

ATTORNEYS

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ANDY L. PEVEHOUSE  
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**GILMAN & PEVEHOUSE**  
**ATTORNEYS AT LAW**

130 SOUTH WILLOW STREET, SUITE 3  
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OF COUNSEL

CARL BAUMAN  
CARY R. GRAVES  
THERESA L. HILLHOUSE

OFFICE MANAGER

REBECCA F. GILMAN

September 11, 2020

Assembly Members  
Kenai Peninsula Borough  
144 North Binkley Street  
Soldotna, AK 99669

Re: Lou Oliva Appointment to Planning Commission

Dear Assembly Members:

I represent Jeff and Bonnie West. I have read the letter by Lou Oliva dated August 31, 2020 in response to Jeff West's comments and thought it would be helpful if I clarified a few points related to issues in which I previously represented the Wests.

**1. Trespass/Encroachment and Court Case with AMHTA:** The Wests and Olivas were both in litigation related to the sale of Trust land in the area. The Wests appealed an AMHTA decision to sell Trust land to the Olivas. However, this litigation is unrelated to the encroachments placed on public rights-of-way and preventing public access.

As a brief summary, the lawsuit (3KN-18-87CI and S-17407) started because the Wests and Olivas both wanted to purchase Trust Land. The Trust chose to sell the land to the Olivas. The Wests appealed the decision because of improper notice and issues regarding the Trust's process of selling the land, including preferential treatment toward the Olivas because Lou Oliva already trespassed and built a barn and horse corral on the Trust land prior to the sale. The trespass and encroachment on Trust land was confirmed and the Trust required the Olivas to pay \$21k for their years of use of the land. (See Attachment A – Settlement Information.) However, the Wests did lose the appeal because the Court found that the Trust followed the correct procedure, so the sale of the property to the Olivas went through.

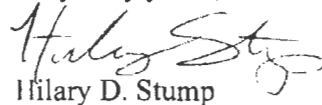
Lou Oliva has placed encroachments (primarily connexes) on public access rights-of-way. These encroachments are separate from the issues in the lawsuit discussed above. The connexes Lou Oliva currently has on ADL 220394 blocks the public access from use of the ADL and blocks access by the public to Sara Jane Street (a KPB right-of-way) and Daniels Lake.

**2. ADL 220394 is a public right-of-way and not the Oliva's driveway or personal property.** Included as Attachment B is a copy of ADL 220394, which was executed in 1985 and recorded in 2018. The ADL document is a right-of-way permit, and it explains that "the permittee" is the "Southcentral District, Division of Land and Water Management, acting as representative of and on behalf of the public..." The purpose of the ADL permit was "for a right-of-way for: public road and public utility access..." Nevertheless, Lou Oliva has treated it as a private driveway, and even referred to it as a private driveway in his comments to the Assembly. The State of Alaska has confirmed that it is a public right-of-way and has asked Lou Oliva to move the connexes. (See Attachment C - Letter from DNR.)<sup>1</sup>

**3. Protective Order:** After several incidents of Lou Oliva dangerously driving his vehicle at Jeff West, Jeff filed for a protective order in Case No. 3KN-19-00938CI. To clarify, the Court found that Lou Oliva *did* intentionally drive at Jeff West when Jeff West was a pedestrian walking to his home. The Court held that Lou Oliva's testimony about the incident was not credible and agreed with Jeff West's testimony regarding the incident. The Court held that Lou Oliva *did* knowingly engage in conduct that placed Jeff West in fear of death or physical injury, under Alaska Statute 11.41.270. However, to grant a protective order there must be more than one incident, and the Court found that there was not sufficient evidence for the other incidents, so a protective order was not granted.

Hopefully, this information is helpful to you as you make your decision. The Wests were asked by an Assembly Member to present this information to the Assembly for your consideration, and simply want to be helpful and ensure the Assembly understands these ongoing issues before making its determination.

Very truly yours,

  
Hilary D. Stump

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<sup>1</sup> This was not the first time Lou Oliva was asked to remove encroachments from the rights-of-way, but rather he has been asked by both the Kenai Peninsula Borough and the State of Alaska multiple times in the past few years to remove encroachments.

Good morning Ms. Doucet:

The attached pdf file is copy of cover letter and cashier's check for \$21,000 for Olivas' compensation for past use of Lot 17. I am sending the originals to you by certified mail today. Thank you.

Bob

Robert J. Molloy  
Molloy Schmidt LLC, Attorneys At Law  
110 S. Willow Street Suite 101  
Kenai, Alaska 99611  
(907) 283-7373 • (907) 283-2835 fax  
[bob@molloyschmidt.com](mailto:bob@molloyschmidt.com)

**\*\*\* CONFIDENTIALITY NOTICE \*\*\***

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Begin forwarded message:

**From:** "Doucet, Jusdi R (DNR)" <[jusdi.doucet@alaska.gov](mailto:jusdi.doucet@alaska.gov)>  
**Date:** October 20, 2017 3:43:56 PM AKDT  
**To:** Bob Molloy <[bob@molloyschmidt.com](mailto:bob@molloyschmidt.com)>  
**Subject:** RE: Compensation for Past Use - Lot 17

Thank you. I will send a letter of acknowledging the receipt and purpose of the fee for the Oliva's record - as discussed today.

Jusdi Doucet  
Southcentral Lands Manager  
Trust Land Office  
[jusdi.doucet@alaska.gov](mailto:jusdi.doucet@alaska.gov) | (907) 269-8422

---

**From:** Bob Molloy [<mailto:bob@molloyschmidt.com>]  
**Sent:** Friday, October 20, 2017 2:58 PM  
**To:** Doucet, Jusdi R (DNR) <[jusdi.doucet@alaska.gov](mailto:jusdi.doucet@alaska.gov)>  
**Subject:** Compensation for Past Use - Lot 17

**Attachment A - Settlement Information**

000208

Hi Ms. Doucet:

As discussed today, the Olivas agree to pay compensation of \$21,000.00 for past use of Lot 17. They will provide me with a cashier's check payable to mental Health Trust on Monday, which I will send to you. Thank you.

