

Dear Members of the Planning Committee:

My name is Philip Brudie and I own lot 2 of Quiet Cove subdivision (OSS 3980) which is directly adjacent to lot 1 of the proposed East Opster Cove subdivision. I request that the conditions of plat include a requirement that my DNR approved water source on the land be delineated by an easement for the reasons I outline below. Also the plat should reflect my third party rights to draw water from the water source.

I have owned my lot for fifty years. During that time I have drawn fresh water from a source on the platted property in the approximate location of the proposed lots 1 and 2 (and probably lot 3) through a plastic pipe feeding from a collection point in a small drainage on the east side of lots 1, 2, and three. The piping follows the small stream to tidewater on lot 1. There it splits and provides water to three of the existing owners of Quiet Cove. This is the only known source of available water for our small community. The actual location of the water source and delivery pipe should be fixed by survey.

In 1987 I applied for and eventually received my water right appropriation to draw water from the "unnamed stream" in Water Rights Certificate LAS 11231, dated 2-22-1988 with priority effective as of 1-23-1987. This was recorded at book 30, page 223, Seldovia Recording District. This affects 2.33 acres of

the Quiet Cove Subdivision (lots 1 and 2)
My legal rights to use this water have
been perfected.

At a minimum, the plat needs to disclose
these prior existing rights on the plat for
the affected lots, which will require the
location to be surveyed.

I should note that the historical use
over the last thirty five plus years has
extended into the uplands where the
impoundment facility is located. The
impoundment area should be memor-
ialized by an easement allowing the
users to access, maintain and draw
from it. My use has been notorious
and without consent all of these years.

My hope is that the petitioner will
agree to this request so their entry
into our neighborhood does not start
off with a major war on water rights,
the preservation of which is critical
to those of us who reside and/or
recreate here year round.

If the petitioner, despite its public
status, does not agree, then you, the
planning commission, should impose
these requirements for health and
safety questions. The location of the
drinking water source needs to be
delineated so that the ADEC approved
septic or marine outfall designs
preserve our access to safe drinking

water, which at a minimum, is legally undisputed at the mean high tide line. Plus, we do urge, for the quality of the Cove itself, as well as our drinking water, that all lots must have an approved ADEC septic design with appropriate legal setbacks from all streams and water sources.

To summarize, my request is that the following conditions to plat be required:

- ① Petitioner is to survey the existing stream, water impound area and drainage and locate it on the map.
- ② The affected lots have a plat note advising of the prior rights to appropriate water provided by LAS 11231.
- ③ The petitioner work with me to delineate an easement preserving my and my neighbors access to the impoundment area and the water supply pipe.
- ④ The plat must disclose the ADEC septic sites on all lots with sufficient distance to preserve the integrity of the surface water for drinking purposes.

Thank you,

Sincerely,

Philip L. Brodie
April 30, 2022

Philip Brodie
PO Box 111
Homer, AK 99603
907 399 6257

RECEIVED

MAY 04 2022

State of Alaska



BOOK 30 PAGE 223

Water Rights

RECEIVED

MAY 04 2022

KPB PLANNING DEPT.

CERTIFICATE OF APPROPRIATION

LAS

11231

THE STATE OF ALASKA UNDER AS 46.15, THE ALASKA WATER USE ACT,
AND THE REGULATIONS ADOPTED UNDER IT, GRANTS TO:

PHILIP L BRUDIE
P.O. BOX 859
HOMER, AK. 99603

THE RIGHT TO USE WATER FROM THE FOLLOWING SOURCE:

A) UNNAMED STREAM WITH A PRIORITY DATE OF 01/23/1987

150.0 GAL/DAY	
FOR SINGLE DWELLING	JAN 01 THRU DEC 31
20.0 GAL/DAY	
FOR POULTRY AND EGG	JAN 01 THRU DEC 31

THE LOCATION TO WHICH THIS WATER RIGHT APPERTAINS IS:

THE LAND EMBRACED IN SOLDIER'S ADDITIONAL HOMESTEAD ENTRY, U.S. SURVEY 3980, SITUATED ON THE SOUTHEASTERLY SHORE OF KASITSNA BAY AREA, ALASKA CONTAINING 2.33 ACRES, ACCORDING TO THE OFFICIAL PLAT OF THE SURVEY OF THE SAID LAND, ON FILE IN THE BUREAU OF LAND MANAGEMENT, SAID PARCEL LOCATED WITHIN W1/2NE1/4NW1/4 PROTRACTED SECTION 21, TOWNSHIP 8 SOUTH, RANGE 13 WEST, SEWARD MERIDIAN, ~~HOMER~~ RECORDING DISTRICT, STATE OF ALASKA.

