

E. NEW BUSINESS

4. Conditional Use Permit; PC Resolution 2024-0

Petitioner; Castaway HOA

**Request: To install a footbridge on pilings within the 50-foot
Habitat Protection District of the Kenai River.**

Location: PINs 055-255-47 & 055-253-42

Soldotna Area

Multi-Agency Permit Application



514 Funny River Road, Soldotna, AK 99669 • (907) 714-2460 • KenaiRivCenter@kpb.us

Applicant Information: (must be a landowner)

Name: Castaway Cove HOA
 Mailing: _____
 Phone: _____
 Email: _____

Agent Information: (if applicable)

Name: DeWayne Benton
 Mailing: 37280 Arctic Terminal
Soldotna AK 99669
 Phone: 907-398-4554
 Email: dewaynebenton46@Yahoo.com

Project Location:

KPB Parcel ID: 05525342
 Physical Address: T S N R 10 W SEC 19
Seward Meridian KNO840140
 Subdivision: Castaway Cove Sub A Meridian Tract B
 Lot: _____ Block: _____ Addition/No.: _____

Waterbody Information:

Waterbody: Kenai R.
 Riverbank: (looking downstream) Left Right
 River Mile: _____

KPB Permit Fees: (select one)

- \$50 - KPB Habitat/Floodplain Permit \$300 - KPB Conditional Use/Floodway Permit

Project Information: New **OR** Extension/Amendment to RC# 12655

Please select all activities that apply to your project:

- | | | |
|--|--|--|
| <input type="checkbox"/> Bank Stabilization | <input type="checkbox"/> Fish & Wildlife Management | <input type="checkbox"/> Road Construction |
| <input type="checkbox"/> Boat Launch | <input type="checkbox"/> Floating Dock / | <input type="checkbox"/> Structure (Accessory) |
| <input checked="" type="checkbox"/> Bridge | <input type="checkbox"/> Fuel Storage Green Infrastructure | <input type="checkbox"/> Structure (Residential) |
| <input type="checkbox"/> Coir Logs | <input type="checkbox"/> In-Stream Structures (Weir) | <input type="checkbox"/> Spruce Tree Revetment |
| <input type="checkbox"/> Culvert | <input type="checkbox"/> Oil & Gas | <input type="checkbox"/> Stream Crossing |
| <input type="checkbox"/> ELP Structures | <input type="checkbox"/> On-Site Utilities | <input type="checkbox"/> Utility Line/Easement |
| <input type="checkbox"/> Equipment Stream Crossing | <input type="checkbox"/> Prior-Existing Structure | <input type="checkbox"/> Veg Mat |
| <input type="checkbox"/> Excavation, Dredging, and/or Fill | <input type="checkbox"/> Revegetation | <input type="checkbox"/> Vegetation Removal |
| <input type="checkbox"/> Fence Installation | <input type="checkbox"/> Root Wads | <input type="checkbox"/> Water Withdrawal |
| | | <input type="checkbox"/> Other: _____ |

Project Description: Provide a detailed description of your project; attach additional pages if necessary.

To install a foot bridge across the canal to access
to island. The bridge will measure 36-inches wide and
be 70-feet 7 inches long. It will be anchored to the ground
with 4 vertical pilings and 6-inch well casings

Cost-Share: Is this project funded by the Cost-Share Program? Yes No

KPB Tax Credit Program: The Borough provides a tax credit as partial reimbursement for new habitat protection and restoration projects within 150 feet of anadromous streams. If you would like to pre-qualify for this credit, please provide your estimated project cost(s) below. Do not include grants or other funding assistance:

Elevated Light Penetrating Structures \$ _____
 Habitat Restoration & Protection \$ _____
 Green Infrastructure \$ _____
 Other Activities \$ _____

Project Questions:

- 1. Start date: Mar 1 End date: ~ April 30 Estimated Days of Construction: ~ 14 days
- 2. Is any portion of the work already complete? If yes, please describe: Yes No

Ordinary High Water (OHW) and Mean High Water (MHW):

- 3. Is the project located within 50 feet of OHW or MHW a waterbody? Yes No
- 4. Does any portion of the project extend below the OHW or MHW of the waterbody? Yes No
- 5. Does any portion of the project cantilever or extend over the MHW of the waterbody? Yes No
- 6. Will anything be placed below OHW or MHW of the waterbody? Yes No

Regulatory Floodplains:

- 7. Is the property where the project is taking place near or within a regulatory floodplain? Yes No
 - a. Is this project within or adjacent to a regulatory floodway? Yes No
 - b. Is this project within or adjacent to a coastal high hazard zone? Yes No
 - c. For new buildings and/or additions, list all project costs (labor, materials, etc.): \$ _____

Excavation, Dredging, and Fill:

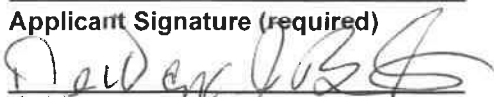
- 8. Will material be excavated or dredged from the site? Yes No
 - a. Type of material(s): _____
 - b. Area to be dredged below OHW or MHW:
 - Length: _____ (ft) Width: _____ (ft) Depth: _____ (ft) Total Cubic Yards: _____
 - c. Area to be excavated above OHW or MHW:
 - Length: _____ (ft) Width: _____ (ft) Depth: _____ (ft) Total Cubic Yards: _____
 - d. Location materials will be deposited: _____
- 9. Will any material (including soils, debris, and/or overburden) be used as fill? Yes No
 - a. Type of material(s): _____
 - b. Is this fill permanent or temporary? Perm Temp
 - c. Area to be filled above OHW or MHW:
 - Length: _____ (ft), Width: _____ (ft), Depth: _____ (ft), Total Cubic Yards: _____
 - d. Area to be filled below OHW or MHW:
 - Length: _____ (ft), Width: _____ (ft), Depth: _____ (ft), Total Cubic Yards: _____

Motorized Equipment:

- 10. Will you be using motorized equipment for this project? If yes, please list all equipment: Yes No
Excavator
- a. Will you be crossing a stream or waterbody? Maybe Yes No
- b. How long will equipment be used below OHW or MHW? 1-2 days Yes No

Signature & Certification:

This application is hereby made requesting permit(s) to authorize the work described in this application form. I certify the information in this application is complete and accurate to the best of my knowledge and that my site plans or drawings are attached. If applying for a tax credit, I certify that I have not begun construction of the project and that the project will be constructed to the standards in KPB 5.12 Real Property and Personal Property Taxes, KPB 5.14 Habitat Protection Tax Credit, and other applicable federal, state, and local regulations.

Applicant Signature (required)

 Agent Signature (if applicable)

Date

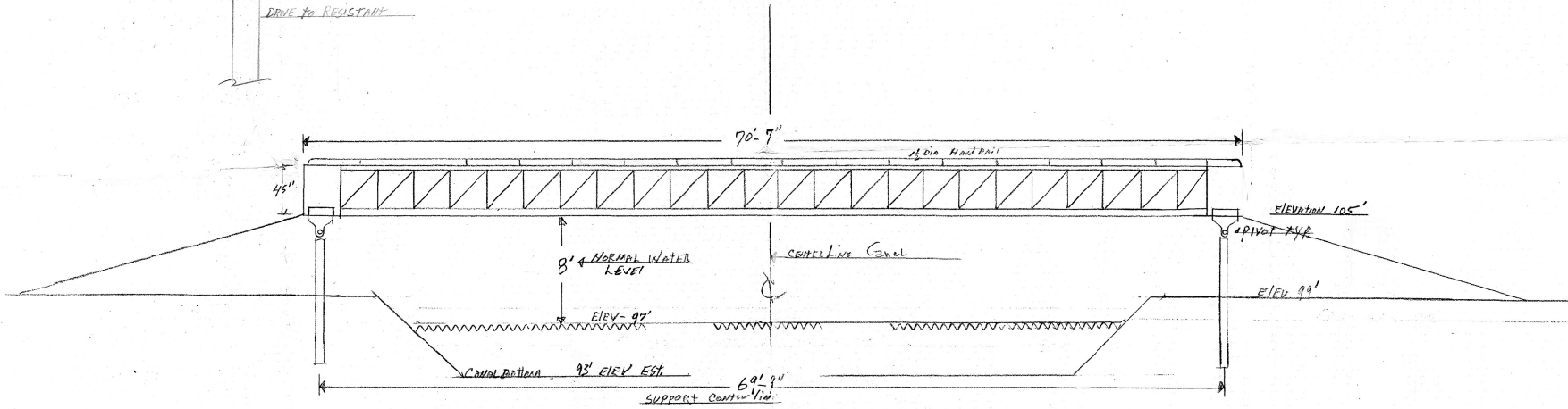
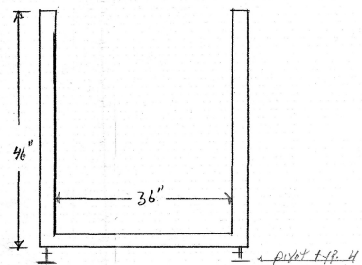
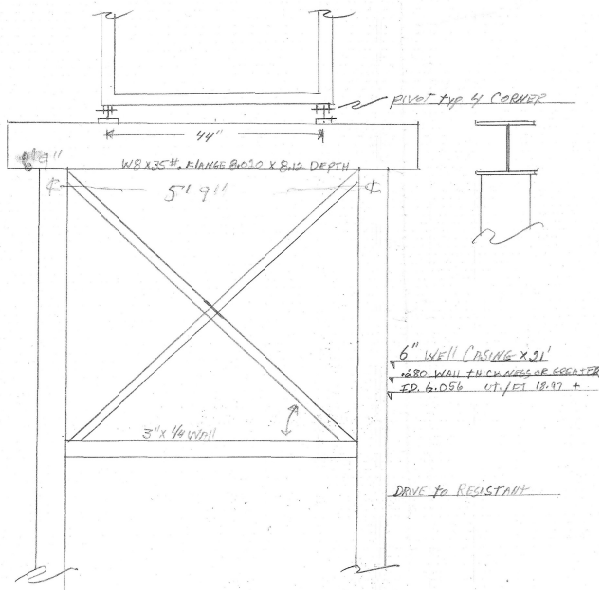
 Date

