft.
6. How was groundwater depth determined? 12' testholes excavated by applicant
7. A permit modification to enter the water table will be requested in the future: ___ Yes X No
8. Approx. annual quantity of material, including overburden, to be mined: n/a cubic yards
9. Is parcel intended for subdivision? ___ Yes ___ No
10. Expected life span of site? 4 years
11. If site is to be developed in phases, describe: the excavation acreage, anticipated life span, and reclamation date for each phase: (use additional space on page 4 if necessary)

Per 2022 CLUP

12. Voluntary permit conditions proposed (additional buffers, dust control, limited hours of operation, etc.)

- A. _____
- B. _____
- C. _____

Material Site Reclamation Plan for Conditional Land Use Permit Application

1. All disturbed land shall be reclaimed upon exhausting the material on-site, so as to leave the land in a stable condition.
2. All revegetation shall be done with a “non-invasive” plant species.
3. Total acreage to be reclaimed each year: 2-5 acres
4. List equipment (type and quantity) to be used in reclamation:

Loader, dozer, hydroseeder

5. Describe time schedule of reclamation measures:

Reclamation will be completed annually before the growing season ends (September). Seeding will be applied as necessary each season to areas that are depleted, are not being utilized as staging or processing, and achieve final stabilized grade in order to minimize erosion and dust. Re-establish vegetation at ARRC access.

6. The following measures must be considered in preparing and implementing the reclamation plan, although not all will be applicable to every plan – “**check**” all that apply to your plan.

Topsoil that is not promptly redistributed to an area being reclaimed will be separated and stockpiled for future use. This material will be protected from erosion and contamination by acidic or toxic materials and preserved in a condition suitable for later use.

The area will be backfilled, graded and recontoured using strippings, overburden, and topsoil to a condition that allows for the reestablishment of renewable resources on the site within a reasonable period of time. It will be stabilized to a condition that will allow sufficient moisture for revegetation.

Sufficient quantities of stockpiled or imported topsoil will be spread over the reclaimed area to a depth of four inches to promote natural plant growth that can reasonably be expected to revegetate the area within five years. The applicant may use the existing natural organic blanket representative of the project area if the soil is found to have an organic content of 5% or more and meets the specification of Class B topsoil requirements as set by Alaska Test Method (ATM) T-6. The material shall be reasonably free from roots, clods, sticks, and branches greater than 3 inches in diameter. Areas having slopes greater than 2:1 require special consideration and design for stabilization by a licensed engineer.

Exploration trenches or pits will be backfilled. Brush piles and unwanted vegetation shall be removed from the site, buried or burned. Topsoil and other organics will be spread on the backfilled surface to inhibit erosion and promote natural revegetation.

Peat and topsoil mine operations shall ensure a minimum of two inches of suitable growing medium is left or replaced on the site upon completion of the reclamation activity (unless otherwise authorized).

Ponding will be used as a reclamation method. (Requires approval by the planning commission.)

ADDITIONAL APPLICATION COMMENTS

(Please indicate the page and item # for which you are making additional comments.)

The purpose of the MCLUP is to expand the CLUP permit area and add additional ingress/egress to the CLUP.

QAP has entered an agreement (see attached) with the Owner of PID 12509010 & 192509011 to utilize the property immediately adjacent to the CLUP area for additional stockpile, sorting and laydown. This will expand the permit area by up to 6.9 acres. The well on PID 12509011 has been decommissioned in 2023 after a structure fire on the property.

Native vegetation buffer is to be maintained on exterior boundaries of the the MCLUP area. Expansion to these lots adds a additional existing access directly to the Seward Highway at the northwest corner of PID 12509010 & 1250901.

QAP has entered into a contract with ARRC to export materials directly by rail from the CLUP site. The MCLUP adds a 100' access to the ARRC right-of-way, as shown on the exhibits. This access is not a typical ingress/egress. It is a clearing/break in the vegetative buffer that allows machinery to load rail cars at this location. This access will be re-vegetated at the completion of the ARRC project. The agreement with ARRC is included.

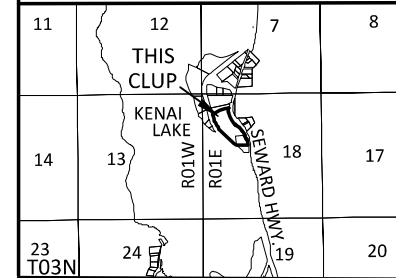
MODIFICATION TO CONDITIONAL LAND USE PERMIT MATERIAL SITE KPB PID 12509028 PC RESOLUTION 2022-21

APPLICANT / PROPERTY OWNER:
COLASKA, INC. DBA QAP
240 W. 68TH AVE.
ANCHORAGE, AK 99518

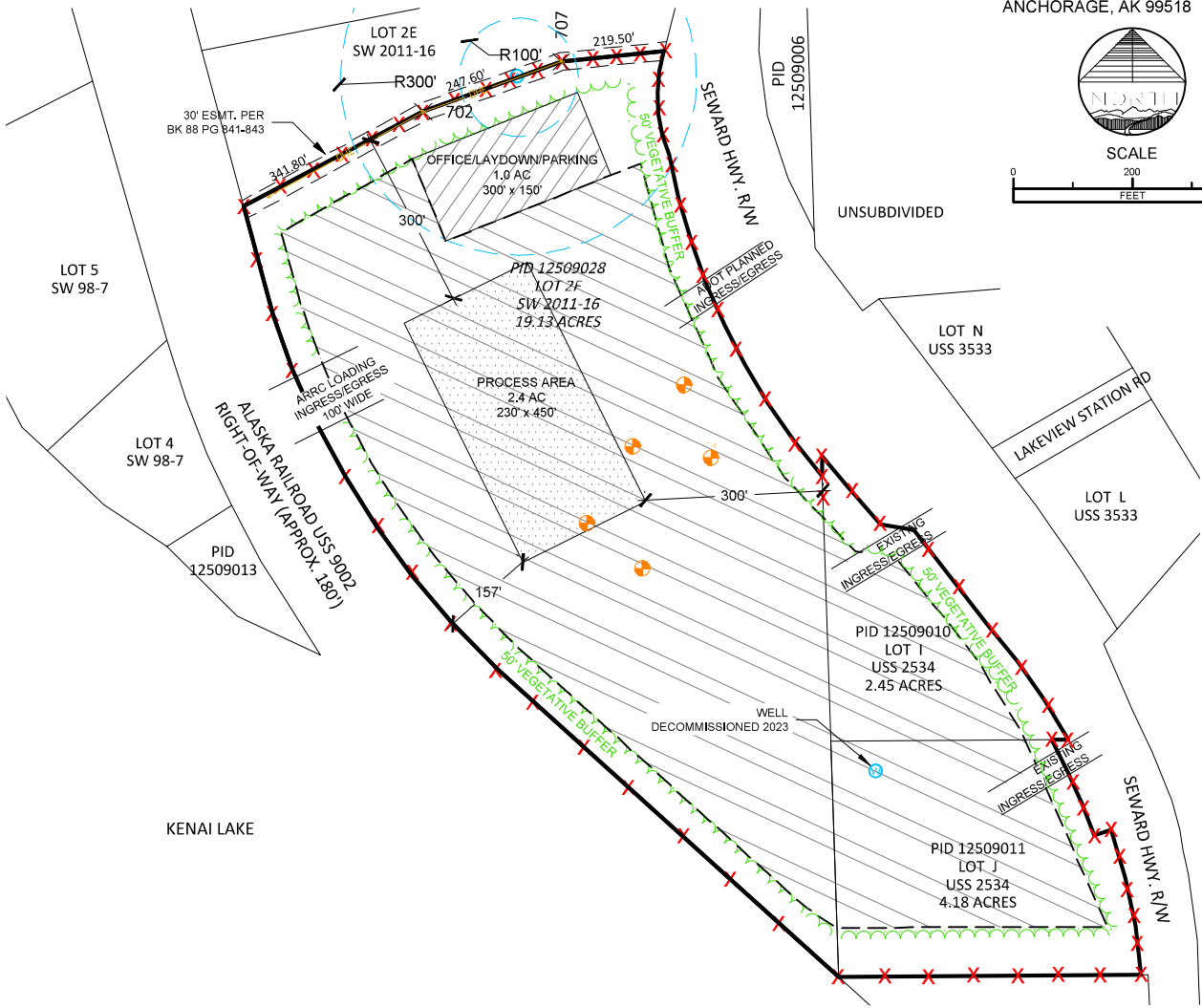


VICINITY MAP

Scale 1" = 1 Mile



REV	DATE	DESCRIPTION
1	02/28/2022	CONCEPTUAL DEVELOPMENT
2	03/02/2022	NOTICE OF INTENT
3	03/02/2022	NOTICE OF INTENT
4	03/02/2022	NOTICE OF INTENT
5	03/02/2022	NOTICE OF INTENT
6	03/02/2022	NOTICE OF INTENT
7	03/02/2022	NOTICE OF INTENT
8	03/02/2022	NOTICE OF INTENT
9	03/02/2022	NOTICE OF INTENT
10	03/02/2022	NOTICE OF INTENT
11	03/02/2022	NOTICE OF INTENT
12	03/02/2022	NOTICE OF INTENT
13	03/02/2022	NOTICE OF INTENT
14	03/02/2022	NOTICE OF INTENT
15	03/02/2022	NOTICE OF INTENT
16	03/02/2022	NOTICE OF INTENT
17	03/02/2022	NOTICE OF INTENT
18	03/02/2022	NOTICE OF INTENT
19	03/02/2022	NOTICE OF INTENT
20	03/02/2022	NOTICE OF INTENT



LEGEND

- PROPERTY LINE
- SECTION LINE
- PRIMARY MONUMENT
- EXISTING TRAIL
- INTERVISIBLE FLAGGING
- TESTHOLE (APPROX. LOCATION)
- PROPOSED BUFFER TREELINE

MCLUP DEVELOPMENT NOTES

- THIS PERMIT APPLICATION IS KPB PARCEL 12509028, 12509010, AND 12509011, TOWNSHIP 3N, RANGE 01E, SECTION 18 SEWARD MERIDIAN.
- PID 12509028 IS PERMITTED AS A PROCESSING, STORAGE, AND LAYDOWN FACILITY TO BE UTILIZED DURING AN ADOT SEWARD HIGHWAY PROJECT. THE MCLUP EXPANDS THE PERMIT FOOTPRINT INTO PID 12509010 AND 12509011. THIS AREA WILL BE UTILIZED FOR STOCKPILING AND SORTING MATERIAL ALONG WITH EQUIPMENT LAYDOWN.
- THE MCLUP ADDS ADDITIONAL INGRESS/EGRESS: TWO (2) TO THE SEWARD HIGHWAY AT NORTHEAST CORNER OF PID 12509010 AND PID 12509011 AND ONE ACCESS DIRECTLY TO THE ARRC RIGHT-OF-WAY.
- THE WELL ON PID 12509011 HAS BEEN DECOMMISSIONED AFTER A FIRE DESTROYED THE STRUCTURE ON THE PARCEL.
- 50' (OR GREATER) NATIVE VEGETATION BUFFERS ARE MAINTAINED ON ALL SIDES.
- BOUNDARY FLAGGING OF PID 12509025 SHOWN HEREON IS FROM 2022 MCLANE SURVEY. BOUNDARY FLAGGING OF PID 12509010 & 12509011 PERFORMED BY MCLANE CONSULTING AUGUST 2024.
- RIGHTS-OF-WAY SHOWN HEREON ARE PER WARRANTY DEEDS 2016-001482-0 (LOT I), 2016-001483-0 (LOT I), 2017-000633-0 (LOT 2F), 2018-000131-0 (LOT J) RECORDED IN THE SEWARD RECORDING DISTRICT, STATE OF ALASKA.