SELDovia

THE LOCATION OF THE WATER SOURCE IS THAT PORTION OF AN UNNAMED STREAM LOCATED AT OR BELOW MEAN HIGH TIDE WITHIN NW1/4NE1/4NW1/4 PROTRACTED SECTION 21, TOWNSHIP 8 SOUTH, RANGE 13 WEST, SEWARD MERIDIAN, ALASKA.

THE CONDITIONS THAT APPLY TO THIS APPROPRIATION ARE FOUND IN ATTACHMENT A, ATTACHED HERETO AND MADE A PART HEREOF.

State of Alaska



BOOK 30 PAGE 224

Water Rights

CERTIFICATE OF APPROPRIATION

LAS

11231

THE WATER RIGHT IS GRANTED SUBJECT TO THE PERTINENT STATUTORY PROVISIONS IN AS 46.15, AND ADMINISTRATIVE REGULATIONS IN 11 AAC 93.

THIS CERTIFICATE OF APPROPRIATION IS ISSUED BY AUTHORITY OF AS 46.15.120 AND 11 AAC 93.130 ON February 18, 1988.

APPROVED: _____

TITLE: _____

Chief Water Section
DIVISION OF LAND AND WATER MANAGEMENT

STATE OF ALASKA)

) SS

3rd

JUDICIAL DISTRICT)

THIS IS TO CERTIFY THAT ON FEBRUARY 18, 1988
BEFORE ME APPEARED EDWARD G. BARBER, Jr., KNOWN BY
ME TO BE THE DIRECTOR OR AUTHORIZED REPRESENTATIVE OF THE DIVISION OF
LAND AND WATER MANAGEMENT, DEPARTMENT OF NATURAL RESOURCES, AND
ACKNOWLEDGED TO ME THAT THIS CERTIFICATE OF APPROPRIATION WAS VOLUN-
TARILY EXECUTED ON BEHALF OF THE STATE OF ALASKA.

Bill Edgely
NOTARY PUBLIC IN AND FOR THE STATE OF ALASKA
MY COMMISSION EXPIRES: 12-1-89

PURSUANT TO AS 46.15.160 AND APPLICABLE REGULATIONS THE CERTIFICATE
HOLDER SHALL NOTIFY THE ALASKA DIVISION OF LAND AND WATER MANAGEMENT
UPON CHANGE OF ADDRESS OR TRANSFER OF ANY REAL PROPERTY RELATED
THERE TO.

State of Alaska



BOOK 30 PAGE 224F

Water Rights

CERTIFICATE OF APPROPRIATION

LAS

11231

ATTACHMENT A - CONDITIONS:

THE HOLDER OF THIS CERTIFICATE SHALL:

FOLLOW ACCEPTABLE ENGINEERING STANDARDS IN EXERCISING THE WATER RIGHT GRANTED BY THIS CERTIFICATE.

DEFEND AND INDEMNIFY THE STATE AGAINST AND HOLD IT HARMLESS FROM ANY AND ALL CLAIMS, DEMANDS, LEGAL ACTIONS, LOSS, LIABILITY AND EXPENSE FOR INJURY TO OR DEATH OF PERSONS AND DAMAGES TO OR LOSS OF PROPERTY ARISING OUT OF OR CONNECTED WITH THE EXERCISE OF THE WATER RIGHT GRANTED BY THIS CERTIFICATE.

COMPLY WITH ALL APPLICABLE LAWS, REGULATIONS AND CONDITIONS.

150 GAL/DAY FOR SINGLE DWELLING IS FOR TWO UNPLUMBED CABINS.

88-284

RECORDED - FILED 16-
Seldovia REC. DIST.
DATE 11-21- 19 88
TIME 340 P. M.
Requested by P. BRUDIE
Address HOMER AK

Quainton, Madeleine

From: Planning Dept,
Sent: Friday, May 6, 2022 11:56 AM
To: Quainton, Madeleine
Cc: Hindman, Julie
Subject: FW: <EXTERNAL-SENDER>proposed Jakolof subdivision

Madeleine

From: shannyn moore <shannynmoore@gmail.com>
Sent: Friday, May 6, 2022 11:36 AM
To: Planning Dept, <planning@kpb.us>
Subject: <EXTERNAL-SENDER>proposed Jakolof subdivision

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.