Castaway Cove Bridge Site Plan Aerial View



05/15/2021

**Castaway Cove Bridge Site Plan
Side View**



NOTE WIDTH OF CANAL MEASURED 54' ON JULY 28 2019

LEON JONES
 LEON J. @ ENGR. COM
 SH-881-6014
 2-14-2019
 SCALE: 1/4" = 12"

AGREEMENT REGARDING NEW FOOT BRIDGE IN CASTAWAY COVE

This is between the Castaway Cove Owners Association, Inc., AK Entity # 33223D, ("Castaway Cove Association" or "Association" hereinafter) through a majority of its Board of Directors (Board President Ward Hepper has recused himself from the bridge issue) and an unincorporated association of individuals (referenced as the "Bridge Group" hereinafter) who own one or more lots in the Castaway Cove Subdivision (original Plat 83-133) and who are interested, *inter alia*, in (1) obtaining a conditional use permit from the Kenai Peninsula Borough Planning Commission to install a foot bridge on a parcel within the 50' Habitat Protection District of the Kenai River in an easement owned by the Castaway Cove Association, (2) installing the foot bridge at their own risk and expense, (3) indemnifying and holding the Castaway Cove Association harmless from any claims relating to or resulting from construction of the foot bridge, (4) having the foot bridge pass any and all regulatory requirements, and (5) thereafter assigning the foot bridge to the Castaway Cove Owners Association without charge.

IT IS THEREFORE UNDERSTOOD AND AGREED as follows:

1. The Castaway Cove Subdivision abuts the Kenai River. One or more sloughs or channels of the Kenai River exist on or run through the Castaway Cove Subdivision.
2. There is an island located between river mile 15.2 and river mile 14.7 of the Kenai River, which includes the upstream and downstream entrances to Castaway Cove.
3. The Castaway Cove Association applied with The Donald E. Gilman Kenai River Center for a multi-agency permit to construct a foot bridge over a channel of the Kenai River on an easement owned by the Association.
4. In July 2022 the Castaway Cove Association agreed to assign the permit application to the Bridge Group on conditions that the Association believed were not satisfied by the Bridge Group as of the August 22, 2022 meeting of the Planning Commission on the Conditional Use Permit application.
5. The Bridge Group members are hereby notified that the general liability insurance coverage for the Association does not provide coverage for members or volunteers.

6. The Bridge Group members, jointly and severally, agree to hold the Association harmless, to release the Association from any liability to Bridge Group members and/or volunteers for construction of the foot bridge, and to indemnify the Association from any and all claims arising from design, construction, and operation of the foot bridge.
7. The Bridge Group members agree to comply with any and all regulatory requirements regarding the foot bridge, including, for example, any clearance or other requirements imposed by the Coast Guard in due course, and the Donald E. Gilman River Center requirements per its August 30, 2022, letter by River Center Manager Samantha Lopez to the Association.
8. Before commencing construction of the foot bridge, the Bridge Group members agree to consult a licensed structural engineer regarding, at least, the height, clearance, and load bearing needs for the foot bridge, and provide the Association a copy of the engineer's response.
9. Upon signature to this Agreement by a majority of the Association Board of Directors and at least 10 members of the Bridge Group, the Association shall forthwith assign the pending Conditional Use Permit to the Bridge Group for no consideration other than the terms of this Agreement.
10. The drawing below generally describes the foot bridge.
11. No use of adjoining property to build the foot bridge should occur without prior express written consent by the property owner(s).
12. Spruce tree revetment required for both sides of the foot bridge.
13. Two week prior notice to Association Board before start of construction, and keep the Board informed of the progress of the work, with copies to the Board of any contracts, engineering drawings, and all permits.
14. The only entrance to the foot bridge is to be from the north side.

15. On completion of the foot bridge it must be inspected by a qualified engineer and deemed to be safe. If not safe, it must immediately be repaired to make it safe or removed.
16. The foot bridge is not to be used until the north side walkway are installed.
17. This Agreement may be signed by facsimile signatures and single or duplicate originals of this Agreement may be executed by counterpart by executing and delivering a counterpart signature page to this Agreement to the Association and to the Bridge Group.
18. The Association and the Bridge Group that this Agreement is a binding contract supported by good and valuable consideration evidenced by the terms of this Agreement.

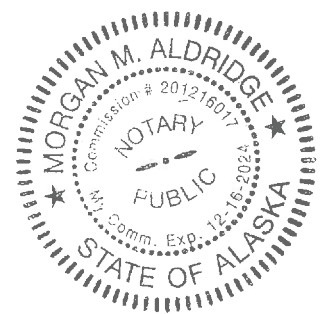
IT IS SO AGREED.

Castaway Cove Owners Association, Inc.

By: n/a Date: _____, 2022
~~Mark Tanner,~~
 Member of the Association Board of Directors

By: n/a Date: _____, 2022
~~Chuck Onstott,~~
 Member of the Association Board of Directors

By: Ron Isaacs Date: 2/1 , 2022/4
 Ron Isaacs,
 Member of the Association Board of Directors



The "Bridge Group"

By: ~~Martin Weiser~~ Debbana Benton 2/1/24
 Signature _____ Printed Name & Date _____

By: ~~Richard Gedney~~
 n/a _____

Morgan M. Aldridge

Signature

Printed Name & Date

By: Leon James

Signature

Printed Name & Date

By: William R. Kruskie

Signature

Printed Name & Date

By:

Signature

Printed Name & Date

By:

Signature

Printed Name & Date

By:

Signature

Printed Name & Date

By:

Signature

Printed Name & Date

By:

Signature

Printed Name & Date

By:

Signature

Printed Name & Date

By:

Signature

Printed Name & Date

n/a

The following Castaway Cove board members are listed below:

They are voting for a new permit that has been submitted to the Kenai River center for the construction and installation of a foot bridge #2. This action is being taken because the current bridge permit RC 12655 is due to expire August 28, 2022 and work cannot be completed by that date.

Ward Hepper	President	907-947-1437
Mark Tanner		801-882-3993
Chuck Onstad		907-441-6099
Ron Issac		907-252-9777
Val Denholm		702-538-6238

Additional provisions for the installation of bridge #2 Castaway cove are as follows :

The Castaway Cove Association has no liability for the bridge installation. The builders assume all costs and liability until the bridge is completed.

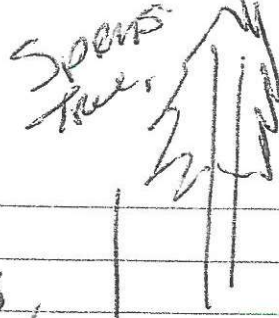
After the bridge is completed they will turn over ownership to the association . The bridge is to be inspected by a qualified inspector.

Castaway Cove board members agree to the permit application (extension) under these conditions.

