

MEMORANDUM

CITY/BOROUGH OF JUNEAU
155 South Seward Street, Juneau, Alaska 99801

DATE: November 21, 2012

TO: Planning Commission

FROM: Teri Camery, Senior Planner
Community Development Department

FILE NO.: USE2012 0019

PROPOSAL: A Conditional Use Permit to extract 240,000 cubic yards of gravel from the Lemon Creek streambed over a 6 year period.

GENERAL INFORMATION

Applicant and Property Owner: Colaska Inc (SECON)

Property Address: Lemon Creek Streambed, no access

Legal Description: Mendota Park Parcel 2

Parcel Code Number: 5-B12-0-131-004-1

Site Size: 9.55 Acres

Zoning: Rural Reserve and Industrial

Utilities: CBJ water and sewer available; not needed on-site at streambed

Access: Anka Street

Existing Land Use: vacant Lemon Creek streambed

**Comprehensive Plan
Land Use Designation:** Heavy Commercial/Light Industrial

Surrounding Land Use:

North	-	Davis Avenue D-15 Residential
South	-	Anka Street; Industrial
East	-	Lemon Creek; CBJ Gravel Pit; Industrial
West	-	Lemon Creek; Rural Reserve

A Conditional Use Permit to extract 240,000 cubic yards of material from the Lemon Creek streambed over a six year period.

FILE NO:	USE2012 0019	APPLICANT: COLASKA INC
TO:	Adjacent Property Owners	Property PCN: 5-B12-0-131-004-1
HEARING DATE:	November 27, 2012	Size: 9.55 acres
HEARING TIME:	7:00pm	Zoned: I
PLACE:	ASSEMBLY CHAMBERS Municipal Building 155 South Seward St Juneau, Alaska 99801	Owner(s): COLASKA INC
		Site Address: 2025 ANKA ST
		Accessed via: ANKA ST

You are invited to attend this Public Hearing and present oral testimony. The Planning Commission will also consider written testimony. You are encouraged to submit written material to the Community Development Department no later than 8:30 A.M. on the Wednesday preceding the Public Hearing. Materials received by this deadline are included in the information packet given to the Planning Commission a few days before the Public Hearing. Written material received after the deadline will be provided to the Planning Commission at the Public Hearing.

Planning Commission Agendas, Staff Reports and Meeting Results can be viewed at www.juneau.org/plancomm.

Date notice was printed: November 14, 2012

ATTACHMENTS

Attachment 1	Development Permit Application
Attachment 2	Conditional Use Permit Application
Attachment 3	Project Description change to six years and 240,000 cubic yards
Attachment 4	Project Narrative
Attachment 5	Supplemental Description of Mining Practices 11/19/12
Attachment 6	Monitoring Protocol
Attachment 7	Parcel Map
Attachment 8	Parcel Map with gravel bars
Attachment 9	Extraction Plan cross sections
Attachment 10	Photograph with access points
Attachment 11	Access ramp design
Attachment 12	Lemon Creek hydrology study excerpt
Attachment 13	U.S. Army Corps of Engineers Permit
Attachment 14	Alaska Department of Fish and Game Permit
Attachment 15	Department of Environmental Conservation Permit
Attachment 16	Wetlands Review Board 11-1-12 Draft Minutes
Attachment 17	CBJ Engineering comment 10/2/12
Attachment 18	CBJ Streets Division comment 10/15/12
Attachment 19	Alaska Department of Transportation comment 10/22/12
Attachment 20	Applicant response to DOT comment 10/25/12
Attachment 21	CBJ Engineering second comment 10/30/12
Attachment 22	U.S. Fish and Wildlife Service comment 10/19/12
Attachment 23	U.S. Fish and Wildlife Service comment 11/6/12
Attachment 24	Lemon Creek habitat survey 8/22/07
Attachment 25	USE2006-00054 Notice of Decision
Attachment 26	USE2008-00053 Notice of Decision
Attachment 27	Monreal comment 11/19/12
Attachment 28	CBJ Engineering response 11/20/12, One
Attachment 29	CBJ Engineering response 11/20/12; Two
Attachment 30	SECON response 11/20/12

PROJECT DESCRIPTION

The applicant requests a Conditional Use Permit to extract 240,000 cubic yards of gravel from the Lemon Creek streambed for a period of six years. (This is noted in Attachment 3. Other attachments refer to a 10 year period, which is no longer being proposed.) Extraction would take place only in low flow periods between December 1 and March 15, and for a maximum of 40 days per year. No buildings or structures are proposed for the site.

The mining area is a privately-owned section of Lemon Creek east of the Glacier Highway bridge, located south of the Davis Ave right-of-way and extending from below the bend in Davis Ave in a northeasterly direction to the Lemon Creek Correctional Facility. The southeast and

northwest boundaries of the property are the ordinary high water line on the south and north banks of Lemon Creek.

Access to the streambed is via steel access ramps, which will be placed from the top of the bank to the gravel bar at one of three access locations: 1721 Anka Street, 1791 Anka Street, and/or Ralph's Way. Access across stream braids, from one gravel bar to another, will use a similar steel bridge. Material will be stored at Secon's Industrial lot on Concrete Way, USS 204.

Lemon Creek gravel extraction was previously approved as USE2006-00054 and finalized on June 28, 2007, when the property was under different ownership. SECON extracted gravel in 2009 (5,000 cubic yards), 2011 (9,500 cubic yards) and 2012 (9,750 cubic yards). The permit expired on June 28, 2012.

CDD and CBJ Engineering have concluded that nearly all of the original 26 conditions from the first Conditional Use Permit are necessary for the new proposed operation. The applicant has integrated these conditions into the application except when the method of gravel extraction has specifically changed. However due to the complexity of the operation and the extensive monitoring requirements, CDD and CBJ Engineering have determined that these measures need to be repeated as project conditions to ensure clarity and compliance.

BACKGROUND

Lemon Creek was mined extensively in the project area by the previous owner, Mr. Ralph Horecny, throughout the 1980s. The parcel is the remaining fraction of USMS 609, a patented placer mining claim. The area has a history of placer mining from 1879 through the early 1900s. Gravel extraction in Lemon Creek first began during World War II. Gravel has continued to accumulate since this time from eroding banks upstream.

The proposed gravel extraction area has been specifically identified as a deposition zone in the 2004 Lemon Creek Watershed Geomorphic Assessment and Sediment Management Alternatives Analysis, which was prepared for the CBJ Engineering Department by Inter-Fluve, Inc. The analysis recommends mining in this zone, with appropriate habitat mitigation, as one of three measures to reduce flood potential. The other two measures are removal of the Juneau Redi-Mix bridge, which has been completed, and stabilization of exposed and eroding banks in the upper reaches. A brief excerpt of this report is provided in Attachment 12. The full report may be found online at <http://www.juneau.lib.ak.us/engineering/lemoncreek.php>.

The current gravel extraction operation was first approved as USE2006-00054 on June 26, 2007. USE2008-00053 modified the permit to utilize new access points and a steel access ramp to the creek instead of building a causeway. USE2006-00054 expired on June 28, 2012. Both Notices of Decision have been included in Attachments 25-26.

ANALYSIS

This review requires an evaluation of conformance with the Conditional Use Permit requirements in CBJ Land Use Code 49.15.330, as well as the Land Use Code Sand and Gravel Section, 49.65.200.

The Sand and Gravel code section has been written to apply to upland sand and gravel mining, not streambed mining, so CBJ Engineering has concluded that most sections do not apply to the proposed development. To verify conformance and reduce redundancy, staff will briefly reference Sand and Gravel code sections in the context of the standard Conditional Use review. Section 49.65.210, Contents of Sand and Gravel Application, will be addressed at the end of the report under Finding Number One, regarding whether the application is complete.

Project Site –

The project site is a privately-owned streambed with a small adjoining upland access area at the end of Anka Street. The 9.55 acre parcel is the remaining fraction of the original USMS 609, a patented placer mining claim. The streambank on the southern boundary paralleling Anka Street is quite steep, while the northern banks in this area are slightly more gradual. The project area is identified in the Lemon Creek Watershed Analysis as a deposition zone where gravel accumulates, as opposed to other stretches of the creek that contribute to the material load through erosion. The site is bordered on the south and east by industrial uses, and to the north and west by D-5 and D-10 residential uses.

Project Design –

The applicant has described the current extraction method in Attachment 4, p. 6-7, and in Attachment 5. Instead of the using the even/odd year extraction method originally proposed in 2006, the applicant has been extracting from the same gravel bars each season, because the extracted areas have been replenished with gravel each season when the creek is at flood stage. Resource agencies support this method, because it preserves habitat by not disturbing new, vegetated gravel bars. Some parts of the application still refer to the even/odd year method of extraction, but this method is not being used and is not supported. SECON intends to continue this practice as much as practicable, but cannot commit to mining exactly the same gravel bar or bars each year through the project lifetime, because the stream could change.

In the original 2006 review, CBJ Engineering developed detailed project conditions to ensure bank protection for downstream property owners. Engineering recommends that all of these conditions be repeated with the original wording. The applicant has already integrated most of them into the application materials. Recommended conditions include the following:

- 1) *The operator shall stockpile about 50 cubic yards of broken rap, equivalent to Class I rip-rap, near the project area to address emergencies if the flow becomes redirected towards the bank. If the rock is not used it may be sold when the project ends.*
- 2) *Prior to issuance of the first year's grading permit and approval of the first year mining*

plan, the operator shall submit a bond of \$30,000, sufficient to repair any serious bank damage.

- 3) By November 1, one month before the commencement of each mining season, the applicant shall submit a mining plan. The mining plan shall be processed by the Engineering Department as an annual grading permit. Such plan shall include:*
 - a. Estimation of material to be removed*
 - b. Map of area to be worked (showing property lines)*
 - c. Map showing proposed culverts, access roads, bank stabilizations, berm details (including height, location, material composition and removal plan) stream relocations and other proposed features*
 - d. Methods for protecting Lemon Creek from oil, fuel and hydraulic fluid (including leaks from heavy equipment)*
 - e. Prior to the commencement of mining, the applicant shall verify property line location and delineate offset distance to the extraction area.*
- 4) The top of excavation slopes shall be prohibited within 10' of any banks or the property lines.*
- 5) The applicant shall directly hire, or pay permit inspection fees to provide for periodic inspection of the mining area by an appropriately licensed engineer and/or hydrologist.*
- 6) Periodic inspections shall be made as determined by the engineer and/or hydrologist, sufficient to monitor the operation. Such periodic inspections shall include visits during or after high water events.*
- 7) Inspection reports shall be submitted to the Engineering Department for each 10,000 cubic yards of material removed from the stream, and those reports shall include the following information:*
 - a. Volume of material removed*
 - b. Map of area worked*
 - c. Verification of compliance with mining plan*
 - d. Report of bank destabilizations*
 - e. Opinion whether bank/property line setbacks are adequately protecting adjacent properties*
 - f. Bank protection/stabilization measures if merited*
- 8) An inspection report shall be submitted at the end of the mining season which includes all items in numbers 4-7. The report shall be submitted to the Engineering Department and to the Community Development Department within one month of the end of the mining season, or April 15.*
- 9) The applicant/operator shall confine all excavations to within existing rip-rap banks. Prior to proceeding with annual excavations, the applicant must find and stake adjacent rip-rap banks.*
- 10) The applicant/operator shall protect the structural integrity of existing stream banks and rip-rap banks. A no-disturbance zone of at least 10 feet horizontal distance from adjacent rip-rap and banks is required. (This condition is necessary because rip-rap boundaries may or may not correlate with property boundaries, as noted in the earlier requirement to mine 10 feet from property boundaries.)*
- 11) The applicant shall protect all vegetated slopes and maintain a similar non-disturbance*

zone identified above, unless a site-specific engineering analysis indicates otherwise.
12) *All cut-slopes shall be less than 2 horizontal to 1 vertical unless a site-specific engineering analysis proves that a steeper slope protects adjacent properties.*

These conditions are in accordance with the CBJ Land Use Code Sand and Gravel Sections 49.65.230(4-6).

Traffic, Parking and Circulation -

Excavation materials will be transported in 10 and 20 yard trucks which will leave the site at one of three access points, 1721 Anka Street, 1791 Anka Street, or Ralph's Way. Material will then be trucked a short distance on Glacier Highway to Concrete Way and then continue south to U.S. Survey 204, where it will be stockpiled on Industrial Zone property leased by SECON. Material will then be taken directly to specific job sites as needed. Staff recommends repeating the previous condition, already integrated into the application, that allows routing only at the Anka Street/Glacier Highway intersection. Truck traffic and heavy equipment operation will also be prohibited from the Davis Avenue side of the creek to ensure public safety in this residential area.

The applicant has proposed to continue using a clear span bridge from the listed access points to transport gravels out of the riverbed. CBJ Engineering has requested additional conditions to ensure the safety of these access points in the following recommended condition:

The approved access points at 1721 Anka Street, 1791 Anka Street, and Ralph's Way shall be inspected each year to verify that no changes have been made to the embankment due to heavy creek flows during the previous year. Alterations to the proposed access will require approval by the Community Development Department and the CBJ Engineering Department.

