

Diamond Willow Estates/ Fairfield LOZ

17 Mar 2015

Dear Kenai Borough Assembly,

The reason we put forth the effort to create this Local Option Zoning (LOZ) petition and submit it to the Borough was solely to protect our property value, drinking water, quality of life and provide safety for our children. It explicitly states in the Diamond Willow Estates Subdivision covenants (page 2/3 of the packet: the purpose of these covenants is to assure that property owners will be fully protected from poor quality surroundings and that they will be assured of pleasant, sanitary and safe sites to erect their homes. It goes further to say in paragraph 4. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. Because covenant disputes must be resolved through the civil court system and can be very drawn out and expensive, the LOZ process seemed to be a more logical solution.

We first found out about LOZ during the Aug 25, 2014 Kenai Borough Planning Meeting where Sean Cude initially applied for his Conditional Land Use Permit. At this hearing, Max Best stated: a property owner can be brought in even when they don't want to be when there are three quarter of the people that are interested in keeping it that way (see page 4). Although the Planning Commission denied this permit, we, as a neighborhood, still pursued the LOZ option. The LOZ petitions were created by Bruce Wall the Borough Planner and met all the requirements. The required signatures were gathered from the property owners and submitted to the borough in the required time. The Borough planning and Legal Dept validated the signatures. We would like the R-1 LOZ to be approved in their entirety. The Borough Assembly does have the power to add the additional Borough owned lots connected to the Fairfield Addition. Five of these lots were intentionally left out, because the petitioners did not feel they could get the additional 20 signatures required because the Borough would not sign the petition.

Ms. Gibbs and Mr. Amend stated that they were opposed to the LOZ because it would devastate their hay business as stated letter submitted 25 Nov 15 to the Borough assembly (pg 5). In this letter they stated: There are no plans to change what we've been doing for the past 30 years. This letter was obviously submitted to gain the sympathy of the Assembly because they have no intention in continuing the Hay field long term. In a letter submitted to the Borough on 14 Dec 2014 (see pg 6) when Ms. Gibbs and Mr. Amend state: lets use the 55 acres, of hayfield and subdivide it into 45 lots. Now we build a home, \$200.000 on each lot...etc. This letter states their intent. Furthermore, in the Borough Planning Commission meeting (15 Dec 2014) Ms. Gibbs and Mr. Amend submits two plats for approval (pg 7 and 8). Note that in the Sandhill Acres subdivision there is a comment on the 30-acre remainder: **Proposed Sunville Acres subdivision**. This is clear evidence that Ms. Gibbs and Mr. Amend have no intention of continuing the hay field operation long term. With this newly discovered intent, there is no conflict in making the existing hay field R-1 because it falls in line with the proposed development plan of the owners.

At the 21 Jan 2015 Board of Adjustment hearing, the Planning Commission decision to deny the gravel pit was overturned. This should not exempt the lots C, D and E from becoming R-1. Once this property has been excavated and reclaimed, which will be grandfathered in, the property would revert to R-1 regulation to protect the property owners from future heinous commercial activity. I will discuss this more on the Diamond Willow/Ravenwood LOZ.

We request the Assembly to approve the Diamond Willow/Fairfield R-1 LOZ in its entirety. Thank you.


Travis Penrod
Diamond Willow Estates Homeowner.

Agenda Item M.4
Committee Lands
Page Number 35

BUILDING AND USE RESTRICTIONS
FOR
DIAMOND WILLOW ESTATES

The W $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$ and Gov't Lot 3 Sec. 24
T5N, R11W S.M. AK. Containing 152.4 Ac. \pm
Located in the Kenai Peninsula Borough.

PREAMBLE: The purpose of these covenants is to assure that property owners will be fully protected from poor quality surroundings and that they will be assured of pleasant, sanitary and safe sites to erect their homes. These covenants will be in effect from date of record on the DIAMOND WILLOW ESTATES.

1. LAND USE AND BUILDING TYPE

No lot shall be used except for residential purposes except Tract A and Lots 7, 8, 1 of Block 4 and Lots 1, 12 of Block 5. No building shall be erected, altered, placed or permitted to remain on any lot other than one detached single family dwelling not to exceed two and one-half story in height and a private garage for not more than two cars. No lot shall be subdivided.