Bob

Robert J. Molloy  
Molloy Schmidt LLC, Attorneys At Law  
110 S. Willow Street Suite 101  
Kenai, Alaska 99611  
(907) 283-7373 • (907) 283-2835 fax  
[bob@molloysschmidt.com](mailto:bob@molloysschmidt.com)

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**MOLLOY SCHMIDT LLC**

ATTORNEYS AT LAW

110 South Willow Street, Suite 101  
Kenai, Alaska 99611  
(907) 283-7373 • (907) 283-2835 fax

**ROBERT J. MOLLOY**  
ADMITTED IN ALASKA AND WASHINGTON

[rob@molloysschmidt.com](mailto:rob@molloysschmidt.com)

**KRISTINE A. SCHMIDT**  
ADMITTED IN ALASKA, CALIFORNIA AND WASHINGTON

[kristine@molloysschmidt.com](mailto:kristine@molloysschmidt.com)

October 23, 2017

**VIA Certified Mail**


Trust Land Office  
c/o Jusdi Doucet  
Southcentral Lands Manager  
2600 Cordova Street, Suite 100  
Anchorage, AK 99503

**Re: Compensation for Past Use of Lot 17, Sec 34 T 8 N R 11 W of the Seward Meridian**

Dear Ms. Doucet:

Enclosed is the cashier's check in the amount of \$21,000.00 from Lou and Stacy Oliva, payable to State of Alaska Mental Health Trust, as compensation for past use of Lot 17. It is my understanding that you will send an acknowledgment letter to the Olivas, through me, that will also allow continued use of Lot 17, as discussed 10/20/17. Thank you.

Very truly yours,

  
\_\_\_\_\_  
ROBERT J. MOLLOY

Cc: Clients



## Recording Cover Sheet

This document may have been recorded at a previous time, and if so, the prior recording date takes precedence.

Please record this cover sheet as the first page of the document. The document should be indexed as follows:

**RECORDING DISTRICT:**

KENAI

**DOCUMENT TITLE:**

Easement

**FILE TYPE/NUMBER:**

ADL 220394

**GRANTOR:**

1. State of Alaska
2. Department of Natural Resources
3. Division of Lands
4. Division of Mining, Land and Water

**LEGAL DESCRIPTION:**

Index document according to location index and legal description listed on page(s) \_1 and 4\_.

**GRANTEE:**

1. State of Alaska
2. Department of Natural Resources
3. Division of Lands
4. Division of Mining, Land and Water

**AFTER RECORDING RETURN TO:**

Department of Natural Resources  
DNR Division of Mining, Land & Water  
Southcentral Region Land Office  
Easement Unit, Attn: Recording Project  
550 W. 7<sup>th</sup> Avenue, Suite 900C  
Anchorage, AK 99501-3579

**STATE BUSINESS NO CHARGE**

STATE OF ALASKA  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF LAND AND WATER MANAGEMENT

ADL No. 220394

RIGHT-OF-WAY PERMIT

THIS AGREEMENT made and entered into this 5th day of September, 1985, by and between the STATE OF ALASKA, acting by and through the Department of Natural Resources, Division of Land and Water Management, hereinafter referred to as the grantor and Southcentral District, Division of Land and Water Management, acting as representative of and on behalf of the public hereinafter referred to as the permittee.

WITNESSETH, that in accordance with the provisions of Sec. 38.05.850, A.S. and the rules and regulations promulgated thereunder, the permittee having filed an application for a right-of-way for: public road and public utility access with the Division of Land and Water Management together with a map showing the definite location thereon of the line of right-of-way which the permittee has adopted and agrees to be the specific and definite location of the aforesaid right-of-way, and

WHEREAS, it is understood and agreed by the permittee herein that, as a condition to the granting of the right-of-way applied for, the land covered by said right-of-way shall be used for no purpose other than the location, construction, operation and maintenance of the said right-of-way over and across the following described State lands, to wit: a 30 foot by 273 foot right-of-way located within the Seward Meridian, Township 8 North, Range 11 West, Section 34: the North 1/2 of the South 1/2; also described on the attached legal description, containing 0.192 acres, more or less.

TO HAVE AND TO HOLD the same until the above described land shall no longer be used for the above-mentioned purpose and subject to conditions and reservations elsewhere set forth herein.

The as-built legal description revealing the right-of-way granted herein has been attached hereto and made a part hereof. See attachment Number 1.

In the event that the right-of-way granted shall in any manner conflict with or overlap a previously granted right-of-way the permittee herein shall use this right-of-way in such a manner as not to interfere with the peaceful use and enjoyment of the previously issued right-of-way and no improvements shall be constructed by the permittee herein upon the overlapping area unless the consent therefor has first been obtained from the permittee under the pre-existing right-of-way.

The permittee in the exercise of the rights and privileges granted by this indenture shall comply with all regulations now in effect or as hereafter established by the Division of Land and Water Management and all other Federal,

10-119 (72)  
Rev. 4/83

State or municipal laws, regulations or ordinances applicable to the area herein granted.

The permittee shall utilize the lands herein granted consistent with the purposes of the proposed use, as revealed by the application therefor, and shall maintain the premises in a neat and orderly manner and shall adopt and apply such safety measures as shall be necessary, proper and prudent with respect to the use to which the land is subjected.