Concerns have been raised regarding spilled gravel and water on city and state-maintained streets from gravel trucks. Due to the winter operating season, residual water spilling from trucks can quickly lead to icy streets. During the agency public comment period, the CBJ Streets Division replied:

"What they are doing makes a mess and can create hazards on the roadway between their excavation site and their stockpile site, but they have been responsive and responsible in their efforts to address any conditions they create. If they continue as in previous years I think what is set up is adequate." (Attachment 18)

The State of Alaska Department of Transportation also submitted comments, excerpted as follows:

"The contractor needs to make sure they are not allowing the trucks on the road during the winter months spreading water and aggregate materials on the road. The loads need to be contained for the possibility that there is a lot of water still in the material (sealed tailgates).

Clean up at the end of the project will not satisfy the State's concerns. The state would like to see a clean-up of the highway when or if materials are deposited on the highway. Therefore we would ask that Glacier Highway be swept at the end of everyday the trucks spill materials on the highway....An example of a problem that occurs is, if the contractor hauls material one day and it snows the next, then all that material would be covered with snow and then plowed to the curb and sidewalk. This makes for a larger mess once the snow melts. Unwanted materials will end up in the curblane, sidewalk, and storm drainage system."
(Attachment 19)

The applicant responded to DOT by stating that SECON would place the gravel in a temporary stockpile before loading the material into trucks to allow the entrapped water time to escape. The applicant explained SECON's past responses to the problem and stated that a backhoe is available and a street sweeper is available on an on-call basis to collect errant materials.
(Attachment 20)

CBJ Engineering has recommended eight new project conditions to address this issue (Attachment 21). Staff recommends adoption of these conditions with minor modifications, as follows:

- 1) Prior to leaving the excavation area, the transport truck bed, with the tailgate locked, shall be raised to a minimum twenty degree angle for a timed 5 minutes to allow excess water to escape. Tilt time may be reduced if water escapement occurs sooner based on the project engineer's visual assessment and approval.*
- 2) The applicant shall protect catch basins along the route from sediment infiltration by use of manufactured Catch Basin filters.*
- 3) The applicant shall inspect the traveled route a minimum of twice daily for escaped material from the haul.*
- 4) The applicant shall sweep and clean the roadway at the end of each day if any water or material has escaped, or if a major spill occurs.*
- 5) The applicant shall immediately respond to any additional clean-up requests during the from the project engineer, CBJ or ADOT.*
- 6) The applicant shall construct a rockery lane for debris removal from truck tires prior to entering Anka Street.*
- 7) No sediment migration from the truck or ramp shall be allowed in the waterway.*

These conditions are in accordance with the CBJ Land Use Code Sand and Gravel Section 49.65.230(5).

Noise -

The project will generate a substantial volume of noise from hydraulic excavators and dump trucks operating within the streambed. The noise is likely to echo and possibly be amplified due to the topographic features of the Lemon Creek valley. All homes and businesses whose main dwellings and offices face the creek along the adjoining properties will be affected. The Rivers

Edge condominium development is likely to be the most affected, as these residences have been designed to face the creek and enjoy its amenities.

The applicant has proposed operating hours of 7 am to 6 pm on weekdays and 9 a.m. to 6 p.m. on Saturdays. (Attachment 4, p. 6) This condition was included in the USE2006-0054 Notice of Decision. These hours meet the standard established in CBJ Code 42.20.095, Disturbing the Peace. Staff recommends repeating this condition for the current review, in accordance with CBJ Land Use Code Sand and Gravel Section 49.65.230(1).

Public Health or Safety -

The adjacent Rivers Edge Condominium development includes a trail along the edge of the Lemon Creek. Though the streambed is privately-owned, many people living in this development and in the surrounding residential areas utilize this section of Lemon Creek as a recreational area for walking dogs, throwing frisbees, etc., particularly during times of low water flow. The mining proposal, with excavated areas up to ten feet deep, has the potential to be a significant public safety hazard without appropriate warning measures.

The application includes a brief note about installation of signs (Attachment 4, p. 6). Staff recommends following the previously approved condition regarding signage, as follows:

Excavated areas within the creek bed must be clearly marked with warning signs. Excavated slopes must be graded to a gentle slope of 4 horizontal to 1 vertical before signs are removed. These measures shall be integrated into the annual grading permit.

This condition is in accordance with CBJ Land Use Code Sand and Gravel Section 49.65.230(3) and 49.65.235(2).

Habitat -

Habitat regulations under review in this proposal include the following:

49.70.950(d) Habitat. Rivers, streams and lakes shall be managed so as to protect natural vegetation, water quality, important fish or wildlife habitat, and natural waterflow.

(Streambed activities are automatically exempt from the 50 foot habitat setback regulation, so Code Section 49.70.950(f) does not apply.)

The original Conditional Use Permit USE2006-00054, required a finding of public need to formally exempt the project from meeting the standard established in 49.70.950(d). Resources agencies and the Wetlands Review Board have since determined that gravel extraction in the stream is not harmful if it is conducted with specific habitat protection measures, which will be specified as conditions. Therefore a new public need determination is not necessary for this review.

CDD hosted an inter-agency meeting on October 29, 2012 to discuss the project. Representatives from the U.S. Fish and Wildlife Service (USFWS), U.S. Army Corps of Engineers, Alaska Department of Environmental Conservation (DEC), CBJ Engineering, and CBJ Community Development attended the meeting. Each agency explained its review authority, permitting timelines, and issues of interest. Each agency, including the Alaska Department of Fish and Game which was not represented, is on a different permit timeline for this project, which makes the review challenging for the applicant as well as agencies. To better align CBJ's permit timeline with that of other reviewing agencies, SECON requested a 6-year Conditional Use Permit rather than the 10 years first proposed.

Resource agencies support the current method of gravel extraction, described in Attachment 5, which utilizes ramps to access gravel bars rather than diverting the creek to one side of the channel as in the original proposal. The current method typically mines the same gravel bars each year, because the material is replenished in the excavated area during high flows. This preserves vegetated gravel bars in other areas that provide habitat benefits. However as noted earlier, SECON will move to new gravel bars if the gravel does not naturally replenish itself in previously excavated sites.

The U.S. Fish and Wildlife Service has emphasized the importance of retaining large woody debris in the channel to provide habitat and some level of continuous restoration from the activity. (Attachment 23) The applicant has been following this protocol during each mining season. Staff recommends formalizing this measure as a condition to ensure conformance with the habitat standard, as follows:

The applicant shall place any large woody debris encountered during excavation activities at the surface of the floodplain, upstream or adjacent to the excavation area to encourage gravel bar formation and/or side channel creation. The woody material shall be partially buried to anchor the material during high flows.

USFWS noted that previously excavated wood at the site is accreting new woody material, it is re-vegetating naturally, and is creating a small side channel, providing direct habitat benefits.

USFWS also recommended extensive field staking of the excavation area and setbacks from flowing water to ensure protection of the creek from sedimentation and other extraction impacts. Recommended project conditions already require extensive mapping, but do not specifically address staking the excavation area. Staff therefore recommends the following condition:

Prior to commencement of mining and prior to gravel bar coverage with snow and ice, the applicant shall field stake the exact excavation configuration and setbacks from flowing water.

USFWS has also requested a yearly maximum extraction amount that will maintain channel complexity and vegetated gravel bars (Attachment 23). However both USFWS and SECON have acknowledged that there is insufficient data to determine what that amount should be. In the

three years of operation, SECON has not extracted more than 10,000 cubic yards per year, however that amount could increase significantly with higher demand. USFWS suggested a maximum of 25,000 cubic yards per year, while some other agencies and the Wetlands Review Board have suggested a number as high as 50,000 cubic yards per year. The applicant has agreed to a conservative number in-between these two estimates, at 35,000 cubic yards per year (Attachment 5). Staff recommends the following condition:

The extraction amount shall not exceed 35,000 cubic yards per year.

At the agency meeting DEC described the 401 Certification Process, and the applicant described the Pollution Control Plan for the project required by DEC. This plan is included in Attachment 4, p. 8. This plan includes eight measures regarding spill prevention and response. To ensure conformance with the CBJ Habitat Standard, staff recommends including two of these measures as project conditions:

- 1) *There shall be no on-site fueling or equipment maintenance performed within 100 feet of the creek banks. This includes fueling or maintenance of portable equipment such as generators and pumps.*
- 2) *There shall be no on-site storage of fuel or other chemicals.*

The Wetland Review Board (WRB) reviewed the project in its advisory role at the November 1, 2012 regular meeting. Draft minutes are included in Attachment 16. The Board focused its discussion on the monitoring protocol for stream turbidity, placement of large woody debris, and the timing window to ensure minimal impacts to spawning salmon. The Board was particularly concerned with the timing window that allows SECON to enter the stream for up to seven days between May 15 and June 15. Salmon smolts are migrating downstream at this time, therefore Board members believed this was a potentially damaging time for equipment to be in the stream. The applicant explained that ADF&G specifically required this timing window so that the excavated section of the creek could be connected if necessary. However he emphasized that it has never been necessary to enter the creek at this time because the creek has connected itself naturally, and furthermore that SECON does not want to be in the creek at this time because it could be damaging to equipment. Nonetheless, the applicant did not want to change this condition in the CBJ permit because it might create a conflict with the ADF&G permit.

The Board concluded the discussion with the following motion, passed unanimously:

The Board recommends approval of USE2012 0019 with a revised permit timeline of six years and 240,000 cubic yards with the same conditions as the original permit, USE2006-0054, with the exception of condition #23 which will be revised by staff to reflect current mining practices.

As an advisory, the Board recommends that when the Alaska Department of Fish and Game develops their new permit in 2014, ADF&G should consider removal of the timing window which allows activity in the stream in May and June, because this exception is

not needed and may be harmful.

As an additional advisory condition, the Board requests that the applicant provide detailed information regarding DEC and ADF&G monitoring measures to ensure a complete application.

As a final advisory condition, the Board requests that the applicant consult with the U.S. Fish and Wildlife Service and/or Alaska Department of Fish and Game to develop a specific protocol for how Large Woody Debris may be managed on site.

The applicant responded to the Board's request for detailed monitoring information with the material provided in Attachment 6. Staff followed up with the U.S. Fish and Wildlife Service regarding the Board's question on large woody debris, which led to the recommendation proposed in the previous section.

With acceptance of the recommended conditions regarding placement of large woody debris; off-site fueling, maintenance, and storage of chemicals; a maximum yearly extraction amount of 35,000 cubic yards; and field staking the mining excavation area, the proposal meets the Habitat Standard established in CBJ Code 49.70.950(d). These conditions are in accordance with the CBJ Land Use Code Sand and Gravel Section 49.65.230(7-8).

Property Value or Neighborhood Harmony -

The subject parcel is zoned partially Rural Reserve and primarily Industrial. The parcel is bordered by residential areas to the north and west and by industrial zoning and associated industrial developments to the south and east. CBJ has a gravel pit within one quarter mile of the mining site, while Secon has mining operations farther up the Lemon Creek Haul Road. Anka Street already receives heavy industrial and truck traffic from these existing operations, therefore traffic from the proposal is expected to blend in with the flow and not be distinctly noticeable.

The residential areas to the north, particularly those developments which face the creek such as Rivers Edge condos, will experience the most notable neighborhood harmony impacts from the mining proposal, as a consequence of being adjacent to an industrial area. The primary impacts will be from the noise of heavy equipment operating within the stream.

The subject property is part of a patented placer mining claim within Rural Reserve and Industrial. Residential areas that border industrial areas are frequently subject to greater levels of noise and disturbance than other areas. Based on anecdotal information from the three seasons of previous activity, the operation will create a significant amount of noise and vibration for neighboring residences. However the proposed timing restrictions, included in the application and repeated as conditions, are expected to substantially reduce this impact. These restrictions include the following:

- 1) Truck traffic from the development shall be routed only through the Anka Street/Glacier Highway intersection.*

- 2) *Truck traffic and heavy equipment operation associated with gravel extraction is strictly prohibited from the Davis Avenue side of the river.*
- 3) *Operating hours shall be 7 a.m. to 6 p.m. on weekdays and 9 a.m. to 6 p.m. on Saturdays. Operations shall not be allowed on Sundays.*
- 4) *Gravel extraction shall be limited to 40 days per year.*

These conditions are in accordance with the CBJ Land Use Code Sand and Gravel Section 49.65.230(5).

The mining development may increase property values by lowering the creekbed and reducing the flood hazard and bank erosion in the area, with the proper mitigation measures supported by CBJ Engineering. As noted in the Background Section, the Lemon Creek Watershed Analysis recommends mining in this zone, with appropriate habitat mitigation, as one of three measures to reduce flood potential.

Public Comment -

Staff has received one public comment letter from a resident of the Rivers Edge Condominiums (Attachment 27). Following is an excerpt of the letter:

"I am completely opposed to the extraction of material from the...streambed because...it caused damage to the foundation of my home. I had cracks in the tile of my floors and around my fireplace as well as on my garage floor. On more than one occasion I felt the ground and walls of my condominium shaking...The noise was so loud my child who was walking with me could not hear me. My children could not play by the creek because it was not safe and not allowable with all the extracting....The extracting and drilling has a huge impact on the salmon, the eagles, ravens, and all the habitat...My children cannot go around the stream nor can anyone walk their dogs....It weakens the very foundation of the riverbed and all the homes in the area, the extraction work wears down both sides of the river."

