

E. NEW BUSINESS

3. Conditional Use Permit; PC Resolution 2023-04

Request: To perform erosion protection & extend a culvert along the road embankment at MP 58 of the Sterling Hwy. within the ADOT highway easement with fill & vegetation. Portions of this project fall within the 50' Anadromous Waters Protection District of the Kenai River.

Multi Agency Permit Application



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

Applicant Information:

Name: Jonathan Tymick, DOT&PF
 Owner? ☒ **Yes** ☐ **No**
 Mailing: P.O. Box 196900
Anchorage AK 99519-6900
 Phone: 907-269-0453
 Email: jonathan.tymick@alaska.gov

Agent Information: (if applicable)

Name: Irene Turletes, HDR
 Mailing: 582 East 36th Avenue, Suite 500
Anchorage AK 99503-4169
 Phone: 907-644-2099
 Email: irene.turletes@hdrinc.com

Project Location:

KPB Parcel ID: 025018003
 Physical Address: T05N, R05W, Section 35
 Waterbody Name: Kenai River
 River Mile: 69/70 Riverbank: ☒ **Right**
looking downstream ☐ **Left**

Subdivision: N/A
 Lot: _____ Block: _____ Addn/No.: _____
 Directions to site: Seward Highway, MP 58,
east of intersection with Skilak Lake Road,
west of Fuller Creek trailhead.

Permit Fees: (please select the applicable permit fees)

- ☒ \$100 - ADNR State Parks Permit ☒ \$300 - KPB Conditional Use Permit
☒ \$50 - KPB Habitat/Floodplain Permit ☐ \$300 - KPB Floodway Development Permit

Project Description: ☐ New Project **OR** ☐ Extension to RC# 12670
☒ Amendment

Provide a detailed description of your project and all related activities, use additional pages if needed. Include the following information for all existing and proposed structures:

- **Project location & dimensions**
- **Waterbody description & proximity**
- **Proximity to OHW and/or HTL**
- **Construction methods/equipment**
- **Filling/dredging/excavation:**
 - type, volume, area, location
- **Fuel Storage:** location, quantities
- **Vegetation Removal:** location, amount, type

See attachment for project description.

KPB Tax Credit: (skip this section if your project is prior existing, only applicable to NEW projects)

Please provide your estimated project cost(s) below. Do not include grants or other funding assistance:

Elevated Light Penetrating Structure(s) \$ _____
 Bank or Habitat Restoration & Protection \$ _____
 Other Activities \$ _____

Project Questions:

Note: Use Ordinary High Water (OHW) for non-tidal waters, and Mean High Tide (MHT) for tidal waters.

1. Start date: January 2023 End date: June 2025 Estimated Days of Construction: 50
2. Is the project located within 50 feet of OHW or HTL a waterbody? ☒ Yes ☐ No
3. Does any portion of the project extend **below** the OHW or HTL of the stream or waterbody? ☒ Yes ☐ No
4. Does any portion of the project cantilever or extend **over** the OHW of the waterbody? ☐ Yes ☒ No
5. Will anything be placed below OHW or HTL of the waterbody? ☒ Yes ☐ No
6. Will material be extracted or dredged from the site? ☒ Yes ☐ No
7. Including areas below OHW or HTL, what is the total area (in acres) that will be excavated or dredged?
Total Area: See attachment Type of Material: _____
Location you will depositing fill: See attachment
8. Will any material (including soils, debris, and/or overburden) be used as fill? ☒ Yes ☐ No
Type of material: Class III riprap Amount: 2,150 CY Permanent ☒ or Temporary ☐
Will fill be placed below OHW or HTL: ☒ Yes ☐ No
9. List all motorized equipment to be used in this project, including access route to site, any stream or waterbody crossings, and (if applicable) how long equipment will be used below OHW or HTL: See attachment.

10. Is any portion of the work already complete? ☒ Yes ☐ No
If yes, describe: Road construction, hydrologic studies, and modeling has been completed.

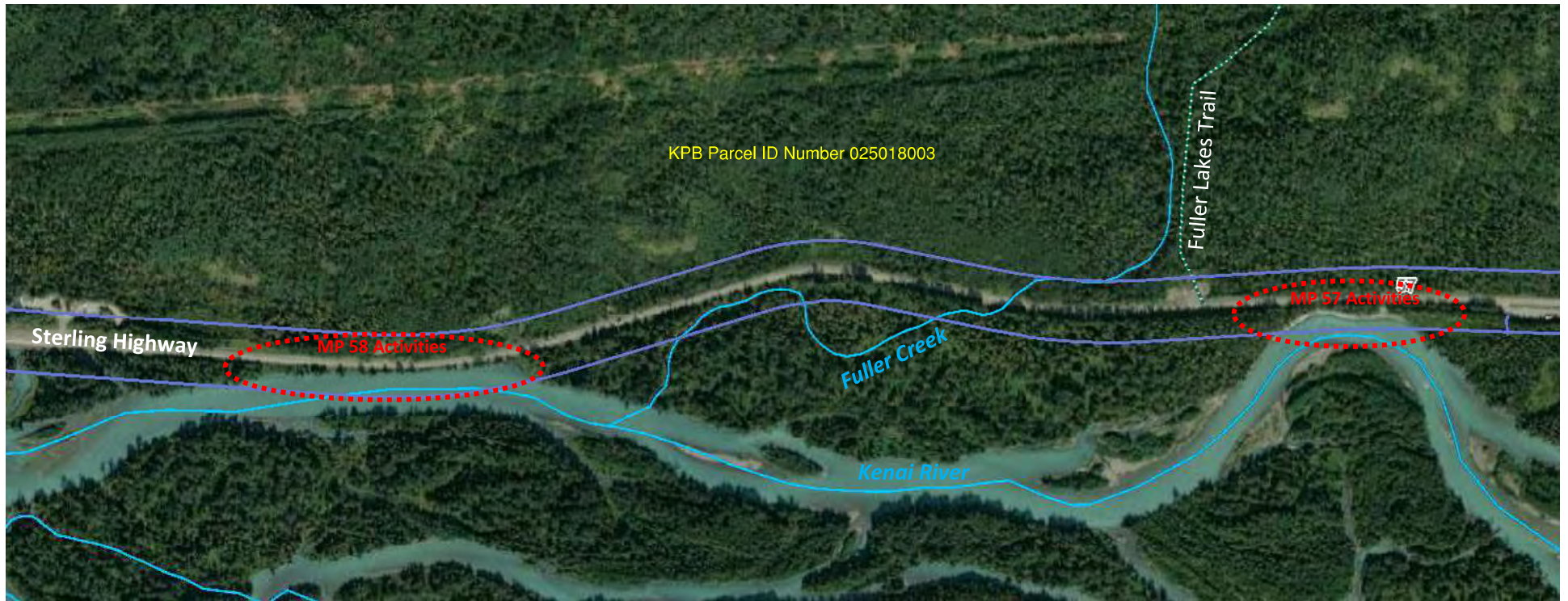
Signature & Certification:

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.

If applying for a tax credit: I certify that I have not begun construction of the project on this the property and that the proposed project will be constructed in a manner consistent with KPB 5.12 Real Property and Personal Property Taxes, KPB 5.14 Habitat Protection Tax Credit, and other applicable ordinances.

