



# Kenai Peninsula Borough

144 North Binkley Street  
Soldotna, AK 99669

## Meeting Agenda Planning Commission

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Monday, September 9, 2024

7:30 PM

Betty J. Glick Assembly Chambers

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**Zoom Meeting ID: 907 714 2200**

Remote participation will be available through Zoom, or other audio or video means, wherever technically feasible

The hearing procedure for the Planning Commission public hearings are as follows:

- 1) Staff will present a report on the item.
- 2) The Chair will ask for petitioner's presentation given by Petitioner(s) / Applicant (s) or their representative – 10 minutes
- 3) Public testimony on the issue. – 5 minutes per person
- 4) After testimony is completed, the Planning Commission may follow with questions. A person may only testify once on an issue unless questioned by the Planning Commission.
- 5) Staff may respond to any testimony given and the Commission may ask staff questions.
- 6) Rebuttal by the Petitioner(s) / Applicant(s) to rebut evidence or provide clarification but should not present new testimony or evidence.
- 7) The Chair closes the hearing and no further public comment will be heard.
- 8) The Chair entertains a motion and the Commission deliberates and makes a decision.

All those wishing to testify must wait for recognition by the Chair. Each person that testifies must write his or her name and mailing address on the sign-in sheet located by the microphone provided for public comment. They must begin by stating their name and address for the record at the microphone. All questions will be directed to the Chair. Testimony must be kept to the subject at hand and shall not deal with personalities. Decorum must be maintained at all times and all testifiers shall be treated with respect.

### **A. CALL TO ORDER**

### **B. ROLL CALL**

**C. APPROVAL OF CONSENT AND REGULAR AGENDA**

*All items marked with an asterisk (\*) are consent agenda items. Consent agenda items are considered routine and non-controversial by the Planning Commission and will be approved by one motion. There will be no separate discussion of consent agenda items unless a Planning Commissioner so requests in which case the item will be removed from the consent agenda and considered in its normal sequence on the regular agenda.*

*If you wish to comment on a consent agenda item or a regular agenda item other than a public hearing, please advise the recording secretary before the meeting begins, and she will inform the Chairman of your wish to comment.*

1. Time Extension Request
2. Planning Commission Resolutions
3. Plats Granted Administrative Approval

[KPB-6301](#) Cottonwood Acres Subdivision 2024 Addition; KPB File 2024-024  
Quartz Creek Subdivision Outfitter Way Replat; KPB File 2022-060R1  
Spruce wood Glen Subdivision No. 11; KPB File 2024-001  
Whisper Lake Subd. Miller Addition Prather Replat; KPB File  
2023-048  
Wonder View Subdivision; KPB File 2023-139

Attachments: [C3. Admin Approvals](#)

4. Plats Granted Final Approval (KPB 20.10.040)

[KPB-6302](#) Letzring Ridge Subdivision Martinez Addition; KPB File 2022-137  
TLS 2021-06 East Oyster Cove Subd. 2024 Replat; KPB File  
2024-084

Attachments: [C4. Final Approvals](#)

5. Plat Amendment Request
6. Commissioner Excused Absences

Virginia Morgan, Cooper Landing/Hope/Eastern Peninsula

7. Minutes

[KPB-6303](#) August 12, 2024 Planning Commission Meeting

Attachments: [C7. 081224 PC Meeting Minutes](#)

**D. OLD BUSINESS**

**E. NEW BUSINESS**

1.     [KPB-6304](#)     Street Naming Resolution 2024-05: Naming an unnamed private road in the Fox River community to Heartland Street  
  
          Attachments:     [E1. SN Res 2024-05 Heartland Packet](#)
  
2.     [KPB-6305](#)     Ordinance 2024-19-07: Authorizing the acquisition of real property located adjacent to the North Star School campus in Nikiski necessary for future school use, and appropriating \$59,000.00 from the Land Trust Fund for the purchase  
  
          Attachments:     [E2. Ordinance 2024-19-07](#)
  
3.     [KPB-6306](#)     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 ARRC right-of-way.  
          Location: 27083 Seward Highway  
          Moose Pass Area  
  
          Attachments:     [E3. CLUP Modification MS2022-004 Packet](#)  
                                  [E3. CLUP Modification-QAP Desk Packet](#)
  
4.     [KPB-6307](#)     Conditional Land Use Permit Modification; MS2015-005  
          Applicant: Sean Cude  
          Request: Modification to PC Resolution 2014-20 to allow excavation into the water table and for temporary localized de-watering.  
          Location: 36498 Virginia Drive  
          Kalifornsky Area  
  
          Attachments:     [E4. CLUP Modification MS2015-005 Packet](#)  
                                  [E4. CLUP Modification-Cude Desk Packet](#)

**F. PLAT COMMITTEE REPORT****G. OTHER****H. PUBLIC COMMENT/PRESENTATION**

*(Items other than those appearing on the agenda or scheduled for public hearing. Limited to five minutes per speaker unless previous arrangements are made)*

**I. DIRECTOR'S COMMENTS**

**J. COMMISSIONER COMMENTS****K. ADJOURNMENT****MISCELLANEOUS INFORMATIONAL ITEMS  
NO ACTION REQUIRED**

[KPB-6308](#) APC Meeting Minutes

Attachments: [Misc. Info APC Minutes Desk Packet](#)

**NEXT REGULARLY SCHEDULED PLANNING COMMISSION MEETING**

The next regularly scheduled Planning Commission meeting will be held Monday, September 23, 2024 in the Betty J. Glick Assembly Chambers of the Kenai Peninsula Borough George A. Navarre Administration Building, 144 North Binkley Street, Soldotna, Alaska at 7:30 p.m.

**CONTACT INFORMATION  
KENAI PENINSULA BOROUGH PLANNING DEPARTMENT**

Phone: 907-714-2215

Phone: toll free within the Borough 1-800-478-4441, extension 2215

Fax: 907-714-2378

e-mail address: [planning@kpb.us](mailto:planning@kpb.us)

website: <http://www.kpb.us/planning-dept/planning-home>

A party of record may file an appeal of a decision of the Planning Commission in accordance with the requirements of the Kenai Peninsula Borough Code of Ordinances. An appeal must be filed with the Borough Clerk within 15 days of the notice of decision, using the proper forms, and be accompanied by the filing and records preparation fees. Vacations of right-of-ways, public areas, or public easements outside city limits cannot be made without the consent of the borough assembly.

Vacations within city limits cannot be made without the consent of the city council. The assembly or city council shall have 30 calendar days from the date of approval in which to veto the planning commission decision. If no veto is received within the specified period, it shall be considered that consent was given.

A denial of a vacation is a final act for which the Kenai Peninsula Borough shall give no further consideration. Upon denial, no reapplication or petition concerning the same vacation may be filed within one calendar year of the date of the final denial action except in the case where new evidence or circumstances exist that were not available or present when the original petition was filed.

## **C. CONSENT AGENDA**

### **\*3. Plats Granted Administrative Approval**

- a. Cottonwood Acres Subdivision 2024 Addition; KPB File 2024-024**
- b. Quartz Creek Subdivision Outfitter Way Replat; KPB File 2022-060R1**
- c. Spruce wood Glen Subdivision No. 11; KPB File 2024-001**
- d. Whisper Lake Subdivision Miller Addition Prather Replat; KPB File 2023-048**
- e. Wonder View Subdivision; KPB File 2023-139**



## ADMINISTRATIVE APPROVAL

Subdivision: Cottonwood Acres Subdivision 2024 Addition  
KPB File 2024-024  
Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on March 25, 2024. Approval for the plat is valid for two years from the date of approval.

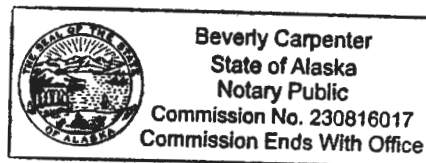
The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Wednesday, August 14, 2024.

Vince Piagentini  
Platting Manager

State of Alaska  
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 14 day of August 2024 by  
Vince Piagentini.

Notary Public for the State of Alaska



My commission expires: with office

The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.



## **ADMINISTRATIVE APPROVAL**

Subdivision: Quartz Creek Subdivision Outfitters Way Replat  
KPB File 2022-060R1  
Seward Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on August 22, 2022. Approval for the plat is valid for two years from the date of approval.

The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Wednesday, August 7, 2024.

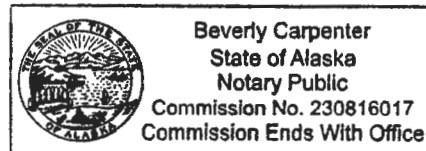
Vince Piagentini  
Platting Manager

State of Alaska  
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 7 day of August 2024 by  
Vince Piagentini.

Notary Public for the State of Alaska

My commission expires: with office



The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.



## ADMINISTRATIVE APPROVAL

Subdivision: Sprucewood Glen Subdivision No. 11  
KPB File 2024-001  
Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on January 22, 2024. Approval for the plat is valid for two years from the date of approval.

The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Wednesday, August 7, 2024.

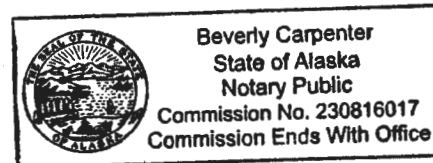
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## ADMINISTRATIVE APPROVAL

Subdivision: Whisper Lake Subdivision Miller Addition Prather Replat  
KPB File 2023-048  
Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on May 22, 2023. Approval for the plat is valid for two years from the date of approval.

The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Wednesday, August 21, 2024.

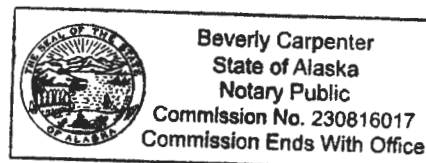
Vince Piagentini  
Platting Manager

State of Alaska  
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 21 day of August 2024 by  
Vince Piagentini.

Notary Public for the State of Alaska

My commission expires: with office



The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.



## **ADMINISTRATIVE APPROVAL**

Subdivision: Wonder View Subdivision  
KPB File 2023-139  
Kenai Recording District

The Kenai Peninsula Borough Planning Commission conditionally approved the preliminary subdivision plat on January 22, 2024. Approval for the plat is valid for two years from the date of approval.

The final plat complied with conditions of preliminary approval and KPB Title 20 (Subdivisions); therefore, per KPB 20.60.220, administrative approval has been granted by the undersigned on Wednesday, August 21, 2024.

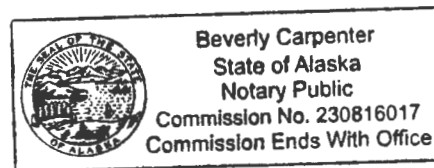
Vince Piagentini  
Platting Manager

State of Alaska  
Kenai Peninsula Borough

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Notary Public for the State of Alaska

My commission expires: with office



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## **C. CONSENT AGENDA**

- \*4. Plats Granted Final Approval**
  - a. Letzring Ridge Subdivision Martinez Addition; KPB File 2022-137**
  - b. TLS 2021-06 East Oyster Cove Subdivision 2024 Replat; KPB File 2024-084**



**FINAL APPROVAL OF PLAT SUBMITTED UNDER 20.10.040**

Subdivision: Letzring Ridge Subdivision Martinez Addition  
KPB File 2022-137  
Kenai Recording District

The Kenai Peninsula Borough Planning Department has reviewed the above referenced subdivision plat in accordance with 20.10.040 Borough Code of Ordinances. The final plat meets the conditions of the preliminary approval and complies with KPB Title 20; therefore, final approval has been granted by the undersigned on Wednesday, August 14, 2024.

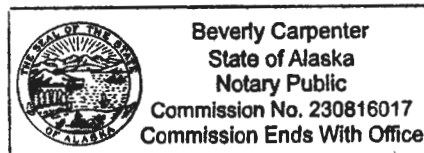
Vince Piagentini  
Platting Manager

State of Alaska  
Kenai Peninsula Borough

Signed and sworn (or affirmed) in my presence this 14 day of August 2024 by  
Vince Piagentini.

Notary Public for the State of Alaska

My commission expires: with office



The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.



**FINAL APPROVAL OF PLAT SUBMITTED UNDER 20.10.040**

Subdivision: TLS 2021-06 East Oyster Cove Subdivision 2024 Replat  
KPB File 2024-084  
Seldovia Recording District

The Kenai Peninsula Borough Planning Department has reviewed the above referenced subdivision plat in accordance with 20.10.040 Borough Code of Ordinances. The final plat meets the conditions of the preliminary approval and complies with KPB Title 20; therefore, final approval has been granted by the undersigned on Wednesday, August 21, 2024.

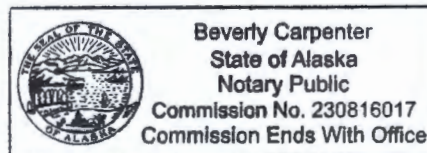
Vince Piagentini  
Platting Manager

State of Alaska  
Kenai Peninsula Borough

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Notary Public for the State of Alaska

My commission expires: with office



The survey firm has been advised of additional requirements, if any, to be complied with prior to recording. After the original mylar has been signed by the KPB official, it must be filed with the appropriate district recorder within ten business days by the surveyor or the Planning Department.

## **C. CONSENT AGENDA**

### **\*7. Minutes**

#### **a. August 12, 2024 Planning Commission Meeting**

# Kenai Peninsula Borough Planning Commission

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Betty J. Glick Assembly Chambers, Kenai Peninsula Borough George A. Navarre Administration Building

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August 12, 2024

7:50 P.M.

## UNAPPROVED MINUTES

### **AGENDA ITEM A.**      **CALL TO ORDER**

Commissioner Brantley called the meeting to order at 7:50 p.m. Late Start was due to the Plat Committee meeting running over.

#### **Oath of Office**

Commissioner Brantley was reappointed by Mayor Micciche to serve another 3-year term on the commission. Ms. Shirnberg administered the oath of office to Commissioner Brantley

### **AGENDA ITEM B.**      **ROLL CALL**

#### *Commissioners Present*

Jeremy Brantley, Sterling / Funny River  
Jeffery Epperheimer, Nikiski District  
Pamela Gillham, Kalifornsky/Kasilof District  
Dawson Slaughter, South Peninsula District  
Virginia Morgan, Cooper Landing/Hope/Eastern Peninsula District  
Diane Fikes, City of Kenai  
Troy Staggs, City of Seward  
Franco Venuti, City of Homer

With 8 members of a 9-member seated commission in attendance, a quorum was present.

#### *Staff Present*

Robert Ruffner, Planning Director  
Walker Steinhage, Deputy Borough Attorney  
Vince Piagentini, Platting Manager  
Samantha Lopez, Kenai River Center Manager  
Morgan Aldridge, Planner, Kenai River Center  
Aaron Hughes, Land Management Manager  
Jennifer Robertson, LMD Administrative Assistant  
Ann Shirnberg, Planning Administrative Assistant

#### **Election of Officers**

Commissioner Morgan nominated, seconded by Commissioner Fikes, Commissioner Brantley for the position of Chair. Seeing and hearing no objections, discussion or other nominations, Commissioner Brantley was appointed Chair.

Commissioner Venuti nominated, seconded by Commissioner Fikes, Commissioner Gillham for the position of Vice Chair. Seeing and hearing no objections, discussion or other nominations, Commissioner Gillham was appointed Vice-Chair.

**AGENDA ITEM C.      CONSENT & REGULAR AGENDA****\*3.      Plats Granted Administrative Approval**

- a.      5 D Subdivision; KPB File 2024-012
- b.      Bings Landing Subdivision Gregory Addition; KPB File 2023-110
- c.      Cottonwood Subdivision Jose Replat; KPB File 2024-003
- d.      Gatten Subdivision 2024 Replat; KPB File 2023-136
- e.      Queen Aleta Subdivision; KPB File 2023-015
- f.      Tustumena Terraces 2023 Replat; KPB File 2023-080

**\*5.      Commissioner Excused Absences**

- a.      City of Soldotna – Vacant

**\*7.      Minutes**

- a.      July 22, 2024 Planning Commission meeting minutes

Chair Brantley asked Ms. Shirnberg to read the consent agenda items into the record. He then asked if anyone wished to speak to any of the items on the consent agenda. Seeing and hearing no one wishing to comment, Chair Brantley brought it back to the commission for a motion.

**MOTION:** Commissioner Slaughter moved, seconded by Commissioner Staggs to approve the consent and regular agendas.

Hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes -8	Brantley, Epperheimer, Fikes, Gillham, Morgan, Slaughter, Staggs, Venuti,
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**ITEM #1 - CONDITIONAL USE PERMIT  
STARISKI MEADOWS**

<b>Pc Resolution #</b>	2024-10
<b>Planning Commission Meeting:</b>	August 12, 2024
<b>Applicant / Owner:</b>	John Hoback
<b>Physical Address</b>	35555 Kenai Spur Highway #410
<b>Legal Description</b>	T 5N R 9W SEC 21 SEWARD MERIDIAN KN 0770101 BOS'N LANDING SUB PART 1 LOT 13 BLK 1
<b>Parcel Number</b>	065-560-09

Staff report given by Planner Morgan Aldridge.

Chair Brantley opened the item for public comment. Seeing and hearing no one wishing to comment, public comment was closed and discussion was opened among the committee.

**MOTION:** Commissioner Staggs moved, seconded by Commissioner Epperheimer to adopt Planning Commission Resolution 2024-10, granting a conditional use permit pursuant to KPB 21.18 for the construction of a fence within the 50' Habitat Protection District of the Kenai River.

Hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes - 8	Brantley, Epperheimer, Fikes, Gillham, Morgan, Slaughter, Staggs, Venuti
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**ITEM #2 - UTILITY EASEMENT ALTERATION  
CHUGACH HEIGHTS SUBDIVISION**

<b>KPB File No.</b>	2024-076V
<b>Planning Committee Meeting:</b>	August 12, 2024
<b>Applicant / Owner:</b>	Penny & David M Gottsche
<b>Surveyor:</b>	Andrew Hamilton — McLane Consulting Group
<b>General Location:</b>	Nikiski

Staff report given by Platting Manager Vince Piagentini.

Chair Brantley opened the item for public comment.

David & Penny Gottsche; 50850 Noatak Way Kenai, AK 99611: The Gottsches are the petitioners and made themselves available for questions.

Seeing and hearing no one else wishing to comment, public comment was closed and discussion was opened among the committee.

**MOTION:** Commissioner Slaughter moved, seconded by Commissioner Fikes to adopt Planning Commission Resolution 2024-11, granting the vacation as petitioned based on the means of evaluating public necessity established by KPB 20.65, based on staff recommendations and subject to the two conditions set forth in the staff report.

Hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes - 8	Brantley, Epperheimer, Fikes, Gillham, Morgan, Slaughter, Staggs, Venuti
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**ITEM #3 - RIGHT OF WAY VACATION  
STARISKI MEADOWS**

<b>KPB File No.</b>	2024-075V
<b>Planning Commission Meeting:</b>	August 12, 2024
<b>Applicant / Owner:</b>	Kachemak Heritage Land Trust / Walter Dean Larson, Kachemak Heritage Land Trust Inc., Kachemak Heritage Land Trust, Joy and Pete Lohmer
<b>Surveyor:</b>	None
<b>General Location:</b>	Sergeant Ave., Pepper Rd., Rowen Cir., Happy Valley / Anchor Point APC
<b>Legal Description:</b>	Lots 13-16 & 45-47, Stariski Meadows, HM 97-02, Section 29, Township 3 South, Range 14 West, S.M.

Staff report given by Platting Manager Vince Piagentini.

Chair Brantley opened the item for public comment.

Lawrence Albert, Lawyer for the Petitioners; 2246 N.W. Canyon Drive, OR 97756: Mr. Albert made himself available for questions.

Joel Cooper; 315 Klondike Avenue, Homer, AK 99663: Mr. Cooper is with the Kachemak Heritage Land Trust and made himself available for questions.

Seeing and hearing no one else wishing to comment, public comment was closed and discussion was opened among the committee.

**MOTION:** Commissioner Staggs moved, seconded by Commissioner Epperheimer granting the vacation as petitioned based on the means of evaluating public necessity established by KPB 20.65, based on staff recommendations and subject to the five conditions set forth in the staff report.

Hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes - 8	Brantley, Epperheimer, Fikes, Gillham, Morgan, Slaughter, Staggs, Venuti
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**ITEM #4 – ORDINANCE 2024-24**

**AUTHORIZING RETENTION OR SALE OF CERTAIN REAL PROPERTY CONVEYED TO THE KENAI PENINSULA BOROUGH THROUGH TAX FORECLOSURE PROCEEDINGS**

Staff report given by Land Management Manger Aaron Hughes.

Chair Brantley opened the item for public comment. Seeing and hearing no one wishing to comment, public comment was closed and discussion was opened among the committee.

**MOTION:** Commissioner Slaughter moved, seconded by Commissioner Staggs to forward to the Assembly a recommendation to adopt Ordinance 2024-24 authorizing retention or sale of certain real property conveyed to the Kenai Peninsula Borough through tax foreclosure proceedings.

Hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes - 8	Brantley, Epperheimer, Fikes, Gillham, Morgan, Slaughter, Staggs, Venuti
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**ITEM #5 – ORDINANCE 2024-25**

**AMENDING KPB 21.18.025 TO ADDRESS ADOPTIONS AND DELETIONS OF ANADROMOUS WATERS WITHIN THE SOUTH DISTRICT OF THE KPB 21.18 APPENDIX THAT HAVE BEEN IDENTIFIED IN THE “ATLAS & CATALOG OF WATERS IMPORTANT FOR SPAWING, REARING, OR MIGRATION OF ANADROMOUS FISH” PUBLISHED BY THE ALASKA DEPARTMENT OF FISH & GAME.**

Staff report given by Kenai River Center Manager Samantha Lopez.

Chair Brantley opened the item for public comment. Seeing and hearing no one wishing to comment, public comment was closed and discussion was opened among the committee.

**MOTION:** Commissioner Staggs moved, seconded by Commissioner Slaughter to forward to the Assembly a recommendation to adopt Ordinance 2024-25, amending KPB 21.18.025 to address adoptions and deletions of anadromous water within the South District of the KPB appendix that have been identified in the “Atlas & Catalog of Waters Important for Spawning, Rearing or Migration of Anadromous Fish” published by the Alaska Department of Fish & Game.

Hearing no objection or further discussion, the motion was carried by the following vote:

**MOTION PASSED BY UNANIMOUS VOTE:**

Yes - 8	Brantley, Epperheimer, Fikes, Gillham, Morgan, Slaughter, Staggs, Venuti
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**AGENDA ITEM F. PLAT COMMITTEE REPORT**

Commissioner Gillham report that the committee reviewed and granted preliminary approval to 8 plats.

**AGENDA ITEM G. OTHER**

**AGENDA ITEM H. PRESENTATIONS / PUBLIC COMMENTS ON ITEMS NOT APPEARING ON THE AGENDA**

Chair Brantley asked if there was anyone who wished to comment on anything that was not on the agenda. There was no one who wished to comment.

**AGENDA ITEM J.****COMMISSIONER COMMENTS**

Commissioner Troy Staggs notified the commission that he would be stepping down as the planning commission representative for the City of Seward. He recently moved and no longer meets the qualification of living within the city limits.

**AGENDA ITEM K.****ADJOURNMENT**

Commissioner Gillham moved to adjourn the meeting at 8:58 P.M.

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Ann E. Shirnberg  
Administrative Assistant

## **E. NEW BUSINESS**

- 1. Street Naming Resolution 2024-05: Naming an unnamed private road in the Fox River community to Heartland Street**

AGENDA ITEM E      NEW BUSINESS

1. An unnamed private road in Section 24, T04S, R11W; Seward Meridian, Kenai Peninsula Borough, AK; in the Fox River Community; ESN 202

STAFF REPORT

PC MEETING: September 9, 2024

Applicant: David Reutov of Homer, AK

Existing right-of-way names: None

Name proposed by petitioner: Heartland St.

Reason for Change: Private road that will serve multiple addresses

Background:

Name	<b>unnamed</b>
ESN	202
Community	Fox River
YR Named	n/a
Constructed	Yes
Total Lots	2
Residential	2
Commercial	0
E911 Address	1
Mailing	1

Review and Comments:

Notice was sent by mail to the two owners of the parcels fronting the unnamed private road, as listed on the KPB tax roll.

No comments from property owners were received by the writing of this staff report.

The road name request has been emailed to the Kenai Peninsula Borough Road Maintenance, and Kachemak EMS for review.

No comments were received by the writing of this staff report.

Staff Discussion:

A petition was received in 2021 from the property owners whose access is the 1,800 ft unnamed private road. The petition included signatures from 2 out of 2 landowners fronting the private road. At the September 13, 2021 Planning Commission Meeting, the street name Silver Falls Dr. was denied by the planning commission and a motion to postpone action until a new name was chosen was passed.

On August 5, 2024 the applicant contact staff to bring forth three new street names. Applicant's choices in favored order are Heartland St, Verba St, and Rusland St. All choices would be acceptable to staff.

The unnamed private road can be found in the Fox River area and currently provides access to one E911 address. The property owner anticipates several additional family homes will be added to this property in the future.

**STAFF RECOMMENDATION:** Name unnamed private road Heartland St. by adoption of Resolution SN 2024-05.

END OF STAFF REPORT

KENAI PENINSULA BOROUGH  
PLANNING COMMISSION RESOLUTION

**RESOLUTION SN 2024-05**

NAMING A CERTAIN PRIVATE ROAD WITHIN SECTION 24, T04S, R11W; SEWARD MERIDIAN;  
WITHIN EMERGENCY SERVICE NUMBER (ESN) 202

WHEREAS, private street names may be officially named by the planning commission upon a finding that special circumstances merit a name assignment and that the public interest is not harmed; and

WHEREAS, naming of private roads shall be in accordance with KPB 14.10.040 and follow procedures of KPB 14.10.050; and

WHEREAS, on September 9, 2024 public hearings were held by the Kenai Peninsula Borough Planning Commission to address all concerns about the proposed private road naming; and

WHEREAS, Chapter 14.10 of the Kenai Peninsula Borough Code of Ordinances authorizes the Planning Commission to accomplish naming and renaming by Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH:

Section 1. That the private road listed below is named as follows:

DESCRIPTION	FROM	TO	BASE MAP
a. Private Road on Tract A & B, ALASKA STATE LAND SURVEY 91-193, HM 093006, Section 24, T04S, R11W, Seward Meridian, Kenai Peninsula Borough, AK; in the Fox River Community; ESN 202	Unnamed Private Road	Heartland St.	AR21

Section 2. That according to Kenai Peninsula Borough Code of Ordinance 14.10.030, the official street name map, 1:500 scale series base map AR21, is hereby amended to reflect these changes.

Section 3. That the map showing the location of the named private road be attached to, and made a permanent part of this resolution.

Section 4. That this Resolution takes effect immediately upon adoption.

ADOPTED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH THIS 9<sup>th</sup> DAY  
OF SEPTEMBER 2024.

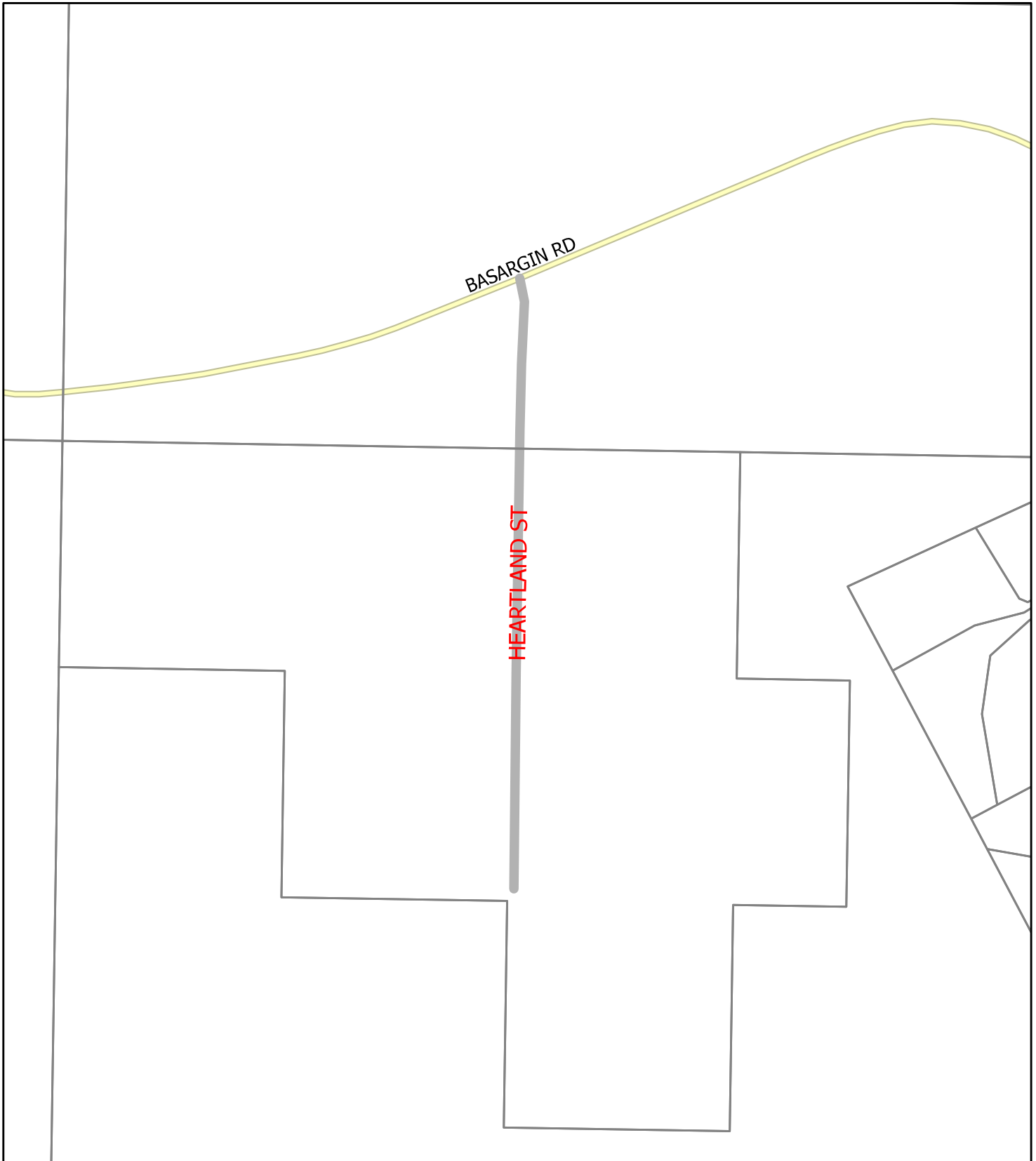
\_\_\_\_\_  
Jeremy L Brantley, Chairperson  
Planning Commission

State of Alaska  
Kenai Peninsula Borough

Signed and sworn to (or affirmed) in my presence this \_\_\_\_\_ day of \_\_\_\_\_ 2024 by  
\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission expires \_\_\_\_\_



0 500 1,000 1,500 ft

T04S R11W Section 24 ESN 202 Funny River

CLAVE	DETA	RADIUS	LENGTH
C1	13° 56' 59"	2371.77	577.43
C2	13° 59' 03"	2371.77	578.65
C3	43° 53' 12"	579.57	443.89
C4	13° 56' 42"	1635.37	398.02
C5	50° 58' 40"	614.72	636.34
C6	10° 07' 24"	417.43	95.72
C7	100° 44' 07"	300.00	527.45
C8	43° 16' 01"	100.85	76.16
C9	30° 27' 46"	220.36	171.16
C10	47° 23' 09"	132.37	95.67
C11	18° 34' 39"	305.77	99.52
C12	34° 16' 16"	171.83	91.93
C13	26° 14' 38"	171.83	98.29

NO.	DESC.	BEARING	DIST.	TREE
1	NW 1/4 S24 1924	N 17° E S 89° E S 45° W	313' 500' 163'	6" SPRUCE 10" SPRUCE 10" SPRUCE
2	C-E-NW 1/4 S24 1992	N 38° E S 48° E N 75° W	653' 390' 898'	6" SPRUCE 7" SPRUCE 4" SPRUCE
3	WC S24 35° NW 1/4 S24 1992	N 52° E S 77° W N 10° W	613' 780' 497'	12" SPRUCE 11" SPRUCE 10" SPRUCE
4	C-W S24 35° NW 1/4 S24 1992	N 46° E N 60° W	300' 300'	2" ALGAR ON 5/8" REBAR 2" ALGAR ON 5/8" REBAR
5	W 1/4 S24 C-C 1992	N 85° E S 43° W N 26° E	520' 244' 259'	1" SPRUCE 4" SPRUCE 7" SPRUCE
6	WC 1/4 S24 1992	N 23° E S 84° E S 13° E	65.4' 45.4' 25.1'	6" SPRUCE 25" SPRUCE 10" SPRUCE

LINE	BEARING	DISTANCE
L1	S 27° 49' 02" E	269.92
L2	N 80° 21' 44" E	623.91
L3	N 65° 25' 03" E	1408.69
L4	S 54° 16' 16" E	315.89
L5	S 41° 13' 52" E	125.00
L6	N 53° 11' 25" E	54.09
L7	N 9° 55' 25" E	153.25
L8	N 20° 32' 21" W	440.13
L9	N 20° 50' 48" E	342.39
L10	N 39° 25' 27" E	331.70
L11	N 7° 28' 11" E	268.29
L12	N 13° 22' 48" E	154.84

THE SURVEY WAS COMPLETED IN ACCORDANCE WITH STANDARD PARCEL SURVEY INSTRUCTIONS 51-93 AND AS 36.09.01 (ALASKA 1984, AMAL).

ALL BEARINGS SHOWN ARE TRUE BEARINGS AS ORIENTED TO THE TRUE MERIDIAN, AND DISTANCES SHOWN ARE REDUCED TO HORIZONTAL VALUE.

THE ACCURACY OF SURVEY IS GREATER THAN 1:5000.

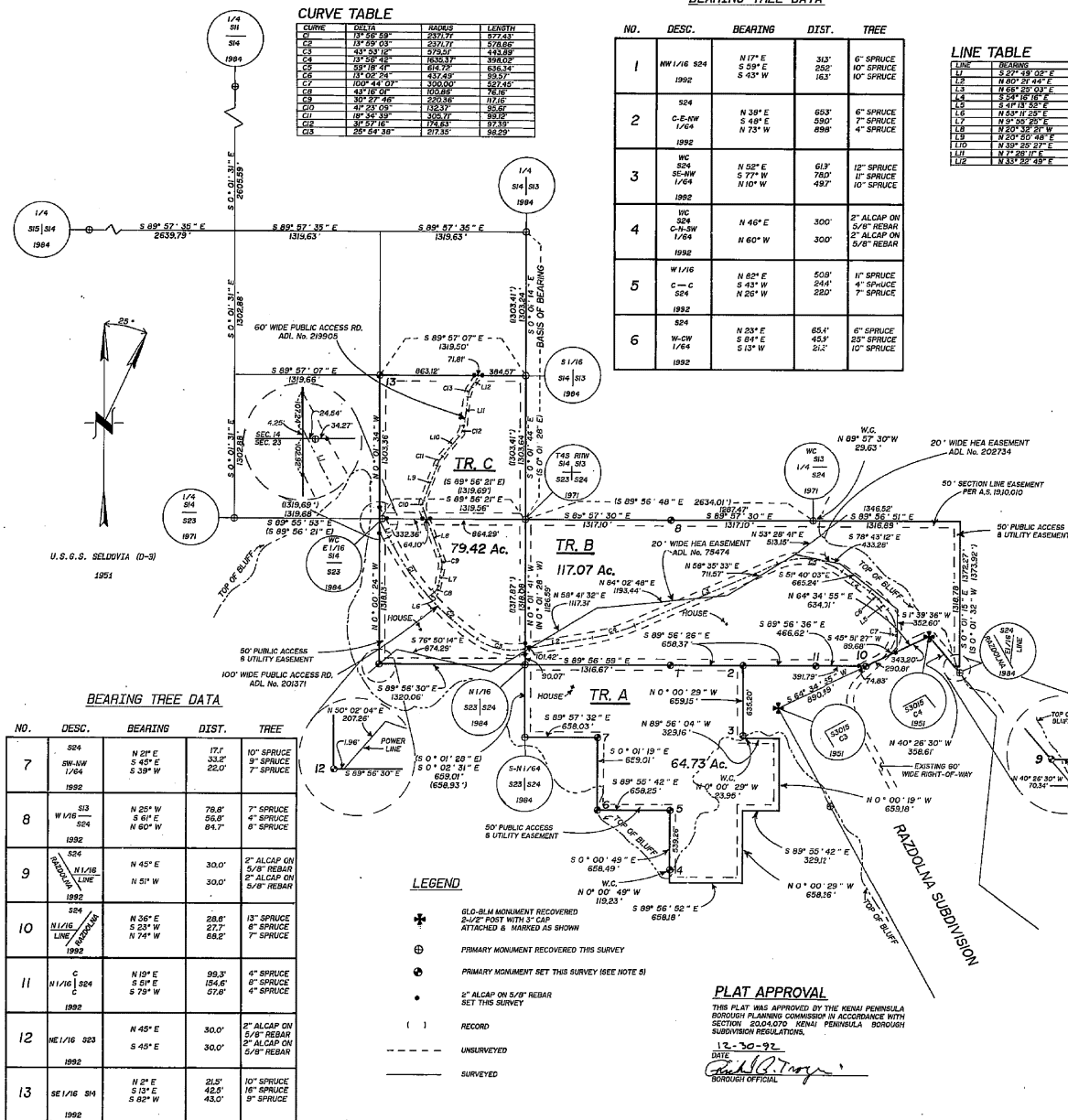
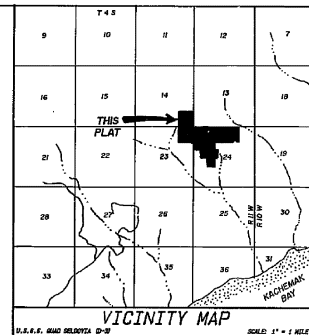
4. BASES OF BEARING AND RECORD DATA SHOWN IN PARENTHESES IS FROM THE ALASKA STATE CADASTRAL SURVEY OF SECTIONS 15, 23 & 24 (APPROVED 6/29/60) AND FILED IN THE HOMER RECORDS DISTRICT HQR 480-950.

5. PRIMARY MONUMENTS SET THIS SURVEY ARE 2 1/2" x 30" ALUMINUM PIPE DRIVEN TO A MINIMUM OF 4 FEET INTO THE GROUND. ALL OTHERS ARE BURIED 5" WITH MAGNETS PERMANENTLY ATTACHED AT THE TOP AND BOTTOM.

6. ALL PARCELS ON LANDS OWNED BY THE STATE OF ALASKA LOCATED WITHIN 750' (500.00' FEET) OR, OR CROSSED BY A SURVEYED SECTION LINE, ARE SUBJECT TO A 750' (500.00' FOOT) EASEMENT. EACH SIDE OF THE EASEMENT IS 375' (250.00' FEET) TO THE STATE OF ALASKA FOR PUBLIC HIGHWAYS UNDER A.S. 19.01.00.

7. THE UNMOUNTED CORNER POSITIONS OF TRACTS A AND B WERE IMPRACTICAL TO MONUMENT DUE TO THE STEEPNESS OF THE BLUFF.

8. (ADL 3371) AS SHOWN ON ALASKA STATE CADASTRAL SURVEY OF SECTIONS 15, 23 & 24 (APPROVED 6/29/60) AND FILED IN THE HOMER RECORDING DISTRICT UNDER PL 15-24-25.



WASTEWATER DISPOSAL: WASTEWATER TREATMENT AND DISPOSAL SYSTEMS MUST MEET THE REGULATORY REQUIREMENTS OF THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION.

THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION APPROVES THIS SUBDIVISION FOR PLATTING.

SUBSCRIBED AND SWORN TO BEFORE ME THIS 13<sup>TH</sup> DAY  
OF JANUARY, 1993  
FOR RICHARD A. LEROUX  
NOTARY PUBLIC FOR ALASKA [Signature]  
MY COMMISSION EXPIRES 12-10-96

SUBSCRIBED AND SWORN TO BEFORE ME THIS 7 DAY  
OF December 19 92  
FOR DANIEL G. GREEN  
NOTARY PUBLIC FOR ALASKA Nancy Ann Rowe  
MY COMMISSION EXPIRES 7-30-94

SUBSCRIBED AND SWORN TO BEFORE ME THIS 10<sup>th</sup> DAY  
OF December 1992  
FOR Daniel Arthur Holbert-Smith  
NOTARY PUBLIC FOR <sup>STATE</sup>ALASKA Sandra L Sharp  
MY COMMISSION EXPIRES 6-6-95

THIS PLAT WAS APPROVED BY THE KENAI PENINSULA  
BOROUGH PLANNING COMMISSION IN ACCORDANCE WITH  
SECTION 20.04.070 KENAI PENINSULA BOROUGH  
SUBDIVISION REGULATIONS.

12-30-92  
DATE

Rick B. Trogen  
BOROUGH OFFICIAL

I HEREBY CERTIFY THAT I AM PROPERLY REGISTERED AND LICENSED TO PRACTICE LAND SURVEYING IN THE STATE OF ALASKA, AND THAT THIS PLAT REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECT SUPERVISION, AND THE MONUMENTS SHOWN HEREON ACTUALLY EXIST AS DESCRIBED AND THAT ALL DIMENSIONS AND OTHER DETAILS ARE CORRECT.

DATE 12/7/92 REGISTRATION NO. 7538-S

Stephen C. Smith  
REGISTERED LAND SURVEYOR

I, THE UNDERSIGNED, HEREBY CERTIFY THAT I AM THE DIRECTOR, DIVISION OF LAND, AND THAT THE STATE OF ALASKA IS THE OWNER OF ASLS 91-103 AS SHOWN HEREON. I HEREBY APPROVE THIS SURVEY AND PLAT FOR THE STATE OF ALASKA, AND DEDICATE FOR PUBLIC OR PRIVATE USE AS NOTED, ALL EASEMENTS, PUBLIC UTILITY AREAS, AND RIGHTS-OF-WAY AS SHOWN AND DESCRIBED HEREON.

SUBSCRIBED AND SHOWN TO BEFORE ME THIS 30 DAY  
OF December 1992  
FOR Christopher Chavasse  
NOTARY PUBLIC FOR ALASKA Steven J. Kumbaya  
MY COMMISSION EXPIRES 11/1/95

WE, THE UNDERSIGNED, HEREBY CERTIFY THAT WE ARE THE PERMITTEE  
AS SHOWN HEREON. WE HEREBY APPROVE THIS SURVEY AND PLAT.