	PROCESS AREA 2.4 ACRES
	STOCKPILE AND MATERIAL STAGING 19.4 ACRES W/ BUFFERS
	OFFICE/STAGING/PARKING 1.0 ACRES

QAP
SEWARD MP 20
MODIFICATION TO CLUP



ENGINEERING - TESTING
SURVEYING - MAPPING
P.O. BOX 468
SOLDOTNA, AK 99599
VOICE: (907) 283-4218
FAX: (907) 283-3265
WWW.MCLANECO.COM

DRAWN BY:	BGB/GMD
CHECKED BY:	GMD
HORIZ. SCALE:	1" = 200'
VERT. SCALE:	N/A
SHEET:	P1

SPECIAL LAND AND TRACK USE PERMIT

PERMITTEE: COLASKA, INC DBA QAP

ADDRESS: 240 W. 68th Ave., Anchorage, Alaska 99518

PERMIT AREA/DESCRIPTION: A portion of the track between ARRC Mileposts 18 to 22, as necessary, to offload at thirteen (13) different culvert locations along Kenai Lake and a central location within the ARRC ROW at approximate ARRC Milepost 19.5, adjacent to the permittee's property to prepare a pad to store material ahead of the transloading, and an adjacent area as further directed by the ARRC Superintendent, Transportation, or his designee, as more specifically provided herein.

RECITALS

A. Permittee wishes to obtain a permit to use the above-described Permit Area and ARRC facilities.

B. The Alaska Railroad Corporation ("ARRC") is willing to grant Permittee a permit for such use, but only on the terms and conditions set forth herein.

AGREEMENT

1. Grant of Permit/Use by Permittee: ARRC hereby grants to Permittee a non-exclusive revocable permit ("Permit") to occupy and use the above-described Permit Area and ARRC facilities for the limited purposes and upon the terms and conditions set forth herein. The Permittee may use the Permit Area only for the following limited purposes: transload riprap, pipe beddings, ditch lining, D1, filter blanket and ballast. In the event Permittee desires to conduct activity within twenty (20) feet of the centerline of the ARRC tracks, it shall arrange with the ARRC for flag protection and otherwise comply with the requirements of the Standard Specifications referred to in Section 8 below.

2. ARRC Use: ARRC reserves for itself, its successors, assigns, permittees and licensees, the right to use the Permit Area for any purpose whatsoever, including without limitation transportation, communication and transmission purposes, which shall be deemed to include but not be limited to the construction, maintenance and operation of existing and additional tracks and of existing and additional pipes, communication and power transmission lines, drainage ditches or any other facilities located upon, over and beneath the Permit Area.

3. Specific Restrictions in Permit Area:

3.01 Permittee acknowledges that safety is a primary consideration and that in any area marked "clear zone" on the drawing of the Permit Area attached to this Permit, no structure will be allowed that would restrict the visibility from the track, or if in the vicinity

of road crossings, would restrict the visibility of motor vehicles. The opinion of ARRC's Chief Engineer will be final regarding any disagreement regarding safety issues. No improvement or facility, including temporary structures and fences, may be constructed in the Permit Area without prior written approval of ARRC. If the Permit Area is within an area governed by local building or land use regulations, any construction must comply with such regulations.

3.02 All Permittee personnel working in the Permit Area shall attend an initial safety briefing provided by ARRC staff.

3.03 The general contour of the Permit Area shall not be altered without prior written approval from ARRC. No excavation work shall be performed upon the Permit Area. Permittee's use of the Permit Area shall not interfere with the construction, maintenance, repair, use or operation of any railroad facility, drainage ditch, or related facilities, which may be located upon, over or under the Permit Area. Watering and irrigation shall be done in such a manner that there will be no flooding or fouling of ARRC's roadbed.

3.04 **Omitted.**

3.05 No utilities of any nature are provided by ARRC under this Permit.

A. Permittee may make arrangements with other parties for access to and use of water; provided, however, that placement of hoses or other water facilities may not impede rail operations and must be coordinated with the ARRC Superintendent, Transportation.

B. Permittee may install portable toilet facilities for use of its personnel as directed by the ARRC Superintendent, Transportation. Such facilities shall not be located within twenty (20) feet of any track.

3.06 Permittee may have **the equipment necessary to perform their operations during active unloading.** Vehicles will be allowed on the Permit Area only, and not on other property of ARRC or on ARRC's right-of-way, subject to the restrictions of this paragraph.

3.07 Routine maintenance of the track (including snow removal) shall be performed by ARRC, at its own expense. The cost of any repairs or maintenance to the track or any other property (real or personal) of ARRC reasonably determined to be necessary by ARRC and caused by Permittee's activities on and about the Permit Area shall be paid by Permittee within thirty (30) days of billing therefor.

3.08 ARRC shall have the right to enter the work area of Permittee at all times for the purposes of inspecting the track, maintaining and operating along the track, and determining whether Permittee is operating in accordance with the terms of this Permit. If, in the sole judgment of the ARRC, any such inspection discloses an unsafe condition or other breach of this Permit, ARRC shall have the right to withdraw the track from service until it is repaired in accordance with this Permit or the unsafe condition is otherwise corrected, or, at ARRC's option, treat the condition as a default under Paragraph 9 of this Permit.

4. Term: This Permit shall be for a term of **Eleven (11) months** commencing **July 1, 2024**, and ending **May 31, 2025**, provided that each party shall have the absolute right to terminate this Permit at any time upon thirty (30) days written notice to the other party. Any continued use of the Permit Area by Permittee after the expiration of the original term, absent prior ARRC approval, shall be under the same terms and conditions as this Permit. Permittee's obligation to pay the monthly Permit Fee set forth in Section 6, and all other affirmative obligations of Permittee under this Permit, will continue until all of the following have occurred: (i) the Permit has either expired or notice of termination has been given by one of the parties; (ii) Permittee has removed any personal property from the Permit Area; and (iii) Permittee has restored the Permit Area pursuant to Section 11 of this Permit.

5. Assignment: This Permit is personal to Permittee and may not be assigned or transferred in any manner, including by operation of law, without prior written consent of ARRC. Any attempt to assign or transfer this Permit without such prior written consent shall cause immediate termination of the Permit.

6. Permit Fee: As consideration for the use of the Permit Area, Permittee shall pay a monthly fee of **One Thousand and no/100 Dollars (\$1,000.00)** ("Permit Fee"), due in advance. However, at each subsequent extension of the permit term, the annual Permit Fee shall be adjusted to ARRC's then-current fee for similar permits. If the Permit is terminated by either party pursuant to Section 4 before the due date for any payment of the annual fee, the Permittee shall be entitled to a refund of a pro-rated portion of the previous annual fee based on the portion of the permit-year remaining following termination of the Permit, less any other amounts due and owing by Permittee under this Permit.

7. Liability; Indemnification: Except as otherwise stated in this section, Permittee shall be liable for and agrees to release, indemnify, defend and hold harmless ARRC, its employees, officers and representatives from and against any and all losses and any and all claims, demands, payments, suits, actions, liabilities, judgments, damages, recoveries, fines, penalties, costs, legal expenses (including, but not limited to, reasonable attorneys' fees), of whatever kind, including sums paid in settlements of claims, attorney fees, consultant fees, expert fees, or costs incurred, made, brought or recovered against ARRC by any person or entity, including but not limited to Permittee, its agents, contractors, subcontractors, employees, invitees or customers, arising directly or indirectly from, or connected with: (1) this Permit; (2) Permittee's use or occupation of the Permit Area; (3) Permittee's operations on other ARRC property; (4) any act or omission by Permittee, its agents, contractors, employees, invitees, or customers; or (5) any failure of Permittee to comply with all applicable laws, ordinances, rules, regulations, guidelines, or other requirements imposed by any government entity now or hereafter in effect, in connection with the performance of this Permit by Permittee. The provisions contained in this Section 7 shall not be given effect if the active negligence of ARRC or its employees is the sole proximate cause of any injury or damage done to the party asserting the claim. Permittee shall give ARRC reasonable notice of any such claims or actions. Permittee shall use counsel reasonably acceptable to ARRC in carrying out its defense obligations under this Section 7. Permittee's agreement to the release, indemnity and hold harmless obligations in this Section 7 is one of the considerations upon which this Permit is granted. The release, indemnity, hold harmless and defense obligations set forth in this Section 7 shall survive the expiration or earlier termination of this Permit.

8. Compliance With Standard Specifications: Permittee will comply with all of the provisions of the Standard Specifications for Work on Railroad Property in effect on the date any work is undertaken, and shall make itself aware of such provisions and any revisions thereof during the term of this Permit. A copy of such Standard Specifications is attached hereto as "Exhibit B". If any term of this Permit conflicts with any provision in the Standard Specifications, the terms of this Permit shall control.

9. Default and Remedies.

9.01 Default. The occurrence of any one or more of the following events shall constitute a material default by Permittee.

A. The failure by Permittee to make any payments required to be made by Permittee hereunder, as and when due, where such failure shall continue for a period of five (5) days after written notice thereof from ARRC to Permittee;

B. The failure by Permittee to observe or perform any covenant, condition or provision of the Permit which, in the reasonable opinion of ARRC, substantially endangers either the person or property of ARRC or a third party, or human health or the environment, where Permittee does not commence curing the default immediately upon written notice thereof from ARRC to Permittee or does not continue to complete the cure within such reasonable time period thereafter as is imposed by ARRC or any governmental body having jurisdiction in the matter;

C. Except as otherwise provided in subparagraphs 9.01.A and 9.01.B of this Permit, the failure by Permittee to observe or perform any of the covenants, conditions or provisions of this Permit to be observed or performed by Permittee, where such failure shall continue for a period of ten (10) days after written notice thereof from ARRC to Permittee;

D. The occurrence of any of the following: (i) Permittee makes any general arrangement or general assignment for the benefit of creditors; (ii) Permittee becomes a debtor in bankruptcy; (iii) a trustee or receiver is appointed to take possession of substantially all of Permittee's assets; or (iv) substantially all of Permittee's assets are attached, executed upon or otherwise judicially seized;

E. The discovery by ARRC that any financial statement given to ARRC by Permittee, any assignee of Permittee, any successor in interest of Permittee or any guarantor of Permittee's obligation hereunder, was materially false at the time given; or

F. Vacation or abandonment of the Permit Area by Permittee.

9.02 Remedies. In the event of any material default by Permittee, ARRC may at any time thereafter, without notice or demand and without limiting ARRC in the exercise of any right or remedy which ARRC may have by reason of such default:

A. Terminate Permittee's rights under this Permit and pursue any other available remedies.

B. Maintain Permittee's rights under this Permit in which case this Permit shall continue in effect. In such event ARRC shall be entitled to enforce all of

ARRC's rights and remedies under this Permit, including the right to recover the payments due hereunder.

C. Pursue any other remedy now or hereafter available to ARRC under the laws or judicial decisions of the State of Alaska.

9.03 Interest on Late Payments. Beginning the day after a payment is due, all unpaid charges and fees required by this Permit shall accrue interest at the highest lawful contract rate in the State of Alaska as defined by AS 45.45.010(a) or any successor or replacement statute in effect at that time and as then amended. The accrual of such an interest charge shall not waive, excuse or cure any default.

