

DESK PACKET

(MATERIALS SUBMITTED AFTER MEETING PACKET PUBLICATION)

E. NEW BUSINESS

3. Conditional Land Use Permit Modification; MS2022-004

Applicant: Colaska Inc. DBA OAP

Request: Modification to PC Resolution 2022-21 to expand the permit area, additional ingress/egress, and create a 100' wide access to the ARRCC right-of-way.

Location: 27083 Seward Highway

Moose Pass Area



STIPULATED AGREEMENT

**RE: Conditional Land Use Permit
KPB Planning Commission Resolution 2022-21
27083 Seward Hwy.
Seward, AK 99664
KPB Parcel 125-090-28**

PARTIES

Kenai Peninsula Borough
144 N Binkley St
Soldotna, AK 99669

and

Colaska Inc. DBA QAP
240 W 68th Avenue
Anchorage, AK 99518

Pursuant to KPB 21.50.090 and in lieu of a written warning notice, the Kenai Peninsula Borough (KPB) and Colaska Inc. DBA QAP (Permittee) (together, the Parties) enter into this Stipulated Agreement (Agreement).

SECTION 1: STIPULATED FACTS

The Parties stipulate to the following facts:

- 1. Permittee owns the property described as:

T3N R01E Sec 18 Seward Meridian SW 2011016 Renfro’s Lakeside Retreat NO 6 LOT 2F EXC THAT PTN Conveyed to State of AK DOT IN WD 2017-633 KPB PIN 12509028 (the Property).

- 2. On March 29, 2022, Permittee applied for a conditional land use permit for materials processing on a portion of the Property. Permittee’s Application is Attachment 1 and is incorporated by reference.
- 3. The Site Plan is Attachment 2 and is incorporated by reference.
- 4. On May 23, 2022, relying on the Permittee's Site Plan, Application, and other available information, the KPB Planning Commission, through Resolution 2022-21, granted Permittee a conditional land use permit for materials processing (the CLUP) on a portion of the Property. The CLUP is Attachment 3 and is incorporated by reference.
- 5. Permit Condition #2 of the CLUP states:

The [P]ermittee shall maintain the following buffers around the excavation perimeter or parcel boundaries as shown in the approved site plan:

North:	50-foot native vegetation
South:	50-foot native vegetation
East:	50-foot native vegetation
West:	50-foot native vegetation

These buffers shall not overlap an easement.

6. Permit Condition #18 of the CLUP states: “The [P]ermittee shall operate in accordance with the application and site plan as approved by the planning commission. If the [P]ermittee revises or intends to revise operations so that they are no longer consistent with the original application, a permit modification is required in accordance with KPB 21.29.090.”
7. Finding of Fact #9 of the CLUP states, “An ingress and egress will be constructed for access to the [P]roperty that will lead directly to the Seward Highway an Alaska Department of Transportation maintained facility.”
8. On July 16, 2024, the KPB Planning Department learned that a portion of the vegetative buffer was denuded in violation of the CLUP.
9. On July 16, 2024, KPB Planner Ryan Raidmae contacted Daryl Belanger, Permittee’s Project Engineer to ask why the vegetative buffer had been removed. Mr. Belanger told Mr. Raidmae that the buffer was removed to gain access to the railroad tracks so train cars could be loaded with material for placement on the Seward Highway Project.
10. During a site visit on July 19, 2024, KPB employees Eric Ogren, Morgan Aldridge and Mr. Raidmae observed that Permittee had denuded a portion of the 50-foot vegetative buffer on the west side of the Property.
11. On July 26, 2024, Mr. Raidmae received a complaint that the buffers on the southeast side of the Property, adjacent to KPB PINs 12509010 and 12509011, also had been removed. Mr. Raidmae reviewed drone footage taken by Ms. Aldridge and observed that the majority of the buffer on the southeast of the Property had been denuded and the area was being utilized for additional stockpile, sorting and laydown.
12. Permittee did not have an approved modification of the CLUP to allow removal of any of the 50-foot vegetative buffers along the perimeter of the Property.

13. Additionally, Permittee did not flag the Property's boundaries as required by Permit Condition #1 of the CLUP, which states: "The [P]ermittee shall cause the boundaries of the subject parcel to be staked at sequentially visible intervals where parcel boundaries are within 300' of the excavation perimeter."
14. Permittee has submitted an application for a modification of the CLUP (MCLUP) for consideration by the KPB Planning Commission. The MCLUP application is Attachment 4 and is incorporated by reference. This Agreement does not bind in any way the KPB Planning Commission's decision.

SECTION 2: ADMITTED AND ACKNOWLEDGED VIOLATIONS

Permittee admits and acknowledges it has committed the following violations of KPB code on the Property:

1. KPB 21.50.030(A)(1)/KPB 21.50.055: Violation of Conditional Land Use Permit Conditions/Material Site Permits (Permit Condition #1 of the CLUP); and
2. KPB 21.50.030(A)(1)/KPB 21.50.055: Violation of Conditional Land Use Permit Conditions/Material Site Permits (Permit Condition #2 of the CLUP).

SECTION 3: STIPULATED REMEDY

Therefore, Permittee agrees to the following steps to remedy the KPB Code violations listed above:

1. Permittee will stake the boundaries of the Property at sequentially visible intervals where parcel boundaries are within 300' of the excavation perimeter to remedy Violation #1, above.
2. Permittee will pay \$12,000.00 as a civil fine, a \$300 per day civil fine for forty days of violations of KPB 21.29.050(A) for Violation #2, above. Forty days is a reasonable stipulated time for the violation period based on the time required for KPB to process Permittee's MCLUP application between August 1, 2024, when Permittee completed its MCLUP application, and September 9, 2024, when the KPB Planning Commission will consider Permittee's MCLUP application.
3. Permittee will prepare and submit a revegetation plan for approval by the KPB Planning Director. The revegetation plan must include seeding and live transplant of tree sapling (Alder/ Spruce/ Poplar) within the denuded portion of the each of the 50' buffers at a density sufficient to reestablish a vegetative buffer similar to the adjacent undisturbed buffers. If the KPB Planning Commission approves the MCLUP, Permittee's revegetation plan must incorporate any of the MCLUP's

applicable conditions, including the deadline to implement the revegetation plan, if the Planning Commission imposes such a deadline. If the KPB Planning Commission approves the MCLUP, the MCLUP will be incorporated into this Agreement by reference.

4. Permittee will comply with all of the terms and conditions of the MCLUP, if approved by the KPB Planning Commission.
5. If Permittee is in full compliance with Paragraphs 1 and 2 of this Section by August 30, 2024, and Paragraphs 3 and 4 of this Section before the CLUP extension deadline of May 23, 2027, the violations addressed in this Agreement will be resolved, regardless of the outcome of the Planning Commission's decision regarding the MCLUP.
6. If Permittee fails to comply with Paragraph 1 and 2 of this Section by August 30, 2024, or Paragraphs 3 and 4 of this Section before the CLUP extension deadline of May 23, 2027, civil fines in the amount of \$300.00 per violation per day will begin to accrue again until all of the above-described remediation is completed and/or any other remediation or civil fines ordered by an administrative hearing officer or court of higher jurisdiction are completed or paid. KPB may issue an enforcement notice to Permittee or pursue a civil action. If an enforcement notice is issued, it will provide a date for a hearing before an administrative hearing officer. This Agreement and its Attachments may be submitted as evidence for any future applicable administrative or court action.
7. If Permittee fails to comply with all of the terms of this Agreement in any part before CLUP renewal on May 23, 2027, it will be deemed grounds for denial of extension of the CLUP under KPB 21.29.070(C).
8. The remedies described in Paragraphs 1 through 7 in this Section are not exclusive, but are cumulative of all other remedies available under KPB code, at law, or in equity.
9. Permittee acknowledges the vegetation that was removed cannot be replaced within a reasonable time.
10. This Agreement may only be modified by mutual written agreement between the Parties.
11. This agreement may be executed in counterpart, and may be executed by way of copy, facsimile or verified electronic signature in compliance with AS 09.80, and

if so, each of which will be deemed an original but all of which together will constitute one and the same instrument.

KENAI PENINSULA
BOROUGH

PERMITTEE

Robert Ruffner
Robert Ruffner
Planning Director

Daryl Belanger
Daryl Belanger
Colaska Inc. DBA QAP

DATE: 9/6/2024

DATE: 9/6/2024

Kenai Peninsula Borough

Donald E. Gilman River Center

MEMORANDUM

TO: Jeremy Brantley, Planning Commission Chair
Planning Commission

THRU: Robert Ruffner, Planning Director

FROM: Julie Hindman, Planner

DATE: September 6, 2024

RE: Conditional Land Use Permit Modification; MS2022-004
PC Resolution 2022-21 Modification Request

Please find attached the minutes from the September 5, 2024 Moose Pass Advisory Planning Commission (APC) meeting in relation to the Conditional Land Use Permit Modification, MS 2022-004.

I was in attendance at the meeting and wanted to highlight a few comments made by the APC and members of the public that weren't prominent in the minutes, but warranted mentioning:

- There are concerns regarding the additional noises that may come from loading the train cars with gravel.
- A question was raised on if the train will be required to issue horn blasts when stopping for the loading process.
- Concerns were also raised about the timing that train cars will be loaded, and how it would impact ingress/egress to neighboring properties and noise.

