

July 12, 2016

Kenai Peninsula Borough (KPB)  
144 N Binkley Street  
Soldotna, AK 99669

Attention: Dan Conetta

Re: Code of Ordinances, Chapter 17.10.080  
Proposed Land Classification near Moose Pass, Alaska

This correspondence follows my conversation with Mr. Conetta as of the above date.

I am expressing my opposition to KPB's plan to classify Unit 380G as Recreational land, our family property owned since the 1950's is located within Unit 380G holding the legal description;  
T 4N R 1W SEC 12 Seward Meridian SW 0003081US Survey 3081. The proposal borders our property.

Our property is used regularly by myself and members of my family. Our attempts to deter trespassers in the most part have been unsuccessful with our posted signage being torn down, shot at, and/or totally ignored. We've experienced fire pits throughout the property in which we constantly have to dismantle, the cabin gets broken into and vandalized along with any property we leave in there by unwanted visitors. The banks of the lake have eroded due to the unwelcomed foot traffic up and down causing a loss of several feet of land overlooking the lake.

This proposal will lead to additional trespassing and vandalism of our private family owned property.

My preference would be to keep the land under **State** control as there is no access to the proposed area without crossing private property. If the land must be conveyed to the borough, the recreational use is the least detrimental classification while under borough control.

The Alaska Railroad property runs between the Seward highway and Lower Trail Lake, per our permit with the Alaska Railroad there is to be no access along the property without our permission. We pay an annual permit fee to the Railroad to have access to our private property. As part of our contract with the Railroad we are required to maintain a locked gate at all times. We would love to see this locked gate requirement as a continual process with any access being made through the recreational use areas.

Respectfully submitted;

David L. Bryson

Michael L. Bryson

Owners and Kenai Peninsula Taxpayers





THE STATE  
of **ALASKA**  
GOVERNOR BILL WALKER

**Department of Fish and Game**

DIVISION OF WILDLIFE CONSERVATION  
Statewide Programs

333 Raspberry Road  
Anchorage, Alaska 99518-1565  
Main: 907.267.2257  
Fax: 907.267.2532

July 25, 2016

Marcus Mueller  
Land Management Agent  
Kenai Peninsula Borough

Mr. Mueller:

The Alaska Department of Fish and Game (ADF&G) reviewed the Public Notice issued by the Kenai Peninsula Borough (KPB) for the classification of lands in the Moose Pass/Crown Point Area. The KPB is proposing to classify these parcels as *Recreational*, which will allow a variety of indoor and outdoor uses such as archery or gun ranges, camping, golf courses, hiking/biking/skiing trails, boating, or fishing. All of these lands were recently conveyed to the KPB through the Department of Natural Resources Municipal Entitlement Program and were previously classified in the Kenai Area Plan (KAP) as Habitat and/or Recreation.

ADF&G continues to believe that these lands should remain mostly undeveloped in order to protect the fish and wildlife resources within them, to minimize potential negative wildlife encounters, and to continue to provide the recreational experiences that the area is currently known for. The Kenai River Comprehensive Management Plan and the KPB Code 21.18 for Anadromous Waters Habitat Protection both provide protection of riparian resources through the regulation of uses and structures within and along these streams.

ADF&G has the following unit-specific comments and recommendations:

1. **KAP Unit 380G** – These parcels are located adjacent to portions of Trail Creek, Lower Trail Lake, and Upper Trail Lake, whose waters provide important habitat for the spawning, migration, and rearing of anadromous fish species such as coho, king, pink, and sockeye salmon. These parcels contain riparian habitat used as brown bear movement corridors, and also used by mink, river otters, and moose. Sport fishing is common on all these waters so existing and future access should be maintained. There is also an unimproved boat launch on the southern end of Lower Trail Lake just east of the highway that should be maintained if possible.
2. **KAP Unit 380K** - This 8 acre parcel is located on the shore of Kenai Lake and at the mouth of Ptarmigan Creek. Both the lake and creek provide important habitat for the spawning, migration, and rearing of anadromous fish species such as chum, coho, king, pink, and sockeye salmon, as well as rainbow trout and Dolly Varden. During the salmon runs, the area experiences high levels of sport fishing and public access to this fishery needs to be maintained. Development of this parcel should be limited to use of the fishery resource.