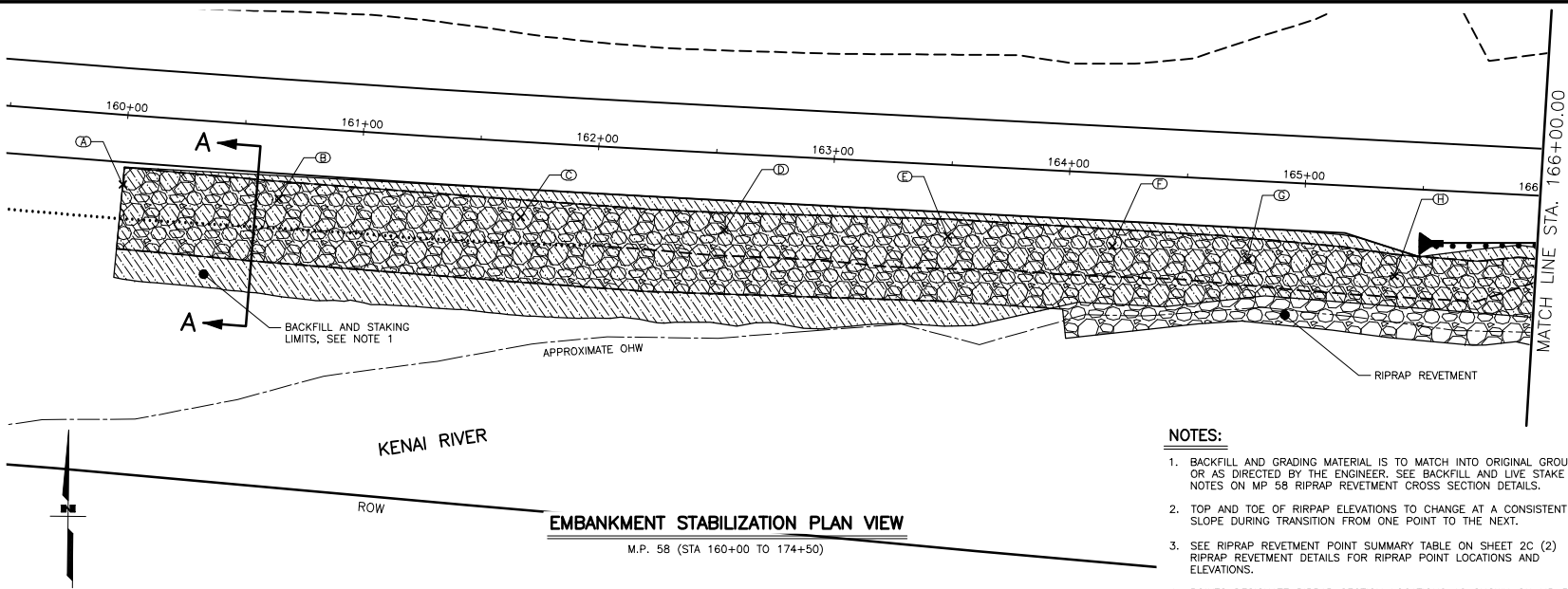
_____	<u>12/5/2022</u>
Applicant Signature (required)	Date
_____	<u>12/5/2022</u>
Agent Signature (if applicable)	Date

Aerial Project View



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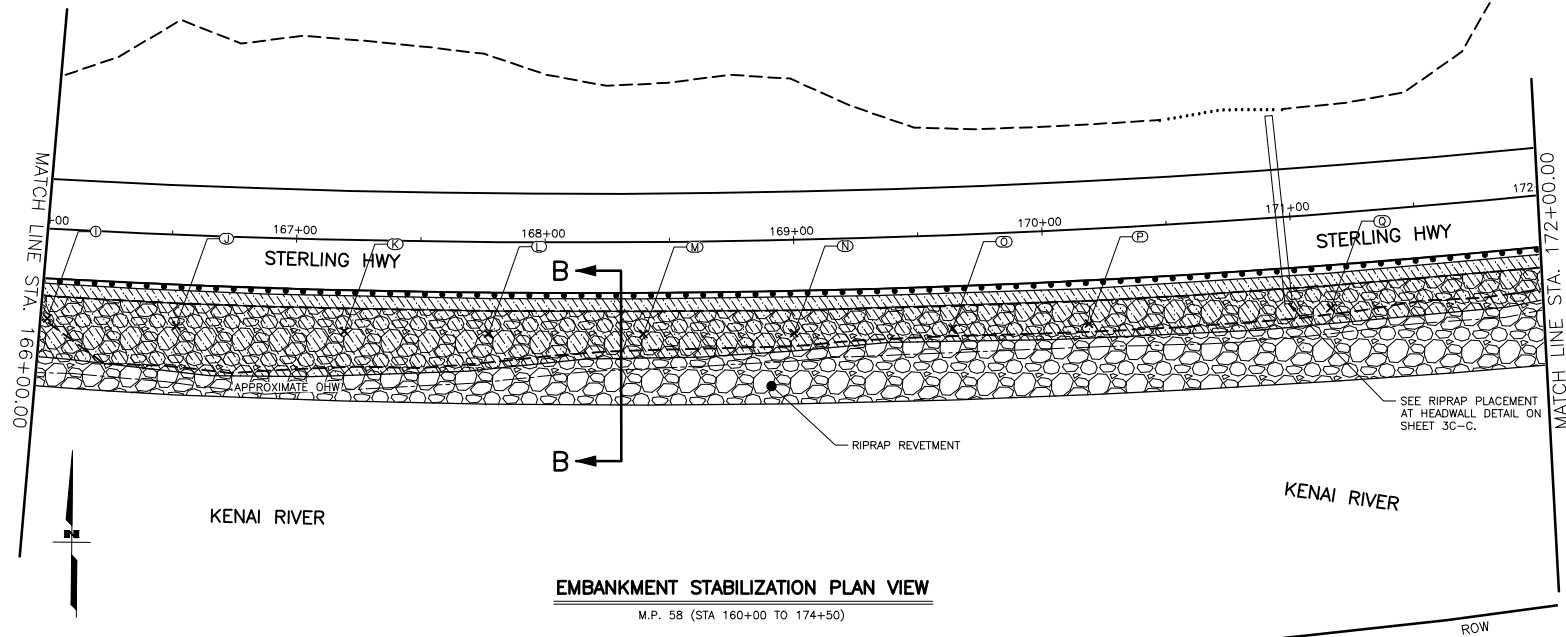


EMBANKMENT STABILIZATION PLAN VIEW

M.P. 58 (STA 160+00 TO 174+50)

NOTES:

1. BACKFILL AND GRADING MATERIAL IS TO MATCH INTO ORIGINAL GROUND OR AS DIRECTED BY THE ENGINEER. SEE BACKFILL AND LIVE STAKE NOTES ON MP 58 RIPRAP REVETMENT CROSS SECTION DETAILS.
2. TOP AND TOE OF RIPRAP ELEVATIONS TO CHANGE AT A CONSISTENT SLOPE DURING TRANSITION FROM ONE POINT TO THE NEXT.
3. SEE RIPRAP REVETMENT POINT SUMMARY TABLE ON SHEET 2C (2) RIPRAP REVETMENT DETAILS FOR RIPRAP POINT LOCATIONS AND ELEVATIONS.
4. POINTS DESIGNATE RIPRAP SECTION LOCATIONS AS SHOWN ON MP 58 RIPRAP REVETMENT DETAILS DRAWING.



EMBANKMENT STABILIZATION PLAN VIEW

M.P. 58 (STA 160+00 TO 174+50)

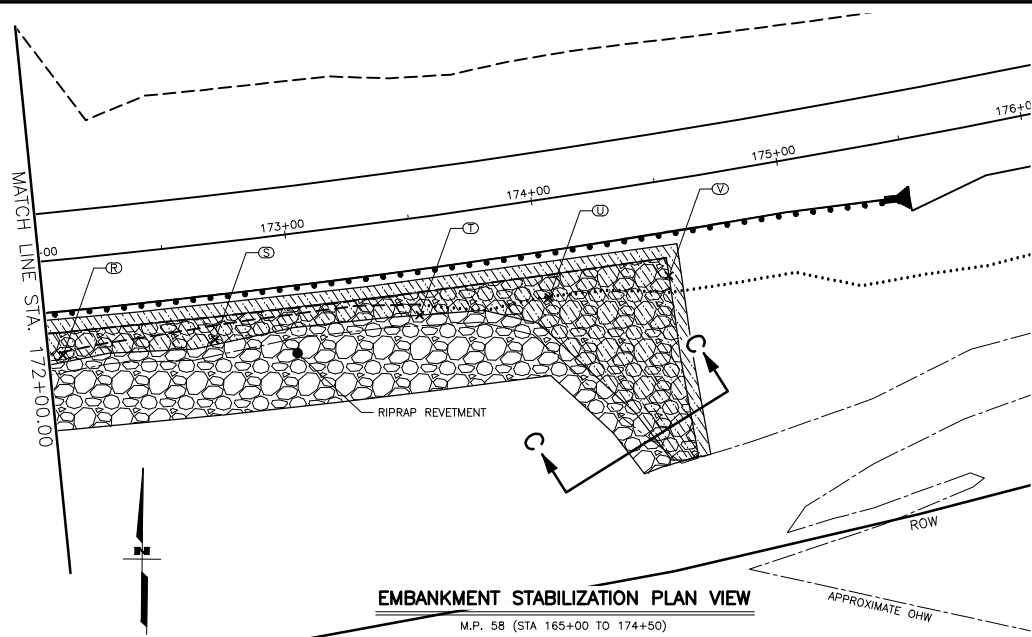
SHEET NO.	TOTAL SHEETS
2C	E14
STATE	YEAR
ALASKA	2022
PROJECT DESIGNATION	
0A33030/ CFHWY00693	
NO.	REVISION
DATE	
NO.	REVISION
DATE	
NO.	REVISION
DATE	