TRACT A

ADL. NO. 223386

TRACT B

ADL NO. 223407

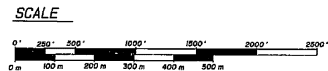
*Daniel G. Green*

DANIEL G. GREEN

TRACT C

10-7-92

DATE



1 NETHO 1 3.2000X 0.500' SURVEY FEE 1 U.S. ACRES = 0.4047 METERS

DATE OF SURVEY		NAME OF SURVEYOR	
BEGINNING	OCTOBER 1994	STEPHEN C. SMITH	
ENDING	MAY 1995	PO BOX 2052	
		JONES, ALASKA 99562	

STATE OF ALASKA  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF LAND  
ANCHORAGE, ALASKA

ALASKA SECTION LAND SURVEY No. 91-193

LOCATED METHOD  
SECTIONS 14, 23 & 24  
T. 4 S. R. 11 W., S.W. ALASKA  
NONE REGISTERED DISTRICT

DESIGN BY: GSS	APPROVAL RECOMMENDED <i>Approval</i>	DATE: 8/23/95
DATE: 8/23/95	APPROVING PLATTING OFFICER	DATE
SCALE: 1" = 500'	DRAWN BY: GSS	FILE NO. ASLS 910193



## KENAI PENINSULA BOROUGH PLANNING COMMISSION NOTICE OF PUBLIC HEARING TO NAME ROAD

Public notice is hereby given that a petition was received to name a private road in the Fox River area. Area under consideration is described as follows:

**Location:** An unnamed private road in Section 24, T04S, R11W; Seward Meridian, Kenai Peninsula Borough, AK; in the Fox River Community; ESN 202

**Reason for Renaming:** *Petition from property owners.* Long private road to multiple addresses

**Proposed Names:** *Heartland St.*

The location of the proposed road naming is provided on the attached map. Public hearing will be held by the Kenai Peninsula Borough Planning Commission on **Monday, September 9, 2024**, commencing at **7:30 p.m.**, or as soon thereafter as business permits. The meeting is being held in person at the Betty J. Glick Assembly Chambers of the Kenai Peninsula Borough George A. Navarre Administration Building, 144 N. Binkley Street, Soldotna, Alaska and remotely through zoom.

To attend the meeting using Zoom from a computer, visit <https://us06web.zoom.us/j/9077142200>. You may also connect to Zoom by telephone, by calling toll free **1-888-788-0099** or **1-877-853-5247**. If calling in you will need the Meeting ID of 907 714 2200. Additional information about connecting to the meeting may be found at <https://www.kpb.us/planning-dept/planning-commission>.

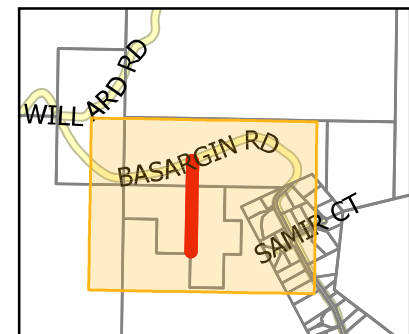
Anyone wishing to testify may attend the meeting in person or through Zoom. Written testimony may be submitted by email to [addressing@kpb.us](mailto:addressing@kpb.us), or mailed to the attention of Addressing, Kenai Peninsula Borough Planning Department, 144 N. Binkley Street, Soldotna, Alaska 99669. [Written comments may also be sent by Fax to 907-714-2378.] All written comments or documents must be submitted by **1:00 PM, Friday, September 6, 2024**. The deadline to submit written comments or documents does not impact the ability to provide verbal testimony at the public hearing.

PLEASE NOTE: Upon adoption of a street name change resolution, no reapplication or petition concerning the name of the same street may be filed within one calendar year of the final adoption, except in the case where new evidence or circumstances exist that were not available, present or reasonably ascertainable when the original resolution was adopted (KPB 14.10.050)



- Roads
- Street to Rename
- TaxParcels

T04S- R11W SECTION 24  
Fox River ESN 202



0 725 1,450 2,175 Feet

## **E. NEW BUSINESS**

- 2. Ordinance 2024-19-07: Authorizing the acquisition of real property located adjacent to the North Star School campus in Nikiski necessary for future school use, and appropriating \$59,000.00 from the Land Trust Fund for the purchase**

Kenai Peninsula Borough  
Planning Department – Land Management Division

MEMORANDUM

**TO:** Brent Johnson, Assembly President  
Members, KPB Assembly

**THRU:** Peter A. Micciche, Mayor *PM*  
Brandi Harbaugh, Finance Director *BH*  
Robert Ruffner, Planning Director *RR*

**FROM:** Aaron Hughes, Land Management Officer *RR*

**DATE:** August 22, 2024

**RE:** Ordinance 2024-19-\_\_\_\_\_, Authorizing the Acquisition of Real Property Located Adjacent to the North Star School Campus in Nikiski Necessary for Future School Use and Appropriating Funds from the Land Trust Fund for the Purchase (Mayor)

The Kenai Peninsula Borough School District (KPBSD) provides K-5 educational instruction to approximately 242 students at the North Star School facility. While the existing campus consists of a 28-acre parcel of KPB-owned land, its proximity to private land holdings and Salamatof Lake limits future decision making, management and campus planning. The strategic acquisition of the subject parcel will help to secure additional flexibility and longevity for the existing school site.

Land Management disposes of KPB lands identified as being surplus to KPB needs. The sale proceeds from these disposals are held in trust within the Land Trust Fund for the future management of KPB lands and the acquisition of real property necessary to satisfy KPB needs, like the subject parcel.

The proposed purchase price of \$53,000.00, is consistent with current market comparables in the area. An additional \$6,000.00 will be used to cover due diligence costs and closing fees related to the acquisition. The purchase agreement provides up to 90 days to close.

This Ordinance authorizes the purchase of the subject parcel and appropriates \$59,000 from the Land Trust Fund to cover the costs associated with the purchase. The Ordinance also provides for the classification of the subject parcel as “Government”.

Your consideration is appreciated.

FINANCE DEPARTMENT FUNDS/ACCOUNT VERIFIED	
Account:	<u>250.21210. LNDNS.48610</u>
Amount:	<u>\$59,000</u>
By: <u><i>BH</i></u>	Date: <u>8/19/2024</u>

Introduced by:	Mayor
Date:	09/03/2024
Hearing:	09/17/2024
Action:	
Vote:	

**KENAI PENINSULA BOROUGH  
ORDINANCE 2024-19-**

**AN ORDINANCE AUTHORIZING THE ACQUISITION OF REAL PROPERTY  
LOCATED ADJACENT TO THE NORTH STAR SCHOOL CAMPUS IN NIKISKI  
NECESSARY FOR FUTURE SCHOOL USE AND APPROPRIATING FUNDS FROM  
THE LAND TRUST FUND FOR THE PURCHASE**

**WHEREAS,** the Kenai Peninsula Borough School District (“KPBSD”) currently provides K-5 educational instruction at the Nikiski North Star Elementary school campus; and

**WHEREAS,** the existing school campus consists of a 28-acre parcel, bounded by private land holdings and Salamatof Lake, limiting future management and potential expansion of the school facility; and

**WHEREAS,** the subject parcel consists of 4.62 acres and is located immediately adjacent to the Nikiski North Star Elementary school campus; and

**WHEREAS,** the subject parcel is currently listed by a local real estate agent and was actively marketed on the MLS with an asking price of \$59,900; and

**WHEREAS,** the Kenai Peninsula Borough's (“KPB”) Land Management Division (“Land Management”) has identified the strategic acquisition of the subject parcel as being necessary to proactively secure adjacent lands for future management options involving this KPB-owned school site; and

**WHEREAS,** Land Management disposes of lands surplus to KPB needs through land sale auctions, resulting in sale proceeds used for the acquisition of real property necessary to satisfy current and future KPB realty needs, like the subject parcel; and

**WHEREAS,** the Nikiski APC, at its regular meeting of September 5, 2024 recommended \_\_\_\_\_; and

**WHEREAS,** the KPB Planning Commission, at its regular meeting of September 9, 2024 recommended \_\_\_\_\_;

**NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:**

**SECTION 1.** That pursuant to KPB 17.10.040, the assembly finds that purchasing the subject parcel, which is the following-described real property, is in KPB’s best interests as it secures additional school campus utility, planning and growth:

LOT 6, HAROLD SUBDIVISION, ACCORDING TO THE  
OFFICIAL PLAT THEREOF, FILED UNDER PLAT NUMBER  
92-71, RECORDS OF THE KENAI RECORDING DISTRICT,  
THIRD JUDICIAL DISTRICT, STATE OF ALASKA. (PARCEL  
NO. 01524049)

**SECTION 2.** That the terms and conditions substantially in the form of the Purchase Agreement accompanying this ordinance are hereby approved. The purchase price will be \$53,000for the subject parcel, plus closing and due diligence costs not to exceed \$6,000.

**SECTION 3.** That the subject parcel will be classified as “Government” pursuant to KPB 17.10.080.

**SECTION 4.** That the Mayor is authorized to execute any and all documents necessary to purchase the subject parcel described in Section 1 in accordance with the terms and conditions contained in this ordinance and the accompanying Purchase Agreement, consistent with applicable provisions of KPB Chapter 17.10.

**SECTION 5.** That \$59,000 is appropriated from the Land Trust Fund fund balance to Account No. 250.21210.LNDNS.48610 for the purchase and estimated due diligence or closing costs of the subject parcel located in Nikiski, Alaska.

**SECTION 6.** That this ordinance shall be effective immediately.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS \_\_\_\_  
DAY OF \_\_\_\_\_, 2024.**

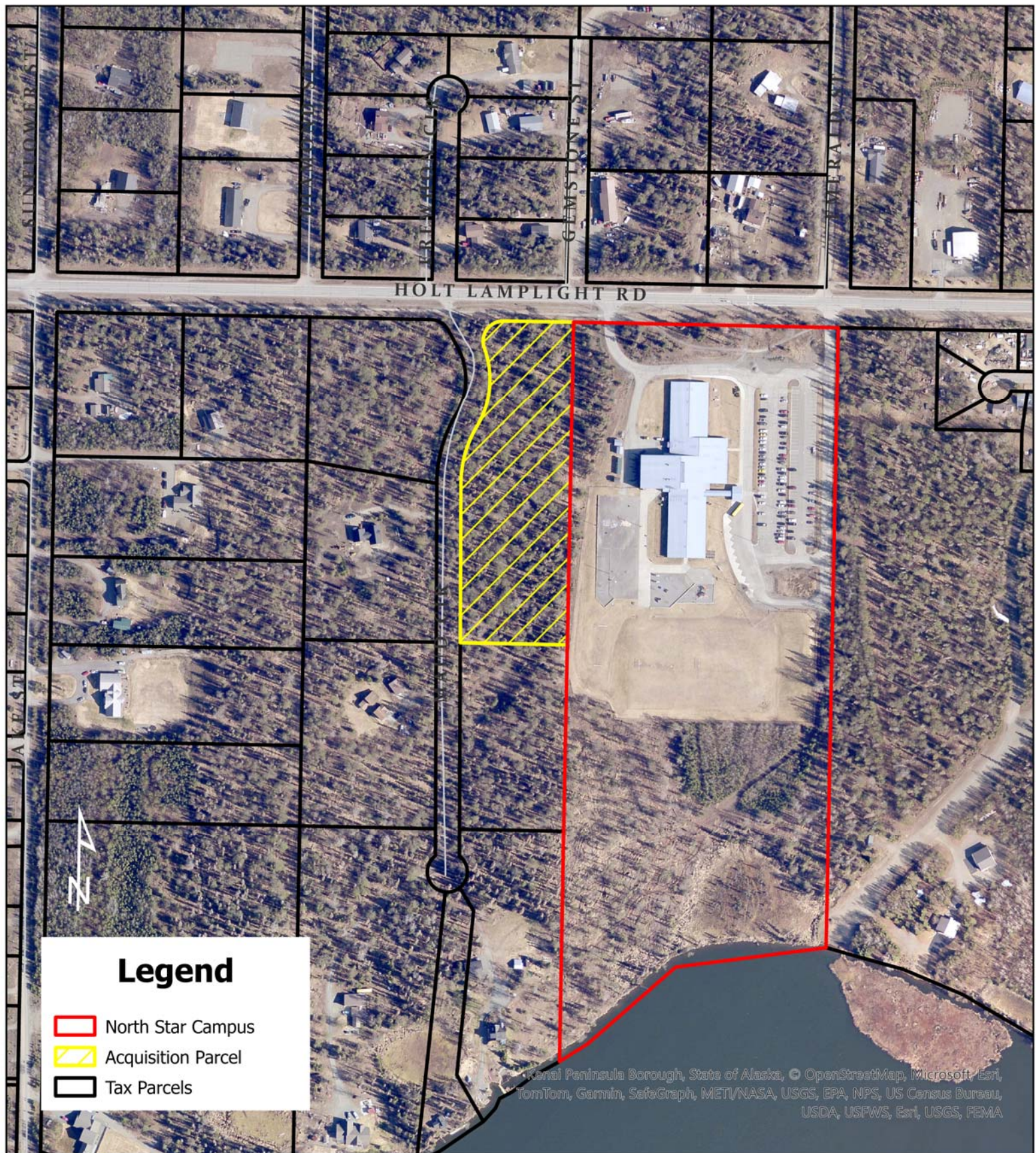
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Brent Johnson, Assembly President

ATTEST:

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Michele Turner, CMC, Borough Clerk



## North Star School Parcel Acquisition

### PURCHASE AGREEMENT

This Purchase Agreement ("Agreement") is made by and between BRENDA DALE AND PAUL DALE, wife and husband, as sellers, whose address is PO Box 701, Kenai, AK 99611, (jointly, "Sellers") and the KENAI PENINSULA BOROUGH, an Alaska municipal corporation, as buyer, whose address is 144 North Binkley Street, Soldotna, Alaska 99669 ("KPB") (together, "the Parties").

WHEREAS, Sellers are the owners of that real property located in the Kenai Recording District, Third Judicial District, State of Alaska, and more particularly described as follows:

LOT 6, HAROLD SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF, FILED UNDER PLAT NUMBER 92-71, RECORDS OF THE KENAI RECORDING DISTRICT, THIRD JUDICIAL DISTRICT, STATE OF ALASKA.

(PARCEL NO. 01524049) ("the Property"); and

WHEREAS, KPB has offered to buy, and Sellers are willing to sell the Property as evidenced by this Agreement;

NOW THEREFORE, in consideration of the conditional promises herein contained, Sellers hereby agree to sell to KPB, and KPB hereby agrees to buy from Sellers, the Property on the terms and conditions as set forth below:

1. **PURCHASE PRICE**

The purchase price of the Property is FIFTY-THREE THOUSAND DOLLARS (\$53,000.00). The purchase price must be paid by KPB at time of closing. The purchase of the Property and appropriation of funding for the purchase are subject to approval by the KPB Assembly.

2. **EXPIRATION OF OFFER**

Sellers must sign and return this Agreement to KPB on or before JULY 23, 2024, at 4:30pm; otherwise, this offer shall terminate.

3. **TITLE**

Title must be delivered at time of closing by statutory warranty deed, which must be issued to KPB. Sellers warrant and covenant that at the time of closing there will be no liens or judgments recorded against Sellers in the same recording district in which the Property subject to this Agreement is situated. Title must be clear of liens and encumbrances except title is subject to reservations, easements, rights-of-way, covenants, conditions and restrictions of record as agreed to by KPB.

Kenai Peninsula Borough, Alaska

Dale / KPB - Purchase Agreement

Page 1 of 5

**4. ESCROW AND CLOSING COSTS**

KPB agrees to pay for all KPB-related closing costs not otherwise addressed in this Agreement to include buyer closing, and recording fees. Sellers agree to pay for seller-related closing costs, not otherwise addressed in this Agreement to include the ALTA Standard Owners Title Insurance policy, seller closing and recording fees. Property taxes for the current year, if any, will be prorated to the date of closing. Sellers are responsible for realtor's commission, if any; all unpaid taxes for prior years, if any; and all unpaid outstanding assessments, if any. All costs will be paid in full at the time of closing.

**5. CLOSING**

Unless otherwise agreed to in writing, closing will occur on or before **October 31, 2024**, or as specifically agreed to by both Parties. At closing, KPB will pay the balance of the purchase price. Both Parties will execute all documents required to complete the Agreement and, if applicable, establish an escrow account. The closing agent will be determined by the Sellers.

**6. POSSESSION**

Possession will be delivered to KPB at time of recording unless otherwise agreed to in writing by all Parties.

**7. KENAI PENINSULA BOROUGH ASSEMBLY APPROVAL**

Purchase of the Property by KPB is subject to authorization by the KPB Assembly and appropriation of funds. If the KPB Assembly fails to authorize the purchase of the Property and appropriate funds, this Agreement will terminate without penalty.

**8. EXCHANGE**

If Sellers intend for this transaction to be part of a Section 1031 like-kind exchange, KPB agrees to cooperate in the completion of the like-kind exchange provided KPB does not incur any additional liability or cost in doing so. If Sellers intend for this transaction to be part of a Section 1031 like-kind exchange, Sellers may assign their rights under this Agreement to a qualified intermediary or any entity expressly created for the purposes of completing a Section 1031 like-kind exchange.

**9. DISCLOSURES**

Sellers hereby agree to provide written property disclosures including any and all information regarding known defects, deficiencies, legal matters, environmental issues or hazards, that may be personally known by the Sellers. If said written disclosures present a matter unsatisfactory to KPB, KPB may terminate this Agreement without penalty.

**10. CONTINGENT ON INSPECTION**

This offer and agreement are contingent upon the completion of a property inspection satisfactory to KPB for its use and at KPB's expense. Sellers must, upon reasonable notice, provide access to the Property for inspection purposes to KPB and its representatives. Any invasive inspection procedures require Sellers' expressed permission and must promptly be

repaired by KPB in a workman-like manner. Unless otherwise provided in writing, KPB will have 30 days from the date of full execution of this Agreement to complete its property inspection.

#### 11. HAZARDOUS MATERIAL

Sellers covenant to the best of Sellers' knowledge that, as of the date of this Agreement, except as specifically identified herein, the Property is free of all contamination from petroleum products or any hazardous substance or hazardous waste, as defined by applicable state or federal law, and there are no underground storage tanks or associated piping on the Property. Sellers agree that no hazardous substances or wastes will be located on, nor stored on the Property or any adjacent property owned or leased by Sellers, owner or contractors, nor will any such substance be owned, stored, used, or disposed of on the Property or any adjacent property by Sellers, their agents, employees, contractors, or invitees, prior to KPB's ownership, possession, or control of the Property.

#### 12. ENVIRONMENTAL CONTINGENCY

If, during the course of KPB's due diligence inspection of the Property pursuant to Section 9, KPB discovers the presence of environmental hazards on or released from the Property in any quantity or concentration exceeding the limits allowed by applicable law, or that are deemed undesirable by KPB, KPB will have the right to give notice to Sellers, accompanied by a copy or copies of the third-party report(s) disclosing and confirming the presence of such hazardous materials. The notice and accompanying third-party report must be given no later than 60 days from receipt of said report. The notice under this Section must state:

- (i) that KPB is terminating this Agreement due to the presence of such hazardous materials on or adversely affecting the Property; OR
- (ii) provide Sellers 30 days from notice to provide a mitigation plan outlining steps taken by Sellers to remedy said hazards to KPB's satisfaction at Sellers' expense.

Following the notice and report described in this Section, the Parties may negotiate other resolutions as may be agreeable to the Parties in writing to be included as a part of this Agreement. In the event the Parties cannot agree in writing on a resolution to remedy any environmental concerns within 90 days of the notice, this Agreement will automatically terminate.

It is expressly understood that, by execution of this Agreement, Sellers hereby indemnify KPB for any and all CERCLA-related claims, liabilities or matters, unless otherwise provided for in this Agreement. Said indemnification will survive closing and termination of this Agreement. Upon successful close of escrow said indemnification will continue for a period of not less than 12 months, from the date of closing unless otherwise provided for in this Agreement.

If this Agreement is terminated pursuant to any report detailing environmental conditions that may or may not exist on the Property, such report(s) will remain confidential and proprietary.

The report(s) will be marked as confidential and will not be released to a private individual, entity, or non-profit without express agreement of the Parties. Notwithstanding, the report will be released pursuant to a valid court order and may be released to the State of Alaska upon request.

### 13. ENTIRE AGREEMENT

This Agreement and the documents referred to herein contain the entire agreement of the Parties with respect to the subject matter hereof. Any changes, additions or deletions hereto must be made in writing and signed by both KPB and Sellers or their respective successors in interest. Provisions of this Agreement, unless inapplicable on their face, will be covenants constituting terms and conditions of the sale, and will continue in full force and effect until the purchase price is paid in full or this Agreement is earlier terminated.

### 14. BREACH REMEDY

Prior to closing of the sale, in the event that KPB or Sellers fail to make any payment required, or fail to submit or execute any and all documents and papers necessary for closing and transfer of title within the time period specified in this Agreement, the Sellers or KPB may terminate this Agreement.

### 15. MISCELLANEOUS

- A. Time. Time is of the essence in performance of this Agreement.
- B. Cancellation. This Agreement, while in good standing, may be canceled in whole or in part, at any time, upon mutual written agreement by Sellers and the KPB Mayor. This Agreement is subject to cancellation in whole or in part if improperly issued through error in procedure or with respect to material facts. KPB may cancel this Agreement without penalty in the event additional contracts required of this project are not secured.
- C. Notice. Any notice or demand which, under the terms of this Agreement or under any statute must be given or made by the Parties thereto, must be in writing, and be given or made by registered or certified mail, addressed to the other Party at the address shown on the contract. However, either Party may designate in writing such other address to which such notice of demand may thereafter be so given, made or mailed. A notice given hereunder will be deemed received when deposited in a U.S. general or branch post office by the addressor.
- D. Interpretation. This Agreement will be deemed to have been jointly drafted by the Parties. It will be construed according to the fair intent of the language as a whole, not for or against either Party. The interpretation and enforcement of this Agreement will be governed by the laws of the State of Alaska. Any lawsuit brought arising from this Agreement must be filed in the superior court of the Third Judicial District, State of Alaska, located in the City of Kenai, Alaska. The titles of sections in this Agreement are not to be construed as limitations of definitions but are for identification purposes only.
- E. Condition of Property.

Sellers will deliver the Property in its as-is condition.

- F. Confidentiality. This Agreement will be considered proprietary to the Parties until closing occurs. Following closing, this Agreement may be considered a public record.
- G. Counterparts. 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:

SELLERS:

\_\_\_\_\_  
Peter A. Micciche, Mayor (Date)

Brenda Dale 1/22/24  
Brenda Dale (Date)  
Paul Dale 1/22/24  
Paul Dale (Date)

ATTEST:

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
Michele Turner, CMC  
Borough Clerk

\_\_\_\_\_  
A. Walker Steinhage  
Deputy Borough Attorney

# Seller's Real Estate Disclosure Statement for Unimproved Property

(To be completed by Seller when property is listed)

This form authorized for use ONLY by active Real Estate Licensee Subscribers of Alaska Multiple Listing Service, Inc.



In the Property Address or Location:

L6 Maud Circle Nikiski AK 99635

Legal Description: Harold L6

Real Property Tax ID Number: 01524049

Owner's Name(s) (please print): Paul Dale Brenda Dale

All disclosures in this statement are made in good faith and to the best of the Seller's knowledge. The Seller is disclosing known defects or other conditions in the real property or the real property being transferred. Disclosure need not require a search of public records nor does it require a professional inspection of the property. If additional information or explanation is necessary, use Section 16, or attach an Unimproved Property Disclosure Addendum/Amendment (UPDA) form and/or other appropriate documentation to this form.

YES NO

1. How long have you owned the property? 34 years

2. ENCROACHMENTS/EASEMENTS.(e.g. fences, buildings, rockeries, driveways, garden, septic, well, etc.)

- ☒ A. Does anything on your property extend onto (encroach on) an adjacent lot?
- ☒ B. Does anything on an adjacent lot extend onto (encroach on) your property?
- ☒ C. Are you aware of any easements or other's rights affecting the property?  
If you marked "Yes" on any of the above, explain in Section 16.

3. ACCESS.

- ☒ A. Is there a road or easement for access to the property?
- ☐ B. If your answer to A is "Yes," is there a recorded document?
- ☐ C. If the road or access is shared with any other property, is there a written agreement for sharing the maintenance and repair costs?
- ☐ D. If your answer to C is "Yes," is a copy attached to this form?
- ☐ E. If the road or other access is improved, is there any standing or running water, flooding, mud, etc., that affects use of the access during any time of the year? If "Yes", explain in Section 16.

4. SURVEY.

- ☒ A. Has the property ever been surveyed?
- ☒ B. If your answer to A is "Yes," is a copy of the survey attached?

5. PROPERTY BOUNDARIES. If known, describe the property boundaries: (e.g. fence, hedge, survey stakes, rockery, etc.)

North line: 58° 59' 00" W  
South line: 2 N 89° 59' 00" E  
East line: 805.30'  
West line: 846.99'

6. ZONING & RESTRICTIONS.

The present zoning of the property is

- ☒ A. Are you aware of any covenants, codes, or restrictions regarding the use of the property?
- ☒ B. Are you aware of any proposed covenants, codes or restrictions, including future construction?
- ☒ C. Is the property, or any part of it, in a designated shoreline master plan, slide area, avalanche area, wetlands, erosion zone or environmentally sensitive area?

Form 7083, Revised 10/19.

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Buyer(s)

Seller(s)



**Seller's Real Estate Disclosure Statement for Unimproved Property Described As:**

Address: L6 Maud Circle Nikiski AK 99635  
 Legal (the Property): Harold L6

This form authorized for use ONLY by active Real Estate Licensee Subscribers of Alaska Multiple Listing Service, Inc.



YES NO

**7. SOIL STABILITY, STORAGE TANKS & CONTAMINATION.**

- ☐ ☒ A. Are you aware of any settlement, earth movement, cracking, slides, accretion, erosion or similar problems affecting the property?
- ☐ ☒ B. To the best of your knowledge has any part of the property been built-up, dug-out or altered, in any way, including but not limited to: fill dirt; waste; toxic waste; organic or off-site material; used for a landfill; or legal/illegal dumping?
- ☐ ☒ C. Has the property ever been used for commercial or industrial purposes, including but not limited to: a service station; auto repair shop; dry cleaners; printing shop; manufacturing facility; or any other use which might have contaminated the soil?
- ☐ ☒ D. Are you aware of any soil contamination or has the property been tested for hazardous waste contamination? (If "tested" attach a copy of the inspection report.)
- ☐ ☒ E. Do you have any reason to believe that the soils may not be acceptable for the installation of a septic system? (If "Yes," explain in Section 16.)
- ☐ ☒ F. Does the property currently have a storage tank that was used to store anything that is defined as fuel, toxic and/or hazardous.
- ☐ ☒ G. Are you aware of the property previously having a storage tank? If "Yes", the storage tank was removed on or about: \_\_\_\_\_
- ☐ ☐ H. If the answer to G is "Yes", is a copy of the removal report and soils report attached?

**8. FLOODING OR SEEPAGE.**

- ☐ ☒ A. Has there been, or is there currently, standing water on the property during any time of the year? If "Yes", explain in Section 16.
- ☐ ☐ B. If your answer to A is "Yes," has anything been done to mitigate? Explain in Section 16.
- ☐ ☒ C. Is the property located in a designated flood zone or flood plain?

**9. SEWAGE.**

- ☐ ☒ A. Is the property served by: ☐ public sewer main ☐ septic tank system ☐ other disposal system (describe): \_\_\_\_\_
- ☐ ☒ B. Is public sewer on or adjacent to the property?
- ☐ ☒ C. If there is a sewer main across one or more sides of the property, is there a connection or hook-on charge payable before the property can be connected to the sewer?

**10. WATER.**

- ☐ ☒ A. Is the property served by a public water main?
- ☐ ☒ B. Is there a well on this property? If "Yes", provide location, depth, source and/or provide documentation: \_\_\_\_\_
- ☐ ☒ C. Does the well provide water to any other properties or entities?
- ☐ ☐ D. If your answer to C is "Yes," is there a written maintenance agreement for sharing costs of repair or replacement? If "Yes", attach a copy.
- ☐ ☒ E. Has the water been tested? (attach any report(s))
- ☐ ☒ F. Are you aware of any deficiencies or defects in the well system?

**11. ELECTRICITY & GAS.**

- ☒ ☐ A. Is electricity on or adjacent to the property?
- ☒ ☐ B. Is natural gas on or adjacent to the property?

**12. NEIGHBORHOOD.**

- ☐ ☒ A. Are you aware of any waste dumps, disposal sites or landfills within one mile of the property?
- ☐ ☒ B. Are you aware of any manufacturing, agricultural, quarrying or other uses or conditions within one mile of the property, which cause smoke, smell, noise or pollution?
- ☐ ☒ C. Are you aware of any abandoned coal or other mine shafts under or within one mile of the property?

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Buyer(s)

Seller(s)



**Seller's Real Estate Disclosure Statement for Unimproved Property Described As:**

Address: L6 Maud Circle Nikiski AK 99635

Legal (the Property): Harold L6

This form authorized for use ONLY by active Real Estate Licensee Subscribers of Alaska Multiple Listing Service, Inc.



**YES NO**

- ☐ ☒ D. Are you aware of any street or utility improvements planned that may affect and/or be assessed against the property?
- ☐ ☒ E. Are you aware of any zoning or land use changes planned or being considered that may affect the Property?
- ☐ ☒ F. Are you aware of any noise sources that may affect the property, including airplanes, trains, dogs, traffic, race tracks, neighbors, etc.? If "Yes", explain in Section 16.
- ☐ ☒ G. Are you aware if there is water access (lakes, rivers, streams, etc.) included in the purchase of this property? If "Yes", explain in Section 16 how or where these rights are defined?

- ☐ ☒ 13. **AGREEMENTS TO PAY FOR FUTURE PUBLIC IMPROVEMENTS.**  
Are you aware if there are any covenants or any recorded/unrecorded agreements requiring owners of the property to pay for (and/or waiving the right to protest) future public improvements including, but not limited to: roads or streets; flood and/or storm water control, street lighting; sewer, water, telephone, electrical, gas and/or other utilities? If "Yes", explain in Section 16.

**14. DEVELOPER INFORMATION.**

If this information relates to a development where the owner plans to install utilities as a part of the purchase price and/or a part of the marketing plan for the property, include the projected date for installation on the following:

Electric	Date _____	Source _____
Natural Gas	Date _____	Source _____
Public Water	Date _____	Source _____
Public Sewer	Date _____	Source _____
Paved Streets	Date _____	Source _____
Street Lights	Date _____	Source _____
Storm Drains	Date _____	Source _____
Other: _____	Date _____	Source _____

- ☐ ☒ 15. **OTHER.**
- ☐ ☒ A. Are you aware of anything else which could affect the value or desirability of the property? If "Yes", explain in Section 16.
- ☐ ☒ B. Are there any government protected or declared endangered wildlife on or within one mile of the property? If "Yes", in Section 16.
- ☐ ☒ C. Are there any loans or liens tied to this property? If "Yes", explain in Section 16.
- ☐ ☒ D. Is there a burial site tied to this property? If "Yes", explain in Section 16.

**16. COMMENTS.** Reference Item Number (i.e. #3E). If additional space is needed, use the attached UPDA.

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**Attached Addenda:**

- ☐ Unimproved Property Disclosure Addendum/Amendment (UPDA)

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Buyer(s)

Seller(s)



**Seller's Real Estate Disclosure Statement for Unimproved Property Described As:**

Address: L6 Maud Circle Nikiski AK 99635

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The foregoing information is furnished to the best of my/our knowledge, after careful consideration of each of the questions. I/We understand that representations will be made to prospective buyers based on the foregoing information, and I/we authorize copies of this to be given to prospective buyers. I/We agree to hold harmless the Brokers and Licensees of Alaska Multiple Listing Service, Inc. from any claim that the foregoing information is incorrect.

**Seller Signature(s)**

Seller 1: Paul Dale  
Paul Dale

Date: 7/22/2024

Seller 2: Brenda Dale  
Brenda Dale

Date: 7/22/2024

Seller 3: \_\_\_\_\_

Date: \_\_\_\_\_

**Buyer's Notice and Receipt of Copy**

**Buyer Awareness Notice:** Buyer is independently responsible for determining whether a person who has been convicted of a sex offense resides in the vicinity of the property that is the subject of the Buyer's potential real estate transaction. This information is available at the following locations: Alaska State Trooper Posts, Municipal Police Departments, and on the State of Alaska, Department of Public Safety Internet site: [www.dps.state.ak.us](http://www.dps.state.ak.us).

The State of Alaska maintains a list of properties that have been identified by Alaska law enforcement agencies as illegal drug manufacturing sites, including meth labs. For more information on this subject and to obtain a list of these properties, go to <http://www.dec.state.ak.us>.

**Buyer Awareness Notice:** Buyer is independently responsible for determining whether, in the vicinity of the property that is the subject of the transferee's potential real estate transaction, there is an agricultural facility or agricultural operation that might produce odor, fumes, dust, blowing snow, smoke, burning, vibrations, noise, insects, rodents, the operation of machinery including aircraft, and other inconveniences or discomforts as a result of lawful agricultural operations.

*The Buyer is urged to inspect the property carefully and to have the property inspected by an expert. Buyer understands that there are aspects of the property of which the Seller may not have knowledge and that this disclosure statement does not encompass those aspects. Buyer also acknowledges that he/she has read and received a signed copy of this statement from the Seller or any licensee involved or participating in this transaction.*

**Buyer Signature(s)**

Buyer 1: \_\_\_\_\_

Date: \_\_\_\_\_

Buyer 2: \_\_\_\_\_

Date: \_\_\_\_\_

Buyer 3: \_\_\_\_\_

Date: \_\_\_\_\_

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Buyer(s)

Seller(s)





## ALASKA REAL ESTATE COMMISSION CONSUMER DISCLOSURE

This Consumer Disclosure, as required by law, provides you with an outline of the duties of a real estate licensee (licensee). This document is not a contract. By signing this document you are simply acknowledging that you have read the information herein provided and understand the relationship between you, as a consumer, and a licensee. (AS 08.88.600 – 08.88.695)

There are different types of relationships between a consumer and a licensee. Following is a list of such relationships created by law:

### Specific Assistance

The licensee does not represent you. Rather the licensee is simply responding to your request for information. And, the licensee may "represent" another party in the transaction while providing you with specific assistance.

***Unless you and the licensee agree otherwise, information you provide the licensee is not confidential.***

Duties **owed** to a consumer by a licensee providing specific assistance include:

- a. Exercise of reasonable skill and care;
- b. Honest and good faith dealing;
- c. Timely presentation of all written communications;
- d. Disclosing all material information known by a licensee regarding the physical condition of a property; and
- e. Timely accounting of all money and property received by a licensee.

### Representation

The licensee represents only one consumer unless otherwise agreed to in writing by all consumers in a transaction.

Duties **owed** by a licensee when representing a consumer include:

- a. Duties owed by a licensee providing specific assistance as described above;
- b. Not intentionally take actions which are adverse or detrimental to a consumer;
- c. Timely disclosure of conflicts of interest to a consumer;
- d. Advising a consumer to seek independent expert advice if a matter is outside the expertise of a licensee;
- e. Not disclosing consumer confidential information during or after representation without written consent of the consumer unless required by law; and
- f. Making a good faith and continuous effort to accomplish a consumer's real estate objective(s).

### Neutral Licensee

A neutral licensee is a licensee that provides specific assistance to both consumers in a real estate transaction but does not "represent" either consumer. A neutral licensee must, prior to providing specific assistance to such consumers, secure a Waiver of Right to be Represented (form 08-4212) signed by both consumers.

Duties **owed** by a neutral licensee include:

- a. Duties owed by a licensee providing specific assistance as described above;
- b. Not intentionally taking actions which are adverse or detrimental to a consumer;
- c. Timely disclosure of conflicts of interest to both consumers for whom the licensee is providing specific assistance;
- d. If a matter is outside the expertise of a licensee, advise a consumer to seek independent expert advice;
- e. Not disclosing consumer confidential information during or after representation without written consent of the consumer unless required by law; and
- f. Not disclosing the terms or the amount of money a consumer is willing to pay or accept for a property if different than what a consumer has offered or accepted for a property.

If authorized by the consumers, the neutral licensee may analyze and provide information on the merits of a property or transaction, discuss price terms and conditions that might be offered or accepted, and suggest compromise solutions to assist consumers in reaching an agreement.

### Designated Licensee

In a real estate company, a broker may designate one licensee to represent or provide specific assistance to a consumer and another licensee in the same office to represent or provide specific assistance to another consumer in the same transaction.

**ACKNOWLEDGEMENT:**

I/We, Kenai Peninsula Borough have read the information provided in this Alaska Real Estate  
(print consumer's name(s))

Consumer Disclosure and understand the different types of relationships I/we may have with a real estate licensee. I/We

understand that Fred Braun of Jack White Real Estate Kenai  
(licensee name) (brokerage name)

will be working with me/us under the relationship(s) selected below.

(Initial)

☒ **Specific assistance without representation.**

☐ **Representing the Seller/Lessor only.** (may provide specific assistance to Buyer/Lessee)

☐ **Representing the Buyer/Lessee only.** (may provide specific assistance to Seller/Lessor)

☐ **Neutral Licensee.** (must attach Waiver of Right to be Represented, form 08-4212)

Date: \_\_\_\_\_ Signature: \_\_\_\_\_  
(Licensee) Fred Braun

Date: ☒ \_\_\_\_\_ Signature: ☒ \_\_\_\_\_  
(Consumer) Kenai Peninsula Borough

Date: \_\_\_\_\_ Signature: \_\_\_\_\_  
(Consumer)

**THIS CONSUMER DISCLOSURE IS NOT A CONTRACT**

## **E. NEW BUSINESS**

### **3. Conditional Land Use Permit; 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**



0 0.5 1 mi

### Colaska Inc DBA QAP, Laydown Yard

 **Project Area**

**KPB Parcel(s):**

12509028, 12509011, 12509010

**Project Description:**

**Vicinity: Primrose**



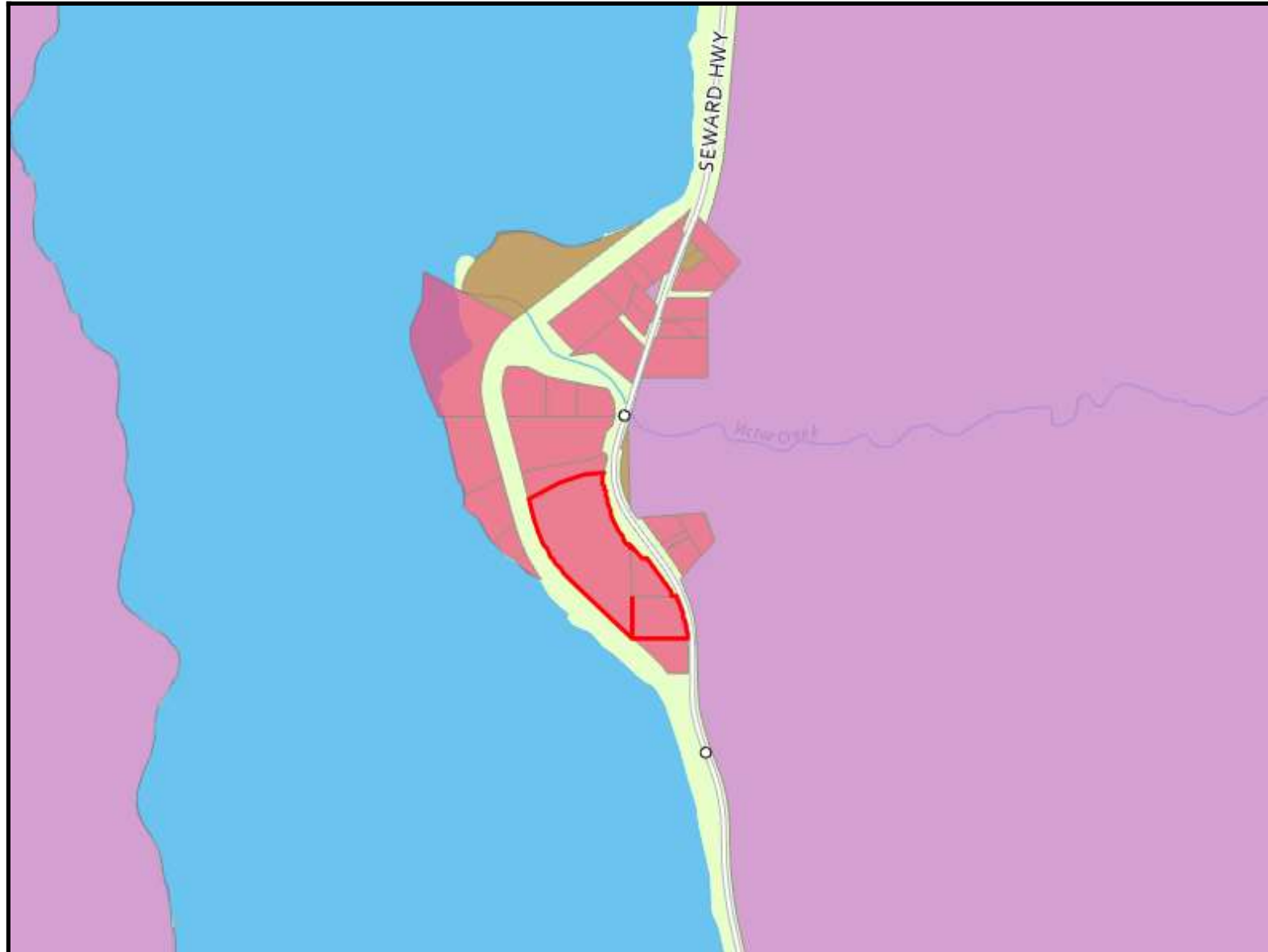
Map created by Raidmae, Ryan  
Tuesday, August 20, 2024

The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



Ownership Map

Colaska Inc DBA QAP, Laydown Yard






**Project Area**

**KPB Parcel(s):**

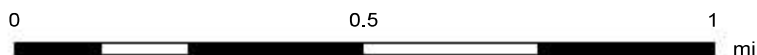
12509028, 12509011, 12509010

Parcel Ownership Type

Parcel Ownership

-  Federal
-  Private
-  State

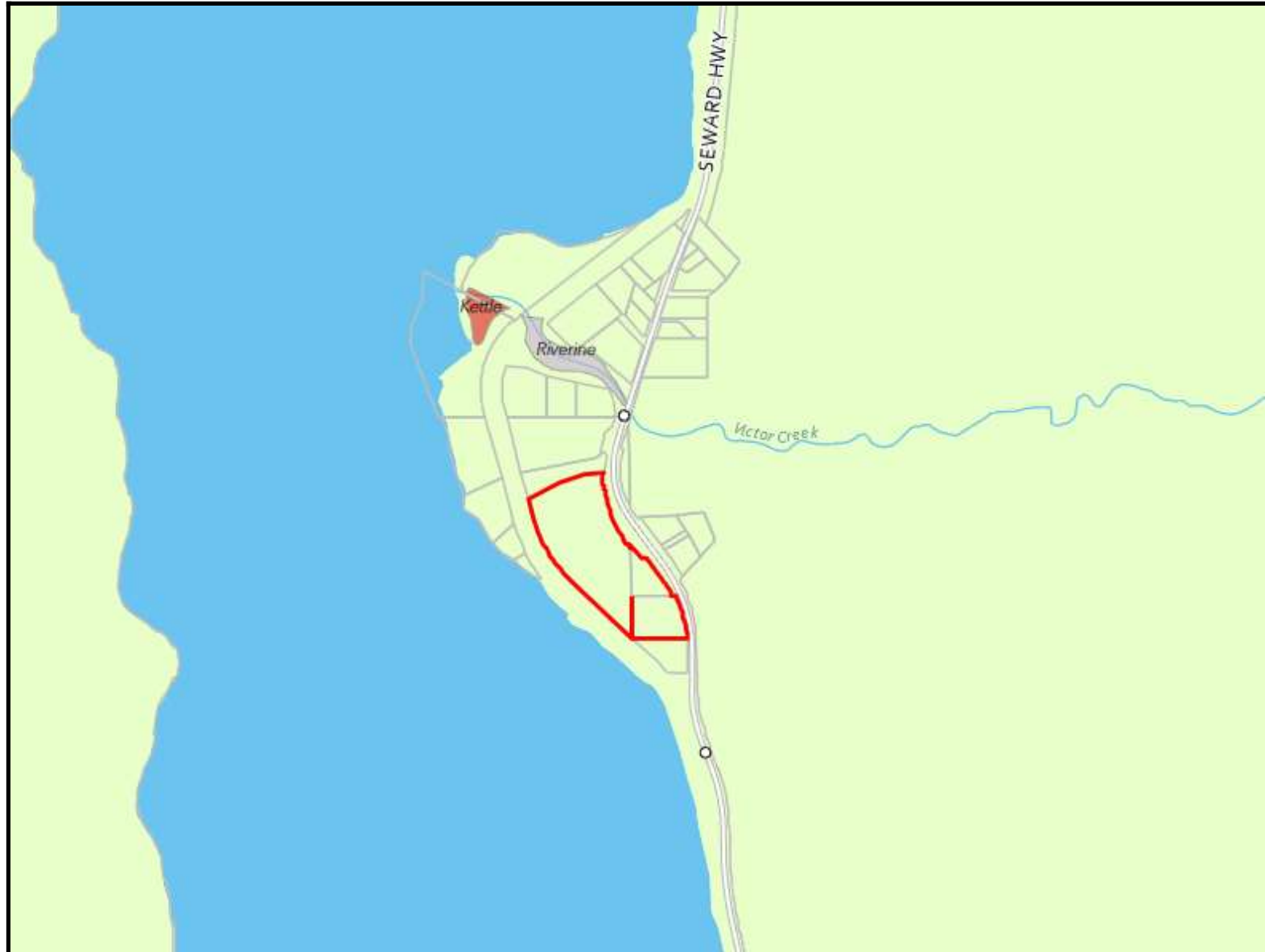
Map created on Tuesday,  
August 20, 2024





Wetlands Map

Colaska Inc DBA QAP, Laydown Yard



**Project Area**  
**KPB Parcel(s):**  
12509028, 12509011, 12509010

Tax Parcels

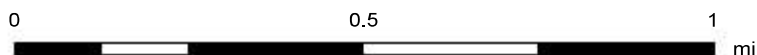


Landcover Features

KWF Wetlands Assessment

- DISTURB
- Depression
- Discharge Slope
- Drainageway
- Floating Island
- Headwater Fen
- Kettle
- LAKE
- Lakebed
- Late Snow Plateau
- Riverine
- Tidal
- Wetland / Upland Complex











Map created on Tuesday,  
August 20, 2024



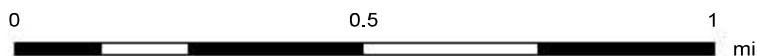


## Habitat Protection Area Map Colaska Inc DBA QAP, Laydown Yard



-  **Project Area**  
**KPB Parcel(s):**  
12509028, 12509011, 12509010
- Tax Parcels  

- Habitat  
KPB 2118 - KPB 2118 Districts
- KPB 2118 - KPB 2118 Anadromous Streams
-  Exempt
  -  Managed
  -  Unregulated
  -  others
- KPB 2118 - KPB 2118 Anadromous Lakes and Areas
-  Exempt
  -  Managed
  -  Unregulated
  -  n/a

Map created on Tuesday,  
August 20, 2024





LOZ and Materials Sites Map  
Colaska Inc DBA QAP, Laydown Yard



**Project Area**  
**KPB Parcel(s):**  
12509028, 12509011, 12509010

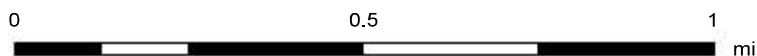
Tax Parcels



Material Sites



Map created on Tuesday,  
August 20, 2024





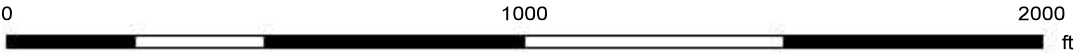
**Terrain Map**

**Colaska Inc DBA QAP, Laydown Yard**

 **Project Area**

**KPB Parcel(s):**  
12509028, 12509011, 12509010

Tax Parcels  

**Conditional Land Use Permit  
Materials Site  
Staff Report**

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<b>PC Res No.</b>	2024-13
<b>Planning Commission Meeting:</b>	Monday, September 9, 2024
<b>Applicant</b>	COLASKA INC DBA QAP
<b>Mailing Address</b>	240 W. 68th Ave., Anchorage, AK 99518
<b>Legal Description</b>	RENFRO'S LAKESIDE RETREAT NO 6 LOT 2F EXC THAT PTN CONVEYED TO STATE OF AK DOT IN WD 2017-633, LAKEVIEW GROUP OF HOMESITES-USS 2534 LOT I (HS 88) and LOT J (HS 60)
<b>Physical Address</b>	27083 Seward Hwy
<b>KPB Parcel Number</b>	12509028, 12509010 and 12509011

**Project Description**

The applicant wishes to obtain a Conditional Land Use Permit Modification, to Permit Resolution 2022-21, to allow the permit area to expand and to add two additional access points along the Seward Highway. A third access will be constructed along the Alaska Railroad Right of Way.