10. Observance of Laws; Environmental Provisions.

10.01 General Compliance. Permittee, at all times during the Permit Term, at its own expense, and with all due diligence, shall observe and comply with all laws, ordinances, rules, and regulations which are now in effect or may later be adopted by any governmental authority, including ARRC, and which may be applicable to this Permit, the Permit Area or any use of the Permit Area by Permittee.

10.02 Environmental Laws. In furtherance and not in limitation of the foregoing paragraph, Permittee must, at its own expense, comply with all laws, ordinances, regulations and administrative agency or court orders relating to health, safety, noise, environmental protection, waste disposal, hazardous or toxic materials, and water and air quality related to Permittee's use of the Permit Area. In the event any discharge, leakage, spillage, emission or pollution of any type occurs upon or from the Permit Area during the Permit Term or any holdover thereafter, Permittee shall immediately notify ARRC and shall, at Permittee's own expense, clean and restore the Permit Area to the satisfaction of ARRC and any governmental body or court having jurisdiction of the matter.

10.03 Hazardous Materials on the Permit Area. Permittee shall not cause or permit any Hazardous Material to be brought upon, kept or used in or about the Permit Area by Permittee, its agents, employees, contractors or invitees without the prior written consent of ARRC, which ARRC shall not unreasonably withhold as long as Permittee demonstrates to ARRC's reasonable satisfaction that such Hazardous Material is necessary or useful to Permittee's business and will be used, kept and stored in a manner that complies with all laws regulating any such Hazardous Materials so brought upon or used or kept in or about the Permit Area.

10.04 Environmental Indemnity. Permittee agrees to indemnify, hold harmless and defend ARRC against all liability, cost and expense (including, without limitation, any fines, penalties, diminution in value of the Permit Area, assessment and clean-up costs, judgments, litigation costs and attorneys' fees) incurred by or levied against ARRC as a result of Permittee's breach of this section or as a result of any discharge, leakage, spillage, emission or pollution of or by a Hazardous Material by Permittee, its agents, invitees or employees, on, about, or from the Permit Area, without regard to whether such liability, cost or expense arises during or after the Permit Term. The indemnity, hold harmless and defense obligations set forth in this paragraph are in furtherance of and in addition to, and do not serve to limit in any way, the release, indemnity, hold harmless and defense obligations set forth arising under Section 7 of this Permit. The indemnity, hold

harmless and defense obligations set forth in this paragraph shall survive the expiration or earlier termination of this Permit.

10.05 Hazardous Material. For purposes of this Permit, the term "Hazardous Material" means any hazardous or toxic substances, material or waste, including but not limited to those substances, materials and wastes listed in the U.S. Department of Transportation Hazardous Materials Table (49 CFR § 172.101) or by the U.S. Environmental Protection Agency as hazardous substances (40 CFR Part 302) or as hazardous wastes (40 CFR Part 261.3), and amendments thereto, or such substances, materials and wastes that are or become similarly regulated under any applicable local, state or federal law.

10.06 Environmental Testing. ARRC may, upon the expiration or termination of this Permit, conduct environmental testing of the Permit Area to determine if any environmental impairment exists. Permittee shall be responsible for all costs and expenses associated with such tests if such impairment is discovered and the parties agree or a court of competent jurisdiction determines that the impairment resulted from a breach by Permittee of its obligations under this Permit. Payments from Permittee under this subparagraph shall be due within ten (10) days of the rendering of a bill to Permittee therefor, and shall bear interest at the highest lawful contract rate in the State of Alaska as defined by AS 45.45.010(a) or any successor or replacement statute in effect at that time and as then amended. Permittee may conduct environmental testing of the Permit area at its expense at any time and shall promptly provide to ARRC copies of all reports and data resulting therefrom.

11. Restoration of Permit Area on Termination; Initial Joint Inspection: Upon the expiration or termination of this Permit, Permittee shall remove from and off the Permit Area, all property owned or controlled by Permittee and shall restore the Permit Area to a clean, debris-free condition consistent with the condition prior to Permittee's use of the Permit Area and satisfactory to ARRC. If Permittee fails to meet its obligations under the preceding sentence, ARRC may perform such work at Permittee's expense. Until said property is removed and the Permit Area restored, either by Permittee or by ARRC at Permittee's expense, this Permit, with all terms contained herein, including the payment of the Permit Fee under Section 6, shall, at ARRC's option, remain in effect until said property is removed and the Permit Area is restored. The requirements of this paragraph are in furtherance of and not in limitation of any provision of the Standard Specifications referred to in Section 8.

12. No Warranties: ARRC does not warrant or represent that the Permit Area is safe, healthful or suitable for the purpose for which it is to be used under this Permit. The absence of markers does not constitute a warranty by ARRC that subsurface installations do not exist on, in or under the Permit Area or any part thereof.

13. Taxes, Assessments and Charges: If at any time during the Permit Term any new or additional taxes (other than federal or state income taxes or any other taxes existing on the effective date hereof) are assessed against the Permit Area, or any improvement thereon, or any rents payable to ARRC under this Permit, or against ARRC with respect thereto, Permittee shall pay to the taxing authority or ARRC, not less than ten (10) days before they become delinquent and as additional rents, all of such new or additional taxes.

14. Miscellaneous:

14.01 The captions of paragraphs in this Permit are for convenience of reference only and shall not be used in the construction of any term hereof.

14.02 The terms of this Permit shall inure to the benefit of any successors and assigns of ARRC, and, subject to the provisions of Section 5, to the successors and assigns of Permittee.

14.03 This Permit represents the entire agreement of the parties with respect to the subject matter hereof, and it may not be modified except by an agreement in writing signed by both parties.

14.04 Time is of the essence with respect to any obligations to be performed under this Permit.

15. Special Conditions.

15.01 Coordination; Notice.

A. Permittee shall coordinate its entry onto the property and its intended hours of operations with ARRC personnel through **ARRC's Superintendent Transportation, at (907) 265-2266 and Freight Customer Service, at 907-265-2624.** Any notices given under this Permit by Permittee shall be made to **ARRC's Director, Real Estate, at P.O. Box 107500, Anchorage, Alaska 99510-7500.**

B. The person responsible for on-site coordination of activities under this Permit on behalf of Permittee is **Matt Schram, Project Superintendent at 907-250-9452.** Any notices given under this Permit by ARRC shall be made to **Matt Schram, Project Superintendent at mschram@colaska.com.**

15.02 All work within twenty (20) feet of the tracks, including but not limited to the dumping of material and the movement of material to locations more than twenty (20) feet from the track, shall be conducted and completed as soon as reasonably possible following the dumping of the material on the Permit Area, consistent with safety requirements. All work within twenty (20) feet of the tracks must be done under the supervision of an ARRC employee. Any work that exceeds the twelve (12) hour shift of the ARRC employee present for the unloading, will require either (i) additional ARRC support at the ARRC flagging rate, or (ii) a pause until another available ARRC employee's shift begins. Once all materials have been moved more than twenty (20) feet from the tracks, no further work, including but not limited to the use of equipment shall be allowed within twenty (20) feet of the track. The violation of this requirement shall be a material default under Section 9 and may result, at ARRC's sole discretion, in the immediate termination of this Permit.

15.03 Both the ARRC embankment and permit area must be restored to their original condition by Permittee, consistent with the requirements of Section 11 of this Permit.

15.04 Upon completion of the work to be completed under this permit, all trees, shrubs, and debris shall either be removed from the site, or chipped and spread, by

Permittee as deemed necessary by ARRC. No fallen trees are to remain on the ARRC Right of Way.

ALASKA RAILROAD CORPORATION

Dated: 7.3.2024

By: 
Andrew Donovan
Director, Real Estate

COLASKA, INC DBA QAP

Dated: 7/3/24

By: Matthew Schram
(Please SIGN Here)
Matthew Schram
(Please PRINT Name)
Project Superintendent
(Please PRINT Title)

Attachments:

- Exhibit A – Drawing
- Exhibit B – Standard Specifications for Work on Railroad Property (Rev. 05/28/2021)

Standard Specifications for Work on Railroad Property

- Section 1. Definition of Terms
- Section 2. General Requirements
- Section 3. Safety Requirements
- Section 4. Insurance Requirements
- Section 5. Notice
- Section 6. Flag Protection and Protection of ARRC Traffic
- Section 7. Train Delays
- Section 8. Protection of ARRC Communication Lines
- Section 9. Road Crossings
- Section 10. Power and Communication Lines
- Section 11. Underground Utilities
- Section 12. Open Trenching
- Section 13. Excavations
- Section 14. ARRC Inspectors
- Section 15. Use of Explosives
- Section 16. Snow Removal
- Section 17. Clean-up
- Section 18. Record Drawings
- Section 19. Indemnity

SECTION 1. DEFINITION OF TERMS

<u>ARRC</u>	Alaska Railroad Corporation, P.O. Box 107500, Anchorage, AK 99510-7500.
<u>ARRC Property</u>	all lands owned or withdrawn for the use of the ARRC, including the ARRC's track right-of-way and communications pole line right-of-way.
<u>Chief Engineer</u>	the person employed by the ARRC as head of its Engineering Department or Branch, or his/her authorized representative.
<u>Contractor</u>	any agent of the Permittee, including Contractors or subcontractors employed to construct, reconstruct, operate and/or maintain the Facility. The term "Contractor" shall be synonymous with the term "Permittee" when the Permittee performs the construction, reconstruction, operation and/or maintenance of the Facility with its own personnel.
<u>Director, Real Estate</u>	the person authorized by the ARRC to execute contractual real estate agreements on behalf of the ARRC.
<u>Facility</u>	any improvements owned by the Permittee/Contractor which are to be placed on ARRC property in accordance with written permission executed by ARRC and Permittee.
<u>Telecommunications Supervisor</u>	the person employed by the ARRC as head of its Signals and Telecommunications Department or Branch, or his/her authorized representative.
<u>Permittee/Contractor</u>	the person, company or governmental agency to whom the right to enter upon ARRC Property was given in the form of written permit, easement or contract executed by the ARRC and Permittee/Contractor.
<u>Track Work</u>	all work on the line from the top of subgrade to the top of rail, including geotextile, when required.
<u>Track Materials</u>	all hardware, excluding signals and controllers, associated with the running of a railroad.

SECTION 2. GENERAL REQUIREMENTS

- 2.1 All construction, reconstruction, operation, and maintenance on ARRC Property shall be performed in compliance with these Standard Specifications for Work on Railroad Property, including all revisions thereto.
- 2.2 Failure to comply with these Standard Specifications for Work on Railroad Property shall result in the demand of ARRC to suspend all work on ARRC Property.
- 2.3 All work on or about ARRC Property shall be performed by experienced personnel in a safe and workmanlike manner in keeping with approved ARRC practices, and as specified herein. ARRC traffic and property shall be protected at all times.
- 2.4 The safety and continuity of the operation of the traffic of ARRC shall be of first importance and shall be at all times protected and safeguarded. The Permittee/Contractor and its subcontractors shall be required to perform and arrange their work accordingly. Whenever, in the opinion of the Chief Engineer or his or her representatives, the work or its performance may affect or involve the safety of ARRC's facilities and/or operation of its railroad, the method of doing such work shall first be submitted by the Permittee/Contractor to the Chief Engineer for his/her approval, without which it shall not be commenced or executed. The approval of the Chief Engineer, when given, shall not be considered as a release from responsibility or liability for any damage which ARRC may suffer, or for which it may be liable, as a result of the acts or omissions of the Permittee/Contractor, its subcontractors or employees.
- 2.5 Whenever, in the opinion of the Chief Engineer, the construction may cause a hazard to the safe operation of ARRC, ARRC may, in its discretion, place at the site of the work the required number of qualified employees to protect its operations. The providing of such employees and such other precautions as may be taken shall not relieve the Permittee/Contractor and its subcontractors from liability for the payment of damages caused by their operations. ARRC shall be the sole judge of the necessity for, and as to the number and classification of employees required. The Permittee/Contractor shall reimburse ARRC for the cost and expense incurred in providing such employees.