HDR ENGINEERING INC.
2025 C STREET SUITE 500
ANCHORAGE, AK 99503
(907) 844-0000
CERT. OF AUTH. AECC569

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
STERLING HIGHWAY
MP 45-60 SUNRISE TO
SKILAK LAKE RD
RECONSTRUCTION STAGE 1A

MP 58 RIPRAP
REVTMENT DETAILS

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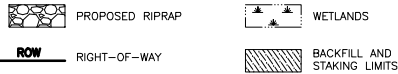
EMBankment STABILIZATION PLAN VIEW

M.P. 58 (STA 165+00 TO 174+50)

RIPRAP REVETMENT POINT SUMMARY

POINT NO.	NORTHING	EASTING	ELEVATION
A	179015.64	156524.40	289.00
B	179010.22	156590.61	289.00
C	179003.45	156693.39	289.15
D	178998.81	156779.59	289.30
E	178997.06	156874.42	289.45
F	178993.54	156944.29	289.60
G	178988.53	157001.58	289.75
H	178982.12	157064.06	289.90
I	178980.53	157125.61	290.00
J	178978.14	157177.59	290.15
K	178976.65	157245.18	290.30
L	178976.23	157303.23	290.45
M	178976.71	157365.60	290.60
N	178977.70	157426.25	290.75
O	178980.08	157490.01	290.90
P	178982.65	157544.91	291.00
Q	178989.88	157642.11	291.15
R	178998.69	157735.25	291.30
S	179005.49	157796.47	291.40
T	179016.17	157878.65	291.50
U	179023.77	157930.68	291.65
V	179032.96	157978.78	291.80

EMBankment STABILIZATION LEGEND



NOTES:

- BACKFILL AND GRADING MATERIAL IS TO MATCH INTO ORIGINAL GROUND OR AS DIRECTED BY THE ENGINEER. SEE BACKFILL AND LIVE STAKE NOTES ON MP 58 RIPRAP REVETMENT DETAILS DRAWING.
- TOP AND TOE OF RIPRAP ELEVATIONS TO CHANGE AT A CONSISTENT SLOPE DURING TRANSITION FROM ONE POINT TO THE NEXT.
- SEE RIPRAP REVETMENT POINT SUMMARY TABLE FOR RIPRAP POINT LOCATIONS AND ELEVATIONS.
- POINTS DESIGNATE RIPRAP SECTION LOCATIONS AS SHOWN ON MP 58 RIPRAP REVETMENT DETAILS.

SHEET NO.	TOTAL SHEETS
2C (2)	E14
STATE	YEAR
ALASKA	2022
PROJECT DESIGNATION	
0A33030/ CFHWY00693	
NO.	REVISION
DATE	
NO.	REVISION
DATE	
NO.	REVISION
DATE	

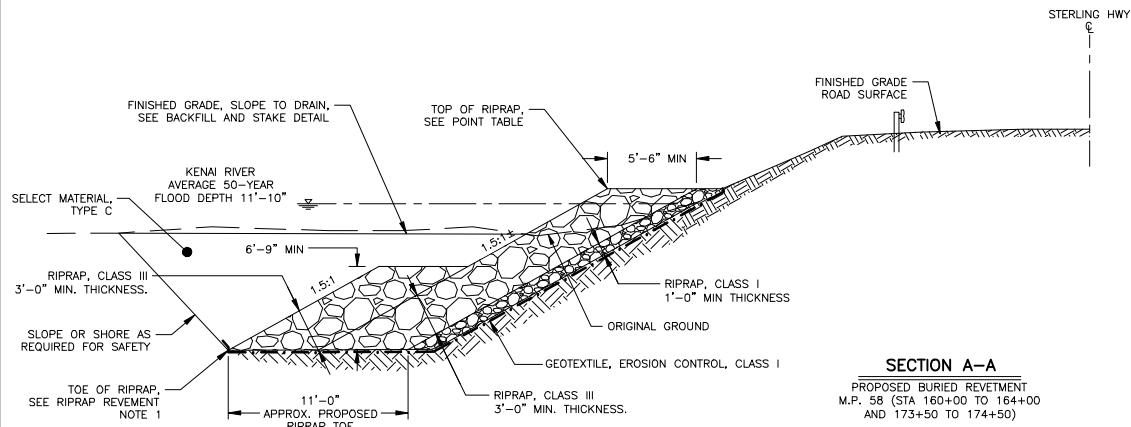
HDR ENGINEERING INC.
2025 C STREET SUITE 500
ANCHORAGE, AK 99503
(907) 844-0000
CERT. OF AUTH. AECC569

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
STERLING HIGHWAY
MP 45-60 SUNRISE TO
SKILAK LAKE RD
RECONSTRUCTION STAGE 1A

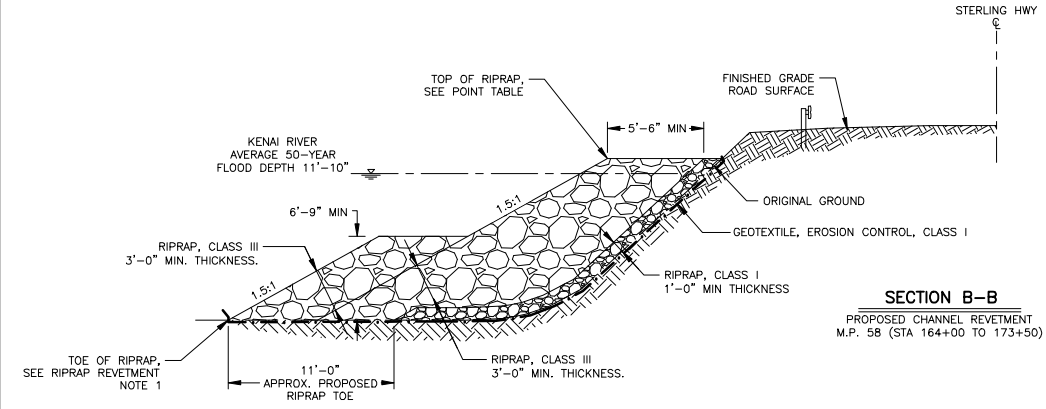
MP 58 RIPRAP
REVTMENT DETAILS

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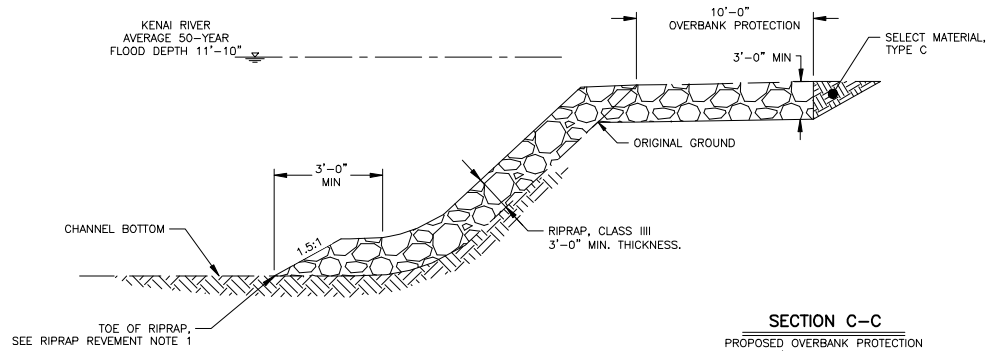
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			ALASKA	0A33030/CFHWY00693	2022	3C	E14