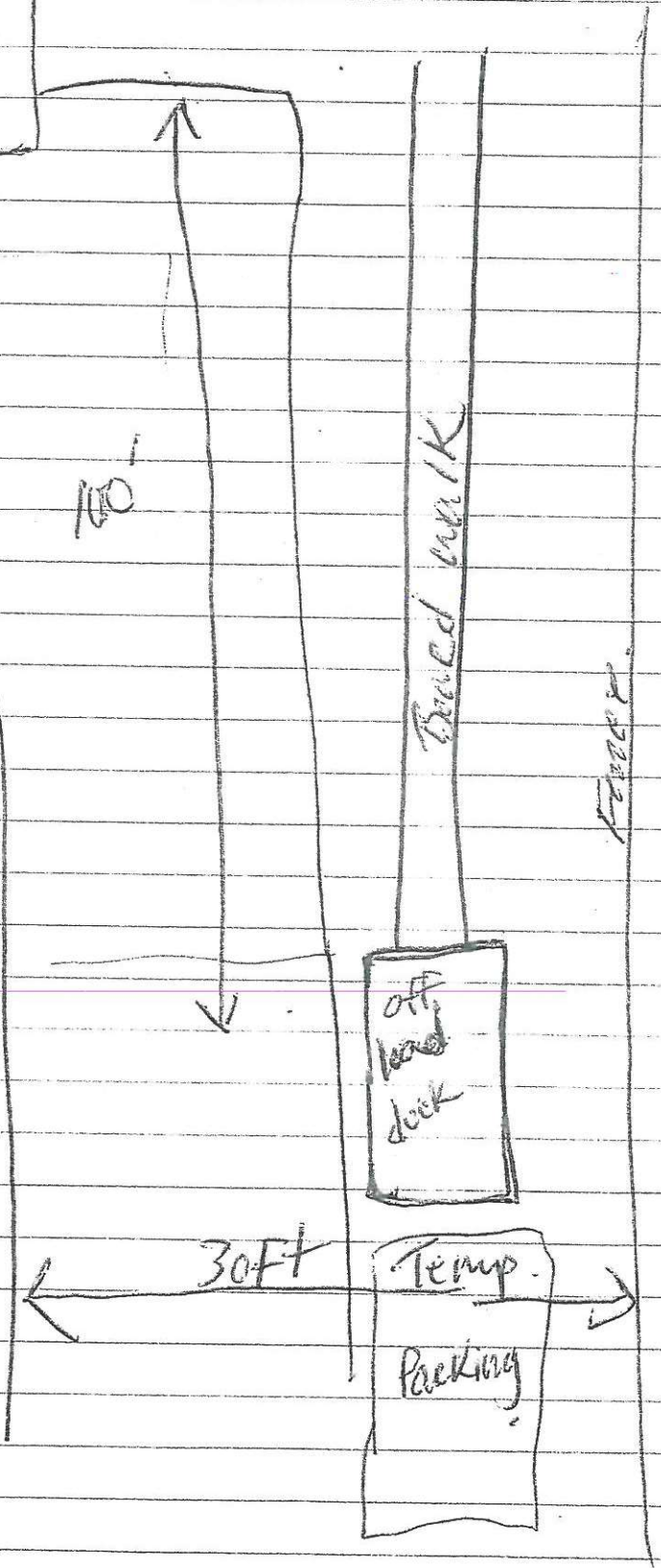
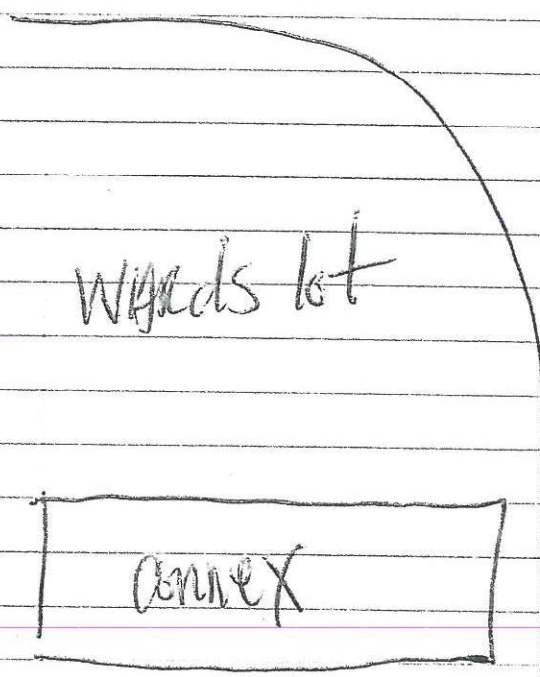
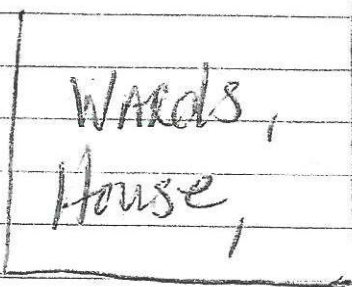
Drawings included

VOTED AND APPROVED 5-0
UNANIMOUSLY BY BOARD
Wm J. [Signature] 7-27-22
PRESIDENT OF THE BOARD

X Bill K...
to Rick Geddy



Birch stays do not remove



Notes,

This is the plan for
The walk way;

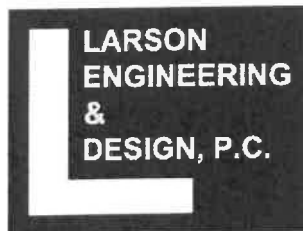
Just, also not when
Excavator puts in bridge
we might be able to use a
small section of Wards lot being
spruce tree,

ENGINEERING REPORT

Castaway Cove Pedestrian Bridge

Prepared for: **Castaway Cove Owner's Association**

By



Date Prepared: **12/21/2023**



LARSON ENGINEERING & DESIGN
53510 VEED AVE. - KENAI, ALASKA 99611
PH: (907) 283-1565



December 21, 2023

Castaway Cove Homeowners Assoc. Pedestrian Bridge

1. INTRODUCTION:

The proposed pedestrian bridge in Castaway Cove aims to enhance accessibility across a backwater of the Kenai River. This pedestrian access project is designed to enhance accessibility efficiently. The bridge's foundation consists of two 6-inch pilings driven into the ground at each end, ensuring stability and meeting engineering standards. This approach supports the long-term durability and effectiveness of the bridge, contributing to the overall functionality and accessibility of Castaway Cove.

2. SITE DESCRIPTION:

The proposed pedestrian bridge spans a backwater of the Kenai River, allowing pedestrians access to the eroding island. The bridge will be located at the end of the Caught A Snag Rd. right of way. The riverbank edges feature a subtle slope with a mix of natural vegetation. The proposed bridge plan is designed to minimize disruption to the existing area while meeting structural design standards.

The foundation for the bridge involves the installation of two 6-inch pilings at each end of the bridge, securely driven to refusal. This foundation design prioritizes structural stability, meeting engineering standards for durability. The pilings and bridge are designed to provide a functional addition to the community.

3. RIGHT OF WAY:

According to the KPB parcel viewer there is a 30-ft wide right of way through the end of Caught A Snag Rd. that borders River Quest and Castaway Cove. This allows access for the necessary equipment to install the pedestrian bridge without disturbing or damaging adjacent properties.

4. SUBSURFACE CONDITIONS:

Based on local site knowledge, the estimated soil composition at the proposed bridge site suggests a top layer comprising approximately 3 feet of silty soils (SM). Beneath this layer, there is an overlay of sand and gravel, contributing to the overall stability of the site. The presence of organics within the soil profile is also noted. This preliminary assessment informs the construction planning process, providing insight into the soil conditions that will be encountered during the installation of the bridge pilings.

5. UTILITIES:

Before construction, a field locate shall be performed to determine the locations of any utilities in the area. This must be done prior to construction to provide a clear understanding of underground infrastructure, reducing the risk of conflicts during construction, preventing disruptions to existing utilities in the area.

6. DAMAGE AVERSION:

The planned construction procedure, involving the installation of driven pilings for the bridge foundation, ensures minimal environmental impact. This method eliminates the need for excavation or disturbance of the surrounding soil, minimizing the risk of damage to the riverbank and neighboring properties. The piling on either side of the water will not contribute to erosion due to being above mean high water. In the case of a flood event there will be little to no effect from the bridge piling to the surrounding area. The driven piling approach maintains the structural integrity of the bridge foundation while promoting a non-intrusive construction process.

7. STRUCTURAL ANALYSIS:

A structural analysis was performed on the aluminum pedestrian bridge to confirm that it meets building standards. The calculations indicate that the bridge exceeds the standard loading of 85 lbs/sqft for a pedestrian bridge. Upon studying the plans, I concluded that one of the foundations needs an expansion slot on the bridges pinned connections to account for thermal expansion to maintain structural integrity.