From Shannyn Moore
PO Box RDO
Homer, Alaska 99603-8999

To The Kenai Borough Assembly

Re: Mental Health Trust Subdivision Proposal in Little Jakolof

Dear Assembly Members,

We appreciate the opportunity to weigh in with you about the Mental Health Trust proposal to add sixteen lots to our community. There are so many different types of people who own homes in our area, but we have yet to meet one who thinks this proposal is a good idea. Thank you for taking the time to hear our different perspectives.

The Mental Health Trust has one job. Their job is to make money for the trust by selling land. They don't have to consider any factors other than making money. With \$400 million in assets, we'd say they are doing their job. You, the assembly, have quite another task at hand. Your job is to make the communities on the Kenai Peninsula better places to live for our residents.

We have one home. We live in Little Tutka Bay. We live here all year. Not everyone with property here is so lucky to get to see the winters. The Mental Health Trust has missed something we want you to understand. These tiny bays and the islands close by are a community. We have a post office, a tiny library, potlucks, wood cutting parties and businesses that employ locals when they can. There are children home schooled here. We respond to local disasters like fires, boats sinking and plane crashes. We aren't just a vacation destination. Owning a home here isn't a National Guard agreement to two weeks a year and one weekend a month for dentists from Anchorage.

The recent proposal for sixteen lots between Little Tutka Bay and Jakolof Bay has zero consideration or provision for public land use. There is no future school site, land for a community cemetery, park or post office. Why is that? Where are new residents going to park their boats? There is zero planning to expand the community with the offering. The reason is simple. It's not the job of Mental Health to make us a community with amenities. It's the job of the borough to help us through this time of proposed growth to do it right.

It's hard to build a life here. At least 70% of the work to construct is just moving supplies across the bay and up to your perch. The land proposed isn't impossible to build on, but you could see impossible from your porch if you could ever get one built.

Please postpone the approval of the subdivision until the issues brought by our community can be addressed. We thank you for your consideration.

Sincerely,

Gregor Welpton and Shannyn Moore

Quainton, Madeleine

From: Planning Dept,
Sent: Friday, May 6, 2022 9:15 AM
To: Quainton, Madeleine
Subject: FW: <EXTERNAL-SENDER>written testimony regarding KPB File 2022-047 proposed Little Jakolof Bay subdivision

Madeleine

From: Daniel Coyle <djcoyle1@gmail.com>
Sent: Friday, May 6, 2022 9:06 AM
To: Planning Dept, <planning@kpb.us>
Cc: Doug Kossler <anchoragerunner@yahoo.com>; tanomoshii@yahoo.com; Maurice Coyle <mauricecoyle3@gmail.com>; jonathan coyle <jpcoyleak@gmail.com>; keetnasimon@yahoo.com; walanier@gmail.com; jenny coyle <jen79coyle@gmail.com>; John Giuggio <giovanpietro3@gmail.com>
Subject: <EXTERNAL-SENDER>written testimony regarding KPB File 2022-047 proposed Little Jakolof Bay subdivision

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**To: Kenai Peninsula Borough Planning Department
144 N Binkley Street
Soldotna, AK 99669**

(submitted via email)
MAY 6, 2022

To: Kenai Peninsula Borough Planning Department

As a unified group of seven local residents and landowners, we'd like to express our urgent concerns about the proposed subdivision in Little Jakolof Bay and Little Tutka Bay, KPB File 2022-047, for the following reasons:

- 1) The proposed subdivision will destroy an existing archaeological site of significant cultural and historical value. The site is located near proposed lots 8, 9, and 10. Further investigation could uncover additional sites, which would be protected by state and federal law. In addition, the development of new lots may destroy wildlife habitat, including eagle-nesting areas
- 2) The proposed subdivision does not provide adequate water access or supply. Many of the proposed lots are located on bedrock, with no water source.

3) The proposed subdivision — 16 lots, many of them extremely narrow, located in a relatively small, confined area — creates multiple problems of density and access, and will generate navigational hazards. The entrance and the western (weather-exposed) side of the bay is narrow for running lines, and not suitable for moorings.

4) A significant number of the lots are unusable because of steepness or access problems. Some lots have steep rocks on the shore and are inaccessible from the beach. In addition, two lots have access only through Little Tutka Bay, creating additional congestion for residents of Tutka Bay.

We hope that these comments will provide the planning commission with guidance and clarity as it makes its decisions. We are ready and willing to answer any questions or provide any additional information the planning commission requires. We hope that the commission will delay any imminent decisions in order to give appropriate time, research, and attention to these sincere and valid concerns.