The permittee shall take all reasonable precaution to prevent and suppress brush and forest fires. No material shall be disposed of by burning in open fire during the closed season unless a permit therefor has first been obtained from the agency empowered by law to issue such permits.

Any lands included in this permit which are sold under a contract to purchase shall be subject to this permit. Upon issuance of title to the purchaser, this permit shall remain in effect until its date of expiration.

In case the necessity for the right-of-way shall no longer exist, or the permittee should abandon or fail to use the same, then this permit shall be terminated by usual and customary easement vacation process with the Kenai Peninsula Borough.

The State of Alaska shall be forever wholly absolved from any liability for damages which might result to the permittee herein on account of this permit having been cancelled, forfeited or terminated prior to the expiration of the full time for which it was issued.

NOW THEREFORE, in accordance with the provisions of Sec. 38.05.850, A.S. and the rules and regulations promulgated thereunder and in accordance with the conditions heretofore set forth or attached hereto and made a part hereof, the permittee herein is hereby authorized to locate, construct, operate and maintain said right-of-way over and across the lands herein described.

IN WITNESS WHEREOF, the said grantor has caused these presents to be signed in duplicate and the permittee herein has hereunto affixed his signature on the day and year first above written.





Right-of-Way Permit, ADL 220394

Attachment 1

A parcel of land within the Kenai Peninsula Borough, Third Judicial District, Alaska more particularly described as follows:

Beginning at the Southeast corner of Government Lot Thirty-Five (35), Section Thirty-Four (34), Township Eight North (T8N), Range Eleven West (R11W), Seward Meridian, Alaska, said corner being established by Alaska State Land Survey Plat No. 80-71, Kenai Recording District, the true point of beginning and corner number one of this parcel.

Thence S89°54'41"W, 272.4 feet along the south line of Government Lot Thirty-Five (35) to an Alaska State Land Survey monument of the easterly boundary of a 60 foot right-of-way and corner number two.

Thence N24°20'14"W, 32.95 feet along the easterly boundary of the 60 foot right-of-way to corner number three.

Thence N89°54'41"E, 286.09 feet to the east boundary of Government Lot 35 and corner number four.

Then S0°06'54"E, 30.00 feet along the east boundary of Government Lot 35 to corner number one and the point of beginning.

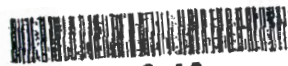
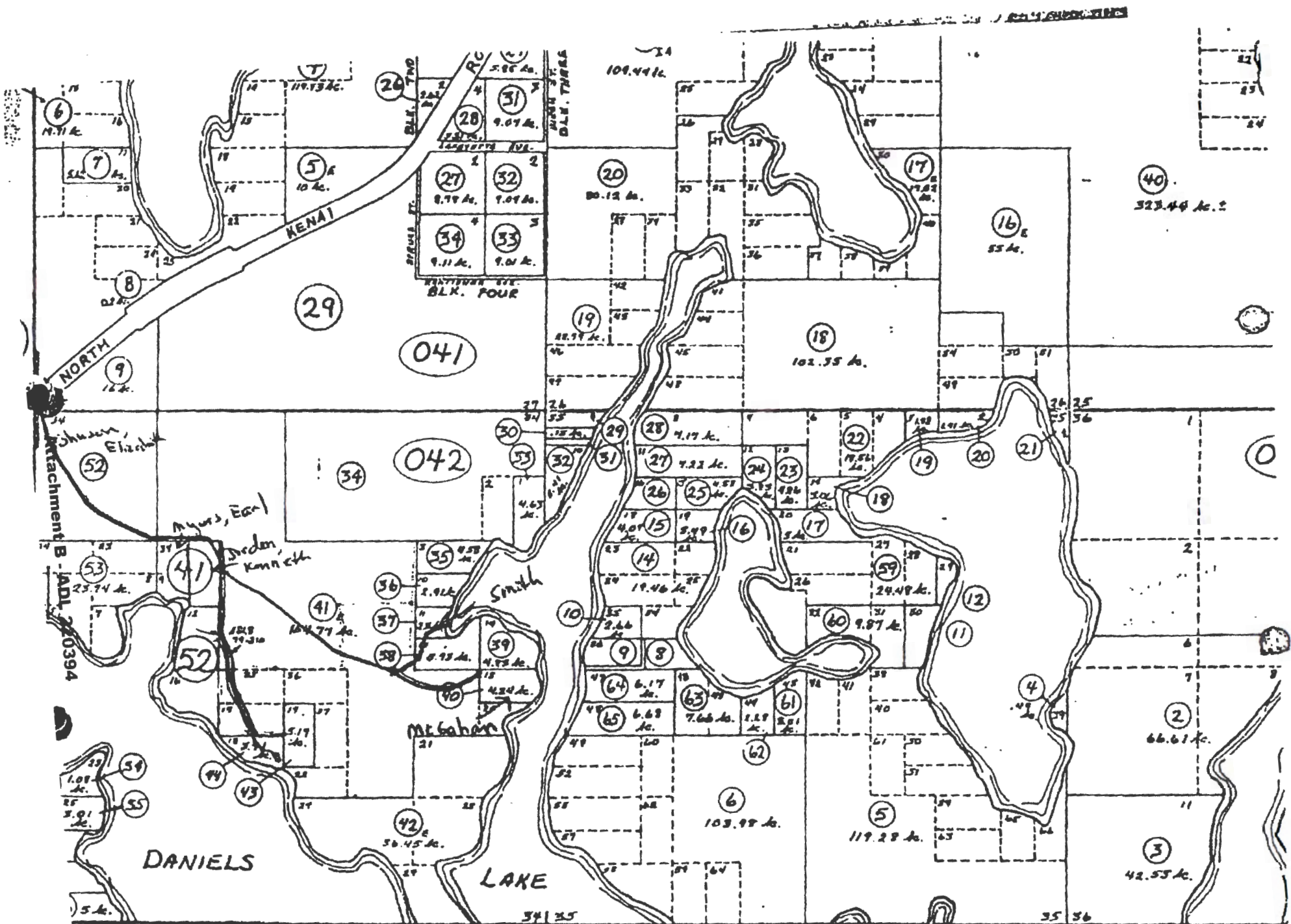
Containing 0.192 acres more or less.