SECTION 3. SAFETY REQUIREMENTS

- 3.1 The safety of personnel, property, rail operations, and the public is of paramount importance in the execution of any work on ARRC Property. The Permittee/Contractor shall comply with all Federal, State and local governmental regulations (e.g. OSHA, NESC, etc.) applicable to the construction, installation, or maintenance of any Facility. As reinforcement and in furtherance of overall safety measures to be observed by Permittee/Contractor (and not by way of limitation), the following special safety rules shall be followed while working on ARRC Property. Further railroad safety information may be obtained from the ARRC Safety Office at 907-265-2265. Safety information is also available on the ARRC website at www.alaskarailroad.com.

- 3.2 ARRC flag protection is required before any activity can occur on or near a railroad operating facility such as a track, yard, bridge or shop building. For incidental work, such as surveying or inspection, an ARRC furnished flagman will provide a safety briefing prior to the commencement of the work. For any activity involving a disturbance or potential disturbance to the track, track embankment, or any railroad facility, ARRC may require the Permittee/Contractor to submit a specific Railroad Safety Plan prior to startup. Projects which involve activities which cross the tracks or are longitudinal to the tracks will require a specific Railroad Safety Plan and a one hour ARRC provided training course for Permittee/Contractor's project supervisors prior to the initiation of work on ARRC Property. Specific information on Railroad Safety Plans may be obtained from the ARRC Safety Office at 907-265-2265.
- 3.3 The Permittee/Contractor shall arrange for ARRC flag protection when performing any work within 20 feet of any track. All work within 20 feet of the track shall cease when a train passes and all Permittee/Contractor employees shall maintain a distance of at least 20 feet from the track until the train has safely passed. In addition, any work that could come within 20 feet of the track will cease when a train passes. For example, crane or pile driving activities shall stop when trains pass when the maximum boom and suspended load radius can come within 20 feet of the tracks. Pile driving shall not be done when trains are passing the work site. Vehicles and other construction equipment shall not be operated or parked closer than 20 feet from any track without ARRC flag protection.
- 3.4 In the event Permittee/Contractor will be performing construction or other activities on or in close proximity to a railroad track, the Permittee/Contractor shall be responsible for compliance with applicable Federal Railroad Administration's Roadway Worker Protection ("RWP") regulations (49 CFR 214, Subpart C) if its employees qualify as "Roadway Workers"¹. Under 49 CFR 214, Subpart C, railroad contractors are responsible for the training of their employees on these regulations. All RWP related Work shall be conducted in strict compliance with the RWP safety standards set forth in 49 CFR 214, Subpart C and the Permittee/Contractor will be required to submit a Railroad Safety Plan to ARRC to demonstrate compliance with said safety standards prior to beginning any RWP related Work.
- 3.5 In the event Permittee/Contractor will be performing construction or other activities on a railroad bridge, the provisions of 49 CFR 214 regarding bridge worker safety shall apply. All bridge related work shall be conducted in strict compliance with the bridge worker safety standards set forth in 49 CFR 214 and the Permittee/Contractor will be required to submit a Railroad Safety Plan to ARRC to demonstrate compliance with said safety standards prior to beginning any bridge related work.

¹ A Roadway Worker is any employee of a railroad, or of a contractor to a railroad, whose duties include inspection, construction, maintenance, or repair of railroad track, bridges, roadway, signal and communication systems, electric traction systems, roadway facilities, or roadway machinery on or near a track or with the potential of fouling a track.

SECTION 4. INSURANCE REQUIREMENTS

- 4.1 The Permittee/Contractor shall procure and maintain at all times while performing work on ARRC Property, and be covered by the types of insurance with the minimum limits as specified in Section 4.4.
- 4.2 Each policy specified in Section 4.4 shall be: (1) endorsed to include ARRC as an additional insured with respect to the performance of the work; (2) endorsed whereby the insurance company will notify ARRC of any material change, cancellation, non-renewal or expiration of the insurance policy in writing not less than thirty (30) days prior to the effective date; (3) endorsed with a waiver of subrogation rights in favor of ARRC; and (4) endorsed with the Alaska Suit Endorsement.
- 4.3 Prior to commencement of any work on ARRC Property, the Permittee/Contractor, shall deliver to ARRC certificate(s) of insurance showing evidence of the insurance required in Section 4.4.
- 4.4 Alaska Railroad Corporation Minimum Insurance Requirements.
 - a. Commercial General Liability insurance with limits not less than \$5,000,000 per occurrence and \$10,000,000 aggregate for Bodily Injury and Property Damage, including coverage for Premises and Operations Liability, Products and Completed Operations Liability, Contractual Liability, and Broad Form Property Damage Liability. Coverage shall not contain any exclusions for Explosion, Collapse, Underground, Rail Operations, or Work on Railroad Property.
 - b. Automobile Liability insurance on all owned, non-owned, hired and rented vehicles with limits of liability of not less than \$1,000,000 Combined Single Limit for Bodily Injury and Property Damage per each accident or loss.
 - c. Worker's Compensation insurance in accordance with the statutory coverages required by the State of Alaska and, where applicable, insurance in compliance with any other statutory obligations, whether State or Federal, pertaining to the compensation of injured employees assigned to the Work, including but not limited to Voluntary Compensation, Federal Longshoremen and Harbor Workers Act, and the Federal Employers Liability Act.
 - d. If any part of the work to be performed on ARRC Property is located within fifty feet (50') of a railroad track, then the Permittee/Contractor shall also obtain Railroad Protective Liability insurance (Alaska Railroad Corporation as named insured) with limits of liability of not less than \$5,000,000 Combined Single Limit for Bodily Injury and Property Damage per each accident or loss.

SECTION 5. NOTICE

- 5.1 A pre-construction meeting shall be held with ARRC's Chief Engineer and representatives of the Permittee/Contractor and subcontractors prior to the commencement of any work on ARRC Property by the Permittee/Contractor or

its subcontractors. Permittee/Contractor should coordinate the pre-construction meeting with the Project Manager identified in the Permit issued for the work.

- 5.2 The Permittee/Contractor shall give written notice to the Chief Engineer not less than ten (10) days in advance of the commencement of any construction, reconstruction or major maintenance activity on ARRC Property, in order that the necessary arrangements may be made for the protection of ARRC's operations. This notice shall include a description of the proposed work on ARRC Property, schedule of work, and the names of any Permittee/Contractor's subcontractor who may also be working on ARRC Property.

SECTION 6. FLAG PROTECTION AND PROTECTION OF ARRC TRAFFIC

- 6.1 Whenever ARRC flag protection is required, it will be provided by ARRC at Permittee/Contractor's expense. ARRC flag protection is to ensure the safe movement of trains and other rail traffic and shall be done in strict accordance with the ARRC rules on flagging. All flag protection must be scheduled prior to any work commencing within the ARRC right-of-way.
- 6.2 ARRC will, during the progress of the work, utilize as many qualified flag people as in the opinion of the ARRC may be required for the adequate protection of ARRC traffic. All expense for providing such flagpersons shall be paid by the Permittee/Contractor to ARRC.
- 6.3 The Permittee/Contractor shall arrange with ARRC to keep itself informed on the time of arrival of all trains and shall stop any of Permittee/Contractor's operations which might be or cause a hazard to the safe passage of the train past the site of the work from ten (10) minutes before the expected arrival of the train until it has safely passed.
- 6.4 Track outages will only be approved in exceptional cases for limited durations. Prior to a proposed track outage, the Permittee/Contractor shall submit a closure plan to ARRC. The plan will describe the work to be accomplished, the equipment, manpower and other resources required, and the work schedule. Once approved by ARRC, the Permittee/Contractor shall follow the plan. ARRC reserves the right to assume control of the work to reestablish rail service if the schedule is not met. Permittee/Contractor shall bear all costs and damages which may result from failure to meet the closure schedule, in addition to the train delay charges provided for herein.

SECTION 7. TRAIN DELAYS

- 7.1 All work on ARRC Property shall be conducted in such a manner as to prevent delays to trains or other rail traffic operated by ARRC.
- 7.2 Should any of the Permittee/Contractor's or its subcontractor's actions or activities cause delays to trains or other rail or water traffic, the agreed amount of liquidated damages shall be at the following rates and shall be collected from the Permittee/Contractor by ARRC.

Passenger trains each: \$50 per minute of delay, 60-minute minimum charge.

All other rail traffic:	\$50 per minute for each delay over five minutes, 30-minute minimum charge.
Rail barges, or other	No charge for delays of one hour or less; \$1,000 per hour
Connecting Carrier Vessels:	for each hour or any part of an hour thereafter with a minimum charge of \$6,000.

- 7.3 Delay time will be taken from the train sheet in ARRC's Dispatcher's Office, Anchorage for all delays and such train sheet shall be the official document by which the length of time a train is delayed will be determined. If another crew is needed to relieve the original crew, the charge shall also apply to the second crew. If such delay causes a water carrier to miss a sailing, the liquidated damage computation of time covering the period of time to the next possible sailing time shall be in addition to the length of time determined by said train sheet.

SECTION 8. PROTECTION OF COMMUNICATION LINES & FIBER OPTIC CABLE

- 8.1 All work on ARRC Property shall be conducted in such a manner as to protect ARRC's communication facilities at all times from outages resulting directly or indirectly from the Permittee/Contractor's or its subcontractor's operations.

- 8.2 Should any of the Permittee/Contractor or its subcontractor's operations cause outages to said communications facilities, the agreed amount of liquidated damages shall be at the following rates and shall be collected from the Permittee/Contractor:

Open wire communication circuits:	\$1.00 per minute per circuit
Communication cable:	\$1.00 per minute per cable

- 8.3 A minimum charge of \$250.00 will be made for each outage plus the total repair costs. The outage time shall be that as established by ARRC's Test Board, Anchorage.
- 8.4 There shall be no equipment operated or excavation made within fifteen (15) feet of any ARRC communication pole guy, anchor, or other communications apparatus unless authorized in advance by the Telecommunications Supervisor.
- 8.5 Fiber optic cable systems are buried on ARRC's ROW Property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Contractor shall telephone the telecommunications company(ies) involved, arrange for a cable locator, and make arrangements for relocation or other protection of the fiber optic cable prior to beginning any work on ARRC's Property.

SECTION 9. ROAD CROSSINGS

- 9.1 Whenever automatic railroad crossing signals are in the work area, these signals must remain in operating condition at all times. If, as a result of the Permittee/Contractor's or subcontractor's activities the signals become

inoperable, the crossing shall be continuously flag protected until the signals are again operable. See Section 6 for flagging specifications.