SIGNED,

Daniel Coyle

Maurice Coyle

Jonathan Coyle

Co-owners of Bootleggers Cove Lots 1, 3 4, and 5

Doug Kossler

Margaret Kossler

Kimberly Lanier

William A. Lanier

Co-owners of Jesse Cove Tract 3 and 4

RE: KPB File No. 2022-047

Greetings

I am writing to express concerns about the proposed re-plat of a parcel that fronts on Little Jakolof Bay and a portion of Kasitsna Bay locally referred to as Quiet Cove.

While I respect the owners rights (Alaska Mental HealthTrust Authority, 'AMHTA') to monetize its land holdings this proposed subdivision is not, in my opinion, the way to do it. (Skip to the conclusion for a proposed methodology).

The proposed creation of these lots will add additional pressure to the local communities of Little Jakolof, Quiet Cove and Little Tutka Bay. Today these communities are self sufficient, where the land owners take care of issue themselves instead of relying partially or entirely on the services of the Borough or City of Homer, despite being taxed for services not necessarily received.

For instance, currently my property and other properties in these communities, pay borough collected taxes but receive little in return. Borough taxation for services, which include fire services are, in particular, an excellent example.

On October 19, 2019 my house burned to the ground after a 5 year construction effort. It was a heartbreaking event and an uninsured loss of over \$1.2m. Fortunately no one was injured and thanks to the immediate help of my neighbors rushing in, the event did not consume more than just my improvements and a portion of old growth forest.

What I received from the borough was a "yeah we could see it happening from Homer" and "we'll inform the State of Alaska fire officials that you may have ongoing liability should any of the smoldering roots or remains cause additional damage." In other words, absolutely nothing but a notice of potential liability. No assistance with investigation, no assistance with mitigation of potential post fire issues, no coordination with the State or City of Homer.

To add insult to injury, I then paid over \$100,000 in Landfill expenses associated with hauling the debris to Homer for disposal.

In other words if the Borough wishes to support subdivision and the receive the resulting tax revenue then the borough should be prepared to provide the services. However, despite that, as mentioned above we are a self sufficient community of homes and we are used to taking care of each other. For my part I forgo the services despite paying the taxes because of the tranquility of the area and the support of my neighbors.

Quiet Cove Specific Issues

Quiet cove is a very calm and small cove. So small that its name is only a locally named cove without an official body of water designation. At low tide the cove and the properties fronting on it are inaccessible, either by land or water or air. **In particular the proposed lots 1-4 will have NO ACCESS at low tide.**

The cove is home to Land Otters, Sea Otters, Starfish, Mussels, Clams and innumerable fish and bird species all supported by a diverse eco-system of marine plants that existing due to the tidal action that fills and empties the cove twice each day.

In addition the proposed Lot 2 has no accessibility at high tide due to the cliff face at the beach level. The only way to solve this would be a substantial dock system again impacting the sensitive Quiet Cove marine life and even then such a dock would not be accessible at low tide.

Development of the proposed lots 1-4 would A) seriously impact this bio-diversity and B) create serious impacts related to inaccessibility issues.

Little Jakolof Issues

Little Jakolof Bay is a larger and a more robust marine environment. There are several concerns that I assume my neighbors in Little Jakolof will address since I am less directly impacted. Non-the-less, I reached out to Janet Klein a preeminent scholar on the subject of the archeology of Kachemak Bay

<https://worldcat.org/identities/lccn-n82050143/>

Ms.Klein believes there could be anecdotal evidence of archeological significance (house pits)¹, on portions of the property proposed to be subdivided, on the south facing shore of the property facing little Jakolof. This evidence may or may not prove to be accurate but at a minimum it should be investigated and considered, and if true considered as part of the proposed future use of the property.

Little Tutka issues

Again these issues impact others more than myself. Two of the proposed lots 15 and 16 are only accessible by a narrow easement across others properties from Little Tutka Bay. They are in essence landlocked parcels, at the end of an easement at the end of a cove at the end of a bay. Was consideration given to potential acquisition by the owners of the properties with easements? Or extended to the other adjacent parcels adjacent to these lots?

Conclusion

As expressed in my opening paragraph I believe the AMHTA should be allowed to seek to accomplish monetization of the value of their holdings with regard to the proposed property, for the benefit of their constituents, the citizens of Alaska accessing the mental health network of the State of Alaska. However, I feel strongly that the method of that monetization could come in many ways, the least of which is a simple commercial blanket subdivision into numerous parcels, each with unique challenges.