3. **KAP Unit 381** – This parcel is located at the southern end of Grant Lake and along Grant Creek. Grant Creek is important for the rearing, spawning and migration of coho, Chinook, pink, and sockeye salmon, as well as Dolly Varden and rainbow trout (AWC # 244-30-10010-2225-3004). Brown bears frequently use and travel through this area from the Snow River to Trail Creek. Moose concentrations can also be found during the winter.
4. **KAP Unit 380H** - These parcels are generally located between Grant Creek and Falls Creek. One of the parcels also encompasses all of the lands around Vagt Lake. Vagt Lake is annually stocked with rainbow trout by ADF&G. A no-build riparian buffer should be imposed around the lake to protect the riparian habitat and allow for fishing access. Brown bears frequently use and travel through this area from the Snow River to Trail Creek. Moose tend to winter in the area and mountain goats can start to be seen at the higher elevations. Black bear, mink, otter, and seasonal waterfowl concentrations also use this area. There are several existing recreational trails within this unit that should be maintained and managed to minimize impacts to fish and wildlife resources as well as provide recreational opportunities.
5. **KAP Unit 401A** - This 40 acre parcel is located between Falls Creek and Ptarmigan Creek. Brown bears frequently use and travel through this area from the Snow River to Trail Creek.
6. **KAP Units 382H and 380J** – Some of the parcels are located on either side of Trail Creek. Trail Creek (AWC # 244-30-10010-2225) is important habitat for the spawning, rearing, and migration of coho, Chinook, pink, and sockeye salmon.

ADF&G does not object to the *Recreational* classification on these lands provided that the following information will be considered as use and development of the land occurs:

- Application of KPB code 21.18 and applicable management guidelines in the Kenai River Comprehensive Management Plan should be strictly enforced in order to maintain fish and wildlife habitat, minimize erosion and sedimentation, regulate the types of uses along these water bodies, and protect public access to these resources.
- Activities that may directly impact the riparian areas, such as gun ranges and golf courses, large infrastructure, or vegetation clearing, should not be authorized.
- ADF&G should be consulted on any projects which may cause impacts to these riparian resources.
- All existing trails and public access to fishing destinations should be reserved and maintained.
- The location and siting of new trails and campgrounds should consider the potential of negative bear interactions during times when the salmon are running.

Thank you for the opportunity to review and provide comments on the proposed land classifications. Please contact me at any time if you would like to discuss our comments in further detail. You may reach me at [marla.carter@alaska.gov](mailto:marla.carter@alaska.gov) or 267-2103.

Sincerely,



Marla Carter  
Habitat Biologist III



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## Alaska DEC/Division of Environmental Health-Drinking Water Program

### Recommendations for General Construction Projects associated with, or near, a Public Water System (PWS)

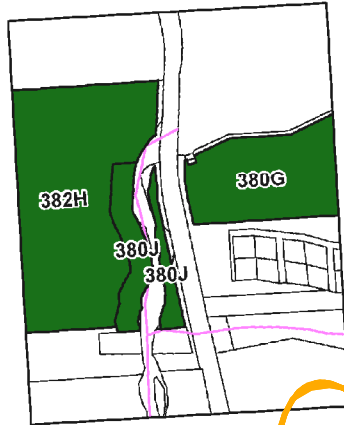
1. Identify on a legible map the location of existing public water system (PWS) drinking water protection areas (DWPA) for PWS sources (e.g. springs, wells, or surface water intakes) that intersect the boundary of the proposed project/permit area. The DWPAs can be found using the interactive web map application, "Alaska DEC Drinking Water Protection Areas", located at <http://dec.alaska.gov/das/GIS/apps.htm>. Basic instructions for using this web map can be found at [http://dec.alaska.gov/eh/dw/DWP/protection\\_areas\\_map.html](http://dec.alaska.gov/eh/dw/DWP/protection_areas_map.html).
2. Where the project/permit intersects a PWS DWPA, notify the PWS contact. PWS contact information can be obtained using the online application, *Drinking Water Watch*, <http://dec.alaska.gov/DWW/>, by entering the appropriate 6-digit PWS ID (e.g. 220025).
3. Within the identified DWPA, control stormwater discharge.
4. Within the identified DWPA, restrict project/permit activities that could significantly change the natural surface water drainage or groundwater gradient.
5. All data related to the project/permit, including but not limited to, water quality results (field and lab), survey data, water levels, subsurface lithologic descriptions and depth, and groundwater flow direction and gradient information, should be made available to the permitting agency upon request.
  - a. When associated with the development, construction, modification, or operation of a PWS, all water quality sampling and hydrologic data collection should be accomplished under the supervision of a qualified professional and follow a written sampling plan approved by the permitting entity.
6. Limit the amount of equipment storage, maintenance and operation, and other potential sources of contamination, within the following DWPAs:
  - a. Zone A DWPA (several-months-time-of-travel for contributing groundwater, or 1,000-foot buffer of the contributing surface water body and its immediate tributaries);
  - b. Zone E DWPA (1,000-foot buffer of the contributing surface water body and its immediate tributaries for a source using groundwater under the direct influence of surface water (GWUDISW)); or
  - c. *Provisional* DWPA (1,000-foot radius around a PWS source).
7. Implement best management practices where equipment storage, maintenance and operation, or other potential sources of contamination are located within a PWS DWPA and that will minimize the potential for contamination to enter the water source used by a PWS.
8. Immediately notify the nearby PWS of any identified potential contamination, such as spills or excess erosion.