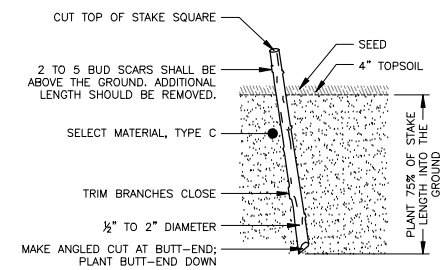
SECTION A-A
PROPOSED BURIED REVETMENT
M.P. 58 (STA 160+00 TO 164+00
AND 173+50 TO 174+50)



SECTION B-B
PROPOSED CHANNEL REVETMENT
M.P. 58 (STA 164+00 TO 173+50)



SECTION C-C
PROPOSED OVERBANK PROTECTION
M.P. 58 (SEE RIPRAP REVETMENT
NOTE 5)



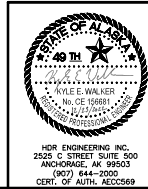
BACKFILL AND STAKE DETAIL

BACKFILL AND LIVE STAKE NOTES:

1. BACKFILL WITH SELECT MATERIAL TYPE C.
2. THE CUTTING SHALL BE TRIMMED INTO LIVE STAKES AT LEAST 20" LONG.
3. DO NOT PLANT IN ROWS.
4. DO NOT DAMAGE BUDS, STRIP BARK OR SPLIT THE STAKE DURING INSTALLATION. DAMAGED STAKES SHALL BE REPLACED IMMEDIATELY.
5. SPRING PLANTING: PLANT STAKES BY FIRST MAKING A PILOT HOLE USING A REBAR OR "STINGER". FALL PLANTING: INSERT LIVE STAKES IN CONJUNCTION WITH ROCK PLACEMENT. DO NOT HAMMER STAKES INTO GROUND OR RIPRAP.
6. WATER EACH STAKE WHEN PLANTING TO REMOVE AIR POCKETS.
7. WILLOWS WILL BE PLANTED APPROXIMATELY 15" O.C.
8. PLANT ADDITIONAL 50 STAKES INTERSPERSED WITHIN THE PROJECT AREA. ADDITIONALLY, ANY TREES REMOVED WITH 3" DIAMETER AT BREAST HEIGHT SHALL BE REPLANTED AT A 2:1 RATIO.

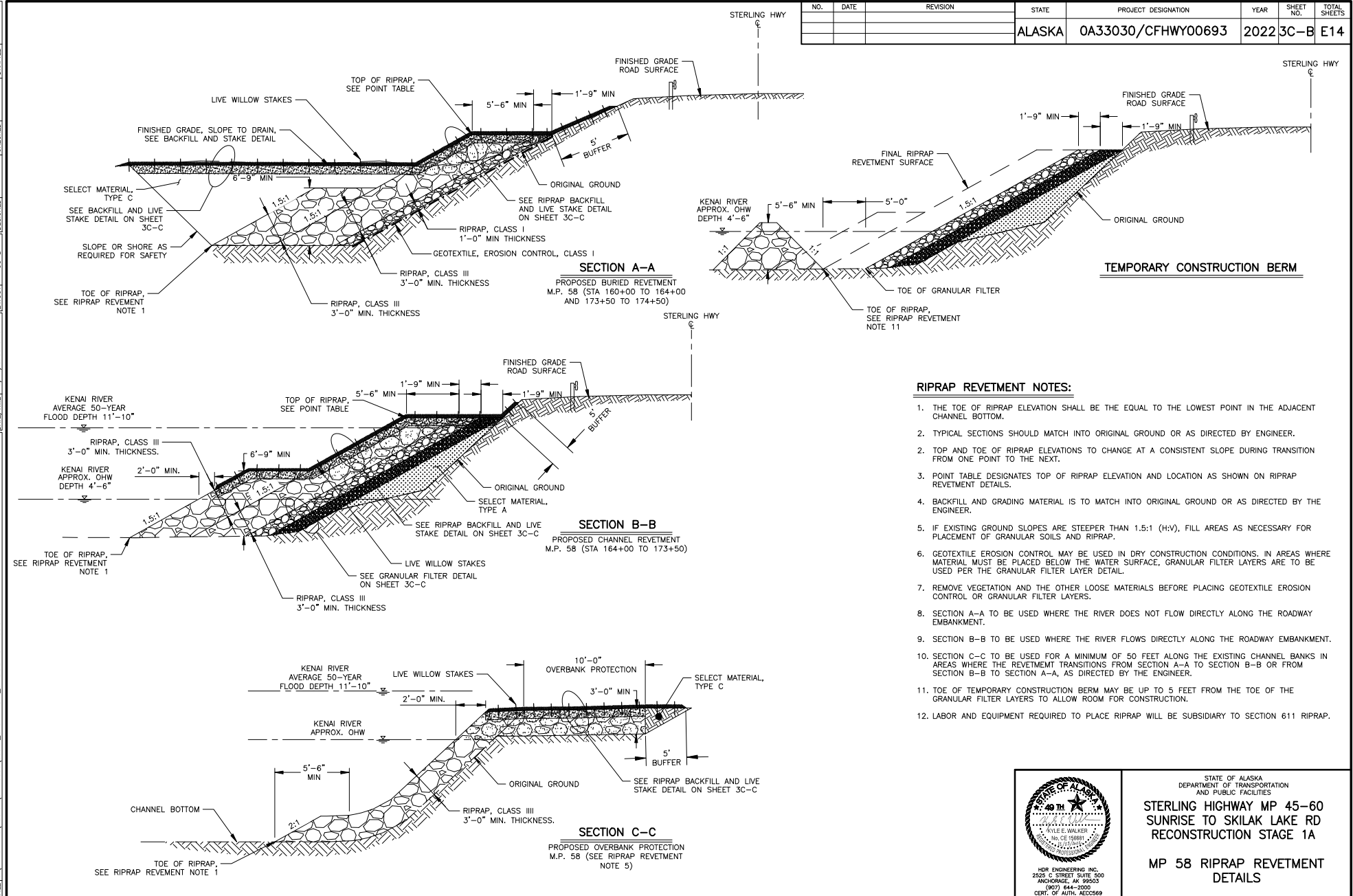
RIPRAP REVETMENT NOTES:

1. THE TOE OF RIPRAP ELEVATION SHALL BE THE MINIMUM OF: THE CHANNEL BOTTOM ELEVATION OR 278.0 FEET.
2. TYPICAL SECTIONS SHOULD MATCH INTO ORIGINAL GROUND OR AS DIRECTED BY ENGINEER.
3. TOP AND TOE OF RIPRAP ELEVATIONS TO CHANGE AT A CONSISTENT SLOPE DURING TRANSITION FROM ONE POINT TO THE NEXT.
4. POINT TABLE DESIGNATES TOP OF RIPRAP ELEVATION AND LOCATION AS SHOWN ON RIPRAP REVETMENT DETAILS.
5. BACKFILL AND GRADING MATERIAL IS TO MATCH INTO ORIGINAL GROUND OR AS DIRECTED BY THE ENGINEER.
6. SECTION C-C TO BE USED FOR A MINIMUM OF 50 FEET ALONG THE EXISTING CHANNEL BANKS IN AREAS WHERE REVETMENT TRANSITIONS FROM SECTION A-A TO SECTION B-B OR FROM SECTION B-B TO SECTION A-A AS DIRECTED BY THE ENGINEER.
7. LABOR AND EQUIPMENT REQUIRED TO PLACE RIPRAP WILL BE SUBSIDIARY TO SECTION 611 RIPRAP