- 9.2 When regular railroad crossings are used as haul routes inside or outside the work area, flagpersons shall be provided by the Permittee/Contractor for said crossings in all situations at the discretion of the ARRC.
- 9.3 Temporary road crossings may be installed provided the Permittee/Contractor has acquired from ARRC a temporary road crossing permit for said crossing. If the crossing is not shown on the project plans as approved by ARRC, then it will be at ARRC's sole discretion whether to allow a later-requested crossing.
- 9.4 The temporary road crossing shall be constructed to the length and the standards specified in the temporary road crossing permit. All protective signs required by ARRC shall be provided and properly maintained by the Permittee/Contractor. The temporary road crossing shall be installed under ARRC flag protection in accordance with Section 6 of these specifications.
- 9.5 The flange ways of all road crossings used by the Permittee/Contractor or its subcontractor as haul routes or temporary road crossings shall be kept clean and free of gravel at all times and shall otherwise be maintained to the satisfaction of the Chief Engineer.
- 9.6 When a temporary road crossing is in use, ARRC flag protection shall be provided at all times. See Section 6 for specifications.
- 9.7 When a temporary or private road crossing is not in use, the Permittee/Contractor shall provide suitable barricades (gates with padlocks, posts driven into the ground, etc.) to prevent vehicular access to the crossing.
- 9.8 When not in use during the winter season, the temporary road crossing shall be removed. Upon completion of the work or termination of the crossing permit, the temporary crossing shall be removed and the area restored to its original condition.
- 9.9 The Permittee/Contractor agrees that all others using the private road crossing, except ARRC and its employees, shall be considered agents of the Permittee/Contractor.
- 9.10 Sight Triangles at road crossings shall be maintained by Permittee/Contractor free of vegetation and other obstructions to vision in accordance with the table entitled "Sight Triangle Distance" and as otherwise established and revised from time to time by ARRC. The Sight Triangle Distance table can be provided upon request.
- 9.11 Temporary public road crossings must be included in a traffic control plan submitted by the Permittee/Contractor to Alaska Department of Transportation (ADOT) for review and approval prior to constructing the crossing.

SECTION 10. POWER AND COMMUNICATION LINES

- 10.1 All power and communication lines shall be designed and constructed in accordance with the current edition of the National Electric Safety Code (NESC).

- 10.2 Underground power and communication lines shall be installed in accordance with Section 11 of these specifications. Whenever an underground power or communication line crosses underneath a track, a casing pipe shall be installed for carrying such lines.
- 10.3 The minimum clearance above the top of rail of ARRC track shall be in accordance with the handbook referenced in Section 11.1, plus six (6) inches to allow for future grade raises.
- 10.4 The minimum clearance above ARRC communication lines shall be in accordance with the handbook referenced in Section 11.1.
- 10.5 Additional lines may not be added, or the characteristics of the line(s) changed without the prior written approval of ARRC's Director, Real Estate or Chief Engineer.
- 10.6 Wires shall be strung across ARRC tracks only when ARRC flag protection is provided in accordance with Section 6 of these specifications.
- 10.7 No wires shall be strung across ARRC's communications lines without first receiving prior written approval from ARRC's Telecommunication Supervisor, and such work must be accomplished only at a time and in a manner prescribed by said Telecommunication Supervisor.

SECTION 11. UNDERGROUND UTILITIES

- 11.1 All underground utilities, including culverts, pipelines, and underground power and communication lines, on ARRC Property shall conform to the current American Railway Engineering and Maintenance-of-way Association (AREMA) Manual for Railway Engineering.
- 11.2 Unless another method is authorized in advance and in writing by the Chief Engineer, all underground utilities shall be installed under tracks and roads by boring, jacking or tunneling.
- 11.3 Boring, jacking or tunneling shall be done under ARRC tracks only when ARRC flag protection is provided in accordance with Section 6 of these specifications.
- 11.4 The proposed plan for boring, jacking or tunneling shall be approved by the Chief Engineer prior to commencing the operation.
- 11.5 All boring, jacking or tunneling headings shall be continuously protected against any loss of ground material by shoring and/or cribbing as necessary.

SECTION 12. OPEN TRENCHING

- 12.1 Only when authorized in advance and in writing by ARRC shall any portion of the track be removed to allow trenching for installation of the Facility.
- 12.2 If allowed to open trench, the track may be removed from service only at the time authorized by the Chief Engineer and shall be restored to service within the time period specified by the Chief Engineer. Should the track not be restored to service within the time period specified, the agreed amount of liquidated damages shall be at the rate specified in the written authorization allowing the

open trenching or the liquidated damages in accordance with Section 7 of these specifications, whichever is greater, and shall be collected from the Permittee/Contractor.

- 12.3 All track work shall be accomplished by qualified track persons.
- 12.4 Only that portion of the track structure necessary to excavate, stockpile and install the Facility shall be removed. All track material removed shall be handled, stockpiled and relayed in a manner to avoid damage. Any material which may be damaged shall be replaced by the Permittee/Contractor at its own expense.
- 12.5 The backfill of the trench under the track and in the road bed prism shall be of the same type of material as taken out, except the top 2 feet shall be clean pit run gravel. Backfilling and compaction shall be in one-foot lifts with a compaction of 95% of maximum density in the area affecting the roadbed prism.
- 12.6 The ballast used in replacing the track shall be equal in depth and quality as that which was removed. The track shall be relayed and brought to original grade in accordance with standard ARRC practices. The track shall be resurfaced as often as necessary for a period of 12 months after completion of construction to remove any settlement that may have occurred.

SECTION 13. EXCAVATIONS

- 13.1 Unless authorized in advance and in writing by ARRC, the top of any excavation shall not be within 20 feet of the centerline of any track; nor shall any excavation exceed ten (10) feet in depth regardless of its proximity to track.
- 13.2 No water shall be allowed to stand in open excavations in the track area.
- 13.3 Bridging and shoring shall be adequate to safely carry ARRC traffic and the decision of the Chief Engineer pertaining to same shall be final.
- 13.4 All open excavations shall be continuously protected by flags, flares, barricades or watchpersons, as directed by ARRC.
- 13.5 No excavation shall be left open more than three days, unless authorized by the Chief Engineer.
- 13.6 ARRC embankments and cut slopes shall not be disturbed any more than necessary to accommodate the construction and shall be left in a stabilized condition.
- 13.7 ARRC ditches, culverts and roadways shall be kept clean and free of rock, gravel, construction debris and equipment at all times.

SECTION 14. ARRC INSPECTIONS

- 14.1 ARRC may furnish an inspector during the periods of construction on ARRC Property. The ARRC inspector will inspect the removal and replacement of tracks, excavation, backfill, necessary bridging for tracks, shoring, flagging, lighting, clearances, etc., when necessary. The ARRC inspector will work directly with the representative of the Permittee /Contractor and the decision of the ARRC inspector in matters pertaining to ARRC operations and safety shall be

final. In the event more than one shift is worked, an ARRC inspector will be required for each shift. Presence or absence of an ARRC inspector shall not relieve the Permittee /Contractor of liability for damage done to property of ARRC, or the property of ARRC lessees or permittees having installations on ARRC Property. All ARRC cost and expense for furnishing said inspector(s) shall be collected from the Permittee /Contractor.

SECTION 15. USE OF EXPLOSIVES

- 15.1 The use of explosives shall be done in compliance with all applicable Federal, State and local laws and ordinances regarding same.
- 15.2 No blasting of any kind will be permitted unless the Permittee/Contractor thoroughly safeguards the movement of trains and other rail traffic and personnel in the area where such blasting is being conducted. Before blasting, ARRC flag protection in accordance with Section 6 of these specifications shall be provided on each side of the blast area by the Permittee/Contractor. This flag protection shall not be removed until the track is inspected for damage from the blast.

SECTION 16. SNOW REMOVAL

- 16.1 Snow removal operations shall be conducted in such a manner as to not place snow (1) upon the tracks of ARRC; (2) where it interferes with the normal operation of the automatic crossing signals; or (3) where it impairs the visibility of either highway or rail traffic at the crossing.
- 16.2 Snow removal operations shall be conducted in accordance with Section 3 of these specifications.

SECTION 17. CLEAN-UP

- 17.1 At all times, all work and activities on ARRC Property shall be accomplished in such a manner as to keep the ARRC Property in a neat, orderly and safe condition satisfactory to ARRC.
- 17.2 Upon completion of Permittee/Contractor's work, all equipment and unused materials shall be removed and the ARRC Property shall be left in a neat and clean condition satisfactory to ARRC.
- 17.3 Should the Permittee/Contractor or its subcontractor fail to comply with Section 17.1 and 17.2 above, ARRC may perform the required clean-up. All ARRC costs and expenses for performing this work shall be collected from the Permittee /Contractor.

SECTION 18. RECORD DRAWINGS

- 18.1 Contractor shall provide record drawings (as-builts) of the Project to ARRC promptly upon completion of construction. In addition to record drawings, ARRC may, in its reasonable discretion, require Contractor to provide GPS data or other locational information regarding the completed Project and Contractor agrees to provide such data or information upon ARRC's request. The required method of submittal of record drawings is one hard copy for the ARRC file, to be mailed to

the ARRC Real Estate Department, and one digital copy in AutoCAD, which can be emailed to ARRC Land Services Manager at LandServices@akrr.com .

SECTION 19. INDEMNITY

- 19.1 To the extent not prohibited by applicable statute, Contractor shall indemnify, defend and hold harmless ARRC, its affiliates, and its and their officers, agents and employees (individually an "Indemnified Party" or collectively "Indemnified Parties") from and against any and all loss, damage, injury, death, liability, claim, demand, cost or expense (including, without limitation, attorney's, consultant's and expert's fees, and court costs), fine or penalty (collectively, "Loss") incurred by any person (including, without limitation, any Indemnified Party, Contractor, or any employee of Contractor or of any Indemnified Party) arising out of or in any manner connected with (i) any work performed by Contractor, or (ii) any act or omission of Contractor, its officers, agents or employees, or (iii) any breach of this Agreement by Contractor.
- 19.2 The right to indemnity under this Section 19 shall accrue upon occurrence of the event giving rise to the Loss, and shall apply regardless of any negligence or strict liability of any Indemnified Party, except where the Loss is caused by the sole active negligence of an Indemnified Party as established by the final judgment of a court of competent jurisdiction. The sole active negligence of any Indemnified Party shall not bar the recovery of any other Indemnified Party.
- 19.3 Contractor expressly and specifically assumes potential liability under this Section 19 for claims or actions brought by Contractor's own employees. Contractor waives any immunity it may have under worker's compensation or industrial insurance acts to indemnify the Indemnified Parties under this Section 19.
- 19.4 No court or jury findings in any employee's suit pursuant to any worker's compensation act or the Federal Employers' Liability Act against Contractor may be relied upon or used by Contractor in any attempt to assert liability against any Indemnified Party.
- 19.5 The provisions of this Section 19 shall survive the completion of any work performed by Contractor. In no event shall this Section 19 or any other provision herein be deemed to limit any liability Contractor may have to any Indemnified Party by statute or under common law.

STANDARD LEASE AGREEMENT

This Agreement, dated March First, 2023, by and between an individual known as Kaare and Orvetta Elde of P.O. Box 2105, Seward, Alaska 99664, hereinafter known as the "Landlord",

AND

A business entity known as QAP, hereinafter known as the "Tenant(s)", agree to the following:

OCCUPANT(S): The Premises of KPB Parcels 12509010 & 12509011 are to be occupied strictly by QAP for support of the AKDOT Seward Hwy 17-22.5 Rehabilitation project. Subcontractors and other project related staff working under QAP for this project may also utilize the premises during the term of this agreement.

OFFER TO RENT: The Landlord hereby rents to the Tenant(s), subject to the following terms and conditions of this Agreement, two parcels located within the Kenai Peninsula Borough, #12509010 and 12509011, consisting of 1 cabin(s), 1 house(s), and multiple outbuildings consisting of sheds, shops, etc. hereinafter known as the "Premises".

PURPOSE: The Tenant(s) and any Occupant(s) may use the Premises as agreed upon with the Landlord.