Staff forwarded this letter to both the applicant and CBJ Engineering for comment. Their responses are included in Attachments 28-30. CBJ Engineering stated that they support the gravel extraction and consider it to be a pro-active step to address potential flood issues. Engineering explained, *"Were the gravels allowed to continue to collect, the riverbed would continue to rise above the current levels of bank protections (rip rap etc) and cause significant property damage."*

Gravel extraction and shot-rock bank armoring occurred on the condominium parcel in September 2009. Because the developer considered the erosion to be an emergency, the developer did not go through the CBJ Land Use Code Sand and Gravel review process, and instead submitted an after-the-fact grading permit for the armoring. Notice was not provided to residents. CBJ Engineering reports that the grading permit was never finalized due to the lack of certification by a licensed engineer. (Attachment 29)

The applicant responded to the resident's letter by stating that excavators are commonly used for

utility installation in close proximity to structures and “have inflicted no damage for many years.” SECON noted that it would require a professional survey to determine if gravel extraction caused structural damage. SECON acknowledged that it’s possible to feel ground vibrations from a distance, but stated that there is no drilling or drilling noise during extraction activity. Finally, SECON noted that the creekbed is private property and the public does not have the explicit right to access the site, with or without gravel extraction.

The neighbor raises many concerns that have been addressed in other sections of this report. The condominiums were built after the Lemon Creek industrial area was established. Residents of this area may experience noise and vibration from many different uses in the area, including the CBJ Gravel Pit, an industrial salvage yard, and others. Recommended conditions limit the number of days per year, limit the time of year to a three month period, limit hours of operation to a 9 a.m. start time on Saturdays with no operation on Sundays, and restrict truck traffic to established industrial routes. Similarly, the project includes many conditions to protect habitat including monitoring, replacement of large woody debris, and a prohibition on fueling, maintenance, and chemical or fuel storage.

2008 Juneau Comprehensive Plan -

The 2008 Comprehensive Plan designates the subject parcel as Heavy Commercial/Light Industrial, which is defined as:

Land to be developed for heavy commercial or light industrial uses such as small to medium-scale food processing; printing and other business services; wholesale trade; research and development laboratories; light manufacturing processes; metal fabrication; warehousing; trucking; animal kennels; crematoria; indoor and outdoor storage; and repair and maintenance activities. Residential units should be limited to caretaker units where the occupant works directly for or owns the business for which the occupant is caretaking.

Resource extraction and trucking is listed under the Comprehensive Plan definition for Industrial, which includes all heavy industrial uses, instead of the light industrial uses in the definition above. Therefore gravel extraction does not strictly comply with the 2008 Comprehensive Plan designation. However the proposal has many conditions designed to protect adjacent properties from bank erosion. The time of year, hours of operation, and total number of days of operation have been significantly restricted in the proposed conditions. Another condition prohibits truck traffic and heavy equipment use on Davis Avenue. Staff concludes that these restrictions significantly reduce the impact of the operation on the adjacent neighborhood, and therefore the development falls within the intent of the Comprehensive Plan for this area.

In addition, Chapter Five states that mining is an important private sector industry that provides well-paid full-time, year-round employment with benefits. Policy 5.9 states:

It is the policy of the CBJ to support the extraction and processing of mineral resources in an environmentally-sound manner, giving proper recognition to the unique values of this

community.

Chapter Seven specifically discusses gravel resources, including the following explanation:

As growth and development continue in the Mendenhall Valley and Lemon Creek areas, pressure for closing existing pits may grow, primarily because gravel extraction operations produce noise, dust, heavy truck traffic, run-off and other impacts that often conflict with surrounding land uses. As this resource is necessary for all types of development, and given the inherent conflict of this heavy industrial use to less intense neighboring uses, it is important to take steps to avoid or minimize land use conflicts.

Policy 7.16 states:

It is the policy of the CBJ to conserve known gravel deposits and to protect them for conflicting land uses.

The proposed gravel extraction substantially conforms to these policies by allowing gravel extraction to proceed with conditions to protect habitat and to reduce noise and traffic impacts by reducing the hours, days, and time of year of operation.

FINDINGS

CBJ §49.15.330 (e)(1), Review of Director's Determinations, states that the Planning Commission shall review the Director's report to consider:

1. Whether the application is complete;
2. Whether the proposed use is appropriate according to the Table of Permissible Uses; and,
3. Whether the development as proposed will comply with the other requirements of this chapter.

The Commission shall adopt the Director's determination on the three items above unless it finds, by a preponderance of the evidence, that the Director's determination was in error, and states its reasoning for each finding with particularity.

CBJ §49.15.330 (f), Commission Determinations, states that even if the Commission adopts the Director's determination, it may nonetheless deny or condition the permit if it concludes, based upon its own independent review of the information submitted at the public hearing, that the development will more probably than not:

1. Materially endanger the public health or safety;
2. Substantially decrease the value of or be out of harmony with property in the neighboring area; or,
3. Not be in general conformity with the comprehensive plan, thoroughfare plan, or other officially adopted plans.

Per CBJ §49.15.330 (e) & (f), Review of Director's & Commission's Determinations, the Director makes the following findings on the proposed development:

1. Is the application for the requested conditional use permit complete?

Yes. We find the application contains the information necessary to conduct full review of the proposed operations. The application submittal by the applicant, including the appropriate fees, substantially conforms to the requirements of CBJ Chapter 49.15. Furthermore, the application meets all requirements of CBJ Code 49.65.210, Contents of Sand and Gravel application, including the following: 1) a graphic and legal description of the property; 2-4) a topographic map and cross section with finished contours; 5) ingress and egress points for trucks and other equipment; 6) plan with buildings and structures; 7) a narrative describing the operation with a site drainage plan, method of securing the area, methods to minimize noise pollution and visual blight, hours and days operation, estimated amount of material present and to be removed, results of test holes to show the water level, date the operation will be completed, schedule for completion of site restoration, operating procedures for particulates beyond site boundaries, identification of geophysical hazards, and dates of establishment of the operation and history of land development. These application requirements have been included in Attachments 3-11 and 20.

2. Is the proposed use appropriate according to the Table of Permissible Uses?

Yes. The requested Conditional Use Permit is appropriate according to the Table of Permissible Uses. The permit is listed at CBJ §49.25.300, Section 14.500 for the Industrial and Rural Reserve zoning districts.

3. Will the proposed development comply with the other requirements of this chapter?

Yes. The proposed development complies with the other requirements of this chapter. Public notice of this project was provided in the November 16, 2012 and November 23, 2012 issues of the Juneau Empire's "Your Municipality" section, and a Notice of Public Hearing was mailed to all property owners within 500 feet of the subject parcel. Moreover, a Public Notice Sign was posted on the subject parcel, visible from the public Right of Way.

4. Will the proposed development materially endanger the public health or safety?

No. As described in the previous analysis, available evidence indicates that the proposed development will not materially endanger the public health or safety. With acceptance of the suggested conditions requiring warning signs and a 4:1 slope along excavated areas, potential threats to public safety will be adequately addressed.

5. Will the proposed development substantially decrease the value of or be out of harmony with property in the neighboring area?

No. As described in the previous analysis, heavy equipment operating in the stream will generate substantial noise for properties facing the creek. However hours of operation shall be reduced on Saturdays and prohibited on Sundays. Extraction will be limited to 40 days per year. Traffic flow will blend in with existing industrial traffic on main roads and will not go through residential areas. The mining development will benefit surrounding properties by reducing the flood hazard, while extensive project conditions are in place to prevent damage to banks of the properties adjacent to the creek. With these restrictions, the proposed development will not substantially decrease the value of or be out of harmony with property in the neighboring area.

6. Will the proposed development be in general conformity with the land use plan, thoroughfare plan, or other officially adopted plans?

Yes. The development is a heavy industrial use in an area designated as Heavy Commercial/Light Industrial in the Comprehensive Plan. However with the recommended conditions which limit the hours and days of operation and prohibit truck traffic in the adjacent residential area, the project meets the intent of the Comprehensive Plan. Moreover, the project complies with Comprehensive Plan Policy 5.9 and 7.16 regarding extraction of mineral resources in an environmentally-sound manner.

Per CBJ §49.70.900 (b)(3), General Provisions, the Director makes the following Juneau Coastal Management Program consistency determination:

7. Will the proposed development comply with the Juneau Coastal Management Program?

Yes. As described in the previous analysis, the proposed development complies with the Juneau Coastal Management Program because the mining method, with recommended conditions, minimizes the impact on vegetated gravel bars, replaces large woody debris to create habitat, minimizes pollutants, and protects water quality.

8. Would the mandatory condition listed in CBJ Code 49.65.235(1) serve no useful purpose?

Yes. CBJ Code Section 49.65.235(1) states that a strip of land no less than 15 feet in width shall be retained at the periphery of the site wherever the site abuts a public way. The Code states that the commission may not waive or modify the requirement except up on a finding that the requirement would serve no useful purpose. The requirement would serve no useful purpose because the development is located in a streambed, because it does not abut a public way, and because CBJ Engineering has determined that a 10-foot buffer from adjacent property lines is sufficient.

RECOMMENDATION

Staff recommends that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use permit. The permit would allow extraction of 240,000 cubic

yards of gravel from the Lemon Creek streambed over a period of six years. The approval is subject to the following conditions:

Annual Grading Permit and Bank Protection –

1. The operator shall stockpile about 50 cubic yards of broken rap, equivalent to Class I rip-rap, near the project area to address emergencies if the flow becomes redirected towards the bank. If the rock is not used it may be sold when the project ends.
2. Prior to issuance of the first year's grading permit and approval of the first year mining plan, the operator shall submit a bond of \$30,000, sufficient to repair any serious bank damage.
3. By November 1, one month before the commencement of each mining season, the applicant shall submit a mining plan. The mining plan shall be processed by the Engineering Department as an annual grading permit. Such plan shall include:
 - a. Estimation of material to be removed
 - b. Map of area to be worked (showing property lines)
 - c. Map showing proposed culverts, access roads, bank stabilizations, berm details (including height, location, material composition and removal plan) stream relocations and other proposed features
 - d. Methods for protecting Lemon Creek from oil, fuel and hydraulic fluid (including leaks from heavy equipment)
 - e. Prior to the commencement of mining, the applicant shall verify property line location and delineate offset distance to the extraction area.
4. The top of excavation slopes shall be prohibited within 10' of any banks or the property lines.
5. The applicant shall directly hire, or pay permit inspection fees to provide for periodic inspection of the mining area by an appropriately licensed engineer and/or hydrologist.
6. Periodic inspections shall be made as determined by the engineer and/or hydrologist, sufficient to monitor the operation. Such periodic inspections shall include visits during or after high water events.
7. Inspection reports shall be submitted to the Engineering Department for each 10,000 cubic yards of material removed from the stream, and those reports shall include the following information:
 - a. Volume of material removed
 - b. Map of area worked
 - c. Verification of compliance with mining plan
 - d. Report of bank destabilizations
 - e. Opinion whether bank/property line setbacks are adequately protecting adjacent properties
 - f. Bank protection/stabilization measures if merited
8. An inspection report shall be submitted at the end of the mining season which includes all items in numbers 4-7. The report shall be submitted to the Engineering Department and to the Community Development Department within one month of the end of the mining

season, or April 15.

9. The applicant/operator shall confine all excavations to within existing rip-rap banks. Prior to proceeding with annual excavations, the applicant must find and stake adjacent rip-rap banks.
10. The applicant/operator shall protect the structural integrity of existing stream banks and rip-rap banks. A no-disturbance zone of at least 10 feet horizontal distance from adjacent rip-rap and banks is required. (This condition is necessary because rip-rap boundaries may or may not correlate with property boundaries, as noted in the earlier requirement to mine 10 feet from property boundaries.)
11. The applicant shall protect all vegetated slopes and maintain a similar non-disturbance zone identified above, unless a site-specific engineering analysis indicates otherwise.
12. All cut-slopes shall be less than 2 horizontal to 1 vertical unless a site-specific engineering analysis proves that a steeper slope protects adjacent properties.
13. Excavated areas within the creek bed must be clearly marked with warning signs. Excavated slopes must be graded to a gentle slope of 4 horizontal to 1 vertical before signs are removed. These measures shall be integrated into the annual grading permit.
14. The approved access points at 1721 Anka Street, 1791 Anka Street, and Ralph's Way shall be inspected each year to verify that no changes have been made to the embankment due to heavy creek flows during the previous year. Alterations to the proposed access will require approval by the Community Development Department and the CBJ Engineering Department.