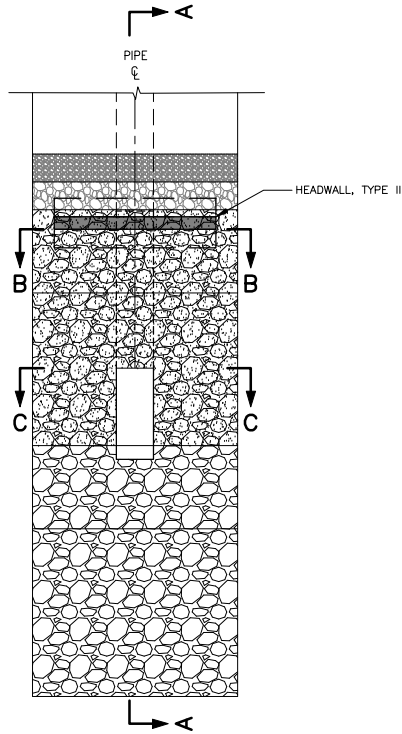


STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
**STERLING HIGHWAY MP 45-60
SUNRISE TO SKILAK LAKE RD
RECONSTRUCTION STAGE 1A**
**MP 58 RIPRAP REVETMENT
DETAILS**

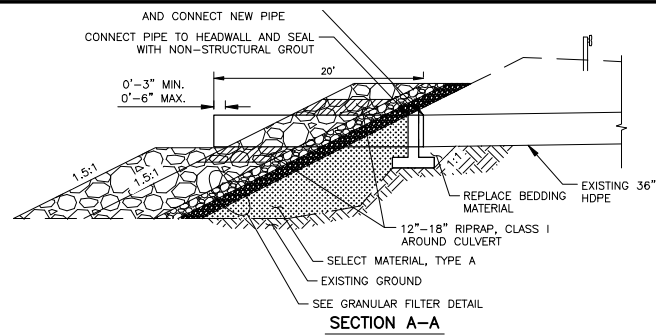
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			ALASKA	0A33030/CFHWY00693	2022	3C-B	E14



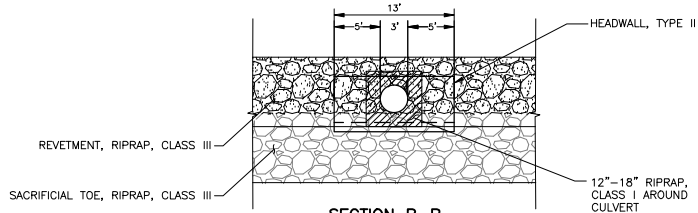
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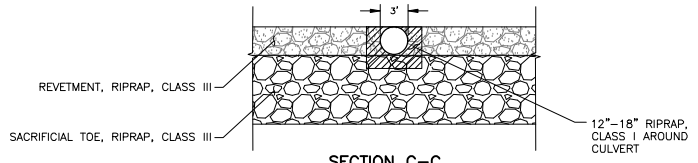
RIPRAP PLACEMENT AT HEADWALL



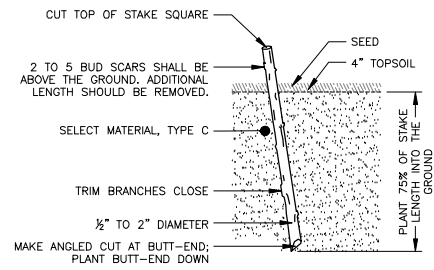
SECTION A-A



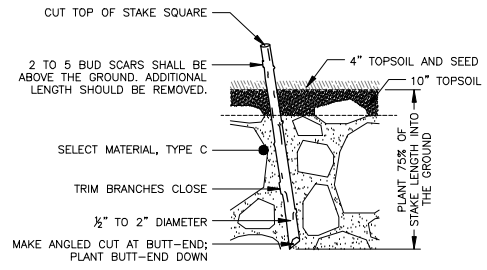
SECTION B-B



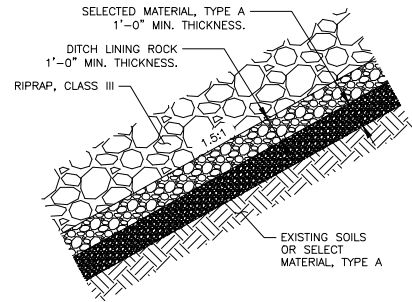
SECTION C-C



LIVE STAKE DETAIL



RIPRAP BACKFILL DETAIL



GRANULAR FILTER DETAIL

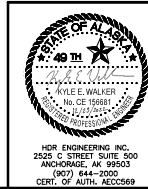
NO.	DATE	REVISION	STATE	PROJECT DESIGNATION	YEAR	SHEET NO.	TOTAL SHEETS
			ALASKA	0A33030/CFHWY00693	2022	3C-C	E14

RIPRAP REVETMENT PLACEMENT AT HEADWALL NOTES:

1. CUT EXISTING PIPE AT THE BACK (ROADWAY SIDE) OF HEADWALL AND REMOVE EXISTING PIPE AND CONNECTION MATERIALS.
2. FIELD FIT NEW PIPE THROUGH EXISTING HEADWALL AND CUT EXISTING PIPE SQUARE TO NEW PIPE.
3. SEAL NEW PIPE AND HEADWALL WITH NON-STRUCTURAL GROUT. IF POSSIBLE, REUSE EXISTING HEADWALL CONNECTION MATERIALS TO ATTACH NEW PIPE TO HEADWALL PRIOR TO GROUTING.
4. MANUALLY PLACE ALL MATERIALS GREATER THAN 3-INCH DIAMETER WITHIN 3- FEET OF NEW PIPE.
5. DO NOT SEED OR STAKE WITHIN 3 FEET OF NEW PIPE OUTLET.
6. BACKFILL NEW OUTFALL PIPE WITH 12-18 INCHES OF RIPRAP, CLASS I PRIOR TO PLACING ADJACENT REVETMENT RIPRAP, CLASS III. ONCE THE BACKFILL MATERIAL AND PIPE ARE INSTALLED, CONTINUE REVETMENT INSTALLATION.

BACKFILL AND LIVE STAKE NOTES:

1. BACKFILL WITH SELECT MATERIAL TYPE C.
2. THE CUTTING SHALL BE TRIMMED INTO LIVE STAKES AT LEAST 20" LONG.
3. DO NOT PLANT IN ROWS.
4. DO NOT DAMAGE BUDS, STRIP BARK OR SPLIT THE STAKE DURING INSTALLATION. DAMAGED STAKES SHALL BE REPLACED IMMEDIATELY.
5. SPRING PLANTING: PLANT STAKES BY FIRST MAKING A PILOT HOLE USING A REBAR OR "STINGER". FALL PLANTING: INSERT LIVE STAKES IN CONJUNCTION WITH ROCK PLACEMENT. DO NOT HAMMER STAKES INTO GROUND OR RIPRAP.
6. WATER EACH STAKE WHEN PLANTING TO REMOVE AIR POCKETS.
7. WILLOWS WILL BE PLANTED APPROXIMATELY 15" O.C.
8. PLANT ADDITIONAL 50 STAKES INTERSPERSED WITHIN THE PROJECT AREA. ADDITIONALLY, ANY TREES REMOVED WITH 3" DIAMETER AT BREAST HEIGHT SHALL BE REPLANTED AT A 2:1 RATIO.



STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
**STERLING HIGHWAY MP 45-60
SUNRISE TO SKILAK LAKE RD
RECONSTRUCTION STAGE 1A**
**MP 58 BACKFILL AND LIVE
STAKING DETAILS**

HOR ENGINEERING INC.
2625 C STREET SUITE 500
ANCHORAGE, AK 99503
(907) 544-1000
CERT. OF AUTH. AEC0569



KRC Multi-Agency Permit Application Supplemental Project Information

Multi-Use Permit Application details

Project location: Sterling Highway Milepost (MP) MP 58 Erosion Protection Project is located on the north bank of the Kenai River, at approximately MP 58 of the Sterling Highway, east of the intersection with Skilak Lake Road. Section 35 of Township 05N, Range 05W, USGS Quadrangle Map Kenai B-1. The project location is approximated as Latitude 60.484042, Longitude -150.097044, west of Cooper Landing, Alaska.