LEASE TERM: This Agreement shall be a one year fixed-period arrangement beginning on March 1, 2023, and ending on February 29th, 2024, with the Tenant(s) having the option to renew at the conclusion of the term. Hereinafter known as the "Lease Term". ✓

RENT: Tenant(s) shall pay the Landlord in equal monthly installments of [REDACTED] (US Dollars) includes applicable Kenai Borough taxes (3% on first \$500/month) hereinafter known as the "Rent". The Rent will be due on the Fifth (5th) of every month and be paid by sending payment to the Landlord's aforementioned mailing address. ✕

UTILITIES: The Landlord shall not pay for any of the utilities and services utilized by the Tenant(s) and will be the responsibility of the Tenant(s) if they so wish to use these services.

MAINTENANCE, REPAIRS, OR ALTERATIONS: The Tenant(s) shall, at their own expense and at all times, maintain premises in a clean and sanitary manner, and shall surrender the same at termination hereof, in as good condition as received. The Tenant(s) may make alterations to the leased premises as agreed upon within "Additional Terms and Conditions" and with the consent of the Landlord.

NOISE/WASTE: The Tenant(s) agrees not to commit waste on the premises, maintain, or permit to be maintained, a nuisance thereon, or use, or permit the premises to be used, in an unlawful manner. The Tenant(s) further agrees to abide by any and all local, county, and State noise ordinances.

COMPLIANCE WITH LAW: The Tenant(s) agrees that during the term of the Agreement, to promptly comply with any present and future laws, ordinances, orders, rules, regulations, and requirements of the Federal, State, County, City, and Municipal government or any of their departments, bureaus, boards, commissions and officials thereof with respect to the premises, or the use or occupancy thereof, whether said compliance shall be ordered or directed to or against the Tenant(s), the Landlord, or both.

SALE OF PROPERTY: If the Premises is to be sold, the Tenant(s) would like first Right of Refusal to potentially purchase the Premises. If there is a new Manager, their contact details for alterations and maintenance shall be forwarded. If the Premises is conveyed to another party, the new owner shall not have the right to terminate this Agreement and it shall continue under the terms and conditions agreed upon by the Landlord and Tenant(s).

DEFAULT: If the Tenant(s) fails to comply with any of the financial or material provisions of this Agreement, or of any present rules and regulations or any that may be hereafter prescribed by the Landlord, or materially fails to comply with any duties imposed on the Tenant(s) by statute or State laws, within the time period after delivery of written notice by the Landlord specifying the non-compliance and indicating the intention of the Landlord to terminate the Agreement by reason thereof, the Landlord may terminate this Agreement. If the Tenant(s) fails to pay rent when due and the default continues for the time-period specified in the written notice thereafter, the Landlord may, at their option, declare the entire balance (compiling all months applicable to this Agreement) of rent payable hereunder to be immediately due and payable and may exercise any and all rights and remedies available to the Landlord at law or in equity and may immediately terminate this Agreement.

The Tenant(s) will be in default if: (a) Tenant(s) does not pay rent or other amounts that are owed in accordance with respective State laws; (b) Tenant(s), their guests, or the Occupant(s) violate this Agreement, rules, or fire, safety, health, or criminal laws, regardless of whether arrest or conviction occurs; (c) Tenant(s) abandons the Premises; (d) Tenant(s) gives incorrect or false information in the rental application; (e) Tenant(s), or any Occupant(s) is arrested, convicted, or given deferred adjudication for a criminal offense involving actual or potential physical harm to a person, or involving possession, manufacture, or delivery of a controlled substance, marijuana, or drug paraphernalia under state statute; (f) any illegal drugs or paraphernalia are found in the Premises or on the person of the Tenant(s), guests, or Occupant(s) while on the Premises and/or; (g) as otherwise allowed by law.

DISPUTES: If a dispute arises during or after the term of this Agreement between the Landlord and Tenant(s), they shall agree to hold negotiations amongst themselves, in "good faith", before any litigation.

SEVERABILITY: If any provision of this Agreement or the application thereof shall, for any reason and to any extent, be invalid or unenforceable, neither the remainder of this Agreement nor the application of the provision to other persons, entities or circumstances shall be affected thereby, but instead shall be enforced to the maximum extent permitted by law.

SURRENDER OF PREMISES: The Tenant(s) has surrendered the Premises when (a) the lease termination date has passed; or (b) Access to the Premise have been returned to the Landlord – whichever comes first. Upon the expiration of the term hereof, the Tenant(s) shall surrender the Premise in better or equal condition as it were at the commencement of this Agreement, reasonable use, wear and tear thereof, and damages by the elements excepted.

RETALIATION: The Landlord is prohibited from making any type of retaliatory acts against the Tenant(s) including but not limited to restricting access to the Premises, decreasing or cancelling services or utilities, or any other type of act that could be considered unjustified.

WAIVER: A Waiver by the Landlord for a breach of any covenant or duty by the Tenant(s), under this Agreement is not a waiver for a breach of any other covenant or duty by the Tenant(s), or of any subsequent breach of the same covenant or duty. No provision of this Agreement shall be considered

waived unless such a waiver shall be expressed in writing as a formal amendment to this Agreement and executed by the Tenant(s) and Landlord.

INDEMNIFICATION: The Landlord shall not be liable for any damage or injury to the Tenant(s), or any other person, or to any property, occurring on the Premises, or any part thereof, or in common areas thereof, and the Tenant(s) agrees to hold the Landlord harmless from any claims or damages unless caused solely by the Landlord's negligence. Prior to termination of this lease agreement, the Landlord and Tenant will inspect the premises and agree upon completion of all terms and conditions. Following completion of this agreement, the Landlord agrees to hold the Tenant(s) harmless from any damages.

NOTICES: Any notice to be sent by the Landlord or the Tenant(s) to each other shall use the following mailing addresses:

Landlord's/Agent's Mailing Address

Karl Elde, 25657 Primrose Rd, Seward, Alaska 99664

Tenant(s)'s Mailing Address

QAP, 240 W 68th Ave, Anchorage, Alaska, 99518

ATTN. Christine Ortega

AGENT/MANAGER: The Landlord does not have an Agent or Manager and all contact in regards to any repair, maintenance, or complaint must go through the Landlord through the following contact information:

Landlord's Phone Number: (907) 288-3672

Email: julieatkinsonelde@gmail.com, kelde907@gmail.com

GOVERNING LAW: This Agreement is to be governed under the laws located in the State of Alaska.

ADDITIONAL TERMS AND CONDITIONS:

The following terms or conditions will be included as part of this Agreement:

- Decisions and questions regarding this agreement be made between authorized QAP personnel (Matt Schram or Daryl Belanger) and Karl Elde (Representative for family)
- QAP to delineate property lines with blue/red flagging, tree clearing areas with green flagging, and Right of Way lines with orange flagging
- Remove and dispose of cabin, woodsheds, and leaning garage contained within Parcel 12509010
- Clear trees from behind cabin down towards house/shop. All stumps to be disposed of.
- Log piles from cleared trees to be placed along Right of Way on Elde's property
- Remove all debris below house and dispose of
- Remove all tractor components and salvageable items to upper gray shed
- Demolish house by end of lease agreement term
- Backfill land to elevation of existing house, top with topsoil and seed by end of lease agreement term
- Place rock and culvert within drainage ditch to access S.E. comer of Elde property abutting Viki Johnson
- Install new water well at location to be determined with Karl Elde
- Fulfill previously assigned agreement between Karl Elde and Matt Schram/Bryan Gallagher dated 2/21/2022 (attached for reference)

AMOUNT (\$) DUE AT SIGNING

Security Deposit: N/A

ENTIRE AGREEMENT: This Agreement contains all the terms agreed to by the parties relating to its subject matter including any attachments or addendums. This Agreement replaces all previous discussions, understandings, and oral agreements. The Landlord and Tenant(s) agree to the terms and conditions and shall be bound until the end of the Lease Term.

The parties have agreed and executed this agreement on March Third, 2023.

LANDLORD(S) SIGNATURE

Landlord's Signature Omessa Rae Eide

TENANT(S) SIGNATURE

Tenant's Signature [Signature]

~~Chris Humphrey, QAP Contract Administrator~~

Chris Humphrey, QAP Area Manager

From: SCHRAM, Matt (ANQAP) mschram@colaska.com
Subject: QAP Lease Extension
Date: Jan 24, 2024 at 9:46:03 AM
To: karl elde kelde907@gmail.com
Cc: BELANGER, Daryl (ANQAP) dbelanger@colaska.com

Hello Karl,

Please see attached lease extension.

If everything looks good to you and your parents please sign it and send it back to me.

Let me know if you have any questions or concerns.

Thanks,

Matt Schram
Project Superintendent
Cell: (907) 250-9452



A COLAS COMPANY

LEASE AMENDMENT

1. **THE PARTIES.** This Lease Amendment ("Amendment") made this 01/26/2024, is by and between:

Landlord: Kaare and Orvetta Elde ("Landlord") and

Tenant: QAP ("Tenant").

The Landlord and Tenant are each referred to herein as a "Party" and, collectively, as the "Parties."

2. **EXISTING LEASE.** The Parties agree to amend a lease signed by both the Landlord and Tenant on 01/26/2024, for the property located at KPB Parcels 12509010 & 12509011 ("Existing Lease").

3. **AMENDMENTS.** The following terms of the Existing Lease are amended as follows:

Extend the lease term from the current termination date of 2/29/24 to 10/31/24 with the option to extend the lease on a month to month bases for up to an additional two months if needed. Demolition of all existing structures currently located on leased property.

E3-43

All other portions of the terms and conditions of the Existing Lease shall remain in full force and effect.

4. **EXECUTION.** This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the date first written above.

Landlord's Signature: Orvetta Rae Elde Date: 01/26/2024
Print Name: Kaare and Orvetta Elde

Tenant's Signature: Chris Humphrey Date: 1/24/24
Print Name: QAP

eSign

Page 1 of 1

**KENAI PENINSULA BOROUGH PLANNING COMMISSION
Resolution 2024-13
Seward Recording District**

A resolution granting approval of a Conditional Land Use Permit to operate a sand, gravel, or material site for parcels described as RENFRO'S LAKESIDE RETREAT NO 6 LOT 2F EXC THAT PTN CONVEYED TO STATE OF AK DOT IN WD 2017-633, LAKEVIEW GROUP OF HOMESITES-USS 2534 LOT I (HS 88) and LOT J (HS 60), Seward Recording District, Third Judicial District, State of Alaska.

WHEREAS, KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough; and

WHEREAS, KPB 21.29 provides that a Conditional Land Use Permit is required for material extraction which includes: Endorsement II - processing; and

WHEREAS, on Thursday, August 1, 2024 the applicant, COLASKA INC DBA QAP, submitted to the Planning Department a Conditional Land Use Permit application for a portion of KPB Parcels 12509028, 12509010, and 12509011, which are located within the rural district; and

WHEREAS, public notice of the application was mailed on or before 8/21/2024 to the 37 landowners or leaseholders within a half-mile of the subject parcel pursuant to KPB 21.25.060; and

WHEREAS, public notice was sent to the postmaster in the Moose Pass area requesting that it be posted at the local Post Office; and

WHEREAS, public notice of the project was posted as pursuant to KPB 1.08.180(B)(1)(3); and

WHEREAS, a public hearing was held at the September 5, 2024 meeting of the Moose Pass Advisory Planning Commission; and

WHEREAS, a public hearing was held at the Monday, September 9, 2024 meeting of the Kenai Peninsula Borough Planning Commission;

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH:

Section 1. That the land use and operations are described and shall be conducted on KPB Parcel Number(s) 12509028, 12509010, and 12509011, RENFRO'S LAKESIDE RETREAT NO 6 LOT 2F EXC THAT PTN CONVEYED TO STATE OF AK DOT IN WD 2017-633, LAKEVIEW GROUP OF HOMESITES-USS 2534 LOT I (HS 88) and LOT J (HS 60). The total area to be disturbed under this activity is approximately 21.1

acres. The applicant, COLASKA INC DBA QAP, proposes to add the following endorsement(s): Endorsement II - processing and will reclaim the site to a stable condition upon completion of the project.