2. BUILDING LOCATION

No building shall be located on any lot nearer to the front lot line or nearer to the side street line than the minimum building set-back lines shown on the recorded plat. In any event no building shall be located on any lot nearer than 20 feet to the front lot line or nearer than 10 feet to any side street line. No building shall be located nearer than 20 feet to an interior lot line, except that now side yard shall be required for a garage or other permitted accessory building located 5 feet or more from the minimum building set-back line. No dwelling shall be located on any interior lot nearer than 15 feet to the rear lot line.

3. EASEMENTS

Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on recorded plat.

4. NUISANCES

No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

5. TEMPORARY STRUCTURES

No structure of temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence either temporary or permanently.

6. GENERAL PROVISIONS

These covenants are to run with the land and shall be binding on all parties and persons claiming under them for a period of twenty-five years

from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of 10 years unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part.

7. ENFORCEMENT

Enforcement shall be by proceedings at law or equity against any person or persons violating or attempting to violate any covenant either to restrain violation or recover damages.

8. SEVERABILITY

Invalidation of any of these covenants by judgment or court order shall in no wise affect any of the other provisions, which shall remain in full force and effect.

9. SIGNS

No sign of any kind shall be displayed to the public view on any lot except one professional sign not of more than one square foot, one sign of no more than 5 square feet advertising the property for sale or rent or signs used by a builder to advertise the property during the construction and sales period.

10. PROTECTIVE SCREENING AND SELECTIVE CLEARING OF LOTS

Clearing on all lots shall be selective and not cover more than fifty (50%) percent of the gross lot area, with the remaining area left in its natural state.

11. LIVESTOCK AND POULTRY

No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purposes. Not more than one dog may be kept on any one lot.

12. GARBAGE AND REFUSE DISPOSAL

No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

13. WATER SUPPLY

Individual water supply system and sewage disposal system on each lot shall be installed and maintained in compliance with the standards and requirements of the State of Alaska.

DATED this _____ day of March, 1975.

William E. Gibbs
WILLIAM E. GIBBS

State of Alaska

Kenai Recording District, Third Judicial Division

On Aug. 7, 1975 before me, undersigned, a Notary Public in and for the State of Alaska, personally appeared William E. Gibbs, known to me to be the person of William E. Gibbs owner of property referred to in the foregoing instrument and who executed same instrument on behalf of William E. Gibbs.

Seal

My commission expires

Notary William E. Gibbs Aug 7 3 04 PM '75

75 08 08 46
7-
-EE9
Bibbs
1:55 Bibbs-54

25 Aug 14 Borough comments on covenants and LOZ

Commissioner Foster stated that he has always been concerned about the role of the City or the Borough with covenants. The applicant stated that these parcels are not part of the covenants however it was clear that Lots C, D and E are part of the covenants which is where all the gravel was going to come from. There is the concern that there will be litigation if this is approved. He asked where the Borough would want to be in this situation knowingly be granting not only the subdivision of putting these lots together but also with the permit in this kind of situation. He asked staff if they have ever been in this type of situation before. Mr. Best replied no, as far as covenants they try to stay out of that arena. Commissioner Holsten asked what he meant by staying out of the arena. She asked if they try not to approve things are in violation or contrary to the covenants. Mr. Best replied that was something the neighborhood would have to settle on their own. He didn't think it played into the applicable standards that they apply to extract material. One of the standards that they try to uphold is not whether it was against the covenants. They try to look at it from the perspective of the six standards that they have set and have they met them. Commissioner Foster stated this property is not within the City but this is a subdivision where there are sufficient owners that apparently opposed to it. He asked if a Local Option Zoning could occur if the subdivision applied for it. Mr. Best replied yes, that was correct. They could have applied by having 12 contiguous lots and could have included those three lots. The three quarters of the property that are within the Local Option Zone informed would have to adhere to that. A property owner can be brought in even when they don't want to be when there are three quarters of the people that are interested in keeping it that way. The reason he says the three lots was because the average of the 12 or more lots have to fall within 50% of that average either above or below. They have to be similar in size. He stated had the landowners applied for this earlier then they could have tied up those three lots in a local option zone that the Borough would have administered through zoning.