Basis of bearing is Alaska State Land Survey #79-210.



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2018-001832-0



9

01341037

8

74

U = 6 7 31.80 m  
 E = 3 3.59 m  
 300'

C - 1/4 Cor Section 34

51351

(ADL 201380)  
**60' PUBLIC R/W ISSUED EASEMENT**  
 FOR ROAD AND UTILITY PURPOSES  
 Contains 0.96 Acres (0.39 Hectare)

ALASKA

OF

STATE

BASIS OF BEARING

SELEC  
 Mental H  
 Tentative  
 Patent N

DEDIC.  
 UTILI

heret  
 all easer  
 as show

Temporary turnaround  
 50' R to be automatically  
 vacated when road extended by  
 plat dedication.  
 BT 1 6' Spr S 6°40'W 14.7  
 BT 2 10' Spr S 71°25'W 46.5  
 BT 3 7' Spr N 51°10'E 73.7

BT 1 8' Spr S 21°05'E 51.6  
 BT 2 6' Spr S 25°55'W 48.9  
 BT 3 10' Spr N 82°50'W 26.1

30' x 272.46'  
*[Signature]* 3/28/85

APPROXIMATE LAKE MEASURES

**OWNERSHIP CERTIFICATE**

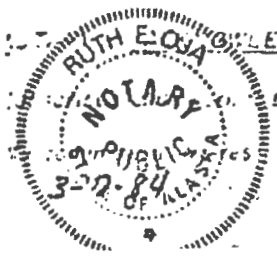
I, the undersigned, hereby certify that I am the director,  
 Division of Technical Services, and that the  
 State of Alaska is the owner of ASLS 79-210, as  
 shown herein. I hereby approve this survey and plat  
 by the State of Alaska.

per 8/21/80  
 Date

*[Signature]*  
 Director  
 Division of Technical Services

Govt Lot 18  
 Private

Ownership  
 SCR Lowm  
 DMR *[Signature]*



before me this 21st day of 1980

*[Signature]*  
 Notary for Alaska

Attachment B - ADL 220394

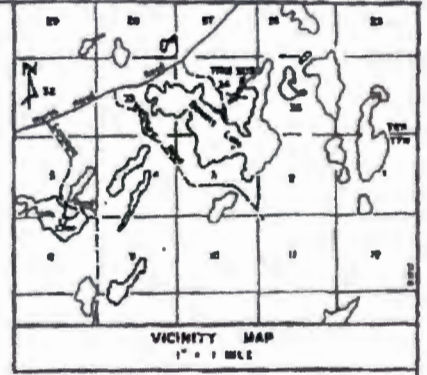
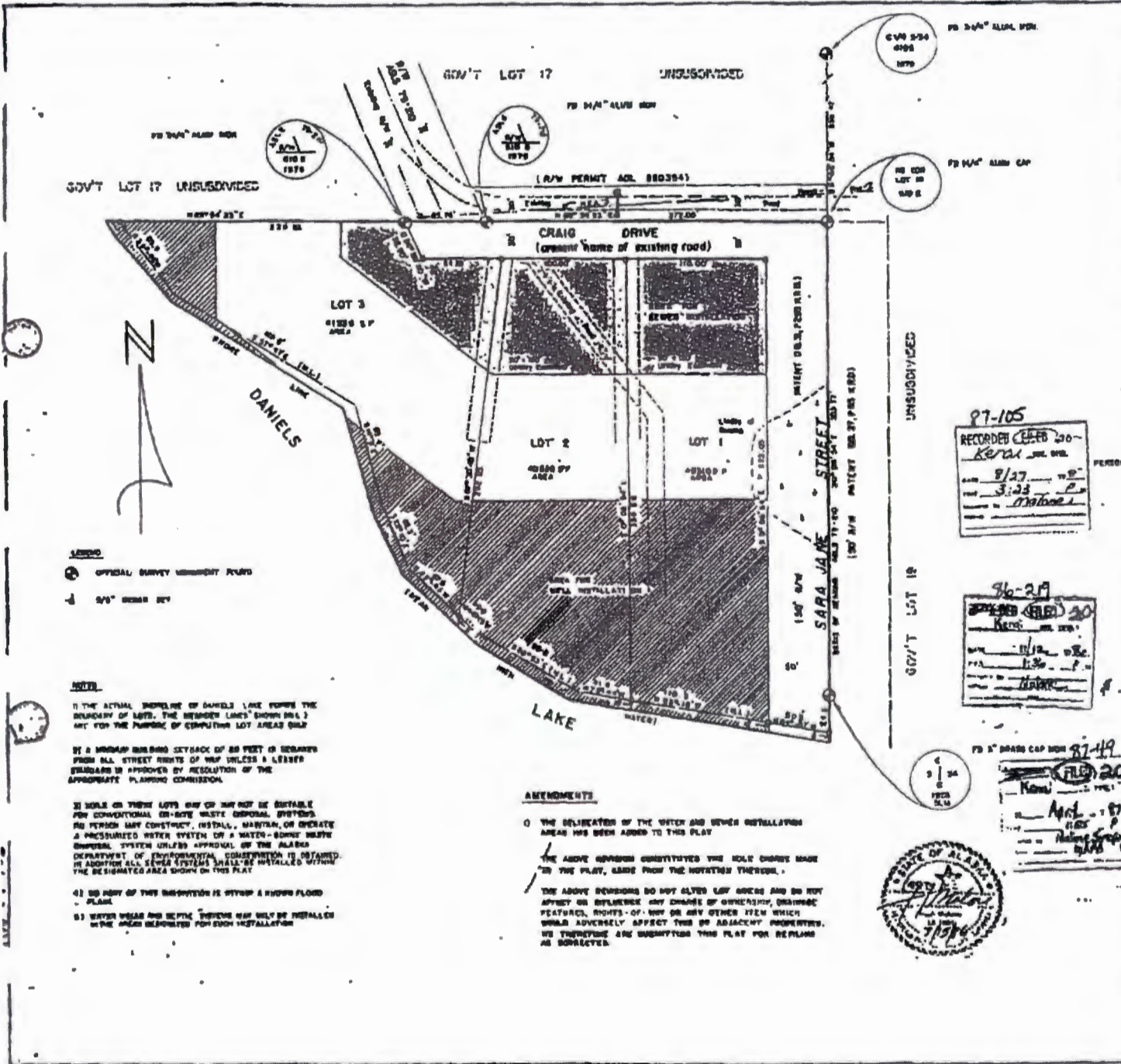