Section 2. Findings of Fact pursuant to KPB 21.25 and 21.29:

1. KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough.
2. KPB 21.29 governs material site activity within the rural district of the Kenai Peninsula Borough.
3. KPB 21.29 provides that a Conditional Land Use Permit is required for material extraction that disturbs more than 2.5 cumulative acres or processes material.
4. A public hearing of the Planning Commission was held on Monday, September 9, 2024 and notice of the meeting was published, posted, and mailed in accordance with KPB 21.25.060 and KPB 21.11.
5. The proposed cumulative disturbed area within the parcel is approximately 21.1 acres.

Parcel Boundaries

6. All boundaries of the subject parcel shall be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter. Field verification and staking will require the services of a professional land surveyor. The site plan indicates the property boundary within 300 feet of the work area was staked in 2024.

Buffer Zone

7. A buffer zone shall be maintained around the excavation perimeter or parcel boundaries. The site plan and application propose the following buffers, which shall not overlap an easement:
 - a. North: 50 ft. of natural or improved vegetation
 - b. South: 50 ft. of natural or improved vegetation
 - c. East: 50 ft. of natural or improved vegetation
 - d. West: 50 ft. of natural or improved vegetation
8. A 2:1 slope shall be maintained between the buffer zone and excavation floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.
9. Per KPB 21.19.050(A)(c), buffers provided using vegetation and/or a fence shall be of sufficient height and density to provide visual and noise screening of the proposed use as deemed appropriate by the planning commission.
10. Buffers shall not cause surface water diversion which negatively impacts adjacent properties or waterbodies.
11. At its discretion, the planning commission may waive buffer requirements where the topography of the property or the placement of natural barriers makes screening not feasible or not necessary. Buffer requirements shall be made in consideration of and in accordance with existing uses of adjacent property at the time of approval of the permit. There is no requirement to buffer the material site from uses which commence after the approval of the permit.

Processing

12. The applicant indicates that material processing will take place on the property. Any equipment used for conditioning or processing materials will be operated at least 300 feet from the North,

East and South parcel boundaries.

13. The applicant requests a waiver to process materials within 157 feet of the West property line.
14. Any equipment used for crushing rock or other materials will not be operated between 10:00 p.m. and 6:00 a.m., to minimize noise disturbance to other properties.

Water Source Separation

15. Material extraction is prohibited within 100 horizontal feet of any water source existing prior to the original permit issuance.
16. The site plan indicates that there is 1 well located within 300 feet of the proposed laydown area.
17. The applicant is required to maintain a 2-foot vertical separation from the seasonal high-water table.
18. The application indicates that the seasonal high-water table is greater than 12 feet below grade and was determined by test holes excavated by applicant.
19. The applicant may not dewater by pumping, ditching or some other form of drainage unless an exemption is granted by the planning commission.

Excavation in the Water Table

20. The application states that work is not anticipated to be completed in the water table.

Waterbodies

21. The site plan states that there are no wetlands or surface waters within the proposed excavation area.
22. An undisturbed buffer shall be left and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains as defined in KPB 21.06. In order to prevent discharge, diversion, or capture of surface water, an additional setback from lakes, rivers, anadromous streams, and riparian wetlands may be required.

Fuel Storage

23. The applicant is required to store fuel containers larger than 50 gallons in impermeable berms and basins capable of retaining 110 percent of storage capacity. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.

Haul Route

24. The site plan indicates that the material haul route will be as follows: Haul route will access the site from three locations, corresponding to parcels 12509028, 12509010 and 12509011. Each access will lead directly to the Seward Highway. A fourth access will be constructed, on the West Side of parcel 12509028, that will allow train cars to be loaded with material.

Roads

25. Operations shall be conducted in a manner so as not to damage borough roads as required by KPB 14.40.175 and will be subject to the remedies set forth in KPB 14.40.

Dust Control

26. Dust suppression is required on haul roads within the boundaries of the material site by application of water or calcium chloride.

Hours of Operation

27. Rock crushing equipment may only be operated between 6:00 a.m. and 10:00 p.m.

Reclamation

28. The applicant has submitted a reclamation plan consistent with KPB 21.29.050(12)(a).
29. No extraction of material is proposed.
30. Material sites that exceed 50,000 cubic yards per year must meet the bonding requirement of KPB 21.29.050(12)(b). The amount of bond will be according to AS 27.19.040 unless the State of Alaska waives these requirements. In the case of a waiver the Kenai Peninsula Borough (KPB) would require the applicant to post bond to cover the anticipated reclamations costs and will be in the amount to be determined by the planning director as stated in KPB 21.29.050.

Other Permits

31. The permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the Borough's floodplain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives.

Signage

32. For permitted parcels on which the permittee does not intend to begin operations for at least 12 months after being granted a Conditional Land Use Permit, the permittee shall post notice of intent on parcel corners or access, whichever is more visible. Sign dimensions shall be no more than 15" by 15" and must contain the following information: the phrase "Permitted Material Site" along with the permittee's business name and a contact phone number.

Section 3: Permit Conditions

1. The boundaries of the subject parcel shall be staked at sequentially visible intervals where the parcel boundaries are within 300 feet of the excavation perimeter. Stakes must be in place and visible as long as the material site is permitted.

2. The permittee shall maintain the following buffers around the excavation perimeter or parcel boundaries. The site plan and application propose the following buffers, which shall not overlap an easement:
 - a. North: 50 ft. of natural or improved vegetation
 - b. South: 50 ft. of natural or improved vegetation
 - c. East: 50 ft. of natural or improved vegetation
 - d. West: 50 ft. of natural or improved vegetation
3. The permittee shall maintain a 2:1 slope between the buffer zone and pit floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.
4. The permittee shall not allow buffers to cause surface water diversion which negatively impacts adjacent properties or water bodies.
5. The permittee shall operate all equipment which conditions or process material at least 300 feet from the North, East and South parcel boundaries. The applicant requests a waiver from the 300-foot processing distance on the West side of the property.
6. The permittee shall not extract material within 100 horizontal feet of any water source existing prior to issuance of this permit.
7. The permittee shall maintain a 2-foot vertical separation from the seasonal high-water table.
8. The applicant may not dewater by pumping, ditching or some other form of drainage unless an exemption is granted by the planning commission.
9. The permittee shall maintain an undisturbed buffer and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and regulatory floodplains.
10. The permittee shall ensure that fuel storage containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
11. The permittee shall notify the planning department of any further subdivision or return to acreage of this parcel. The planning director may issue a written exemption from the permit amendment requirement if it is determined that the subdivision is consistent with the use of the parcel as a material site and all original permit conditions can be met.
12. The permittee shall conduct operations in a manner so as not to damage borough roads as required by KPB 14.40.175, and will be subject to the remedies set forth in KPB 14.40 for violation of this condition.
13. The permittee shall provide dust suppression on haul roads within the boundaries of the material site by application of water or calcium chloride.
14. The permittee shall not operate rock crushing equipment between the hours of 10:00 pm and 06:00 am.
15. The permittee shall reclaim the site as described in the reclamation plan for this parcel and approved by the planning commission.
16. The permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the Borough's floodplain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and

Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives.

17. The permittee shall post notice of intent on parcel corners or access, whichever is more visible if the permittee does not intend to begin operations for at least 12 months after being granted a conditional land use permit. Sign dimensions shall be no more than 15" by 15" and must contain the following information: the phrase "Permitted Material Site" along with the permittee's business name and a contact phone number.
18. The permittee shall operate in accordance with the application and site plan as approved by the planning commission. If the permittee revises or intends to revise operations so that they are no longer consistent with the original application, a permit modification is required in accordance with KPB 21.29.090.
19. This Conditional Land Use Permit is subject to annual review by the planning department to ensure compliance with the conditions of the permit. In addition to the penalties provided by KPB 21.25.090, the planning commission may revoke a permit issued pursuant to this chapter if the permittee fails to comply with the provisions of this chapter or the conditions of the permit. The planning director shall provide at least 30 days written notice to the permittee of a revocation hearing before the planning commission.
20. Once effective, this Conditional Land Use Permit is valid for five years. A written request for permit extension must be made to the planning department at least 30 days prior to permit expiration, in accordance with KPB 21.29.070. The request must be accompanied by the applicable permit renewal and recording fees.
21. All permits, permit extensions, modified permits, prior existing uses, and terminations shall be recorded.
22. The Planning Department is responsible for filing the Planning Commission resolution. The applicant will provide the recording fee for the resolution to the Planning Department.

SECTION 4. That based on the above findings, the Planning Commission concludes as a matter of law that the application has met all the requirements of KPB 21.25 and KPB 21.29, and through imposition of the conditions under KPB 21.29.050, the Planning Commission concludes as a matter of law that the application meets the six standards found in KPB 21.29.040:

CONCLUSIONS OF LAW

1. The proposed activity must protect against lowering of water sources serving other properties. Findings 15-22 and Conditions 6-9 appear to meet this standard.
2. The proposed activity must protect against physical damage to adjacent properties. Findings 6-11 and Conditions 1-4, 10, 12 appear to meet this standard.
3. The proposed activity must minimize the off-site movement of dust. Findings 12, 26 and Condition 13 appear to meet this standard.
4. The proposed activity must minimize noise disturbance to other properties. Findings 7, 9, 12, 14, 27 and Conditions 2, 5, 14 appear to meet this standard.
5. The proposed activity must minimize visual impacts. Findings 7, 9 and Condition 2 appear to meet this standard.
6. The proposed activity must provide for alternate post-mining land uses. Findings 28-30 and Condition 15 appear to meet this standard.

ADOPTED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH ON
THIS _____ DAY OF _____, 2024.

Jeremy Brantley, Chairperson
Planning Commission

ATTEST:

Ann Shirnberg
Administrative Assistant

PLEASE RETURN
Kenai Peninsula Borough
Planning Department
144 North Binkley St.
Soldotna, AK 99669



«OWNER»
«ATTENTION»
«MAILING_ADDRESS»
«MAILING_CITY», «MAILING_STATE» «MAILING_ZIPCODE»

August 21, 2024

**KENAI PENINSULA BOROUGH PLANNING COMMISSION
NOTICE OF PUBLIC HEARING**

Public notice is hereby given that a Conditional Land Use Permit application has been received to develop a material site (gravel pit) on a property located in the Moose Pass area. These applications are reviewed by the Kenai Peninsula Borough Planning Commission in accordance with KP 21.25 and KP 21.29. You are receiving this notice because you are a landowner within a half-mile radius of the subject property, and are invited to provide comment at the below public hearing.