The project occurs solely within the DOT&PF right of way easement of the Sterling Highway as it traverses through the Kenai National Wildlife Refuge. A U.S. Fish and Wildlife Service (USFWS) parcel (KPB ID Number 025018003) is adjacent to the project area on both the north and south sides of the highway. The total footprint for the project activities is 0.4 acres.

Project Description

The project is proposed as part of the Sterling Highway MP 45-60 project, which runs adjacent to the riverbank in this stretch. The design engineers shifted the alignment away from the river to avoid impacts, however the most recent evaluation and modeling identify that the bank requires additional stabilization to protect both the river and the road infrastructure.

The project proposes riprap embankment protection along 1,500 feet of the Kenai River to stabilize the bank and protect the adjacent road embankment. Riprap below ordinary high water (OHW) is proposed along approximately 1,080 linear feet of the river. Once the embankment protection is anchored into place, 4 inches of topsoil, seed, and willow stakes would be placed to enhance bank stabilization and provide a more natural appearance over time. Tree seedlings would be planted to replace any removed prior to the construction activities (per KPB Ordinance 21.18.071).

As part of this work, the existing culvert at Station 171+00 would be extended approximately 20 feet. The extension would extend past the top of the riprap layer, above OHW elevation.

DOT&PF proposes to construct the bank protection when the river is running low, such as late fall or early spring. The riprap would initially be placed within the river approximately 5 feet beyond the designed toe of slope to create a temporary rock wall/berm to hold back flowing waters from the construction work area. Shallow standing waters may remain; no dewatering is proposed.

Where the embankment protection occurs below OHW, approximately 1 foot thick layer of Type A fill would be placed along the existing bank and held in place by 1-ft thick layer of ditch lining rock. The rock berm would be dismantled from the top down and a minimum of 3 feet of permanent Class III riprap would be placed onto the bank to anchor the protection. Another 3 feet of Class III riprap would be placed to backfill erosion as the river scours the bank.

On each end, the erosion protection would transition to be riprap placed only above OHW.

The in-water work is anticipated to take approximately four weeks. During the following growing season, topsoil, seed and willow stakes would be placed to further stabilize the bank and enhance the appearance of the slopes.

Supporting information:

Attached to this document, there are figures that show:

- (1) Engineering Drawings identifying the project activities
- (2) Aerial photo that identifies the project alignment, land ownership, as well as local trails, streams and wetlands in the project vicinity. The MP 57 bank stabilization activity location (KRC 12761) is also shown.

Question 7: What is the area that will be excavated or dredged?

Most of the work is fill placement, although minor excavation (conservative estimate approximately 200 CY) may occur where the in-water work transitions above OHW to ensure stable slopes. Any excavated areas would be backfilled with Type C fill material and riprap.

Question 8: Will any material be used as fill?

Amount and type of fill materials:

- Class III riprap: 6,100 cubic yards (CY; 2,150 CY below OHW)
- Class I riprap: 500 CY
- Borrow, Type A: 900 CY (360 CY below OHW)
- Borrow, Type C: 1,875 CY
- Ditch Lining: 900 CY (360 CY below OHW)
- Topsoil: 370 CY (estimating 4 inches)
- Geotextile: 9,100 square yards (SY; above OHW only)
- Seeding: 13 lbs
- Willow Stakes 9,100 SY

Fill materials would be sourced from permitted material sites by the Contractor. All materials to be disposed would be placed in a permitted solid waste landfill, to be determined by the Contractor.

Question 9: Motorized Equipment

Motorized access will occur from the Sterling Highway corridor. Vehicles will drive on the existing embankment and use equipment to place the fill and seed materials. It is not expected that new access will need to be developed. The proposed actions will require typical road construction vehicles. No fuel storage would occur in the project area.

Anticipated Equipment:

- Dump trucks
- Pickup trucks
- Caterpillar 349 or equivalent sized excavator
- Backhoes

The Cat 349 would be allowed to put the bucket into the water up to, but not including, the grease pin. No other equipment or vehicles would be in the water, or below OHW. There will be no fuel storage as part of these proposed activities. All equipment will be refueled outside of the project area or refueled on-site by mobile refueling equipment, which will be stored outside of the project area.

Other Supplemental Information:

Vegetation:

Vegetation clearing activities associated with the concurrent Sterling Highway MP 45-60, Stage 1A project removed much of the vegetation buffer that remains between the Kenai River and the highway. Minor additional clearing is anticipated. The placement of soils and seed may replace some of the sparse vegetation that grows in the embankment.

All equipment and vehicles used within the corridor will be clean and free of any debris that may introduce non-native plants into the corridor. Equipment cleaning procedures will include washing and cleaning vehicles, equipment, and tools prior to entering/exiting the project site or moving to another site.

Per KPB Ordinance 21.18.071, for every tree removed within the Habitat Protection District that buffers the Kenai River, DOT&PF must plant two seedlings less than 5.5 feet tall of a species native to the region in its place. A survey is being conducted in early November to count trees to ensure compliance. In addition, seeding and staking willows will be used for revegetation.

Floodplains

The bank stabilization activities will likely occur within a floodplain; however, it is outside of the 1981 FEMA FIRM study area (FIRM 0200122125A), and as an unmapped zone KPB does not have regulatory authority. Hydrologic and hydraulic studies have been performed to properly design the project components and ensure that the project would not result in adverse impacts to natural and beneficial floodplain values.

Endangered species.

There are no endangered or threatened species affected by this project.

However, the project will potentially affect eagles. Eagles are not endangered in Alaska under the Bald and Golden Eagle Protection Act, but surveys are required. Bald eagle surveys are completed annually in this area for the project. There were two eagle nests identified south of the highway, east of the project area at approximately MP 57.5. The project activities would be outside the nests' 660-foot management buffers. DOT&PF conducted a nest survey in April 2022 and did not find any new nests closer to the project area. DOT&PF will be conducting annual nest surveys, and monitor the nests as necessary, due to the concurrent Sterling Highway MP 45-60, Stage 1A project activities. Should any new nests be identified, DOT&PF will coordinate with the USFWS.

Historic Properties

The Sterling Highway MP 45-60 project is funded by the Federal Highway Administration (FHWA) and is therefore considered a federal undertaking subject to compliance with Section 106 of the National Historic Preservation Act. DOT&PF and FHWA have determined that the project will have an adverse effect on historic properties and prepared a Programmatic Agreement to resolve adverse effects to historic properties. The PA was included as an appendix to the FEIS (Appendix K;

https://sterlinghighway.net/Documents/3_7_18/Appendix-KProgrammatic-Agreement_Mar-2018-FINAL.pdf). As part of the stipulations outlined in the PA, areas of cultural resource sensitivity within the project's Area of Potential Effect (APE) have been identified and will require the presence of an archaeological monitor during ground disturbing activities. There are three segments within Phase 1A that are identified as high sensitivity; however, this project area is not one of those segments. Additionally, a Treatment Plan is in place which outlines the mitigation approach for the adversely affected Alaska Native historic properties associated with the Sqilantnu Archaeological District located within the Project's APE.



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

Mike Navarre
Borough Mayor

KENAI PENINSULA BOROUGH PLANNING COMMISSION NOTICE OF PUBLIC HEARING

Public notice is hereby given that an application for a Conditional Use Permit has been received to perform erosion protection and extend a culvert along the road embankment at MP 58 of the Sterling Highway within the State of Alaska Department of Transportation (ADOT) highway easement with fill and vegetation. Portions of this project falls within the Borough's 50-foot Anadromous Waters Protection District of the Kenai River, near Cooper Landing, AK.

Pursuant to KPB 21.18.081(B)(5) Transportation and utility infrastructure and KPB 21.18.091 Mitigation measures, projects within the Habitat Protection District are not permitted unless a Conditional Use Permit (CUP) is approved by the Planning Commission. This project is located at MP 58 of the Sterling Highway, near Cooper Landing, Alaska.