Page 7 of 8  
 2018-001832-0

END EXIST ROAD

220394

SEC 34



**CERTIFICATE OF OWNERSHIP AND DEDICATION**

I certify that I am the representative for the estate of Leslie A. Rappe, which is the owner of the property shown and described herein, and that, on behalf of the estate of Leslie A. Rappe, I hereby enter the plan of subdivision and dedicate all rights-of-way to public use and grant all easements to the use shown on.

*Leslie A. Rappe*  
 CRAG RAPPE  
 BOX 1188  
 ANCHORAGE, ALASKA 99518  
 PERSONAL REPRESENTATIVE FOR THE ESTATE OF LESLIE A. RAPPE

**NOTARY'S ACKNOWLEDGEMENT**

For *Leslie A. Rappe*  
 Subscribed to and sworn before me  
 this 23rd day of August, 1986.

My commission expires *sliver*

*David A. Mail*  
 Notary Public for Alaska

**PLAT APPROVAL**

This plat was approved by the Rural Planning Bureau Planning Commission at the meeting of  
 June 16, 1986  
 Rural Planning Bureau

By *David A. Mail*  
 Authorized Officer

97-105  
 RECORDED FILED 20-  
 KENAI ALASKA  
 APR 27 1986  
 3:23 P.  
 MALONE

96-219  
 RECORDED FILED 20-  
 KENAI ALASKA  
 APR 12 1986  
 1:30 P.  
 MALONE

97-119  
 RECORDED FILED 20-  
 KENAI ALASKA  
 APR 17 1986  
 MALONE



- LEGEND**
- OFFICIAL SURVEY MONUMENT PLUMB
  - 5/8" IRON NAIL
- NOTES**
- THE ACTUAL BOUNDARY OF DANIELS LAKE FOLLOWS THE BOUNDARY OF LOTS 1, 2, 3. THE BOUNDARY LINES SHOWN ON THIS MAP FOR THE PURPOSES OF COMPUTING LOT AREAS ONLY.
  - A MINIMUM BUILDING SETBACK OF 20 FEET IS REQUIRED FROM ALL STREET RIGHTS OF WAY UNLESS A LARGER BUILDING IS APPROVED BY RESOLUTION OF THE APPROPRIATE PLANNING COMMISSION.
  - WATER ON THESE LOTS MAY OR MAY NOT BE SUITABLE FOR CONVENTIONAL ON-SITE WASTE DISPOSAL SYSTEMS. NO PERIODS MAY CONSTRUCT, INSTALL, MAINTAIN, OR OPERATE A PRESSURIZED WATER SYSTEM OR A WATER-BORN WASTE DISPOSAL SYSTEM UNLESS APPROVAL OF THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSTRUCTION IS OBTAINED. IF APPROVED ALL WASTE SYSTEMS SHALL BE INSTALLED WITHIN THE DESIGNATED AREA SHOWN ON THIS PLAT.
  - NO PORT OF THIS SUBDIVISION IS OTHER THAN A FLOOD PLAIN.
  - SEWER DEGRAS AND SEPTIC TRENCHES MAY ONLY BE INSTALLED IN THE AREAS DESIGNATED FOR SUCH INSTALLATION.

- AMENDMENTS**
- THE DELINEATION OF THE UTILITY AND SEWER INSTALLATION AREAS HAS BEEN ADDED TO THIS PLAT.
  - THE ABOVE REVISION CONSTITUTES THE SOLE CHANGE MADE TO THIS PLAT, SAME FROM THE NOTATION THEREON.
  - THE ABOVE REVISIONS DO NOT ALTER LOT AREAS AND DO NOT AFFECT OR DEFLECT ANY CHANGE OF OWNERSHIP, CHANGE FEATURES, RIGHTS-OF-WAY OR ANY OTHER ITEM WHICH WOULD ADVERSELY AFFECT THIS OR ADJACENT PROPERTIES. WE THEREFORE ARE SUBMITTING THIS PLAT FOR RECORD AS CORRECTED.