MOOSE PASS ADVISORY PLANNING COMMISSION

REGULAR MEETING

LOCATION: MOOSE PASS SPORTSMAN CLUB AND ZOOM

TELECONFERENCE THURSDAY, SEPTEMBER 5, 2024

6:00 P.M.

Unapproved Meeting Minutes

Jennifer Boyle, Kevin Dunham, Jeff Estes, Jeff Hetrick, Bruce Jaffa, David Pearson, Dave Schafer

To join the meeting from a computer, visit <https://us06web.zoom.us/j/9360805262>. To attend the Zoom meeting by telephone, call toll-free **1-888-788-0099** or **1-877-853-5247** and enter the Meeting ID **9360805262**. If you connect by computer and do not have speakers or a microphone, connect online and then select phone for audio. A box will come up with a toll free numbers, the Meeting ID, and your participant number. You may join the meeting physically at the Moose Pass Sportsman Club, 33675 Depot Road, Moose Pass, AK 99631

1. CALL TO ORDER - 6:05pm

2. ROLL CALL - all present

3. **Citizen Comments** - Jeff Estes - Would like to have Lawing Airportraised or leveled as was discussed in 2018 with gravel from QAP from current QAP project, Nancy Erickson - when go past horse pasture on mountain side when heading north, no guard rail being added and needs to be as she has seen cars that have left the road in the area, DOT not planning on adding one

4. APPROVAL OF AGENDA - Dave P motions, Jeff H 2nds. Approved.

5. APPROVAL OF MINUTES

a. June 6, 2024 - Dave S to send to Julie.

6. NEW BUSINESS

a. Conditional Land Use Permit Modification; MS2022-004

Applicant: Colaska Inc. DBA QAP

Request: Modification to PC Resolution 2022-21 to expand the permit area, additional ingress/egress, and create a 100' wide access to the ARRCC ROW Location: 27083 Seward Highway

Dave P makes motion to support, 2nd Jeff H

Vote is unanimous to oppose; all members present.

From Julie - Public comments due tomorrow 9/6 by 1pm for the KPB

Ryan Raymay, Planner with KPB, Material Science presentation. Staff report supports approval. He has received written comments about ongoing violations. If resolution is not found between Robert Roughner and QAP by the time of the planning commission

meeting on Monday, September 9th will recommend postponement of this modification.

Planning commission looks at loading train cars and trucks as the same thing. There are no ordinances on times of day for loading.

Modification is for next 5 years with the ability to renew.

Discussion:

Public Comments:

Gary Glasgow - property next to the material site area. QAP has already removed trees without permission (violation) resulting in additional noise from the material site. In regard to railroad ingress/egress, already cut trees to the perimeter of the material site. Want to extend that to 100 ft wide. How much material are they moving? What is the noise level expected? What are the dates that this is happening? Hours of operation? How many cars to be loaded? Will access to private properties be blocked? He has concerns about additional ingress/egress requests. One of his biggest concerns is the addition of the 2 parcels. At this time QAP is leasing the parcels. But how can you approve a condition LUP on a leased piece of property?

Bonnie Bryer- She lives just across rr tracks from 100 ft swath of land. Her well is about 200 ft from railroad. Once the 27 ft of trees were removed, the noise has increased drastically. The vibration of the asphalt and rock crusher has vibrated there walls. She is extremely concerned about the integrity of their well

John Grimes - lives to the north along the railroad tracks. The noise from just moving the train cars alone will be phenomenal. With 100 ft opening, would be able to load 2 cars at a time and then would need to move the train again. He is having well issues with being able to taste minerals in the water from the past few months. Concerned if will continue to use water truck for dust control that is currently using his and Gary Glasgow's driveway. Is completely against this. This used to be a residential site and shouldn't be an industrial site.

Tracy Maxwell - For the people that are impacted the most, have they asked for QAP to change hours of operation or tree replanting afterward? Checking wells?

MPAPC Comments

Kevin D - QAP already is going beyond scope of this project and feels like they are trying to turn this into a semi permanent operation. He thinks we need to strongly oppose this for our neighbors. This should be finished at the end of this road project.

Dave P - He will be voting against. They are removing the buffers from original permit and seems unacceptable.

Dave S - Seems like QAP pulled fast one on the community. Turned community area into industrial area.

Jeff H - we don't have land use ordinances. He will vote against it, but he feels like we should let railroad and QAP to address issues. Most challenging part of this is the violations.

Jeff E - will vote against motion to approve as they have violations and haven't come to terms with local residents to address their concerns.

Bruce J - Finds it troubling that there appears that there is a paltry amount of penalty regarding violations and then allowing an extension on top of that is unacceptable. He is not opposed using gravel, but their expanded operation is far outside of what the original LUP permitted.

~~7. BOROUGH BUSINESS~~

~~a. REPORTS~~

~~i. PLANNER REPORT~~

- ~~1. Safe Street meetings - even if can't make the meeting, they are still accepting comments on their website~~
- ~~2. Advisory Planning Commission structure review~~

~~Bruce attended meeting. From Bruce- Robert Roughner has been approached by some other APC in the borough. This is still advisory role, but council will not be dictated by rules of Borough. Council would not be tied to just borough business and wouldn't be held to open meetings act. The hope that this is something that it would benefit communities. Julie's recommendation is to review info in packets, come up with questions and concerns and at next meeting, have discussion and compile info for Bruce for a meeting in October.~~

~~Would Sportsmen's Club become council?~~

~~ii. REPORT FROM THE CHAIR~~

- ~~1. Communication with Board~~
- ~~2. Update DOT 25 to 37 - Believes that DOT has gone to bid and awarded contract to an appraiser to contact property owners. Not aware of any property owners that have been contacted~~

~~8. PRESENTATIONS~~

- ~~a. Tracie Maxwell Development of the Base Camp LLC along the ROW - her brother Dave and her are looking forward to being part of the community. Building a "barn-di-minium" with 2 homes together with two workshops and garages on ground~~

From: [Dawn Ernst](#)
To: [Raidmae, Ryan](#); [Ruffner, Robert](#)
Subject: <EXTERNAL-SENDER>QAP violation of conditional use permit
Date: Saturday, August 17, 2024 9:56:29 AM

CAUTION: This email originated from outside of the KPBB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

From: Mark & Dawn Ernst
27243 Seward Hwy. (mile 20, Victor Creek)
Parcel #12510001

Hello —

We want to go on record in opposition to the KPBB giving any extension or modification to QAP's Conditional Use Permit on the highway project here that might accommodate their current (and planned) violations, as we understand it – clearing the already-reduced buffers (i.e. cutting down trees up to the tracks) to the end goal of loading of gravel via the railroad. We request that you hold QAP to their original borough-approved permit to replant the violated areas asap to the permit's buffer depth and height.

Our property (as well as those of Gary Glasgow, Steve Astillero and Bonnie Frier, Mitch Johnson, John Grimes and Jan Schultz) abuts the railroad tracks, which, if we are understanding correctly QAP's intentions to move gravel via the rails, means even more noise for all of us here – both from QAP loading gravel into train cars and the additional sounding of train horns mandated at the two crossings here amongst our homes (four approx. 110-decibel blasts at both crossings) from these extra trains.

How long would we have this going on if KPBB approves their CUP modification request, and what would be the daily frequency of loads and trains? Time of day constraints?

At the Public Hearings we attended and participated in before this project began, we voiced concerns about EXACTLY what is happening now, that this site would continue to be used even after the 3-year road project. And here we are.

Curious where QAP's \$300 daily fine monies go?

Thank you,

Mark & Dawn Ernst

From: [Jan-Ake Schultz](#)
To: [Raidmae, Ryan](#)
Subject: <EXTERNAL-SENDER>QAP
Date: Wednesday, August 14, 2024 3:46:10 PM

CAUTION: This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

It has come to my attention that QAP is persisting in it's bad behavior as a hideous neighbor.

It is violating its conditional use permit by cutting down old growth forest, expanding its sphere of operation beyond its original proposals, renegeing on its promises to control unnecessary sound violations, and displaying utter disregard for its peaceful neighbors by failing to implement the promised new generation of back up beeper', amongst other things

Our community has had to endure incessant noise and traffic obstructions for three years. This on a project that moved the highway roadbed 6 inches at the cost of nearly \$80, 000,000.

QAP gives Lip service to environmental and Kenai Peninsula Borough regulations, breaks agreements with impunity, and then ask for forgiveness.

There is no indication that this behavior pattern will change.

As a taxpayer for the borough, it galls me that we receive no fire service, No police protection, no services of any kind in exchange for our tax dollars.

The fact that our elected representatives likewise give us no consideration while they kowtow to the high net worth individuals that run QAP for a significant profit is a further thorn in my side.

I participated in the zoom call at the initial granting of the conditional use permit. A permit granted for a parcel that was too small to begin the operation, but which has again been doubled in size by appropriation of neighboring land parcels. (Without regulatory review)

It was clear that the board members participating in the original zoom call, had no intention of changing the predetermined decision, or considering the numerous and significant objections of all the local populace.