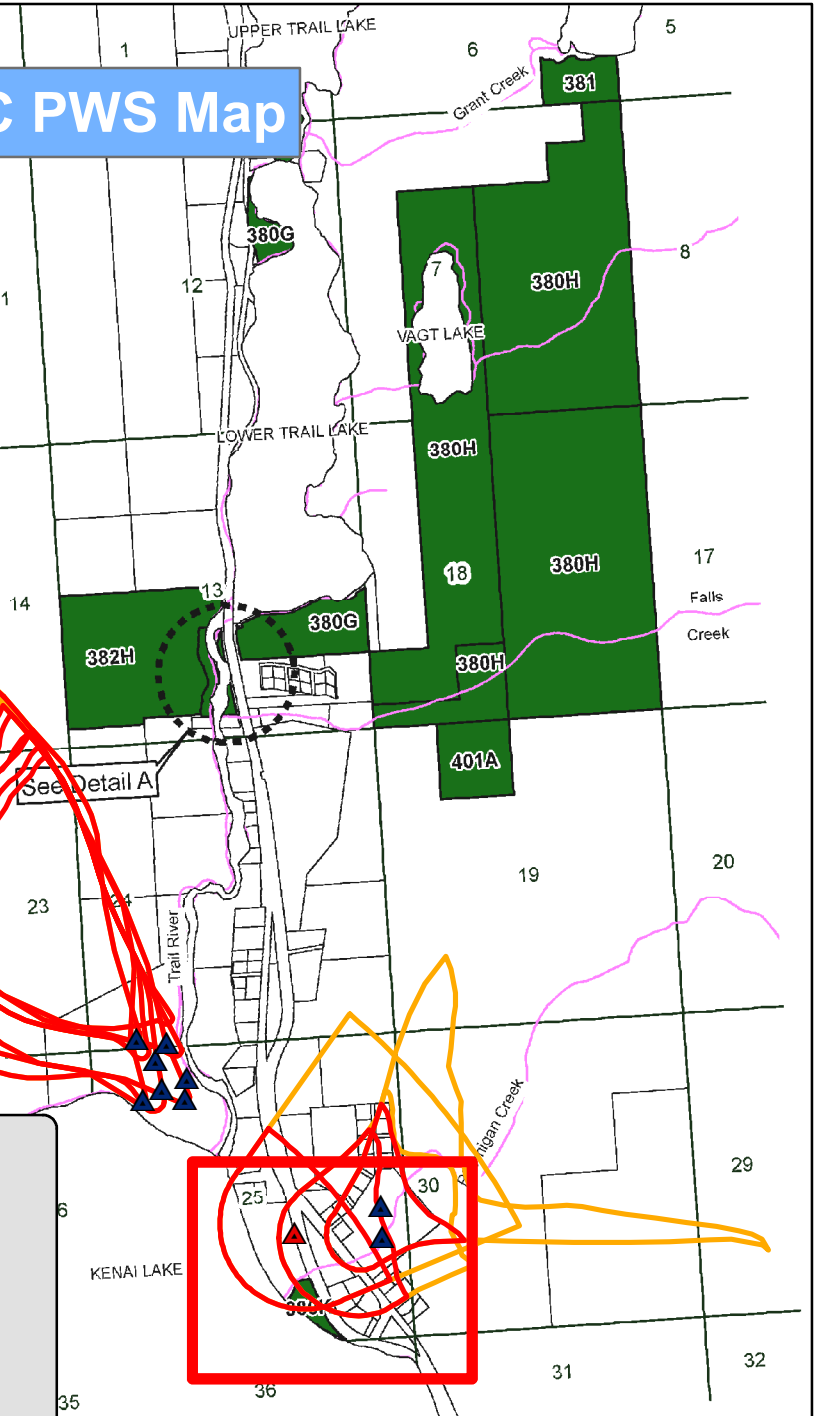
## Legend

 Subject Land Units




# DEC PWS Map





Detail A

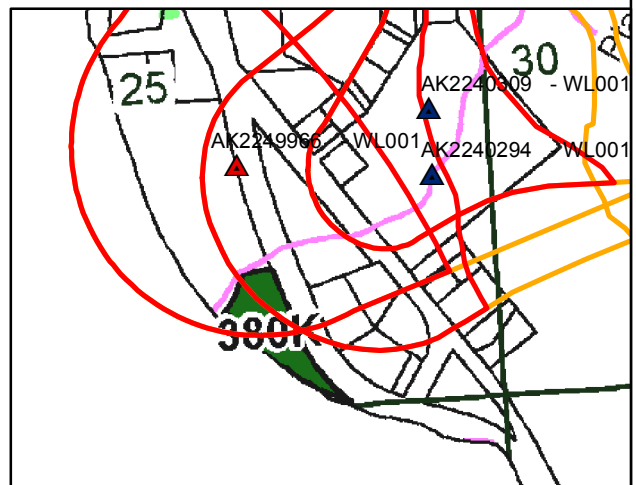


## DEC Public water System (PWS) Sources (Active)

-  Community Water System
-  NonCommunity Water System
-  NonTransient/NonCommunity Water System (Active)