Project Expiration and Dates and Times of Operation -

15. Gravel operations shall take place between December 1 and March 15. No in-water work shall be allowed between March 16 and November 30 with the following exception:
In-stream work to connect the excavated sections of the creek shall be allowed for one 7 day period between May 15 and June 15. The applicant shall provide notice to CBJ Engineering and DNR-Habitat before work commences.
16. Operating hours shall be 7 a.m. to 6 p.m. on weekdays and 9 a.m. to 6 p.m. on Saturdays. Operations shall not be allowed on Sundays.
17. Gravel extraction shall be limited to 40 days per year.
18. The permit shall expire after six years or extraction of 240,000 cubic yards of gravel, whichever comes first.
19. The extraction amount shall not exceed 35,000 cubic yards per year.

Truck Traffic and Street Maintenance -

20. Truck traffic from the development shall be routed only through the Anka Street/Glacier Highway intersection.
21. Truck traffic and heavy equipment operation associated with gravel extraction is strictly prohibited from the Davis Avenue side of the river.
22. Prior to leaving the excavation area, the transport truck bed, with the tailgate locked, shall be raised to a minimum twenty degree angle for a timed 5 minutes to allow excess water

to escape. Tilt time may be reduced if water escapement occurs sooner based on the project engineer's visual assessment and approval.

23. The applicant shall protect catch basins along the route from sediment infiltration by use of manufactured Catch Basin filters.
24. The applicant shall inspect the traveled route a minimum of twice daily for escaped material from the haul.
25. The applicant shall sweep and clean the roadway at the end of each day if any water or material has escaped, or if a major spill occurs.
26. The applicant shall immediately respond to any additional clean-up requests during the from the project engineer, CBJ or ADOT.
27. The applicant shall construct a rockery lane for debris removal from truck tires prior to entering Anka Street.

Habitat Protection -

28. No sediment migration from the truck or ramp shall be allowed in the waterway.
29. Prior to commencement of mining and prior to gravel bar coverage with snow and ice, the applicant shall field stake the exact excavation configuration and setbacks from flowing water.
30. The applicant shall place any large woody debris encountered during excavation activities at the surface of the floodplain, upstream or adjacent to the excavation area to encourage gravel bar formation and/or side channel creation. The woody material shall be partially buried to anchor the material during high flows.
31. There shall be no on-site fueling or equipment maintenance performed within 100 feet of the creek banks. This includes fueling or maintenance of portable equipment such as generators and pumps.
32. There shall be no on-site storage of fuel or other chemicals.

DEVELOPMENT PERMIT APPLICATION

Project Number	CITY and BOROUGH of JUNEAU	Date Received: 9/28/12
Project Name (City Staff to Assign Name)		

PROJECT / APPLICANT	Project Description		
	To extract up to 400,000 cubic yards of material from a privately owned streambed in Lemon Creek over a ten year period.		
	Street Address		City/Zip
	Access points @ Ralphs Way, 1721 or 1741 Anka St.		Juneau, AK 99801
	Legal Description(s) of Parcel(s) (Subdivision, Survey, Block, Tract, Lot)		
	Mendota Park, Parcel 2		
	Assessor's Parcel Number(s)		
	5-B12-0-131-004-1		
	Property Owner's Name		Contact Person:
	Colaska Inc., DBA SFLON		Mike Short
Mailing Address		Home Phone:	
P.O. Box 32159, Juneau, AK 99803		780-5145	
E-mail Address		Fax Number:	
mshort@colaska.com		780-5896	
Other Contact Phone Number(s):			
<p>I am (we are) the owner(s) or lessee(s) of the property subject to this application and I (we) consent as follows:</p> <p>A. This application for a land use or activity review for development on my (our) property is made with my complete understanding and permission.</p> <p>B. I (we) grant permission for officials and employees of the City and Borough of Juneau to inspect my property as needed for purposes of this application.</p>			
X		Date 9/25/2012	
Landowner/Lessee Signature		Date	
X _____		_____	
Landowner/Lessee Signature		Date	
<p>NOTICE: The City and Borough of Juneau staff may need access to the subject property during regular business hours and will attempt to contact the landowner in addition to the formal consent given above. Further, members of the Planning Commission may visit the property before the scheduled public hearing date.</p>			
Applicant's Name		Contact Person:	
Michael Short		780-5145	
Mailing Address		Home Phone:	
P.O. Box 32159, Juneau, AK 99803		780-5896	
E-mail Address		Other Contact Phone Number(s):	
mshort@colaska.com			
X		Date of Application 9/26/12	
Applicant's Signature		Date of Application	

OFFICE USE ONLY BELOW THIS LINE

STAFF APPROVALS	Building/Grading Permit		
	City/State		
	Project Review and City Land Action		
	Inquiry Case		
	(Fee In Lieu, Letter of ZG, Use Not Listed)		
	Mining Case		
	(Small, Large, Rural, Extraction, Exploration)		
	Sign Approval		
	(If more than one, fill in all applicable permit #'s)		
	Subdivision		
	(Minor, Major, PUD, St. Vacation, St. Name Change)		
	Use Approval (Allowable, Conditional, Cottage Housing, Mobile Home Parks, Accessory Apartment)		
	Variance Case		
	(De Minimis and all other Variance case types)		
	Wetlands Permits		
Zone Change Application			
Other (Describe)			
***Public Notice Sign Form filled out and in the file.			
<p>Comments: topo map will be added Bme</p>			

NOTE: DEVELOPMENT PERMIT APPLICATION FORMS MUST ACCOMPANY ALL OTHER COMMUNITY DEVELOPMENT DEPARTMENT

FORMS\2010 Applications

Attachment 1

ALLOWABLE/CONDITIONAL USE PERMIT APPLICATION

Project Number	Project Name (15 characters)	Case Number: <u>15012-019</u>	Date Received <u>9/26/12</u>
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TYPE OF ALLOWABLE OR CONDITIONAL USE PERMIT REQUESTED

- ☐ Accessory Apartment*** (AAP)
 ☐ Driveway In Right-of-Way (ADW)
 ☒ Use Listed in §49.25.300 (USE) 49.65.200 S & G extraction

Please list the Table of Permissible Uses Category: _____

***An Accessory Apartment Application will also be required.

DESCRIBE THE PROJECT FOR WHICH AN ALLOWABLE OR CONDITIONAL USE APPROVAL IS NEEDED.

To extract up to 400,000 cubic yards of material from a privately owned streambed in Lemon Creek over a ten year period.

IS THIS A MODIFICATION OF AN EXISTING APPROVAL?

☐ NO ☐ YES - Case # _____

CURRENT USE OF LAND OR BUILDING(S): Extraction of gravel from streambed permitted by USE 2006-000054 / USE 2008-00053

PROPOSED USE OF LAND OR BUILDING(S): Extraction of gravel

UTILITIES PROPOSED: NA WATER: ☐ Public ☐ On Site NA SEWER: ☐ Public ☐ On Site

SITE AND BUILDING SPECIFICS:

Total Area of Lot 415,998 square feet Total Area of Existing Structure(s) None square feet
Total Area of Proposed Structure(s) None square feet

EXTERNAL LIGHTING: NA

Existing to remain ☐ No ☐ Yes - Provide fixture information, cutoff sheets, and location of lighting fixtures
Proposed ☐ No ☐ Yes - Provide fixture information, cutoff sheets, and location of lighting fixtures

PROJECT NARRATIVE AND SUBMITTAL CHECKLIST:

- | | |
|--|--|
| <input checked="" type="checkbox"/> Site Plan | <input type="checkbox"/> Existing and proposed parking areas (including dimensions) and proposed traffic circulation |
| <input type="checkbox"/> Floor Plan of proposed buildings | <input checked="" type="checkbox"/> Existing Physical Features of the site (drainage, habitat, hazard areas, etc.) |
| <input type="checkbox"/> Elevation view of existing and proposed buildings | |
| <input type="checkbox"/> Proposed Vegetative Cover | |

For more information regarding the permitting process and the submittals required for a complete application, please see the reverse side.

If you need any assistance filling out this form, please contact the Permit Center at 586-0770.

ALLOWABLE/CONDITIONAL USE FEES

Fees	Check No.	Receipt	Date
Application Fees <u>\$1000</u>			
Admin. of Guarantee \$			
Adjustment \$			
Pub. Not. Sign Fee <u>\$80</u>			
Pub. Not. Sign Deposit <u>\$100</u>			
Total Fee <u>\$1180</u>	<u>071465</u>	<u>cd83097</u>	<u>9/26/12</u>

NOTE: MUST BE ACCOMPANIED BY DEVELOPMENT PERMIT APPLICATION FORM

Teri Camery

From: SHORT, Michael (JUNSC) [MShort@COLASKA.com]

Sent: Tuesday, November 13, 2012 11:21 AM

To: Teri Camery

Subject: USE 212-0019 Lemon Creek Gravel Extraction

Teri

Per our Agency meeting of October 29, 2012 please submit a change to the Use Permit 2012 0019. The plan extraction quantity changed from 400,000 cubic yards to 240,000 cubic yards. The time of the permit from 10 years to 6 years.

Thank you.

Michael Short

Secón

Engineering Manager

1836 Anka Street

Juneau, AK 99801

P.O. Box 32159

Juneau, AK 99801

Office (907) 780-5145

Cell (907) 378-4767

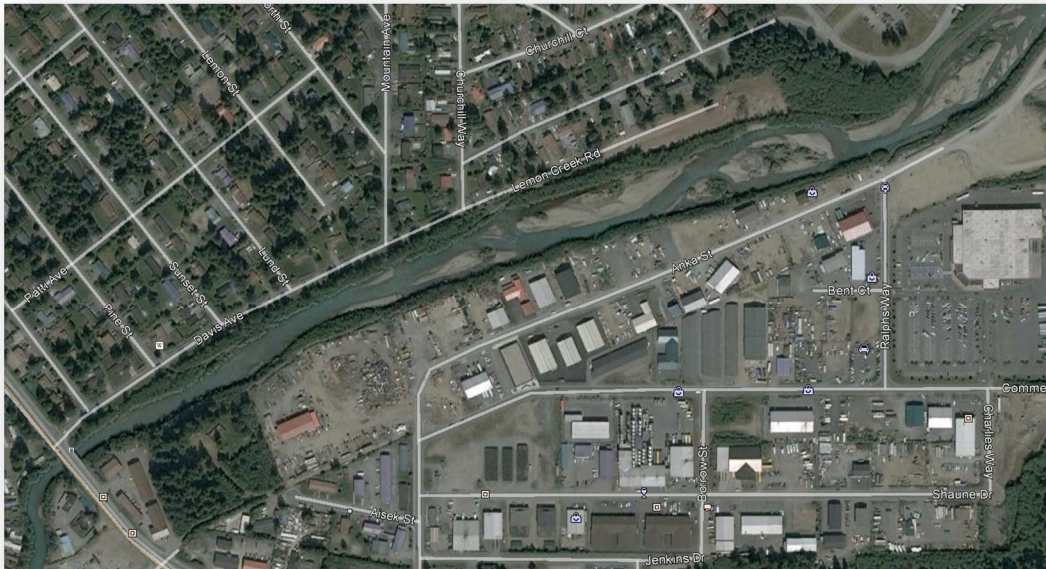


Lemon Creek Channel Restoration

Conditional Use Application

Michael Short

9/7/2012



A description of the gravel extraction from Lemon Creek for a Conditional Use Approval. This description provides background information of current usage and active permits. It is a request to continue status quo of severing gravel from Lemon Creek for an addition ten years.

Continuation of Gravel Extraction

It is the intention of the property owner to sever up to 400,000 cubic yards of sand and gravel from the stream bed of Lemon Creek between the jail and a point above the Glacier Highway Bridge over a period of 10 years.

SECON has extracted gravel under the previous permit in 2009 of 9,500 cubic yards, 2011 of 9,500 cubic yards and 2012 of 9,750 cubic yards. This expired permit allowed up to 200,000 cubic yards to be severed over a five year period. In that period 28,750 cubic yards of gravel has been extracted. 9,750 cubic yards were extracted this winter of 2011-2012.