One of the most scenic sections of the Seward national scenic byway has now been permanently degraded under the watch of such short sighted civic employees. Employees that supposedly work for us, the taxpayers, not Mr. QAP

I stand apoplectic when I hear that you've levied a fine of only \$300 for these further egregious violations

\$300 in the face of \$80 million. This is projected to change behavior? Isn't the fine for throwing a hamburger wrapper out the car window higher?

I can only hope that our elected representatives can see the farce that is playing out and say No to any amendment of the conditional use permit, can say no to any renewal of this conditional use permit! And then, God willing, hopefully in 5, 10 or 50 years time this beautiful part of Alaska can revert to a more peaceful and natural state..

Let QAP destroy other parts of Alaska that aren't surrounded by neighborhoods and peaceful, tax paying landowners. Other areas of Alaska that aren't on the shores of Kenai lake. Other aread that aren't adjacent to the Iditarod national historic trail.

And for Goodness sake, Levy finds that aren't just a rounding error on QAP's daily diesel bill!

Jan-Åke Schultz

From: [Louis Garding](#)
To: [Raidmae, Ryan](#); [Ruffner, Robert](#)
Subject: <EXTERNAL-SENDER>QAP
Date: Monday, August 19, 2024 10:38:21 PM

CAUTION: This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

> Ryan Raidmae and Robert Ruffner,

>

> As a local resident of the Victor Creek community I am reaching out to you in regards to the recent violation of the CUP (conditional use permit) by QAP (Quality Asphalt Paving). I oppose the approval of any modifications to their existing CUP as they have already shown they cannot follow the rules set forth. As a property owner in the immediate area, this has an impact that is far reaching for all of us. Removal of the required 50' of vegetation buffer is not only a violation of the CUP, but a violation to the residents of the area who now have to deal with the visual impact, additional noise pollution, and dust and light pollutants. In the original CUP, the Kenai Borough Planning Commission Members already made an alarmingly poor decision and gave QAP a waiver for the 300' processing distance on the west side of the property and brought it down to 157' (almost a half of what it was suppose to be). Now QAP has removed a swath of the 50' vegetation buffer on that same side making it even worse. QAP already has a designated haul route along the road system. QAP will need to find another solution to put gravel on railroad cars from their material site. They can use their existing haul route to a designated access crossing that the railroad has to load the gravel. I can't imagine the future if you approve this modification. They will have unlimited access to load material (dirt, gravel, riprap, shot rock, etc) in the future and take it to where ever it is needed along the railroad belt. Thus we will have the challenges that exist today on the roadway added to the railroad and then we have to deal with two points of contention. We had asked before for this site not to be placed in our back yards, yet it was approved. We are again asking for the modification of the existing CUP not to be approved. How many more challenges will we face in the future. I ask that they immediately add a tiered slope of top soil to the impacted area so they can replant this coming spring with a dense forest of mature trees including hemlock, spruce and birch native to the area. In addition to that, I ask that they increase the existing dirt berm in that immediate area to be consistent with the top of the existing trees.

>

> Thank you for your time and dedication to preserving why we live here!

>

> Please reach out if you have questions.

From: [Celeste Rose](#)
To: [Raidmae, Ryan](#); [Ruffner, Robert](#)
Subject: <EXTERNAL-SENDER>Very concerned home owner at 27000 Seward Hwy
Date: Saturday, August 31, 2024 7:25:33 PM

CAUTION: This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Hello Robert and Ryan. I am writing to you with my very deepest concerns that QAP has commissioned to do work for the railroad and that would mean running this gravel pit they planted right in the heart of mine and all my neighbors homes. I am directly across from from it. It has been nothing but insanity for 2 full seasons. They said they would put it back and take this huge hill of gravel down when done. Now they are requesting to do work for the railroad behind this pit? I can't tell you the extent of how horrible it's been. The horribleness started June 14,2022 when QAP did my neighbor a favor because it was so loud and he couldn't sleep so they ran TWO D8 dozers on a Sunday for 7 hours on what my neighbor told them was his property was not his. It was mine. They destroyed my grandfathers homestead untouched property. I have many photos and videos of the damage. I didn't sue them because QAP has deep pockets and I figured I'd be at a loss either way. They run rock trucks and rock trucks in and out of my neighbors yard. They have left both of my driveways with a 12 inch drop off so anyone with a car can't get in or out without bottoming out. QAP continuing to run this gravel pit in our neighborhood and not hanging any care or respect for all of us living right here is unreal. It's been no sleep for 2 seasons. My home is directly across with two mountains east and west so back up beepers and equip is amplified. They work on their days off so there's never even a day we get a break around here. Please understand where is locals are begging for this request for them to continue to this gravel pit another 5 years be squashed.

Thank you for your time. If you'd like pictures or videos please contact me at 1 (907) 394-4449

Best regards,

Celeste Rose
27000 Seward highway.

[Sent from Yahoo Mail for iPhone](#)

From: [gary glasgow](#)
To: [Ruffner, Robert](#)
Cc: [Raidmae, Ryan](#)
Subject: <EXTERNAL-SENDER>Possible Violations for CUP for CoAlaska/QAP PIN 125-090-28
Date: Thursday, August 29, 2024 5:18:55 PM
Attachments: [pastedGraphic.tiff](#)

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Robert,

Thank you again for taking my call today. As discussed, I will outline the possible violations I see with the CUP with QAP.

- 1) Removal of 50 foot vegetation buffer on the West side of the material site to access railroad.*
- 2) Removal of 50 foot vegetation buffer on South East corner of material site adjoining Elde's parcels.
- 3) Parcel boundaries not adequately staked.*
- 4) Processing material within 300 feet of parcel boundaries in South East corner adjoining Elde's parcels.
- 5) Material extraction within 100 feet of established well in South East corner on Elde's property.
- 6) Three additional points of ingress/egress to the South of the approved ingress/egress from material site to Seward Hwy. The far South added ingress/egress point is a shared ROW driveway with no permission given by the one shared ROW occupant.

* You already have these on your radar.

In addition to that if you go back to my communication in the Public Hearing on 5/23/2020, you will see I discussed the first violation as they had been hauling material into the site for 6 weeks and the permit hadn't been approved. It would foreshadow events to come. Of course there are others with the noise and dust control but hard to prove therefore I won't pursue them. I had written a note at one time about agreed upon quiet hours for the material site, but it operates day and night for the most part.

Thank you for your time and I look forward to hearing your thoughts!

Gary Glasgow
Renfro's Lakeside Retreat
27177 Seward Hwy
Seward, AK 99664

907-288-5059

Retreat with us on



www.renfroslakesideretreat.com
renfroslakesideretreat@gmail.com

From: [gary glasgow](#)
To: [Ruffner, Robert](#); [Raidmae, Ryan](#)
Subject: <EXTERNAL-SENDER>Fwd: Possible Violations for CUP for CoAlaska/QAP PIN 125-090-28
Date: Saturday, August 31, 2024 4:12:57 PM
Attachments: [pastedGraphic.tiff](#)

CAUTION: This email originated from outside of the KPBP system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Robert and Ryan,

I am sorry as I left out another possible violation.

7) If the permittee revises or intends to revise operations so that they are no longer consistent...a permit modification is required - ahead of time I would assume.

Thank you,

Gary Glasgow
Renfro's Lakeside Retreat
27177 Seward Hwy
Seward, AK 99664

907-288-5059

Retreat with us on



www.renfroslakesideretreat.com
renfroslakesideretreat@gmail.com

Begin forwarded message:

From: gary glasgow <renfroslakesideretreat@gmail.com>
Subject: Possible Violations for CUP for CoAlaska/QAP PIN 125-090-28
Date: August 29, 2024 at 5:18:36 PM AKDT
To: rruffner@kpb.us
Cc: rraidmae@kpb.us

Robert,

Thank you again for taking my call today. As discussed, I will outline the possible violations I see with the CUP with QAP.

- 1) Removal of 50 foot vegetation buffer on the West side of the material site to access railroad.*
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Thank you for your time and I look forward to hearing your thoughts!

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renfroslakesideretreat@gmail.com

RE: Conditional Land Use Permit; MS2022-004
Modification to PC Resolution 2022-21 to expand the permit area, add additional ingress/
egress and create a 100' wide access to the ARRCC right-of-way

9/6/24

Ryan Raidmae and Robert Ruffner,

Thank you for hearing the residents of the Lakeview area out in opposing the above
aforementioned modification to CLUP MS2022-004. I also am writing you to oppose the
approval of the modification.

I will outline below multiple reasons why the modification to the CLUP should be declined.

Violations:

It is disheartening to me that I originally brought the first violation of the permit conditions to
the planning and zoning committee in the public meeting held on 5/23/22. In that meeting I
advised the committee that the permit had not been obtained, yet QAP had already processed
the parcel and had been hauling in material for six weeks. It was the first sign that they don't
follow rules and they are not held accountable for their actions.

Since that time, several years have passed with more violations to the permit conditions. The
following violations and possible violations along with corresponding permit condition numbers
are listed below.