## DEC PWS Drinking Water Protection

-  Zone A (GW-Several Months Time of Travel) or SW 1000 ft buffer)
-  Zone B (GW-2 Yr Time of Travel or SW-1 mile buffer)



2016-07-25

Via Electronic Mail & U.S. Mail

Kenai Peninsula Borough  
Land Management Division  
144 North Binkley Street  
Soldotna, Alaska 99669  
Email: [lmweb@kpb.us](mailto:lmweb@kpb.us)

Re: Comments of Alaska Railroad Corporation in Response to July 7, 2016 Public Notice of Proposed Land Classifications, Near Moose Pass, Alaska

Dear Land Management Division:

The Alaska Railroad Corporation (ARRC) owns land, consisting primarily of railroad right-of-way (ROW), adjoining the land near Moose Pass proposed for reclassification to recreational use after it is conveyed to the Kenai Peninsula Borough (KPB) under ADL 201306. ARRC respectfully submits these comments to the proposed classification in response to KPB's public notice of the proposed reclassification dated July 7, 2016.

ARRC is concerned that by classifying this land as recreational the KPB will further exacerbate an already troubling trespass and safety problem ARRC experiences on its ROW in that area. The ARRC ROW is not open to the public and may be legally crossed only subject to crossing permits issued by ARRC, which may be either private or public in nature. Accordingly, several of the areas proposed for reclassification do not have valid legal access from a public roadway, but instead are legally accessible only via water. Specifically:

- The area indicated as 380G in Sections 1 and 12 between Upper and Lower Trail Lakes can only be legally accessed from the water. The existing railroad crossing in this area (Approx. DOT MP26.9) is a private crossing, which has been granted by ARRC to the Brysons for their sole use.
- The area indicated as 380G in Section 12 at the northwest end of the upper part of Lower Trail Lake can only be legally accessed from the water. The existing railroad crossing in this area (Approx. DOT MP 26.5) is a private crossing, which has been granted by ARRC only to the owners of the one residence in that area for their sole use.
- The area indicated as 380G in Section 13 south of Lower Trail Lake can only be legally accessed from the water. It is currently accessed across the ARRC ROW only by means of an unpermitted crossing by Lower Trail Lake Road. The unpermitted crossing for Lower Trail Lake Road (DOT MP25.2) is not valid legal access to this area.



In addition to the fact that the crossing for Lower Trail Lake Road is not valid legal access, the area between that crossing and the south shore of Lower Trail Lake, east to the ARRC's track and within ARRC's ROW is a particularly troublesome area for trespassing. Currently this area is being used impermissibly by the public in an illegal and unsafe manner to access Lower Trail Lake.

ARRC does not feel that it would be in the best interest of either ARRC or KPB for KPB, by reclassifying the subject lands for recreational use, to encourage the public to trespass on and/or across ARRC tracks and ROW. If KPB proceeds with the reclassification of this land, ARRC proposes to work cooperatively with KPB to avoid encouraging trespass on ARRC land by having KPB take over responsibility for the crossings described above. This should be done by including all of the crossings in a blanket crossing permit. In addition to KPB taking over the above-mentioned crossings, ARRC also seeks KPB's cooperation in moving the parking area and associated access road for the south shore of Lower Trail Lake that currently runs parallel to the tracks within the ARRC ROW from the ROW to the proposed recreational land. Given the serious nature of ongoing trespass in this area, additional trespass mitigation measures beyond those described above may be required to dissuade recreational users from unauthorized crossing or use of the ARRC ROW right-of-way.

In the context of commenting on crossings directly implicated by KPB's proposed land reclassification, we would like to briefly raise a related issue involving two other crossings of the ARRC ROW. A blanket permit transferring responsibility for the above-described crossings to KPB would be an appropriate vehicle to permit two other crossings where KPB roadways provide physical, but not legal, access for residents. Specifically, the crossings for Moat Way and Stoney Creek Avenue are currently unpermitted and therefore do not provide legal access. Adding them to the same blanket permit as the above-mentioned crossings would resolve that issue.

ARRC appreciates the opportunity to comment on KPB's proposed action. If you have any questions or comments please contact Doug Stephens, Land Services Manager, at 907-265-2469 or [StephensD@akrr.com](mailto:StephensD@akrr.com).