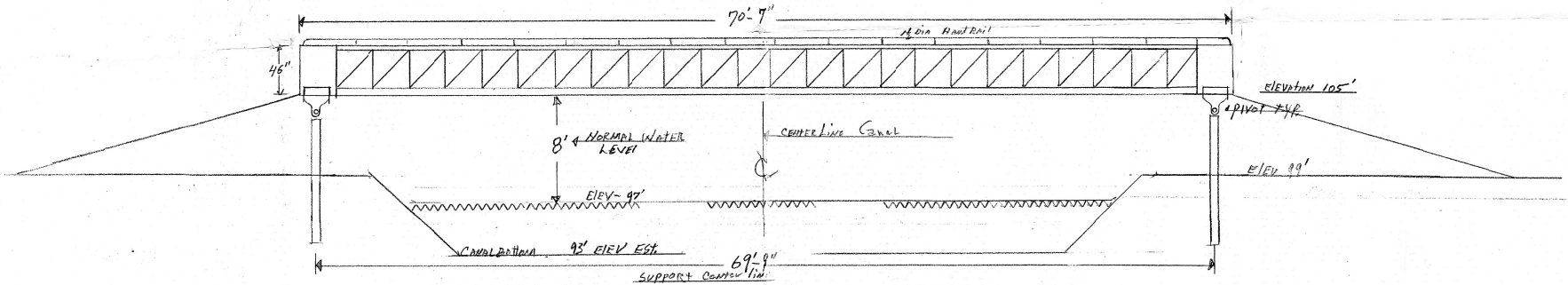
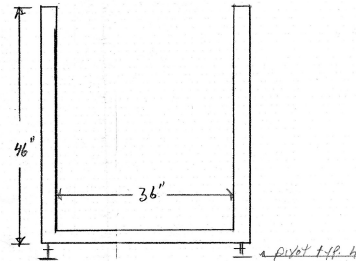
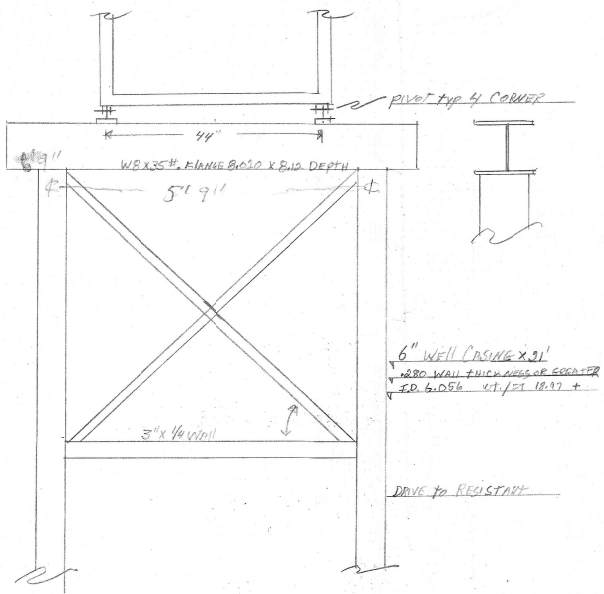
8. CONCLUSION:

In conclusion, the proposed pedestrian bridge in Castaway Cove is intended to provide accessibility, with appropriate design considerations in place. The foundation, consisting of four total pilings, provides stability and meets engineering standards, contributing to the long-term durability of the bridge. The placement of the bridge at the end of the road's right of way minimizes disruption to the surrounding area and exceeds structural design standards.

A field locate shall be performed for utilities before construction, preventing the risk of conflicts. The planned construction procedure relies on minimal environment disturbance, emphasizing non-intrusiveness and structural integrity. The structural analysis confirms the bridge's reliability, surpassing standard loading requirements. An expansion slot will be necessary to accommodate for thermal expansion between seasons, preventing damage to the structure. Given these considerations, the pedestrian bridge project shows promise in positively impacting community accessibility.

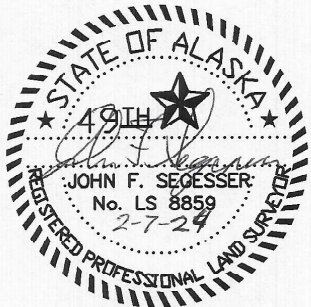
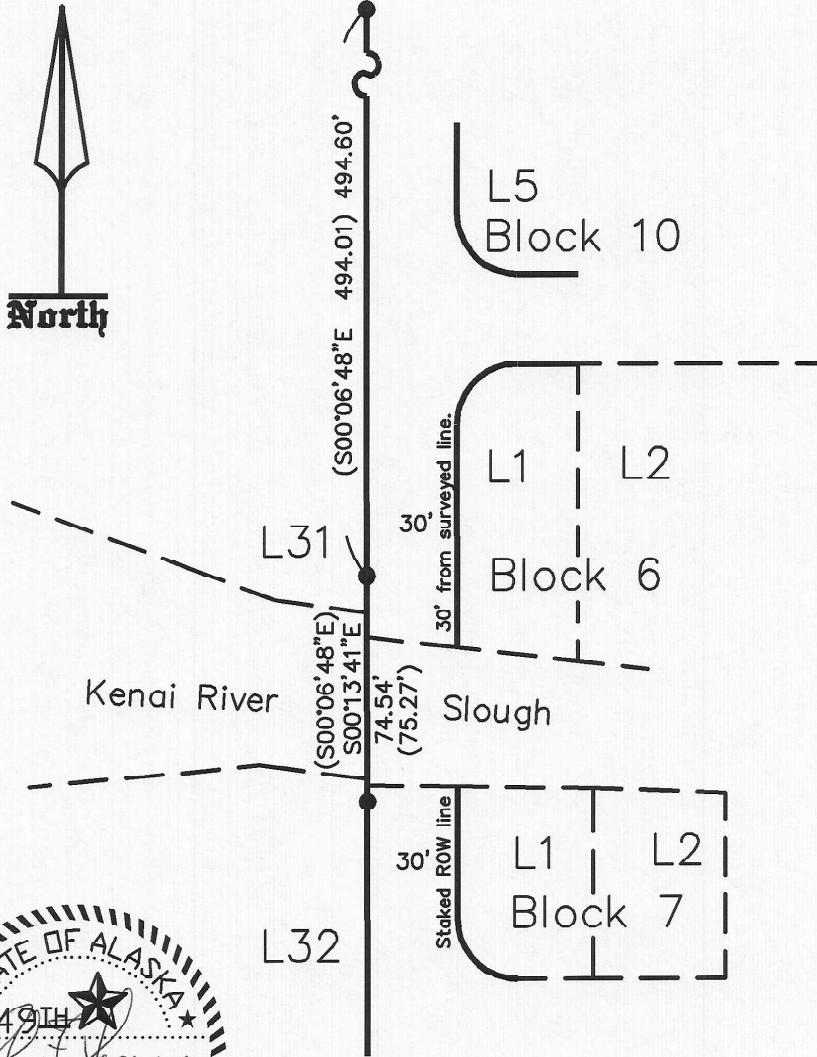
Thank you,

Blake Larson P.E



NOTE: WIDTH OF CANAL MEASURED 54' ON JULY 22 2019

LEON JAMES
 LEONJ@EARS.COM
 541-881-6044
 2-14-2020
 SCALE: 1/4" = 12"



RETRACEMENT CERTIFICATION

LEGEND
 ● Found Rebar () Record Datum

I hereby certify that I have surveyed the following described property:
 30 foot ROW adjacent to
 River Quest Phase 1

KENAI RECORDING DISTRICT		Plat: 2004-111
Date: 2-7-24	Scale: 1"=50'	Drawn: JFS
Job: 23237	Book: 23-4	

and that the corners shown hereon have been recovered or reestablished by this survey and are marked on the ground as described hereon, and further that the dimensions shown are true and correct.

SEGESSER SURVEYS, INC.
 30485 ROSLAND ST.
 SOLDOTNA, AK 99669
 (907) 262-3909

Exclusion Note:
 It is the responsibility of the owner or builder, prior to construction, to verify proposed building grade relative to finished grade and utilities connections, and to determine the existence of any easements, covenants or restrictions which do not appear on the recorded subdivision plat.



Project Overview and Vicinity Map



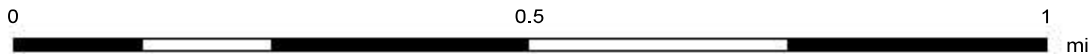
Castaway Footbridge

Project Area

KPB Parcel(s):
05525342, 05525547

Project Description:

Vicinity: Kalifornsky



Map created by Aldridge, Morgan
Tuesday, February 13, 2024

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



Imagery Map



Castaway Footbridge

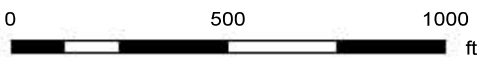
 Project Area

 River Miles

 Tax Parcels

 Bridge Location

Map created by Aldridge, Morga
Tuesday, February 13, 2024





Ownership Map



Castaway Footbridge

Project Area

River Miles



Parcel Ownership Type

Parcel Ownership

Borough

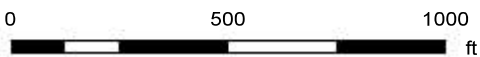
Private

State



Bridge Location

Map created by Aldridge, Morga
Tuesday, February 13, 2024





Wetlands Map



Castaway Footbridge

Project Area

River Miles



Tax Parcels



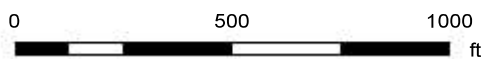
Landcover Features

KWF Wetlands Assessment

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

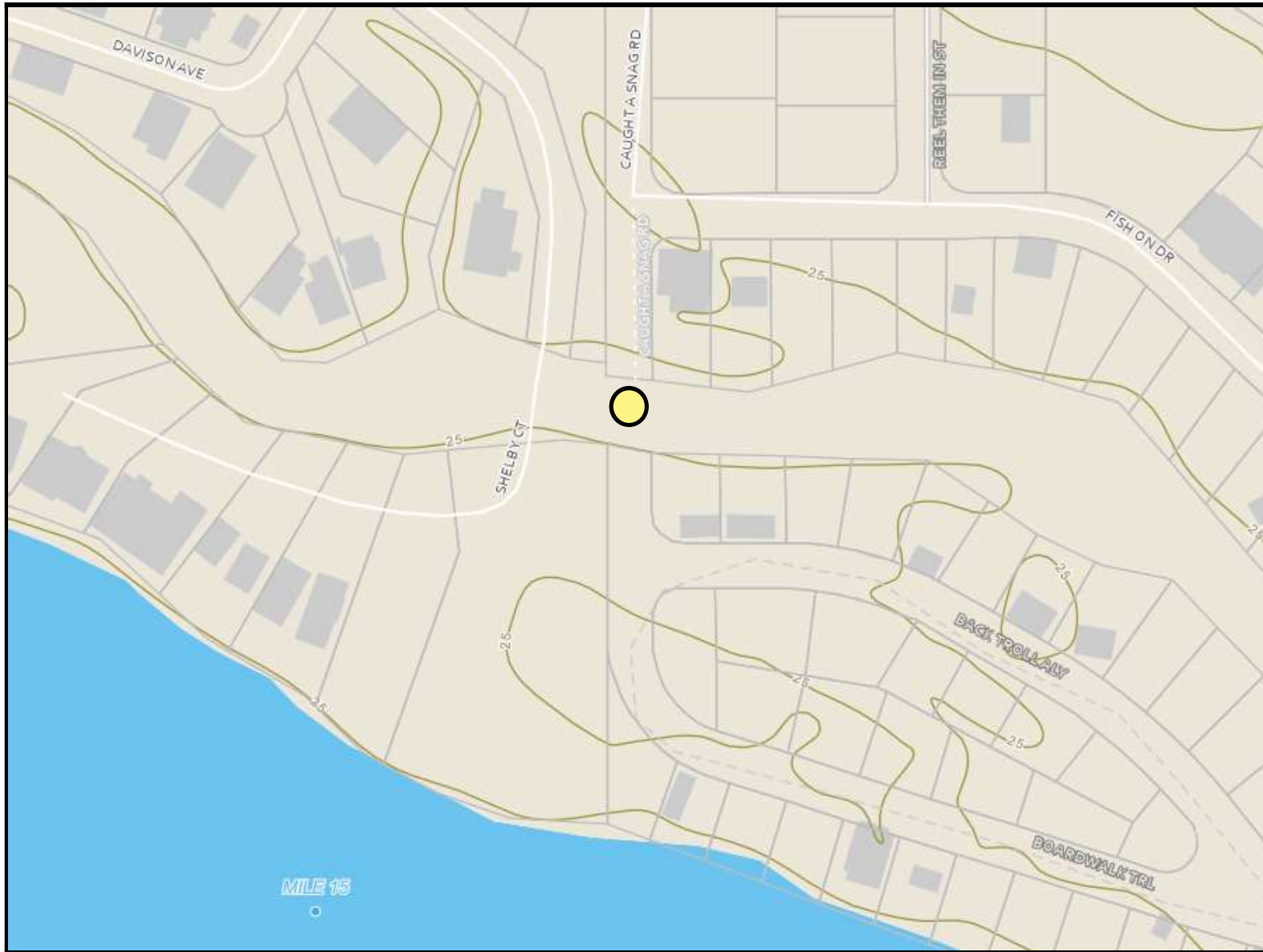
Bridge Location

Map created by Aldridge, Morga
Tuesday, February 13, 2024





Terrain Map



Castaway Footbridge


 Project Area

River Miles

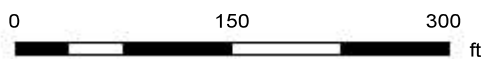


Tax Parcels



 Bridge Location

Map created by Aldridge, Morga
Tuesday, February 13, 2024





Donald E. Gilman River Center

514 Funny River Road, Soldotna, Alaska 99669 • (907) 714-2460 • (907) 260-5992 Fax

A Division of the Planning Department

Peter A. Micciche
Borough Mayor

KENAI PENINSULA BOROUGH PLANNING COMMISSION NOTICE OF PUBLIC HEARING

The Kenai Peninsula Borough received an application for a Conditional Use Permit under KPB 21.18.081 for a project within the 50-foot Habitat Protection District (HPD) of the Kenai River. This project has been scheduled for a public hearing before the Kenai Peninsula Borough Planning Commission.

Why are you receiving this notice?

Per code, property owners within 300 feet of the proposed project must receive notice of the public hearing. This project is located in the Castaway Cove Subdivision in Soldotna, Alaska, KPB Parcel ID 055-255-47 and 055-253-42. Our records indicate that you are a property owner within 300 feet of that parcel.

Project Description:

Members of the Castaway Cove Homeowners Association are applying for a permit to install a footbridge on pilings within the 50-foot HPD of the Kenai River.

How can you look at the application?

The meeting packet will be posted the week prior to the meeting. Once it has been posted it can be viewed at <https://kpb.legistar.com/Calendar>.

How do you attend the Planning Commission meeting?

When: Monday, February 26, 2024 at 7:30 p.m.

Where: This meeting will be held in the Borough Administrative Building, Betty Glick Assembly Chambers, 144 N. Binkley St., Soldotna, Alaska and also electronically via Zoom.

Zoom: Meeting ID 907 714 2200
<https://us06web.zoom.us/j/9077142200>
1-888-788-0099 or 1-877-853-5247

How do I comment on the project?

You can provide verbal comment at the meeting (see information above). You may also submit written comments. **Written comments must be received by 1:00 pm Friday, February 23, 2024.**

Mail comments to:
Donald E. Gilman River Center
514 Funny River Road
Soldotna, Alaska 99669

Email comments to:
planning@kpb.us
KenaiRivCenter@kpb.us

For additional information, please contact Morgan Aldridge at maldridge@kpb.us or (907) 714-2465.

**Conditional Use Permit
Anadromous Waters Habitat Protection District
Staff Report**

KPB File No.	2024-04
Planning Commission Meeting:	February 26, 2024
Applicant/Agent	DeWayne Benton through Heather Benton
Property Owner	Castaway Cove Homeowners Association
Mailing Address	1577 C Street STE 101C Anchorage, AK 99501
Legal Description	CASTAWAY COVE SUB AMENDED TRACTS A & B
KPB Parcel Number	055-255-47 & 055-253-42

Project Description

A Conditional Use Permit (“CUP”) is sought pursuant to KPB 21.18.081 for the installation of an aluminum, light-penetrating footbridge over a side channel of the Kenai River, within the 50-foot Habitat Protection District.

Project Details within the 50-foot Habitat Protection District

1. The pedestrian bridge is 70-feet and 7-inches in length, is 3-feet in width, and will be installed within the private 30-foot right-of-way owned by the Castaway Cove Home Owners Association (the “HOA”).
2. The bridge will be elevated 7 feet above grade to comply with KPB Floodplain Management, and elevated 8 feet above ordinary high water to allow unobstructed boating traffic.
3. Installation of four 6-inch diameter pilings, two on each side of the canal, which will be driven to a maximum depth of 15 feet. The pilings will be installed 8 feet behind the riverbanks and well above ordinary high water.
4. Two 16-foot-long elevated light-penetrating ramps will be placed on each side of the canal, and will be approximately a 2:1 grade.
5. Project site on the island may be accessed with heavy equipment via various methods that each depend on conditions, water levels, and applicable permits and permissions. Methods such as: a) crossing the upstream vehicle bridge, b) construction of a snow/ice bridge in the canal during low water, or c) in-water work from the canal during low-water.

Background

Castaway Cove Subdivision (the “Subdivision”) is a gated, private subdivision located at the end of Ciechanski Road in Kenai. The Subdivision encompasses property on both the mainland as well as the adjacent island. The current plat shows that 80 parcels were originally subdivided on the island, in addition to a parcel listed as a private Subdivision right-of-way.

Historically, all island properties were accessible by foot via a bridge on the downstream side of the island, which was replaced in 2005. Over the last decade, the center of the island has eroded to the point

that it is nearly split in half. At least 11 parcels have washed away entirely, leaving only a 4-foot-wide section of land connecting the upper and lower halves of the island. Once the island splits, only 16 downstream parcels will still be accessible by foot, and the remaining 54 upstream parcels will no longer have pedestrian access.

Permitting History

The River Center has been working with both HOA members and the HOA Board for four years to permit the proposed bridge.