- 1) Boundaries staked appropriately
 - 2) Maintain 50' vegetation buffer - recently cleared swath of trees along railroad tracks
 - 2) Maintain 50' vegetation buffer - buffer was removed behind southeast parcels Lot I and J
 - 2) Maintain 50' vegetation buffer - partial buffer was removed on east site of material site
 - 5) Operate all equipment at least 300' from parcel boundaries - southeast side Lot I and J
 - 6) Shall not extract material within 100 horizontal feet of existing well - southeast Lot I and J
 - 18) If revise operations a modification application is required - ahead of time, not after the fact
- Ingress/egress: They were granted one ingress/egress yet developed and used three additional
ones to the South of the agreed upon ingress/egress.
- 19) And finally, as the director of the planning department, you have the right to revoke the
CLUP if the permittee fails to comply with the provisions of this chapter. There are only 20
permit conditions, in my estimate, they have violated approximately 1/3 of them.

Expand Permit Area:

Why would QAP need to expand the material site for additional stockpile, sorting and lay down
when the project is nearing completion? Could it be that they have been using it all along (with
lease agreements from the current owners) and thought it may be wise to ensure the violations
that happened were covered? I don't fault the parcel owners for entering into a contract with
QAP. What I do fault is the removal of the vegetation buffer (no mention in the lease agreement
that it could be removed) and QAP encroaching within 100' of a water well (again no mention in
the lease agreement that the well could be encroached on) that wasn't decommissioned until
2023. How has this affected or contaminated our aquifer? There is an agreement with the
owners and QAP that was signed on 2/21/22 that isn't in the packet- why is that? The bigger
question is - Why would the planning and zoning commission want to approve a modification
to a CLUP on parcels not owned, but leased? That is a possible legal problem in the making.

Add Two Additional Ingress/Egress:

QAP was provided a single ingress/egress into the material site with the original application. There was never an approval for any additional ingress/egress even though they created and used three to the south of the one they were approved. I understand that they want this for the two additional properties that they are leasing (have not purchased) so they can access them. This will create too many ingress/egress sites within a short distance (a total of four- three of theirs and one additional one to the south for that parcel owner). We as resident's in the area were made to combine our ingress/egress routes so there were not so many. Some residents had their ingress/egress rerouted and others lost an ingress/egress where they had multiple. This sets a dangerous precedent with heavy equipment accessing multiple locations within a short distance and around two curves (one to the north and one to the south). The only reason this is on the modification CLUP is because the new ingress/egress routes have already been created and have been used over multiple years without approval. When did the ADOT approve these additional ingress/egress routes?

Create 100' Wide Access Along Railroad:

My first question is how long has QAP known about this project? Was it in the original bid process? If so, why wasn't it included with the original CUP application? I had heard it was suppose to be done early this spring but it couldn't happen because the railroad was working on the falls creek and trail river bridges and couldn't spare flaggers. If this is/was the case- why this last minute maneuver? An agreement has been entered into with the Alaska Railroad and QAP to haul riprap, pipe beddings, ditch lining, D1, filter blanket and ballast to work on 13 different locations along the Kenai Lake. The contract signed runs from 7/1/24 - 5/3/25. However, this contract per the terms may be extended. There are many unanswered questions here. What are the dates of operation? What are the times of operation? How many railroad cars will be loaded each day? How much material is to be hauled? What is the noise level and how will it be curtailed? How will they suppress the dust? How will we as parcel owners be able to access our property on each side of the tracks as we have two private crossings within a short distance? What does revegetated mean? Just grass or mature trees? How many possible extensions will QAP and the railroad agree to as they have found a lucrative way to move all the material up and down the railroad tracks? Why can't they use their currently approved haul routes to another area (just a short distance to the south there is access to the railroad with no neighbors to impact)? As you already know, QAP violated their CLUP by removing a swath of trees along the railroad tracks. The smaller swath right next to the railroad tracks currently measures 27' and the larger swath behind it and moving to the east measures 88'. Now they want to increase what they already have taken down to 100'. This side of the material site already had a wavier eliminating approximately one half or the requirement bringing it down to 157' verses the 300' requirement. That puts everything that much closer to the parcels on the other side and now the trees have been cut which causes a funnel of noise and dust and a visual my guests and other residents don't care to see, hear or smell.

These violations and modifications within the CLUP have a direct impact on the value, use and enjoyment of my property.

Value, use and enjoyment: I now have an existing material site next to my business - A Retreat that has been in coexistence with my neighbors since 1998. Visualize that- a material site and a retreat. They really are the opposite and don't mesh well together. A recent guest asked me "why we would allow a garbage dump in such a pristine area (referring to the material site)?" Even guests outside the state see the impact of the decision made by the planning and zoning commission. How do I recoup my property value if I were to sell when prospective buyers see a material site with unlimited possibilities for use in the future. My parcels are my livelihood. I own a business here. My business has been impacted by the

decisions of the planning and zoning committee and QAP. I have lost revenue this year in my rv sites- a potential of over \$40,000.00 because I cannot reserve my rv sites out because of the noise both day and night. The previous two years have been filled by construction crew and their subcontractors. If the noise continues to happen beyond the initial project, my rv sites are dead and will not be able to be used in the future. Why should my business suffer because of the actions of others? I have a fantastic record with my business, number 2 out of 66 on TripAdvisor in the Seward area. I have received poor reviews this year because of the construction and the noise from my guests staying in my cabins. The vegetation removal is now bringing the impact closer to the cabin side of my business. I didn't buy my property to have to deal with these outside influences beyond my control. I didn't build my business from where it was when I bought it to where it is today for it to be ruined by a company (QAP) that doesn't co-exist with their neighbors. My parcels can no longer be enjoyed as they were intended - A business - Renfro's Lakeside Retreat consisting of peace, quite solitude with a beautiful lake. As a planning commission, you have taken that away from me and instead of restoring it, you are here considering a modification. Your job is to impose minimum standards to certain land uses which may be potentially damaging to the public health, safety and welfare in a manner that recognizes private property rights. Our private property rights out way a modification to the current CLUP. I will assume there will not be one neighbor that sends a letter to you that is in favor of such destruction, wanton disregard, and greed. When will you start listening to the residents of Lakeview instead of a company that comes and creates havoc on the area?

From: louis garding <akcoastalsafari@hotmail.com>
Date: August 10, 2024 at 08:11:03 AKDT
To: Rachel Schubert <modi27@hotmail.com>
Subject: Fwd: QAP (Quality Asphalt Paving) violation of conditional use permit

rraidmae@kpb.us rruffner@kpb.us

Ryan Raidmae and Robert Ruffner,

I am reaching out to you in regards to the recent violation of the CUP (conditional use permit) by QAP (Quality Asphalt Paving). I oppose the approval of any modifications to their existing CUP as they have already shown they cannot follow the rules set forth. As a property owner in the immediate area, this has an impact that is far reaching for all of us. Removal of the required 50' of vegetation buffer is not only a violation of the CUP, but a violation to the residents of the area who now have to deal with the visual impact, additional noise, and dust and light pollutants. In the original CUP, the Kenai Borough Planning Commission Members already gave QAP a waiver for the 300' processing distance on the west side of the property and brought it down to 157' (almost a half of what it was suppose to be). Now QAP has removed a swath of the 50' vegetation buffer on that same side making it even worse. QAP already has a designated haul route along the road system. QAP will need to find another solution to put gravel on railroad cars from their material site. They can use their existing haul route to a designated access crossing that the railroad has to load the gravel. I can't imagine the future if you approve this modification. They will have unlimited access to load material (dirt, gravel, riprap, shot rock, etc) in the future and take it to where ever it is needed along the railroad belt. Thus we will have the challenges that exist today on the roadway added to the railroad and then we have to deal with two points of contention. We had asked before for this site not to be placed in our back yards, yet it was approved. We are again asking for the modification of the existing CUP not to be approved. How many more challenges will we face in the future. I ask that they immediately add a tiered slope of top soil to the impacted area so they can replant this coming spring with a dense forest of mature trees including hemlock, spruce and birch native to the area. In addition to that, I ask that they increase the existing dirt berm in that immediate area to be consistent with the top of the existing trees.

Thank you for your time and dedication to preserving why we live here!

From: rachel.schubert
To: Ruffner, Robert; Raidmae, Ryan
Subject: <EXTERNAL-SENDER>QAP (Quality Asphalt Paving) violation of conditional use permit
Date: Thursday, August 29, 2024 8:02:12 PM

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rmaidmae@kpb.us rruffner@kpb.us

Ryan Raidmae and Robert Ruffner,

As a resident of Alaska and the Victor Creek community I am reaching out to you in regards to the recent violation of the CUP (conditional use permit) by QAP (Quality Asphalt Paving). I oppose the approval of any modifications to their existing CUP as they have already shown they cannot follow the rules set forth. As a property owner in the immediate area, this has an impact that is far reaching for all of us. Removal of the required 50' of vegetation buffer is not only a violation of the CUP, but a violation to the residents of the area who now have to deal with the visual impact, additional noise, and dust and light pollutants. In the original CUP, the Kenai Borough Planning Commission Members already gave QAP a waiver for the 300' processing distance on the west side of the property and brought it down to 157' (almost a half of what it was suppose to be). Now QAP has removed a swath of the 50' vegetation buffer on that same side making it even worse. QAP already has a designated haul route along the road system. QAP will need to find another solution to put gravel on railroad cars from their material site. They can use their existing haul route to a designated access crossing that the railroad has to load the gravel. I can't imagine the future if you approve this alarmingly poor modification. They will have unlimited access to load material (dirt, gravel, riprap, shot rock, etc) in the future and take it to where ever it is needed along the railroad belt. Thus we will have the challenges that exist today on the roadway added to the railroad and then we have to deal with two points of contention. We had asked before for this site not to be placed in our back yards, yet it was approved. We are again asking for the modification of the existing CUP not to be approved. How many more challenges will we face in the future. I ask that they immediately add a tiered slope of top soil to the impacted area so they can replant this coming spring with a dense forest of mature trees including hemlock, spruce and birch native to the area. In addition to that, I ask that they increase the existing dirt berm in that immediate area to be consistent with the top of the existing trees.