**AMENDED**

**RAPPE PARK SUBDIVISION**

GOV'T LOT 19 IN THE NE 1/4 SW 1/4 SECTION 34 T8N R11W SEWARD MERIDIAN, ALASKA

CONTAINING 1.484 ACRES  
 KENAI RECORDING DISTRICT

FOR CRAG RAPPE BOX 1188 ANCHORAGE, ALASKA 99518		MALONE SURVEYING BOX 505 KENAI, ALASKA 99501	
DATE OF SUBM.	DATE OF APPROVAL	DATE OF SURVEY	
APR 17 1986	JUN 16 1986	7/2/86	
CREATED BY Date	CHECKED <i>David A. Mail</i>		
SCALE 1 inch = 50 feet	FILE NO. 97-119		



THE STATE  
of **ALASKA**  
GOVERNOR MINT DUNLEAVY

## Department of Natural Resources

DIVISION OF MINING, LAND & WATER  
Southcentral Regional Land Office

550 West 7th Avenue, Suite 900C  
Anchorage, Alaska 99501-3577  
Main: 907.269.8503  
TTY: 711 or 800-770-8973  
Fax: 907.269.8913

August 10, 2020

Louis and Stacy Oliva  
PO Box 8567  
Nikiski, AK 99635

Mr. and Mrs. Oliva:

On April 20, 2020, the Southcentral Regional Land Office (SCRO) received a report of the presence of shipping containers, and additional impediments to use such as snow berms and boulders within a public access easement in the Nikiski area. The obstructions referenced in the report are potentially located within a public access easement managed by this office. Specifically, ADL 220394, located within Lot 17, Section 34, Township 8 North, Range 11 West, Seward Meridian, Alaska. To date our office has not received any application to vacate the easement created under ADL 220394.

The obstructions as reported on April 20, may be negatively impacting the use of the public access easement by an adjacent property owner. Public safety concerns have been raised with regard to whether these obstructions would prevent emergency vehicles from being able to access a private residence. As such this office will seek abatement of any unauthorized activities within ADL 220394.

Public records indicate that you are currently the underlying property owner and have previously utilized the easement to access other properties; we have inferred that the obstructions may have been placed at your direction. If this is the case, please be aware that the public has a free right of use of this easement and adjoining street dedications to access private property and Daniel's Lake; and that the obstructions, if present, must be removed. Alternatively, you are encouraged to notify this office if you do not own the obstructions so that we may contact the proper party or proceed to remove the obstructions if they are unclaimed.

SCRO is committed to public access to and across state lands and easements retained under its management. If you have any additional information or comments please respond to Frank McGuire at (907) 269-7480 or [frank.mcguire@alaska.gov](mailto:frank.mcguire@alaska.gov) within two weeks (August 24, 2020) of receipt of this letter to discuss this matter.

Sincerely,

Frank McGuire  
Natural Resource Specialist III

CC:  
Colleen Moore, Department of Law

**From:** Blankenship, Johni  
**Sent:** Monday, September 14, 2020 8:51 AM  
**Cc:** Broyles, Randi; Turner, Michele  
**Subject:** FW: Park Road ADL  
**Attachments:** 2020.9.11 Park Road Field Report.docx

Please see attached and email below re: Oliva appointment.

Thank you, Johni

**From:** Uhlin, Dil  
**Sent:** Saturday, September 12, 2020 12:00 AM  
**To:** Baisden, James <jbaisden@kpb.us>; Pierce, Charlie <CPierce@kpb.us>; Mueller, Marcus <MMueller@kpb.us>; Blankenship, Johni <JBlankenship@kpb.us>  
**Cc:** Uhlin, Dil <duhlin@kpb.us>  
**Subject:** Park Road ADL

Hello All,

I received a phone cal from Lou Oliva yesterday asking me to come down and observe him moving the connexes that lined the ADL. I met Mr. Oliva and his crew on location today at 5:00 PM. The items have been removed from the ADL. Please see the pictures on the attached document.

I also included photos of the Sara Jane ROW showing the pond/bog. If memory serves there was questions regarding this are at the last assembly meeting.

If someone could forward these pictures to the Assembly members I would appreciate it.

Dil Uhlin

9/10/20

I received a phone call from Lou Oliva requesting that I come out and observe him remove connexes out of the ADL that was discussed at the last Assembly meeting.

9/11/20

I met Lou Oliva at the end of Park Road. Mr. Oliva and his crew moved the all of the items that lined the ADL.

ADL Picture #1





ADL Picture #2



Pond/bog on Sara Jane ROW





11 September 2020

Assembly Members  
Kenai Peninsula Borough  
144 North Binkley Street  
Soldotna, AK 99669

Re: Lou Oliva Appointment to Planning Commission NW Area

Dear Assembly Members:

As one who submitted comments and observed the most recent Assembly meeting, 1 September 2020, I noted several areas of confusion and factual errors which I wish to address.

1. **ADL 220394 Public right-of-way:** The “public” status of this ROW – shown as Park Road on most KPB maps, but erroneously platted as Craig Drive – has never been questioned as a public access by various State and Borough agencies. The only question through the years has been who manages the ADL, which has led to issues of enforcement regarding obstructions on the ROW.

During the last Assembly meeting a phone call was made by an assembly member to Lou Oliva and a message returned that suggested the obstructions would be removed if he were appointed – almost as if it were a bargaining chip. And, that a request for removal had never been made. Another comment suggested the obstructions should be removed because it was the right thing to do rather than being used as leverage. To clarify, there have been several requests for removal:

- a. In September 2017 KPB posted removal of the unauthorized gate that was placed across the ROW (see attached photo)
- b. In October 2017 KPB communicated with State DNR (State managing authority) and received a “letter of non-objection” to remove the gate and other obstructions (see attached document)
- c. In January 2018 KPB rescinded the posted violation, citing the DNR as the managing authority, but did not notify the DNR of that decision
- d. In February 2018 my attorney filed a brief through the court system asking for removal of the obstructions
- e. In April 2018 DNR sent a letter to Lou Oliva requesting removal of the gate and obstructions (see attached document)
- f. On August 10, 2020 Lou Oliva was sent a letter by the DNR, again asking for removal of the obstructions (see attached document)

Throughout this time the obstructions have grown in number, scope, proximity to my property and now completely block the street view of my home and seriously restricts our only access. For Lou Oliva to state that there has never been a request to open the ROW and clear the obstructions is disingenuous and self-serving.