The site plan indicates that the material haul route will access the site from three locations, corresponding to parcels 12509028, 12509010 and 12509011. Each access will lead directly to the Seward Highway. A fourth access will be constructed, on the West Side of parcel 12509028, that will allow train cars to be loaded with material.

The site plan and application propose the following buffers:

- North: 50 ft. of natural or improved vegetation
- South: 50 ft. of natural or improved vegetation
- East: 50 ft. of natural or improved vegetation
- West: 50 ft. of natural or improved vegetation

The subject property is bordered on the North and South by occupied private property. On the East and West sides of the property are the Right of Ways of the Seward Highway and Alaska Railroad Cooperation.

The site plan completed by McLane Consulting Inc., states ground water is deeper than 10 feet below the existing surface based on five test holes. Existing wells adjacent to the property collect groundwater from a depth of 42 to 52 feet based on data from Alaska Department of Natural Resources Well Log Tracking System. Monitor wells have not been installed at the site. The application states that no excavation of material is planned for this site, but suitable material is found to a depth of 10 feet. Plan notes state that there are no wetlands or surface waters within the property boundaries. A central area will be maintained for processing, screening, crushing and making asphalt pavement. This processing area is greater than 300 feet from all property lines except the Western line. The site plan shows that the Western property line is 157 feet from the processing area. The applicant requests a waiver from the 300 feet processing

distance on the West side of the property due to the approximately 180 feet of adjacent Railroad Right of Way. Native vegetation will provide surface water protection by way of phytoremediation, according to the McLane report. The site plan also indicates one well is located within 100 feet of the property boundary.

Plan notes state that reclamation will include stabilization of the gravel pad and re-contouring using strippings, overburden, waste import and topsoil to a condition that allows for the re-establishment of natural vegetation outside the gravel pad area. Slopes steeper than 2:1 will be seeded. The application also states that 2-5 acres will be reclaimed each year and reclamation will be completed annually before the growing seasons ends.

The applicant estimates using the site as a processing, storage and laydown facility for four years.

### **Public Notice**

Public notice of the application was mailed on 8/21/2024 to the 37 landowners or leaseholders of the parcels within a half-mile of the subject parcel. Public notice was sent to the postmaster covering the Moose Pass vicinity requesting that it be posted at the Post Office.

### **Agency Review**

Agency review was distributed on August 16, 2024 to pertinent KPB staff and other agencies.

### **Findings of Fact pursuant to KPB 21.25 and 21.29:**

1. KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough.
2. KPB 21.29 governs material site activity within the rural district of the Kenai Peninsula Borough.
3. KPB 21.29 provides that a Conditional Land Use Permit is required for material extraction that disturbs more than 2.5 cumulative acres or processes material.
4. A public hearing of the Planning Commission was held on Monday, September 9, 2024 and notice of the meeting was published, posted, and mailed in accordance with KPB 21.25.060 and KPB 21.11.
5. The proposed cumulative disturbed area within the parcel is approximately 21.1 acres.

### **Parcel Boundaries**

6. All boundaries of the subject parcel shall be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter. Field verification and staking will require the services of a professional land surveyor. The site plan indicates the property boundary within 300 feet of the work area was staked in 2024.

### **Buffer Zone**

7. A buffer zone shall be maintained around the excavation perimeter or parcel boundaries. The site plan and application propose the following buffers, which shall not overlap an easement:
  - a. North: 50 ft. of natural or improved vegetation
  - b. South: 50 ft. of natural or improved vegetation
  - c. East: 50 ft. of natural or improved vegetation
  - d. West: 50 ft. of natural or improved vegetation

8. A 2:1 slope shall be maintained between the buffer zone and excavation floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.
9. Per KPB 21.19.050(A)(c), buffers provided using vegetation and/or a fence shall be of sufficient height and density to provide visual and noise screening of the proposed use as deemed appropriate by the planning commission.
10. Buffers shall not cause surface water diversion which negatively impacts adjacent properties or waterbodies.
11. At its discretion, the planning commission may waive buffer requirements where the topography of the property or the placement of natural barriers makes screening not feasible or not necessary. Buffer requirements shall be made in consideration of and in accordance with existing uses of adjacent property at the time of approval of the permit. There is no requirement to buffer the material site from uses which commence after the approval of the permit.

### **Processing**

12. The applicant indicates that material processing will take place on the property. Any equipment used for conditioning or processing materials will be operated at least 300 feet from the North, East and South parcel boundaries.
13. The applicant requests a waiver to process materials within 157 feet of the West property line.
14. Any equipment used for crushing rock or other materials will not be operated between 10:00 p.m. and 6:00 a.m., to minimize noise disturbance to other properties.

### **Water Source Separation**

15. Material extraction is prohibited within 100 horizontal feet of any water source existing prior to the original permit issuance.
16. The site plan indicates that there is 1 well located within 300 feet of the proposed laydown area.
17. The applicant is required to maintain a 2-foot vertical separation from the seasonal high-water table.
18. The application indicates that the seasonal high-water table is greater than 12 feet below grade and was determined by test holes excavated by applicant.
19. The applicant may not dewater by pumping, ditching or some other form of drainage unless an exemption is granted by the planning commission.

### **Excavation in the Water Table**

20. The application states that work is not anticipated to be completed in the water table.

### **Waterbodies**

21. The site plan states that there are no wetlands or surface waters within the proposed excavation area.
22. An undisturbed buffer shall be left and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains as defined in KPB 21.06. In order to prevent discharge, diversion, or capture of surface water, an additional setback from lakes, rivers, anadromous streams, and riparian wetlands may be required.

### **Fuel Storage**

23. The applicant is required to store fuel containers larger than 50 gallons in impermeable berms and basins capable of retaining 110 percent of storage capacity. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.

### **Haul Route**

24. The site plan indicates that the material haul route will be as follows: Haul route will access the site from three locations, corresponding to parcels 12509028, 12509010 and 12509011. Each access will lead directly to the Seward Highway. A fourth access will be constructed, on the West Side of parcel 12509028, that will allow train cars to be loaded with material.

### **Roads**

25. Operations shall be conducted in a manner so as not to damage borough roads as required by KPB 14.40.175 and will be subject to the remedies set forth in KPB 14.40.

### **Dust Control**

26. Dust suppression is required on haul roads within the boundaries of the material site by application of water or calcium chloride.

### **Hours of Operation**

27. Rock crushing equipment may only be operated between 6:00 a.m. and 10:00 p.m.

### **Reclamation**

28. The applicant has submitted a reclamation plan consistent with KPB 21.29.050(12)(a).  
29. No extraction of material is proposed.  
30. Material sites that exceed 50,000 cubic yards per year must meet the bonding requirement of KPB 21.29.050(12)(b). The amount of bond will be according to AS 27.19.040 unless the State of Alaska waives these requirements. In the case of a waiver the Kenai Peninsula Borough (KPB) would require the applicant to post bond to cover the anticipated reclamations costs and will be in the amount to be determined by the planning director as stated in KPB 21.29.050.

### **Other Permits**

31. The permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the Borough's floodplain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives.

## **Signage**

32. For permitted parcels on which the permittee does not intend to begin operations for at least 12 months after being granted a Conditional Land Use Permit, the permittee shall post notice of intent on parcel corners or access, whichever is more visible. Sign dimensions shall be no more than 15" by 15" and must contain the following information: the phrase "Permitted Material Site" along with the permittee's business name and a contact phone number.

## **Permit Conditions**

1. The boundaries of the subject parcel shall be staked at sequentially visible intervals where the parcel boundaries are within 300 feet of the excavation perimeter. Stakes must be in place and visible as long as the material site is permitted.
2. The permittee shall maintain the following buffers around the excavation perimeter or parcel boundaries. The site plan and application propose the following buffers, which shall not overlap an easement:
  - a. North: 50 ft. of natural or improved vegetation
  - b. South: 50 ft. of natural or improved vegetation
  - c. East: 50 ft. of natural or improved vegetation
  - d. West: 50 ft. of natural or improved vegetation
3. The permittee shall maintain a 2:1 slope between the buffer zone and pit floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.
4. The permittee shall not allow buffers to cause surface water diversion which negatively impacts adjacent properties or water bodies.
5. The permittee shall operate all equipment which conditions or process material at least 300 feet from the North, East and South parcel boundaries. The applicant requests a waiver from the 300-foot processing distance on the West side of the property.
6. The permittee shall not extract material within 100 horizontal feet of any water source existing prior to issuance of this permit.
7. The permittee shall maintain a 2-foot vertical separation from the seasonal high-water table.
8. The applicant may not dewater by pumping, ditching or some other form of drainage unless an exemption is granted by the planning commission.
9. The permittee shall maintain an undisturbed buffer and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and regulatory floodplains.
10. The permittee shall ensure that fuel storage containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
11. The permittee shall notify the planning department of any further subdivision or return to acreage of this parcel. The planning director may issue a written exemption from the permit amendment requirement if it is determined that the subdivision is consistent with the use of the parcel as a material site and all original permit conditions can be met.
12. The permittee shall conduct operations in a manner so as not to damage borough roads as required by KPB 14.40.175, and will be subject to the remedies set forth in KPB 14.40 for

violation of this condition.

13. The permittee shall provide dust suppression on haul roads within the boundaries of the material site by application of water or calcium chloride.
14. The permittee shall not operate rock crushing equipment between the hours of 10:00 pm and 06:00 am.
15. The permittee shall reclaim the site as described in the reclamation plan for this parcel and approved by the planning commission.
16. The permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the Borough's floodplain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives.
17. The permittee shall post notice of intent on parcel corners or access, whichever is more visible if the permittee does not intend to begin operations for at least 12 months after being granted a conditional land use permit. Sign dimensions shall be no more than 15" by 15" and must contain the following information: the phrase "Permitted Material Site" along with the permittee's business name and a contact phone number.
18. The permittee shall operate in accordance with the application and site plan as approved by the planning commission. If the permittee 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.
19. This Conditional Land Use Permit is subject to annual review by the planning department to ensure compliance with the conditions of the permit. In addition to the penalties provided by KPB 21.25.090, the planning commission may revoke a permit issued pursuant to this chapter if the permittee fails to comply with the provisions of this chapter or the conditions of the permit. The planning director shall provide at least 30 days written notice to the permittee of a revocation hearing before the planning commission.
20. Once effective, this Conditional Land Use Permit is valid for five years. A written request for permit extension must be made to the planning department at least 30 days prior to permit expiration, in accordance with KPB 21.29.070. The request must be accompanied by the applicable permit renewal and recording fees.
21. All permits, permit extensions, modified permits, prior existing uses, and terminations shall be recorded.
22. The Planning Department is responsible for filing the Planning Commission resolution. The applicant will provide the recording fee for the resolution to the Planning Department.

### **Staff Recommendation**

In reviewing 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 subject to the conditions and findings listed conditions, and adopt the findings of fact subject to the following: Filing of the PC Resolution in the appropriate recording district after the deadline to appeal the Planning Commission's approval has expired (15 days from the date of the notice of decision) unless there are no parties with appeal rights.

### **Material Site Standards**

1. The proposed activity must protect against lowering of water sources serving other properties. Findings 15-22 and Conditions 6-9 appear to meet this standard.
2. The proposed activity must protect against physical damage to adjacent properties. Findings 6-11 and Conditions 1-4, 10, 12 appear to meet this standard.
3. The proposed activity must minimize the off-site movement of dust. Findings 12, 26 and Condition 13 appear to meet this standard.
4. The proposed activity must minimize noise disturbance to other properties. Findings 7, 9, 12, 14, 27 and Conditions 2, 5, 14 appear to meet this standard.
5. The proposed activity must minimize visual impacts. Findings 7, 9 and Condition 2 appear to meet this standard.
6. The proposed activity must provide for alternate post-mining land uses. Findings 28-30 and Condition 15 appear to meet this standard.

### **Attachments**

1. Maps
2. Application
3. Site Plan
4. Land Use Agreements
5. Staff Report
6. Resolution
7. Public Hearing Notice
8. Public Comment

**NOTE: Any party of record may file an appeal of a decision of the Planning Commission in accordance with the requirements of the Kenai Peninsula Borough Code of Ordinances, Chapter 21.20.250. An appeal must be filed with the Borough Clerk within 15 days of date of the notice of the decision using the proper forms and be accompanied by the filing and records preparation fee.**

**END OF STAFF REPORT**

## KPB 21.29

# Conditional Land Use Permit Application

For a new or modified Sand, Gravel or Material Site

### I. APPLICANT INFORMATION

☐ New

☒ Modification

Applicant Colaska Inc. DBA QAP c/o Matt Schram Landowner Colaska Inc. DBA QAP  
Address 240 W 68th Avenue Address 240 W 68th Avenue  
City, State, Zip Anchorage, Alaska 99518 City, State, Zip Anchorage, Alaska 99518  
Telephone 907-350-8467 Cell \_\_\_\_\_ Telephone \_\_\_\_\_ Cell \_\_\_\_\_  
Email dbelanger@colaska.com Email \_\_\_\_\_

### II. PARCEL INFORMATION

KPB Tax Parcel ID# 12509028, 12509010 & 11 Legal Description T3N R1E Section 18 SM Renfro's Lakeside Retreat  
No. 6 Lot 2F Excl ptn conveyed to SOA DOT in WD 2017-633 & Lakeview Groups Homesites USS2534 Lot I & Lot J

If permit is not for entire parcel, describe specific location within parcel to be material site, e.g., "N1/2 SW1/4 NE1/4 – 10 acres", or "5 acres in center of parcel".

### III. APPLICATION INFORMATION

☒ "Check" boxes below to indicate items included.

- ☒ \$1,000.00 permit processing fee payable to: Kenai Peninsula Borough. (Include Parcel # on check comment line.)
- ☒ Site Plan, to scale, prepared by a professional surveyor (licensed and registered in Alaska) showing, where applicable:
- |   |   |
|---|---|
| <input checked="" type="checkbox"/> parcel boundaries   | <input checked="" type="checkbox"/> location/depth of testholes, and depth to groundwater, if encountered |
| <input checked="" type="checkbox"/> location of boundary stakes within 300 ft. of excavation area (to be in place at time of application) | <input checked="" type="checkbox"/> location of all wells within 300 ft. of parcel boundary               |
| <input checked="" type="checkbox"/> proposed buffers, or requested buffer waiver(s)   | <input checked="" type="checkbox"/> location of water bodies on parcel, including riparian wetlands       |
| <input checked="" type="checkbox"/> proposed extraction area(s), and acreage to be mined  | <input checked="" type="checkbox"/> surface water protection measures                                     |
| <input checked="" type="checkbox"/> proposed location of processing area(s)   | <input checked="" type="checkbox"/> north arrow and diagram scale   |
| <input checked="" type="checkbox"/> all encumbrances, including easements   | <input checked="" type="checkbox"/> preparer's name, date and seal  |
| <input checked="" type="checkbox"/> points of ingress and egress  |   |
| <input checked="" type="checkbox"/> anticipated haul routes   |   |
- ☒ Site Plan Worksheet (attached)
- ☒ Reclamation Plan (attached) and bond, if required. Bond requirement does not apply to material sites exempt from bonding requirements pursuant to AS 27.19.050

**Please Note:** If a variance from the conditions of KPB 21.29 is requested, a variance application must be attached. (A variance is NOT the same thing as a waiver.)

### IV. CERTIFICATION STATEMENT

The information contained on this form and attachments are true and complete to the best of my knowledge. I grant permission for borough staff to enter onto the property for the purpose of processing the permit application.

Matthew Schram 8/1/24  
Applicant Date Landowner (required if not applicant) Date

## Site Plan Worksheet for Conditional Land Use Permit Application

Use additional space provided on next page, if necessary. Indicate item # next to comments.

Applicant Colaska, Inc. DBA QAP Owner Colaska, Inc. DBA QAP

KPB Tax Parcel ID # 12509028, 12509010 & 11 Parcel Acreage 26.0

1. Cumulative acres to be disturbed (excavation plus stockpiles, berms, etc.) 21.1 acres
2. Material to be mined (check all that apply): ☐ gravel ☐ sand ☐ peat ☐ other(list) \_\_\_\_\_
3. Equipment to be used (check all that apply): ☒ excavation ☒ processing ☐ other \_\_\_\_\_
4. Proposed buffers as required by KPB 21.29.050.A.2 (check all types and directions that apply):

- ☒ 50 ft. of natural or improved vegetation  
☐ minimum 6 ft. earthen berm  
☐ minimum 6 ft. fence  
☐ other \_\_\_\_\_

- |                                       |                                       |                                       |                                       |
|---------------------------------------|---------------------------------------|---------------------------------------|---------------------------------------|
| <input checked="" type="checkbox"/> N | <input checked="" type="checkbox"/> S | <input checked="" type="checkbox"/> E | <input checked="" type="checkbox"/> W |
| <input type="checkbox"/> N            | <input type="checkbox"/> S            | <input type="checkbox"/> E            | <input type="checkbox"/> W            |
| <input type="checkbox"/> N            | <input type="checkbox"/> S            | <input type="checkbox"/> E            | <input type="checkbox"/> W            |
| <input type="checkbox"/> N            | <input type="checkbox"/> S            | <input type="checkbox"/> E            | <input type="checkbox"/> W            |

5. Proposed depth of excavation: 0 ft. Depth to groundwater: >12' ft.
6. How was groundwater depth determined? 12' testholes excavated by applicant
7. A permit modification to enter the water table will be requested in the future: \_\_\_ Yes X No
8. Approx. annual quantity of material, including overburden, to be mined: n/a cubic yards
9. Is parcel intended for subdivision? \_\_\_ Yes \_\_\_ No
10. Expected life span of site? 4 years
11. If site is to be developed in phases, describe: the excavation acreage, anticipated life span, and reclamation date for each phase: (use additional space on page 4 if necessary)

Per 2022 CLUP

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12. Voluntary permit conditions proposed (additional buffers, dust control, limited hours of operation, etc.)

- A. \_\_\_\_\_
- B. \_\_\_\_\_
- C. \_\_\_\_\_

## Material Site Reclamation Plan for Conditional Land Use Permit Application

1. All disturbed land shall be reclaimed upon exhausting the material on-site, so as to leave the land in a stable condition.
2. All revegetation shall be done with a "non-invasive" plant species.
3. Total acreage to be reclaimed each year: 2-5 acres
4. List equipment (type and quantity) to be used in reclamation:

Loader, dozer, hydroseeder

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5. Describe time schedule of reclamation measures:

Reclamation will be completed annually before the growing season ends (September). Seeding will be applied as necessary each season to areas that are depleted, are not being utilized as staging or processing, and achieve final stabilized grade in order to minimize erosion and dust. Re-establish vegetation at ARRC access.

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6. The following measures must be considered in preparing and implementing the reclamation plan, although not all will be applicable to every plan – ☒ **"check" all that apply to your plan.**

☒ Topsoil that is not promptly redistributed to an area being reclaimed will be separated and stockpiled for future use. This material will be protected from erosion and contamination by acidic or toxic materials and preserved in a condition suitable for later use.

☒ The area will be backfilled, graded and recontoured using strippings, overburden, and topsoil to a condition that allows for the reestablishment of renewable resources on the site within a reasonable period of time. It will be stabilized to a condition that will allow sufficient moisture for revegetation.

☐ Sufficient quantities of stockpiled or imported topsoil will be spread over the reclaimed area to a depth of four inches to promote natural plant growth that can reasonably be expected to revegetate the area within five years. The applicant may use the existing natural organic blanket representative of the project area if the soil is found to have an organic content of 5% or more and meets the specification of Class B topsoil requirements as set by Alaska Test Method (ATM) T-6. The material shall be reasonably free from roots, clods, sticks, and branches greater than 3 inches in diameter. Areas having slopes greater than 2:1 require special consideration and design for stabilization by a licensed engineer.

☒ Exploration trenches or pits will be backfilled. Brush piles and unwanted vegetation shall be removed from the site, buried or burned. Topsoil and other organics will be spread on the backfilled surface to inhibit erosion and promote natural revegetation.

☐ Peat and topsoil mine operations shall ensure a minimum of two inches of suitable growing medium is left or replaced on the site upon completion of the reclamation activity (unless otherwise authorized).

☐ Ponding will be used as a reclamation method. (Requires approval by the planning commission.)

### ADDITIONAL APPLICATION COMMENTS

(Please indicate the page and item # for which you are making additional comments.)

The purpose of the MCLUP is to expand the CLUP permit area and add additional ingress/egress to the CLUP.

QAP has entered an agreement (see attached) with the Owner of PID 12509010 & 192509011 to utilize the property immediately adjacent to the CLUP area for additional stockpile, sorting and laydown. This will expand the permit area by up to 6.9 acres. The well on PID 12509011 has been decommissioned in 2023 after a structure fire on the property.

Native vegetation buffer is to be maintained on exterior boundaries of the the MCLUP area. Expansion to these lots adds a additional existing access directly to the Seward Highway at the northwest corner of PID 12509010 & 1250901.

QAP has entered into a contract with ARRC to export materials directly by rail from the CLUP site. The MCLUP adds a 100' access to the ARRC right-of-way, as shown on the exhibits. This access is not a typical ingress/egress. It is a clearing/break in the vegetative buffer that allows machinery to load rail cars at this location. This access will be re-vegetated at the completion of the ARRC project. The agreement with ARRC is included.

# MODIFICATION TO CONDITIONAL LAND USE PERMIT MATERIAL SITE KPB PID 12509028 PC RESOLUTION 2022-21

APPLICANT / PROPERTY OWNER:  
COLASKA, INC. DBA QAP  
240 W. 68TH AVE.  
ANCHORAGE, AK 99518

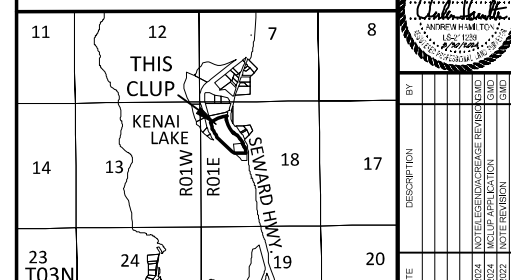


SCALE

0 200 500  
FEET

## VICINITY MAP

Scale 1" = 1 Mile



REV	DATE	DESCRIPTION
1	12/31/2024	NOTICE OF RECORDATION
2	12/31/2024	NOTICE OF RECORDATION
3	12/31/2024	NOTICE OF RECORDATION
4	12/31/2024	NOTICE OF RECORDATION

## LEGEND

- PROPERTY LINE
- - - SECTION LINE
- ⊕ PRIMARY MONUMENT
- - - EXISTING TRAIL
- X INTERVISIBLE FLAGGING
- ⊕ TESTHOLE (APPROX. LOCATION)
- ~ ~ ~ PROPOSED BUFFER TREELINE

## MCLUP DEVELOPMENT NOTES

1. THIS PERMIT APPLICATION IS KPB PARCEL 12509028, 12509010, AND 12509011, TOWNSHIP 3N, RANGE 01E, SECTION 18 SEWARD MERIDIAN.
2. PID 12509028 IS PERMITTED AS A PROCESSING, STORAGE, AND LAYDOWN FACILITY TO BE UTILIZED DURING AN ADOT SEWARD HIGHWAY PROJECT. THE MCLUP EXPANDS THE PERMIT FOOTPRINT INTO PID 12509010 AND 12509011. THIS AREA WILL BE UTILIZED FOR STOCKPILING AND SORTING MATERIAL ALONG WITH EQUIPMENT LAYDOWN.
3. THE MCLUP ADDS ADDITIONAL INGRESS/EGRESS: TWO (2) TO THE SEWARD HIGHWAY AT NORTHEAST CORNER OF PID 12509010 AND PID 12509011 AND ONE ACCESS DIRECTLY TO THE ARRC RIGHT-OF-WAY.
4. THE WELL ON PID 12509011 HAS BEEN DECOMMISSIONED AFTER A FIRE DESTROYED THE STRUCTURE ON THE PARCEL.
5. 50' (OR GREATER) NATIVE VEGETATION BUFFERS ARE MAINTAINED ON ALL SIDES.
6. BOUNDARY FLAGGING OF PID 12509025 SHOWN HEREON IS FROM 2022 MCLANE SURVEY, BOUNDARY FLAGGING OF PID 12509010 & 12509011 PERFORMED BY MCLANE CONSULTING AUGUST 2024.
7. RIGHTS-OF-WAY SHOWN HEREON ARE PER WARRANTY DEEDS 2016-001482-0 (LOT I), 2016-001483-0 (LOT J), 2017-000633-0 (LOT 2F), 2018-000131-0 (LOT J) RECORDED IN THE SEWARD RECORDING DISTRICT, STATE OF ALASKA.

PROCESS AREA  
2.4 ACRES

STOCKPILE AND MATERIAL STAGING  
19.4 ACRES W/ BUFFERS

OFFICE/STAGING/PARKING  
1.0 ACRES

QAP  
SEWARD MP 20  
MODIFICATION TO CLUP



McLane Consulting Inc.

ENGINEERING - TESTING  
SURVEYING - MAPPING  
P.O. BOX 468  
SOLDOTNA, AK 99589  
VOICE: (907) 283-4218  
FAX: (907) 283-3265  
WWW.MCLANECO.COM

DRAWN BY: BGG/GMD

CHECKED BY: GMD

HORIZ. SCALE: 1" = 200'

VERT. SCALE: N/A

SHEET: P1

ARRC Contract No. **21089**

SPECIAL LAND AND TRACK USE PERMIT

PERMITTEE: **COLASKA, INC DBA QAP**

ADDRESS: **240 W. 68<sup>th</sup> Ave., Anchorage, Alaska 99518**

PERMIT AREA/DESCRIPTION: **A portion of the track between ARRC Mileposts 18 to 22, as necessary, to offload at thirteen (13) different culvert locations along Kenai Lake and a central location within the ARRC ROW at approximate ARRC Milepost 19.5, adjacent to the permittee's property to prepare a pad to store material ahead of the transloading, and an adjacent area as further directed by the ARRC Superintendent, Transportation, or his designee, as more specifically provided herein.**

RECITALS

A. Permittee wishes to obtain a permit to use the above-described Permit Area and ARRC facilities.

B. The Alaska Railroad Corporation ("ARRC") is willing to grant Permittee a permit for such use, but only on the terms and conditions set forth herein.

AGREEMENT

1. Grant of Permit/Use by Permittee: ARRC hereby grants to Permittee a non-exclusive revocable permit ("Permit") to occupy and use the above-described Permit Area and ARRC facilities for the limited purposes and upon the terms and conditions set forth herein. The Permittee may use the Permit Area only for the following limited purposes: **transload riprap, pipe beddings, ditch lining, D1, filter blanket and ballast.** In the event Permittee desires to conduct activity within twenty (20) feet of the centerline of the ARRC tracks, it shall arrange with the ARRC for flag protection and otherwise comply with the requirements of the Standard Specifications referred to in Section 8 below.

2. ARRC Use: ARRC reserves for itself, its successors, assigns, permittees and licensees, the right to use the Permit Area for any purpose whatsoever, including without limitation transportation, communication and transmission purposes, which shall be deemed to include but not be limited to the construction, maintenance and operation of existing and additional tracks and of existing and additional pipes, communication and power transmission lines, drainage ditches or any other facilities located upon, over and beneath the Permit Area.

3. Specific Restrictions in Permit Area:

3.01 Permittee acknowledges that safety is a primary consideration and that in any area marked "clear zone" on the drawing of the Permit Area attached to this Permit, no structure will be allowed that would restrict the visibility from the track, or if in the vicinity

of road crossings, would restrict the visibility of motor vehicles. The opinion of ARRC's Chief Engineer will be final regarding any disagreement regarding safety issues. No improvement or facility, including temporary structures and fences, may be constructed in the Permit Area without prior written approval of ARRC. If the Permit Area is within an area governed by local building or land use regulations, any construction must comply with such regulations.

3.02 All Permittee personnel working in the Permit Area shall attend an initial safety briefing provided by ARRC staff.

3.03 The general contour of the Permit Area shall not be altered without prior written approval from ARRC. No excavation work shall be performed upon the Permit Area. Permittee's use of the Permit Area shall not interfere with the construction, maintenance, repair, use or operation of any railroad facility, drainage ditch, or related facilities, which may be located upon, over or under the Permit Area. Watering and irrigation shall be done in such a manner that there will be no flooding or fouling of ARRC's roadbed.

3.04 **Omitted.**

3.05 No utilities of any nature are provided by ARRC under this Permit.

A. Permittee may make arrangements with other parties for access to and use of water; provided, however, that placement of hoses or other water facilities may not impede rail operations and must be coordinated with the ARRC Superintendent, Transportation.

B. Permittee may install portable toilet facilities for use of its personnel as directed by the ARRC Superintendent, Transportation. Such facilities shall not be located within twenty (20) feet of any track.

3.06 Permittee may have **the equipment necessary to perform their operations during active unloading.** Vehicles will be allowed on the Permit Area only, and not on other property of ARRC or on ARRC's right-of-way, subject to the restrictions of this paragraph.

3.07 Routine maintenance of the track (including snow removal) shall be performed by ARRC, at its own expense. The cost of any repairs or maintenance to the track or any other property (real or personal) of ARRC reasonably determined to be necessary by ARRC and caused by Permittee's activities on and about the Permit Area shall be paid by Permittee within thirty (30) days of billing therefor.

3.08 ARRC shall have the right to enter the work area of Permittee at all times for the purposes of inspecting the track, maintaining and operating along the track, and determining whether Permittee is operating in accordance with the terms of this Permit. If, in the sole judgment of the ARRC, any such inspection discloses an unsafe condition or other breach of this Permit, ARRC shall have the right to withdraw the track from service until it is repaired in accordance with this Permit or the unsafe condition is otherwise corrected, or, at ARRC's option, treat the condition as a default under Paragraph 9 of this Permit.

4. Term: This Permit shall be for a term of **Eleven (11) months** commencing **July 1, 2024**, and ending **May 31, 2025**, provided that each party shall have the absolute right to terminate this Permit at any time upon thirty (30) days written notice to the other party. Any continued use of the Permit Area by Permittee after the expiration of the original term, absent prior ARRC approval, shall be under the same terms and conditions as this Permit. Permittee's obligation to pay the monthly Permit Fee set forth in Section 6, and all other affirmative obligations of Permittee under this Permit, will continue until all of the following have occurred: (i) the Permit has either expired or notice of termination has been given by one of the parties; (ii) Permittee has removed any personal property from the Permit Area; and (iii) Permittee has restored the Permit Area pursuant to Section 11 of this Permit.

5. Assignment: This Permit is personal to Permittee and may not be assigned or transferred in any manner, including by operation of law, without prior written consent of ARRC. Any attempt to assign or transfer this Permit without such prior written consent shall cause immediate termination of the Permit.

6. Permit Fee: As consideration for the use of the Permit Area, Permittee shall pay a monthly fee of **One Thousand and no/100 Dollars (\$1,000.00)** ("Permit Fee"), due in advance. However, at each subsequent extension of the permit term, the annual Permit Fee shall be adjusted to ARRC's then-current fee for similar permits. If the Permit is terminated by either party pursuant to Section 4 before the due date for any payment of the annual fee, the Permittee shall be entitled to a refund of a pro-rated portion of the previous annual fee based on the portion of the permit-year remaining following termination of the Permit, less any other amounts due and owing by Permittee under this Permit.

7. Liability; Indemnification: Except as otherwise stated in this section, Permittee shall be liable for and agrees to release, indemnify, defend and hold harmless ARRC, its employees, officers and representatives from and against any and all losses and any and all claims, demands, payments, suits, actions, liabilities, judgments, damages, recoveries, fines, penalties, costs, legal expenses (including, but not limited to, reasonable attorneys' fees), of whatever kind, including sums paid in settlements of claims, attorney fees, consultant fees, expert fees, or costs incurred, made, brought or recovered against ARRC by any person or entity, including but not limited to Permittee, its agents, contractors, subcontractors, employees, invitees or customers, arising directly or indirectly from, or connected with: (1) this Permit; (2) Permittee's use or occupation of the Permit Area; (3) Permittee's operations on other ARRC property; (4) any act or omission by Permittee, its agents, contractors, employees, invitees, or customers; or (5) any failure of Permittee to comply with all applicable laws, ordinances, rules, regulations, guidelines, or other requirements imposed by any government entity now or hereafter in effect, in connection with the performance of this Permit by Permittee. The provisions contained in this Section 7 shall not be given effect if the active negligence of ARRC or its employees is the sole proximate cause of any injury or damage done to the party asserting the claim. Permittee shall give ARRC reasonable notice of any such claims or actions. Permittee shall use counsel reasonably acceptable to ARRC in carrying out its defense obligations under this Section 7. Permittee's agreement to the release, indemnity and hold harmless obligations in this Section 7 is one of the considerations upon which this Permit is granted. The release, indemnity, hold harmless and defense obligations set forth in this Section 7 shall survive the expiration or earlier termination of this Permit.

8. Compliance With Standard Specifications: Permittee will comply with all of the provisions of the Standard Specifications for Work on Railroad Property in effect on the date any work is undertaken, and shall make itself aware of such provisions and any revisions thereof during the term of this Permit. A copy of such Standard Specifications is attached hereto as "Exhibit B". If any term of this Permit conflicts with any provision in the Standard Specifications, the terms of this Permit shall control.

9. Default and Remedies.

9.01 Default. The occurrence of any one or more of the following events shall constitute a material default by Permittee.

A. The failure by Permittee to make any payments required to be made by Permittee hereunder, as and when due, where such failure shall continue for a period of five (5) days after written notice thereof from ARRC to Permittee;

B. The failure by Permittee to observe or perform any covenant, condition or provision of the Permit which, in the reasonable opinion of ARRC, substantially endangers either the person or property of ARRC or a third party, or human health or the environment, where Permittee does not commence curing the default immediately upon written notice thereof from ARRC to Permittee or does not continue to complete the cure within such reasonable time period thereafter as is imposed by ARRC or any governmental body having jurisdiction in the matter;

C. Except as otherwise provided in subparagraphs 9.01.A and 9.01.B of this Permit, the failure by Permittee to observe or perform any of the covenants, conditions or provisions of this Permit to be observed or performed by Permittee, where such failure shall continue for a period of ten (10) days after written notice thereof from ARRC to Permittee;

D. The occurrence of any of the following: (i) Permittee makes any general arrangement or general assignment for the benefit of creditors; (ii) Permittee becomes a debtor in bankruptcy; (iii) a trustee or receiver is appointed to take possession of substantially all of Permittee's assets; or (iv) substantially all of Permittee's assets are attached, executed upon or otherwise judicially seized;

E. The discovery by ARRC that any financial statement given to ARRC by Permittee, any assignee of Permittee, any successor in interest of Permittee or any guarantor of Permittee's obligation hereunder, was materially false at the time given; or

F. Vacation or abandonment of the Permit Area by Permittee.

9.02 Remedies. In the event of any material default by Permittee, ARRC may at any time thereafter, without notice or demand and without limiting ARRC in the exercise of any right or remedy which ARRC may have by reason of such default:

A. Terminate Permittee's rights under this Permit and pursue any other available remedies.

B. Maintain Permittee's rights under this Permit in which case this Permit shall continue in effect. In such event ARRC shall be entitled to enforce all of

ARRC's rights and remedies under this Permit, including the right to recover the payments due hereunder.

C. Pursue any other remedy now or hereafter available to ARRC under the laws or judicial decisions of the State of Alaska.

9.03 Interest on Late Payments. Beginning the day after a payment is due, all unpaid charges and fees required by this Permit shall accrue interest at the highest lawful contract rate in the State of Alaska as defined by AS 45.45.010(a) or any successor or replacement statute in effect at that time and as then amended. The accrual of such an interest charge shall not waive, excuse or cure any default.

10. Observance of Laws; Environmental Provisions.

10.01 General Compliance. Permittee, at all times during the Permit Term, at its own expense, and with all due diligence, shall observe and comply with all laws, ordinances, rules, and regulations which are now in effect or may later be adopted by any governmental authority, including ARRC, and which may be applicable to this Permit, the Permit Area or any use of the Permit Area by Permittee.

10.02 Environmental Laws. In furtherance and not in limitation of the foregoing paragraph, Permittee must, at its own expense, comply with all laws, ordinances, regulations and administrative agency or court orders relating to health, safety, noise, environmental protection, waste disposal, hazardous or toxic materials, and water and air quality related to Permittee's use of the Permit Area. In the event any discharge, leakage, spillage, emission or pollution of any type occurs upon or from the Permit Area during the Permit Term or any holdover thereafter, Permittee shall immediately notify ARRC and shall, at Permittee's own expense, clean and restore the Permit Area to the satisfaction of ARRC and any governmental body or court having jurisdiction of the matter.

10.03 Hazardous Materials on the Permit Area. Permittee shall not cause or permit any Hazardous Material to be brought upon, kept or used in or about the Permit Area by Permittee, its agents, employees, contractors or invitees without the prior written consent of ARRC, which ARRC shall not unreasonably withhold as long as Permittee demonstrates to ARRC's reasonable satisfaction that such Hazardous Material is necessary or useful to Permittee's business and will be used, kept and stored in a manner that complies with all laws regulating any such Hazardous Materials so brought upon or used or kept in or about the Permit Area.