Thank you for your time and dedication to preserving why we live

here!

Rachel Schubert
27480 Seward Hwy

Property ID 12510021
T 3N R 1E SEC 7 Seward Meridian SW
0870002 Axtell Sub Lot G1

Sent from my iPhone

Begin forwarded message:

From: louis garding <akcoastalsafari@hotmail.com>
Date: August 10, 2024 at 08:11:03 AKDT
To: Rachel Schubert <modi27@hotmail.com>
Subject: Fwd: QAP (Quality Asphalt Paving) violation of conditional use permit

rraidmae@kpb.us rruffner@kpb.us

Ryan Raidmae and Robert Ruffner,

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trees including hemlock, spruce and birch native to the area. In addition to that, I ask that they increase the existing dirt berm in that immediate area to be consistent with the top of the existing trees.

Thank you for your time and dedication to preserving why we live here!



Bonnie Frier & Steven Astillero Parcel #12509018

907-491-0850 steve_natures_design@yahoo.com 27121

Seward Hwy Seward AK 99664-9523 United States

August 29, 2024

Dear Ryan and Robert

We're writing this letter in response to the QAP modification application you recently received.

We did NOT choose to buy our "forever" home and retire next to this unsightly, disrupting, noisy, disgusting material, gravel site! We purchased our home 9yrs ago and have been working very hard all these years to make it our dream home so we can live out our last years comfortably and peacefully in our "piece of heaven" nestled in the surrounding forest lands.

As the commissioners have approved this company, QAP, to come into our quiet pristine neighborhood and destroy an area we all worked hard for and saved up for, all our lives, so we could buy and live out our retirement years here in our Alaska wilderness home. I'm wondering if you, the Planning Committee have forgotten that the committee was formed to "help the Alaskan people" NOT big construction companies that come here and destroy neighborhoods and peoples lives. Companies like this could care less about the people of Alaska, they are only here to make the BIG BUCKS!

For the last 3 years we have had to "endure" (and I don't use that word lightly!) all the traffic, 24 hrs of continuous noise from big machinery and numerous delays getting in and out of our properties (while being told it'll only be 3-4yrs till it will be reclaimed) and as if ALL that has not been enough disruption, NOW we have heard that QAP already has prearranged to work with the railroad and move TONS and TONS and TONS of gravel via the railroad, which those tracks are located right up against our properties. BUT what is incomprehensible to us is how you could even consider granting them permission to destroy our lives even more than what they have already done these past 3 yrs. And what they've done to the adjoining two parcels by letting them:

1st thing was them getting away with breaking their CUP dated May 23, 2024 by removing without permission, ALL the vegetation buffer that was part of that CUP and that buffer is running up to the railroad tracks. Please let me remind you that they did that and got caught because they did NOT ask permission. So now that they got caught, they have submitted their plans, that they have been planning since at least May but probably way before that, to WIDEN that removal of vegetation buffer to 100', and right up to the railroad tracks RIGHT BEHIND our home!, which would result in inconceivable increased NOISE, terrible GROUND VIBRATION, dust and more contaminants flying in the air we are breathing and serious concerns with our "well" and water supply (which is approx. 200+ ft from our well head) to the RR tracks and we just heard that since the road construction started, other wells in our area have been compromised so there would be even more disruption of our lives here, like I said....this is our "FOREVER" (what use to be a very serene and quiet, relaxing place to live!) Home.

If this company picked State land to do this kind of devastation to, by lease or just use of the land, the State would not stand by and let them get away with everything they've done or plan to do here, it would destroy and disrupt our "protected pristine Alaska lands" because it would totally disrupt it's habitat and remove their serene way of life!

So WHY is QAP allowed to do it to us? This land is our habitat !!
Poor Gary Glasgow, Renfro's Lakeside Retreat. He's been totally disrupted for the last 3 yrs. By the construction of the road , up close and personal on one side and QAP's yard right behind him, his lodge and his RV sites. We happened to be at his lodge not too long ago and there was big machinery working out on the road and I truly thought we were having a large , at least 6 pt. Earthquake, because his building shook and shook! He's been dealing with living in these conditions for all this time (3yrs) and has had many many sleepless nights because of "Night" work on the road AND in the materials/gravel pit area behind him and with trying to run his business during the day, mind you, without much sleep. Just think about the noise and vibration of all the machinery and that LOUD backup beep (BEEP BEEP BEEP) ALL night and day because even if they aren't working on the road, they are still continuing working in their yard at night and daytime.....Our health, our lives have been tremendously impacted by all this for the last 3 yrs. and now QAP wants to ADD even more noise, more ground vibrations, more stress and devastation to us living in this area. If they are allowed to remove even more of the vegetation buffer, I can't even imagine how much more the noise level will rise. I can tell you that when QAP secretly removed that first swath of that vegetation buffer, which is small compared to what they are planning to remove now, the noise level jumped terribly....it sounds like the big machinery and that gravel crusher/asphalt plant are right on the other side of our house wall. A few days ago, for 3-4 days prior it had been the worst noise and ground vibration since the removal of that buffer. The gravel/asphalt plant ran all night, vibrating our bed and then subsided slightly at 6:00 a.m. (on 8-28) but the beeping continued on and on as it has for 3 yrs. If you let them take another inch, they'll try to take a mile and continue secretly breaking more CUP's and then just ask forgiveness and want more things added to their CUP for years. Please please please DENY anymore additions to their CUP.....please!
To end with, yes we're fighting this right now for our neighborhood, for our sanity but remember it starts or ends with YOU, your committee! If you continue granting this type of destruction and devastation and forgiving companies when they break the rules, it'll just spread and keep destroying all areas of our beautiful Alaska. They'll keep doing "it" and destroy our Alaskan serene way of life up here in our "Great vast last frontier"
Isn't that why we choose to live up here??? What if you lived here with all this? You would also have a very very hard time dealing with all we're going throughbelieve me !!
Just remember, it could spread to your backyard.....don't think it can't !!!

Regards,

Bonnie Frier & Steven Astillero

From: [Glaser Email](#)
To: [Raidmae, Ryan](#)
Cc: "[marion glaser](#)"; "[Jesse Labenski](#)"; "[gary glasgow](#)"
Subject: <EXTERNAL-SENDER>Comments on Conditional Land Use Permit application by COLASKA INC DBA QAP to develop a gravel pit and proposed CLUP
Date: Monday, September 2, 2024 12:52:17 PM

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Katharine Glaser
34270 Lakestar Lane
Seward, AK 99664
(907) 288-3133
glaser@seward.net

Kenai Peninsula Borough
Planning Commission
144 N Binkley St.
Soldotna, AK 99669

September 2, 2024

Dear Kenai Peninsula Borough Planning Commission:

I am writing to voice my opposition to the proposed Conditional Land Use Permit application by COALASKA INC DBA QAP to develop a gravel pit and CLUP on Renfro's Lakeside Retreat NO 6 LOT 2F that PTN conveyed to State of Alaska DOT in WD 2017-633.

At that time the property was conveyed to DOT without any regard for the impact on landowners within one half mile of the property. However, we were assured that this would only be for three years while the Seward Highway was widened in this area of Miles 17.5-25.

Now COALASKA INC DBA QAP would like to modify PC2022-21 to expand the permit area for additional egress and create a 100-foot wide access to the APPC ROW to allow machinery to load rail cars. Again, QAP has begun clearing trees in this area without waiting for the results of the Planning Commission Public Hearing.

For the past three years homes and businesses in this area have put up with the noise, danger and pollution of heavy equipment, limited access to our properties with driveway blockage and excessive waits for pilot cars, blasting which is felt in our homes and on our properties, causing ground to shift and impact water tables resulting in shifting pipes and well failure. Complaints have been met with blatant denial of any fault by QAP.

The world-class beauty of Kenai Lake with its richness of wilderness of hiking trails, beach access, animals, birds and flowers need to be preserved for everyone.