2. **Trespass on State Mental Health Trust land:** Trespass on prior MHT land has been confirmed through various documents submitted earlier for the last Assembly meeting. The fact that this trespass occurred in the first place demonstrates several important facts:
  - a. He is willing to place his personal use of public land above following the law - i.e. doing the right thing – when nobody was looking.
  - b. He is willing to eliminate the public from lawful use of public land through access blocking and posting public access as private land – including the only reasonable access to Daniels Lake.
3. **Vacation:** There seemed to be a focus in the last meeting on the possibility of vacating the ROW, and thus the encroachments would be resolved. There was a vacation petition before the Planning Commission in July 2020. The Staff recommendation was against vacation. In the end, the application was postponed so it could be revised. It is unclear whether vacation will ever occur, since so far it is unclear how better than or equal access could be provided. Regardless, the ROW should not be used as private property by Lou Oliva unless and until it is his private property. Even if the property is eventually vacated, the encroachments should be removed in the meantime. A possible future vacation should not be justification for leaving the unauthorized obstructions in place.
4. **Character:** In the meeting there were several comments made as to character confirmation through prior public service. I can only comment on what I have witnessed. From those observations it appears Lou Oliva is conflicted when making decisions that benefit the public and other individuals vs. those that benefit him personally. It comes down to respect for the rights and property of others.

Thank you for considering the above comments in your decision.

Respectfully submitted,

Jeffrey R. West



THE STATE  
of ALASKA

GOVERNOR BILL WALKER

Department of Natural Resources

DIVISION OF MINING, LAND & WATER  
Southcentral Regional Office

550 West 7th Avenue, Suite 900C  
Anchorage Alaska 99501-3577  
Main: 907.269.8503  
TDD: 907.269.8411  
Fax: 907.269.8913

April 25, 2018

Louis and Stacy Oliva  
PO Box 8567  
Nikiski, AK 99635

Mr. and Ms. Oliva:

On October 6<sup>th</sup>, 2017, the DNR Southcentral Regional Office (SCRO) received a report of the presence of a gate across a public access road in the Nikiski area. We have determined that the gate referenced in the report is located within a public access easement managed by this office<sup>1</sup>.

The gate controls access to both Daniel's Lake and an adjacent residence. Because Kenai Peninsula Borough tax records indicate that you are the owner of this residence, we infer that you have installed the gate. If this is the case, please be aware that the public has a free right of use of this and adjoining easements/dedications<sup>2</sup> to access Daniel's Lake, and that the gate must therefore be removed from the easement. Alternatively, you are encouraged to notify this office if you do not own the gate so that we may contact the proper party, or so we may proceed to remove the gate if it is unclaimed.

SCRO is committed to ensuring a positive outcome to this situation by encouraging an open dialog with any landowners that may be involved. Our office also recognizes that landowners are often unaware of the presence of public easements across their property and so may block such easements unintentionally. With that in mind, please note that SCRO will consider this matter resolved if the gate, if yours, is left open for the remainder of the spring and then moved after ground thaw to any location within your own land not otherwise within a public access easement or dedication. However, we would also like to remain apprised of your plans for relocation or removal unless a different party is involved. Please contact James Sowerwine at 334-2542 or james.sowerwine@alaska.gov at your earliest convenience to discuss this matter.

Sincerely,

A handwritten signature in blue ink that reads "James Sowerwine".

James Sowerwine  
SCRO Easement Unit

CC:

Andrew Naylor, Department of Law  
Jusdi Doucet, DNR Mental Health Trust Land Office  
Mark Fink, Alaska Department of Fish and Game, Access Defense Unit

<sup>1</sup> Reference DNR file ADL 220394, and the easement recorded as Kenai Recording District Document 2018-001832-0.

<sup>2</sup> See Kenai Recording District Plat 87-105, a copy of which is included with this letter.



THE STATE  
of ALASKA

GOVERNOR BILL WALKER

Department of Natural Resources

DIVISION OF MINING, LAND & WATER  
Southcentral Regional Office

500 West 7th Avenue, Suite 900C  
Anchorage, Alaska 99501-3577  
Main: 907-269-8503  
TDD: 907-269-8411  
Fax: 907-269-8543

October 16, 2017

Kenai Peninsula Borough  
ATTN: Sean Kelley, Assistant Borough Attorney  
144 North Binkley Street  
Soldotna, AK 99669  
via email: skelley@kpb.us

RE: Non-Objection to removal of unauthorized gate located in a public right-of-way

Mr. Kelley,

The Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Southcentral Regional Land Office (SCRO) has received your request for non-objection to the proposed removal of a gate placed within the DMLW-managed public right-of-way (public access and utility easement) serialized as ADL 220394. SCRO concurs with your assertion that gates are not within the scope of public access easements unless otherwise approved; placement of this gate has not been authorized. In view of KPB's authority to maintain roads within public access easements within the borough's boundary, including within State-managed easements with State concurrence, SCRO does not object to your removal of this encroachment.

Because this non-objection is based on an analysis of current conditions, this letter will expire 2 years from the date of signature. However, please contact our office if you would like to discuss the issuance of a broader non-objection from DMLW to KPB Road Service Area for KPB management actions that do not lead to the vacation or undue restriction of DMLW managed easements. The administrative record for this non-objection is the casefile for ADL 220394. Questions concerning this letter may be directed to James Sowerwine via email to james.sowerwine@alaska.gov or via phone at (907) 334-2542.