10.04 Environmental Indemnity. Permittee agrees to indemnify, hold harmless and defend ARRC against all liability, cost and expense (including, without limitation, any fines, penalties, diminution in value of the Permit Area, assessment and clean-up costs, judgments, litigation costs and attorneys' fees) incurred by or levied against ARRC as a result of Permittee's breach of this section or as a result of any discharge, leakage, spillage, emission or pollution of or by a Hazardous Material by Permittee, its agents, invitees or employees, on, about, or from the Permit Area, without regard to whether such liability, cost or expense arises during or after the Permit Term. The indemnity, hold harmless and defense obligations set forth in this paragraph are in furtherance of and in addition to, and do not serve to limit in any way, the release, indemnity, hold harmless and defense obligations set forth arising under Section 7 of this Permit. The indemnity, hold

harmless and defense obligations set forth in this paragraph shall survive the expiration or earlier termination of this Permit.

**10.05 Hazardous Material.** For purposes of this Permit, the term "Hazardous Material" means any hazardous or toxic substances, material or waste, including but not limited to those substances, materials and wastes listed in the U.S. Department of Transportation Hazardous Materials Table (49 CFR § 172.101) or by the U.S. Environmental Protection Agency as hazardous substances (40 CFR Part 302) or as hazardous wastes (40 CFR Part 261.3), and amendments thereto, or such substances, materials and wastes that are or become similarly regulated under any applicable local, state or federal law.

**10.06 Environmental Testing.** ARRC may, upon the expiration or termination of this Permit, conduct environmental testing of the Permit Area to determine if any environmental impairment exists. Permittee shall be responsible for all costs and expenses associated with such tests if such impairment is discovered and the parties agree or a court of competent jurisdiction determines that the impairment resulted from a breach by Permittee of its obligations under this Permit. Payments from Permittee under this subparagraph shall be due within ten (10) days of the rendering of a bill to Permittee therefor, and shall bear interest at the highest lawful contract rate in the State of Alaska as defined by AS 45.45.010(a) or any successor or replacement statute in effect at that time and as then amended. Permittee may conduct environmental testing of the Permit area at its expense at any time and shall promptly provide to ARRC copies of all reports and data resulting therefrom.

**11. Restoration of Permit Area on Termination; Initial Joint Inspection:** Upon the expiration or termination of this Permit, Permittee shall remove from and off the Permit Area, all property owned or controlled by Permittee and shall restore the Permit Area to a clean, debris-free condition consistent with the condition prior to Permittee's use of the Permit Area and satisfactory to ARRC. If Permittee fails to meet its obligations under the preceding sentence, ARRC may perform such work at Permittee's expense. Until said property is removed and the Permit Area restored, either by Permittee or by ARRC at Permittee's expense, this Permit, with all terms contained herein, including the payment of the Permit Fee under Section 6, shall, at ARRC's option, remain in effect until said property is removed and the Permit Area is restored. The requirements of this paragraph are in furtherance of and not in limitation of any provision of the Standard Specifications referred to in Section 8.

**12. No Warranties:** ARRC does not warrant or represent that the Permit Area is safe, healthful or suitable for the purpose for which it is to be used under this Permit. The absence of markers does not constitute a warranty by ARRC that subsurface installations do not exist on, in or under the Permit Area or any part thereof.

**13. Taxes, Assessments and Charges:** If at any time during the Permit Term any new or additional taxes (other than federal or state income taxes or any other taxes existing on the effective date hereof) are assessed against the Permit Area, or any improvement thereon, or any rents payable to ARRC under this Permit, or against ARRC with respect thereto, Permittee shall pay to the taxing authority or ARRC, not less than ten (10) days before they become delinquent and as additional rents, all of such new or additional taxes.

14. Miscellaneous:

14.01 The captions of paragraphs in this Permit are for convenience of reference only and shall not be used in the construction of any term hereof.

14.02 The terms of this Permit shall inure to the benefit of any successors and assigns of ARRC, and, subject to the provisions of Section 5, to the successors and assigns of Permittee.

14.03 This Permit represents the entire agreement of the parties with respect to the subject matter hereof, and it may not be modified except by an agreement in writing signed by both parties.

14.04 Time is of the essence with respect to any obligations to be performed under this Permit.

15. Special Conditions.

15.01 Coordination; Notice.

A. Permittee shall coordinate its entry onto the property and its intended hours of operations with ARRC personnel through **ARRC's Superintendent Transportation, at (907) 265-2266 and Freight Customer Service, at 907-265-2624.** Any notices given under this Permit by Permittee shall be made to **ARRC's Director, Real Estate, at P.O. Box 107500, Anchorage, Alaska 99510-7500.**

B. The person responsible for on-site coordination of activities under this Permit on behalf of Permittee is **Matt Schram, Project Superintendent at 907-250-9452.** Any notices given under this Permit by ARRC shall be made to **Matt Schram, Project Superintendent at mschram@colaska.com.**

15.02 All work within twenty (20) feet of the tracks, including but not limited to the dumping of material and the movement of material to locations more than twenty (20) feet from the track, shall be conducted and completed as soon as reasonably possible following the dumping of the material on the Permit Area, consistent with safety requirements. All work within twenty (20) feet of the tracks must be done under the supervision of an ARRC employee. Any work that exceeds the twelve (12) hour shift of the ARRC employee present for the unloading, will require either (i) additional ARRC support at the ARRC flagging rate, or (ii) a pause until another available ARRC employee's shift begins. Once all materials have been moved more than twenty (20) feet from the tracks, no further work, including but not limited to the use of equipment shall be allowed within twenty (20) feet of the track. The violation of this requirement shall be a material default under Section 9 and may result, at ARRC's sole discretion, in the immediate termination of this Permit.

15.03 Both the ARRC embankment and permit area must be restored to their original condition by Permittee, consistent with the requirements of Section 11 of this Permit.

15.04 Upon completion of the work to be completed under this permit, all trees, shrubs, and debris shall either be removed from the site, or chipped and spread, by

Permittee as deemed necessary by ARRC. No fallen trees are to remain on the ARRC Right of Way.

**ALASKA RAILROAD CORPORATION**

Dated: 7.3.2024

By:   
Andrew Donovan  
Director, Real Estate

**COLASKA, INC DBA QAP**

Dated: 7/3/24

By: Matthew Schram  
(Please SIGN Here)  
Matthew Schram  
(Please PRINT Name)  
Project Superintendent  
(Please PRINT Title)

Attachments:

     Exhibit A – Drawing

✓ Exhibit B – Standard Specifications for Work on Railroad Property (Rev.  
05/28/2021)

## **Standard Specifications for Work on Railroad Property**

- Section 1. Definition of Terms
- Section 2. General Requirements
- Section 3. Safety Requirements
- Section 4. Insurance Requirements
- Section 5. Notice
- Section 6. Flag Protection and Protection of ARRC Traffic
- Section 7. Train Delays
- Section 8. Protection of ARRC Communication Lines
- Section 9. Road Crossings
- Section 10. Power and Communication Lines
- Section 11. Underground Utilities
- Section 12. Open Trenching
- Section 13. Excavations
- Section 14. ARRC Inspectors
- Section 15. Use of Explosives
- Section 16. Snow Removal
- Section 17. Clean-up
- Section 18. Record Drawings
- Section 19. Indemnity

## SECTION 1. DEFINITION OF TERMS

### ARRC

Alaska Railroad Corporation, P.O. Box 107500,  
Anchorage, AK 99510-7500.

### ARRC Property

all lands owned or withdrawn for the use of the  
ARRC, including the ARRC's track right-of-way and  
communications pole line right-of-way.

### Chief Engineer

the person employed by the ARRC as head of its  
Engineering Department or Branch, or his/her  
authorized representative.

### Contractor

any agent of the Permittee, including Contractors or  
subcontractors employed to construct, reconstruct,  
operate and/or maintain the Facility. The term  
"Contractor" shall be synonymous with the term  
"Permittee" when the Permittee performs the  
construction, reconstruction, operation and/or  
maintenance of the Facility with its own personnel.

### Director, Real Estate

the person authorized by the ARRC to execute  
contractual real estate agreements on behalf of the  
ARRC.

### Facility

any improvements owned by the  
Permittee/Contractor which are to be placed on  
ARRC property in accordance with written  
permission executed by ARRC and Permittee.

### Telecommunications Supervisor

the person employed by the ARRC as head of its  
Signals and Telecommunications Department or  
Branch, or his/her authorized representative.

### Permittee/Contractor

the person, company or governmental agency to  
whom the right to enter upon ARRC Property was  
given in the form of written permit, easement or  
contract executed by the ARRC and  
Permittee/Contractor.

### Track Work

all work on the line from the top of subgrade to the  
top of rail, including geotextile, when required.

### Track Materials

all hardware, excluding signals and controllers,  
associated with the running of a railroad.

## SECTION 2. GENERAL REQUIREMENTS

- 2.1 All construction, reconstruction, operation, and maintenance on ARRC Property shall be performed in compliance with these Standard Specifications for Work on Railroad Property, including all revisions thereto.
- 2.2 Failure to comply with these Standard Specifications for Work on Railroad Property shall result in the demand of ARRC to suspend all work on ARRC Property.
- 2.3 All work on or about ARRC Property shall be performed by experienced personnel in a safe and workmanlike manner in keeping with approved ARRC practices, and as specified herein. ARRC traffic and property shall be protected at all times.
- 2.4 The safety and continuity of the operation of the traffic of ARRC shall be of first importance and shall be at all times protected and safeguarded. The Permittee/Contractor and its subcontractors shall be required to perform and arrange their work accordingly. Whenever, in the opinion of the Chief Engineer or his or her representatives, the work or its performance may affect or involve the safety of ARRC's facilities and/or operation of its railroad, the method of doing such work shall first be submitted by the Permittee/Contractor to the Chief Engineer for his/her approval, without which it shall not be commenced or executed. The approval of the Chief Engineer, when given, shall not be considered as a release from responsibility or liability for any damage which ARRC may suffer, or for which it may be liable, as a result of the acts or omissions of the Permittee/Contractor, its subcontractors or employees.
- 2.5 Whenever, in the opinion of the Chief Engineer, the construction may cause a hazard to the safe operation of ARRC, ARRC may, in its discretion, place at the site of the work the required number of qualified employees to protect its operations. The providing of such employees and such other precautions as may be taken shall not relieve the Permittee/Contractor and its subcontractors from liability for the payment of damages caused by their operations. ARRC shall be the sole judge of the necessity for, and as to the number and classification of employees required. The Permittee/Contractor shall reimburse ARRC for the cost and expense incurred in providing such employees.

## SECTION 3. SAFETY REQUIREMENTS

- 3.1 The safety of personnel, property, rail operations, and the public is of paramount importance in the execution of any work on ARRC Property. The Permittee/Contractor shall comply with all Federal, State and local governmental regulations (e.g. OSHA, NESC, etc.) applicable to the construction, installation, or maintenance of any Facility. As reinforcement and in furtherance of overall safety measures to be observed by Permittee/Contractor (and not by way of limitation), the following special safety rules shall be followed while working on ARRC Property. Further railroad safety information may be obtained from the ARRC Safety Office at 907-265-2265. Safety information is also available on the ARRC website at [www.alaskarailroad.com](http://www.alaskarailroad.com).

- 3.2 ARRC flag protection is required before any activity can occur on or near a railroad operating facility such as a track, yard, bridge or shop building. For incidental work, such as surveying or inspection, an ARRC furnished flagman will provide a safety briefing prior to the commencement of the work. For any activity involving a disturbance or potential disturbance to the track, track embankment, or any railroad facility, ARRC may require the Permittee/Contractor to submit a specific Railroad Safety Plan prior to startup. Projects which involve activities which cross the tracks or are longitudinal to the tracks will require a specific Railroad Safety Plan and a one hour ARRC provided training course for Permittee/Contractor's project supervisors prior to the initiation of work on ARRC Property. Specific information on Railroad Safety Plans may be obtained from the ARRC Safety Office at 907-265-2265.
- 3.3 The Permittee/Contractor shall arrange for ARRC flag protection when performing any work within 20 feet of any track. All work within 20 feet of the track shall cease when a train passes and all Permittee/Contractor employees shall maintain a distance of at least 20 feet from the track until the train has safely passed. In addition, any work that could come within 20 feet of the track will cease when a train passes. For example, crane or pile driving activities shall stop when trains pass when the maximum boom and suspended load radius can come within 20 feet of the tracks. Pile driving shall not be done when trains are passing the work site. Vehicles and other construction equipment shall not be operated or parked closer than 20 feet from any track without ARRC flag protection.
- 3.4 In the event Permittee/Contractor will be performing construction or other activities on or in close proximity to a railroad track, the Permittee/Contractor shall be responsible for compliance with applicable Federal Railroad Administration's Roadway Worker Protection ("RWP") regulations (49 CFR 214, Subpart C) if its employees qualify as "Roadway Workers"<sup>1</sup>. Under 49 CFR 214, Subpart C, railroad contractors are responsible for the training of their employees on these regulations. All RWP related Work shall be conducted in strict compliance with the RWP safety standards set forth in 49 CFR 214, Subpart C and the Permittee/Contractor will be required to submit a Railroad Safety Plan to ARRC to demonstrate compliance with said safety standards prior to beginning any RWP related Work.
- 3.5 In the event Permittee/Contractor will be performing construction or other activities on a railroad bridge, the provisions of 49 CFR 214 regarding bridge worker safety shall apply. All bridge related work shall be conducted in strict compliance with the bridge worker safety standards set forth in 49 CFR 214 and the Permittee/Contractor will be required to submit a Railroad Safety Plan to ARRC to demonstrate compliance with said safety standards prior to beginning any bridge related work.

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<sup>1</sup> A Roadway Worker is any employee of a railroad, or of a contractor to a railroad, whose duties include inspection, construction, maintenance, or repair of railroad track, bridges, roadway, signal and communication systems, electric traction systems, roadway facilities, or roadway machinery on or near a track or with the potential of fouling a track.

#### SECTION 4. INSURANCE REQUIREMENTS

- 4.1 The Permittee/Contractor shall procure and maintain at all times while performing work on ARRC Property, and be covered by the types of insurance with the minimum limits as specified in Section 4.4.
- 4.2 Each policy specified in Section 4.4 shall be: (1) endorsed to include ARRC as an additional insured with respect to the performance of the work; (2) endorsed whereby the insurance company will notify ARRC of any material change, cancellation, non-renewal or expiration of the insurance policy in writing not less than thirty (30) days prior to the effective date; (3) endorsed with a waiver of subrogation rights in favor of ARRC; and (4) endorsed with the Alaska Suit Endorsement.
- 4.3 Prior to commencement of any work on ARRC Property, the Permittee/Contractor, shall deliver to ARRC certificate(s) of insurance showing evidence of the insurance required in Section 4.4.
- 4.4 Alaska Railroad Corporation Minimum Insurance Requirements.
  - a. Commercial General Liability insurance with limits not less than \$5,000,000 per occurrence and \$10,000,000 aggregate for Bodily Injury and Property Damage, including coverage for Premises and Operations Liability, Products and Completed Operations Liability, Contractual Liability, and Broad Form Property Damage Liability. Coverage shall not contain any exclusions for Explosion, Collapse, Underground, Rail Operations, or Work on Railroad Property.
  - b. Automobile Liability insurance on all owned, non-owned, hired and rented vehicles with limits of liability of not less than \$1,000,000 Combined Single Limit for Bodily Injury and Property Damage per each accident or loss.
  - c. Worker's Compensation insurance in accordance with the statutory coverages required by the State of Alaska and, where applicable, insurance in compliance with any other statutory obligations, whether State or Federal, pertaining to the compensation of injured employees assigned to the Work, including but not limited to Voluntary Compensation, Federal Longshoremen and Harbor Workers Act, and the Federal Employers Liability Act.
  - d. If any part of the work to be performed on ARRC Property is located within fifty feet (50') of a railroad track, then the Permittee/Contractor shall also obtain Railroad Protective Liability insurance (Alaska Railroad Corporation as named insured) with limits of liability of not less than \$5,000,000 Combined Single Limit for Bodily Injury and Property Damage per each accident or loss.

#### SECTION 5. NOTICE

- 5.1 A pre-construction meeting shall be held with ARRC's Chief Engineer and representatives of the Permittee/Contractor and subcontractors prior to the commencement of any work on ARRC Property by the Permittee/Contractor or

its subcontractors. Permittee/Contractor should coordinate the pre-construction meeting with the Project Manager identified in the Permit issued for the work.

- 5.2 The Permittee/Contractor shall give written notice to the Chief Engineer not less than ten (10) days in advance of the commencement of any construction, reconstruction or major maintenance activity on ARRC Property, in order that the necessary arrangements may be made for the protection of ARRC's operations. This notice shall include a description of the proposed work on ARRC Property, schedule of work, and the names of any Permittee/Contractor's subcontractor who may also be working on ARRC Property.

## SECTION 6. FLAG PROTECTION AND PROTECTION OF ARRC TRAFFIC

- 6.1 Whenever ARRC flag protection is required, it will be provided by ARRC at Permittee/Contractor's expense. ARRC flag protection is to ensure the safe movement of trains and other rail traffic and shall be done in strict accordance with the ARRC rules on flagging. All flag protection must be scheduled prior to any work commencing within the ARRC right-of-way.
- 6.2 ARRC will, during the progress of the work, utilize as many qualified flag people as in the opinion of the ARRC may be required for the adequate protection of ARRC traffic. All expense for providing such flagpersons shall be paid by the Permittee/Contractor to ARRC.
- 6.3 The Permittee/Contractor shall arrange with ARRC to keep itself informed on the time of arrival of all trains and shall stop any of Permittee/Contractor's operations which might be or cause a hazard to the safe passage of the train past the site of the work from ten (10) minutes before the expected arrival of the train until it has safely passed.
- 6.4 Track outages will only be approved in exceptional cases for limited durations. Prior to a proposed track outage, the Permittee/Contractor shall submit a closure plan to ARRC. The plan will describe the work to be accomplished, the equipment, manpower and other resources required, and the work schedule. Once approved by ARRC, the Permittee/Contractor shall follow the plan. ARRC reserves the right to assume control of the work to reestablish rail service if the schedule is not met. Permittee/Contractor shall bear all costs and damages which may result from failure to meet the closure schedule, in addition to the train delay charges provided for herein.

## SECTION 7. TRAIN DELAYS

- 7.1 All work on ARRC Property shall be conducted in such a manner as to prevent delays to trains or other rail traffic operated by ARRC.
- 7.2 Should any of the Permittee/Contractor's or its subcontractor's actions or activities cause delays to trains or other rail or water traffic, the agreed amount of liquidated damages shall be at the following rates and shall be collected from the Permittee/Contractor by ARRC.

Passenger trains each:	\$50 per minute of delay, 60-minute minimum charge.
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All other rail traffic:	\$50 per minute for each delay over five minutes, 30-minute minimum charge.
Rail barges, or other	No charge for delays of one hour or less; \$1,000 per hour
Connecting Carrier Vessels:	for each hour or any part of an hour thereafter with a minimum charge of \$6,000.

- 7.3 Delay time will be taken from the train sheet in ARRC's Dispatcher's Office, Anchorage for all delays and such train sheet shall be the official document by which the length of time a train is delayed will be determined. If another crew is needed to relieve the original crew, the charge shall also apply to the second crew. If such delay causes a water carrier to miss a sailing, the liquidated damage computation of time covering the period of time to the next possible sailing time shall be in addition to the length of time determined by said train sheet.

## SECTION 8. PROTECTION OF COMMUNICATION LINES & FIBER OPTIC CABLE

- 8.1 All work on ARRC Property shall be conducted in such a manner as to protect ARRC's communication facilities at all times from outages resulting directly or indirectly from the Permittee/Contractor's or its subcontractor's operations.
- 8.2 Should any of the Permittee/Contractor or its subcontractor's operations cause outages to said communications facilities, the agreed amount of liquidated damages shall be at the following rates and shall be collected from the Permittee/Contractor:

Open wire communication circuits:	\$1.00 per minute per circuit
Communication cable:	\$1.00 per minute per cable

- 8.3 A minimum charge of \$250.00 will be made for each outage plus the total repair costs. The outage time shall be that as established by ARRC's Test Board, Anchorage.
- 8.4 There shall be no equipment operated or excavation made within fifteen (15) feet of any ARRC communication pole guy, anchor, or other communications apparatus unless authorized in advance by the Telecommunications Supervisor.
- 8.5 Fiber optic cable systems are buried on ARRC's ROW Property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Contractor shall telephone the telecommunications company(ies) involved, arrange for a cable locator, and make arrangements for relocation or other protection of the fiber optic cable prior to beginning any work on ARRC's Property.

## SECTION 9. ROAD CROSSINGS

- 9.1 Whenever automatic railroad crossing signals are in the work area, these signals must remain in operating condition at all times. If, as a result of the Permittee/Contractor's or subcontractor's activities the signals become

inoperable, the crossing shall be continuously flag protected until the signals are again operable. See Section 6 for flagging specifications.

- 9.2 When regular railroad crossings are used as haul routes inside or outside the work area, flagpersons shall be provided by the Permittee/Contractor for said crossings in all situations at the discretion of the ARRC.
- 9.3 Temporary road crossings may be installed provided the Permittee/Contractor has acquired from ARRC a temporary road crossing permit for said crossing. If the crossing is not shown on the project plans as approved by ARRC, then it will be at ARRC's sole discretion whether to allow a later-requested crossing.
- 9.4 The temporary road crossing shall be constructed to the length and the standards specified in the temporary road crossing permit. All protective signs required by ARRC shall be provided and properly maintained by the Permittee/Contractor. The temporary road crossing shall be installed under ARRC flag protection in accordance with Section 6 of these specifications.
- 9.5 The flange ways of all road crossings used by the Permittee/Contractor or its subcontractor as haul routes or temporary road crossings shall be kept clean and free of gravel at all times and shall otherwise be maintained to the satisfaction of the Chief Engineer.
- 9.6 When a temporary road crossing is in use, ARRC flag protection shall be provided at all times. See Section 6 for specifications.
- 9.7 When a temporary or private road crossing is not in use, the Permittee/Contractor shall provide suitable barricades (gates with padlocks, posts driven into the ground, etc.) to prevent vehicular access to the crossing.
- 9.8 When not in use during the winter season, the temporary road crossing shall be removed. Upon completion of the work or termination of the crossing permit, the temporary crossing shall be removed and the area restored to its original condition.
- 9.9 The Permittee/Contractor agrees that all others using the private road crossing, except ARRC and its employees, shall be considered agents of the Permittee/Contractor.
- 9.10 Sight Triangles at road crossings shall be maintained by Permittee/Contractor free of vegetation and other obstructions to vision in accordance with the table entitled "Sight Triangle Distance" and as otherwise established and revised from time to time by ARRC. The Sight Triangle Distance table can be provided upon request.
- 9.11 Temporary public road crossings must be included in a traffic control plan submitted by the Permittee/Contractor to Alaska Department of Transportation (ADOT) for review and approval prior to constructing the crossing.

## SECTION 10. POWER AND COMMUNICATION LINES

- 10.1 All power and communication lines shall be designed and constructed in accordance with the current edition of the National Electric Safety Code (NESC).

- 10.2 Underground power and communication lines shall be installed in accordance with Section 11 of these specifications. Whenever an underground power or communication line crosses underneath a track, a casing pipe shall be installed for carrying such lines.
- 10.3 The minimum clearance above the top of rail of ARRC track shall be in accordance with the handbook referenced in Section 11.1, plus six (6) inches to allow for future grade raises.
- 10.4 The minimum clearance above ARRC communication lines shall be in accordance with the handbook referenced in Section 11.1.
- 10.5 Additional lines may not be added, or the characteristics of the line(s) changed without the prior written approval of ARRC's Director, Real Estate or Chief Engineer.
- 10.6 Wires shall be strung across ARRC tracks only when ARRC flag protection is provided in accordance with Section 6 of these specifications.
- 10.7 No wires shall be strung across ARRC's communications lines without first receiving prior written approval from ARRC's Telecommunication Supervisor, and such work must be accomplished only at a time and in a manner prescribed by said Telecommunication Supervisor.

#### SECTION 11. UNDERGROUND UTILITIES

- 11.1 All underground utilities, including culverts, pipelines, and underground power and communication lines, on ARRC Property shall conform to the current American Railway Engineering and Maintenance-of-way Association (AREMA) Manual for Railway Engineering.
- 11.2 Unless another method is authorized in advance and in writing by the Chief Engineer, all underground utilities shall be installed under tracks and roads by boring, jacking or tunneling.
- 11.3 Boring, jacking or tunneling shall be done under ARRC tracks only when ARRC flag protection is provided in accordance with Section 6 of these specifications.
- 11.4 The proposed plan for boring, jacking or tunneling shall be approved by the Chief Engineer prior to commencing the operation.
- 11.5 All boring, jacking or tunneling headings shall be continuously protected against any loss of ground material by shoring and/or cribbing as necessary.

#### SECTION 12. OPEN TRENCHING

- 12.1 Only when authorized in advance and in writing by ARRC shall any portion of the track be removed to allow trenching for installation of the Facility.
- 12.2 If allowed to open trench, the track may be removed from service only at the time authorized by the Chief Engineer and shall be restored to service within the time period specified by the Chief Engineer. Should the track not be restored to service within the time period specified, the agreed amount of liquidated damages shall be at the rate specified in the written authorization allowing the

open trenching or the liquidated damages in accordance with Section 7 of these specifications, whichever is greater, and shall be collected from the Permittee/Contractor.

- 12.3 All track work shall be accomplished by qualified track persons.
- 12.4 Only that portion of the track structure necessary to excavate, stockpile and install the Facility shall be removed. All track material removed shall be handled, stockpiled and relayed in a manner to avoid damage. Any material which may be damaged shall be replaced by the Permittee/Contractor at its own expense.
- 12.5 The backfill of the trench under the track and in the road bed prism shall be of the same type of material as taken out, except the top 2 feet shall be clean pit run gravel. Backfilling and compaction shall be in one-foot lifts with a compaction of 95% of maximum density in the area affecting the roadbed prism.
- 12.6 The ballast used in replacing the track shall be equal in depth and quality as that which was removed. The track shall be relayed and brought to original grade in accordance with standard ARRC practices. The track shall be resurfaced as often as necessary for a period of 12 months after completion of construction to remove any settlement that may have occurred.

#### SECTION 13. EXCAVATIONS

- 13.1 Unless authorized in advance and in writing by ARRC, the top of any excavation shall not be within 20 feet of the centerline of any track; nor shall any excavation exceed ten (10) feet in depth regardless of its proximity to track.
- 13.2 No water shall be allowed to stand in open excavations in the track area.
- 13.3 Bridging and shoring shall be adequate to safely carry ARRC traffic and the decision of the Chief Engineer pertaining to same shall be final.
- 13.4 All open excavations shall be continuously protected by flags, flares, barricades or watchpersons, as directed by ARRC.
- 13.5 No excavation shall be left open more than three days, unless authorized by the Chief Engineer.
- 13.6 ARRC embankments and cut slopes shall not be disturbed any more than necessary to accommodate the construction and shall be left in a stabilized condition.
- 13.7 ARRC ditches, culverts and roadways shall be kept clean and free of rock, gravel, construction debris and equipment at all times.

#### SECTION 14. ARRC INSPECTIONS

- 14.1 ARRC may furnish an inspector during the periods of construction on ARRC Property. The ARRC inspector will inspect the removal and replacement of tracks, excavation, backfill, necessary bridging for tracks, shoring, flagging, lighting, clearances, etc., when necessary. The ARRC inspector will work directly with the representative of the Permittee /Contractor and the decision of the ARRC inspector in matters pertaining to ARRC operations and safety shall be

final. In the event more than one shift is worked, an ARRC inspector will be required for each shift. Presence or absence of an ARRC inspector shall not relieve the Permittee /Contractor of liability for damage done to property of ARRC, or the property of ARRC lessees or permittees having installations on ARRC Property. All ARRC cost and expense for furnishing said inspector(s) shall be collected from the Permittee /Contractor.

#### SECTION 15. USE OF EXPLOSIVES

- 15.1 The use of explosives shall be done in compliance with all applicable Federal, State and local laws and ordinances regarding same.
- 15.2 No blasting of any kind will be permitted unless the Permittee/Contractor thoroughly safeguards the movement of trains and other rail traffic and personnel in the area where such blasting is being conducted. Before blasting, ARRC flag protection in accordance with Section 6 of these specifications shall be provided on each side of the blast area by the Permittee/Contractor. This flag protection shall not be removed until the track is inspected for damage from the blast.

#### SECTION 16. SNOW REMOVAL

- 16.1 Snow removal operations shall be conducted in such a manner as to not place snow (1) upon the tracks of ARRC; (2) where it interferes with the normal operation of the automatic crossing signals; or (3) where it impairs the visibility of either highway or rail traffic at the crossing.
- 16.2 Snow removal operations shall be conducted in accordance with Section 3 of these specifications.

#### SECTION 17. CLEAN-UP

- 17.1 At all times, all work and activities on ARRC Property shall be accomplished in such a manner as to keep the ARRC Property in a neat, orderly and safe condition satisfactory to ARRC.
- 17.2 Upon completion of Permittee/Contractor's work, all equipment and unused materials shall be removed and the ARRC Property shall be left in a neat and clean condition satisfactory to ARRC.
- 17.3 Should the Permittee/Contractor or its subcontractor fail to comply with Section 17.1 and 17.2 above, ARRC may perform the required clean-up. All ARRC costs and expenses for performing this work shall be collected from the Permittee /Contractor.

#### SECTION 18. RECORD DRAWINGS

- 18.1 Contractor shall provide record drawings (as-builts) of the Project to ARRC promptly upon completion of construction. In addition to record drawings, ARRC may, in its reasonable discretion, require Contractor to provide GPS data or other locational information regarding the completed Project and Contractor agrees to provide such data or information upon ARRC's request. The required method of submittal of record drawings is one hard copy for the ARRC file, to be mailed to

the ARRC Real Estate Department, and one digital copy in AutoCAD, which can be emailed to ARRC Land Services Manager at [LandServices@akrr.com](mailto:LandServices@akrr.com).

#### SECTION 19. INDEMNITY

- 19.1 To the extent not prohibited by applicable statute, Contractor shall indemnify, defend and hold harmless ARRC, its affiliates, and its and their officers, agents and employees (individually an "Indemnified Party" or collectively "Indemnified Parties") from and against any and all loss, damage, injury, death, liability, claim, demand, cost or expense (including, without limitation, attorney's, consultant's and expert's fees, and court costs), fine or penalty (collectively, "Loss") incurred by any person (including, without limitation, any Indemnified Party, Contractor, or any employee of Contractor or of any Indemnified Party) arising out of or in any manner connected with (i) any work performed by Contractor, or (ii) any act or omission of Contractor, its officers, agents or employees, or (iii) any breach of this Agreement by Contractor.
- 19.2 The right to indemnity under this Section 19 shall accrue upon occurrence of the event giving rise to the Loss, and shall apply regardless of any negligence or strict liability of any Indemnified Party, except where the Loss is caused by the sole active negligence of an Indemnified Party as established by the final judgment of a court of competent jurisdiction. The sole active negligence of any Indemnified Party shall not bar the recovery of any other Indemnified Party.
- 19.3 Contractor expressly and specifically assumes potential liability under this Section 19 for claims or actions brought by Contractor's own employees. Contractor waives any immunity it may have under worker's compensation or industrial insurance acts to indemnify the Indemnified Parties under this Section 19.
- 19.4 No court or jury findings in any employee's suit pursuant to any worker's compensation act or the Federal Employers' Liability Act against Contractor may be relied upon or used by Contractor in any attempt to assert liability against any Indemnified Party.
- 19.5 The provisions of this Section 19 shall survive the completion of any work performed by Contractor. In no event shall this Section 19 or any other provision herein be deemed to limit any liability Contractor may have to any Indemnified Party by statute or under common law.

## STANDARD LEASE AGREEMENT

This Agreement, dated March First, 2023, by and between an individual known as Kaare and Orvetta Elde of P.O. Box 2105, Seward, Alaska 99664, hereinafter known as the "Landlord",

**AND**

A business entity known as QAP, hereinafter known as the "Tenant(s)", agree to the following:

**OCCUPANT(S):** The Premises of KPB Parcels 12509010 & 12509011 are to be occupied strictly by QAP for support of the AKDOT Seward Hwy 17-22.5 Rehabilitation project. Subcontractors and other project related staff working under QAP for this project may also utilize the premises during the term of this agreement.

**OFFER TO RENT:** The Landlord hereby rents to the Tenant(s), subject to the following terms and conditions of this Agreement, two parcels located within the Kenai Peninsula Borough, #12509010 and 12509011, consisting of 1 cabin(s), 1 house(s), and multiple outbuildings consisting of sheds, shops, etc. hereinafter known as the "Premises".

**PURPOSE:** The Tenant(s) and any Occupant(s) may use the Premises as agreed upon with the Landlord.

**LEASE TERM:** This Agreement shall be a one year fixed-period arrangement beginning on March 1, 2023, and ending on February 29<sup>th</sup>, 2024, with the Tenant(s) having the option to renew at the conclusion of the term. Hereinafter known as the "Lease Term". ✓

**RENT:** Tenant(s) shall pay the Landlord in equal monthly installments of [REDACTED] (US Dollars) includes applicable Kenai Borough taxes (3% on first \$500/month) hereinafter known as the "Rent". The Rent will be due on the Fifth (5th) of every month and be paid by sending payment to the Landlord's aforementioned mailing address. X

**UTILITIES:** The Landlord shall not pay for any of the utilities and services utilized by the Tenant(s) and will be the responsibility of the Tenant(s) if they so wish to use these services.

**MAINTENANCE, REPAIRS, OR ALTERATIONS:** The Tenant(s) shall, at their own expense and at all times, maintain premises in a clean and sanitary manner, and shall surrender the same at termination hereof, in as good condition as received. The Tenant(s) may make alterations to the leased premises as agreed upon within "Additional Terms and Conditions" and with the consent of the Landlord.

**NOISE/WASTE:** The Tenant(s) agrees not to commit waste on the premises, maintain, or permit to be maintained, a nuisance thereon, or use, or permit the premises to be used, in an unlawful manner. The Tenant(s) further agrees to abide by any and all local, county, and State noise ordinances.

**COMPLIANCE WITH LAW:** The Tenant(s) agrees that during the term of the Agreement, to promptly comply with any present and future laws, ordinances, orders, rules, regulations, and requirements of the Federal, State, County, City, and Municipal government or any of their departments, bureaus, boards, commissions and officials thereof with respect to the premises, or the use or occupancy thereof, whether said compliance shall be ordered or directed to or against the Tenant(s), the Landlord, or both.

**SALE OF PROPERTY:** If the Premises is to be sold, the Tenant(s) would like first Right of Refusal to potentially purchase the Premises. If there is a new Manager, their contact details for alterations and maintenance shall be forwarded. If the Premises is conveyed to another party, the new owner shall not have the right to terminate this Agreement and it shall continue under the terms and conditions agreed upon by the Landlord and Tenant(s).

**DEFAULT:** If the Tenant(s) fails to comply with any of the financial or material provisions of this Agreement, or of any present rules and regulations or any that may be hereafter prescribed by the Landlord, or materially fails to comply with any duties imposed on the Tenant(s) by statute or State laws, within the time period after delivery of written notice by the Landlord specifying the non-compliance and indicating the intention of the Landlord to terminate the Agreement by reason thereof, the Landlord may terminate this Agreement. If the Tenant(s) fails to pay rent when due and the default continues for the time-period specified in the written notice thereafter, the Landlord may, at their option, declare the entire balance (compiling all months applicable to this Agreement) of rent payable hereunder to be immediately due and payable and may exercise any and all rights and remedies available to the Landlord at law or in equity and may immediately terminate this Agreement.

The Tenant(s) will be in default if: (a) Tenant(s) does not pay rent or other amounts that are owed in accordance with respective State laws; (b) Tenant(s), their guests, or the Occupant(s) violate this Agreement, rules, or fire, safety, health, or criminal laws, regardless of whether arrest or conviction occurs; (c) Tenant(s) abandons the Premises; (d) Tenant(s) gives incorrect or false information in the rental application; (e) Tenant(s), or any Occupant(s) is arrested, convicted, or given deferred adjudication for a criminal offense involving actual or potential physical harm to a person, or involving possession, manufacture, or delivery of a controlled substance, marijuana, or drug paraphernalia under state statute; (f) any illegal drugs or paraphernalia are found in the Premises or on the person of the Tenant(s), guests, or Occupant(s) while on the Premises and/or; (g) as otherwise allowed by law.

**DISPUTES:** If a dispute arises during or after the term of this Agreement between the Landlord and Tenant(s), they shall agree to hold negotiations amongst themselves, in "good faith", before any litigation.

**SEVERABILITY:** If any provision of this Agreement or the application thereof shall, for any reason and to any extent, be invalid or unenforceable, neither the remainder of this Agreement nor the application of the provision to other persons, entities or circumstances shall be affected thereby, but instead shall be enforced to the maximum extent permitted by law.

**SURRENDER OF PREMISES:** The Tenant(s) has surrendered the Premises when (a) the lease termination date has passed; or (b) Access to the Premise have been returned to the Landlord – whichever comes first. Upon the expiration of the term hereof, the Tenant(s) shall surrender the Premise in better or equal condition as it were at the commencement of this Agreement, reasonable use, wear and tear thereof, and damages by the elements excepted.

**RETALIATION:** The Landlord is prohibited from making any type of retaliatory acts against the Tenant(s) including but not limited to restricting access to the Premises, decreasing or cancelling services or utilities, or any other type of act that could be considered unjustified.

**WAIVER:** A Waiver by the Landlord for a breach of any covenant or duty by the Tenant(s), under this Agreement is not a waiver for a breach of any other covenant or duty by the Tenant(s), or of any subsequent breach of the same covenant or duty. No provision of this Agreement shall be considered

waived unless such a waiver shall be expressed in writing as a formal amendment to this Agreement and executed by the Tenant(s) and Landlord.

**INDEMNIFICATION:** The Landlord shall not be liable for any damage or injury to the Tenant(s), or any other person, or to any property, occurring on the Premises, or any part thereof, or in common areas thereof, and the Tenant(s) agrees to hold the Landlord harmless from any claims or damages unless caused solely by the Landlord's negligence. Prior to termination of this lease agreement, the Landlord and Tenant will inspect the premises and agree upon completion of all terms and conditions. Following completion of this agreement, the Landlord agrees to hold the Tenant(s) harmless from any damages.

**NOTICES:** Any notice to be sent by the Landlord or the Tenant(s) to each other shall use the following mailing addresses:

**Landlord's/Agent's Mailing Address**

Karl Elde, 25657 Primrose Rd, Seward, Alaska 99664

**Tenant(s)'s Mailing Address**

QAP, 240 W 68th Ave, Anchorage, Alaska, 99518

ATTN. Christine Ortega

**AGENT/MANAGER:** The Landlord does not have an Agent or Manager and all contact in regards to any repair, maintenance, or complaint must go through the Landlord through the following contact information:

Landlord's Phone Number: (907) 288-3672

Email: [julieatkinsonelde@gmail.com](mailto:julieatkinsonelde@gmail.com), [kelde907@gmail.com](mailto:kelde907@gmail.com)

**GOVERNING LAW:** This Agreement is to be governed under the laws located in the State of Alaska.

**ADDITIONAL TERMS AND CONDITIONS:**

The following terms or conditions will be included as part of this Agreement:

- Decisions and questions regarding this agreement be made between authorized QAP personnel (Matt Schram or Daryl Belanger) and Karl Elde (Representative for family)
- QAP to delineate property lines with blue/red flagging, tree clearing areas with green flagging, and Right of Way lines with orange flagging
- Remove and dispose of cabin, woodsheds, and leaning garage contained within Parcel 12509010
- Clear trees from behind cabin down towards house/shop. All stumps to be disposed of.
- Log piles from cleared trees to be placed along Right of Way on Elde's property
- Remove all debris below house and dispose of
- Remove all tractor components and salvageable items to upper gray shed
- Demolish house by end of lease agreement term
- Backfill land to elevation of existing house, top with topsoil and seed by end of lease agreement term
- Place rock and culvert within drainage ditch to access S.E. corner of Elde property abutting Viki Johnson
- Install new water well at location to be determined with Karl Elde
- Fulfill previously assigned agreement between Karl Elde and Matt Schram/Bryan Gallagher dated 2/21/2022 (attached for reference)

**AMOUNT (\$) DUE AT SIGNING**

**Security Deposit:** N/A

**ENTIRE AGREEMENT:** This Agreement contains all the terms agreed to by the parties relating to its subject matter including any attachments or addendums. This Agreement replaces all previous discussions, understandings, and oral agreements. The Landlord and Tenant(s) agree to the terms and conditions and shall be bound until the end of the Lease Term.

The parties have agreed and executed this agreement on March Third, 2023.

**LANDLORD(S) SIGNATURE**

Landlord's Signature Omessa Rae Elder

**TENANT(S) SIGNATURE**

Tenant's Signature [Signature]

~~Christine Ortega, QAP Contract Administrator~~

Chris Humphrey, QAP Area Manager

From: SCHRAM, Matt (ANQAP) mschram@colaska.com  
Subject: QAP Lease Extension  
Date: Jan 24, 2024 at 9:46:03 AM  
To: karl elde kelde907@gmail.com  
Cc: BELANGER, Daryl (ANQAP) dbelanger@colaska.com

Hello Karl,

Please see attached lease extension.

If everything looks good to you and your parents please sign it and send it back to me.

Let me know if you have any questions or concerns.

Thanks,

*Matt Schram*

*Project Superintendent*

Cell: (907) 250-9452



A COLAS COMPANY

## LEASE AMENDMENT

1. **THE PARTIES.** This Lease Amendment ("Amendment") made this 01/26/2024, is by and between:

Landlord: Kaare and Orvetta Elde ("Landlord") and

Tenant: QAP ("Tenant").

The Landlord and Tenant are each referred to herein as a "Party" and, collectively, as the "Parties."

2. **EXISTING LEASE.** The Parties agree to amend a lease signed by both the Landlord and Tenant on 01/26/2024, for the property located at KPB Parcels 12509010 & 12509011 ("Existing Lease").

3. **AMENDMENTS.** The following terms of the Existing Lease are amended as follows:

Extend the lease term from the current termination date of 2/29/24 to 10/31/24 with the option to extend the lease on a month to month bases for up to an additional two months if needed. Demolition of all existing structures currently located on leased property.

E3-43

All other portions of the terms and conditions of the Existing Lease shall remain in full force and effect.

4. **EXECUTION.** This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the date first written above.