1. In 2020, staff met with the original applicant, HOA member Leon James, and began discussions of the bridge project.
2. On July 23, 2020, staff visited the site to meet with Mr. James and the HOA President, who showed staff the proposed bridge site. The HOA Board was in support of the project at that time.
3. In 2020, the Planning Commission approved a one-year CUP to install the footbridge. However, due to shipping delays, the project was not completed prior to the permit's expiration date, and it was granted a one-year extension by the Planning Director.
4. In 2022, the extended CUP was set to expire before the bridge would arrive. River Center staff were approached by HOA members to apply for a second CUP to extend the expiration.
 - a. Staff met with HOA members and HOA Board members multiple times to discuss the project, KPB requirements, HOA requirements, etc.
 - b. In July 2022, the River Center received notice that a majority of the HOA Board was in full support of the application moving forward for a public hearing. This document was signed by HOA President, Ward Hepper.
5. At the August 22, 2022, Planning Commission meeting, staff recommended approval of the project.
 - a. The HOA members serving as the applicants at the time were Leon James and Rick Gedney.
 - b. Upon opening the floor for the applicant to speak on the project, the HOA Board President, Ward Hepper spoke as the applicant. He stated that the HOA did not wish to extend the permit, despite the HOA Board approval letter received by the River Center weeks prior. Mr. Hepper also testified that in 2020, the HOA Board sent the original applicant, Leon James, to seek a permit. Once acquired, the permit was presented to the HOA Board for a vote, where they voted not to build the bridge.
 - c. Citing confusion of who the applicant was, the Planning Commission postponed the item until brought back by staff.
6. In response to the public testimony, the River Center Manager issued a letter to the applicants and HOA, citing additional requirements including an engineering analysis. In the same letter, the River Center Manager also requested a document showing board approval and designating a person to speak as the project applicant.
7. In September 2023, the River Center was given a draft agreement by HOA Board Member Ron Isaacs. This draft agreement stated that HOA President Ward Hepper was recused due to a conflict of interest, and upon signing, that the majority of the Board were interested in acquiring a CUP. Staff was notified that the HOA Board would support the project once the agreement was signed by both parties.
8. In December 2023, new applicant DeWayne Benton submitted a new application supplemented with an engineering report.
9. In January 2024, staff met with Mr. Benton and his daughter, Heather Benton, to review the engineering report. After this review, KPB's engineering requirements were met.
10. In February 2024, staff met with Mr. Benton and Mr. Isaacs to discuss the project and agreement. The agreement initially called for numerous signatures. Mr. Isaacs informed staff that the majority

of the HOA Board approved of a single signature on each side, due to the fact that most parties were out of state.

11. Staff re-confirmed with Mr. Issacs that this document was intended to be proof of the HOA Board's approval. Upon receiving confirmation, staff scheduled the matter for next Planning Commission meeting, and sent out public hearing notices.
12. Throughout the permitting and review process for this project, staff have spent at least 4 hours performing site visits, 10 hours meeting with the applicant and/or owner, 10 hours responding to calls from the applicant and/or owner, 30 hours meeting with staff to discuss and review the project, and 36 hours preparing for and attending Planning Commission meetings. Coupled with the costs of advertising and mailouts for public hearings, the KPB's management of this project exceeds \$4,500 in taxpayer dollars.
13. Approval of the CUP does not preclude a property owner's ability or right to manage their property, and they may choose to not carry out the project at any time, even if already issued a permit. As described below, staff is recommending approval as the project currently appears to meet the standards and conditions set forth in KPB code to approve a CUP.

Proposed findings of fact pursuant to KPB 21.18.081 Conditional Use Permit

1. Portions of this proposed project are within the 50-foot habitat protection district as defined by KPB 21.18.040.
2. Pursuant to KPB 21.18.081(B)(5), construction of critical infrastructure may be approved as a conditional structure/use within the habitat protection district.
3. Pursuant to 21.18.081(D) General Standards, staff finds that the proposed project meets the five general standards.
4. Pursuant to KPB 21.18.020(A), this chapter was established to protect and preserve the stability of anadromous fish through controlling shoreline alterations and disturbances along anadromous waters and to preserve nearshore habitat.
5. Pursuant to KPB 21.18.20(B)(5), one purpose of this chapter was established to separate conflicting land uses.
6. The proposed project is consistent with the 2019 Kenai Peninsula Borough Comprehensive Plan and other applicable planning documents and borough code, including the Kenai Peninsula Borough Coastal Management Plan.
7. A survey was provided to the River Center in February 2024, and certified that the right-of-way had been surveyed and marked.
8. Per the engineering report, the planned construction procedure, involving the installation of driven pilings for the bridge foundation, ensures minimal environmental impact. It will also eliminate any need for excavation or disturbance of the surrounding soil, which reduces any risk of damaging the riverbank or neighboring properties.
9. Per the project details and engineering report, because the pilings will be installed 8 feet behind the riverbanks and well above ordinary high water, the pilings will not contribute to any erosion.
10. Kenai Peninsula Borough Planning Commission Resolution 2015-35 defines water-dependent as:
"...a use or structure located on, in or adjacent to water areas because the use requires access to the waterbody. The definition is applicable to facilities or activities that must be located at or near the shoreline and within the 50-foot buffer. An activity is considered water dependent if it is dependent on the water as part of the intrinsic nature of its operation. Examples of water dependent facilities may include, but are not limited to, piers, boat ramps, and elevated walkways."
11. The River Center found the application complete and scheduled a public hearing for February 26, 2024.

12. Per KPB 21.18.081(C), a person seeking a permit must submit an application to the River Center, which can be done by property owner or agent. This application lists the property owner as Castaway Cove HOA, and the person (agent) applying for the permit is listed as DeWayne Benton.
13. Agency review was distributed on February 7th, 2024. The following comments and/or permits were received:
 - a. KPB Floodplain Management; permit to be approved upon CUP approval
 - b. US Army Corps of Engineers; no permit required
 - c. Alaska Division of Natural Resources - State Parks; verbal support; permit pending
 - d. Alaska Department of Fish and Game - Habitat Section; permit approved
14. Pursuant to KPB 21.11.030, public notice was mailed to all property owners within a radius of 300 feet of the subject property on February 7, 2024. A total of 242 mailings were sent.
15. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on February 14, 2024 and February 21, 2024.
16. The applicant is currently in compliance with KPB permits and ordinances.

Permit Conditions

1. Construction techniques and best management practices shall be utilized to ensure that land disturbing activities do not result in runoff or sedimentation to the Kenai River.
2. The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas with native vegetation. Permittee will also use rig-matting to cross any vegetated areas so as to reduce disturbance within the HPD.
3. For each tree removed, two seedlings less than 5.5-feet tall of a species native to the region will be planted within the 50-foot HPD.
4. Storage or use of fuel is prohibited within 50-feet of any open water.
5. The River Center shall be notified at least 3 days prior to the start of the project.
6. If changes to the approved project described above are proposed prior to or during its siting, construction, or operation, the permittee is required to notify the River Center to determine if additional approval is required.
7. The permittee shall be held responsible for the actions of the contractors, agents, or others who perform work to accomplish the approved plan.
8. The construction or installation phase of this CUP must be completed within six years calendar year from the date of the permit's issuance, or the CUP shall expire unless the Planning Commission finds that more time is necessary to effectuate the purposes of this chapter, in which case the commission may extend the deadline for a maximum of six years from the date of issuance. Prior to its expiration date and upon written request, the Planning Director may grant a CUP extension for 12 months (KPB 21.18.081(H)).
9. In addition to the penalties provided by KPB 21.18.110, and pursuant to KPB 21.50, the permit may be revoked if the permittee fails to comply with the provisions of this chapter or the terms and conditions of a permit issued under this chapter. The KPB Clerk shall provide at least 15 day's written notice to the permittee of a revocation hearing before the hearing officer (KPB 21.18.082).
10. The permittee shall comply with the terms, conditions and requirements of the KPB Code of Ordinances Chapter 21.18, and any regulations adopted pursuant to this chapter.
11. The permittee is responsible for abiding by all other federal, state, and local laws, regulations, and permitting requirements applicable to the project (KPB 21.18.081(G)).

General Standards

Pursuant to 21.18.081(D) General Standards, the following standards shall be met before conditional use approval may be granted:

1. The use or structure will not cause significant erosion, sedimentation, damage within the habitat protection district, an increase in ground or surface water pollution, and damage to riparian wetlands and riparian ecosystems; **Findings 8-9 and Conditions 1-4 appear to support this standard.**
2. Granting of the conditional use shall be consistent with the purposes of this chapter, the borough comprehensive plan, other applicable chapters of the borough Code, and other applicable planning documents adopted by the borough; **Findings 2, 4-6 and Conditions 10-11 appear to support this standard.**
3. The development of the use or structure shall not physically damage the adjoining property; **Findings 7-9 and Condition 1,2, 7 appear to support this standard.**
4. The proposed use or structure is water-dependent; **Findings 1, 2, 10 appear to support this standard.**
5. Applicant's or owner's compliance with other borough permits and ordinance requirements; **Findings 13, 14 and Conditions 10, 11 appear to support this standard.**

Attachments

1. Multi-Agency Application
2. HOA Agreement (2024)
3. HOA Board Approval (2022)
4. Engineering Report
5. Survey
6. Maps
7. Public Hearing Notice
8. Staff Report
9. Draft Resolution 2024-04
10. Public Comment 20240215
11. Agency Permits and Comments

Recommendation

Based on the findings, staff finds that the proposed project appears to meet the five general standards of KPB 21.18.081. The Planning Commission could consider additional permit conditions to mitigate for any habitat loss if it chooses. Approval of this permit does not preclude a property owners' ability or right to manage their property, and they may choose to not carry out the project at any time.