- Applicant:** COLASKA INC DBA QAP
- Landowner:** COLASKA INC DBA QAP
- Parcel Number(s):** 12509028
- Legal Description:** RENFRO'S LAKESIDE RETREAT NO 6 LOT 2F EXC THAT PTN CONVEYED TO STATE OF AK DOT IN WD 2017-633
- Address:** 27083 Seward Hwy
- Project Description:** This application is requesting a modification to PC2022-21 to expand the permit area, additional egress/egress, and create a 100-foot-wide access to the ARRC ROW to allow machinery to load rail cars.
- Public Hearing:**
- Date and Time:** Monday, September 9, 2024 at 7:30 p.m.
- Location:** Kenai Peninsula Borough
Betty Glick Assembly Chambers
144 N. Binkley, Soldotna, AK 99669
- Zoom Meeting ID:** Meeting ID 907 714 2200
- Zoom Link:** <https://us06web.zoom.us/j/9077142200>
- Telephonic:** 1-888-788-0099 or 1-877-853-5247

Public Comment: You can provide verbal comment at the hearing (see information above). You may also submit written comments by emailing them to rraidmae@kpb.us. **Written comments must be received by 1:00 pm Friday, September 6, 2024.** Note that persons who participate in the public hearing, either by written or verbal comment, may appeal the Planning Commission's decision within 15 days of the date of notice of the decision.

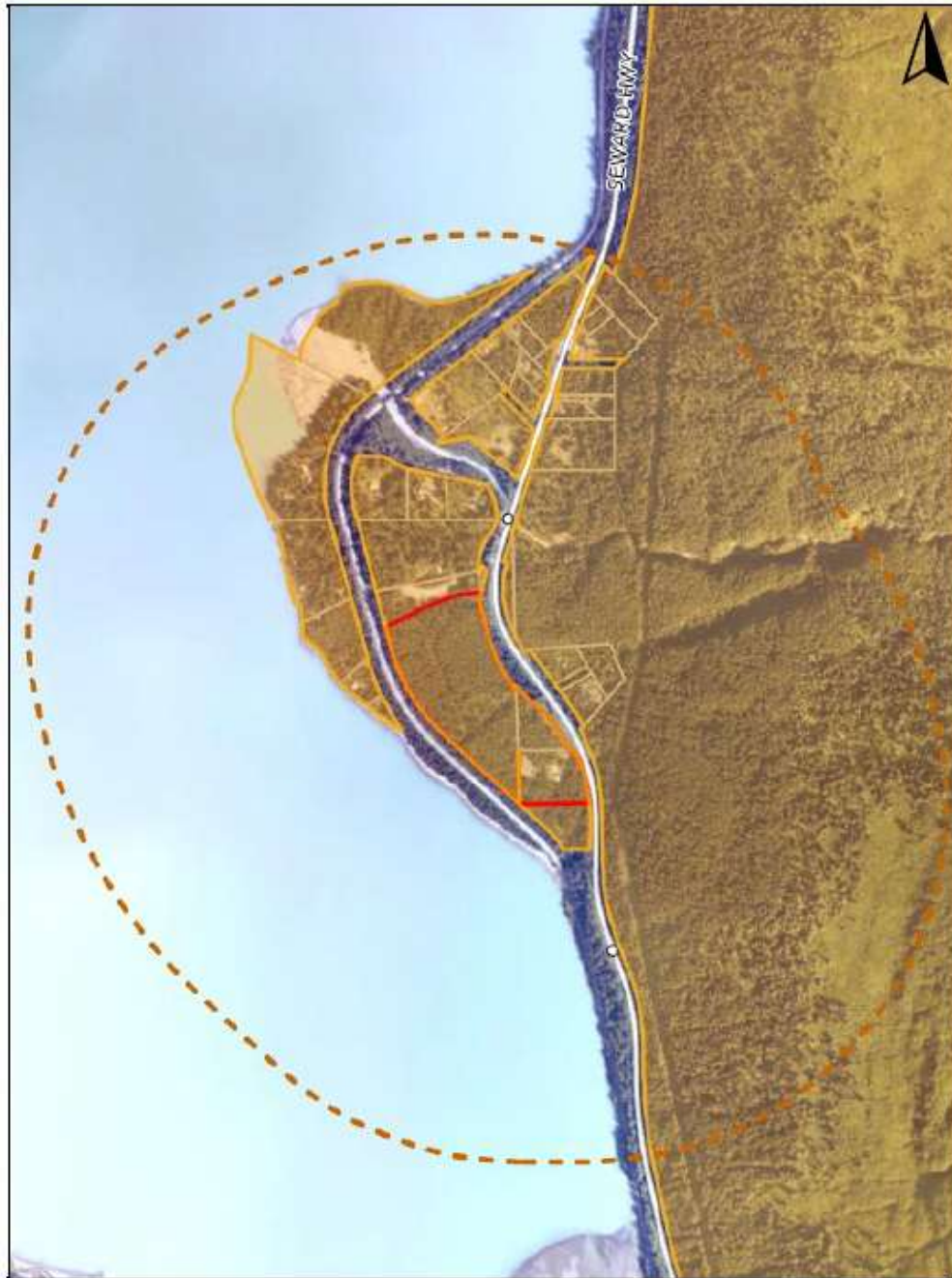
The meeting packet will be posted the week prior to the meeting. Once it has been posted, you can view the application and additional maps at kpb.legistar.com/Calendar. For additional information, contact Ryan Raidmae, at rraidmae@kpb.us or 907-714-2462.

Please see the attached vicinity map of the proposed activities.



KENAI PENINSULA BOROUGH
Planning

Parcels Within 1/2 Mile of Proposed CLUP
Colaska Inc. DBA QAP, Crown Point Laydown Yard



Legend

- Tax Parcels



Tuesday, August 20, 2024

The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.

From: [Dawn Ernst](#)
To: [Raidmae, Ryan](#); [Ruffner, Robert](#)
Subject: <EXTERNAL-SENDER>QAP violation of conditional use permit
Date: Saturday, August 17, 2024 9:56:29 AM

CAUTION: This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

From: Mark & Dawn Ernst
27243 Seward Hwy. (mile 20, Victor Creek)
Parcel #12510001

Hello —

We want to go on record in opposition to the KPB giving any extension or modification to QAP's Conditional Use Permit on the highway project here that might accommodate their current (and planned) violations, as we understand it – clearing the already-reduced buffers (i.e. cutting down trees up to the tracks) to the end goal of loading of gravel via the railroad. We request that you hold QAP to their original borough-approved permit to replant the violated areas asap to the permit's buffer depth and height.

Our property (as well as those of Gary Glasgow, Steve Astillero and Bonnie Frier, Mitch Johnson, John Grimes and Jan Schultz) abuts the railroad tracks, which, if we are understanding correctly QAP's intentions to move gravel via the rails, means even more noise for all of us here – both from QAP loading gravel into train cars and the additional sounding of train horns mandated at the two crossings here amongst our homes (four approx. 110-decibel blasts at both crossings) from these extra trains.

How long would we have this going on if KPB approves their CUP modification request, and what would be the daily frequency of loads and trains? Time of day constraints?

At the Public Hearings we attended and participated in before this project began, we voiced concerns about EXACTLY what is happening now, that this site would continue to be used even after the 3-year road project. And here we are.

Curious where QAP's \$300 daily fine monies go?

Thank you,

Mark & Dawn Ernst

From: [Jan-Ake Schultz](#)
To: [Raidmae, Ryan](#)
Subject: <EXTERNAL-SENDER>QAP
Date: Wednesday, August 14, 2024 3:46:10 PM

CAUTION: This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

It has come to my attention that QAP is persisting in it's bad behavior as a hideous neighbor.

It is violating its conditional use permit by cutting down old growth forest, expanding its sphere of operation beyond its original proposals, renegeing on its promises to control unnecessary sound violations, and displaying utter disregard for its peaceful neighbors by failing to implement the promised new generation of back up beeper', amongst other things

Our community has had to endure incessant noise and traffic obstructions for three years. This on a project that moved the highway roadbed 6 inches at the cost of nearly \$80, 000,000.

QAP gives Lip service to environmental and Kenai Peninsula Borough regulations, breaks agreements with impunity, and then ask for forgiveness.

There is no indication that this behavior pattern will change.

As a taxpayer for the borough, it galls me that we receive no fire service, No police protection, no services of any kind in exchange for our tax dollars.

The fact that our elected representatives likewise give us no consideration while they kowtow to the high net worth individuals that run QAP for a significant profit is a further thorn in my side.

I participated in the zoom call at the initial granting of the conditional use permit. A permit granted for a parcel that was too small to begin the operation, but which has again been doubled in size by appropriation of neighboring land parcels. (Without regulatory review)

It was clear that the board members participating in the original zoom call, had no intention of changing the predetermined decision, or considering the numerous and significant objections of all the local populace.

One of the most scenic sections of the Seward national scenic byway has now been permanently degraded under the watch of such short sighted civic employees. Employees that supposedly work for us, the taxpayers, not Mr. QAP

I stand apoplectic when I hear that you've levied a fine of only \$300 for these further egregious violations

\$300 in the face of \$80 million. This is projected to change behavior? Isn't the fine for throwing a hamburger wrapper out the car window higher?

I can only hope that our elected representatives can see the farce that is playing out and say No to any amendment of the conditional use permit, can say no to any renewal of this conditional use permit! And then, God willing, hopefully in 5, 10 or 50 years time this beautiful part of Alaska can revert to a more peaceful and natural state..

Let QAP destroy other parts of Alaska that aren't surrounded by neighborhoods and peaceful, tax paying landowners. Other areas of Alaska that aren't on the shores of Kenai lake. Other aread that aren't adjacent to the Iditarod national historic trail.

And for Goodness sake, Levy finds that aren't just a rounding error on QAP's daily diesel bill!

Jan-Åke Schultz

From: [Louis Garding](#)
To: [Raidmae, Ryan](#); [Ruffner, Robert](#)
Subject: <EXTERNAL-SENDER>QAP
Date: Monday, August 19, 2024 10:38:21 PM

CAUTION: This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

> Ryan Raidmae and Robert Ruffner,

>

> As a local resident of the Victor Creek community I am reaching out to you in regards to the recent violation of the CUP (conditional use permit) by QAP (Quality Asphalt Paving). I oppose the approval of any modifications to their existing CUP as they have already shown they cannot follow the rules set forth. As a property owner in the immediate area, this has an impact that is far reaching for all of us. Removal of the required 50' of vegetation buffer is not only a violation of the CUP, but a violation to the residents of the area who now have to deal with the visual impact, additional noise pollution, and dust and light pollutants. In the original CUP, the Kenai Borough Planning Commission Members already made an alarmingly poor decision and gave QAP a waiver for the 300' processing distance on the west side of the property and brought it down to 157' (almost a half of what it was suppose to be). Now QAP has removed a swath of the 50' vegetation buffer on that same side making it even worse. QAP already has a designated haul route along the road system. QAP will need to find another solution to put gravel on railroad cars from their material site. They can use their existing haul route to a designated access crossing that the railroad has to load the gravel. I can't imagine the future if you approve this modification. They will have unlimited access to load material (dirt, gravel, riprap, shot rock, etc) in the future and take it to where ever it is needed along the railroad belt. Thus we will have the challenges that exist today on the roadway added to the railroad and then we have to deal with two points of contention. We had asked before for this site not to be placed in our back yards, yet it was approved. We are again asking for the modification of the existing CUP not to be approved. How many more challenges will we face in the future. I ask that they immediately add a tiered slope of top soil to the impacted area so they can replant this coming spring with a dense forest of mature trees including hemlock, spruce and birch native to the area. In addition to that, I ask that they increase the existing dirt berm in that immediate area to be consistent with the top of the existing trees.

>

> Thank you for your time and dedication to preserving why we live here!

>

> Please reach out if you have questions.