**Landlord's Signature:** Orvetta Rae Elde Date: 01/26/2024  
**Print Name:** Kaare and Orvetta Elde

**Tenant's Signature:** Chris Humphrey Date: 1/24/24  
**Print Name:** QAP

eSign

Page 1 of 1

**KENAI PENINSULA BOROUGH PLANNING COMMISSION**

**Resolution 2024-13**

**Seward Recording District**

**A resolution granting approval of a Conditional Land Use Permit to operate a sand, gravel, or material site for parcels described as RENFRO'S LAKESIDE RETREAT NO 6 LOT 2F EXC THAT PTN CONVEYED TO STATE OF AK DOT IN WD 2017-633, LAKEVIEW GROUP OF HOMESITES-USS 2534 LOT I (HS 88) and LOT J (HS 60), Seward Recording District, Third Judicial District, State of Alaska.**

**WHEREAS,** KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough; and

**WHEREAS,** KPB 21.29 provides that a Conditional Land Use Permit is required for material extraction which includes: Endorsement II - processing; and

**WHEREAS,** on Thursday, August 1, 2024 the applicant, COLASKA INC DBA QAP, submitted to the Planning Department a Conditional Land Use Permit application for a portion of KPB Parcels 12509028, 12509010, and 12509011, which are located within the rural district; and

**WHEREAS,** public notice of the application was mailed on or before 8/21/2024 to the 37 landowners or leaseholders within a half-mile of the subject parcel pursuant to KPB 21.25.060; and

**WHEREAS,** public notice was sent to the postmaster in the Moose Pass area requesting that it be posted at the local Post Office; and

**WHEREAS,** public notice of the project was posted as pursuant to KPB 1.08.180(B)(1)(3); and

**WHEREAS,** a public hearing was held at the September 5, 2024 meeting of the Moose Pass Advisory Planning Commission; and

**WHEREAS,** a public hearing was held at the Monday, September 9, 2024 meeting of the Kenai Peninsula Borough Planning Commission;

**NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH:**

**Section 1. That the land use and operations are described and shall be conducted on KPB Parcel Number(s) 12509028, 12509010, and 12509011, RENFRO'S LAKESIDE RETREAT NO 6 LOT 2F EXC THAT PTN CONVEYED TO STATE OF AK DOT IN WD 2017-633, LAKEVIEW GROUP OF HOMESITES-USS 2534 LOT I (HS 88) and LOT J (HS 60). The total area to be disturbed under this activity is approximately 21.1**

acres. The applicant, COLASKA INC DBA QAP, proposes to add the following endorsement(s): Endorsement II - processing and will reclaim the site to a stable condition upon completion of the project.

**Section 2. Findings of Fact pursuant to KPB 21.25 and 21.29:**

1. KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough.
2. KPB 21.29 governs material site activity within the rural district of the Kenai Peninsula Borough.
3. KPB 21.29 provides that a Conditional Land Use Permit is required for material extraction that disturbs more than 2.5 cumulative acres or processes material.
4. A public hearing of the Planning Commission was held on Monday, September 9, 2024 and notice of the meeting was published, posted, and mailed in accordance with KPB 21.25.060 and KPB 21.11.
5. The proposed cumulative disturbed area within the parcel is approximately 21.1 acres.

**Parcel Boundaries**

6. All boundaries of the subject parcel shall be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter. Field verification and staking will require the services of a professional land surveyor. The site plan indicates the property boundary within 300 feet of the work area was staked in 2024.

**Buffer Zone**

7. A buffer zone shall be maintained around the excavation perimeter or parcel boundaries. The site plan and application propose the following buffers, which shall not overlap an easement:
  - a. North: 50 ft. of natural or improved vegetation
  - b. South: 50 ft. of natural or improved vegetation
  - c. East: 50 ft. of natural or improved vegetation
  - d. West: 50 ft. of natural or improved vegetation
8. A 2:1 slope shall be maintained between the buffer zone and excavation floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.
9. Per KPB 21.19.050(A)(c), buffers provided using vegetation and/or a fence shall be of sufficient height and density to provide visual and noise screening of the proposed use as deemed appropriate by the planning commission.
10. Buffers shall not cause surface water diversion which negatively impacts adjacent properties or waterbodies.
11. At its discretion, the planning commission may waive buffer requirements where the topography of the property or the placement of natural barriers makes screening not feasible or not necessary. Buffer requirements shall be made in consideration of and in accordance with existing uses of adjacent property at the time of approval of the permit. There is no requirement to buffer the material site from uses which commence after the approval of the permit.

**Processing**

12. The applicant indicates that material processing will take place on the property. Any equipment used for conditioning or processing materials will be operated at least 300 feet from the North,

East and South parcel boundaries.

13. The applicant requests a waiver to process materials within 157 feet of the West property line.
14. Any equipment used for crushing rock or other materials will not be operated between 10:00 p.m. and 6:00 a.m., to minimize noise disturbance to other properties.

#### **Water Source Separation**

15. Material extraction is prohibited within 100 horizontal feet of any water source existing prior to the original permit issuance.
16. The site plan indicates that there is 1 well located within 300 feet of the proposed laydown area.
17. The applicant is required to maintain a 2-foot vertical separation from the seasonal high-water table.
18. The application indicates that the seasonal high-water table is greater than 12 feet below grade and was determined by test holes excavated by applicant.
19. The applicant may not dewater by pumping, ditching or some other form of drainage unless an exemption is granted by the planning commission.

#### **Excavation in the Water Table**

20. The application states that work is not anticipated to be completed in the water table.

#### **Waterbodies**

21. The site plan states that there are no wetlands or surface waters within the proposed excavation area.
22. An undisturbed buffer shall be left and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains as defined in KPB 21.06. In order to prevent discharge, diversion, or capture of surface water, an additional setback from lakes, rivers, anadromous streams, and riparian wetlands may be required.

#### **Fuel Storage**

23. The applicant is required to store fuel containers larger than 50 gallons in impermeable berms and basins capable of retaining 110 percent of storage capacity. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.

#### **Haul Route**

24. The site plan indicates that the material haul route will be as follows: Haul route will access the site from three locations, corresponding to parcels 12509028, 12509010 and 12509011. Each access will lead directly to the Seward Highway. A fourth access will be constructed, on the West Side of parcel 12509028, that will allow train cars to be loaded with material.

#### **Roads**

25. Operations shall be conducted in a manner so as not to damage borough roads as required by KPB 14.40.175 and will be subject to the remedies set forth in KPB 14.40.

### **Dust Control**

26. Dust suppression is required on haul roads within the boundaries of the material site by application of water or calcium chloride.

### **Hours of Operation**

27. Rock crushing equipment may only be operated between 6:00 a.m. and 10:00 p.m.

### **Reclamation**

28. The applicant has submitted a reclamation plan consistent with KPB 21.29.050(12)(a).
29. No extraction of material is proposed.
30. Material sites that exceed 50,000 cubic yards per year must meet the bonding requirement of KPB 21.29.050(12)(b). The amount of bond will be according to AS 27.19.040 unless the State of Alaska waives these requirements. In the case of a waiver the Kenai Peninsula Borough (KPB) would require the applicant to post bond to cover the anticipated reclamation costs and will be in the amount to be determined by the planning director as stated in KPB 21.29.050.

### **Other Permits**

31. The permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the Borough's floodplain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives.

### **Signage**

32. For permitted parcels on which the permittee does not intend to begin operations for at least 12 months after being granted a Conditional Land Use Permit, the permittee shall post notice of intent on parcel corners or access, whichever is more visible. Sign dimensions shall be no more than 15" by 15" and must contain the following information: the phrase "Permitted Material Site" along with the permittee's business name and a contact phone number.

## **Section 3: Permit Conditions**

1. The boundaries of the subject parcel shall be staked at sequentially visible intervals where the parcel boundaries are within 300 feet of the excavation perimeter. Stakes must be in place and visible as long as the material site is permitted.

2. The permittee shall maintain the following buffers around the excavation perimeter or parcel boundaries. The site plan and application propose the following buffers, which shall not overlap an easement:
  - a. North: 50 ft. of natural or improved vegetation
  - b. South: 50 ft. of natural or improved vegetation
  - c. East: 50 ft. of natural or improved vegetation
  - d. West: 50 ft. of natural or improved vegetation
3. The permittee shall maintain a 2:1 slope between the buffer zone and pit floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.
4. The permittee shall not allow buffers to cause surface water diversion which negatively impacts adjacent properties or water bodies.
5. The permittee shall operate all equipment which conditions or process material at least 300 feet from the North, East and South parcel boundaries. The applicant requests a waiver from the 300-foot processing distance on the West side of the property.
6. The permittee shall not extract material within 100 horizontal feet of any water source existing prior to issuance of this permit.
7. The permittee shall maintain a 2-foot vertical separation from the seasonal high-water table.
8. The applicant may not dewater by pumping, ditching or some other form of drainage unless an exemption is granted by the planning commission.
9. The permittee shall maintain an undisturbed buffer and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and regulatory floodplains.
10. The permittee shall ensure that fuel storage containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
11. The permittee shall notify the planning department of any further subdivision or return to acreage of this parcel. The planning director may issue a written exemption from the permit amendment requirement if it is determined that the subdivision is consistent with the use of the parcel as a material site and all original permit conditions can be met.
12. The permittee shall conduct operations in a manner so as not to damage borough roads as required by KPB 14.40.175, and will be subject to the remedies set forth in KPB 14.40 for violation of this condition.
13. The permittee shall provide dust suppression on haul roads within the boundaries of the material site by application of water or calcium chloride.
14. The permittee shall not operate rock crushing equipment between the hours of 10:00 pm and 06:00 am.
15. The permittee shall reclaim the site as described in the reclamation plan for this parcel and approved by the planning commission.
16. The permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the Borough's floodplain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and

Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives.

17. The permittee shall post notice of intent on parcel corners or access, whichever is more visible if the permittee does not intend to begin operations for at least 12 months after being granted a conditional land use permit. Sign dimensions shall be no more than 15" by 15" and must contain the following information: the phrase "Permitted Material Site" along with the permittee's business name and a contact phone number.
18. The permittee shall operate in accordance with the application and site plan as approved by the planning commission. If the permittee 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.
19. This Conditional Land Use Permit is subject to annual review by the planning department to ensure compliance with the conditions of the permit. In addition to the penalties provided by KPB 21.25.090, the planning commission may revoke a permit issued pursuant to this chapter if the permittee fails to comply with the provisions of this chapter or the conditions of the permit. The planning director shall provide at least 30 days written notice to the permittee of a revocation hearing before the planning commission.
20. Once effective, this Conditional Land Use Permit is valid for five years. A written request for permit extension must be made to the planning department at least 30 days prior to permit expiration, in accordance with KPB 21.29.070. The request must be accompanied by the applicable permit renewal and recording fees.
21. All permits, permit extensions, modified permits, prior existing uses, and terminations shall be recorded.
22. The Planning Department is responsible for filing the Planning Commission resolution. The applicant will provide the recording fee for the resolution to the Planning Department.

**SECTION 4. That based on the above findings, the Planning Commission concludes as a matter of law that the application has met all the requirements of KPB 21.25 and KPB 21.29, and through imposition of the conditions under KPB 21.29.050, the Planning Commission concludes as a matter of law that the application meets the six standards found in KPB 21.29.040:**

#### **CONCLUSIONS OF LAW**

1. The proposed activity must protect against lowering of water sources serving other properties. Findings 15-22 and Conditions 6-9 appear to meet this standard.
2. The proposed activity must protect against physical damage to adjacent properties. Findings 6-11 and Conditions 1-4, 10, 12 appear to meet this standard.
3. The proposed activity must minimize the off-site movement of dust. Findings 12, 26 and Condition 13 appear to meet this standard.
4. The proposed activity must minimize noise disturbance to other properties. Findings 7, 9, 12, 14, 27 and Conditions 2, 5, 14 appear to meet this standard.
5. The proposed activity must minimize visual impacts. Findings 7, 9 and Condition 2 appear to meet this standard.
6. The proposed activity must provide for alternate post-mining land uses. Findings 28-30 and Condition 15 appear to meet this standard.

ADOPTED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH ON  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2024.

\_\_\_\_\_  
Jeremy Brantley, Chairperson  
Planning Commission

ATTEST:

\_\_\_\_\_  
Ann Shirnberg  
Administrative Assistant

PLEASE RETURN  
Kenai Peninsula Borough  
Planning Department  
144 North Binkley St.  
Soldotna, AK 99669



«OWNER»  
«ATTENTION»  
«MAILING\_ADDRESS»  
«MAILING\_CITY», «MAILING\_STATE» «MAILING\_ZIPCODE»

August 21, 2024

**KENAI PENINSULA BOROUGH PLANNING COMMISSION  
NOTICE OF PUBLIC HEARING**

Public notice is hereby given that a Conditional Land Use Permit application has been received to develop a material site (gravel pit) on a property located in the Moose Pass area. These applications are reviewed by the Kenai Peninsula Borough Planning Commission in accordance with KPB 21.25 and KPB 21.29. You are receiving this notice because you are a landowner within a half-mile radius of the subject property, and are invited to provide comment at the below public hearing.

**Applicant:** COLASKA INC DBA QAP  
**Landowner:** COLASKA INC DBA QAP  
**Parcel Number(s):** 12509028  
**Legal Description:** RENFRO'S LAKESIDE RETREAT NO 6 LOT 2F EXC THAT PTN CONVEYED TO STATE OF AK DOT IN WD 2017-633  
**Address:** 27083 Seward Hwy  
**Project Description:** This application is requesting a modification to PC2022-21 to expand the permit area, additional egress/egress, and create a 100-foot-wide access to the ARRC ROW to allow machinery to load rail cars.  
**Public Hearing:**  
**Date and Time:** Monday, September 9, 2024 at 7:30 p.m.  
**Location:** Kenai Peninsula Borough  
Betty Glick Assembly Chambers  
144 N. Binkley, Soldotna, AK 99669  
**Zoom Meeting ID:** Meeting ID 907 714 2200  
**Zoom Link:** <https://us06web.zoom.us/j/9077142200>  
**Telephonic:** 1-888-788-0099 or 1-877-853-5247

**Public Comment:** You can provide verbal comment at the hearing (see information above). You may also submit written comments by emailing them to [rraidmae@kpb.us](mailto:rraidmae@kpb.us). **Written comments must be received by 1:00 pm Friday, September 6, 2024.** Note that persons who participate in the public hearing, either by written or verbal comment, may appeal the Planning Commission's decision within 15 days of the date of notice of the decision.

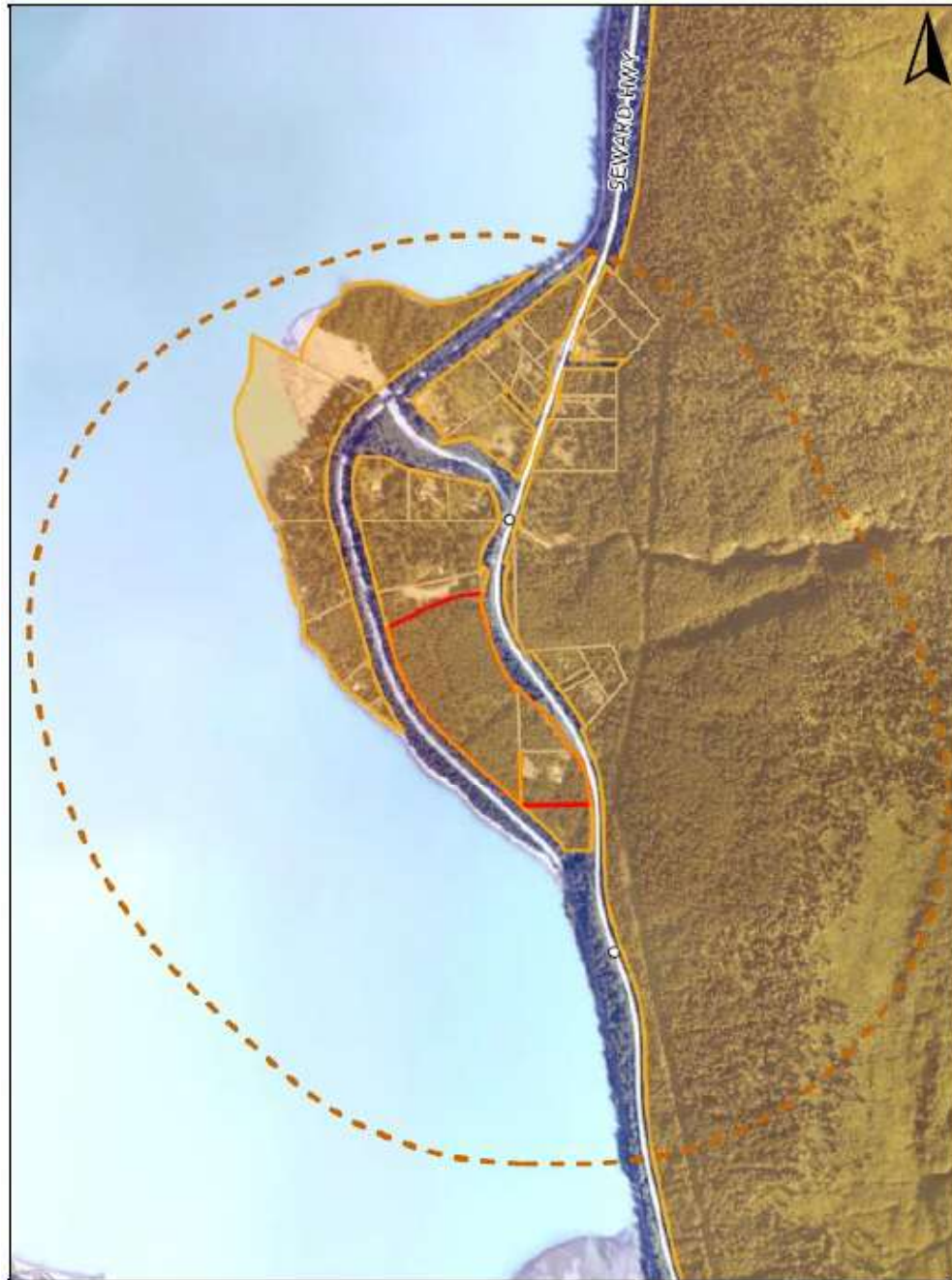
The meeting packet will be posted the week prior to the meeting. Once it has been posted, you can view the application and additional maps at [kpb.legistar.com/Calendar](http://kpb.legistar.com/Calendar). For additional information, contact Ryan Raidmae, at [rraidmae@kpb.us](mailto:rraidmae@kpb.us) or 907-714-2462.

Please see the attached vicinity map of the proposed activities.



KENAI PENINSULA BOROUGH  
**Planning**

Parcels Within 1/2 Mile of Proposed CLUP  
Colaska Inc. DBA QAP, Crown Point Laydown Yard



**Legend**

Tax Parcels



0 2000 4000  
ft

Tuesday, August 20, 2024

The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.

**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

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**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.

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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

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

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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, reneging 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

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> 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.

# 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

DATE: 9/6/2024

Daryl Belanger  
Daryl Belanger  
Colaska Inc. DBA QAP

DATE: 9/6/2024

# Kenai Peninsula Borough

Donald E. Gilman River Center

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## 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

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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 Airport raised 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 packet, 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

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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

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

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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, reneging 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

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> 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

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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](http://www.renfroslakesideretreat.com)  
[renfroslakesideretreat@gmail.com](mailto: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](#)

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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

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[www.renfroslakesideretreat.com](http://www.renfroslakesideretreat.com)  
[renfroslakesideretreat@gmail.com](mailto:renfroslakesideretreat@gmail.com)

Begin forwarded message:

**From:** gary glasgow <[renfroslakesideretreat@gmail.com](mailto: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](mailto:rruffner@kpb.us)  
**Cc:** [rraidmae@kpb.us](mailto:rraidmae@kpb.us)

Robert,

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- 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.
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\* 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 quite 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

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[renfroslakesideretreat@gmail.com](mailto: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 residents 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](mailto:rraidmae@kpb.us) [rruffner@kpb.us](mailto: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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[rraidmae@kpb.us](mailto:rraidmae@kpb.us) [rruffner@kpb.us](mailto: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](mailto:rraidmae@kpb.us) [rruffner@kpb.us](mailto: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!



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 through .....believe 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](mailto: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](mailto:joanconnors@gmail.com)  
[marywt123@hotmail.com](mailto: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.

*JF Connors + MW Thompson*  
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 afore mentioned 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](mailto: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

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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

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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

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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

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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,



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

[marionglaser@gmail.com](mailto:marionglaser@gmail.com)

[jlabenski10@gmail.com](mailto:jlabenski10@gmail.com)

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

August 28<sup>th</sup> 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 of 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

## **E. NEW BUSINESS**

### **4. Conditional Land Use Permit; MS2015-005**

**Applicant: Sean Cude**

**Request: Modification to PC Resolution 2014-20 to allow excavation into the water table and for temporary localized dewatering.**

**Location: 36498 Virginia Drive  
Kalifornsky Area**



SBC 2012 Irrevocable Trust LLC

 Project Area

KPB Parcel(s):  
05527001

Project Description:

Vicinity: Kalifornsky



Map created by Raidmae, Ryan  
Friday, August 16, 2024

The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



## LOZ and Materials Sites Map

**SBC 2012 Irrevocable  
Trust LLC**


**Project Area**

**KPB Parcel(s):**

05527001

River Miles

## Tax Parcels

## Material Sites

PEU

CLUP

EXPIRED

## Local Option Zones



Map created by Raidmae, Ryan

15) day, August 16, 2024

The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



**Ownership Map**  
**SBC 2012 Irrevocable**  
**Trust LLC**

**Project Area**

**KPB Parcel(s):**

05527001

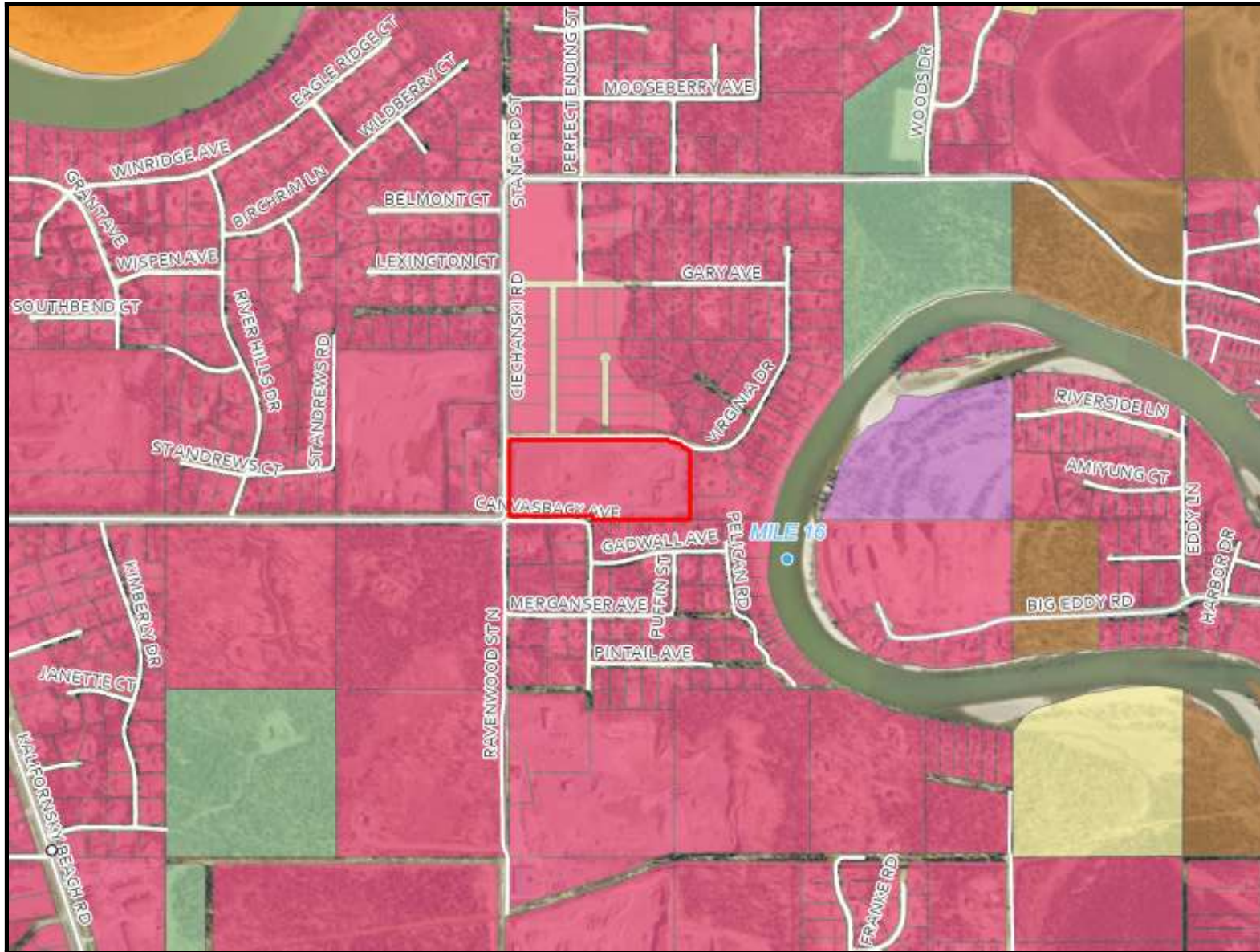
River Miles



Parcel Ownership Type

Parcel Ownership

- Borough
- Federal
- Native
- Municipal
- Private
- State





KENAI PENINSULA BOROUGH

# Planning



## Terrain Map

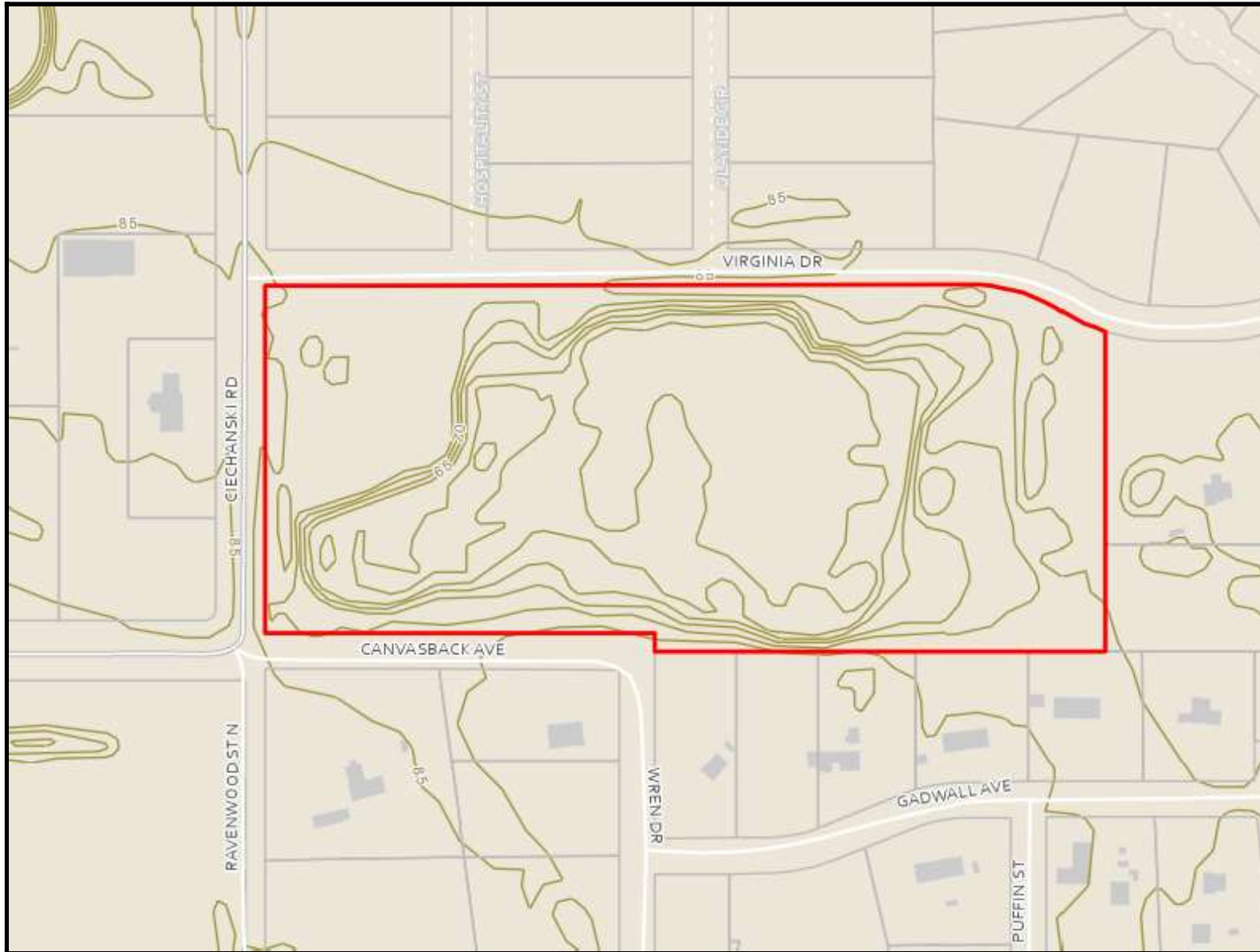
SBC 2012 Irrevocable  
Trust LLC

 **Project Area**

**KPB Parcel(s):**

05527001

Tax Parcels



Map created by Raidmae, Ryan

Friday, August 26, 2024

0 450 900 ft

The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



**Wetlands Map**  
**SBC 2012 Irrevocable**  
**Trust LLC**

 **Project Area**

**KPB Parcel(s):**

05527001

River Miles

Tax Parcels

Landcover Features

KWF Wetlands Assessment

-  DISTURB
-  Depression
-  Discharge Slope
-  Drainageway
-  Floating Island
-  Headwater Fen
-  Kettle
-  LAKE
-  Lakebed
-  Late Snow Plateau
-  Riverine
-  Tidal
-  Wetland / Upland Complex





## Habitat Protection Area Map

**SBC 2012 Irrevocable  
Trust LLC**

 **Project Area**

**KPB Parcel(s):**

05527001

River Miles



Tax Parcels







Habitat

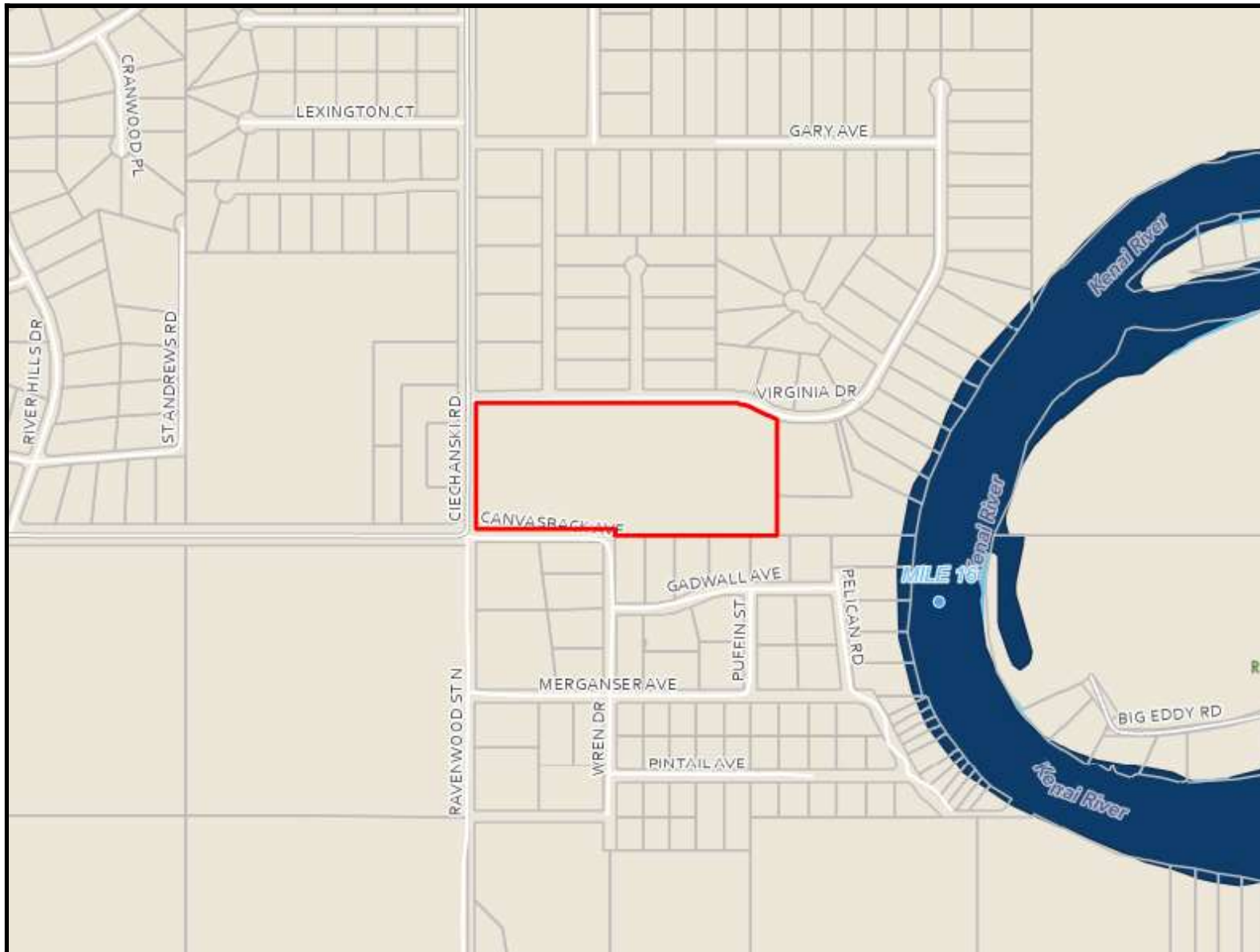
KPB 2118 - KPB 2118 Districts

KPB 2118 - KPB 2118 Anadromous  
Streams

-  Exempt
-  Managed
-  Unregulated
-  others

KPB 2118 - KPB 2118 Anadromous  
Lakes and Areas

-  Exempt
-  Managed
-  Unregulated
-  n/a



## KPB 21.29

# Conditional Land Use Permit Application

For a new or modified Sand, Gravel or Material Site

### I. APPLICANT INFORMATION ☐ New ☒ Modification

Applicant SBC 2012 Irrevocable Trust LLC Landowner SBC 2012 Irrevocable Trust LLC  
Address 42115 Kalifornsky Beach Road Ste B Address 42115 Kalifornsky Beach Road Ste B  
City, State, Zip Soldotna Alaska 99669 City, State, Zip Soldotna Alaska 99669  
Telephone 907-262-5761 Cell 907-398-7375 Telephone 907-262-5761 Cell 907-398-7375  
Email sean@sbcdevelopmentgroup.com Email sean@sbcdevelopmentgroup.com

### II. PARCEL INFORMATION

KPB Tax Parcel ID# 05527001 Legal Description T5N R11W Section 24 SM KN2015-012  
Diamond Willow Estates Subdivision Part 13 Tract 13

If permit is not for entire parcel, describe specific location within parcel to be material site, e.g.; "N1/2 SW1/4 NE1/4 – 10 acres", or "5 acres in center of parcel".

modification to 8.8 acres of the currently permitted area

### III. APPLICATION INFORMATION ☒ "Check" boxes below to indicate items included.

- ☒ \$1,000.00 permit processing fee payable to: Kenai Peninsula Borough. (Include Parcel # on check comment line.)
- ☒ Site Plan, to scale, prepared by a professional surveyor (licensed and registered in Alaska) showing, where applicable:
- |  |  |
|--|--|
| <input type="checkbox"/> parcel boundaries   | <input type="checkbox"/> location/depth of testholes, and depth to groundwater, if encountered |
| <input type="checkbox"/> location of boundary stakes within 300 ft. of excavation area (to be in place at time of application) | <input type="checkbox"/> location of all wells within 300 ft. of parcel boundary               |
| <input type="checkbox"/> proposed buffers, or requested buffer waiver(s)   | <input type="checkbox"/> location of water bodies on parcel, including riparian wetlands       |
| <input type="checkbox"/> proposed extraction area(s), and acreage to be mined  | <input type="checkbox"/> surface water protection measures                                     |
| <input type="checkbox"/> proposed location of processing area(s)   | <input type="checkbox"/> north arrow and diagram scale   |
| <input type="checkbox"/> all encumbrances, including easements   | <input type="checkbox"/> preparer's name, date and seal  |
| <input type="checkbox"/> points of ingress and egress  |  |
| <input type="checkbox"/> anticipated haul routes   |  |
- ☒ Site Plan Worksheet (attached)
- ☒ Reclamation Plan (attached) and bond, if required. Bond requirement does not apply to material sites exempt from bonding requirements pursuant to AS 27.19.050

**Please Note:** If a variance from the conditions of KPB 21.29 is requested, a variance application must be attached. (A variance is NOT the same thing as a waiver.)

### IV. CERTIFICATION STATEMENT

The information contained on this form and attachments are true and complete to the best of my knowledge. I grant permission for borough staff to enter onto the property for the purpose of processing the permit application.

[Signature]  
Applicant

7/31/24  
Date

Landowner (required if not applicant)

Date

## Site Plan Worksheet for Conditional Land Use Permit Application

Use additional space provided on next page, if necessary. Indicate item # next to comments.

Applicant SBC 2012 Irrevocable Trust Owner SBC 2012 Irrevocable Trust

KPB Tax Parcel ID # 05527001 Parcel Acreage 19.36

1. Cumulative acres to be disturbed (excavation plus stockpiles, berms, etc.) 19.36 acres
2. Material to be mined (check all that apply): ☒ gravel ☒ sand ☐ peat ☐ other(list) \_\_\_\_\_
3. Equipment to be used (check all that apply): ☒ excavation ☒ processing ☐ other \_\_\_\_\_
4. Proposed buffers as required by KPB 21.29.050.A.2 (check all types and directions that apply):

<input type="checkbox"/> 50 ft. of natural or improved vegetation <input type="checkbox"/> minimum 6 ft. earthen berm <input type="checkbox"/> minimum 6 ft. fence <input type="checkbox"/> other _____	<table border="0" style="width: 100%;"> <tr> <td><input type="checkbox"/> N</td> <td><input type="checkbox"/> S</td> <td><input checked="" type="checkbox"/> E</td> <td><input type="checkbox"/> W</td> </tr> <tr> <td><input checked="" type="checkbox"/> N</td> <td><input checked="" type="checkbox"/> S</td> <td><input type="checkbox"/> E</td> <td><input checked="" type="checkbox"/> W</td> </tr> <tr> <td><input type="checkbox"/> N</td> <td><input checked="" type="checkbox"/> S</td> <td><input type="checkbox"/> E</td> <td><input type="checkbox"/> W</td> </tr> <tr> <td><input type="checkbox"/> N</td> <td><input type="checkbox"/> S</td> <td><input type="checkbox"/> E</td> <td><input type="checkbox"/> W</td> </tr> </table>	<input type="checkbox"/> N	<input type="checkbox"/> S	<input checked="" type="checkbox"/> E	<input type="checkbox"/> W	<input checked="" type="checkbox"/> N	<input checked="" type="checkbox"/> S	<input type="checkbox"/> E	<input checked="" type="checkbox"/> W	<input type="checkbox"/> N	<input checked="" type="checkbox"/> S	<input type="checkbox"/> E	<input type="checkbox"/> W	<input type="checkbox"/> N	<input type="checkbox"/> S	<input type="checkbox"/> E	<input type="checkbox"/> W
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5. Proposed depth of excavation: 45 (elev. 48) ft. Depth to groundwater: 30 (elev. 66) ft.
6. How was groundwater depth determined? monitor wells
7. A permit modification to enter the water table will be requested in the future: X Yes    No
8. Approx. annual quantity of material, including overburden, to be mined: <50,000 cubic yards
9. Is parcel intended for subdivision? X Yes    No
10. Expected life span of site? 20 years
11. If site is to be developed in phases, describe: the excavation acreage, anticipated life span, and reclamation date for each phase: (use additional space on page 4 if necessary)  
 As mining above groundwater is complete, excavation below groundwater will begin at the eastern section of the site and move westerly. The slopes will be dressed at 2:1 and portion above ground water will be seeded.  
 The intent is to reclaim the property to support at least 2 water front residential lots.  
 \_\_\_\_\_  
 \_\_\_\_\_
12. Voluntary permit conditions proposed (additional buffers, dust control, limited hours of operation, etc.)
  - A. \_\_\_\_\_
  - B. \_\_\_\_\_
  - C. \_\_\_\_\_

## Material Site Reclamation Plan for Conditional Land Use Permit Application

1. All disturbed land shall be reclaimed upon exhausting the material on-site, so as to leave the land in a stable condition.
2. All revegetation shall be done with a "non-invasive" plant species.
3. Total acreage to be reclaimed each year: up to 2 acres
4. List equipment (type and quantity) to be used in reclamation:

Excavator, dozer, loader

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5. Describe time schedule of reclamation measures:

Reclamation will be completed annually before the September growing season. In order to minimize erosion, seeding will be applied as necessary each season to the areas that achieve final grade.

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6. The following measures must be considered in preparing and implementing the reclamation plan, although not all will be applicable to every plan – ☒ **"check" all that apply to your plan.**

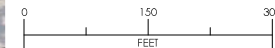
- ☒ Topsoil that is not promptly redistributed to an area being reclaimed will be separated and stockpiled for future use. This material will be protected from erosion and contamination by acidic or toxic materials and preserved in a condition suitable for later use.
- ☒ The area will be backfilled, graded and recontoured using strippings, overburden, and topsoil to a condition that allows for the reestablishment of renewable resources on the site within a reasonable period of time. It will be stabilized to a condition that will allow sufficient moisture for revegetation.
- ☒ Sufficient quantities of stockpiled or imported topsoil will be spread over the reclaimed area to a depth of four inches to promote natural plant growth that can reasonably be expected to revegetate the area within five years. The applicant may use the existing natural organic blanket representative of the project area if the soil is found to have an organic content of 5% or more and meets the specification of Class B topsoil requirements as set by Alaska Test Method (ATM) T-6. The material shall be reasonably free from roots, clods, sticks, and branches greater than 3 inches in diameter. Areas having slopes greater than 2:1 require special consideration and design for stabilization by a licensed engineer.
- ☒ Exploration trenches or pits will be backfilled. Brush piles and unwanted vegetation shall be removed from the site, buried or burned. Topsoil and other organics will be spread on the backfilled surface to inhibit erosion and promote natural revegetation.
- ☐ Peat and topsoil mine operations shall ensure a minimum of two inches of suitable growing medium is left or replaced on the site upon completion of the reclamation activity (unless otherwise authorized).
- ☒ Ponding will be used as a reclamation method. (Requires approval by the planning commission.)

**ADDITIONAL APPLICATION COMMENTS**

(Please indicate the page and item # for which you are making additional comments.)

This application is requesting a modification to PC2014-20 to allow excavation in the water table and for temporary, localized dewatering during excavation practices. Dewatering will be intermittent and all waters will be outlet within the same property.