Staff recommends the Planning Commission grant a Conditional Use Permit for the proposed project details subject to adopted conditions as set forth in 2024-04.

Note: An appeal of a decision of the Planning Commission may be filed to the Hearing Officer, 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

KENAI PENINSULA BOROUGH PLANNING COMMISSION

RESOLUTION 2024-04

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT PURSUANT TO KPB 21.18.081 FOR THE CONSTRUCTION OF FOOTBRIDGE WITHIN THE 50-FOOT HABITAT PROTECTION DISTRICT OF THE KENAI RIVER

- WHEREAS,** Chapter 21.18 provides for the approval of Conditional Use Permits for certain activities within the habitat protection district; and
- WHEREAS,** KPB 21.18.081 provides that a conditional use permit is required for construction not meeting the standards of KPB 21.18.071; and
- WHEREAS,** KPB 21.18.091 provides for mitigation measures by the planning department staff to address impacts to the Habitat Protection District from a proposed, ongoing, or completed project; and
- WHEREAS,** public notice was sent to all property owners within a 300-foot radius of the proposed activity as provided in KPB 21.11.030; and
- WHEREAS,** public notice was published in the Peninsula Clarion on February 14, 2024 and February 21, 2024 as provided in KPB 21.11.020; and
- WHEREAS,** public testimony was received at the February 26, 2024 meeting of the Kenai Peninsula Borough Planning Commission.

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

That the Planning Commission makes the following findings of fact pursuant to KPB 21.18:

Section 1. Project Details Within the 50-foot Habitat Protection District

1. The pedestrian bridge is 70-feet and 7-inches in length, is 3-feet in width, and will be installed within the private 30-foot right-of-way owned by the Castaway Cove Home Owners Association (the "HOA").
2. The bridge will be elevated 7 feet above grade to comply with KPB Floodplain Management, and elevated 8 feet above ordinary high water to allow unobstructed boating traffic.
3. Installation of four 6-inch diameter pilings, two on each side of the canal, which will be driven to a maximum depth of 15 feet. The pilings will be installed 8 feet behind the riverbanks and well above ordinary high water.
4. Two 16-foot-long elevated light-penetrating ramps will be placed on each side of the canal, and will be approximately a 2:1 grade.
5. Project site on the island may be accessed with heavy equipment via various methods that each depend on conditions, water levels, and applicable permits and permissions. Methods such as: a) crossing the upstream vehicle bridge, b) construction of a snow/ice bridge in the canal during low water, or c) in-water work from the canal during low-water.

Section 2. Findings of fact pursuant to KPB 21.18.081

1. Portions of this proposed project are within the 50-foot habitat protection district as defined by KPB 21.18.040.
2. Pursuant to KPB 21.18.081(B)(5), construction of critical infrastructure may be approved as a conditional structure/use within the habitat protection district.
3. Pursuant to 21.18.081(D) General Standards, staff finds that the proposed project meets the five general standards.
4. Pursuant to KPB 21.18.020(A), this chapter was established to protect and preserve the stability of anadromous fish through controlling shoreline alterations and disturbances along anadromous waters and to preserve nearshore habitat.
5. Pursuant to KPB 21.18.20(B)(5), one purpose of this chapter was established to separate conflicting land uses.
6. The proposed project is consistent with the 2019 Kenai Peninsula Borough Comprehensive Plan and other applicable planning documents and borough code, including the Kenai Peninsula Borough Coastal Management Plan.
7. A survey was provided to the River Center in February 2024, and certified that the right-of-way had been surveyed and marked.
8. Per the engineering report, the planned construction procedure, involving the installation of driven pilings for the bridge foundation, ensures minimal environmental impact. It will also eliminate any need for excavation or disturbance of the surrounding soil, which reduces any risk of damaging the riverbank or neighboring properties.
9. Per the project details and engineering report, because the pilings will be installed 8 feet behind the riverbanks and well above ordinary high water, the pilings will not contribute to any erosion.
10. Kenai Peninsula Borough Planning Commission Resolution 2015-35 defines water-dependent as:
"...a use or structure located on, in or adjacent to water areas because the use requires access to the waterbody. The definition is applicable to facilities or activities that must be located at or near the shoreline and within the 50-foot buffer. An activity is considered water dependent if it is dependent on the water as part of the intrinsic nature of its operation. Examples of water dependent facilities may include, but are not limited to, piers, boat ramps, and elevated walkways."
11. The River Center found the application complete and scheduled a public hearing for February 26, 2024.
12. Per KPB 21.18.081(C), a person seeking a permit must submit an application to the River Center, which can be done by property owner or agent. This application lists the property owner as Castaway Cove HOA, and the person (agent) applying for the permit is listed as DeWayne Benton.
13. Agency review was distributed on February 7th, 2024. The following comments and/or permits were received:
 - a. KPB Floodplain Management; permit to be approved upon CUP approval
 - b. US Army Corps of Engineers; no permit required
 - c. Alaska Division of Natural Resources - State Parks; verbal support; permit pending
 - d. Alaska Department of Fish and Game - Habitat Section; permit approved
14. Pursuant to KPB 21.11.030, public notice was mailed to all property owners within a radius of 300 feet of the subject property on February 7, 2024. A total of 242 mailings were sent.
15. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on February 14, 2024 and February 21, 2024.

16. The applicant is currently in compliance with KPB permits and ordinances.

Section 3. Permit Conditions

1. Construction techniques and best management practices shall be utilized to ensure that land disturbing activities do not result in runoff or sedimentation to the Kenai River.
2. The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas with native vegetation. Permittee will also use rig-matting to cross any vegetated areas so as to reduce disturbance within the HPD.
3. For each tree removed, two seedlings less than 5.5-feet tall of a species native to the region will be planted within the 50-foot HPD.
4. Storage or use of fuel is prohibited within 50-feet of any open water.
5. The River Center shall be notified at least 3 days prior to the start of the project.
6. If changes to the approved project described above are proposed prior to or during its siting, construction, or operation, the permittee is required to notify the River Center to determine if additional approval is required.
7. The permittee shall be held responsible for the actions of the contractors, agents, or others who perform work to accomplish the approved plan.
8. The construction or installation phase of this CUP must be completed within six years calendar year from the date of the permit's issuance, or the CUP shall expire unless the Planning Commission finds that more time is necessary to effectuate the purposes of this chapter, in which case the commission may extend the deadline for a maximum of six years from the date of issuance. Prior to its expiration date and upon written request, the Planning Director may grant a CUP extension for 12 months (KPB 21.18.081(H)).
9. In addition to the penalties provided by KPB 21.18.110, and pursuant to KPB 21.50, the permit may be revoked if the permittee fails to comply with the provisions of this chapter or the terms and conditions of a permit issued under this chapter. The KPB Clerk shall provide at least 15 day's written notice to the permittee of a revocation hearing before the hearing officer (KPB 21.18.082).
10. The permittee shall comply with the terms, conditions and requirements of the KPB Code of Ordinances Chapter 21.18, and any regulations adopted pursuant to this chapter.
11. The permittee is responsible for abiding by all other federal, state, and local laws, regulations, and permitting requirements applicable to the project (KPB 21.18.081(G)).

Section 4. Pursuant to 21.18.081(D) General Standards, the following standards shall be met before conditional use approval may be granted:

1. The use or structure will not cause significant erosion, sedimentation, damage within the habitat protection district, an increase in ground or surface water pollution, and damage to riparian wetlands and riparian ecosystems; **Findings 8-9 and Conditions 1-4 support this standard.**
2. Granting of the conditional use shall be consistent with the purposes of this chapter, the borough comprehensive plan, other applicable chapters of the borough Code, and other applicable planning documents adopted by the borough; **Findings 2, 4-6 and Conditions 10-11 support this standard.**
3. The development of the use or structure shall not physically damage the adjoining property; **Findings 7-9 and Condition 1,2, 7 support this standard.**
4. The proposed use or structure is water-dependent; **Findings 1, 2, 10 support this standard.**

5. Applicant's or owner's compliance with other borough permits and ordinance requirements;
Findings 13, 14 and Conditions 10, 11 support this standard.

THIS CONDITIONAL USE PERMIT EFFECTIVE ON _____ DAY OF _____, 2024.

Jeremy Brantley, Chairperson
Planning Commission

ATTEST:

Ann Shirnberg
Administrative Assistant

Note: An appeal of a decision of the Planning Commission may be filed to the hearing officer, in accordance with the requirements of the KPB 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.