Petitioner: Alaska Department of Transportation and Public Facilities
Sean Holland, P.E.
4111 Aviation Avenue
Anchorage, AK 99516-6900

KPB Parcel Number: 025-180-03

Physical Address: ADOT Right-of-Way (ROW) Easement, Cooper Landing, AK

Legal Description: T 05N, R 05W, Section 36, Seward Meridian

Public Hearing: The Kenai Peninsula Borough Planning Commission meeting will hold a public hearing on February 13, 2023 commencing at 7:30 p.m., or as soon thereafter as business permits. The meeting is to be held in the Borough Administrative Building, 144 N. Binkley St., Soldotna, Alaska. The public may also attend the meeting electronically/telephonically via Zoom. To join the meeting from a computer visit <https://us06web.zoom.us/j/9077142200>. To attend the Zoom meeting by telephone call toll free **1-888-788-0099** or **1-877-853-5247**. When calling in you will need the Meeting ID **907 714 2200**.

Public Comment: Anyone wishing to testify may attend the above meeting to give testimony, or may submit written comment via the methods below. **Written comments must be submitted by 1:00 pm Friday, February 10, 2023**

Mail comments to:

Donald E. Gilman River Center
514 Funny River Road
Soldotna, Alaska 99669

Fax comments to:

(907) 260-5992

Email comments to:

planning@kpb.us
KenaiRivCenter@kpb.us

For additional information contact Morgan Aldridge, maldridge@kpb.us, Donald E. Gilman River Center, (907) 714-2465.

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

KPB File No.	2023-04
Planning Commission Meeting:	February 13, 2023
Applicant	Alaska Department of Transportation and Public Facilities (ADOT&PF)
Mailing Address	4111 Aviation Avenue Anchorage, AK 99516-6900
Legal Description	ADOT Right-of-Way (ROW) Easement, Cooper Landing, AK
Physical Address	T 05N, R 05W, Section 35, Seward Meridian
KPB Parcel Number	025-180-03

Project Description

A Conditional Use Permit is sought pursuant to KPB 21.18 for highway improvements at MP 58 of the Sterling Highway, east of the intersection with Skilak Lake Road, within the State of Alaska Department of Transportation (ADOT) highway easement. The project is to stabilize and strengthen the embankment against further erosion at MP 58 of the Sterling Highway within the 50-foot Habitat Protection District (HPD) of the Kenai River, near Cooper Landing, AK.

Background Information

The project is part of the Sterling Highway MP 45-60 project, which includes placement of material fill along the existing bank, above and below ordinary high water. On top of the stabilization material, 4 inches of topsoil, seed, willow staking, and compost socks will be placed to enhance bank stabilization. It is anticipated that when the vegetation grows, the bank would also appear more natural than its current state.

Portions of this project to include placement of fill and revegetation per KPB Ordinance 21.18.071 within the Habitat Protection District (HPD) of Kenai River has already been approved through the concurrent Sterling Highway MP 58 project (Permit #12760), which was approved by Resolution 2021-15 at the April 26, 2021 Planning Commission Meeting. That permit was extended through April 26, 2023. This permit will extend the work permitted on that project and will add on additional fill above and below OHW, along with an additional 20 feet of culvert.

Project Details within the 50-foot Habitat Protection District

1. A planting ratio of 2:1 will be used for every tree removed within the HPD of Kenai River. The proposed willow staking activities are anticipated to meet ordinance requirements.
2. Approximately 1,080 linear feet of rip rap will be used to stabilize a 4" layer of topsoil (370 Cubic Yards) for planting of seed and live stakes. Rip rap to include 6,600 CY of Class I and III, of which 2,150 CY will be below OHW. Borrow to include 2,775 CY of Type A and C, of which 360CY will be below OHW. An additional 900 CY of ditch lining will be used, with 360 CY being below OHW.

3. Approximately 9,100 square yards seedling and willow staking will be used to establish vegetation and roots, producing a more natural visual effect.

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. A planting ratio of 2:1 will be used for every tree removed within the HPD of Kenai River. The proposed willow staking activities are anticipated to meet ordinance requirements.
7. Approximately 1,080 linear feet of rip rap will be used to stabilize a 4" layer of topsoil (370 Cubic Yards) for planting of seed and live stakes. Rip rap to include 6,600 CY of Class I and III, of which 2,150 CY will be below OHW. Borrow to include 2,775 CY of Type A and C, of which 360CY will be below OHW. An additional 900 CY of ditch lining will be used, with 360 CY being below OHW.
8. Approximately 9,100 square yards seedling and willow staking will be used to establish vegetation and roots, producing a more natural visual effect.
9. Pursuant to KPB 21.06.081(D)(3), the proposed work will occur on the applicant's property and shall not have an adverse effect on adjoining properties.
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 13, 2023.
12. Agency review was distributed on January 27, 2023. No comments or objections have been received from resource agencies to date.
13. Pursuant to KPB 21.11.030, public notice was mailed to all property owners within a radius of 300 feet of the project on January 27, 2023. One mailing was sent.
14. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on February 3, 2023 and February 10, 2023.
15. The applicant is currently in compliance with Borough 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 bank stabilization must be designed and installed to meet KPB floodplain requirements.
3. The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas with native vegetation.
4. 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.

5. Storage or use of fuel is prohibited within 50-feet of any open water.
6. The River Center shall be notified at least 3 days prior to the start of the project.
7. 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.
8. The permittee shall be held responsible for the actions of the contractors, agents, or others who perform work to accomplish the approved plan.
9. The construction or installation phase of this Conditional Use Permit must be completed within one calendar year from the date of the permit's issuance, or the Conditional Use Permit 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 Conditional Use Permit extension for 12 months (KPB 21.18.081 (H)).
10. 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 Borough 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).
11. The permittee shall comply with the terms, conditions and requirements of the Kenai Peninsula Borough Code of Ordinances Chapter 21.18, and any regulations adopted pursuant to this chapter.
12. 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;
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;
3. The development of the use or structure shall not physically damage the adjoining property;
4. The proposed use or structure is water-dependent;
5. Applicant's or owner's compliance with other borough permits and ordinance requirements.

Attachments

Multi-Agency Application
Prior Resolution 2021-15
Draft Resolution 2023-4

Recommendation

Based on the findings, staff finds that the proposed project meets 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.

Staff recommends the Planning Commission grant a Conditional Use Permit for the proposed project details subject to adopted conditions as set forth in 2023-4.

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

2021-15

A Conditional Use Permit is sought pursuant to KPB 21.18 for highway improvements at MP 58 of the Sterling Highway, east of the intersection with Skilak Lake Road, within the State of Alaska Department of Transportation (ADOT) highway easement. The project is to stabilize and strengthen the embankment against further erosion at MP 58 of the Sterling Highway within the 50-foot Habitat Protection District (HPD) of the Kenai River, near Cooper Landing, AK.

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 Section 21.11.030; and

WHEREAS public notice was published in the Peninsula Clarion on April 15 and April 22, 2021 as provided in Section 21.11.020; and

WHEREAS public testimony was received at the April 26, 2021 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. A planting ratio of 2:1 will be used for every tree removed within the HPD of Kenai River. The proposed willow staking activities are anticipated to meet ordinance requirements.
2. Approximately 1,420 linear feet of compost socks will be used to stabilize a 4" layer of topsoil (310 CY) and mulch (330 CY) for planting of seed and live stakes.
3. Approximately 2,760 square yards seedling and willow staking will be used to establish vegetation and roots, producing a more natural visual effect.

Section 2. 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), the proposed critical infrastructure may be approved as conditional structures within the habitat protection district.
3. A planting ratio of 2:1 will be used for every tree removed within the HPD of Kenai River the proposed willow staking activities are anticipated to meet ordinance requirements.

4. Approximately 1,420 linear feet of compost socks will be used to stabilize a 4" layer of topsoil (310 CY) and mulch (330 CY) for planting of seed and live stakes.
5. Approximately 2,760 square yards of seedling and willow staking will be used to establish vegetation and roots, producing a more natural visual.
6. Staff finds 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. 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.
8. Access to the site and all construction activities will occur from the ADOT&PF right of way easement of the Sterling Highway and will not affect neighboring parcels.
9. The River Center found the application complete and scheduled a public hearing for April 26, 2021.
10. Pursuant to KPB 21.11.030, public notice was mailed to property owners within a radius of 300 feet of the project on April 8, 2021. One mailing was sent.
11. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on April 15 and April 22, 2021.
12. Agency review was distributed on April 8, 2021. No comments or objections have been received from resource agencies to date.
13. The applicant is currently in compliance with Borough permits and ordinances.