## 159



REV	DATE	DESCRIPTION	BY
1			
2			
3	8/16/2024	SURVEYOR STAMP	AHH
	8/16/2024	ADDED PROCESS AREA	GMD

DIAMOND WILLOW EST. SUBD PT13 TR13  
CONDITIONAL LAND USE PERMIT  
MONITOR WELL PLAN

FIELD WORK DATE:	JULY 12, 2014	FIELD BOOK NO.	14-18	JOB NO.	224031
------------------	---------------	----------------	-------	---------	--------



**Consulting In**  
ENGINEERING - TESTING  
SURVEYING - MAPPING  
P.O. BOX 468  
SOLDOTNA, AK 99669  
VOICE: (907) 283-4218  
FAX: (907) 283-3265  
WWW.MCLANEGC.COM

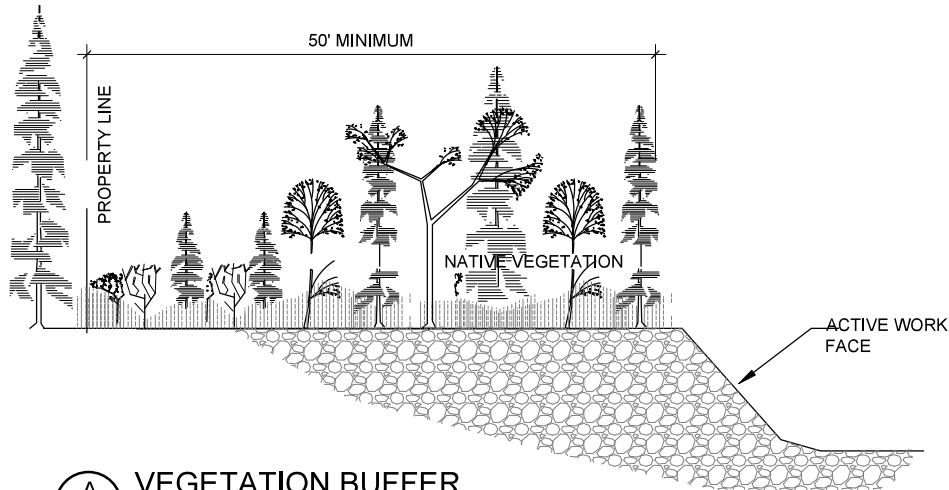
DRAWN BY:	GMD
CHECKED BY:	GMD
HORZ. SCALE:	1" = 150'
VERT. SCALE:	N/A
SHEET:	<b>P1</b>

1. KPB PARCEL 05527001; T5N R11W SECTION 24 SEWARD MERIDIAN, KN2015012 DIAMOND WILLOW ESTATES SUBDIVISION PART 13 TRACT 13.
2. KPB CONDITIONAL LAND USE PERMIT UNDER RESOLUTION 2014-20.
3. MONITOR WELLS WERE INSTALLED IN AT THE 4 SHOWN LOCATIONS BY KRAXBERGER DRILLING ON MARCH 24, 2023.
4. GROUNDWATER ELEVATIONS HAVE BEEN MONITORED QUARTERLY SINCE APRIL 2023.
5. MONITOR WELLS WILL BE MAINTAINED AND MEASUREMENTS RECORDED FOR THE LIFE OF THE MATERIAL SITE.
6. AREA OF POTENTIAL SURFACE WATER IS SHOWN HEREON AT 8.8 ACRES. NO EXCAVATION WILL TAKE PLACE WITHIN 300' OF THE WATER WELLS IN EXISTENCE AT THE TIME OF THE CLUP.
7. ADJACENT WELLS AT TIME OF CLUP ISSUANCE ARE SHOWN HEREON.
8. SURVEY MONUMENTATION AND BOUNDARY OF TRACT 13, DIAMOND WILLOW ESTATES SUBDIVISION PART 13 (KN2015012) SHOWN HEREON IS DERIVED FROM A FIELD SURVEY CONDUCTED BY MCLANE CONSULTING INC. ON JULY 12, 2014.

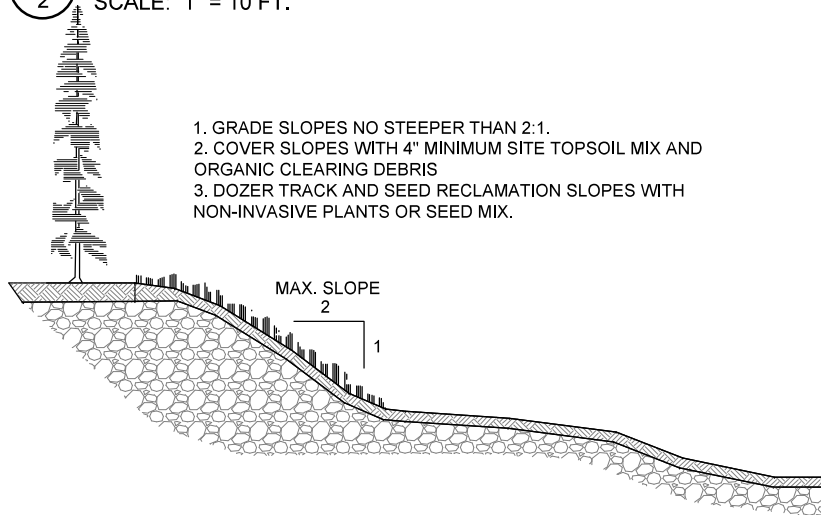
	SURVEY MONUMENT		VEGETATIVE BUFFER
	PROPERTY BOUNDARY		6' BERM
	EXISTING WELL		6' FENCE
	WELL SETBACK		TEST HOLE
	INTERMITTENT FLAGGING		MONITOR WELL
	MAXIMUM EDGE OF WATER ENTRY		POTENTIAL SURFACE WATER
			PERMITTED PROCESSING AREA

# CONDITIONAL LAND USE PERMIT FOR MATERIAL SITE

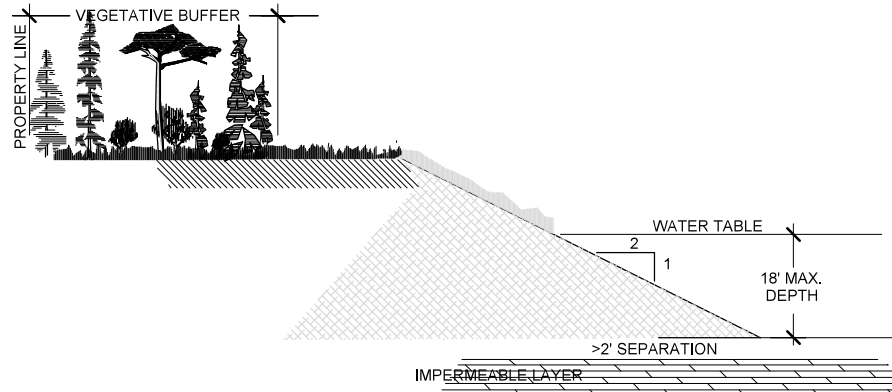
MCLUP



**A**  
**2** VEGETATION BUFFER  
SCALE: 1" = 10 FT.



**B**  
**2** RECLAMATION SLOPE  
SCALE: 1" = 10 FT.



1. GRADE SLOPES NO STEEPER THAN 2:1.
2. DO NOT EXCAVATE INTO THE AQUIFER CONFINING LAYER.
3. ORGANICS AND SILT STRIPPED FROM PIT MAY BE STOCKPILED AND USED FOR RECLAMATION SLOPE FLATTENING.
4. COVER SLOPES WITH 4" MINIMUM SITE TOPSOIL MIX AND ORGANIC CLEARING DEBRIS.
5. DOZER TRACK AND SEED ALL RECLAMATION SLOPES ABOVE GROUNDWATER LEVEL WITH NON-INVASIVE PLANTS OR SEED MIX.

**C**  
**2** RECLAMATION SLOPE W/IN WATER TABLE  
NOT TO SCALE

REV	DATE	DESCRIPTION	BY
1	7/26/2024	MCLUP GROUNDWATER ENTRY	GMD
2	8/16/2024	ADDED PROCESS AREA	GMD

FIELD BOOK NO.	14-18
JOB NO.	224031
FIELD WORK DATE	JULY 12, 2024

KENAI PENINSULA BOROUGH
DIAMOND WILLOW
CONDITIONAL LAND USE PERMIT

<b>McLANE</b>
<b>Consulting Inc</b>
ENGINEERING - TESTING SURVEYING - MAPPING P.O. BOX 468 SOLDOTNA, AK 99669 VOICE: (907) 283-4218 FAX: (907) 283-3285 WWW.MCLANECO.COM
DRAWN BY: GMD
CHECKED BY: GMD
HORIZ. SCALE: 1" = 100'
VERT. SCALE: N/A
SHEET: P2

**Conditional Land Use Permit  
Materials Site  
Staff Report**

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<b>PC Res No.</b>	2024-12
<b>Planning Commission Meeting:</b>	Monday, September 9, 2024
<b>Applicant</b>	SEAN CUDE
<b>Mailing Address</b>	42115 Kalifornsky Beach RD Soldotna, AK 99669
<b>Legal Description</b>	T 05N R 11W SEC 24 SEWARD MERIDIAN KN 2015012 DIAMOND WILLOW ESTATES SUB PART 13 TRACT 13
<b>Physical Address</b>	36498 Virginia Drive
<b>KPB Parcel Number</b>	05527001

**Project Description**

The applicant wishes to obtain a Conditional Land Use Permit Modification, to Permit Resolution 2014-20, to allow for material extraction in the water table and for temporary localized dewatering during excavation. Dewatering will be intermittent, and all waters will be contained within a portion of the parcel listed above.

The site plan indicates that the material haul route will be as follows: Haul route will access the site from two locations (Northeast corner of property at Virginia Drive and Southwest corner of property at Canvasback Ave)

The site plan and application propose the following buffers:

- North: minimum 6 ft. earthen berm
- South: minimum 6 ft. earthen berm, minimum 6 ft. fence
- East: 50 ft. of natural or improved vegetation
- West: minimum 6 ft. earthen berm

The subject property is bordered on the Northside by the 60-foot-wide right of way of Virginia Drive. On the Eastside of the property is the residential neighborhood of Diamond Willow Estates Part 11. Diamond Willow Estates is a subdivision that is included in the Local Option Zoning District of Diamond Willow – Fairfield, which is adjacent to the subject parcel. On the Southside of the property is the residential neighborhood of Ravenwood, Subdivision 2 and 4, along with the 60-foot-wide right of way of Canvasback Avenue. On the West side of the property is the 83-foot-wide right of way of Ciechanski Road.

The site plan completed by McLane Consulting Inc., states that ground water is approximately 27 feet below original ground based on 4 monitor wells that were installed on March 24, 2023 by Kraxberger Drilling. The application states that the proposed depth of material excavation will be 45 feet, which will equate to 18 feet below the seasonal highwater table. The applicant has requested an exemption for dewatering within the permitted area and has provided the required information as stated in 21.29.050(A)(4)(d). As a condition of dewatering, the contractor shall post a bond for liability for potential accrued damages, in the amount of \$80,000 or \$10,000 a well.

Plan notes state that there are no wet lands or surface waters within the property boundaries. A central area will be maintained as a processing area, which will be at least 300 feet from the East, South, West property lines. The applicant requests a waiver from the 300-foot processing distance on the Northside of the property due to the fact that the property is only approximately 615 feet wide. The site plan also indicates that there are 8 wells located within 300 feet of the proposed use area.

The application states that final reclamation will include ponding to support at least 2 waterfront residential lots. The applicant has requested that the Planning Commission grant approval according to 21.29.060(C)(6). The application further states that grading and re-contouring will incorporate strippings, overburden, and topsoil to a condition that allows for the re-establishment of natural vegetation. Slopes steeper than 2:1 will be seeded. The application also states that up to 2 acres will be reclaimed each year and reclamation will be completed annually before the growing seasons ends.

The applicant estimates a life span of 20 years for the site and an annual extraction quantity of less than 50,000 cubic yards cubic yards of material.

### **Public Notice**

Public notice of the application was mailed on 8/21/2024 to the 325 landowners or leaseholders of the parcels within a half-mile of the subject parcel. Public notice was sent to the postmaster covering the Kalifornsky vicinity requesting that it be posted at the Post Office.

### **Agency Review**

Agency review was distributed on August 14, 2024 to pertinent KPB staff and other agencies.

### **Findings of Fact pursuant to KPB 21.25 and 21.29:**

1. KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough.
2. KPB 21.29 governs material site activity within the rural district of the Kenai Peninsula Borough.
3. KPB 21.29 provides that a Conditional Land Use Permit is required for material extraction that disturbs more than 2.5 cumulative acres or processes material.
4. A public hearing of the Planning Commission was held on Monday, September 9, 2024 and notice of the meeting was published, posted, and mailed in accordance with KPB 21.25.060 and KPB 21.11.
5. The proposed cumulative disturbed area within the parcel is approximately 19.36 acres.

### **Parcel Boundaries**

6. All boundaries of the subject parcel shall be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter. Field verification and staking will require the services of a professional land surveyor. The site plan indicates the property boundary within 300 feet of the work area was staked in 2024.

### **Buffer Zone**

7. A buffer zone shall be maintained around the excavation perimeter or parcel boundaries. The site plan and application propose the following buffers, which shall not overlap an easement:

- a. North: minimum 6 ft. earthen berm
  - b. South: minimum 6 ft. earthen berm, minimum 6 ft. fence
  - c. East: 50 ft. of natural or improved vegetation
  - d. West: minimum 6 ft. earthen berm
- 8. A 2:1 slope shall be maintained between the buffer zone and excavation floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.
- 9. Per KPB 21.19.050(A)(c), buffers provided using vegetation and/or a fence shall be of sufficient height and density to provide visual and noise screening of the proposed use as deemed appropriate by the planning commission.
- 10. Buffers shall not cause surface water diversion which negatively impacts adjacent properties or waterbodies.
- 11. At its discretion, the planning commission may waive buffer requirements where the topography of the property or the placement of natural barriers makes screening not feasible or not necessary. Buffer requirements shall be made in consideration of and in accordance with existing uses of adjacent property at the time of approval of the permit. There is no requirement to buffer the material site from uses which commence after the approval of the permit.

### **Processing**

- 12. The applicant indicates that material processing will take place on the property. Any equipment used for conditioning or processing materials will be operated at least 300 feet from the East, South and West property lines. Any equipment used for crushing rock or other materials will not be operated between 10:00 p.m. and 6:00 a.m., to minimize noise disturbance to other properties.
- 13. The applicant has requested a waiver to process materials within 100 feet of the North property line.

### **Water Source Separation**

- 14. Material extraction is prohibited within 100 horizontal feet of any water source existing prior to the original permit issuance.
- 15. The site plan indicates that there are 8 wells located within 300 feet of the proposed excavation area.
- 16. The applicant is required to maintain a 2-foot vertical separation from the seasonal high-water table, unless the planning commission has permitted excavation in the water table according to 21.29.050(A)(5)
- 17. The application indicates that the seasonal high-water table is 27ft (elevation 66) feet below grade and was determined by Monitor Wells.
- 18. The applicant may not dewater by pumping, ditching or some other form of drainage unless an exemption is granted by the planning commission.
- 19. The applicant has requested an exemption for dewatering within the permitted area and has provided the required information as stated in 21.29.050(A)(4)(d).
- 20. As a condition of dewatering, the contractor shall post a bond for liability for potential accrued damages, in the amount of \$80,000, \$10,000 per well.

### **Excavation in the Water Table**

21. The application states that work is anticipated to be completed in the water table.
22. The applicant's intended depth of excavation will be 45ft (elevation 48) feet deep, and go 18 feet into the water table.
23. The application included certification by a qualified independent civil engineer or professional hydrogeologist that the excavation plan will not negatively impact the quantity of an aquifer serving existing water sources.
24. A minimum of three water monitoring tubes or well casings have been installed to determine flow direction, flow rate, and water elevation.
25. For at least four quarters prior to submitting the application, groundwater elevation, flow direction, and flow rate for the subject parcel, were measured in quarterly intervals by a duly licensed and qualified independent civil engineer or professional hydrogeologist.
26. Monitoring tubes or wells must be kept in place, and measurements taken, for the duration of any excavation in the water table.
27. Operations will not breach an aquifer-confining layer.

### **Waterbodies**

28. The site plan states that there are no wetlands or surface waters within the proposed excavation area.

### **Fuel Storage**

29. The applicant is required to store fuel containers larger than 50 gallons in impermeable berms and basins capable of retaining 110 percent of storage capacity. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.

### **Haul Route**

30. The site plan indicates that the material haul route will be as follows: [HaulRoute].

### **Roads**

31. Operations shall be conducted in a manner so as not to damage borough roads as required by KPB 14.40.175 and will be subject to the remedies set forth in KPB 14.40.

### **Dust Control**

32. Dust suppression is required on haul roads within the boundaries of the material site by application of water or calcium chloride.

### **Hours of Operation**

33. Rock crushing equipment may only be operated between 6:00 a.m. and 10:00 p.m.

### **Reclamation**

34. The applicant has submitted a reclamation plan consistent with KPB 21.29.050(12)(a).
35. Ponding may be used as a reclamation method as approved by the planning commission.
36. The applicant has indicated that ponding will be used as a reclamation method.
37. Extraction at this material site is expected to be 50,000 cubic yards of material each year.
38. Material sites that exceed 50,000 cubic yards per year must meet the bonding requirement of KPB 21.29.050(12)(b). The amount of bond will be according to AS 27.19.040 unless the State of Alaska waives these requirements. In the case of a waiver the Kenai Peninsula Borough (KPB) would require the applicant to post bond to cover the anticipated reclamations costs and will be in the amount to be determined by the planning director as stated in KPB 21.29.050.

### **Other Permits**

39. The permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the Borough's floodplain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives.

### **Signage**

40. For permitted parcels on which the permittee does not intend to begin operations for at least 12 months after being granted a Conditional Land Use Permit, the permittee shall post notice of intent on parcel corners or access, whichever is more visible. Sign dimensions shall be no more than 15" by 15" and must contain the following information: the phrase "Permitted Material Site" along with the permittee's business name and a contact phone number.

### **Permit Conditions**

1. The permittee shall cause the boundaries of the subject parcel to be staked at sequentially visible intervals where the parcel boundaries are within 300 feet of the excavation perimeter. Stakes must be in place and visible as long as the material site is permitted.
2. The permittee shall maintain the following buffers around the excavation perimeter or parcel boundaries. The site plan and application propose the following buffers, which shall not overlap an easement
  - a. North: minimum 6 ft. earthen berm
  - b. South: minimum 6 ft. earthen berm, minimum 6 ft. fence
  - c. East: 50 ft. of natural or improved vegetation
  - d. West: minimum 6 ft. earthen berm
3. The permittee shall maintain a 2:1 slope between the buffer zone and pit floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.
4. The permittee shall not allow buffers to cause surface water diversion which negatively impacts

- adjacent properties or water bodies.
5. The permittee shall operate all equipment which conditions or processes material at least 300 feet from the East, South and West parcel boundaries. The applicant requests a waiver to process material 100 feet from the North property line.
  6. The permittee shall not extract material within 100 horizontal feet of any water source existing prior to issuance of this permit.
  7. The permittee shall maintain a 2-foot vertical separation from the seasonal high-water table between 100 and 300 horizontal feet of any water source existing prior to the issuance of this permit.
  8. The applicant may not dewater by pumping, ditching or some other form of drainage unless an exemption is granted by the planning commission.
  9. The applicant has requested an exemption for dewatering within the permitted area and has provided the required information as stated in 21.29.050(A)(4)(d).
  10. As a condition of the permit and prior to dewatering, the contractor shall post a bond for liability for potential accrued damages, in the amount of \$80,000.
  11. The permittee shall maintain an undisturbed buffer, and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains.
  12. The permittee shall ensure that fuel storage containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
  13. The permittee shall notify the planning department of any further subdivision or return to acreage of this parcel. The planning director may issue a written exemption from the permit amendment requirement if it is determined that the subdivision is consistent with the use of the parcel as a material site and all original permit conditions can be met.
  14. The permittee shall conduct operations in a manner so as not to damage borough roads as required by KPB 14.40.175, and will be subject to the remedies set forth in KPB 14.40 for violation of this condition.
  15. The permittee shall provide dust suppression on haul roads within the boundaries of the material site by application of water or calcium chloride.
  16. The permittee shall not operate rock crushing equipment between the hours of 10:00 pm and 06:00 am.
  17. The permittee shall reclaim the site as described in the reclamation plan for this parcel and approved by the planning commission.
  18. The permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the Borough's floodplain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives.
  19. The permittee shall post notice of intent on parcel corners or access, whichever is more visible if the permittee does not intend to begin operations for at least 12 months after being granted a conditional land use permit. Sign dimensions shall be no more than 15" by 15" and must contain

the following information: the phrase "Permitted Material Site" along with the permittee's business name and a contact phone number.

20. The permittee shall operate in accordance with the application and site plan as approved by the planning commission. If the permittee 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.
21. This Conditional Land Use Permit is subject to annual review by the planning department to ensure compliance with the conditions of the permit. In addition to the penalties provided by KPB 21.25.090, the planning commission may revoke a permit issued pursuant to this chapter if the permittee fails to comply with the provisions of this chapter or the conditions of the permit. The planning director shall provide at least 30 days written notice to the permittee of a revocation hearing before the planning commission.
22. Once effective, this Conditional Land Use Permit is valid for five years. A written request for permit extension must be made to the planning department at least 30 days prior to permit expiration, in accordance with KPB 21.29.070. The request must be accompanied by the applicable permit renewal and recording fees.
23. All permits, permit extensions, modified permits, prior existing uses, and terminations shall be recorded.
24. The Planning Department is responsible for filing the Planning Commission resolution. The applicant will provide the recording fee for the resolution to the Planning Department.

### **Staff Recommendation**

In reviewing 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 subject to the conditions and findings listed conditions, and adopt the findings of fact subject to the following: Filing of the PC Resolution in the appropriate recording district after the deadline to appeal the Planning Commission's approval has expired (15 days from the date of the notice of decision) unless there are no parties with appeal rights.

### **Material Site Standards**

1. The proposed activity must protect against lowering of water sources serving other properties. Findings 14-28 and Conditions 6-11 appear to meet this standard.
2. The proposed activity must protect against physical damage to adjacent properties. Findings 6-11, 29, 31 and Conditions 1-3, 12, and 14 appear to meet this standard.
3. The proposed activity must minimize the off-site movement of dust. Findings 12, 32 and Condition 15 appear to meet this standard.
4. The proposed activity must minimize noise disturbance to other properties. Findings 7, 9, 12, 33 and Conditions 2, 5, 16 appear to meet this standard.
5. The proposed activity must minimize visual impacts. Findings 7, 9 and Condition 2 appear to meet this standard.
6. The proposed activity must provide for alternate post-mining land uses. Findings 34-38 and Condition 17 appear to meet this standard.

### **Attachments**

1. Application
2. Maps

3. Staff Report
4. Resolution
5. Public Hearing Notice
6. Notification List

**NOTE: Any party of record may file an appeal of a decision of the Planning Commission in accordance with the requirements of the Kenai Peninsula Borough Code of Ordinances, Chapter 21.20.250. An appeal must be filed with the Borough Clerk within 15 days of date of the notice of the decision using the proper forms and be accompanied by the filing and records preparation fee.**

**END OF STAFF REPORT**



«OWNER»  
«ATTENTION»  
«MAILING\_ADDRESS»  
«MAILING\_CITY», «MAILING\_STATE» «MAILING\_ZIPCODE»

August 21, 2024

**KENAI PENINSULA BOROUGH PLANNING COMMISSION  
NOTICE OF PUBLIC HEARING**

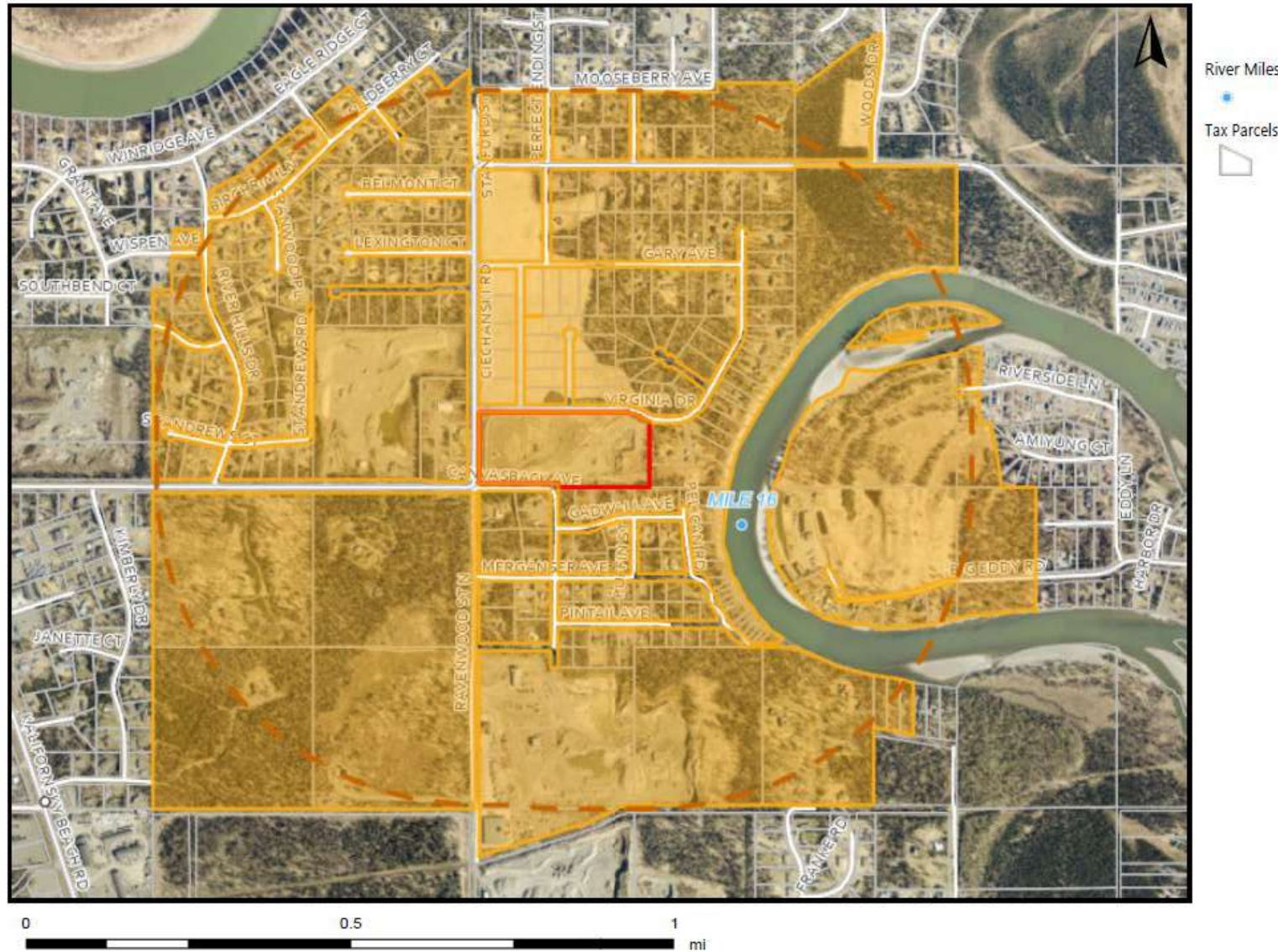
Public notice is hereby given that a Conditional Land Use Permit application has been received to develop a material site (gravel pit) on a property located in the Kalifornsky area. These applications are reviewed by the Kenai Peninsula Borough Planning Commission in accordance with KPB 21.25 and KPB 21.29. You are receiving this notice because you are a landowner within a half-mile radius of the subject property, and are invited to provide comment at the below public hearing.

**Applicant:** SEAN CUDE  
**Landowner:** SBC 2012 IRREVOCABLE TRUST  
**Parcel Number(s):** 05527001  
**Legal Description:** DIAMOND WILLOW ESTATES SUB PART 13 TRACT 13  
**Address:** 36498 Virginia Drive  
**Project Description:** This application is requesting a modification to PC2014-20 to allow excavation in the water table and for temporary, localized dewatering.  
**Public Hearing:**  
**Date and Time:** Monday, September 9, 2024 at 7:30 p.m.  
**Location:** Kenai Peninsula Borough  
Betty Glick Assembly Chambers  
144 N. Binkley, Soldotna, AK 99669  
**Zoom Meeting ID:** Meeting ID 907 714 2200  
**Zoom Link:** <https://us06web.zoom.us/j/9077142200>  
**Telephonic:** 1-888-788-0099 or 1-877-853-5247

**Public Comment:** You can provide verbal comment at the hearing (see information above). You may also submit written comments by emailing them to [rraidmae@kpb.us](mailto:rraidmae@kpb.us). **Written comments must be received by 1:00 pm Friday, September 6, 2024.** Note that persons who participate in the public hearing, either by written or verbal comment, may appeal the Planning Commission's decision within 15 days of the date of notice of the decision.

The meeting packet will be posted the week prior to the meeting. Once it has been posted, you can view the application and additional maps at [kpb.legistar.com/Calendar](http://kpb.legistar.com/Calendar). For additional information, contact Ryan Raidmae at [rraidmae@kpb.us](mailto:rraidmae@kpb.us) or 907-714-2462.

Please see the attached vicinity map of the proposed activities.



The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.

Friday, August 16, 2024

**KENAI PENINSULA BOROUGH PLANNING COMMISSION**

**Resolution 2024-12**

**Kenai Recording District**

**A resolution granting approval of a Conditional Land Use Permit to operate a sand, gravel, or material site for a parcel described T 05N R 11W SEC 24 SEWARD MERIDIAN KN 2015012 DIAMOND WILLOW ESTATES SUB PART 13 TRACT 13, Kenai Recording District, Third Judicial District, State of Alaska.**

**WHEREAS,** KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough; and

**WHEREAS,** KPB 21.29 provides that a Conditional Land Use Permit is required for material extraction which includes: Endorsement I – over 2.5 acres, Endorsement II - processing, and Endorsement III – excavation in the water table; and

**WHEREAS,** on Wednesday, July 31, 2024 the applicant, SEAN CUDE, submitted to the Borough Planning Department a Conditional Land Use Permit application for a portion of KPB Parcel 05527001, which is located within the rural district; and

**WHEREAS,** public notice of the application was mailed on or before 8/21/2024 to the 324 landowners or leaseholders within a half-mile of the subject parcel pursuant to KPB 21.25.060; and

**WHEREAS,** public notice was sent to the postmaster in the Kalifornsky area requesting that it be posted at the local Post Office; and

**WHEREAS,** public notice of the project was posted as pursuant to KPB 1.08.180(B)(1)(3); and

**WHEREAS,** a public hearing was held at the Monday, September 9, 2024 meeting of the Kenai Peninsula Borough Planning Commission;

**NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH:**

**Section 1. That the land use and operations are described and shall be conducted on KPB Parcel Number(s) 05527001, T 05N R 11W SEC 24 SEWARD MERIDIAN KN 2015012 DIAMOND WILLOW ESTATES SUB PART 13 TRACT 13. The total area to be disturbed under this activity is approximately 19.36 acres, of that, this modification request will affect approximately 8.8 acres. The applicant, SEAN CUDE, proposes to add the following endorsement(s): Endorsement II - processing, and Endorsement III – excavation in the water table; and will reclaim the site to a stable condition upon completion of the project.**

## **Section 2. Findings of Fact pursuant to KPB 21.25 and 21.29:**

1. KPB 21.25 allows for land in the rural district to be used as a sand, gravel or material site once a permit has been obtained from the Kenai Peninsula Borough.
2. KPB 21.29 governs material site activity within the rural district of the Kenai Peninsula Borough.
3. KPB 21.29 provides that a Conditional Land Use Permit is required for material extraction that disturbs more than 2.5 cumulative acres or processes material.
4. A public hearing of the Planning Commission was held on Monday, September 9, 2024 and notice of the meeting was published, posted, and mailed in accordance with KPB 21.25.060 and KPB 21.11.
5. The proposed cumulative disturbed area within the parcel is approximately 19.36 acres.

### **Parcel Boundaries**

6. All boundaries of the subject parcel shall be staked at sequentially visible intervals where parcel boundaries are within 300 feet of the excavation perimeter. Field verification and staking will require the services of a professional land surveyor. The site plan indicates the property boundary within 300 feet of the work area was staked in 2024.

### **Buffer Zone**

7. A buffer zone shall be maintained around the excavation perimeter or parcel boundaries. The site plan and application propose the following buffers, which shall not overlap an easement:
  - a. North: minimum 6 ft. earthen berm
  - b. South: minimum 6 ft. earthen berm, minimum 6 ft. fence
  - c. East: 50 ft. of natural or improved vegetation
  - d. West: minimum 6 ft. earthen berm
8. A 2:1 slope shall be maintained between the buffer zone and excavation floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.
9. Per KPB 21.19.050(A)(c), buffers provided using vegetation and/or a fence shall be of sufficient height and density to provide visual and noise screening of the proposed use as deemed appropriate by the planning commission.
10. Buffers shall not cause surface water diversion which negatively impacts adjacent properties or waterbodies.
11. At its discretion, the planning commission may waive buffer requirements where the topography of the property or the placement of natural barriers makes screening not feasible or not necessary. Buffer requirements shall be made in consideration of and in accordance with existing uses of adjacent property at the time of approval of the permit. There is no requirement to buffer the material site from uses which commence after the approval of the permit.

### **Processing**

12. The applicant indicates that material processing will take place on the property. Any equipment used for conditioning or processing materials will be operated at least 300 feet from the East, South and West property lines. Any equipment used for crushing rock or other materials will not be operated between 10:00 p.m. and 6:00 a.m., to minimize noise disturbance to other properties.

13. The applicant has requested a waiver to process materials within 100 feet of the North property line.

#### **Water Source Separation**

14. Material extraction is prohibited within 100 horizontal feet of any water source existing prior to the original permit issuance.
15. The site plan indicates that there are 8 wells located within 300 feet of the proposed excavation area.
16. The applicant is required to maintain a 2-foot vertical separation from the seasonal high-water table, unless the planning commission has permitted excavation in the water table according to 21.29.050(A)(5)
17. The application indicates that the seasonal high-water table is 27ft (elevation 66) feet below grade and was determined by Monitor Wells.
18. The applicant may not dewater by pumping, ditching or some other form of drainage unless an exemption is granted by the planning commission.
19. The applicant has requested an exemption for dewatering within the permitted area and has provided the required information as stated in 21.29.050(A)(4)(d).
20. As a condition of dewatering, the contractor shall post a bond for liability for potential accrued damages, in the amount of \$80,000, \$10,000 per well.

#### **Excavation in the Water Table**

21. The application states that work is anticipated to be completed in the water table.
22. The applicant's intended depth of excavation will be 45ft (elevation 48) feet deep, and go 18 feet into the water table.
23. The application included certification by a qualified independent civil engineer or professional hydrogeologist that the excavation plan will not negatively impact the quantity of an aquifer serving existing water sources.
24. A minimum of three water monitoring tubes or well casings have been installed to determine flow direction, flow rate, and water elevation.
25. For at least four quarters prior to submitting the application, groundwater elevation, flow direction, and flow rate for the subject parcel, were measured in quarterly intervals by a duly licensed and qualified independent civil engineer or professional hydrogeologist.
26. Monitoring tubes or wells must be kept in place, and measurements taken, for the duration of any excavation in the water table.
27. Operations will not breach an aquifer-confining layer.

#### **Waterbodies**

28. The site plan states that there are no wetlands or surface waters within the proposed excavation area.

#### **Fuel Storage**

29. The applicant is required to store fuel containers larger than 50 gallons in impermeable berms and basins capable of retaining 110 percent of storage capacity. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.

### **Haul Route**

30. The site plan indicates that the material haul route will be as follows: Haul route will access the site from two locations (Northeast corner of property at Virginia Drive and Southwest corner of property at Canvasback Ave).

### **Roads**

31. Operations shall be conducted in a manner so as not to damage borough roads as required by KPB 14.40.175 and will be subject to the remedies set forth in KPB 14.40.

### **Dust Control**

32. Dust suppression is required on haul roads within the boundaries of the material site by application of water or calcium chloride.

### **Hours of Operation**

33. Rock crushing equipment may only be operated between 6:00 a.m. and 10:00 p.m.

### **Reclamation**

34. The applicant has submitted a reclamation plan consistent with KPB 21.29.050(12)(a).  
35. Ponding may be used as a reclamation method as approved by the planning commission.  
36. The applicant has indicated that ponding will be used as a reclamation method.  
37. Extraction at this material site is expected to be Less Than 50,000 cubic yards of material each year.  
38. Material sites that exceed 50,000 cubic yards per year must meet the bonding requirement of KPB 21.29.050(12)(b). The amount of bond will be according to AS 27.19.040 unless the State of Alaska waives these requirements. In the case of a waiver the Kenai Peninsula Borough (KPB) would require the applicant to post bond to cover the anticipated reclamations costs and will be in the amount to be determined by the planning director as stated in KPB 21.29.050.

### **Other Permits**

39. The permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the Borough's floodplain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives.

### **Signage**

40. For permitted parcels on which the permittee does not intend to begin operations for at least 12 months after being granted a Conditional Land Use Permit, the permittee shall post notice of intent on parcel corners or access, whichever is more visible. Sign dimensions shall be no more than 15" by 15" and must contain the following information: the phrase "Permitted Material Site" along with the permittee's business name and a contact phone number.

### **Section 3: Permit Conditions**

1. The permittee shall cause the boundaries of the subject parcel to be staked at sequentially visible intervals where the parcel boundaries are within 300 feet of the excavation perimeter. Stakes must be in place and visible as long as the material site is permitted.
2. The permittee shall maintain the following buffers around the excavation perimeter or parcel boundaries. The site plan and application propose the following buffers, which shall not overlap an easement
  - a. North: minimum 6 ft. earthen berm
  - b. South: minimum 6 ft. earthen berm, minimum 6 ft. fence
  - c. East: 50 ft. of natural or improved vegetation
  - d. West: minimum 6 ft. earthen berm
3. The permittee shall maintain a 2:1 slope between the buffer zone and pit floor on all inactive site walls. Material from the area designated for the 2:1 slope may be removed if suitable, stabilizing material is replaced within 30 days from the time of removal.
4. The permittee shall not allow buffers to cause surface water diversion which negatively impacts adjacent properties or water bodies.
5. The permittee shall operate all equipment which conditions or processes material at least 300 feet from the East, South and West parcel boundaries. The applicant requests a waiver to process material 100 feet from the North property line.
6. The permittee shall not extract material within 100 horizontal feet of any water source existing prior to issuance of this permit.
7. The permittee shall maintain a 2-foot vertical separation from the seasonal high-water table between 100 and 300 horizontal feet of any water source existing prior to the issuance of this permit.
8. The applicant may not dewater by pumping, ditching or some other form of drainage unless an exemption is granted by the planning commission.
9. The applicant has requested an exemption for dewatering within the permitted area and has provided the required information as stated in 21.29.050(A)(4)(d).
10. As a condition of the permit and prior to dewatering, the contractor shall post a bond for liability for potential accrued damages, in the amount of \$80,000.
11. The permittee shall maintain an undisturbed buffer, and no earth material extraction activities shall take place within 100 linear feet from a lake, river, stream, or other water body, including riparian wetlands and mapped floodplains.
12. The permittee shall ensure that fuel storage containers larger than 50 gallons shall be contained in impermeable berms and basins capable of retaining 110 percent of storage capacity to minimize the potential for uncontained spills or leaks. Fuel storage containers 50 gallons or smaller shall not be placed directly on the ground, but shall be stored on a stable impermeable surface.
13. The permittee shall notify the planning department of any further subdivision or return to acreage of this parcel. The planning director may issue a written exemption from the permit amendment requirement if it is determined that the subdivision is consistent with the use of the parcel as a material site and all original permit conditions can be met.

14. The permittee shall conduct operations in a manner so as not to damage borough roads as required by KPB 14.40.175, and will be subject to the remedies set forth in KPB 14.40 for violation of this condition.
15. The permittee shall provide dust suppression on haul roads within the boundaries of the material site by application of water or calcium chloride.
16. The permittee shall not operate rock crushing equipment between the hours of 10:00 pm and 06:00 am.
17. The permittee shall reclaim the site as described in the reclamation plan for this parcel and approved by the planning commission.
18. The permittee is responsible for complying with all other federal, state and local laws applicable to the material site operation, and abiding by related permits. These laws and permits include, but are not limited to, the Borough's floodplain, coastal zone, and habitat protection regulations, those state laws applicable to material sites individually, reclamation, storm water pollution and other applicable Environmental Protection Agency (EPA) regulations, clean water act and any other U.S. Army Corp of Engineer permits, any EPA air quality regulations, EPA and ADEC water quality regulations, EPA hazardous material regulations, U.S. Dept. of Labor Mine Safety and Health Administration (MSHA) regulations (including but not limited to noise and safety standards), and Federal Bureau of Alcohol, Tobacco and Firearm regulations regarding using and storing explosives.
19. The permittee shall post notice of intent on parcel corners or access, whichever is more visible if the permittee does not intend to begin operations for at least 12 months after being granted a conditional land use permit. Sign dimensions shall be no more than 15" by 15" and must contain the following information: the phrase "Permitted Material Site" along with the permittee's business name and a contact phone number.
20. The permittee shall operate in accordance with the application and site plan as approved by the planning commission. If the permittee 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.
21. This Conditional Land Use Permit is subject to annual review by the planning department to ensure compliance with the conditions of the permit. In addition to the penalties provided by KPB 21.25.090, the planning commission may revoke a permit issued pursuant to this chapter if the permittee fails to comply with the provisions of this chapter or the conditions of the permit. The planning director shall provide at least 30 days written notice to the permittee of a revocation hearing before the planning commission.
22. Once effective, this Conditional Land Use Permit is valid for five years. A written request for permit extension must be made to the planning department at least 30 days prior to permit expiration, in accordance with KPB 21.29.070. The request must be accompanied by the applicable permit renewal and recording fees.
23. All permits, permit extensions, modified permits, prior existing uses, and terminations shall be recorded.
24. The Planning Department is responsible for filing the Planning Commission resolution. The applicant will provide the recording fee for the resolution to the Planning Department.

**SECTION 4. That based on the above findings, the Planning Commission concludes as a matter of law that the application has met all the requirements of KPB 21.25 and KPB 21.29, and through imposition of the conditions under KPB 21.29.050, the Planning Commission concludes as a matter of law that the application meets the six standards found in KPB 21.29.040:**

## **CONCLUSIONS OF LAW**

1. The proposed activity must protect against lowering of water sources serving other properties. Findings 14-28 and Conditions 6-11 appear to meet this standard.
2. The proposed activity must protect against physical damage to adjacent properties. Findings 6-11, 29, 31 and Conditions 1-3, 12, and 14 appear to meet this standard.
3. The proposed activity must minimize the off-site movement of dust. Findings 12, 32 and Condition 15 appear to meet this standard.
4. The proposed activity must minimize noise disturbance to other properties. Findings 7, 9, 12, 33 and Conditions 2, 5, 16 appear to meet this standard.
5. The proposed activity must minimize visual impacts. Findings 7, 9 and Condition 2 appear to meet this standard.
6. The proposed activity must provide for alternate post-mining land uses. Findings 34-38 and Condition 17 appear to meet this standard.

ADOPTED BY THE PLANNING COMMISSION OF THE KENAI PENINSULA BOROUGH ON  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2024.