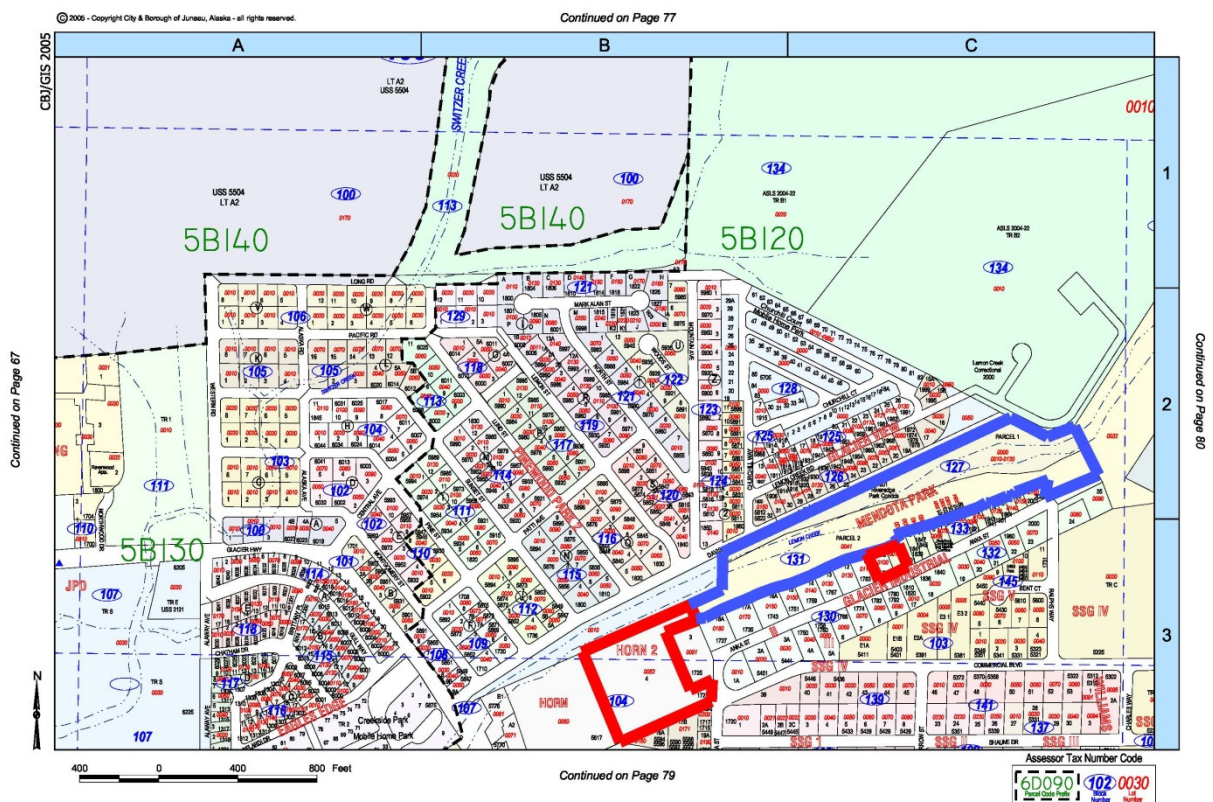
Below is a picture taken September 10, 2012 of the extraction site. As can be seen the creek is flowing at an elevated level due to the recent rains and late summer glacier melt. The extracted site has filled with gravel during the last six months yet maintains a braided channel with hard features retained. There appears to be no headcut from the extraction zone as the vegetative and armored banks do not show any disturbance from a streambed downcut. The bed load transport from Hidden Valley is at least 10,000 cubic yards per summer season. To date the overall stream bed elevation has stayed status quo in the severance zone. Property owners downstream are stating that aggregation is still noticeably occurring. The gravel extraction to date has at best slowed the aggregation of alluvial deposits in this reach but has not lowered the stream bed.



Sept 10 2012 - Lemon Creek Access Point at 1791 Anka Street

OWNERSHIP AND LEGAL DESCRIPTION

The property where the severance will occur is owned by COLASKA Inc. DBA SECON and is described as Parcel 2, Mendota Park Subdivision. Temporary storage of the material severed, if needed, will occur on U.S.S. 204 or on industrial –zoned land.



LOCATION; FEATURES; TOPOGRAPHY

The parcel containing the severance site is 9.55 acres in size, is irregular in shape because of previous subdivision action, and is the remaining fraction of USMS 609, a patented placer mining claim which straddles the stream bed of Lemon Creek. It is located south of the Davis Avenue right-of-way and extends from below the bend in Davis Avenue in a northeasterly direction to the State jail. The southeast and northwest boundaries of the property are the ordinary high water line on the south and north banks of Lemon Creek. This area has a history of placer mining from 1879 to the early 1900's. Logging with a sawmill operation were active in the area till the 1980's. Gravel extraction in Lemon Creek for aggregate started during World War II. The mining of gravel occurred in several events until

mid-1980. The parcel containing the site has legal access through a sixty foot easement to Davis Avenue on the north and directly to Anka Street on the south. The access to Anka Street is developed. Currently there is an access to the extraction zone at 1791 Anka Street that has been developed.

ZONING

The area where the severance will occur is zoned RR. The area where severed material will be stored is zoned I.

EXISTING PERMITS FOR GRAVEL EXTRACTION FROM LEMON CREEK CURRENTLY HELD BY SECON

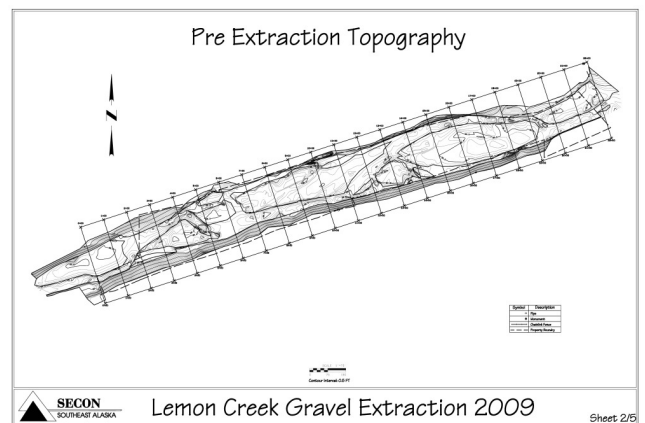
- Department of Army, U.S. Army Engineer District, Alaska; Regulatory Division
 - Permit No. POA-1983-20-M3
- State of Alaska Department of Fish and Game, Division of Habitat
 - Fish Habitat Permit FH06-I-0128(a)
- State of Alaska Department of Environmental Conservation
 - NPDES General Permit No. AK-G70-1000 Certificate of Reasonable Assurance

EXPIRED PERMITS

- City/Borough of Juneau, Alaska; Planning Commission
 - File No. USE2006-000054
 - File No. USE2008-00053

CURRENT USE

SECON has actively extracted gravel from this site for the previous five years. This resource has been processed into a useable sand and gravel for sale to public and private entities' in the Juneau area. The cost savings is greatly appreciated locally versus purchasing and importing this resource from out of state. The gravel extraction has achieved the desired results in regards to flood control by lowering the alluvial deposits in the stream channel for this section of Lemon Creek.



METHOD OF MINING

The method of mining is as it has been done under the previous conditional use permit File Number USE2006-000054 that was modified in 2008 File Number USE2008-00053. The conditions and requirements from these previous permits are incorporated into this application with an effort to reduce the redundancies.

Please see the attached permits from Department of Army and State of Alaska Department of Fish and Game which provided additional information as to the requirements and conditions of gravel extraction from Lemon Creek. Also provided as an attachment are the expired CBJ Conditional Use Permit and Building Permit.

Prior to first year's grading permit a bond of \$30,000 will be submitted, sufficient to repair any serious damage to the rip rap bank. This bond will be retained for the duration of the permit.

Annual Start up for Gravel Extraction

By November 1st, one month before the commencement of each mining season, a mining plan will be submitted. The mining plan will be processed by the CBJ Engineering Department as an annual grading permit. The plan will include:

- a. Estimation of material removed
- b. Map of area to be worked (showing property lines)
- c. Map showing proposed bridge, access roads, bank stabilizations, berm details (including height, location, material composition and removal plan) stream relocations and other proposed features
- d. Methods for protecting Lemon Creek from oil, fuel and hydraulic fluids (including leaks from heavy equipment)



A licensed engineer or hydrologist will be retained to preform periodic inspection. This professional will visit the site during and after high water events. They will also submit a report to the CBJ Engineering Department for each 10,000 cubic yards of material removed. The report will include the following information:

- a. Volume of material removed
- b. Map of area worked
- c. Verification of compliance with mining plan

- d. Report of bank destabilizations
- e. Opinion whether bank/property line setbacks are adequately protecting adjacent properties
- f. Bank protection/stabilization measures if merited

Prior to commencement of mining each season, the site will be surveyed and staked. The rip rap banks have been located and monitored for the past five years under the previous conditional use permit. All property boundaries are known and have been surveyed annually for each seasons gravel extraction. A 10 foot offset inward from property boundaries or rip rap bank towards the mining zone will be staked. The staking denotes the top outer edge of the active gravel extraction zone for this season's occurrence. This will preserve a 10 foot undisturbed buffer zone between the gravel extraction and the property line boundaries or rip rap bank whichever is more restrictive.

One month prior to the start of the mining season, SECON will submit an engineered project design for the access road. Design will include topographic features and an analysis by a licensed engineer which demonstrates that the road design, culverts and bridges are adequate and the road will not increase the base flood elevation in violation of CBJ Flood hazard and FEMA regulations. In this design application an alternate method to transport gravel out of the riverbed to the road can be proposed. The design and analysis will be approved by CBJ Engineering before mining or construction commences.

50 cubic yards of broken rip rap, equivalent to Class I rip rap, is stockpiled near the project area to address emergencies if the flow becomes redirected towards the bank. If this rock is not used it is sold at the project end.

A video will be made of the entire sever area and submitted to CBJ Engineering Department prior gravel extraction.

Gravel Extraction will be limited to 40 days per year.

An ACGP is being filed with The State of Alaska Department of Environmental Conservation (DEC) for this project. BMP's will be installed and inspections will be performed as required by the ACGP. At the top of the bridge upon exiting from the bridge a construction entrance will be assembled. A construction entrance is a geotextile line rip rap pad to encourage soils to break free from the tire tread and collect in this zone rather than being track from the site on the truck tires. The streets will be swept clean of fugitive soils.

Once per day during the extraction operation a SECON technician will sample Lemon Creek for turbidity and settleable solid measurements.

No fueling of equipment will take place below ordinary high water.

Equipment is to move to the west end of the project from island group to island group to achieve the shortest possible route. Route can be hardened with gravel and cobble to form stable fords for conveyance of extracted gravel.

The extraction pit if not self-breaching by May 15th will be mechanically breach between May 15th and June 1st.

Gravel Extraction

Operating hours shall be 7 a.m. to 6 p.m. on weekdays and 9 a.m. to 6 p.m. on Saturdays. Operations shall not be on Sunday except for emergency repairs directed by CBJ Engineering Department.

The gravel extraction sites will be accessed through one of three locations, 1721 Anka Street, 1791 Anka Street and/or Ralph's Way. A bridge is placed from the top of the bank to the gravel bar. The bridge is then lined with geotextile to collect and divert any fugitive water back into the excavation. The bridge traverses the active channel of Lemon Creek. Trucks and equipment access the gravel bar by crossing this bridge. Access across stream braids will be in a similar manner by use of a bridge. Or upon approval from the licensed engineer or hydrologist and the Alaska Department of Fish and Game the streamlet braid will be dammed upstream returning it back to the main channel so the area can be included in the excavation.

Signage is installed and the gravel extraction begins. Truck traffic is directed on Anka Street and Glacier Highway only. Truck Traffic and heavy equipment operation associated with the extrcation is prohibited from the Davis Street side.

An excavator will travel to the lower stream portion or to western edge of the extraction zone. Upon reaching the staked boundary will began excavation and develop an stockpile. In stockpiling the material the water that is retain in the gravels from extraction are given an opportunity for escape back into the excavation sump.



The severed gravels are then loaded into trucks. The conveyence units then transport the gravels up the extraction zone to the access bridge. Upon exiting the bridge they will traverse a rip rap zone lined with geotextile for an construction entrance. The route will be to access Anka Street then proceeding to Glacier Highway. Turn right on Glacier Highway to then turn left onto Lemon Creek Business Center Access Road, from there accessing Aggpro Site to stockpile the gravel.

All cut-slopes shall be to the natural repose of the gravel unless a site-specific engineer analysis proves that a steeper slope can still provide protection of adjacent properties. The excavation creates a sump as can be seen from the photos. This sump collects the run-off water from the loading of the trucks. By proper management of excavation and truck access roads this drainage is diverted into this sump and arrested from entering Lemon Creek.

The excavated pit fills with water from the hydorheic zone until it reaches a balance with the surrounding area. During excavation there is always a inflow, at the completion of excavation the inflow stops and creates a still pond in which the turbity of excavaion can settle. When Lemon Creek rises durning flood stage it slowly breaches the bermed area of excavation and engulfs the extraction zone. Once this happens and Lemon Creek contenes on to high flood stage the extraction zone is total consumed by the creek and is filled with alluvial deposits in one season.



Annual Close of Gravel Extraction

A final inspection report will be filed with CBJ Engineering Department at the end of the mining season. This report includes:

- a. Total Volume of material removed
- b. Actual Map of area worked
- c. Verification of compliance with mining plan
- d. Report of bank destabilizations
- e. Opinion whether bank/property line setbacks are adequately protecting adjacent properties
- f. Bank protection/stabilization measures if merited

The report will be submitted within one month after the end of the mining season or by April 15th of that calendar year.

CONDITIONS OF THE PERMIT

Gravel extraction will be limited to 40 days per year.

The permit will expire after 10 years or after 400,000 cubic yards of gravel has been extracted, whichever comes first.

Any gravel extracted outside of the project description and supporting documents will require Planning Commission approval for modification of the permit.

The even/odd year plan for gravel extraction, as described in the December 28, 2006 DNR-Habitat Draft Title 41 Permit and the June 15, 2007 letter to CDD from NMFS', will be integrated into the project description and development plan and implemented through the annual grading permit from CBJ.