Pursuant to 21.18.081(D), the following General 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;***
 - **Condition 1** – A temporary silt fence will be installed prior to ground disturbance and stream work to minimize erosion and sediment discharge to the stream during culvert installation and associated work.
 - **Condition 2** – The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas with native vegetation.
 - **Condition 3** – Live stake and seed disturbed areas as outlined in “Streambank Revegetation and Protection Guide.”
 - **Condition 4** – All bank cuts, slopes, fills, or other exposed earthworks attributable to this project shall be stabilized to prevent erosion, both during and after construction.
 - **Condition 5** – 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.
 - **Finding 3** – A planting ratio of 2:1 will be used for every tree removed within the HPD of Kenai River the proposed willow staking activities are anticipated to meet ordinance requirements.

- **Finding 4** – Approximately 1,420 linear feet of compost socks will be used to stabilize a 4" layer of topsoil (310 CY) and mulch (330 CY) for planting of seed and live stakes.
- **Finding 5** – Approximately 2,760 square yards of seedling and willow staking will be used to establish vegetation and roots, producing a more natural visual effect.

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;***

- **Finding 1** – Portions of this proposed project are within the 50-foot habitat protection district as defined by KPB 21.18.040.
- **Finding 2** – Pursuant to KPB 21.18.081(B)(5), proposed critical transportation and utility infrastructure may be approved as conditional structures within the habitat protection district.
- **Finding 6** – Staff finds 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.
- **Finding 8** – Access to the site and all construction activities will occur from the DOT&PF right of way easement of the Sterling Highway and will not affect neighboring parcels.
- **Finding 9** – The River Center found the application complete and scheduled a public hearing for April 26, 2021.
- **Finding 10** – Pursuant to KPB 21.11.030, public notice was mailed to property owners within a radius of 300 feet of the project on April 8, 2021. One mailing was sent.
- **Finding 11** – Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on April 15 and April 22, 2021.
- **Finding 12** – Agency review was distributed on April 8, 2021. No comments or objections have been received from resource agencies to date.

3. ***The development of the use or structure shall not physically damage the adjoining property;***

- **Finding 7** – Access to the site and all construction activities will occur from the DOT&PF right of way easement of the Sterling Highway and will not affect neighboring parcels.

4. ***The proposed use or structure is water-dependent;***

- **Finding 7** – 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

5. Applicant's or owner's compliance with other borough permits and ordinance Requirements;

- **Finding 12** - The applicant is currently in compliance with Borough permits and ordinances.

Section 3. Permit Conditions

1. A temporary silt fence will be installed prior to ground disturbance and stream work to minimize erosion and sediment discharge to the stream during culvert installation and associated work.
2. The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas with native vegetation. Construction techniques and best management practices (BMP's) shall be utilized to ensure that land disturbing activities do not result in runoff or sedimentation to all streams.
3. Live stake and seed disturbed areas as outlined in "Streambank Revegetation and Protection Guide."
4. All bank cuts, slopes, fills, or other exposed earthworks attributable to this project shall be stabilized to prevent erosion, both during and after construction.
5. 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.
6. The River Center shall be notified at least 3 days prior to the start of the project.
7. 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.
8. The permittee shall be held responsible for the actions of the contractors, agents, or others who perform work to accomplish the approved plan.
9. The construction or installation phase of this Conditional Use Permit must be completed within one calendar year from the date of the permit's issuance, or the Conditional Use Permit 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 Conditional Use Permit extension for 12 months (KPB 21.18.081 (H)).
10. 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 Borough 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).
11. The permittee shall comply with the terms, conditions and requirements of the Kenai Peninsula Borough Code of Ordinances Chapter 21.18, and any regulations adopted pursuant to this chapter.
12. 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. Decision:

The Kenai Peninsula Borough Planning Commission authorizes the issuance of a Conditional Use Permit to stabilize and strengthen the embankment against further erosion at MP 58 of the Sterling Highway, near Cooper Landing, AK.

THIS CONDITIONAL USE PERMIT IS EFFECTIVE ON THIS____DAY OF_____,
2021.

Blair Martin, 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.

KENAI PENINSULA BOROUGH PLANNING COMMISSION

RESOLUTION 2023-4

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT PURSUANT TO KPB 21.18 FOR THE CONSTRUCTION OF HIGHWAY IMPROVEMENTS 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 Section 21.11.030; and
- WHEREAS,** public notice was published in the Peninsula Clarion on February 2, 2023 and February 9, 2023 as provided in Section 21.11.020; and
- WHEREAS,** public testimony was received at the February 13, 2023 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. A planting ratio of 2:1 will be used for every tree removed within the HPD of Kenai River. The proposed willow staking activities are anticipated to meet ordinance requirements.
2. Approximately 1,080 linear feet of rip rap will be used to stabilize a 4" layer of topsoil (370 Cubic Yards) for planting of seed and live stakes. Rip rap to include 6,600 CY of Class I and III, of which 2,150 CY will be below OHW. Borrow to include 2,775 CY of Type A and C, of which 360CY will be below OHW. An additional 900 CY of ditch lining will be used, with 360 CY being below OHW.
3. Approximately 9,100 square yards seedling and willow staking will be used to establish vegetation and roots, producing a more natural visual effect.

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 utility 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. A planting ratio of 2:1 will be used for every tree removed within the HPD of Kenai River. The proposed willow staking activities are anticipated to meet ordinance requirements.
7. Approximately 1,080 linear feet of rip rap will be used to stabilize a 4" layer of topsoil (370 Cubic Yards) for planting of seed and live stakes. Rip rap to include 6,600 CY of Class I and III, of which 2,150 CY will be below OHW. Borrow to include 2,775 CY of Type A and C, of which 360CY will be below OHW.
8. Approximately 9,100 square yards seedling and willow staking will be used to establish vegetation and roots, producing a more natural visual effect.
9. Pursuant to KPB 21.06.081(D)(3), the proposed work will occur on the applicant's property and shall not have an adverse effect on adjoining properties.
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 13, 2023.
12. Agency review was distributed on January 27, 2023. No comments or objections have been received from resource agencies to date.
13. Pursuant to KPB 21.11.030, public notice was mailed to all property owners within a radius of 300 feet of the project on January 27, 2023. One mailing was sent.
14. Pursuant to KPB 21.11.020, public notice was published in the Peninsula Clarion on February 3, 2023 and February 10, 2023.
15. The applicant is currently in compliance with Borough 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 bank stabilization must be designed and installed to meet KPB floodplain requirements.
3. The permittee shall minimize damage to all vegetation and shall revegetate all disturbed areas with native vegetation.
4. 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.
5. Storage or use of fuel is prohibited within 50-feet of any open water.
6. The River Center shall be notified at least 3 days prior to the start of the project.

7. 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.
8. The permittee shall be held responsible for the actions of the contractors, agents, or others who perform work to accomplish the approved plan.
9. The construction or installation phase of this Conditional Use Permit must be completed within one calendar year from the date of the permit's issuance, or the Conditional Use Permit 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 Conditional Use Permit extension for 12 months (KPB 21.18.081 (H)).
10. 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 Borough 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).
11. The permittee shall comply with the terms, conditions and requirements of the Kenai Peninsula Borough Code of Ordinances Chapter 21.18, and any regulations adopted pursuant to this chapter.
12. 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; **Conditions 1-5 and Findings 6-8 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 1-2 and Condition 11 appear to support this standard.**
3. The development of the use or structure shall not physically damage the adjoining property; **Finding 9 appear to support this standard.**
4. The proposed use or structure is water-dependent; **Finding 10 appear to support this standard.**
5. Applicant's or owner's compliance with other borough permits and ordinance requirements. **Finding 12 appears to support this standard.**

THIS CONDITIONAL USE PERMIT EFFECTIVE ON _____ DAY OF _____, 2023.

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.