\_\_\_\_\_  
Jeremy Brantley, Chairperson  
Planning Commission

ATTEST:

\_\_\_\_\_  
Ann Shirnberg  
Administrative Assistant

PLEASE RETURN  
Kenai Peninsula Borough  
Planning Department  
144 North Binkley St.  
Soldotna, AK 99669

# DESK PACKET

**(MATERIALS SUBMITTED AFTER MEETING PACKET PUBLICATION)**

## **E. NEW BUSINESS**

### **4. Conditional Land Use Permit Modification; MS2015-005**

**Applicant: Sean Cude**

**Request: Modification to PC Resolution 2014-20 to allow excavation into the water table and for temporary localized dewatering.**

**Location: 36498 Virginia Drive  
Kalifornsky Area**

**SBC 2012 IRREVOCABLE TRUST**  
**Ciechanski - Virginia Drive Conditional Land Use Permit**  
**Excavation Dewatering Plan**

SBC has proposed to utilize dewatering during the lower limits of excavation within the groundwater table. Excavation dewatering will be utilized on an as-needed basis during material extraction within the groundwater table. This plan is to provide information and parameters for that process. Dewatering parameters are as follows:

Pump Intake: 6" diameter maximum  
Rate of Pump: 2200 GPM (4.901620 cfs)  
Length of Dewatering: 10 day maximum

Excavation dewatering temporarily depresses shallow groundwater within the immediate area of the dewatering, but the groundwater level will recover to pre-dewatering elevations upon termination of dewatering. If dewatering was removed from the site, the aquifer would experience the well drawdown shown in Table A.

**TABLE A.** Well Drawdown without Immediate Adjacent Discharge  
(if dewatering was removed from site)

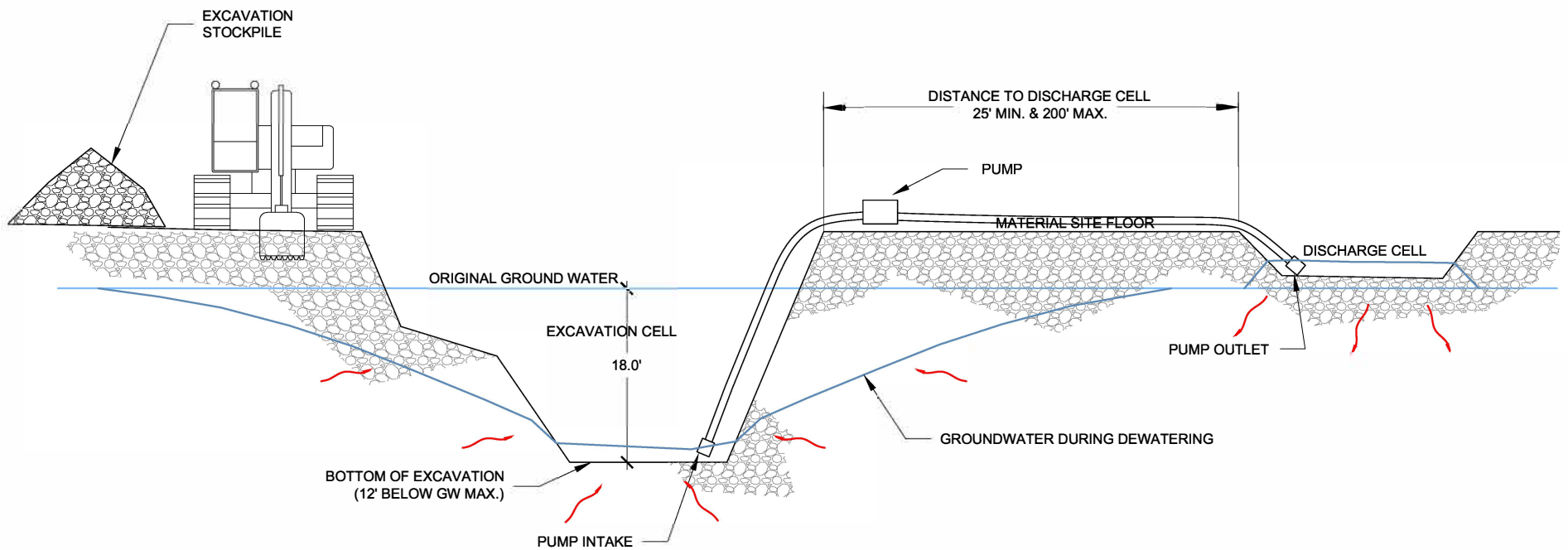
Distance from Dewatering Point	Length of Dewatering		
	1-day	7-day	10-day
300 feet	1.22 ft	1.98 ft	2.12 ft
0.25 mile	0.22 ft	0.84 ft	0.97 ft
0.50 mile	0.02 ft	0.40 ft	0.51 ft
1.0 mile	0.0 ft	0.07 ft	0.12 ft

Dewatering will not be removed from the subject property. Waters from the dewatering process will be discharged within the permit property to re-enter the groundwater table, therefore providing rapid recharge to the aquifer which negates the effects on surrounding groundwater elevations. Therefore, the aquifer would experience the well drawdown shown in Table B.

**TABLE B.** Well Drawdown with Immediate Adjacent Discharge  
(dewatering is discharged adjacent to removal dewatering location)

Distance from Dewatering Point	Length of Dewatering		
	1-day	7-day	10-day
300 feet	0.0 ft	0.04 ft	0.10 ft
0.25 mile	0.0 ft	0.0 ft	0.0 ft
0.50 mile	0.0 ft	0.0 ft	0.0 ft
1.0 mile	0.0 ft	0.0 ft	0.0 ft

An exhibit of the proposed pumping layout is included on Sheet 1.



**MCLANE CONSULTING INC.**

ENGINEERING - TESTING  
SURVEYING - MAPPING  
P.O. BOX 468  
SOLDOTNA, AK. 99669  
VOICE: (907) 283-4218  
FAX: (907) 283-3265  
WWW.MCLANECG.COM

PROJECT	DEWATERING PLAN EXHIBIT	REVISION: 2
LOCATION	CIECHANSKI - VIRGINIA DRIVE	DATE: 8/16/2024
CLIENTS	SBC, LLC SOLDOTNA, ALASKA 99669	DRAWN BY: GMD
		SCALE: NTS
		PROJECT NO. 204014
		BOOK NO. 19-11
		SHEET <b>1</b>



To: Betty Glick! - This is contradictory. She does  
no go in to the water table to dewater.  
Discredit the whole process out side of recovering  
more gravel to fill. Exposing the water table

MORSE AARON H MORSE LIVING TRUST

August 21, 2024

154 E REDOUBT AVE

SOLDOTNA, AK 99669

opens up for contamination to well water  
supplies of

KENAI PENINSULA BOROUGH PLANNING COMMISSION

NOTICE OF PUBLIC HEARING

Public notice is hereby given that a Conditional Land Use Permit application has been received to develop a material site (gravel pit) on a property located in the Kalifornsky area. These applications are reviewed by the Kenai Peninsula Borough Planning Commission in accordance with KPB 21.25 and KPB 21.29. You are receiving this notice because you are a landowner within a half-mile radius of the subject property, and are invited to provide comment at the below public hearing.

**Applicant:** SEAN CUDE  
**Landowner:** SBC 2012 IRREVOCABLE TRUST  
**Parcel Number(s):** 05527001  
**Legal Description:** DIAMOND WILLOW ESTATES SUB PART 13 TRACT 13  
**Address:** 36498 Virginia Drive  
**Project Description:** This application is requesting a modification to PC2014-20 to allow excavation in the water table and for temporary, localized dewatering.

**Public Hearing:**

**Date and Time:** Monday, September 9, 2024 at 7:30 p.m.

**Location:** Kenai Peninsula Borough  
Betty Glick Assembly Chambers  
144 N. Binkley, Soldotna, AK 99669

**Zoom Meeting ID:** Meeting ID 907 714 2200

**Zoom Link:** <https://us06web.zoom.us/j/9077142200>

**Telephonic:** 1-888-788-0099 or 1-877-853-5247

Types: 1. Gravity Drainage  
2. Filtration  
3. Centrifugation  
4. Drying Beds  
5. Thermal Drying

**Public Comment:** You can provide verbal comment at the hearing (see information above). You may also submit written comments by emailing them to [rraidmae@kpb.us](mailto:rraidmae@kpb.us). **Written comments must be received by 1:00 pm Friday, September 6, 2024.** Note that persons who participate in the public hearing, either by written or verbal comment, may appeal the Planning Commission's decision within 15 days of the date of notice of the decision.

The meeting packet will be posted the week prior to the meeting. Once it has been posted, you can view the application and additional maps at [kpb.legistar.com/Calendar](http://kpb.legistar.com/Calendar). For additional information, contact Ryan Raidmae at [rraidmae@kpb.us](mailto:rraidmae@kpb.us) or 907-714-2462.

Please see the attached vicinity map of the proposed activities.

**From:** [Lisa Cannon](#)  
**To:** [Raidmae, Ryan](#)  
**Subject:** <EXTERNAL-SENDER>public hearing 9/9/24 comment  
**Date:** Friday, August 30, 2024 7:41:46 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)

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How temporary will this be? Will the water table be significantly impacted? We already have continual well problems in our 4plexes on Damon and Clarence and do not need more problems.

CALLAHAN CARTER LIVING TRUST AMENDED AND  
RESTATED  
CARTER R CALLAHAN & LISA M CANNON, CO-TT  
849 JACKSON ST STE 2C  
NAPA, CA94559

August 21, 2024

**KENAI PENINSULA BOROUGH PLANNING COMMISSION  
NOTICE OF PUBLIC HEARING**

Public notice is hereby given that a Conditional Land Use Permit application has been received to develop a material site (gravel pit) on a property located in the Kalifornsky area. These applications are reviewed by the Kenai Peninsula Borough Planning Commission in accordance with KPB 21.25 and KPB 21.29. You are receiving this notice because you are a landowner within a half-mile radius of the subject property, and are invited to provide comment at the below public hearing.

**Applicant:** SEAN CUDE  
**Landowner:** SBC 2012 IRREVOCABLE TRUST  
**Parcel Number(s):** 05527001  
**Legal Description:** DIAMOND WILLOW ESTATES SUB PART 13 TRACT 13  
**Address:** 36498 Virginia Drive  
**Project Description:** This application is requesting a modification to PC2014-20 to allow excavation in the water table and for temporary, localized dewatering.  
**Public Hearing:**  
**Date and Time:** Monday, September 9, 2024 at 7:30 p.m.  
**Location:** Kenai Peninsula Borough  
Betty Glick Assembly Chambers  
144 N. Binkley, Soldotna, AK 99669  
**Zoom Meeting ID:** Meeting ID 907 714 2200  
**Zoom Link:** <https://us06web.zoom.us/j/9077142200>  
**Telephonic:** 1-888-788-0099 or 1-877-853-5247

**Public Comment:** You can provide verbal comment at the hearing (see information above). You may also submit written comments by emailing them to [rraidmae@kpb.us](mailto:rraidmae@kpb.us). **Written comments must be received by 1:00 pm Friday, September 6, 2024.** Note that persons who participate in the public hearing, either by written or verbal comment, may appeal the Planning Commission's decision within 15 days of the date of notice of the decision.

Thank you,  
Lisa  
Co-Trustee Carter Callahan Living Trust



**LISA M. CANNON**

*President & CEO*

849 Jackson Street, Suite 2C

Napa, CA 94559

Phone: (707) 944-0220 x3

Text: (916) 826-6385

E-mail: [Lisa@rajadevelopment.com](mailto:Lisa@rajadevelopment.com)

**From:** [Colleen Sonnevil](#)  
**To:** [Raidmae, Ryan](#)  
**Subject:** <EXTERNAL-SENDER>Public Comment Conditional Land Use Permit  
**Date:** Thursday, September 5, 2024 10:01:08 PM

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Kenai Peninsula Borough Planning Commission;

We request the Conditional Land Use Permit be denied.

We and all our neighbors within the half-mile radius boundaries of the map provided us two weeks ago are on drinking water and bathing wells. For our safety and peace of mind it is necessary that if application is approved the proposed gravel pit should be required to install monitoring wells and a groundwater monitoring program to identify in advance any potential impacts to surrounding private drinking water wells. Previously private professional testing of well water in the area has been found pure of natural and foreign contamination.

As a good neighbor, it is also reasonable to require gravel pit operator and owner to out source an annual test of wells in the mapped radius. If contamination or lower water level is found; Sean Cude: owner(s) should be required to provide the homeowner/owners with potable drinking water until a successful pure water drilling of a new well on homeowners property is accomplished with Sean Cude covering the cost.

If permit is approved we request the above requirements be put in writing, notarized and filed with the courts.

In conclusion if the gravel pit is approved impacts must require mitigation.

Sincerely,  
Colleen and Gary Sonnevil  
36646 River Hills Dr  
Kenai, Alaska 99611

907-398-9151

September 5, 2024

**TO: Kenai Peninsula Borough  
Planning Department**

**RE:** Proposal by applicant Sean Cude

**Parcel:** 05527001

**Legal Description:** DIAMOND WILLOW ESTATES SUB PART 13 TRACT 13

**Address:** 36498 Virginia Drive

**Project Description:** This application is requesting a modification to PC2014-20 to allow excavation in the water table and for temporary, localized dewatering.

To Whom It May Concern,

I am writing in opposition to proposal by applicant Sean Cude, Parcel 05527001, regarding for the above project description. This application is requesting a modification to PC2014-20 to allow excavation in the water table and for temporary, localized dewatering. Please see stated reasons below as well as included documentation/map.

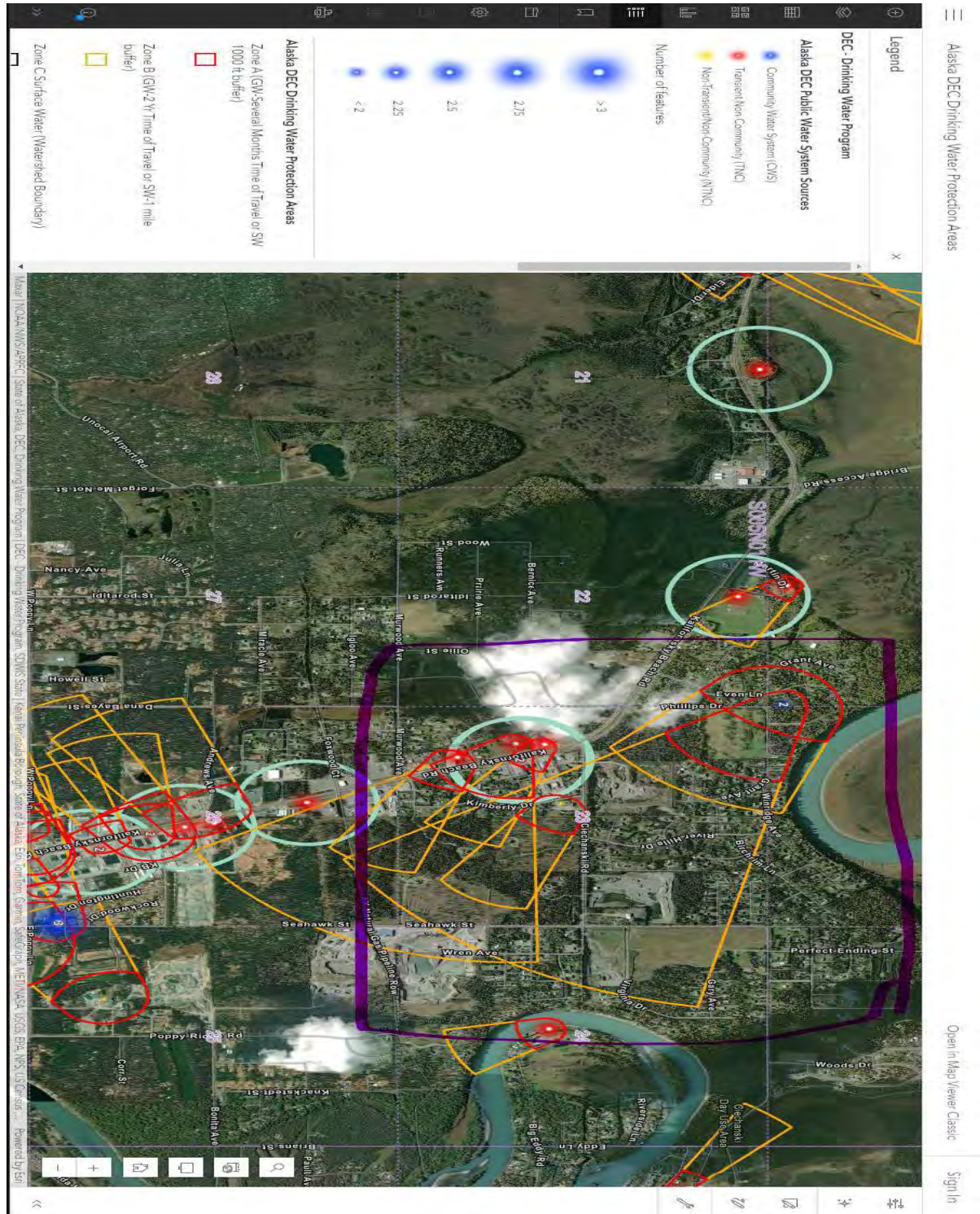
1. The Department of Environmental Services for the State of Alaska has documented drinking water protection areas. The proposed site of excavation into the water table is in a 1-mile buffer zone outlined by the State of Alaska, Department of Environmental Conservation. Please see the attached map to show this area. Also note, there are many surrounding drinking water protection areas as well as buffer zones in the vicinity of the documented address of 36498 Virginia Drive. I have included a map for a visual from the ADEC website, as well as a link to the website for your convenience. Due to this, special consideration should be taken when granting permission to disturb the water table. A quote from the website **"The Drinking Water Protection Areas were created to meet the requirements of the 1996 Safe Drinking Water Act. It is hoped that this data will be used at the local level to initiate and/or prioritize proactive protection strategies for the public water systems in their jurisdiction."**<sup>1</sup>

While the history of gravel pit operations within the Kenai Peninsula Borough have been challenged many times, I sincerely hope that this commission considers the community needs of individual homeowners and not just the special interests of business owners. When will the welfare of the **many** of a community be valued as highly as the few. Please consider the recommendations made by ADEC when deciding to disrupt the water table.

2. Dewatering can affect the up-gradient and down-gradient effects of well within the vicinity of the gravel pit, which can affect well pressure of nearby residential homes and well pressure. The gravel pit owner should have in place a plan exceeding the \$10,000 limit and 8 wells listed to include the surrounding residential wells within at least a half mile to 1 mile radius. Please see attached Environmental Protection Agency article I have included for your review if desired.

- The provided proposal does not address the consideration for testing the water before and after to ensure that contamination has not occurred related to the gravel pit operation if approved, a plan in place for any ramifications for nearby residential areas.

2



I appreciate your time in reviewing my letter. I am a concerned resident of this area, and I have great concern for maintaining safe drinking water for our community. Balance is key, when business interests outweigh community interests and health, I feel it my duty not only as a property owner near this proposal, but as a community member. It is a vital resource for sustaining life and health.

This proposal if approved could grant permission for this gravel pit operation for up to 20 years. The decision you make today can have long-lasting indefinite effects to this community.

Thank you for your consideration.

Julie Bunch

46781 Mooseberry Avenue

Kenai, Alaska 99611

<sup>1</sup>State of Alaska, Division of Environmental Health, Drinking Water Program, Alaska DEC Drinking Water Protection Areas,

<https://www.arcgis.com/home/item.html?id=13ed2116e4094f9994775af9a62a1e85> , accessed 9/5/2024

<sup>2</sup>State of Alaska, Division of Environmental Health, Drinking Water Program, Alaska DEC Drinking Water Protection Areas,

<https://www.arcgis.com/apps/mapviewer/index.html?webmap=13ed2116e4094f9994775af9a62a1e85> , accessed 9/5/2024.

<sup>3</sup>“Getting Up to Speed” for section C, “Ground Water Contamination” is adapted from US EPA Seminar Publication. Wellhead Protection: A Guide for Small Communities. Chapter 3. EPA/625/R-93/002.

<https://dnr.alaska.gov/mlw/cdn/pdf/factsheets/water-rights-in-alaska.pdf?v=1> , accessed 9/5/2024.

## Legend

## DEC - Drinking Water Program

## Alaska DEC Public Water System Sources

- Community Water System (CWS)
- Transient Non-Community (TNC)
- Non-Transient/Non-Community (NTNC)

## Number of features



## Alaska DEC Drinking Water Protection Areas

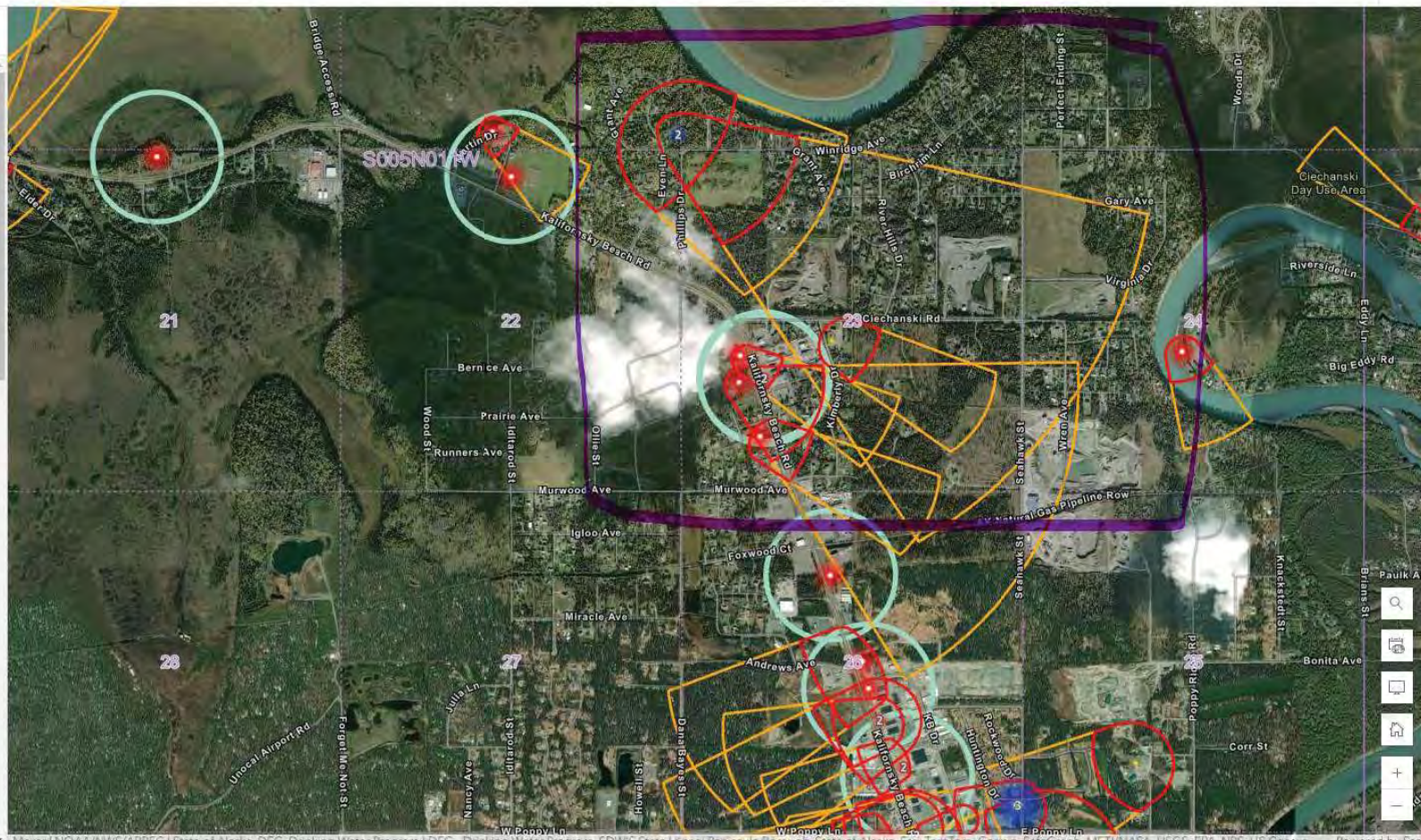
Zone A (GW-Several Months Time of Travel or SW 1000 ft buffer)



Zone B (GW-2 Yr Time of Travel or SW-1 mile buffer)



Zone C Surface Water (Watershed Boundary)



# *Getting Up to Speed* GROUND WATER CONTAMINATION



**G**round water contamination is nearly always the result of human activity. In areas where population density is high and human use of the land is intensive, ground water is especially vulnerable. Virtually any activity whereby chemicals or wastes may be released to the environment, either intentionally or accidentally, has the potential to pollute ground water. When ground water becomes contaminated, it is difficult and expensive to clean up.

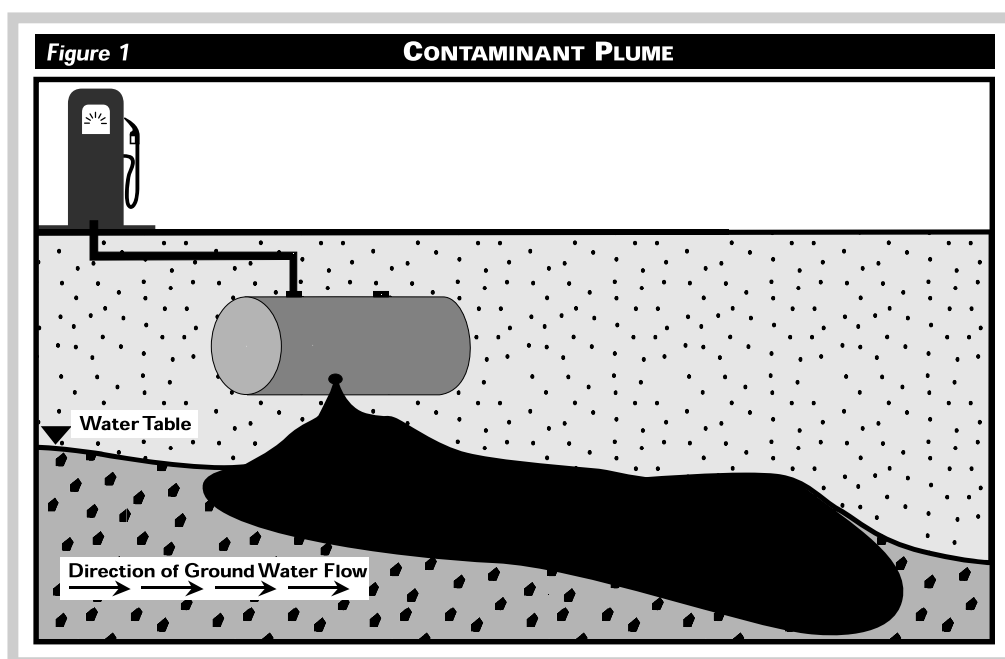
To begin to address pollution prevention or remediation, we must understand how surface waters and ground waters interrelate. Ground water and surface water are interconnected and can be fully understood and intelligently managed only when that fact is acknowledged. If there is a water supply well near a source of contamination, that well runs the risk of becoming contaminated. If there is a nearby river or stream, that water body may also become polluted by the ground water.

## HOW DOES GROUND WATER BECOME CONTAMINATED?

Depending on its physical, chemical, and biological properties, a contaminant that has been released into the environment may move within an aquifer in the same manner that ground water moves. (Some contaminants, because of their phys-

ical or chemical properties, do not always follow ground water flow.) It is possible to predict, to some degree, the transport within an aquifer of those substances that move along with ground water flow. For example, both water and certain contaminants flow in the direction of the topography from recharge areas to discharge areas. Soils that are porous and permeable tend to transmit water and certain types of contaminants with relative ease to an aquifer below.

Just as ground water generally moves slowly, so do contaminants in ground water. Because of this slow movement, contaminants tend to remain concentrated in the form of a **plume** (see Figure 1) that flows along the same path as the ground water. The size and speed of the plume depend on the amount and type of contaminant, its solubility and density, and the velocity of the surrounding ground water.



## Getting Up to Speed: GROUND WATER CONTAMINATION

Ground water and contaminants can move rapidly through fractures in rocks. Fractured rock presents a unique problem in locating and controlling contaminants because the fractures are generally randomly spaced and do not follow the contours of the land surface or the hydraulic gradient. Contaminants can also move into the ground water system through macropores—root systems, animal burrows, abandoned wells, and other systems of holes and cracks that supply pathways for contaminants.

In areas surrounding pumping wells, the potential for contamination increases because water from the **zone of contribution**, a land area larger than the original recharge area, is drawn into the well and the surrounding aquifer. Some drinking water wells actually draw water from nearby streams, lakes, or rivers. Contaminants present in these surface waters can contribute contamination to the ground water system. Some wells rely on artificial recharge to increase the amount of water infiltrating an aquifer, often using water from storm runoff, irrigation, industrial processes, or treated sewage. In several cases, this practice has resulted in increased concentrations of nitrates, metals, microbes, or synthetic chemicals in the water.

Under certain conditions, pumping can also cause the ground water (and associated contaminants) from another aquifer to enter the one being pumped. This phenomenon is called **interaquifer leakage**. Thus, properly identifying and protecting the areas affected by well pumping is important to maintain ground water quality.

Generally, the greater the distance between a source of contamination and a ground water source, the more likely that natural processes will reduce the impacts of contamination. Processes such as oxidation, biological degradation (which sometimes renders contaminants less toxic), and adsorption (binding of materials to soil particles) may take place in the soil layers of the unsaturated zone and reduce the concentration of a contaminant before it reaches ground water. Even

contaminants that reach ground water directly, without passing through the unsaturated zone, can become less concentrated by dilution (mixing) with the ground water. However, because ground water usually moves slowly, contaminants generally undergo less dilution than when in surface water.

### SOURCES OF GROUND WATER CONTAMINATION

Ground water can become contaminated from natural sources or numerous types of human activities. (See Tables 1 and 2 and Figure 1.) Residential, municipal, commercial, industrial, and agricultural activities can all affect ground water quality. Contaminants may reach ground water from activities on the land surface, such as releases or spills from stored industrial wastes; from sources below the land surface but above the water table, such as septic systems or leaking underground petroleum storage systems; from structures beneath the water table, such as wells; or from contaminated recharge water.

#### ■ Natural Sources

Some substances found naturally in rocks or soils, such as iron, manganese, arsenic, chlorides, fluorides, sulfates, or radionuclides, can become dissolved in ground water. Other naturally occurring substances, such as decaying organic matter, can move in ground water as particles. Whether any of these substances appears in ground water depends on local conditions. Some substances may pose a health threat if consumed in excessive quantities; others may produce an undesirable odor, taste, or color. Ground water that contains unacceptable concentrations of these substances is not used for drinking water or other domestic water uses unless it is treated to remove these contaminants.

#### ■ Septic Systems

One of the main causes of ground water contamination in the United States is the effluent (out-flow) from septic tanks, cesspools, and privies.

## Getting Up to Speed: GROUND WATER CONTAMINATION

**Table 1 TYPICAL SOURCES OF POTENTIAL GROUND WATER CONTAMINATION BY LAND USE CATEGORY**

Category	Contaminant Source	
Agriculture	Animal burial areas	Irrigation sites
	Animal feedlots	Manure spreading areas/pits
	Fertilizer storage/use	Pesticide storage/use
Commercial	Airports	Jewelry/metal plating
	Auto repair shops	Laundromats
	Boat yards	Medical institutions
	Construction areas	Paint shops
	Car washes	Photography establishments
	Cemeteries	Railroad tracks and yards
	Dry cleaners	Research laboratories
	Gas stations	Scrap and junkyards
	Golf courses	Storage tanks
Industrial	Asphalt plants	Petroleum production/storage
	Chemical manufacture/storage	Pipelines
	Electronics manufacture	Septage lagoons and sludge sites
	Electroplaters	Storage tanks
	Foundries/metal fabricators	Toxic and hazardous spills
	Machine/metalworking shops	Wells (operating/abandoned)
	Mining and mine drainage	Wood preserving facilities
Residential	Fuel oil	Septic systems, cesspools
	Furniture stripping/refinishing	Sewer lines
	Household hazardous products	Swimming pools (chemical storage)
	Household lawns	
Other	Hazardous waste landfills	Recycling/reduction facilities
	Municipal incinerators	Road deicing operations
	Municipal landfills	Road maintenance depots
	Municipal sewer lines	Storm water drains/basins
	Open burning sites	Transfer stations

Source: U.S. EPA, 1991a.

Approximately one-fourth of all homes in the United States rely on septic systems to dispose of their human wastes. Although each individual system releases a relatively small amount of waste into the ground, the large number and widespread use of these systems makes them a serious contamination source. Septic systems that are improperly sited, designed, constructed, or maintained can contaminate ground water with bacteria, viruses, nitrates, detergents, oils, and chemicals. Along with these contaminants are the commercially available septic system cleaners containing syn-

thetic organic chemicals (such as 1,1,1-trichloroethane or methylene chloride). These cleaners can contaminate water supply wells and interfere with natural decomposition processes in septic systems.

Most, if not all, state and local regulations require specific separation distances between septic systems and drinking water wells. In addition, computer models have been developed to calculate suitable distances and densities.

## Getting Up to Speed: GROUND WATER CONTAMINATION

### ■ Improper Disposal of Hazardous Waste

Hazardous waste should always be disposed of properly, that is to say, by a licensed hazardous waste handler or through municipal hazardous waste collection days. Many chemicals should not be disposed of in household septic systems, including oils (e.g., cooking, motor), lawn and garden chemicals, paints and paint thinners, disinfectants, medicines, photographic chemicals, and swimming pool chemicals. Similarly, many substances used in industrial processes should not be disposed of in drains at the workplace because they could contaminate a drinking water source. Companies should train employees in the proper use and disposal of all chemicals used on site. The many different types and the large quantities of chemicals used at industrial locations make proper disposal of wastes especially important for ground water protection.

### ■ Releases and Spills from Stored Chemicals and Petroleum Products

Underground and aboveground storage tanks are commonly used to store petroleum products and other chemical substances. For example, many homes have underground heating oil tanks. Many businesses and municipal highway departments also store gasoline, diesel fuel, fuel oil, or chemicals in on-site tanks. Industries use storage tanks to hold chemicals used in industrial processes or to store hazardous wastes for pickup by a licensed hauler. Approximately 4 million underground storage tanks exist in the United States and, over the years, the contents of many of these tanks have leaked and spilled into the environment.

If an underground storage tank develops a leak, which commonly occurs as the tank ages and corrodes, its contents can migrate through the soil and reach the ground water. Tanks that meet federal/state standards for new and upgraded systems are less likely to fail, but they are not foolproof. Abandoned underground tanks pose another problem because their location is often unknown. Aboveground storage tanks can also pose a threat to ground water if a spill or leak occurs and adequate barriers are not in place.

Improper chemical storage, sloppy materials handling, and poor-quality containers can be major threats to ground water. Tanker trucks and train cars pose another chemical storage hazard. Each year, approximately 16,000 chemical spills occur from trucks, trains, and storage tanks, often when materials are being transferred. At the site of an accidental spill, the chemicals are often diluted with water and then washed into the soil, increasing the possibility of ground water contamination.

### ■ Landfills

Solid waste is disposed of in thousands of municipal and industrial landfills throughout the country. Chemicals that should be disposed of in hazardous waste landfills sometimes end up in municipal landfills. In addition, the disposal of many household wastes is not regulated.

Once in the landfill, chemicals can leach into the ground water by means of precipitation and surface runoff. New landfills are required to have clay or synthetic liners and leachate (liquid from a landfill containing contaminants) collection systems to protect ground water. Most older landfills, however, do not have these safeguards. Older landfills were often sited over aquifers or close to surface waters and in permeable soils with shallow water tables, enhancing the potential for leachate to contaminate ground water. Closed landfills can continue to pose a ground water contamination threat if they are not capped with an impermeable material (such as clay) before closure to prevent the leaching of contaminants by precipitation.

### ■ Surface Impoundments

Surface impoundments are relatively shallow ponds or lagoons used by industries and municipalities to store, treat, and dispose of liquid wastes. As many as 180,000 surface impoundments exist in the United States. Like landfills, new surface impoundment facilities are required to have liners, but even these liners sometimes leak.

## Getting Up to Speed: GROUND WATER CONTAMINATION

**Table 2**

**POTENTIAL HARMFUL COMPONENTS OF COMMON HOUSEHOLD PRODUCTS**

Product	Toxic or Hazardous Components
Antifreeze (gasoline or coolants systems)	Methanol, ethylene glycol
Automatic transmission fluid	Petroleum distillates, xylene
Battery acid (electrolyte)	Sulfuric acid
Degreasers for driveways and garages	Petroleum solvents, alcohols, glycol ether
Degreasers for engines and metal	Chlorinated hydrocarbons, toluene, phenols, dichloroperchloroethylene
Engine and radiator flushes	Petroleum solvents, ketones, butanol, glycol ether
Hydraulic fluid (brake fluid)	Hydrocarbons, fluorocarbons
Motor oils and waste oils	Hydrocarbons
Gasoline and jet fuel	Hydrocarbons
Diesel fuel, kerosene, #2 heating oil	Hydrocarbons
Grease, lubes	Hydrocarbons
Rustproofers	Phenols, heavy metals
Car wash detergents	Alkyl benzene sulfonates
Car waxes and polishes	Petroleum distillates, hydrocarbons
Asphalt and roofing tar	Hydrocarbons
Paints, varnishes, stains, dyes	Heavy metals, toluene
Paint and lacquer thinner	Acetone, benzene, toluene, butyl acetate, methyl ketones
Paint and varnish removers, deglossers	Methylene chloride, toluene, acetone, xylene, ethanol, benzene, methanol
Paint brush cleaners	Hydrocarbons, toluene, acetone, methanol, glycol ethers, methyl ethyl ketones
Floor and furniture strippers	Xylene
Metal polishes	Petroleum distillates, isopropanol, petroleum naphtha
Laundry soil and stain removers	Hydrocarbons, benzene, trichloroethylene, 1,1,1-trichloroethane
Other solvents	Acetone, benzene
Rock salt	Sodium concentration
Refrigerants	1,1,2-trichloro-1,2,2-trifluoroethane
Bug and tar removers	Xylene, petroleum distillates
Household cleansers, oven cleaners	Xylenols, glycol ethers, isopropanol
Drain cleaners	1,1,1-trichloroethane
Toilet cleaners	Xylene, sulfonates, chlorinated phenols
Cesspool cleaners	Tetrachloroethylene, dichlorobenzene, methylene chloride
Disinfectants	Cresol, xylenols
Pesticides (all types)	Naphthalene, phosphorus, xylene, chloroform, heavy metals, chlorinated hydrocarbons
Photochemicals	Phenols, sodium sulfite, cyanide, silver halide, potassium bromide
Printing ink	Heavy metals, phenol-formaldehyde
Wood preservatives (creosote)	Pentachlorophenols
Swimming pool chlorine	Sodium hypochlorite
Lye or caustic soda	Sodium hydroxide
Jewelry cleaners	Sodium cyanide

Source: "Natural Resources Facts: Household Hazardous Wastes," Fact Sheet No. 88-3, Department of Natural Science, University of Rhode Island, August 1988.

## Getting Up to Speed: GROUND WATER CONTAMINATION

### ■ Sewers and Other Pipelines

Sewer pipes carrying wastes sometimes leak fluids into the surrounding soil and ground water. Sewage consists of organic matter, inorganic salts, heavy metals, bacteria, viruses, and nitrogen. Other pipelines carrying industrial chemicals and oil brine have also been known to leak, especially when the materials transported through the pipes are corrosive.

### ■ Pesticide and Fertilizer Use

Millions of tons of fertilizers and pesticides (e.g., herbicides, insecticides, rodenticides, fungicides, avicides) are used annually in the United States for crop production. In addition to farmers, homeowners, businesses (e.g., golf courses), utilities, and municipalities use these chemicals. A number of these pesticides and fertilizers (some highly toxic) have entered and contaminated ground water following normal, registered use. Some pesticides remain in soil and water for many months to many years. Another potential source of ground water contamination is animal wastes that percolate into the ground from farm feedlots. Feedlots should be properly sited and wastes should be removed at regular intervals.

Between 1985 and 1992, EPA's Office of Pesticides and Toxic Substances and Office of Water conducted a National Pesticide Survey to determine the number of drinking water wells nationwide that contain pesticides and nitrates and the concentration of these substances. The survey also analyzed the factors associated with contamination of drinking water wells by pesticides and nitrates. The survey, which included samples from more than 1,300 public community and rural domestic water supply wells, found that approximately 3.6 percent of the wells contained concentrations of nitrates above the federal maximum contaminant level, and that over half of the wells contained nitrates above the survey's minimum reporting limit for nitrate (0.15 mg/L).

The survey also reported that approximately 0.8 percent of the wells tested contained pesticides at

levels higher than federal maximum contaminant levels or health advisory levels. Only 10 percent of the wells classified as rural were actually located on farms. There is a higher incidence of contamination by agricultural chemicals in farm wells used for drinking water.

After further analysis, EPA estimated that for the wells that contain pesticides, a significant percentage probably contain chemical concentrations that exceed the federal health-based limits (e.g., maximum contaminant levels or health advisory levels). Approximately 14.6 percent of the wells tested contained levels of one or more pesticides above the minimum reporting limit set in the survey. The most common pesticides found were atrazine and metabolites (breakdown products) of dimethyl tetrachloroterephthalate (DCPA, commonly known as Dacthal), which is used in many utility easement weed-control programs and for lawn care.

### ■ Drainage Wells

Drainage wells are used in wet areas to help drain water and transport it to deeper soils. These wells may contain agricultural chemicals and bacteria.

### ■ Injection Wells/Floor Drains

Injection wells are used to collect storm water runoff, collect spilled liquids, dispose of wastewater, and dispose of industrial, commercial, and utility wastes. These wells are regulated by the U.S. EPA's Underground Injection Control Program. In New England, these wells may not be used to inject hazardous wastes from industrial, commercial, and utility operations. The injection wells used in this region are typically shallow and include sumps and dry wells used to handle storm water.

Floor drains were historically used by businesses to handle spills. Today, if a business operates or handles waste fluids that drain to a septic system, dry well, or floor drain, it is required to submit information regarding its operation to the U.S. EPA or its state environmental protection agency. Disposal wells that pose threats to drinking water supplies are prohibited and must be closed, con-

## Getting Up to Speed: GROUND WATER CONTAMINATION

nected to a public sewage system, or connected to a storage tank.

### ■ Improperly Constructed Wells

Problems associated with improperly constructed wells can result in ground water contamination when contaminated surface or ground water is introduced into the well.

### ■ Improperly Abandoned Wells

These wells can act as a conduit through which contaminants can reach an aquifer if the well casing has been removed, as is often done, or if the casing is corroded. In addition, some people use abandoned wells to dispose of wastes such as used motor oil. These wells may reach into an aquifer that serves drinking supply wells. Abandoned exploratory wells (e.g., for gas, oil, or coal) or test hole wells are usually uncovered and are also a potential conduit for contaminants.

### ■ Active Drinking Water Supply Wells

Poorly constructed wells can result in ground water contamination. Construction problems, such as faulty casings, inadequate covers, or lack of concrete pads, allow outside water and any accompanying contaminants to flow into the well. Sources of such contaminants can be surface runoff or wastes from farm animals or septic systems. Contaminated fill packed around a well can also degrade well water quality. Well construction problems are more likely to occur in older wells that were in place prior to the establishment of well construction standards and in domestic and livestock wells.