Mercedes Gibbs

From: Oliver Amendjr <oliveramendjr@yahoo.com>
Sent: Tuesday, November 25, 2014 7:31 AM
To: Mercedes Gibbs
Subject: rezonig

The proposed zoning change to our 55 acre hayfield will be devastating. The restriction of the change to "R-1" will effectively put us out of the farming business. This family business has been in operation for over 30 years. There are no plans to change what we've been doing for the past 30 years. The restrictions of "R-1" will impose are life changing for the farm. If we don't get the hay in the allotted time of 365 days we lose the hayfield. In 2013 the weather was so rainy that we couldn't harvest the hay until 2014. In the past we've had equipment break downs and medical issues that have prevented us from harvesting the hay, in the 365 day restriction. We are told that if this zoning change is pushed through we will not be allowed to erect a barn. The land that the barn is on has been sold. We plan to relocate the barn to the hayfield as well as an area to park all the farm equipment. Mr. Bruce Wall had stated to me that he would not enforce the restriction of 365 days if we could not get the hay harvested in the time, imposed by the zoning change. If Mr. Wall has the latitude to pick and choose which regulation he chooses to enforce or not to enforce, why change what has worked for over 30 years? Its a sad day when one individual can scare a neighborhood into believing a lie. Mr. Penrod has single handedly made people believe the hayfield is going to be turned into a gravel pit. This land will never be anything but a beautiful piece of property people in the area will enjoy for decades to come. Evil will prevail when good men do nothing. We would have liked to had some input into the petition process so the stories, that were told, could have been explained away. We were the last to hear about the petition being circulated. Please do not put us out of business.

Agenda Item M-8
Committee Lands
Page Number 176

Mercedes Gibbs

From: Oliver Amendjr <oliveramendjr@yahoo.com>
Sent: Sunday, December 14, 2014 9:40 PM
To: Mercedes Gibbs
Subject: Fw: Rezoning of diamond willow estates to R-1

----- Forwarded Message -----

From: Oliver Amendjr <oliveramendjr@yahoo.com>
To: Mercedes Gibbs <mgibbs@kpbsd.k12.ak.us>
Sent: Sunday, December 14, 2014 9:29 PM
Subject: Rezoning of diamond willow estates to R-1

Mrs. Gibbs and Mr. Amend are totally apposed to this R-1 zoning, for many reasons. If the existing covenants were flawed, how come there hasn't been an issue until this summer? The Diamond Willow covenants have served our neighbor hood for over 30 years. In the last 20 years I can't recall a single instance where there has been a concern or dispute, until the Penrods moved in. Mr. Penrod has been telling the neighbors some outrageous things. The good neighbors were told we intend to turn the hay field into a gravel pit. Lets us use simple economics 101. Lets use the 55 acres, of hayfield and subdivide it up into 45 lots. Now we build a average home, \$200,000 on each of the lots. Would you think that a hole in the ground could generate this kind of revenue? (about \$9,000,000 give or take a million) I think the Penrods have started celebrating the legalization of marijuana before the law is put into effect. In the Diamond Willow Estates area Mrs. Gibbs and Mr. Amend own 22 lots and Mr. Cude owns 3 lots for a total of 25 lots. The Diamond Willow Estates consists of 49 lots total, this includes our 25 lots. I know of other neighbors that are not on board was the Penrods scheme to scare neighbors into rezoning this subdivision R-1. Mr. Penrod has been hammering home the point of, "the aquifer has been breached and our wells will be contaminated", also. I find that very interesting when he has been dumping raw sewage just a stones throw away from his drinking water well, for decades. Mr. Penrods home is very close to the Kenai River, much closer than the hayfield and the gravel pit. Beware of the messenger. Please do not change what has served us so well. Let us continue living with a very good system of covenants that has served us for decades. Thank You For Your Time.

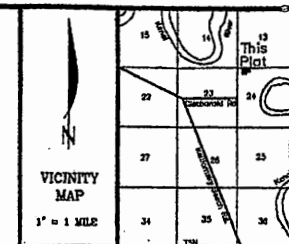
RECEIVED

DEC 15 2014

Borough Clerk's Office
Kenai Peninsula Borough

LEGEND:

- MONUMENT (found this survey)
- 1/2" REBAR (found this survey)
- 5/8" REBAR w/PLASTIC CAP (set this survey)
- RECORD DATUM PLAT 2008-135 KRD



NOTES:

- Scale of bearing taken from Diamond Willow Estates Subdivision Part 18, Plat 2008-135, Kenai Recording District.
- Building Setback-A setback of 20 feet is required from all street rights-of-way unless a lesser standard is approved by resolution by the appropriate Planning Commission.
- No access to state maintained rights-of-way permitted unless approved by the State of Alaska Department of Transportation.
- Covenants, conditions and restrictions which may affect this plat are recorded in Book 86 Page 702, Kenai Recording District.
- A utility easement granted to Homer Electric Association which affects this subdivision is recorded in Book 100 Page 360, Kenai Recording District.
- Front 15 feet of the 20 foot building setback and the entire setback within 5 feet of the side lot lines is a utility easement. No permanent structure shall be constructed or placed within a utility easement which would interfere with the ability of a utility to use the easement.
- WASTEWATER DISPOSAL: Soil conditions, water table levels, and soil slopes in this subdivision have been found suitable for conventional onsite wastewater treatment and disposal systems serving single-family or duplex residences and meeting the regulatory requirements of the Kenai Peninsula Borough. Any other type of onsite wastewater treatment and disposal system must be designed by a professional engineer, registered to practice in Alaska, and the design must be approved by the Alaska Department of Environmental Conservation.

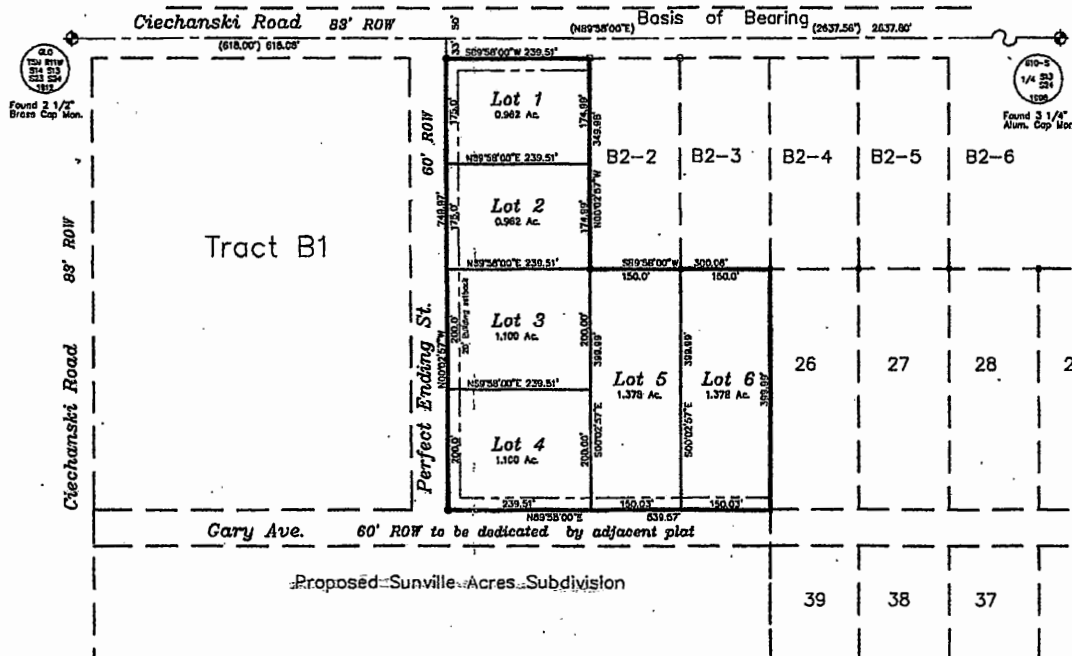
Engineer License No. Date



SURVEYOR'S CERTIFICATE

I hereby certify that I am properly registered and licensed to practice land surveying in the State of Alaska, this plat represents a survey made by me or under my direct supervision, the monuments shown hereon actually exist as described, and all dimensions and other details are correct.

Date



CERTIFICATE OF OWNERSHIP and DEDICATION

I HEREBY CERTIFY THAT I AM OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND THAT I HEREBY ADOPT THIS PLAT OF SUBDIVISION AND BY MY FREE CONSENT DEDICATE ALL RIGHTS-WAY AND PUBLIC AREAS TO PUBLIC USE AND GRANT ALL EASEMENTS THE USE SHOWN.

OWNER: JEFF AMEND JR.
P.O. BOX 276
KASLOF, AK 99810

NOTARY'S ACKNOWLEDGMENT

FOR _____
ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____

NOTARY PUBLIC FOR ALASKA
MY COMMISSION EXPIRES _____

PLAT APPROVAL

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA BOROUGH PLANNING COMMISSION AT THE MEETING OF

KENAI PENINSULA BOROUGH

AUTHORIZED OFFICIAL

KPB FILE No.

Sandhill Acres

A re subdivision of Tract B2-1 Diamond Willow Subdivision Part 12, Plat 2014-38, Kenai Reco District.