From: [Planning Dept.](#)
To: [Aldridge, Morgan](#); [Lopez, Samantha](#)
Subject: FW: <EXTERNAL-SENDER>Comment on the CUP in Castaway Cove Subdivision for the footbridge
Date: Monday, February 12, 2024 8:16:54 AM

From: Robert Rolen <rdrolen3@gmail.com>
Sent: Friday, February 9, 2024 5:47 PM
To: Planning Dept, <planning@kpb.us>
Subject: <EXTERNAL-SENDER>Comment on the CUP in Castaway Cove Subdivision for the footbridge

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.

Dear Sirs,

I would like to urge you to allow the CUP for this footbridge project. I own a lot that would be served by the footbridge, ie Lot 5 Block 9. When the river erodes away the aluminum walkway's ground at the lower end of the island, I'll have no lawful way to transport anything to my property except by boat. When the river is low in May and June, you can't safely use a boat to get to the property either, therefore no maintenance will be able to be done on the riverbank before the water comes up in July. I can't do any meaningful river bank spruce tree revetment work when the water level is above ordinary high water.

There are persons who are wheelchair bound who will also be affected when no land access is available.

This footbridge install has been in the works for a number of years. One Castaway Cove HOA member invested a lot of resources, research time and paperwork to get permitting and a CUP approved by the Borough. The effort stalled when a property owner, next to the easement that the footbridge would utilize, used their influence and position to thwart the process. I watched that Kenai Borough Planning Commission Zoom meeting, I believe two summers ago, where this individual with a conflicting interest, stalled the extension requested for the footbridge's permit. It was very sad.

As a matter of clarification, your letter I received says the project is on parcels 055-255-47 and 055-253-42. As I understand it, the footbridge is not to be installed on these properties but on the easement, as are all of the walkways and the lower footbridge to the island. No one is taking away property from any owner for this use, but only utilizing the common property of the CC HOA easement.

I have told individuals who are working on this project, often at no benefit to themselves, that I'd contribute to the project to get the footbridge installed. I made that promise and intend to keep it. But until the CUP is approved, that bridge will sit and be no benefit to anyone. I pay my dues, and

occasional special assessments for special projects, and as an equal member of the CC HOA I feel we property owners on the upper island deserve the support of the entire HOA by installing the footbridge. I want it to be safe and permanent and be tied into the rest of the walkways, just as they were when the Cove was platted in the '80s. Also, the Cost Share Program that gave us the aluminum walkway along the washed out river, when it is permanently moved, should be used for these refurbished walkways in the wetlands and not placed (temporarily) in front of private lots as has been done once in the past.

Again, I urge your approval of the CUP.

Respectfully,

Robert Rolan
Lot 5 Block 9, CC
165 W Moore Ave
Hermiston, OR 97838

From: [Planning Dept.](#)
To: [Aldridge, Morgan](#); [Lopez, Samantha](#)
Subject: FW: <EXTERNAL-SENDER>Castaway Cove Foot Bridge
Date: Wednesday, February 14, 2024 6:46:02 AM

From: Wayne Broste <44teamb@gmail.com>
Sent: Tuesday, February 13, 2024 8:43 PM
To: Planning Dept, <planning@kpb.us>
Subject: <EXTERNAL-SENDER>Castaway Cove Foot Bridge

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.

Dear Sirs,

Regarding your meeting on Monday Feb. 26th at 7:30pm we as property owners in Castaway Cove want to express our support for the new foot bridge.

Wayne and Annette Broste
Castaway Cove Lot 16 Block 9
907-727-3478

Thank you,
Wayne and Annette Broste

From: [Hindman, Julie](#)
To: [Aldridge, Morgan](#)
Subject: Castaway Cove HOA CUP FP comments
Date: Wednesday, February 7, 2024 2:54:26 PM
Attachments: [image001.png](#)

I have reviewed the application received for the Castaway Cove HOA footbridge installation. If approved by the Kenai Peninsula Borough Planning Commission, please note that the following will be conditions of the floodplain permit.

- The bridge will be required to be elevated to a minimum of 7 feet above adjacent grade on each side of the canal.
- The project may not cause a rise in base flood elevations nor alter the watercourse.
- The various portions of the bridge must be properly anchored to resist flotation, collapse, or lateral movement during a flood event.
- If any portions of the support pilings or footbridge are below Ordinary High Water, it will no longer qualify for the waiver for floodway analysis and will be in violation.
- Construction methods must minimize flood damage and done with flood resistant materials.
- All federal, state, and local permits must be obtained for the floodplain permit to be valid.

Julie Hindman

Planner – Floodplain Administrator
Donald E. Gilman River Center
KPB Planning Department
907-714-2463

KENAI PENINSULA BOROUGH
514 Funny River Road
Soldotna, Alaska 99669





FISH HABITAT PERMIT FH22-V-0184

ISSUED: July 6, 2022

EXPIRES: Lifetime of Structure

Castaway Cove Homeowners Association
Leon James
Roy Briley Association Management
1577 C St. #101C
Anchorage, AK 99501

RE: Footbridge

Kenai River – Stream No. 244-30-10010
Section 19, T 5N, R 10W, S.M.
Location: 60.5114° N, 151.1090° W
Kenai Peninsula Borough Parcel No. 055-253-42
River Center Tracking No. 12655

Dear Mr. James:

Pursuant to the anadromous fish act at AS 16.05.871(b), the Alaska Department of Fish and Game (ADF&G), Habitat Section, has reviewed your proposal to install a footbridge to access properties on a Kenai River island at the referenced location. The project will occur along the left bank of the Kenai River at river mile 15, Castaway Cove Subdivision, Amended Tract B.

Project Description

A boom truck will be used to install an approximately 3-foot wide by 71-foot long aluminum footbridge. The bridge will measure 46-inches tall and the deck of the bridge will sit approximately 8-feet above ordinary high water (OHW) level. The bridge will be

anchored by four vertical pilings installed in 6-inch well casings outside of OHW. The footbridge will be accessed by aluminum ramps attached to each end.

Your permit application and all materials, maps, and drawings submitted to the Kenai Peninsula Borough River Center as part of a multi-agency permit application are hereby adopted by reference into this permit.

Anadromous Fish Act

The Kenai River has been specified as being important for the migration, spawning and rearing of anadromous fish pursuant to AS 16.05.871(a). The Kenai River provides migration, spawning and rearing habitat for Chinook, sockeye, pink, chum, and coho salmon and other species of resident fish.

In accordance with AS 16.05.871(d), project approval is hereby given subject to the project description, the following stipulations, and the permit terms:

1. There shall be no tracked or wheeled equipment operated within the flowing waters of the Kenai River.
2. All construction activities shall be conducted so as to minimize disturbance to the riverbed and prevent the introduction of sediment, pollutants, and other material into the Kenai River.
3. All bank cuts, slopes, fills, and other exposed earth work attributable to this project shall be stabilized and revegetated to minimize erosion which may occur both during and after the project.

Permit Terms

This letter constitutes a permit issued under the authority of AS 16.05.871 and must be retained on site during project activities. Please be advised that this determination applies only to Habitat Section regulated activities; other agencies also may have jurisdiction under their respective authorities. This determination does not relieve you of your responsibility to secure other state, federal, or local permits. You are still required to comply with all other applicable laws.

You are responsible for the actions of contractors, agents, or other persons who perform work to accomplish the approved project. For any activity that significantly deviates from the approved plan, you shall notify the Habitat Section and obtain written

approval, in the form of a permit amendment before beginning the activity. Any action that increases the project's overall scope or that negates, alters, or minimizes the intent or effectiveness of any stipulation contained in this permit will be deemed a significant deviation from the approved plan. The final determination as to the significance of any deviation and the need for a permit amendment is a Habitat Section responsibility. Therefore, it is recommended you consult the Habitat Section immediately when a deviation from the approved plan is being considered.

For the purpose of inspecting or monitoring compliance with any condition of this permit, you shall give an authorized representative of the state free and unobstructed access, at safe and reasonable times, to the project site. You shall furnish whatever assistance and information as the authorized representative reasonably requires for monitoring and inspection purposes.

In addition to the penalties provided by law, this permit may be terminated or revoked for failure to comply with its provisions or failure to comply with applicable statutes and regulations. You shall mitigate any adverse effect upon fish or wildlife, their habitats, or any restriction or interference with public use that the commissioner determines was a direct result of your failure to comply with this permit or any applicable law.

You shall indemnify, save harmless, and defend the department, its agents, and its employees from any and all claims, actions, or liabilities for injuries or damages sustained by any person or property arising directly or indirectly from permitted activities or your performance under this permit. However, this provision has no effect if, and only if, the sole proximate cause of the injury is the department's negligence.

You may appeal this permit decision relating to AS 16.05.871 in accordance with the provisions of AS 44.62.330-630.

Please direct questions about this permit to Habitat Biologist Kaitlynn Cafferty at (907) 714-2481 or e-mail at kaitlynn.cafferty@alaska.gov.

Sincerely,

Doug Vincent-Lang
Commissioner

Tony Munter

By: Tony Munter
Kenai Peninsula Area Manager
Habitat Section

cc: KRC File

By email only:

AWT Soldotna
ADF&G Soldotna
COE - KFO
AI Ott, ADF&G Fairbanks