### ■ Poorly Constructed Irrigation Wells

These wells can allow contaminants to enter ground water. Often pesticides and fertilizers are applied in the immediate vicinity of wells on agricultural land.

### ■ Mining Activities

Active and abandoned mines can contribute to ground water contamination. Precipitation can leach soluble minerals from the mine wastes

(known as spoils or tailings) into the ground water below. These wastes often contain metals, acid, minerals, and sulfides. Abandoned mines are often used as wells and waste pits, sometimes simultaneously. In addition, mines are sometimes pumped to keep them dry; the pumping can cause an upward migration of contaminated ground water, which may be intercepted by a well.

## EFFECTS OF GROUND WATER CONTAMINATION

Contamination of ground water can result in poor drinking water quality, loss of water supply, degraded surface water systems, high cleanup costs, high costs for alternative water supplies, and/or potential health problems.

The consequences of contaminated ground water or degraded surface water are often serious. For example, estuaries that have been impacted by high nitrogen from ground water sources have lost critical shellfish habitats. In terms of water supply, in some instances, ground water contamination is so severe that the water supply must be abandoned as a source of drinking water. In other cases, the ground water can be cleaned up and used again, if the contamination is not too severe and if the municipality is willing to spend a good deal of money. Follow-up water quality monitoring is often required for many years.

Because ground water generally moves slowly, contamination often remains undetected for long periods of time. This makes cleanup of a contaminated water supply difficult, if not impossible. If a cleanup is undertaken, it can cost thousands to millions of dollars.

Once the contaminant source has been controlled or removed, the contaminated ground water can be treated in one of several ways:

- Containing the contaminant to prevent migration.
- Pumping the water, treating it, and returning it to the aquifer.

## Getting Up to Speed: GROUND WATER CONTAMINATION

- Leaving the ground water in place and treating either the water or the contaminant.
- Allowing the contaminant to attenuate (reduce) naturally (with monitoring), following the implementation of an appropriate source control.

Selection of the appropriate remedial technology is based on site-specific factors and often takes into account cleanup goals based on potential risk that are protective of human health and the environment. The technology selected is one that will achieve those cleanup goals. Different technologies are effective for different types of contaminants, and several technologies are often combined to achieve effective treatment. The effectiveness of treatment depends in part on local hydrogeological conditions, which must be evaluated prior to selecting a treatment option.

Given the difficulty and high costs of cleaning up a contaminated aquifer, some communities choose to abandon existing wells and use other water sources, if available. Using alternative supplies is probably more expensive than obtaining drinking water from the original source. A temporary and expensive solution is to purchase bottled water, but it is not a realistic long-term solution for a community's drinking water supply problem. A community might decide to install new wells in a different area of the aquifer. In this case, appropriate siting and monitoring of the new wells are critical to ensure that contaminants do not move into the new water supplies.

### Potential Health Problems

A number of microorganisms and thousands of synthetic chemicals have the potential to contaminate ground water. Drinking water containing bacteria and viruses can result in illnesses such as hepatitis, cholera, or giardiasis. Methemoglobinemia or "blue baby syndrome," an illness affecting infants, can be caused by drinking water that is high in nitrates. Benzene, a component of

gasoline, is a known human carcinogen. The serious health effects of lead are well known—learning disabilities in children; nerve, kidney, and liver problems; and pregnancy risks. Concentrations in drinking water of these and other substances are regulated by federal and state laws. Hundreds of other chemicals, however, are not yet regulated, and many of their health effects are unknown or not well understood. Preventing contaminants from reaching the ground water is the best way to reduce the health risks associated with poor drinking water quality.

### REGULATIONS TO PROTECT GROUND WATER

Several federal laws help protect ground water quality. The **Safe Drinking Water Act (SDWA)** established three drinking water source protection programs: the Wellhead Protection Program, Sole Source Aquifer Program, and the Source Water Assessment Program. It also called for regulation of the use of underground injection wells for waste disposal and provided EPA and the states with the authority to ensure that drinking water supplied by public water systems meets minimum health standards. The **Clean Water Act** regulates ground water that is shown to have a connection with surface water. It sets standards for allowable pollutant discharges to surface water. The **Resource Conservation and Recovery Act (RCRA)** regulates treatment, storage, and disposal of hazardous and nonhazardous wastes. The **Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, or Superfund)** authorizes the government to clean up contamination or sources of potential contamination from hazardous waste sites or chemical spills, including those that threaten drinking water supplies. CERCLA includes a "community right-to-know" provision. The **Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)** regulates pesticide use. The **Toxic Substances Control Act (TSCA)** regulates manufactured chemicals.



## Getting Up to Speed: GROUND WATER CONTAMINATION



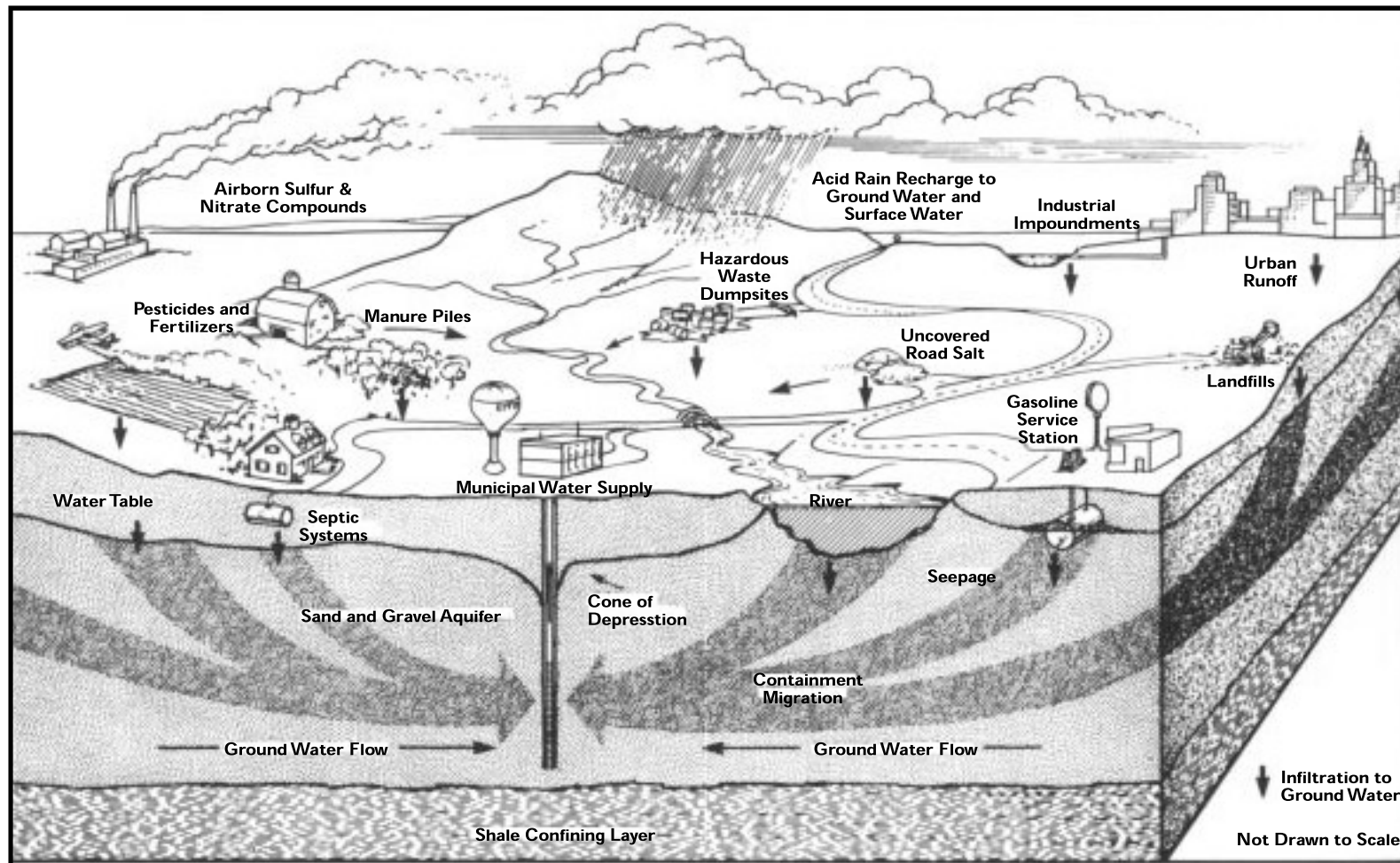
### KEY TERMS

- Clean Water Act
- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, or Superfund)
- Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)
- Interaquifer Leakage
- Plume
- Resource Conservation and Recovery Act (RCRA)
- Safe Drinking Water Act
- Toxic Substances Control Act (TSCA)
- Zone of Contribution

"Getting Up to Speed" for section C, "Ground Water Contamination" is adapted from US EPA Seminar Publication. *Wellhead Protection: A Guide for Small Communities*. Chapter 3. EPA/625/R-93/002.

Figure 2

# SOME POTENTIAL SOURCES OF GROUND WATER CONTAMINATION



Source: Paly, Melissa and Lee Steppacher. *The Power to Protect: Three Stories about Ground Water*. U.S.E.P.A. Massachusetts Audubon Society and NEIWPCC.

Ryan Raidame, KPB Planner, is submitting a comment on behalf of Travis Penrod. Travis has submitted evidence, attached, that an existing well was missed on the site plan provided by McLane Consulting Ince. The well is located on KPB PID: 055-580-18, legally described as T 5N R 11W SEC 24 SEWARD MERIDIAN KN 0840234 RAVENWOOD SUB NO 4 LOT 10 BLK 5.

PENROD TRAVIS & CRYSTAL  
36860 VIRGINIA DR.  
Kenai, Alaska 99661

055-580008 | 9

Well Drilling Log --- Kraxberger Drilling Inc. ---- (907) 262 - 4720

48230 Gas Well Road  
Soldotna, Alaska 99669

Owner:	LJUSKA, BRUCE/DARLENE	Road / Area:	GADWELL	Well log #	5503
Legal description	LOT 10 BLK 5				
	RAVENWOOD # 4	Builder:		Latitude:	N 60 30.555
City:	SOLDOTNA			Longitude:	W 151 08.430

Depth:	38	Date completed	1/16/2015	Driller	RRK
Yield (gpm)	8	Static level:	32	Casing length:	40
Well completion:	OPEN END			Diameter(in)	6
				Rig type	AR

0-2 TOPSOIL & CLAY

2-5 SAND

5-34 SAND & GRAVEL

34-36 WET SAND & GRAVEL

36-38 WET CEMENTED SAND & GRAVEL

Well Drilling Log ---- Kraxberger Drilling Inc. ----- (907) 262-4720

35055 Gas Well Road

Soldotna, AK 99669

CLIENTNAME: LIUSKA,BRUCE/DARLENE

LOGID: 5503

LEGAL1: LOT 10 BLK 5

PUMPINFO:

LEGAL2: RAVENWOOD # 4

PARCEL#:

DIAMETER: 6

ROADAREA: GADWELL

RIGTYPE: AR

CITY: SOLDOTNA

CASINGTYPE:

GROUT:

BUILDERNAME:

WELLCOMPLETION: OPEN END

DEPTH: 38

DATE: 1/16/2015

DRILLER: RRK

IRON PPM:

YIELDGPM: 8

SCREEN:

STATICLEVEL: 32

CLASS:

CASINGLENGTH: 40

LATITUDE:

CASINGSTICKUP: 2

LONGITUDE: 0

**DRILLING REPORT:**

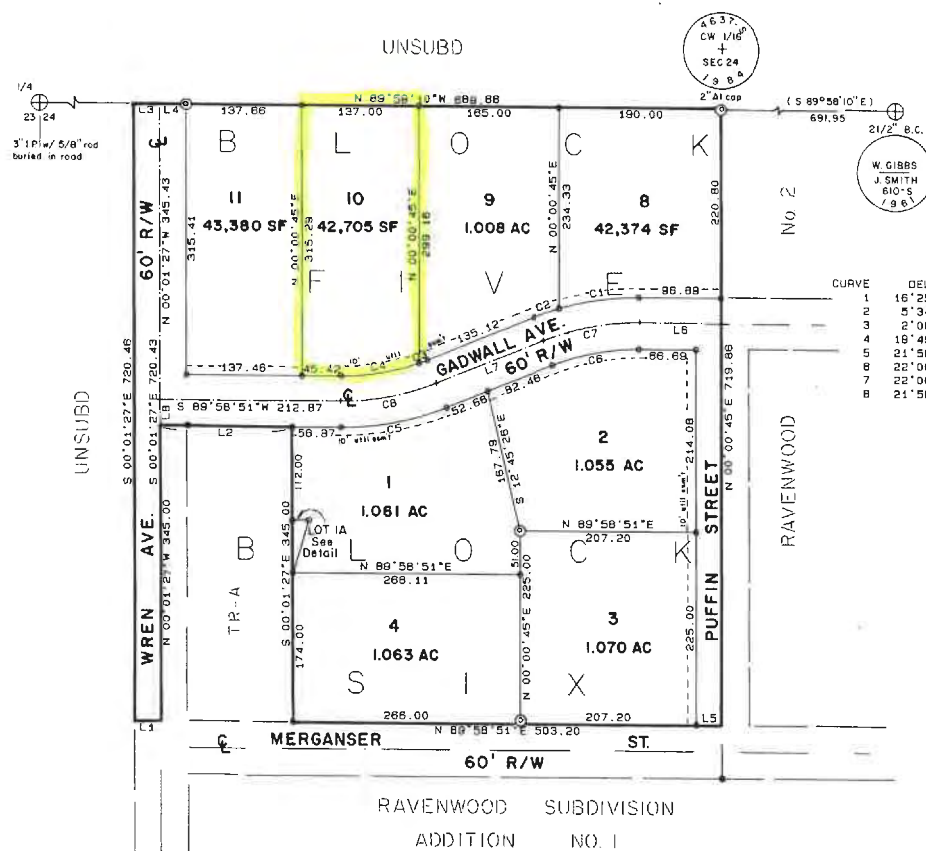
0-2 TOPSOI & CLAY

2-5 SAND

5-34 SAND & GRAVEL

34-36 WET SAND & GRAVEL

36-38 WET CEMENTED SAND & GRAVEL

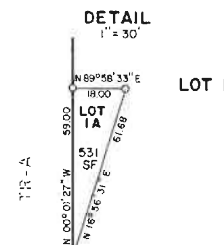


**LINE DATA**

LINE	BEARING	DISTANCE
1	N 89°58'51"E	30.00
2	N 89°58'51"E	158.00
3	S 89°58'10"E	30.00
4	S 89°58'10"E	30.00
5	S 89°58'51"W	30.00
6	N 89°58'15"W	86.68
7	S 89°00'45"W	135.12
8	N 00°01'28"W	30.00

**CURVE DATA**

RADIUS	ARC	TANGENT	CHORD	CHORD BRG
330.00	94.80	47.83	94.28	S 81°47'59"W
330.00	32.11	16.07	32.09	S 70°47'59"W
270.00	10.08	5.04	10.08	S 89°04'54"W
270.00	93.45	47.19	92.98	S 80°03'57"W
330.00	126.53	64.05	125.75	N 78°59'48"E
270.00	103.67	52.48	103.04	N 79°00'45"E
300.00	115.19	58.31	114.49	S 79°00'45"W
300.00	115.03	58.23	114.32	S 78°59'48"W



**CERTIFICATE OF APPROVAL BY THE ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

This subdivision has been reviewed in accordance with 18 AAC 71.044 and is approved subject to any noted restrictions.

SIGNATURE: *[Signature]* TITLE: *EPO* DATE: *8-28-84*

**PLAT APPROVAL**

This plat was approved by the Kenai Peninsula Borough Planning Commission at the meeting of *MAY 7, 1984*.

Kenai Peninsula Borough  
By: *[Signature]*  
Authorized Official

**CERTIFICATE OF OWNERSHIP AND DEDICATION**

We hereby certify that we are the owners of the property shown and described hereon and that we hereby adopt this plan of subdivision and dedicate all right-of-ways to public use and grant all easements to the use shown.

*[Signature]* John S. Smith  
*[Signature]* Betty S. Smith AIF  
Betty Smith

**NOTARY'S ACKNOWLEDGEMENT**

FOR: John S. and Betty Smith

Subscribed and sworn before me this *2nd* day of *July*, 198*4*.

My commission expires *NOV 9, 1987*.

*[Signature]*  
Notary Public for the State of Alaska

**STATE OF ALASKA NOTARY PUBLIC**

**M. SCOTT McLANE**  
My Commission Expires *11/9/87*

84-234

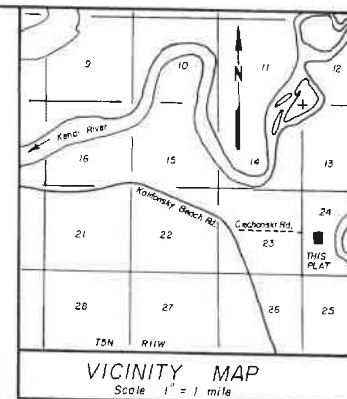
RECORDED *10*

*Kenai*

8/30/84

2:29

*[Signature]*



**LEGEND AND NOTES**

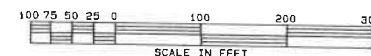
- ⊕ Found official survey monument
- Found 1/2" steel rebar
- ⊙ Set 2" aluminum cap on 5/8" x 30" steel rebar
- Set 1/2" x 24" steel rebar

Basis of Bearing is the record datum of S 89°58'10"E for the north boundary of Ravenwood Subdivision Addition No. 2, KRD 81-40

All wastewater treatment and disposal systems shall comply with existing law at time of construction.

Building set back—A building set back of 20 ft is required from all street rights of ways unless a lesser standard is approved by resolution of the appropriate planning commission.

Lot 1A will be conveyed to the owners of Tract A Ravenwood Subdivision Addition No. Two and will not be conveyed separately thereafter.



**RAVENWOOD SUBDIVISION NO. 4**

J.S. and Betty Smith owners  
Box 213 Soldotna, Alaska 99669

**LOCATION**

10.163 AC M/L SITUATED IN THE NW1/4 SW1/4 SEC. 24 T5N, R11W S.M., AK. AND THE KENAI PENINSULA BOROUGH.

Prepared by: *McLane and Associates, Inc.*  
Soldotna, Alaska

DATE: 4/16-21/1984  
SCALE: 1" = 100'  
BK. NO. 84-16

September 6, 2024

To the Kenai Peninsula Borough Planning Commission.

Regarding the application to modify PC2014-20 to allow excavation in the water table and for temporary, localized dewatering.

I have lived on River Hills Drive approximately a third of a mile west of this location since 1993. I own two parcels including my home and an undeveloped adjacent parcel. I am opposed to this modification to allow operations in the water table. This area has increased in population significantly during the time I have lived here and continues to grow as the area is in close proximity to services and the communities of both Kenai and Soldotna. Gravel operations are deleterious to the quality of life in residential areas including noise, potential for fuel spills and increased traffic not to mention impacts on property values.

In recent years residents in this growing community have taken steps to protect their neighborhoods and property values with local option zoning, however, they are powerless to protect themselves from outside their immediate boundaries and rely on the Planning Commission to do so.

Operation in the water table not only has the potential to impact quantity of drinking water but pollution from fuel spills has the potential to contaminate that water. While water wells to assess the water table have been put in place on the property no mention has been made of monitoring for a potential pollution plume nor to maintain this monitoring beyond the life of the project. Any permitted project should include not only such monitoring but a financial bond that would mitigate any damage caused to not only the handful of wells in close proximity but property owners in the entire area. The \$80,000 bond suggested is far short of the millions of dollars of potential impacts to nearby residents and does not address property values nor clean-up in the case of potential spills.

Ponding and lake front property is often used as an excuse to leave deep steep sided borrow pits instead of reclamation from mining. These pits do not provide the natural vegetation and associated wildlife of natural lakes. Such pits are a hazard to children and wildlife who enter such water with steep drop offs (I lived near such pits as a child and remember the hazards). I am opposed to this proposed end plan.

The application refers to limiting crushing of materials during the middle of the night yet allows for excavation around the clock. From this same location a number of years ago operations continued into early morning hours (not from crushing but from heavy equipment use). This noise impacted my location approximately a third of a mile away. Other long term residents can attest to this disturbance that made sleeping near impossible. They can also attest to working with the operator of a new gravel pit in our area over 20 years ago who agreed to limiting hours of operation to protect the neighborhood. There should be no extraction or heavy equipment operations prior to 07:00 AM nor after 07:00 PM in a residential neighborhood. No operations on Sundays were even agreed to by this operator and written into the permit.

Last, I would like to address the short notice given to residents to respond to this application. Less than three weeks from date of notification (approximately 2 weeks from date of letter being received to written comment closure) is inadequate for residents to assess and comment on the many potential issues this application presents.

Sincerely,

David Athons



36655 River Hills Drive, Kenai AK



David Donald &lt;ddonald4488@gmail.com&gt;

**modification to PC2014-20 36498 Virginia Street,Sean Code...Attention Betty Click**

1 message

**David Donald** <ddonald4488@gmail.com>

Thu, Sep 5, 2024 at 5:48 PM

To: rraidmae@kbp.us

I live at 47425 Augusta National Road therefore live within half a mile radius of the above mentioned gravel pit.  
I have a well and have owned this property since 1987.

I am against anyone digging in the ground water.

If this is passed there should be safe guards put in place and a montering system put in place to protect all wells in the area.

IN the event of a disaster how much insurance will the operator be required to have? Will the borough have any responsibility in relief for the homeowners?

David N Donald  
9-5-24

**From:** [mgrtotravel@aol.com](mailto:mgrtotravel@aol.com)  
**To:** [Raidmae, Ryan](#)  
**Subject:** <EXTERNAL-SENDER>Notice of Public Hearing, dated August 21, 2024. Meeting ID 907 714 2200  
**Date:** Thursday, September 5, 2024 10:29:48 PM  
**Attachments:** [Borough's notice of hearing - gravel pit.pdf](#)

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**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.

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(Sent  
9/5/24).

August 27, 2024.

Mr. Ryan Raidmae  
(Via Email Correspondence).  
Kenai Peninsula Borough,  
Planning Department

Subject: Notice of Public Hearing; Monday Sept 9, 2024. Re: SBC 2012 Parcel  
Number 05527001.  
Modification of operation to PC2014-20.

Dear Mr. Raidmae;

I am in receipt of notice dated August 21, 2024 for hearing scheduled September 9, 2024.

As an affected landowner, the sooner the application is posted (and possibly along with C21.29) so that one might learn more as well as make informed decision on the subjects at hand, namely:

1. Excavation in the water table and temporary localized dewatering.
2. Current similar operation(s) in this region, with inspection or incident reports (if any).
3. Safety protocols, including discharge of waste while **maintaining integrity from ground water contamination.**
4. Would future wells now have to be deeper out of necessity? At what cost to landowner and future homeowners?
5. Lack of financial responsibility. Who really owns this particular operation in the event of any fall outs?
6. What monitoring system would suffice, and at whose expense?
7. What amount of bond would be sufficient toward indemnifying and enabling the Borough in the event of a fall out? While one may not readily have available the statutes and regulations differentiating State mining and dredging on private land,

it stands to reason that **unreasonable and unknown risk** (especially where there were apparent concerns in the past) calls

for bonding. How much bonding would have to be commensurate with the exposure as in this case. A **\$50mil bond** might

be in order or enough to provide a water system (or systems) to the affected community (or communities) in the event of a fall out.

8. Application, (Mandatory) Procedure and Requirements for consideration of applicant entity:

The application is forth coming, hence making it difficult to comment or make an informed decision.

until then.

9. Meeting set back requirements, or maintaining a justifiable buffer does not appear evidenced or feasible, given the

apparent width of the pit. It might be helpful to the operator as well as the public for this to be clarified.

10. Basis for consideration of application as related to the **wells in operation**, and the mandated distance.

a) It is important to call out that the pit is embedded in a residential zoned district,

b) Approved new subdivisions (Kenai Wellness and Sunville Acres Addition) predate this application by the gravel pit.

c) Creating a lot (especially a residential one) is not exclusive of the creation of a well. A residential lot needs its well. Hence

these wells (as many as ten) are visibly in breach by the proposed gravel pit.

**These lots have all the apparatus of on-going development such as gas and electric (applied for, and in progress before the application in question). I have payment receipts.**

Consideration should be given to above fact. Further, the subdivisions bordering Virginia Drive have been openly advertised in the

media and person to person under the representation of two real estate agencies - Real Brokers of Alaska and Keller Williams, AK.

To supplement these concerted efforts, giant banners have stood in place identifying the landmark of **residential development**;

**"Ciechanski Residences". This action predates the application by the gravel pit operation. The lots were approved for residential dwelling, meaning water wells in tow. Consequently the lots in such situation must be counted or regarded as wells "in existence".**

In conclusion, objectivity and fair play would enable and compel us to reevaluate our discounting of active (and in-progress) lots and

development sites. We owe this duty toward supporting the very community that we strive to strengthen and promote in our

highly celebrated and published "Strategic Development Goals".

This submission is not relegating gravel pits or superseding development sites (especially active and in-progress ones).

We need gravel to build the houses we live in. This may sound like a case of the

"Chicken and the egg", but it is hardly so!

We should consider sparing the Chicken in this case! THE LOTS SUPERSEED  
THE NEW PROCEDURE BEING ADVOCATED.  
BY THE GRAVEL PIT.

In conclusion, it is important to note that this comment is not an act of "jumping on a bandwagon of complainers".

We all have a lot at stake. In this scenario Consolidated Development has the most to lose in any event of a failed integrity

in or of operations. Hence; where and what are the safety and safeguards? Clarifying this might help prevent any unjustifiable

negative perception by homeowners or anxiety as may be related to this important subject at hand.

It is important to me! Thank you for your consideration and the opportunity for an input.

Respectfully,

*Ray Oyemi*

Consolidated Development & Mgmt., LLC.

# **DESK PACKET**

**(MATERIALS SUBMITTED AFTER MEETING PACKET PUBLICATION)**

## **MISC. INFORMATION**

- **09-04-24 Cooper Landing APC Meeting Minutes**
- **09-05-24 Moose Pass APC Meeting Minutes**

**COOPER LANDING ADVISORY PLANNING COMMISSION  
REGULAR MEETING  
LOCATION: COOPER LANDING COMMUNITY HALL AND ZOOM  
TELECONFERENCE  
WEDNESDAY, SEPTEMBER 04, 2024  
6:00 PM  
UNAPPROVED MINUTES**

1. CALL TO ORDER
2. ROLL CALL -
  - a. J. Cadieux, K. Recken, Y. Galbraith, C. Degernes, L. Johnson, D. Story present. H. Harrison excused.
  - b. In person attendees: Lorraine Temple, Marja Beltrami, Sandra Holsten, Ed Holsten, Joe Arnone, Aaron Hughes – KPB Land Management Officer
  - c. Attending by Zoom: Morgan Aldridge – KPB Planning Department; Robert Ruffner, KPB Planning Director; Sharon Kocher, Kristine Route, Cindy Ecklund – KPB Assembly, Mona Painter
3. APPROVAL OF AGENDA -
  - a. Y. Galbraith requested to add Joe Arnone – Biochar Wildfire Defense Grant
    - i. L. Johnson moves to approve as amended, J. Cadieux seconds. All approve by roll call vote.
4. APPROVAL OF MINUTES for June 5, 2024 Regular Meeting
  - a. K. Recken moves to approve as written. L. Johnson seconds. All approve by roll call vote excepting J. Cadieux who was not present at the June meeting.
5. BOROUGH BUSINESS
  - a. REPORTS: PLANNING – Aaron Hughes, KPB Land Management Officer
    - i. A. Hughes said that the KPB was not awarded the second round of USFS Community Wildfire Defense grants but the KPB will attempt for the third round of funding.
    - ii. He said there is an existing BLM grant for \$74,000. Some funds being spent through Chugachmiut working on beetle kill remediation including areas in Cooper Landing: CL Emergency Services, CL Transfer Site, Snug Harbor Materials Site and CL School. CLES and the School will be dealt with before the transfer and material sites.
    - iii. He said contracts for beetle kill remediation are also being paid through a \$1.5 million USFS grant which will includes improvements to and facilitation of slash disposal sites and pile burning.
    - iv. He said the KPB has finalized Memorandums of Agreement with Chugach Electric and Homer Electric for mitigation of beetle kill including standards of work.

- a He described some of the criteria including reducing the height of slash in treated areas to approximately 18” and ensuring ground contact.
  - v. J. Cadieux asked if the contractors are aware of the setback of Dena’ina Creek for the transfer site work.
    - a A. Hughes said yes.
  - vi. J. Cadieux asked how does leaving slash in place reduce the fire risk?
    - a A. Hughes said by bucking the trees in certain dimensions and ensuring ground contact it helps promote decomposition.
    - b K. Recken mentioned the left-over slash and how it remains a risk far longer than it seems like is planned for.
  - vii. C. Degernes asked about whether it makes sense for the community to weigh in on what needs are to support the grant applications.
    - a R. Ruffner said that at the grant writing stage it doesn’t make as much sense as having input once a grant is awarded.
  - viii. M. Beltrami said that a concern with the left-over slash piles can make it very difficult for CLES to access areas to provide emergency services.
  - ix. R. Ruffner said that the protocols for treatment are based on recommendations of fire experts including those involved in the All Hands, All Lands program.
  - x. S. Holsten said that it seems like everyone is really trying but there may still be missed areas to connect and shared with A. Hughes to follow up on including KPB land on Snug Harbor Road.
- 2. Update on Quartz Creek Municipal Entitlement Survey
  - i. A. Hughes said the area is 300-ish acres.
  - ii. He said the property was selected by the KPB but is still held by the state and that the KPB must survey it before they can take possession of the lands.
    - a He said it is a time-consuming process and doing so includes receiving survey instructions, finding a contractor, initial review by state, review by borough, then finally comes back to be patented.
    - b He said there are many lands in the Cooper Landing area and near Moose Pass that still need to go through this process.
  - iii. C. Degernes asked whether survey instructions have been received.
    - a A. Hughes said yes and that the selection of a 300-acre unit means surveying all the individual units, section corners, and property boundaries within this unit.
  - iv. L. Temple asked what the purpose of the lands is when selected.

- a A. Hughes said that right now it is just to transfer it into KPB ownership.
- v. J. Cadiuex asked about habitat setbacks along Quartz Creek.
  - a A. Hughes said they are incorporated.
- vi. Y. Galbraith asked if this unit goes across the highway.
  - a A. Hughes said yes, it does go across the highway near the transfer station and towards the Russian Gap area.
- vii. C. Degernes said it would be helpful to have updates with progress.
- viii. K. Recken asked if it would be possible to see a map of the lands that have been chosen and if it is visible on the parcel viewer.
  - a A. Hughes said that it is not on the parcel viewer right now and is not sure whether a map of the selection has been provided to the APC.
- ix. J. Cadieux reiterated that it would be helpful to see some of these maps.
  - a A. Hughes said that it is a huge undertaking to go through this process and it will come before the APC again.
- x. D. Story asked if the land selection maps can be made available in the support documents for this meeting.
  - a A. Hughes said that seems possible.
  - b C. Degernes suggested that M. Aldridge may be able to post them to the APC site in supporting documents.

b. PLATTING

- 1. NEW PLATS: - none
- 2. ANY NOTICE OF DECISION ON PLATS - none
- 6. OLD BUSINESS - none
- 7. NEW BUSINESS - none
- 8. PUBLIC COMMENT/PRESENTATION
  - a. “Community Council” concept – discussion for future of Cooper Landing APC, Robert Ruffner, Kenai Peninsula Borough Planning Director
    - i. R. Ruffner said in mid-July he got together with all the existing APC chairs and vice chairs. He said the APCs have a long history and Cooper Landing’s APC has the longest. Through that history it has varied in how it was utilized. The issues we hear are: that it is difficult to schedule meetings and remain compliant with Open Meetings Act; the topics that communities hope to cover are broader scope than APCs can take on since their scope is defined by KPB code and limited to items that will be addressed by the KPB Planning Commission only. He said this discussion is to determine if there is a desire to take up topics and have a venue that works to address things the APCs cannot?

- ii. He said the idea is to find if there is a better way to accomplish these goals and right now is the start of this conversation to find out what options exist.
- iii. C. Degernes asked Mona Painter to be here because she has the longest history with the APC and the Community Club.
  - a. M. Painter said she has been thinking about this for some time. There was discussion some years back about this conversion of the CLCC to a community council model. There was also discussion of incorporating the community. It may not have gone far then because it wasn't clear what the next steps were to take.
  - b. She said that the idea is good to have a council that can talk about varied topics that a model like the APC cannot: example USFS lands etc.
- iv. Y. Galbraith said that the CLCC has a lot on its plate and was given more to do when the KPB formalized that items that had traditionally been handled by the CLAPC were outside the scope of APCs and ended it as a venue for those items. She suggested that a Community Council be established in addition to the existing APC and CLCC.
- v. K. Recken said that she understood the CLCC to be socially oriented originally but that there are a lot of issues that affect the community that need to be addressed. M Painter indicated it was initially social items but others as well.
- vi. E. Holsten said that the CLAPC has been phenomenal for planning since the 90's. He said his concern is that this strength will be diluted further and that it has already happened.
- vii. D. Story said that he agreed with E. Holsten that the CLAPC had been very valuable to the community as a venue for many issues and brought up the gravel and firewood forums and other examples. He said that the community benefits from a venue to interface with the KPB, USFS, SoA and other agencies and that some of that dilution has already happened because the way the CLAPC had traditionally functioned is not the way that APCs are supposed to. He said that there appears to be merit in a structure similar to the community council models [Mat-Su and ANC] shared in the supporting documents which define the function of the councils and the responsibilities the KPB would have to the councils.
- viii. S. Holsten said that her biggest concern is that community councils often become political which can put folk at odds with each other. She said that every organization is starving for volunteers and that one of the very valuable aspects of the existing APC is the tenure of the members which allows them to learn and know more about the processes and relationships between agencies and land management

- etc.. She said that one idea is that the APC would form a subcommittee to determine how a council might work.
- ix. K. Recken said that she agrees with S. Holsten that the knowledge is important. She said that it takes at least a three-year commitment because shorter time often doesn't allow a deep enough understanding to deal with the issues.
  - x. C. Ecklund said that for as long as she sat on the Planning Commission she appreciated the input and doesn't see the mechanism for input in the articles of the MatSu and ANC community councils. She asked R. Ruffner about this.
1. R. Ruffner said this is still very exploratory but that the things that are challenging for an APC, when you have multiple issues come up, it requires multiple KPB staff to answer questions which is a challenge for his staff.
    - xi. L. Johnson said she agrees with S. Holsten and stated emphatically that the last thing we need is a third group.
    - xii. E. Holsten said that our APC seems to be working very well. He asked why it doesn't work for other communities.
    - xiii. S. Holsten said that she understands the challenge of the meeting scheduling.
    - xiv. D. Story said that to touch on C. Ecklund's comment, the mechanisms to provide input are listed within the ANC and Mat-Su's Community Council Codes [Mat-Su: 2.76.050 Functions of Community Councils and 2.76.060 Municipal Responsibilities, ANC 2.40.050 Functions and 2.40.60 Municipal Responsibilities to community councils]
    - xv. Y. Galbraith said that she doesn't want to put more responsibilities on the existing CLCC because they already have so much on their hands.
    - xvi. K. Recken asked about the formulation of this concept and if there would be a community club and an APC or if it would be a whole new beast.
  1. R. Ruffner said that they were looking for a way to allow for the APC to take up things that affect the community that code does not allow an APC to do right now. He said they were really thinking about how to fix the APCs while managing with limited staff to cover all the needs. He said that there is not a predetermined outcome.
    - xvii. L. Temple asked how the CLCC is different in addressing the KPB from a community council.
      - a. R. Ruffner said that the CLCC can address the KPB right now. The APC can only advise the KPB PC. He said that the community councils build relationship over time through credibility. He said he was not looking for a club, a council, and an APC and that it never crossed his mind for adding another.
    - xviii. J. Cadieux said what she is hearing from R. Ruffner is that the KPB is unable to serve the communities the way that it wants to. She said that

when the CLAPC was more involved with additional topics it may have demanded more work from the KPB staff than it does now. Opening up a council model may, in fact, require more work from the KPB staff.

- xix. S. Holsten said that she knows that the KPB staff are incredibly dedicated. She said that if those staff are not integrated with the community councils it could become even more difficult for them.
- 1. R. Ruffner said he is concerned about how to better deliver services. He said that in the past there were only 1-2 active APCs and now there are seven.
- xx. C. Degernes asked what he needs from the community as this process moves forward.
- 1. He said he hopes to convene a meeting with the chairs and vice chairs later this fall to hear whether they feel it has merit and why or whether everyone is happy to stay with the same system.
- xxi. L. Temple said that one of the important differences between the Mat-Su and ANC areas is the population and number of potential volunteers.
- xxii. J. Cadieux asked whether the KPB had replaced the KPB Planner.
  - a. A. Hughes said that he is unfamiliar with that role.
  - b. J. Cadieux said it had previously been someone specifically knowledgeable/degree-trained in planning issues.
- xxiii. M. Beltrami said that she understands how the CLAPC came to be but she wonders what formal relationship to the borough exists.
- 1. D. Story said that the APCs have a formal relationship with the KPB Planning Commission but that the scope of the APCs is very limited.
- 2. M. Beltrami asked what would be lost?
- xxiv. D. Story said that the functionality of the APC and CLCC is what needs to be determined. He said that community needs were often dealt with through the APC rather than the CLCC and that while the CLCC is working to adapt to fill those needs now it is still catching its stride to do so.
- xxv. C. Degernes suggested that we talk with neighbors and prepare for the conversation with a wider group of people and find out what we want to see happen.

## 9. PUBLIC COMMENT/PRESENTATION

- a. Joe Arnone – Biochar Wildfire Defense Grant J. Arnone said he is a new property owner in Cooper Landing. He has been managing a business in Montana that is a biorefinery to create biochar.
  - i. He said he has spoken to KPB, USFS, etc. to develop a way to do something other than burn the slash from beetle kill remediation.
  - ii. He said while looking at grant programs it appears they cannot qualify for them as a for-profit business so wondered about whether other entities might be able to partner and qualify for their own grants.

- iii. He said he found a property owner on K-Beach Road who is excited by the biochar idea and may be willing to use his land to facilitate it.
- iv. C. Degernes asked what biochar is.
  - a. J. Arnone said that it is a super charcoal. He said it helps soil organisms, retention of water, and filtration.
- v. Y. Galbraith asked what the KPB's response was for this project.
  - a. J. Arnone said they seemed excited and would like to see a wood chip study.
- vi. J. Cadieux asked whether they have worked in an anadromous environment previously?
  - a. J. Arnone said not really.
  - b. She said the work that he describes to retrieve the slash can have negative impacts such as siltation and resource destruction and care would need to be taken in developing a plan for action.
- vii. D. Story asked what happens with the biochar after produced.
  - a. J. Arnone said it isn't really profitable to sell so it is intended to return it to the community or give it away.
- viii. J. Arnone said you can learn more at RJOBMT.com and the business with the refinery is Regenitech.
  - a. He said the developer of the process was featured in the documentary "The Need to Grow."
- ix. C. Degernes said that she sees this as a very important topic to share with the Community Club.
- b. S. Holsten said that she and J. Cadieux were given a tour of the MP 45-60 project and that the DOT would like to take the CLAPC and the CLCC Board on a tour of the MP 45-60 project.
  - i. She has since worked with the Governor's office.
  - ii. She said that the goal is also to have a tour for the community in the spring.
  - iii. J. Cadieux said that the tour really helped address concerns that she had about hydrologic issues in a way that previous community meetings had not. She would like others to have their questions answered in this way as well.
- c. C. Ecklund said that it is important to compare and contrast the KPB Code regarding APCs [KPB 21.02] to the Community Council codes that were provided in the meeting.

#### 10. COMMISSIONER COMMENTS - none

#### 11. ADJOURNMENT

- a. L. Johnson moves to adjourn, J. Cadieux seconds. All approve by roll call vote.  
7:58pm

For more information or to submit comments please contact:

Contact the Cooper Landing APC at:

- For email visit: <https://www.kpb.us/planning-dept/planning-commissions/cooper-landing-apc>  
On the far right-hand side of the page is a box titled, “Commissioner Information”. Scroll to the bottom of the box and select, “Contact the Cooper Landing APC”.
- Send USPS mail to: Kenai Peninsula Borough Planning Department, Attn: CLAPC 144 N Binkley, Soldotna, AK 99669

# 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 Airport raised 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 ARRC 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 packet, 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

floor. Happy to show anyone around. She didn't realize the road was above and beyond; built to borough specs so they would maintain it. They feel that one of the lots from the Mental Health Trust is ideal for an organic vegetable farm. Feels that fresh vegetables are in need in our community. Eventually when retires from day job, want to have small scale farm next to highway that is currently a wetland area. Amenable to feedback from public on noise, hours, etc. Need to go through hydrology study because of being lake adjacent along with 2 small streams that flow through parcel; will either be completed by November or not until next year. Looking to get fill locally, has spoken with QAP who is interested. She doesn't know who will get bid. Will need to build access point through right of way. Plans to use rain water catchment for irrigation. Using a bunch of green technology. Considering distribution of veggies via subscription boxes. Tracy says will follow what the Army Corps of Engineers recommends.

Aaron O'Quinn - neighbor, concerned about filling pond and resulting effects of water on his property

Julie - noted another community member wrote in opposition to project

**b.** Neighborhood Watch - establishes a call list so we can acquaint yourself with our neighbors. If the community is interested, Bruce thinks get a group together to knock on doors and distribute contact info.

## **9. OLD BUSINESS**

**a.** Review of Comprehensive Plan (results of WS) Plan for fall meetings - Should schedule work session for fall and then a series of public meetings. Should include things about industrial areas and organic farms.

Please respond to emails.

**10. PUBLIC COMMENT** - Gary and Bonnie Glasgow - thank you for standing up for them.

**11. COMMISSIONERS' COMMENTS** Kevin - Thanks for putting up with absences; there will be several more this winter. Wants to see group continue on. Jen - apologies for not responding to emails. Jeff E - is encouraged as it feels like Borough is listening to our comments. Dave S - discussed his road and getting up to standard. Jeff H - Question for Julie about land classification south of town, curious if there is movement on that. Dave P - read site standards that are not being followed by QAP and is sorry for people that are living with this currently. Bruce J - thanks for attending; having a full board is important. State is cutting library funding has been cut resulting in close to \$6k cut to MPPL. Individual efforts and group efforts are successful.

## **12. NEXT MEETING DATE**

**a.** October 10, 2024

**13. ADJORNMENT** Jeff H moves, Dave P 2nds. Adjourned 8:06 pm.

## **CONTACT INFORMATION**

Contact the Moose Pass Advisory Planning Commission at:

Email - visit: <https://www.kpb.us/planning-dept/planning-commissions/moose-pass-apc/email-moose-pass-apc>

On the far right-hand side of the page is a box titled, "Commissioner Information". Scroll to the bottom of the box and select, "Contact the Moose Pass APC".

Send USPS mail to:

Kenai Peninsula Borough Planning Department, Attn: Moose Pass APC,  
144 N Binkley, Soldotna, AK 99669