Sincerely,

A handwritten signature in blue ink, appearing to read "Clark Cox".

Clark Cox, Regional Manager  
Southcentral Regional Land Office

Cc: Pat Malone, KPB Roads Director



THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNILAVY

## Department of Natural Resources

DIVISION OF MINING, LAND & WATER  
Southcentral Regional Land Office

500 West 7th Avenue, Suite 9000  
Anchorage, Alaska 99501-3577  
Main: 907-269-8503  
TTY: 711 or 907-269-8973  
Fax: 907-269-8913

August 10, 2020

Louis and Stacy Oliva  
PO Box 8567  
Nikiski, AK 99635

Mr. and Mrs. Oliva:

On April 20, 2020, the Southcentral Regional Land Office (SCRO) received a report of the presence of shipping containers, and additional impediments to use such as snow berms and boulders within a public access easement in the Nikiski area. The obstructions referenced in the report are potentially located within a public access easement managed by this office. Specifically, ADL 220394, located within Lot 17, Section 34, Township 8 North, Range 11 West, Seward Meridian, Alaska. To date our office has not received any application to vacate the easement created under ADL 220394.

The obstructions as reported on April 20, may be negatively impacting the use of the public access easement by an adjacent property owner. Public safety concerns have been raised with regard to whether these obstructions would prevent emergency vehicles from being able to access a private residence. As such this office will seek abatement of any unauthorized activities within ADL 220394.

Public records indicate that you are currently the underlying property owner and have previously utilized the easement to access other properties; we have inferred that the obstructions may have been placed at your direction. If this is the case, please be aware that the public has a free right of use of this easement and adjoining street dedications to access private property and Daniel's Lake; and that the obstructions, if present, must be removed. Alternatively, you are encouraged to notify this office if you do not own the obstructions so that we may contact the proper party or proceed to remove the obstructions if they are unclaimed.

SCRO is committed to public access to and across state lands and easements retained under its management. If you have any additional information or comments please respond to Frank McGuire at (907) 269-7480 or [frank.mcguire@alaska.gov](mailto:frank.mcguire@alaska.gov) within two weeks (August 24, 2020) of receipt of this letter to discuss this matter.

Sincerely,

Frank McGuire  
Natural Resource Specialist III

CC:

Colleen Moore, Department of Law





## KENAI PENINSULA BOROUGH

Road Service Area

4710 E Paddy Lane • Soldotna, Alaska 99699  
Telephone: (907) 262-4427 • 1-800-473-4427  
PHONE (907) 262-4427 • FAX (907) 262-6060  
www.kpborough.net

### **VIOLATION NOTICE OF ENCROACHMENT**

Encroachments in the Kenai Peninsula Borough rights-of-way such as signs, vehicles, chains, gates, fences or barricades are illegal and must be removed.

**YOU ARE HEREBY NOTIFIED THAT THIS BLOCKAGE IS IN VIOLATION OF KENAI PENINSULA BOROUGH CODE 14.40.035. PROHIBITED ACTIVITIES WITHIN RIGHTS-OF-WAY.**

The encroachment must be removed from the right-of-way within 10 days of this notice. After that, the Road Service Area may remove the encroachment without further notice. Failure to respond to this directive may be subject to a daily fine.

If you have any questions or concerns related to this directive, including the timeline given to you for compliance, please contact the Road Service Area office at (907) 262-4427 or (800) 262-4427 prior to the 10 day deadline.

This Notice issued 9-15-17 at 10:00 AM PM  
Date Time

Road Service Area:  
CBS

15 September 2020

Assembly Members  
Kenai Peninsula Borough  
144 North Binkley Street  
Soldotna, AK 99669

Re: Update on Lou Oliva Appointment to Planning Commission NW Area

Dear Assembly Members:

I submitted comments earlier for the Assembly Meeting on 15 September but as the situation has changed, I wish to offer these comments as an update as of Tuesday morning 15 September.

The connexes restricting ADL 220394 were in fact removed Friday evening. This fact was documented in Dil Uhlin's comments included in the laydown package. However, it should be noted that the ADL is not free from incumbrances. In fact, it is clear Lou Oliva has not relinquished control over this confirmed public access as has been the case for over thirty years. Here is detailed account of events taken from my security camera:

1. Connex move initiated shortly after 5:00 pm, 11 September
2. Last connex move completed at 6:22 pm
3. **Bollards marked with "PRIVATE PROPERTY – KEEP OUT" signage and more, reestablished at 6:33 PM – they have not been relocated since.** Note: Dil Uhlin's photo was taken within the 11-minute period where there was no signage.
4. Intermittently, since the connex relocation, there has been construction equipment and a trailered junked auto parked in the ADL.
5. **The unauthorized gate, the original impediment sited by the KPB three years ago (to the day) and by the State DNR repeatedly since April 2018, has not been removed.**

Experience has shown that the RSA will not relocate the bollards for grader operations. Therefore, as the snow season approaches, under the current situation, our property will continue to be eliminated from snow plowing service as has been the case since February 2018. Thus, we will continue to be vulnerable to hostile plowing actions known to occur in the neighborhood.

One final comment regarding Dil Uhlin's photo and comments on the Sara Jane Street "wetland". This wetland theory was debunked several weeks ago. In my earlier comments to the Planning Commission it was demonstrated this area is a "cultivated wetland"; confirmed in an engineering report in 1986 during the Rappe Park Subdivision approval process plus KPB and State wetland maps.

Thank you for considering this new information.

Respectfully Submitted,

Jeffrey R. West