Gravel extraction operations will take place between December 1st and March 15th each calendar year. No in-water work will be allowed between March 16th and November 30th with the following exception:

In-stream work to connect the excavated sections of the creek will be allowed for one 7 day period between May 15th and June 15th. SECON will provide notice to CBJ Engineering and DNR-Habitat before work commences.

SECON will cleanup and maintain the truck haul route from this extraction activity from any material deposited on the streets as a result of the operations.

LEMON CREEK GRAVEL MINING POLLUTION CONTROL PLAN

1. All construction equipment and haul trucks will be inspected prior to commencement of work each day for evidence of leaks. If leaks are found the equipment will not be used until the leak is repaired.
2. Any on site equipment found to be leaking fluid at any time will be removed from service immediately and will not be placed back into service until the leak is repaired.
3. There will be no on-site fueling or equipment maintenance performed within 100 feet of the creek banks. This includes fueling or maintenance of portable equipment such as generators and pumps.
4. There will be no on-site storage of fuel or other chemicals.
5. An adequate supply of sorbent material and other spill cleanup supplies will be kept on site to clean up any releases of fuel, hydraulic fluid, or other chemicals that could be accidentally released from on-site equipment.
6. All releases of fuel, hydraulic fluid, or other chemicals will be cleaned up immediately. Priority will be given to stopping the spread of any release to waters of the creek. If a spill occurs, earth

moving equipment and hand held tools may be used to construct temporary containment dikes to prevent releases from spreading, to the extent possible. If releases enter the creek, oil sorbent boom will be deployed downstream of the spill. Oil sorbent pads and/or rolls will be used to absorb standing liquid. Contaminated soil, wood, trash, and/or other debris will be removed using powered equipment and/or handheld tools. Used sorbents will be placed into leak proof plastic bags or other containers. Contaminated soil, wood, trash, and/or other debris will be placed into leak proof containers or stockpiled on a fuel resistant liner located outside the creek banks. All spill contaminated materials will be removed from the area within the creek banks shortly after the initial response is finished and will be disposed of in accordance with federal, state, and local requirements.

7. Spills of fuel, hydraulic fluid, or other chemicals will be reported in accordance with ADEC and EPA requirements as follows:
 - a. Spills requiring phone notification to ADEC will be reported by calling 465-5200 during normal business hours or 1-800-478-9300 outside of normal business hours. Spills requiring notification to the National Response Center (Federal spill reporting) will be reported by calling 1-800-424-8802. An ADEC *Oil and Hazardous Substance Spills* reporting placard (Attachment 1) and *Discharge Notification and Reporting Requirements* form (Attachment 2) are included. Documentation of phone notification to ADEC will be kept by completion of an ADEC *Oil and Hazardous Substances Spill Notification form* (Attachment 3). Documentation of notification to the National Response Center will be made by completion of an NRC Spill Reporting form (Attachment 4).
 - b. Any release to water will be reported to ADEC and the National Response Center as soon as a company employee has knowledge of the discharge.
 - c. Any release of oil (hydraulic fluid, engine oil, fuel, etc...) in excess of 55 gallons solely to land will be reported to ADEC as soon as a company employee has knowledge of the discharge.
 - d. Any release of oil solely to land in excess of 10 gallons but less than 55 gallons will be reported to ADEC within 48 hours after a company employee has knowledge of the spill.
8. Following cleanup of any ADEC reportable spill, an ADEC required spill report will be completed within 15 days using their *Oil and Hazardous Materials Incident Final Report* form (Attachment 5).

IMPROVEMENTS

No utilities are proposed for this site.

No lighting or permanent illumination for this site.

No buildings or permanent structures on the site.

ATTACHMENTS

- Attachment 1 - Assessors Site map with Property outlined in blue and two of the three access locations outlined in red.
- Attachment 2 - Assessors Site map with extraction zone showing gravel bars with bridges drawn.
- Attachment 3 - Drawing of Extraction zone showing gravel bars and bridges.
- Attachment 4 - Picture showing access locations.
- Attachment 5 - Drawing showing bridge detail.
- Attachment 6 - Drawing showing bridge spanning the creek.
- Attachment 7 - Drawing showing odd year mining plan.
- Attachment 8 - Inter-Fluve Report that this extraction zone is an Sediment Deposition Area.
- Attachment 9 - Planning Commission Notice of Decision File No. USE2008-00053
- Attachment 10 - Planning Commission Notice of Decision File No. USE2006-000054
- Attachment 11 - Department of Army, U.S. Army Engineer District, Alaska; Regulatory Division Permit No.POA-1983-20-M3
- Attachment 12 - State of Alaska Department of Fish and Game, Division of Habitat Fish Habitat Lemon Creek gravel Modification, Conditional Use Permit application, Modification to USE2006-00054, Stream No. 111-40-10100, T. 40S.,R. 66E.,Sec.34,C.R.M.(Juneau B-2)
- Attachment 13 - State of Alaska Department of Fish and Game, Division of Habitat Fish Habitat Permit FH06-I-0128(a)
- Attachment 14 - State of Alaska Department of Environmental Conservation NPDES General Permit No. AK-G70-1000 Certificate of Reasonable Assurance
- Attachment 15 – Notice of Intent (NOI) For Storm Water Discharge Associated With Industrial Activity Under the APDES Multi-Sector General Permit.

Teri Camery

From: SHORT, Michael (JUNSC) [MShort@COLASKA.com]
Sent: Monday, November 19, 2012 8:59 AM
To: Teri Camery
Subject: USE 2012-0019

Teri

I apologies for not responding last week. I thought that there would be better cell reception than there was. The plan was to use my I-phone and answer your questions via e-mail. The phone had one bar of reception in choice spots and no data service.

Question:

In the draft minutes from the Wetlands Review Board meeting, I wrote the following:

Ms. Camery noted that the agencies have largely supported the operation under the current applicant. SECON has changed the mining approach significantly from the way it was presented in USE2006-0054. The even/odd year approach to mining the gravel bars in condition #23 has not been necessary because the gravel is replenishing itself on a yearly basis. This allows SECON to mine the same bars every year without redirecting the stream channel and without moving into new vegetated gravel bars that provide fish habitat. Mr. Short explained that SECON mines only dry gravel bars, with 10 foot buffers on all sides of the bar, and at the top of the gravel bar, not the bottom; the mining activity does not directly reach the stream.

Answer:

- We are not using the even/odd year mining approach.
- We have mined the same gravel bar for each of the three times in the last four years. SECON does not want to commit to only one gravel bar. If the stream changes course as it has since we start the gravel extraction, there is the possibility that that gravel bar may not be available again. I would like to keep all the gravel reaches available for gravel extraction. Otherwise if one gravel bar is designated for all gravel extraction and the stream changes, SECON may not mine for the next six years.
- SECON is not going to change or redirect the stream. The original permit call for using berms to redirect the stream to a side of the floodplain for gravel extraction of the remaining channel. SECON is not using this mining method.
- You are correct that SECON only extracts gravel from the dry reaches with a 10 foot inset from the edge of the stream, Rip Rap Bank and/or property boundary. Mining does not extent into the stream.

Question:

Also, please describe SECON's current protocol for dealing with Large Woody Debris in the stream.

Answer:

- The large woody debris is set to the side of the gravel extraction. It is generally

located away from the major stream body. In doing so the woody debris is reincorporated back into stream for habitat.

Question:

Also, as I mentioned on the phone, page 5 of your application states that no fueling will take place below ordinary high water, but page 8 in the Pollution Control section states that there will be no fueling or maintenance performed within 100 feet of the creek banks. Please confirm that SECON will be following the higher standard on page 8.

Answer:

- No fueling will be performed within 100 feet of the stream banks.

Question:

Lastly, at the Wetlands Review Board meeting the Board discussed a maximum of 50,000 cubic yards to be removed from the stream in one year (though this figure did not end up in the Board's final motion). However a recent letter from Neil Stichert at USFWS is suggesting a significantly lower amount of 25,000 cubic yards to ensure the health of the stream. USFWS acknowledges, however, that there is limited data. I'm wondering if a compromise figure of 30-35,000 cubic yards per year might be acceptable. Please let me know if this amount would be acceptable to SECON. In reviewing the old file, I found a note from John Logsdon at SECON, dated May 21, 2007, who estimated that the maximum amount of material that would be removed in any year would be 30,000 per year. Perhaps this is a reasonable figure.

Answer:

- 30,000 to 35,000 cubic yards per year is acceptable.

Question:

As I mentioned in my phone message to you, I am eager for your email response to my last message so I can complete my staff report. I also have what I hope is one last question: On page 5 of your project narrative, you repeat the previous project condition regarding construction of the access road. However on page 6, you describe SECON's ramp design. The original proposal by Mr. Van Dort and Mr. Horecny to place fill into the creek for a temporary road is not being used anymore. So is the previous condition still necessary? In other words, is it still necessary to place fill material into the creek with use of the ramp?

Answer:

- No it is not required. SECON is not installing temporary fill and culverts.
- Only the bridge access is used. With minor fill at the edge of the stream under the sill beam for the bridge on the gravel bar. And to ramp from the gravel bar up onto the bridge deck.

Hopefully this answers the questions. If not, please let me know.

Michael Short

Secon
Engineering Manager
1835 Anka Street
Juneau, AK 99801

11/19/2012



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November 15, 2012

Ms. Teri Camery, Senior Planner
City and Borough of Juneau
Community Development Department
155 South Seward Street
Juneau, AK 99801

RE: USE PERMIT 2012-0019
Lemon Creek Gravel Extraction Monitoring

Dear Ms. Camery;

Monitoring of Lemon Creek is per;

STATE OF ALASKA
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
CERTIFICATE OF REASONABLE ASSURANCE

The following is the criteria used for monitoring of Lemon Creek from this certificate.

The applicant shall comply with the water quality standards (18 AAC 70), except the periods of short-term variance granted in this certificate. Specifically the applicant shall comply with the water quality standard for turbidity and sediment. The water may not exceed 5 nephelometric turbidity units (NTU) (an apparatus used to measure the size and concentration of particles in a liquid by analysis of light scattered by the liquid) above the natural conditions when the natural turbidity is 50 NTU or less, and may not have more than 10% increase in turbidity when the natural turbidity is more than 50 NTU, not to exceed a maximum increase of 25 NTU. The water may have no measurable increase in concentration of settleable solids above natural conditions, as measured by the volumetric Imhoff cone.

The applicant, or a qualified person hired by the applicant, shall take turbidity and settleable solids measurements once per day each day of operation approximately 500 feet upstream of the project site at a location representative of the natural conditions of Lemon Creek. The sampling site shall be in the main flow of the creek, with the sample taken as close in time of the downstream sampling as possible. Sampling shall begin at the start of operations through the completion of seasonal operations. Sampling shall take place during the first short-term variance but does not need to occur during the subsequent periods of short-term variance, unless the Department determines further monitoring is necessary. Sampling shall be

conducted in accordance with accepted analytical procedures, as described in 18 AAC 70. The sampling results and a map showing the sampling location shall be submitted weekly to the Department during the period of seasonal operation.

The applicant, or a qualified person hired by the applicant, shall take turbidity and settleable solids measurements once per day each day of operation downstream of the project site at a location representative of the water quality, not to exceed 250 feet downstream of the downstream most end of the project site. The sampling site shall be in the main flow of the creek, with the sample taken during the period of active operation. Sampling shall begin at the start of operations through the completion of seasonal operations. Sampling shall take place during the first short-term variance but does not need to occur during the subsequent periods of short-term variance, unless the Department determines further monitoring is necessary. Sampling shall be conducted in accordance with accepted analytical procedures, as described in 18 AAC 70. The sampling results and a map showing the sampling location shall be submitted weekly to the Department during the period of seasonal operation.

SECON's technician takes the test daily during operations. At the upstream site a turbidity test is taken and recorded. The technician also collects a sample of water for testing of settleable solids. The downstream site is test for turbidity, recorded and a second sample is collected for solids. In the technician's office the collected water is tested by a volumetric Imhoff cone. The collected sample is poured into the cone, allowed to set for forty five minutes, and then gently stirred to settle any material on the sides of the cone, then let set for an additional fifteen minutes and then measures any solids that have settled. When both samples have been tested and recorded along with the turbidity report, the monitoring is completed. During operations this report along with a map showing the test locations is filed weekly to DEC.

Thank you.