Located within the NW 1/4 Section 24, T5N, R11W, S.M.
Kenai Peninsula Borough, Alaska

Contacting 8.878 Ac.

SEGESSER SURVEYS

30485 Rosland St.
Soldotna, AK 99689

JOB NO.	14125	DRAWN:	11-5-14
SURVEYED:	May, 2014	SCALE:	1"=100'
FIELD BOOK:	14-1	SHEET:	1 of 1

Form 3-78
Rev. 10-1-77



;

EE' RDN

7-34 63



Year	Population	Birth rate
1970	10,000	10.0
1975	12,000	12.0
1980	14,000	14.0
1985	16,000	16.0
1990	18,000	18.0

Date		Time		Location		Remarks	
1	10/10/10	10:00	10:15	10:30	10:45	10:00	10:15
2	10/10/10	10:15	10:30	10:45	11:00	10:30	10:45
3	10/10/10	10:30	10:45	11:00	11:15	10:45	11:00
4	10/10/10	10:45	11:00	11:15	11:30	11:00	11:15
5	10/10/10	11:00	11:15	11:30	11:45	11:15	11:30
6	10/10/10	11:15	11:30	11:45	12:00	11:30	11:45
7	10/10/10	11:30	11:45	12:00	12:15	11:45	12:00
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39	10/10/10	19:30	19:45	20:00	20:15	19:45	20:00
40	10/10/10	19:45	20:00	20:15	20:30	20:00	20:15
41	10/10/10	20:00	20:15	20:30	20:45	20:15	20:30
42	10/10/10	20:15	20:30	20:45	21:00	20:30	20:45
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NOTES

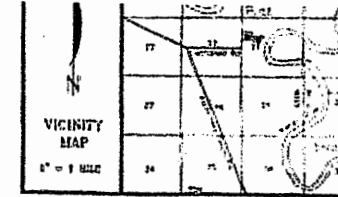
- 1) Book of orders upon General Order Edition published first on Dec. 2004-2015, Serial: Treasury Circular
- 2) During Secretary's tenure of 20 years, it is proven that no matter what the order was, it was not issued or approved by regulation by the appropriate Planning Commission
- 3) As per order to state mentioned in order, any committee power was given by the Secretary to the Government of Karnataka on the basis of the order and regulations which may refer to the same can be restricted in Book 23 Page 102, Serial: Treasury Circular
- 4) A state government is not a member of a corporation which allows the government to control a corporation. It is a state government
- 5) From 1990 to 1995, the state had holding order and the price was set by the state of the state to limit a utility amount. No corporation was there and no corporation in 2004 with a utility amount was not a state enterprise with the state of the state to take the account

WATER TREATMENT PLANTS. A total of 100,000,000 gallons of water is treated daily at water treatment plants in the United States. The water treatment plants are owned and operated by public utilities, municipalities, and private companies. The water treatment plants are designed to remove impurities from the water supply to protect public health and the environment. The water treatment plants are designed to remove impurities from the water supply to protect public health and the environment. The water treatment plants are designed to remove impurities from the water supply to protect public health and the environment.

5-10-68 LCB:AM

LEGEND

- 12. MCDONALD'S (found the survey)
- 13. 1/2" PCDAR (found the survey)
- 14. 1/4" PCDAR WITH PLASTIC CAP (not the survey)
- 15. GEORGE BATES FLAT 200-100 (not the survey)



CERTIFICATE of OWNERSHIP
and DEDICATION

[illegible]

62-100-2000
 P. 100-2000
 62-100-2000

NOTARY'S ACKNOWLEDGMENT

RECEIVED OFFICE OF THE DIRECTOR OF THE FBI

MICHAEL P. JAMES FARM ESTATE
IN LINDSEY, OKLAHOMA

PLAT APPROVAL

THIS PLAN WAS APPROVED BY THE HUMAN RIGHTS OFFICE OF
PLANNING COMMISSION AT THE WILLING OF

• **THE FUTURE OF THE**

ANDREW J. FORD

2014-158

WFB FILE No.

Sunville Acres

WITNESSED AND SIGNED: The WIFE of said DE, THE said SA
said FERNANDO SUTON, AGUDO.