One example would be to pursue a conservation easement on the entire parcel wherein the AMHTA would be compensated for the value of the parcel based on a fair market value appraisal. Said appraisal could be based on an as-is valuation or even an "if improved" Valuation (subdivided). That is just one

¹ Numerous examples of house pits evidenced in the Kbay area Include those found and preserved on private lands on Yukon Island by the Abbott family. Significantly examined and researched by William Workman <https://www.researchgate.net/scientific-contributions/William-B-Workman-2027733563> over numerous years.

example. In other words what are the monetization goals (dollar amount) of the AMHTA. Make that clear and give the community an opportunity to step and meet the goal.

I would encourage the Kenai Peninsula Platting Board, to postpone this action until a thoughtful process has run its course with regard to the monetization effort that explores alternatives. I believe that myself and my Little Tutka Bay, Little Jakolof Bay and Quiet Cove neighbors are willing to engage in such a process. I also believe that there are some obvious first choice alternatives that would be supported by all.

I am willing to commit to such a process with a defined schedule and without prejudice to the outcome, as I believe are other members in the community. If that ends up in a renewed application to sub-divide the property so be it. But without the engagement of the community in a process, moving forward at this time will be problematic.

Thank you for your consideration, let's engage in a process to accomplish the community goals, the borough goals and the AMHTA goals.

Mark Pfeffer
(907) 317-5030

May 6th, 2022

RE: Proposed plat under consideration KPB File NO. 2022-047

We strongly oppose the plat as proposed with regards to the 20 foot easement from Little Tutka Bay to proposed lots 15 and 16 of East Oyster Bay Subdivision.

We own lot 15 of South Kachemak Alaska Subdivision. We have owned this property for 20 years. I am very familiar with the easement topography at every tide stage. It will be a poor easement. Depending on the exact survey line it may be impassable much of the time, leading to the trespass of adjoining property.

The easement is in a low wetland estuary with a narrow deep creek and a 40–60-foot pond nearer the natural shoreline bench that does not drain. At low tide the pond is thigh deep with muddy bottom. The survey line bisects this pond. To go around it users will trespass on the South Kachemak Alaska subdivision lot 15 or lot 16. Depending on the exact line users will then need to cross the creek, perhaps more than once.

The diagram provided by Mental Health Lands Trust (MHLT) does not depict this area accurately. Little Tutka Bay is not as near to the east line of the 2 lots as depicted. At most tide stages it will be a 300 foot slog through the estuary. At very high tides (23-25 feet) the water does get to the east boundary of the new subdivision. However, it is too shallow for any boat other than a kayak for approximately the last 200 feet. Due to undulating topography of the wetland estuary and the creek it is also impassible with hip boots or chest waders.

This week I went to the MHLT offices in Anchorage to attempt to get a good map with survey lines to better review and make my case. They had terrible mapping available with detail no better than your enclosed diagram.

In the past I have seen a plat map/as built map that showed the southwest corner of our lot 15 SOUTH of the southern edge of the estuary. I was surprised and pleased because it meant we own a fabulous berry patch. If that map is correct the northern 20 foot easement is in the worst possible area of the wetland estuary, directly on the creek. Please provide detailed, accurate mapping for the public to review prior to making any decisions on this.

In summary, this is a bad easement functionally and environmentally. The new East Oyster Bay Subdivision lots 15 & 16 should be changed. Lot 15 could easily be connected to the new lot 14 and sold as a single 3.6-acre parcel, like the new lots 10 and 11. Lot 16 is a bad idea all around. It is land locked and has no view of water or mountains from its north line most of the time. It will have a wet estuary view only at extreme high tides. The amount of damage to the wetlands estuary to develop this land is likely to be large. If lot 16 must be developed then it should be combined with 14 & 15 to provide ocean access.

We urge the Kenai Borough to reject the proposed plat outright until the MHLT addresses and corrects these problems.

Submitted by Dennis & Lisa Poirier

Quainton, Madeleine

From: Planning Dept,
Sent: Friday, May 6, 2022 8:32 AM
To: Hindman, Julie; Quainton, Madeleine
Subject: FW: <EXTERNAL-SENDER>KPB File No. 2022-047

FYI

From: GEORGE RHYNEER <valiant@mtaonline.net>
Sent: Friday, May 6, 2022 8:03 AM
To: Planning Dept, <planning@kpb.us>
Subject: <EXTERNAL-SENDER>KPB File No. 2022-047

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Planners: I am a land owner in Little Jakalof Bay (tract 1 and 2, Jesse Cove Subdivision) When you consider approval of the plat referenced above please be aware that that there may be native middens and other archeological sites along the shoreline of Little Jakalof Bay which should be identified and protected before this land is subdivided and sold. Sincerely, George Rhyneer