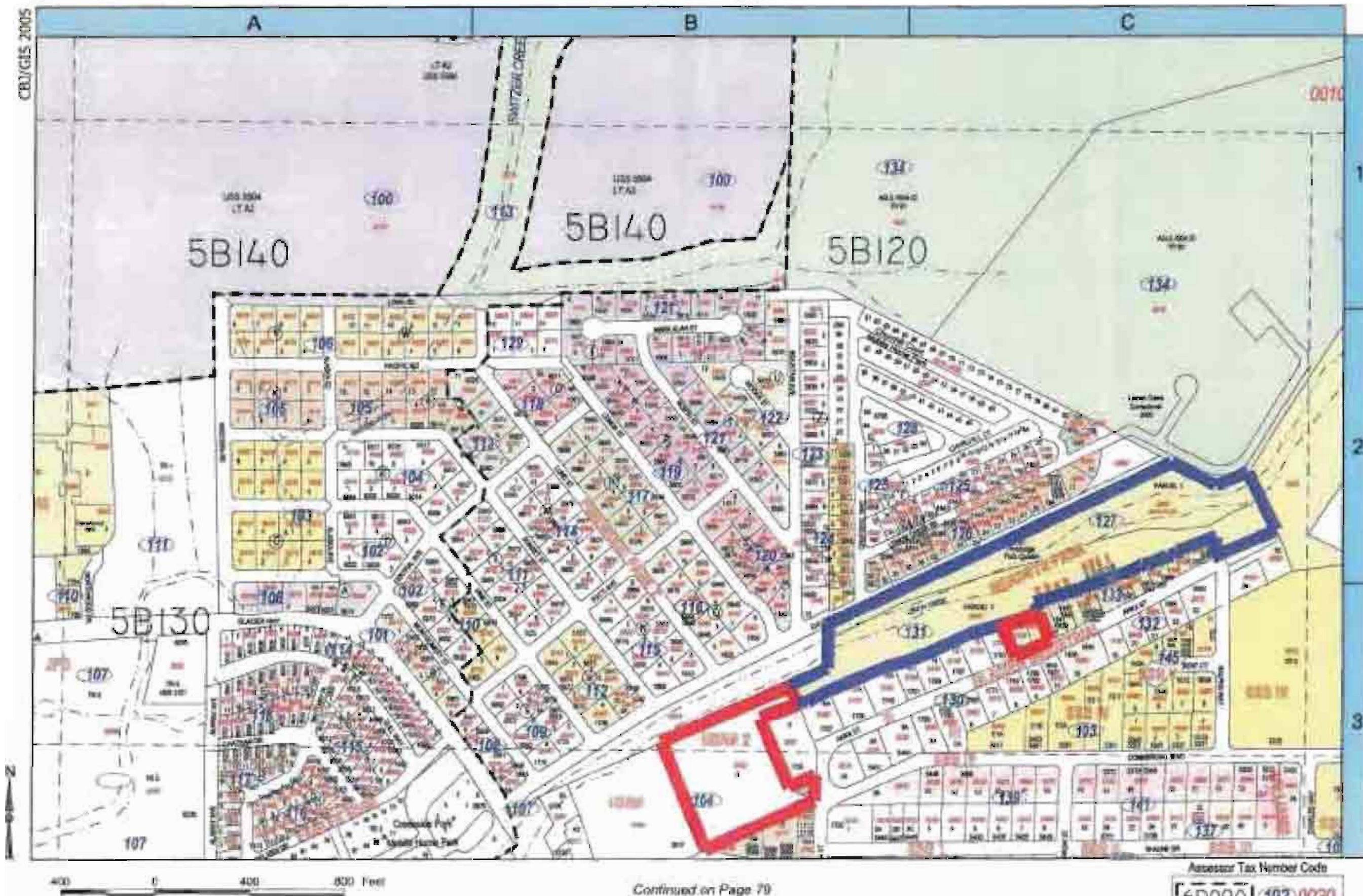
Sincerely,

Michael Short
Engineering Manager

CBL/GIS 2005

Continued on Page 67

Continued on Page 80



CB/JGIS 2005

Continued on Page 57

Continued on Page 80



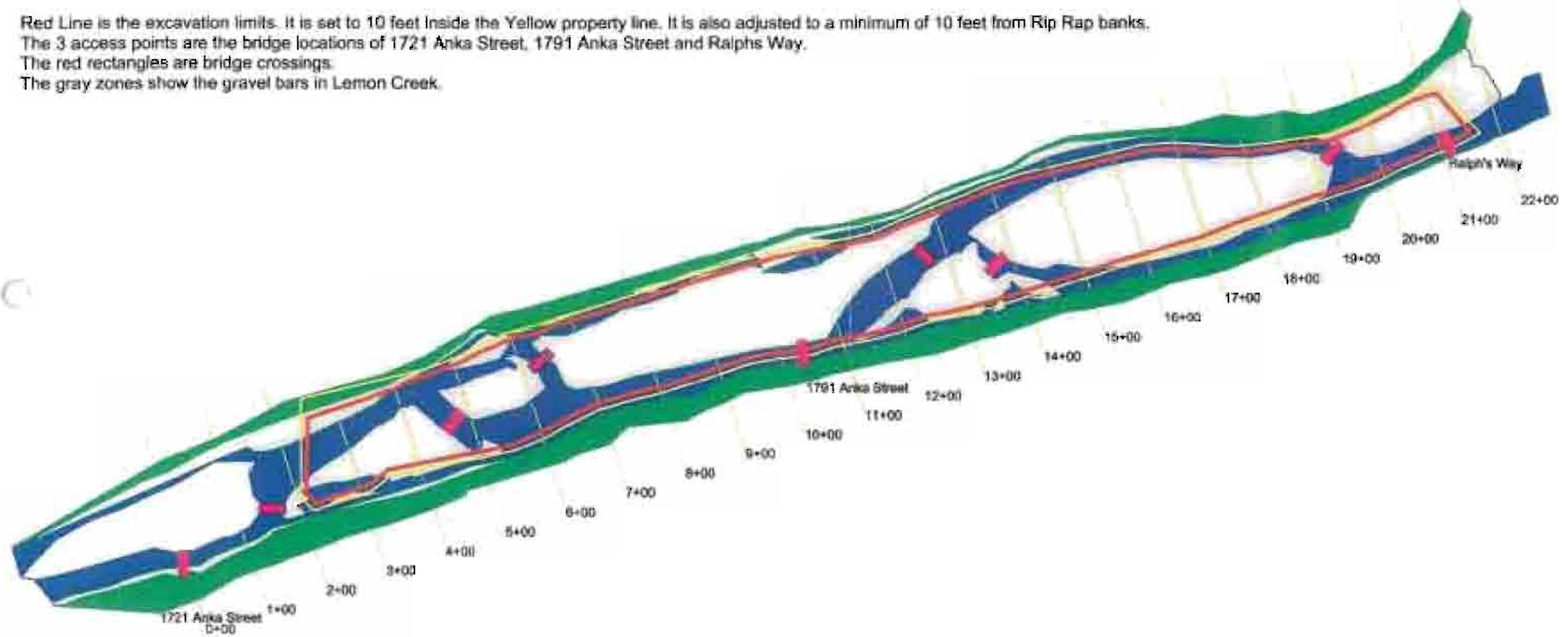
400 0 400 800 Feet

Continued on Page 79

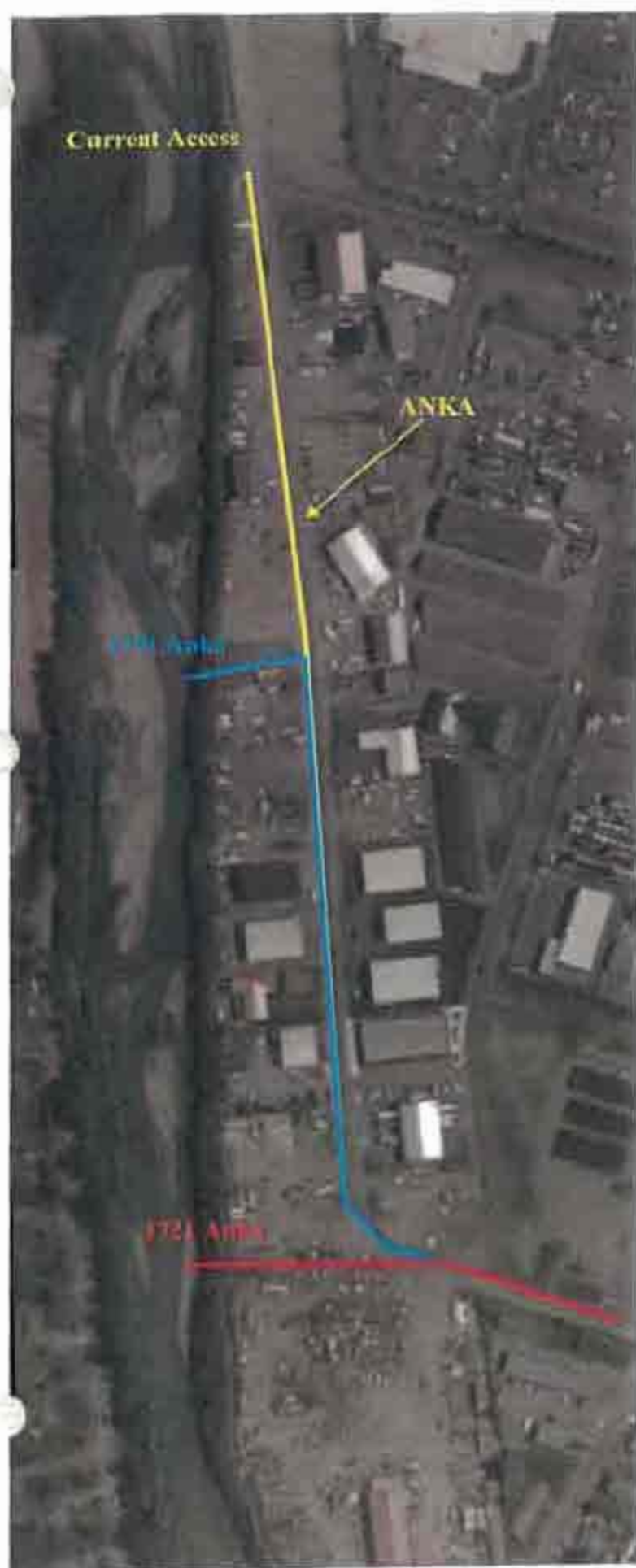
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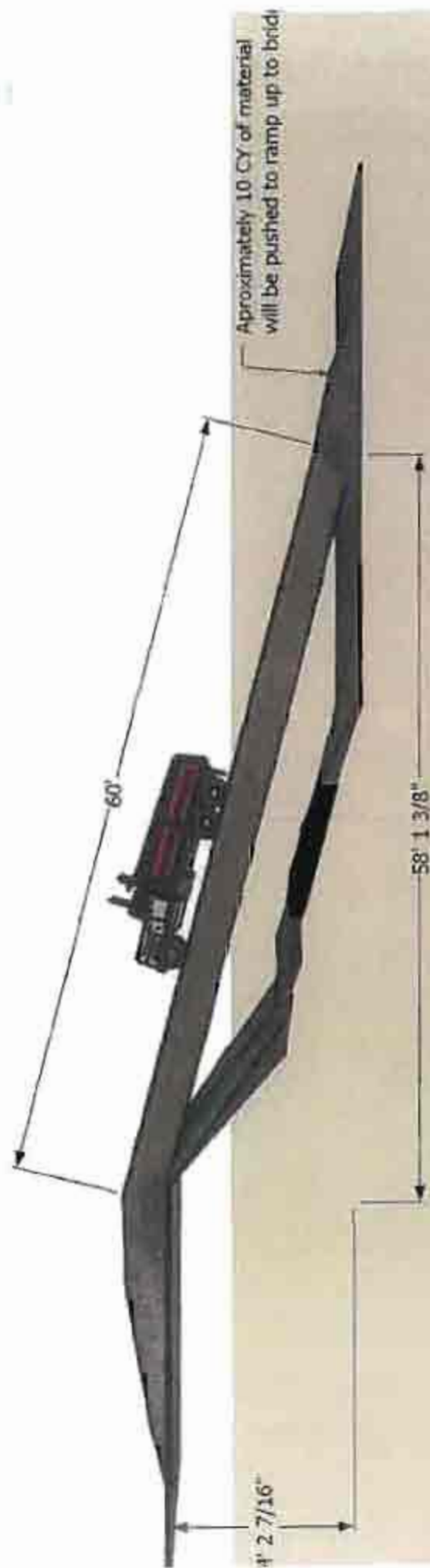
60090 102 0030

Red Line is the excavation limits. It is set to 10 feet inside the Yellow property line. It is also adjusted to a minimum of 10 feet from Rip Rap banks.
 The 3 access points are the bridge locations of 1721 Anka Street, 1791 Anka Street and Ralph's Way.
 The red rectangles are bridge crossings.
 The gray zones show the gravel bars in Lemon Creek.