Sincerely,
Katharine Glaser

Joan Connors and Mary Thompson
Box 2416
Seward, AK 99664
joanconnors@gmail.com
marywt123@hotmail.com

Kenai Peninsula Borough
Planning Commission
144 North Binkley St.
Soldotna, AK 99669

RE: Colaska Inc. DBA QAP Conditional Land Use Permit Application, MS2022-004 –
Comments in opposition to the permit

Dear Planning Commission Members,

As longtime residents of the Lakeview area (Mary for more than 40 years and Joan for more than 30 years), we strongly oppose the application for conditional land use permit (the application) submitted by Colaska Inc. DBA QAP (Colaska QAP) on grounds of noise, public health and wellbeing; risk related to an unstudied and unplanned project, especially in light of the of the March 1986 chemical spill affecting the area; and demonstrated unsuitability of Colaska QAP to manage such a project. We further join our neighbors in the grounds they have cited in their comments opposing the permit.

Noise

Our home at Mile 20 (27665 Seward Highway) is directly affected by highway noise. Setting aside time-limited construction-related noise, we observe that traffic noise past our house has increased day and night. We can reasonably expect the noise to increase with completion of the highway rehabilitation project.

We observe that heavy trucks are noisier than cars or even buses of the type that shuttle passengers to and from Seward. The application request for additional ingress and egress in the proposed permit area signal Colaska QAP's intention to increase heavy truck traffic on the highway. This would necessarily increase noise around our home.

Likewise, noise from crushing gravel to make asphalt paving and loading materials in trucks and rail cars, as foreseen in the application, will disturb our quality of life.

We ask the Commission to consider whether a **noise ordinance** might afford grounds for denial of the permit, both as regards residents closer to the proposed site and those of us at a slight distance.

On a personal note, we draw your attention to the fact that Mary is medically fragile and requires proper sleep for day-to-day functioning. She was unable to sleep at home on more than eight times during the summer 2024 construction season. Heavy truck traffic past our home can be expected to further jeopardize Mary's health. No

person should be forced from their own home to sleep, especially the medically vulnerable.

For reasons relating to noise, public nuisance, public health and wellbeing, we urge the Commission to **deny the application**.

The proposed project is unstudied and unplanned

The application seeks to piggyback on what was intended to be a one-off road enhancement, not a full-scale ongoing industrial enterprise.

While we disagreed with aspects of DOT's environmental assessment for the Seward Highway 17-22.5 rehabilitation project, we appreciate that the project was subject to planning and consultation with private, local, state and federal stakeholders. DOT documented study and planning in the Categorical Exclusion Memorandum dated February 6, 2019, from Brian Elliott, Regional Environmental Manager, to Matthew Dietrick, NEPA Program Manager (the final project environmental document).

By contrast, the ad hoc proposed project has not been studied, planned, assessed or publicly consulted. Its impacts are therefore entirely unknown, whether on the neighborhood (notably air quality, noise and social cohesion), existing businesses (especially Renfros, Kenai Cove Cabin and other vacation rentals) or, critically, its proposed location abutting Kenai Lake and within a ¼ mile or less of anadromous fish habitat and essential fish habitat.

We note that KPB Municipal Ordinance 21.29.050 (13) requires permittees to abide by all other federal, state and local laws applicable to operation of a material site and to abide by relevant permits. Colaska QAP has provided no assurance that it has even begun the permitting process relating to such laws.

For these reasons, the Commission should **deny the application**.

Legacy of 1986 Crown Point chemical spill

As a survivor (Mary) and witness (Joan) to the aftereffects of the 1986 Crown Point chemical spill in this very neighborhood, we were alarmed to learn of proposed commercial use of chemicals in the manufacturing of asphalt pavement where many of us have suffered so greatly.

In March 1986, railroad workers in the Crown Point yard mishandled a railcar leading to release of a chemical cloud that spread across the area. Many people in the area were sickened and homes abandoned. Affected neighbors sued. The railroad settled after years of litigation but never accepted responsibility.

It is uncertain any lessons were learned from the chemical spill originating in the Crown Point railyard. What is certain is that toxic chemicals are used in the manufacturing of asphalt pavement. But Colaska QAP has not told the public or the Commission what measures it would take to handle the chemicals responsibly.

The Commission, therefore, should **deny the application**.

Colaska QAP is unsuited to manage the proposed project

Our dealings with QAP personnel during the 2024 summer road construction season make clear that the company is unsuited to manage the proposed project.

QAP personnel improperly installed a culvert under the Seward Highway, stopping water flow in the creek crossing our property at Mile 20 (and to which we have registered water rights). We accept that mistakes can happen. And when they do, we expect contractors to a publicly funded project to promptly repair any damage they cause. But that is not how QAP operates.

QAP personnel refused to respond to our concerns or to correct their mistakes for *months*. They bullied and intimidated, misrepresented and denied responsibility, always passing the buck up the chain of command. It was only after repeated attempts to contact them through DOT and when a State hydrologist visited the site in August that they finally agreed to repair the culvert.

We are not alone in our experience with QAP personnel.

In such a high-risk, high-stakes project as the one proposed, the Commission cannot afford to place its trust in an operator that has demonstrated disdain for local residents and local knowledge.

Our experience tells us that Colaska QAP would deny, cover up and pass the buck in the event of problems. In the case of the proposed project, any mistakes could have untold impacts on human health and wellbeing and the environment. The potential costs of arrogance are too high.

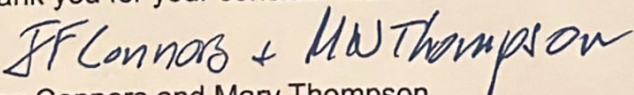
We note, too, that Colaska QAP would be operating on its own without the oversight of a State entity (such as DOT during road construction). There is no telling what they might do free of any public oversight or accountability. Colaska QAP have demonstrated that they cannot be trusted.

For these reasons, the Commission should **deny the application**.

Conclusion

For the reasons stated above and as put forth by our neighbors in opposition to the proposed project, we urge the Commission to **deny the application**. Please treat these comments as participation in the public hearing on the permit to preserve our right of appeal from the Commission's decision.

Thank you for your consideration.


Joan Connors and Mary Thompson

Opposition to Conditional use Permit modification

John Grimes

On behalf of the Grimes Family Trust
27185 Seward Hwy P.O. Box 355
(907)-362-2305

September 5, 2024

While I compose my thoughts on this futile endeavor, noting that the back room deals have already been set in motion, the meeting packet only confirms my suspicions. I was unable to access the packet as described by my notice letter and was left to my own devices to acquire the information on September 5th despite, two email requests to Ryan Raidmae of the KPB about such. Regardless, I would like to take this opportunity to articulate as best as possible, my grievances and objection to modification of the current Conditional Use Permit PC2022-21 issued to Colaska Inc DBA QAP.

That being said, I wish to request the revocation of said permit, for multiple breeches of contract by Colaska aka QAP, and state publicly that the Kenai Peninsula Borough failed to exercise due diligence in monitoring the compliance status of that permit. QAP has shown a blatant disregard of the terms of the above mentioned permit by proceeding to clearcut access to ARRC ROW beyond the permitted scope of the current conditional use. QAP's operations have compromised several water wells surrounding their material stowage and classification site, my own included has contained a mineral component to its taste previously not present. Not only concerning is the possibility of major disruptions to the water table and our drinking water, but the potential land mass instability on the Victor creek alluvial plain as a whole, by operations carried out under the current permit, not factors of consideration in the original permit process.

The 1964 earthquake, while being an exceptional event, still consumed approximately eighteen acres of land that was sub-ducted into Kenai Lake on the same alluvial plain. That was the land mass area equal to the current material site in use. The site now stores the materials of an accumulative size of a small mountain, easily visible above the tree line as seen from across the lake. The sheer volume of metric tonnage that has

been accumulated on this site by overburden and waste rock, without any environmental impact study, should give planning and zoning some pause and its potential future liability to KPB, being the permitting agency. This is especially true with the aquifer only at a depth of 20-30 feet in most places across the entire aforementioned plain and as near as 12 feet in their pit. The ease of which this plain can be subjected to a liquefaction event is only exacerbated by QAP abuse of its current permit, and these factors should be of the utmost importance to KPB and Planning in considering these requests in your duties as public servants, protecting its residents and their land values, not only the financial interest of a corporation at large.

Acceptance of an amended permit application would only prolong the agony of continued interrupted sleep, environmental air/water quality degradation, not to mention the additional noise from train movement in support of loading rail cars, as if the general construction operations weren't disruptive enough. The proposed loading area is not currently a siding and would be carried out on the main rail line. During summer, that line hosts passenger trains multiple times a day, unreasonably leaving only night time for loading operations, until passenger service concludes for the season. QAP made and saved millions of dollars by being allowed to use the sight for the state's road construction project, and we as residents are still paying the price for their profits.

In closing, please take a moment to consider that, you are as planners, the only recourse we have to limit the abuses to our water, land value, businesses and most importantly sanity. We have endured for the past three consecutive construction seasons of industrial activities in an area that should have been zoned residential in the first place. We have coexisted for the betterment of highway safety and the general public as a whole. The amendment as requested will continue our participation in activities we never wanted to be part of to begin with, can our duties as unwilling participants be concluded?