Crimes 45 CJS A*

SEGESSE SURVEYS

30485 Rosland St.
Soldotna, AK 99601

DATE	TIME	NAME	ROOM
10/10/19	10:00	JOHN	101
10/10/19	10:00	JOHN	101
10/10/19	10:00	JOHN	101

SURVEYOR'S CERTIFICATE

Aspirations, that the people, nations and nations
in striving and working in the fields of science, the pro-
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the progress of science, the progress of science, the progress of science,

10

Mercedes Gibbs

From: Oliver Amendjr <oliveramendjr@yahoo.com>
Sent: Tuesday, November 25, 2014 7:31 AM
To: Mercedes Gibbs
Subject: rezonig

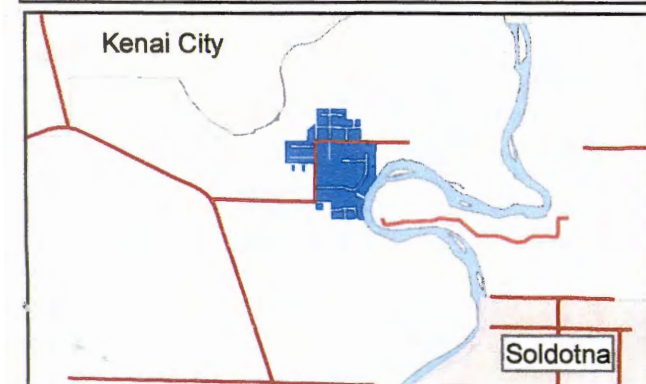
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Agenda Item M. 4

Committee Lands

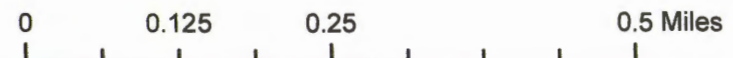
Page Number 35

Public Comment
Travis Penrod.



Legend

-  Diamond Willow - Circle Park
-  Diamond Willow - Fairfield
-  Diamond Willow - Ravenwood





THE STATE
of **ALASKA**

GOVERNOR BILL WALDE

**Department of Environmental
Conservation**

OFFICE OF THE COMMISSIONER

Post Office Box 111800
410 Willoughby Avenue, Suite 303
Juneau Alaska 99811 1800
Main: 907 465 5066
Fax: 907 465 5070
www.dec.alaska.gov

February 12, 2015

Crystal J. Penrod
P.O. Box 374
Kenai, AK 99611

Re: Public Records Act Request to Alaska Department of
Environmental Conservation dated February 5, 2015

Dear Ms. Penrod:

On February 5, 2015, the Alaska Department of Environmental Conservation (ADEC) received a Public Records Act Request from you requesting copies of any and all complaints filed through this agency for seventeen separate companies identified in your request.

Staff from a number of divisions with the Alaska Department of Environmental Conservation have done a preliminary search and estimate that there are **approximately 280 pages of documents responsive to your request**. Photocopy charges for these documents are **\$0.25** per page (see AS 40.25.115(c), which would yield an estimated copying cost of **\$70.00**.

In addition, we anticipate that the staff time to reply to your request will exceed the five hours described in Alaska Statute at AS 40.25.100, therefore those costs will be charged to you in addition to the photocopy costs involved. Our preliminary estimate for staff time for thirteen separate employees is seven hours at an approximate **cost of \$525.00**. While duplicates may exist in the documents, it would take additional staff time to sort through and eliminate those duplicates. Before we can proceed with this request, we need to confirm that you are **willing to reimburse the department for these costs**.

If these records appear to be **too voluminous for your needs**, I might suggest that you try to narrow down or clarify your request to a particular area of interest or a particular time period. For example, the Division of Water Engineering Support and Plan review staff would have to search through two file drawers and six boxes of archived complaints to obtain copies of the complaints you are requesting. If you limit your request to more recent

complaints in the active files, that could decrease the staff search time and the costs involved. Please note that the figures quoted above are preliminary estimates and the actual costs will be dependent on the final number of documents provided and the actual staff time required to find and copy those records. Pursuant to Alaska's public record regulations, the time limits outlined in those regulations will not begin to run again until we receive your response. If you have any questions, please feel free to contact me at (907) 465-5061 or email at gary.mendivil@alaska.gov.

Sincerely,



Gary Mendivil
Environmental Program Specialist

Cc: Steve Russell (DEC)
Don Fritz (DEC)
Michael Charland (DEC)
John Kuterbach (DEC)
Moses Parrish (DEC)
LuAnn Bower (DEC)
Renee Evans (DEC)
Monica English (DEC)
Jeremy Ayers (DEC)
Jeremy Ptak (DEC)
Geraldine Forgue (DEC)
Lori Aldrich (DEC)