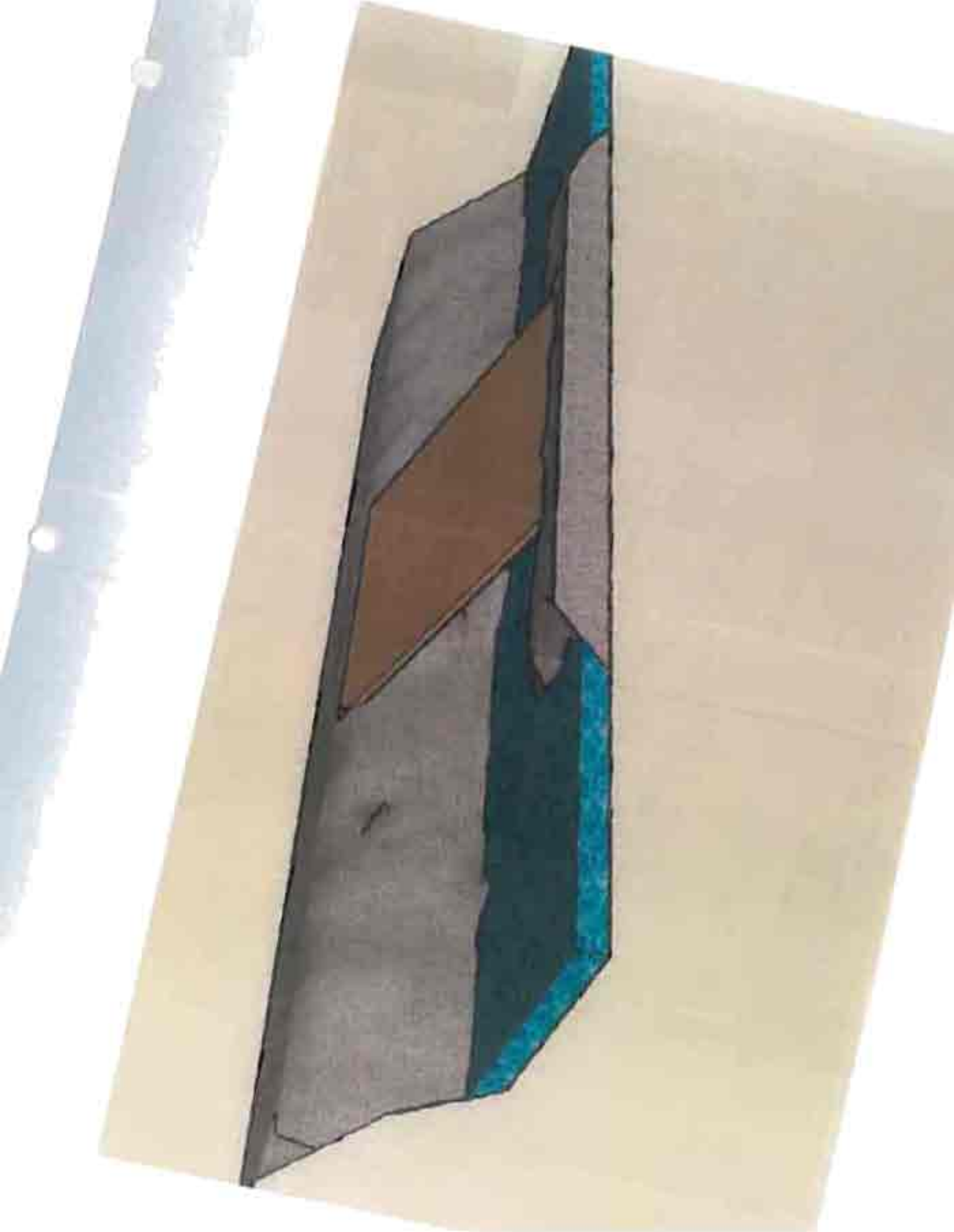


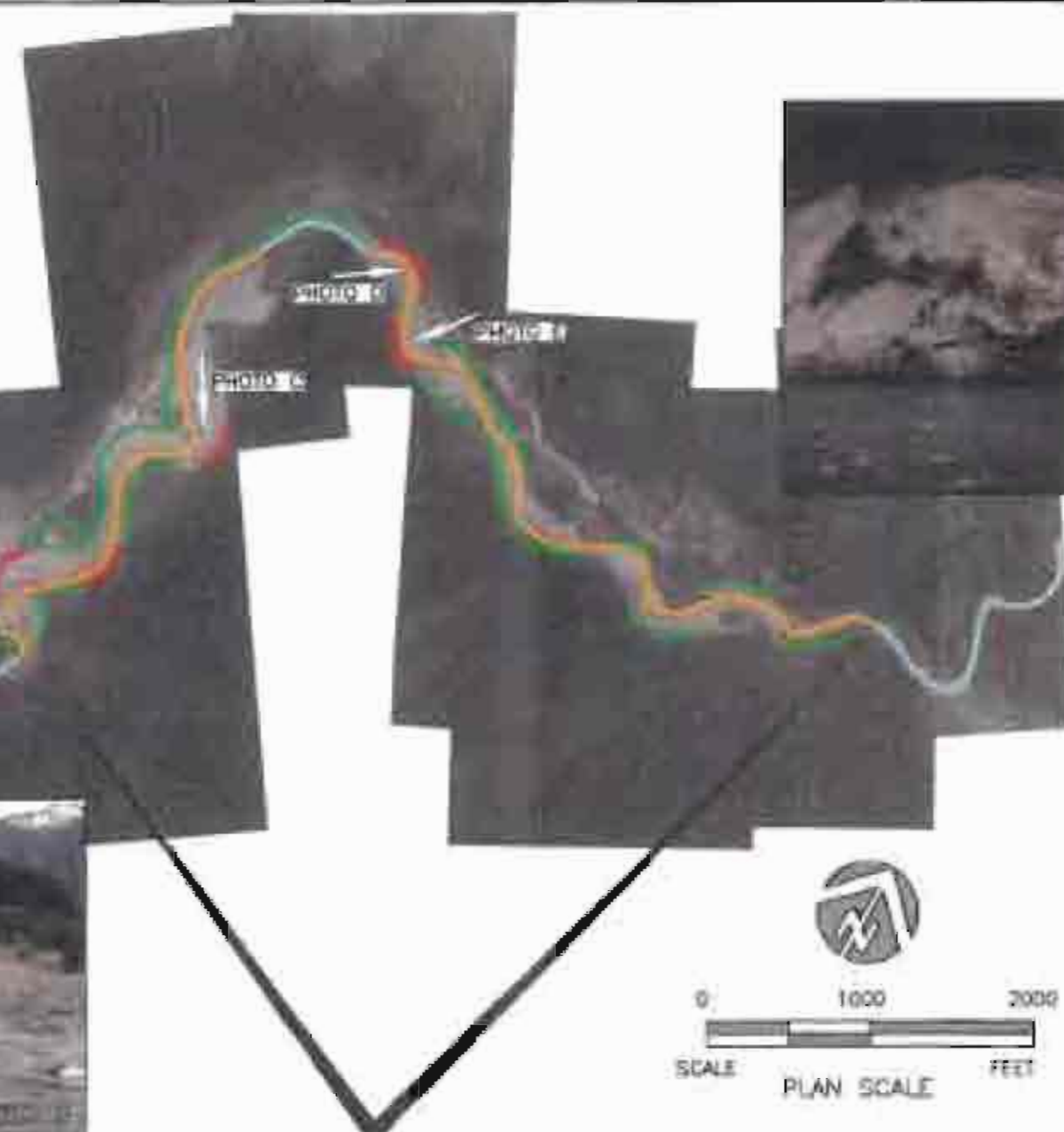
Lemon Creek Extraction		
DATE	DATE	DATE
APPROVED	DATE	
SCALE	SCALE	SCALE
1" = 50'	1"	Gravel Extraction



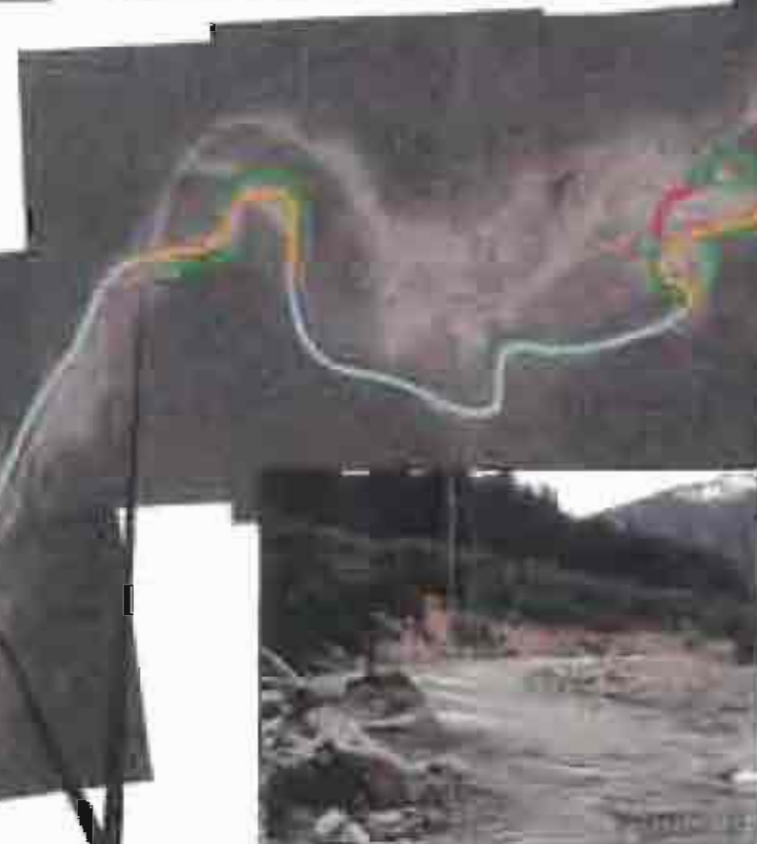


Cross-Section





LEGEND	
	REACH SCALE SEDIMENT TRANSPORT
	REACH SCALE SEDIMENT DEPOSITION AND STORAGE
	LOW TERRACE EROSION
	HIGH TERRACE EROSION



Sediment Deposition

Depositional reaches are reaches that are showing evidence of aggradation and sediment storage. These reaches are transport limited and may or may not be in equilibrium with current sediment supply. Depositional reaches are depicted by the color brown in the drawing.

Channel widening, active lateral erosion and reduced flood conveyance are common responses observed in Lemon Creek due to deposition of excess sediment relative to upstream reaches that are transporting it. Depositional reaches exist in both upper and lower terrace creek. **Photo A** is an example of sediment deposition and channel braiding occurring in Lemon Creek above Junction. Deposition in **Photo A** has reduced flood capacity within the channel. Only some stream banks have been armored with riprap by LCRS. Downstream areas of abandonment that are not armored against existing flow impingement are eroding. By contrast, depositional areas in Hidden Valley have not been armored with riprap and are eroding actively (paved at bridge and red in the drawing). Sediment derived from gullies and red silt/clay areas has been captured near **Photo A** over time and is the cause of reduction in flood capacity in the portion of Lemon Creek.

Sediment Transport

Stream reaches that transport sediment are naturally armored and relatively stable. The bed and banks are composed of larger percentages of cobbles, boulders and bedrock than upstream eroding terraces. The color blue in the drawing depicts transport reaches.

The relative stability, confinement and steeper slope in transport reaches results in a tendency to transport sediment captured from upstream eroding terraces to downstream depositional storage reaches. Transport reaches exist in both upper and lower Lemon Creek. **Photo B** is an example of a sediment transport reach below the Hidden Valley.

Sediment Supply/Sources

Major sources of sediment were identified within the Hidden Valley segment of Lemon Creek. They are depicted in the drawing as orange (lower terrace) and red (higher terrace) source areas. Source areas are associated with eroding near vertical terrace banks between 2 and 50 feet in elevation. The material in most of these banks has a high silt and sand fraction that erodes readily and is easily transported by flows.

Large boulders that are undercut and fall into the channel tend to slow the stream if they are large enough to plug or pile. Eroding low terrace terraces appear to be disconnected former floodplains. Eroding high terraces appear to be relic glacial outwash and in three cases these high ground terraces appear to be feeding by stream incision.

Photos C and E are examples of growing gullied terraces. **Photo D** is an example of an eroding terrace that appears to be the eroding toe of a fan deposit slightly higher elevation than former floodplain surfaces.

DEPARTMENT OF THE ARMY PERMIT

Permittee: Ralph S. Horecny

Permit No.: POA-1983-20-N

Issuing Office: U.S. Army Engineer District, Alaska

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description:

This permit authorizes placement of fill into waters of the United States (U.S.) to serve as water diversion dikes in Lemon Creek in conjunction with a proposed gravel mining operation in the creek bed, and to construct a temporary ramp from the shoreline to provide access to the gravel mining areas. In particular, this authorizes placement of ten small berms with an approximate total cumulative length of 1575 feet that would contain and prevent the waters of Lemon Creek from entering the area where gravel excavation is occurring. The berms will nominally be six to ten feet wide at the base, three feet high, and will be comprised of a total of 2000 cubic yards of fill material excavated from the creek bed. They will cover approximately 0.36 acres. The proposed gravel access ramp will include five 48" culverts to accommodate the flows of Lemon Creek, and will also contain approximately 50 cubic yards of rip-rapping on the access ramp sides to prevent erosion. The access ramp will be composed of a total of 327 cubic yards of fill materials and will cover approximately 0.04 acres. All work shall be accomplished as detailed in the enclosed work description, plans and drawings, Sheets 1-10, dated January 17, 2007; and as listed in additional correspondence dated January 9, 2007 (Sheets 1 through 3 of 3), and January 17, 2007 (Sheets 1 through 2 of 2).

Project Location: The proposed project is located in Section 34, T. 40 S., R. 66 E., Copper River Meridian; Latitude 58.359° N., Longitude 134. 488 W.; on Parcel 2, Mendota Park Subdivision, U.S.S. 204, Plat #2005-13, adjacent to Anka Street, Juneau, Alaska.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on **February 28, 2013**. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.