Sincerely yours,

John Grimes

From: akreflec@seward.net
To: [Raidmae, Ryan](#)
Cc: [Ruffner, Robert](#)
Subject: <EXTERNAL-SENDER>QAP (Quality Asphalt Paving) Comments in opposition to the permitg
Date: Thursday, September 5, 2024 10:48:14 AM

CAUTION: This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Victoria Johnson
26843 Seward, Ak 99664

akreflec@seward.net Kenai
 Peninsula
 Borough
 Planning
 Commission
 144 North
 Binkley St.
 Soldotna, Ak
 99669

RE: Colaska Inc. DBA QAP Conditional Land Use
Permit Application, MS2022-004- Comments in
opposition to the permit

Dear Planning Commission Members,

As longtime resident of the Lakeview area for years I oppose the approval of any modifications to the existing CUP as they have already shown they cannot follow the rules set forth.
As a property owner at mile 19.5 in the immediate area, this has been an impact that is far reaching for all of us.

NOISES and LIGHTS

My home at mile 19.5 (26843 Seward Hwy) is directly affected by the highway noise and noise and lights from the Elde's property leased by QAP that butts up against my personal property. The noise and lights shine into my house nonstop all night long has totally disrupted any possibility of sleeping through the night ever since they leased the said property.

The removal of a massive amount of trees has created a wind tunnel and the smells, dust, and constant banging never stops. Keep in mind that this is a residential area, not a commercial industrial area.

For reasons relating to noise, public nuisance, public health, and well being I urge the Commission to DENY THE APPLICATION

THE PROPOSED PROJECT IS UNSTUDIED AND UNPLANNED
The application seeks to piggyback on what was intended to be a one-off the road enhancement, not a full-scale ongoing industrial enterprise.

Removal of the required 50' of vegetation buffer is not only a violation of CUP, BUT A VIOLATION to the residents of the area who now have to deal with the visual impact, additional noise, dust and light pollutants.

FOR THESE REASONS THE COMMISSION, THEREFORE SHOULD DENY THE APPLICATION.

Colaska QAP is unsuited to manage the said project.

My personal dealings with QAP during this project has been so stressful and uncomfortable that I will take any measure to stop this approval. During the major blasting phase (of which that actually notified me not to go out of my house while blasting) it took out my existing well that very night. I had to battle with them for a very long time to accept responsibility and put in a new well. I was bullied and denied many many times and after battling and submitting proof after proof that I did indeed have a working well they finally decided to go ahead and drill a new well.

I appreciate that they finally took responsibility but it was an extremely uncomfortable situation.

On top of that since they leased the property next to my property they use my right of way entrance from the highway as a shared entrance for their massive trucks and equipment. I never questioned it as I assumed it was legal for them to do so but now I question if this really the case. The large dump trucks have dropped rocks which I have had to move out of the way to actually continue out of my right of way driveway to go out onto the road. I have had to ask them to clean up the debris so I could exit my driveway. Many times I have had to wait till they move their trucks so I could pull out to the road. I have had to have the underpart of my vehicle repaired 3 times due to that situation. I did not ask for compensation as I was so tired of doing battle with QAP I just paid for it myself. It has now been brought to my attention that the legality of them using this driveway might be in question.

FOR THESE REASONS, THE COMMISSION SHOULD DENY THE APPLICATION

CONCLUSION

For the reasons stated above and as put forth by our neighbors in opposition to the proposed project, I urge the Commission to DENY THE APPLICATION.

Please treat these comments as participation in the public hearing on the permit to preserve our right of appeal from the Commission's decision.

Thank you for your consideration.
Victoria Johnson

From: [Dawn Ernst](#)
To: [Raidmae, Ryan](#); [Ruffner, Robert](#)
Subject: <EXTERNAL-SENDER>Fwd: QAP violation of conditional use permit
Date: Thursday, September 5, 2024 4:51:51 PM

CAUTION: This email originated from outside of the KPB system. Please use caution when responding or providing information. Do not click on links or open attachments unless you recognize the sender, know the content is safe and were expecting the communication.

Ryan Raidmae and Robert Ruffner,

This is a follow-up list of questions to our previous email after having received the most recent planning commission agenda letter.

Because of a death in the family, we are unsure if we will be able to connect via phone or Zoom; we have a list of questions for which we would like answers supplied to all residents concerned, beyond those attending this meeting. Perhaps many or most have been answered in the aforementioned document, but they were not clear to us, so please forgive any unnecessary repetition.

Since "the application staff has determined that the six standards contained in KPB 21.29.040 will be met and recommends that the Planning Commission approve the Conditional Land Use Permit..." and the application staff does not live adjacent to Colaska's ever-growing project like we do, we are concerned that this project has become (and has been planned to be such since before it was presented to us) a Pandora's Box... that these permit extension requests will just continue *ad nauseam*... Asking for extensions in little bits is like that analogy about how to eat an elephant, right?!

Assumed fact: all major corporations and government agencies, i.e. Colaska/QAP, DOT, Alaska Railroad, etc. all have short, medium and long-term planning (1, 5, 10, 20+ years) for ongoing maintenance, future expansion, etc., so no projects just "happen" to come up without substantial forethought, so one must question the "abilities" of the management teams here.

1. How many MORE years will this permit allow a working gravel pit / rock crushing / train loading site to operate here? In what month and year will the full-time occupied residences no longer have this going on?
2. How many train cars does QAP expect to fill per day, per week, per month, per year? Which direction primarily will the trains travel both full and empty? What time of day or night will the trains move, if beyond the yard's permission from 6am to 10pm? How many culverts or bridges is the AKRR working on from this mile 19 material?
3. It sounds like QAP will be "mining" the useable material on their 20.1 acres, the material beneath the original surface, intending its use it for profit, and then fill the resulting pit with "junk" material from the road construction project, correct?
4. It sounds like there may be material transferred TO the site? And if so, via road or rail or both? How many train cars' worth? What material? What is the scope of this transfer?

5. What other projects does Colaska or QAP or DOT or AKRR have already in plan or even contemplating that also will utilize mile 19's materials and equipment? If so, does this mean that Colaska will be requesting yet another extension(s)?

6. Digging/extraction within 2-feet of the high-water mark is stated; they don't "anticipate" hitting the water table, but what is their plan if they do? Is there short-term and long term protections in place for repair and replacement of wells, septic systems, reclamation of the Kenai Lake/River watershed system should there be future damage caused by such activity.

7. #11 in the permit conditions: please explain "subdivision."

8. Did Colaska/QAP and the AKRR have this planned 3 years ago or is this a new development during the past 3 years... (knowing that large corporations plan things years out, this extension request appears to be underhanded in "omitting" future plans for the first request... or they just honestly had too much material and see ways to continue to profit from their purchase of this property... at the neighboring properties' quality of living.)

9. This extension states that Colaska's property is bordered on the north and south by occupied private property, and on the east and west by right-of-way of AKRR and the highway. It neglects to mention that bordering those two east and west right—of-ways are more occupied private properties. Is that proximity clear to the borough's staff?

10. Is asphalt production on this property going cease this year? Or will it continue for this project or for any future project? (It's by far THE loudest thing they do there to this point.)

11. What is "waste import" under the reclamation section?

12. It states 2-5 acres will be reclaimed each year from the now 21.1 acres... That could mean heavy equipment operating on this property every year for the next 10 years, correct? What specifically is considered reclamation. Once the reclamation is completed, can QAP go back in and destroy/undo the reclamation in future years?

13. Should QAP choose to sell this property in the future, is the borough prepared to authorize use of this land for building homes, businesses etc. with wells and septic systems or will this land be considered unusable do to what was done to this property?

14. After the current road project is completed, would the borough be willing able to limit QAP/Colaska/AKRR/DOT work on the 21.1 acres to 6am to 6pm?

Although the suggested extension permit suggests that work can only be done between 6am to 10pm, does anyone on the planning and zoning commission understand that although it will be quiet during 8 sleeping hours that we could now live in a construction zone with roaring, crashing, beeping, grinding, etc. all day long. Please consider that everyone who lives within the 1/2-mile radius of this chose to live in this area because it is in the middle of the Chugach National Forest, on Kenai Lake, and because it is quiet and peaceful. Many of the residents here are on third generations, but — because of the loophole within the borough's planning and zoning system where rural properties are concerned, we are now facing the fact that this once peaceful and quiet area is no different than living next to the QAP operations yard in Anchorage on C Street. By approving this permit extension request, we believe the borough becomes liable for any and all future problems with this site. Please don't just "rubber stamp"

this request without more safeguards for our lives and properties, and for future generations.

As a positive final comment, it appears to us that QAP has been responsive to minor requests from residents, and they obviously have been professional in the work they did on the road project. But now that this road project is near its end, this concept of extensions must also end.

Thank you for your time,

Mark & Dawn Ernst
Parcel #12510001

Begin forwarded message:

From: Dawn Ernst <copperplate@me.com>
Subject: QAP violation of conditional use permit
Date: August 17, 2024 at 11:56:12 AM MDT
To: rraidmac@kpb.us, rruffner@kpb.us

From: Mark & Dawn Ernst
27243 Seward Hwy. (mile 20, Victor Creek)
Parcel #12510001

Hello —

We want to go on record in opposition to the KPB giving any extension or modification to QAP's Conditional Use Permit on the highway project here that might accommodate their current (and planned) violations, as we understand it – clearing the already-reduced buffers (i.e. cutting down trees up to the tracks) to the end goal of loading of gravel via the railroad. We request that you hold QAP to their original borough-approved permit to replant the violated areas asap to the permit's buffer depth and height.

Our property (as well as those of Gary Glasgow, Steve Astillero and Bonnie Frier, Mitch Johnson, John Grimes and Jan Schultz) abuts the railroad tracks, which, if we are understanding correctly QAP's intentions to move gravel via the rails, means even more noise for all of us here – both from QAP loading gravel into train cars and the additional sounding of train horns mandated at the two crossings here amongst our homes (four approx. 110-decibel blasts at both crossings) from these extra trains.

How long would we have this going on if KPB approves their CUP modification request, and what would be the daily frequency of loads and trains? Time of day constraints?

At the Public Hearings we attended and participated in before this project began, we voiced concerns about EXACTLY what is happening now, that this site would continue to be used even after the 3-year road project. And here we are.

Curious where QAP's \$300 daily fine monies go?

Thank you,

Mark & Dawn Ernst

Marion Glaser and Jesse Labenski
34271 Lakestar Ln, Seward, AK 99664
(907) 288-2343

marionglaser@gmail.com

jlabenski10@gmail.com

Kenai Peninsula Borough
Planning Department
144 N Binkley St
Soldotna, AK 99669

August 28th 2024

10 reasons to deny QAP's Conditional Land Use Permit application to develop a material site on a property in the Moose Pass area.

Dear Planning Commission Members:

I am writing this letter to voice my opposition to QAP's Conditional Land Use Permit. Already, the construction area at Mile 19 associated with the highway project has been devastating to the quality of life on Victor Creek Delta over the past three years. As a resident and business owner, I have witnessed the enormous negative impacts on the community, businesses, and the environment in which we live. The social, environmental and economic vitality of this lakeside neighborhood has been put at risk by DBA QAP's land use permit application.

1) A material site would degrade the quality of life on Victor Creek Delta.

Victor Creek delta has been a desirable place to live and run a business even prior to highway's completion in the 1940's. It was the home of Andy Simons, Alaska's first big game guide as well as his wife. As a life-long resident (40 years), I enjoyed the unique pleasures of growing up here on the shores of Kenai Lake so much that I chose this area to settle with my husband and raise our two children.

All that changed in 2021, when QAP began the 17-23 highway construction project. QAP operates as if this is not a neighborhood. They have rarely posted a flagger in our area and prefer instead to close the entire 5-mile stretch of highway. When this occurs, we are unable to leave our house, even to get our mail without waiting for the pilot car to go in and out. The school bus had so many issues getting through the construction, that they were unable to continue picking up our kids for school. We had to meet the school bus outside of the construction area.

The company has habitually worked longer hours flagging than is posted on their lighted signs, so it is impossible to plan to avoid wait times. During blasting, we were told that when blasting was occurring south us, we could go North and when it was occurring North of us, we would be able to go south. This has not been the case, as the road is closed from mile 23 to 17- effectively holding everyone inside the project area with no access.

2) Heavy Construction on this part Seward Highway has had detrimental effects for traffic and public safety.

The lack of access is made worse by the lack of cell service between Mile 24 and Mile 11 of the Seward Highway, so when wait times are longer than 15 minutes (unplanned closures have been over an hour) we are effectively stranded with no communications. If a guest or service provider is lost, they have no way to stop, turn around or gain directions. This resulted in at least one accident with a traveling nurse and a gravel truck.

We have a child with complex medical conditions who makes frequent trips to the Emergency Room. She has weekly infusions at Providence Hospital in Seward. QAP cut off access to our home by ripping up our driveway entrance so that had there been an emergency, we would have been trapped with no ingress or egress for over 12 hours on multiple occasions with no notice or warning. Had she had an emergency during that time, we would have had no way to transport her to receive medical care or bring in an ambulance to do so.

3) A material site is terrible for businesses that rely on tourism and environmental quality.

My husband and I are the owners of Kenai Cove Log Cabin, a 5-star vacation rental with views of Kenai Lake and access to the beach for fishing and recreation. Guests typically book over a year in advance specifically because our cabin is a peaceful oasis in a pristine environment. Renfros Lakeside Retreat and other VRBO's and Airbnb's on Victor Creek delta rely on similar outstanding scenic and recreational qualities. The Campbells Knife Shop also benefits from business with visitors and tourists. The constant construction noise and activities of the past 3 years has resulted in guest cancellations and negative reviews about the area. This affects our guests' experience, our bottom line, and the sales tax collected by the Borough.

4) The environmental effects of developing this material site are terrible for fish and wildlife habitat.

COLASKA QAP has already destroyed over 20 acres of lakefront land and mature spruce forest, which is a significant portion of the total area of Victor Creek delta. These spruce were uniquely resistant to the devastating spruce bark beetle epidemic that has spread through the rest of South-Central Alaska over the past 5 years. The loss of this habitat coupled with the absence of *any* wildlife crossing features on the Seward Highway, has caused wildlife on Victor Creek Delta to become trapped by 24/7 highway noise and activity. This has led to an increase in human-wildlife conflicts in our neighborhood that will only continue to get worse if this material site is approved.

5) A material site on the shores of Kenai Lake could potentially have negative downstream effects on the entire Kenai River watershed.

Based on the map that was provided by the Kenai Peninsula Borough Planning Department, the parcel that QAP owns is within ¼ mile or less (1,320 ft) of anadromous fish habitat and essential fish habitat. Protecting the Kenai River watershed and the world-class sport fishing it provides is something that all residents of the Borough and State have a stake in.

6) There has been no information about toxic chemicals used in asphalt manufacturing and heavy construction.

QAP plans to manufacture asphalt at this location, which requires the use and storage of toxic chemicals. As a lifelong resident, my family knows first-hand the dangers associated with chemical spills. In 1986, the railroad abandoned a railcar full of super-heated chemicals at Crown Point. The chemicals spread throughout the area in a toxic cloud. As a child, I developed asthma, and our family was forced to move until the spill could be contained. QAP plans to use toxic chemicals to manufacture asphalt pavement, but we have not seen any plans or measures they would take to handle the chemicals responsibly.

Airborne particulates, toxic emissions and heavy metals from trucks, equipment and machinery seep into the ground and contaminate groundwater. Not only does a chemical spill put residents at risk, but a chemical spill that leached into the ground water would also put the entire Kenai River watershed at risk.

7) Constant noise and light pollution cause disruptions to humans and animals.

The noise, dust and pollution created by the blasting and heavy equipment has adversely affected the entire community as wind travels down Victor Creek and along Kenai Lake. We love the Alaska Railroad, but the night trains are disruptive to sleeping as the engineers will blow the horn 6-9 times before crossing Victor Creek Delta. They would become still more frequent if a materials site were developed to service the railroad.

Our family has had to sleep elsewhere due to noise from the project- especially when the blasting/road construction was right in front of our house and when Gary Elde unexpectedly allowed QAP to use his 5 acres for dumping blast rock. We can hear the noise 24/7 across Victor Creek as well as see the construction lights at night, which is disruptive to sleep and degrades the peaceful quality of life.

8) There have been negative effects to residential wells and drinking water:

The residents in this area rely on wells for drinking water. These wells are subject to large vibrations and disturbances associated with heavy construction work. Many of us have had our drinking water affected by the 17-23 highway construction project. COLASKA has denied having anything to do with this, even though we as well as other property owners have had to have new wells, pumps and underground pipes installed after they blasted the road in front of our house all summer. Other residents have witnessed temporary water quality issues associated with the construction activities. When I notified them of our lack of water, they failed to respond for weeks, when they finally did respond, they called to harass and bully me off the record and attempt to dissuade me from filing an insurance claim. The burden of proof in these instances always falls on the property owner.

9) Studies show that property values decrease within 1 mile of gravel pits.

Multiple studies from around the country have shown that property values decrease with proximity to gravel pits by as much as 30%. A material site on Victor Creek Delta would drastically affect our ability to enjoy our properties that and limit our ability to relocate.

10) COLASKA exhibits a pattern of disregard for rules:

COLASKA started clearing for this permit even prior to having it approved. That is par for the course. They regularly have excessive waits between pilot cars without giving any warning to highway traffic or homeowners. In the past, they have refused to let the school bus or the mail carrier through construction efficiently resulting in a temporary loss of those services to our neighborhood. They have blocked off our driveways for entire nights without warning. When approached about these very real concerns, their responses have ranged from dismissive (no response) to bullying (*We Own the road*). They have shown little to no regard for the folks who live here. This pattern of disregard for residents or rules shows them to be irresponsible and untrustworthy.

In closing, I respectfully request that you deny QAP's permit for a material site. The negative impact that this material site would have on the environment and residents is irreversible. It would compromise the health and safety of our community, impact our businesses and jeopardize the pristine environmental resources that fish, wildlife and people rely on.

I thank you for taking the time to hear my concerns and hope you will take them into consideration when making your decision about the future of our community.

Sincerely,

Marion Glaser and Jesse Labenski

Owners of Kenai Cove Log Cabin Vacation Rental,

Residents of Mile 20, Seward Hwy