

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

1. Access to the gravel mining area shall only be during those times authorized by the State water quality certification.

2. Any condition incorporated by reference into this permit by General Condition 5, remains a condition of this permit unless expressly modified or deleted, in writing, by the District Engineer or his authorized representative.

3. Special Condition -- Fish Habitat Restoration

The permittee shall restore fish habitat that is affected in the gravel mining area during the period of seasonal operation (December 1 through March 15 of the following calendar year as defined in the State of Alaska Section 401 Certificate of Reasonable Assurance dated November 13, 2007). This restoration shall be performed in accordance with one of the two selections listed below ["3 (A)" or "3 (B)"]. The permittee shall notify the Corps of Engineers of his selection, in writing, at the point of signing this Department of the Army (DA) permit. Failure to adhere to the selected special condition may lead to permit modification, suspension, or revocation of the DA permit.

3 (A). Detailed Restoration Site Plan.

The permittee shall provide a detailed fish habitat restoration plan to the Corps of Engineers and obtain approval prior to conducting mining operations. Details of the requirements of this restoration plan are contained in correspondence from the National Marine Fisheries Service (NMFS) to the Corps of Engineers dated December 10, 2007 and February 8, 2007, and correspondence from U.S. Fish and Wildlife Service (USFWS) dated February 14, 2007. Requirements of this restoration plan shall include but not be limited to:

- a. Conceptual drawings of the proposed restored habitat;
- b. Lists of plant species that will be used for revegetation;
- c. Numbers and sizes of each plant type that will be used for revegetation;
- d. Specifying the size and amount of large wood that will be collected prior to mining each section of riverbed;
- e. Specifying how wood should be placed in the mined river sections to restore fish habitat as mining of each area is completed;
- f. Specifying how damaged or degraded stream or riparian habitat will be revegetated;
- g. A plan for augmenting plantings if original plantings fail to survive and grow.

Approval of this restoration plan will be coordinated by the Corps of Engineers with the NMFS. The permittee shall await approval by the Corps of Engineers for this restoration plan prior to commencing with gravel mining operations as otherwise authorized by this DA permit. The intent of this plan is to assure that the fish habitat functions of the stream in the gravel mining area of operations are restored as realistically as possible given the resulting stream bed changes. Implementing this restoration plan is intended to complement other habitat restoration requirements contained in other Federal, State, and/or local agency permits and is not intended to supersede other such permit requirements. If the permittee becomes aware of a conflict with other agency permit requirements he shall immediately contact the Corps of Engineers at the Juneau Field Office.

3 (B). Restoration per Base Map of Existing Conditions as of Permit Issue Date

a. The permittee shall provide to the Corps of Engineers a base map of engineering quality of the permitted gravel mining area of operations. This base map will serve as the basis for a restoration plan, and shall include all locations in the proposed area of gravel mining operations such as, but not limited to, tree trunks, logs, sand bars, rocks, riffle beds, or any other features that cause deviations of the stream flow resulting in fish habitat or otherwise provide fish habitat. These sites shall be surveyed in and located on the base map. The permittee shall photograph each habitat feature from multiple vantage points to assure an adequate record of the type, size, and orientation of same and shall include these photographs as appendices to the base map. The permittee shall also include the locations of any historically placed stream bank armor (e.g., rip rap) as well as the locations of any setback requirements for gravel mining operations as required through other permits regarding this action. Prior to the commencement of any gravel mining operations, the permittee shall provide the Corps of Engineers with this completed site map depicting the locations, relative dimensions, and orientations of the subject habitat features. The permittee shall await approval by the Corps of Engineers for this map as serving as the basis for restoration activities prior to commencing with gravel mining operations as otherwise authorized by this DA permit. The Corps of Engineers will coordinate this restoration plan and its administration with the NMFS. The permittee shall provide copies of any maps, periodic inspection reports, or other reports required by other agency permits throughout the life of this project to the Corps of Engineers.

b. Prior to exiting an area following completion of an annual gravel mining season and before the area is opened to stream flow, the permittee shall replace or otherwise reconstruct habitat features in accordance with the features depicted on the base map. This is intended to complement any other required habitat restoration features as listed in other agency permits and does not supersede or replace them. The permittee may request to the Corps of Engineers that a deviation be allowed if conditions resulting from gravel mining would cause a replaced or reconstructed habitat feature to be detrimental to the future functioning of the stream flow (ie. bank erosion). Such proposed deviations shall be supported by data taken during the course of the gravel mining operations and shall be approved by the Corps of Engineers in coordination with NMFS. The permittee shall provide a report and updated map following the conclusion of an annual mining season which summarizes the location of gravel mining operations and the locations of restored stream habitat features.

c. At any time during the gravel mining operations the permittee may elect to provide a revised detailed restoration plan to the Corps of Engineers to supersede the required restoration based on the base map prepared prior to commencement of mining operations. This alternate restoration plan shall be submitted for approval by the Corps of Engineers, and for coordination with NMFS, ninety days prior to commencement of the following year's mining activities, and shall meet the requirements listed in item "3 (A)" above. Upon approval, this revised restoration plan will take effect; its requirements for stream habitat restoration will supersede those of the remaining restoration activities outlined per the base map submitted at the beginning of the project.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

() Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

() Section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, State, or local authorization required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision: This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

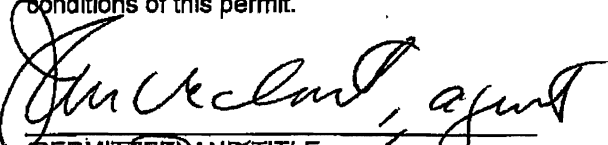
b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.


Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.



(PERMITTEE) AND TITLE
for Ralph Horeing

2-20-08
(DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.



FOR (DISTRICT COMMANDER) Colonel Kevin J. Wilson
Richard G. Jackson
Project Manager
Juneau Field Office, Regulatory Branch

2-20-2008
(DATE)

When the structures or work authorized by this permit are still in existence at the time the property is transferred the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions have the transferee sign and date below.



(TRANSFEREE)

3/21/08
(DATE)

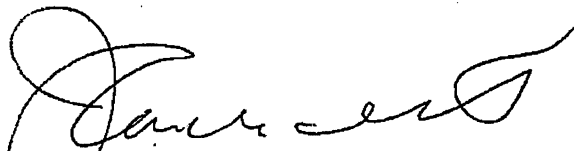
Memorandum for Corps of Engineers
Juneau Field Office

February 20, 2008

Re: Permit Modification POA-1983-20-N

Special Conditions regarding Fish Habitat Restoration

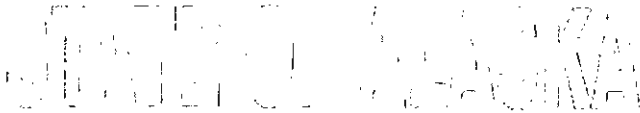
This is to advise that, as authorized agent for Mr. Ralph S. Horecny, I am selecting Special Condition No. 3(B), Restoration per Base Map of Existing Conditions as of Permit Issue Date, as described in the Initial Proffered Permit I was provided by the Corps of Engineers, Juneau Field Office, on January 31, 2008.



Jan Van Dort, Authorized Agent

2-20-08
Date

Ref 2-20-08



**DEPARTMENT OF NATURAL RESOURCES
OFFICE OF HABITAT MANAGEMENT AND PERMITTING**

SARAH PALIN, GOVERNOR

400 WILLOUGHBY AVENUE, 4TH FLOOR
PO BOX 111050
JUNEAU, ALASKA 99811-1050

PHONE: (907) 465-4106

FAX: (907) 465-4759

FISH HABITAT PERMIT FH06-I-0128

Issued August 2, 2007

Expires August 1, 2013

Mr. Ralph S. Horecny
C/O Jan Van Dort, agent
Aniakchak, Inc.
10518 Fox Farm Trail
Juneau, AK 99801

Re: Lemon Creek Gravel Mine
Anadromous Stream #111-40-10100
T. 40 S., R. 66 E., Section 34, C.R.M., Juneau B-2

Dear Mr. Horecny:

Habitat Biologists from the Alaska Department of Natural Resources Office of Habitat Management and Permitting (OHMP) reviewed your proposal to mine sand and gravel for up to six years in lower Lemon Creek. You propose to dredge approximately 200,000 cubic yards, up to ten feet deep, from approximately 9.55 acres of privately-owned streambed. The project is located in a depositional area of the river below a transition zone, approximately .5 miles above Glacier Highway, within Section 34, Township 40 S., Range 66 E., C.R.M., Juneau, Alaska.

Background

The City and Borough of Juneau, the Natural Resources Conservation Service, the Alaska Department of Fish and Game and the U.S. Fish and Wildlife Service sponsored a study of Lemon Creek hydrology, fluvial geomorphology, sediment transport and fish habitat. Inter-Fluve, Inc., the study contractor, released a guidance document on November 29, 2004. Inter-Fluve recommended that for the short term, removal of the RediMix Bridge would provide an immediate and significant reduction in flood levels. The RediMix Bridge was removed this year.

Since the active floodplain of lower Lemon Creek has been significantly reduced from urban development and stream aggradation, the Inter-Fluve report recommends maintenance mining the length of lower Lemon Creek as mitigation over the long term. The proposed mining in this small area may not increase flood conveyance capacity over the short term as a much larger portion of lower Lemon Creek will need to be mined to achieve that goal. As bedload continues to aggrade, the entire lower Lemon Creek streambed will need to be mined to maintain flood conveyance capacity over the long term.

Lemon Creek provides habitat for anadromous fish. Dolly Varden char may be found in the area year-round. Chum fry and coho smolts migrate downstream from March through May.

"Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans."

Adult chum and coho salmon migrate into Lemon Creek to spawn from mid-July through early November. Coho salmon spawn in clear water tributaries in upper Lemon Creek. The best chum spawning habitat in Lemon Creek occurs in the reach of stream proposed for mining. To ensure proper protection of anadromous fish habitat, especially for the small run of chum salmon in this system that will experience the greatest impact from this activity, it is important that spawning habitat be maintained.

Your project description outlines a gravel mining activity that will maintain sinuous pool and riffle complexes during gravel mining activities and after project completion. The design will create the habitat complexity necessary to support spawning adult and outmigrating juvenile chum salmon, rearing and migrating coho salmon, and Dolly Varder char. The design allows gravel to be extracted as needed to meet demand, while minimizing impacts to chum salmon eggs, alevin and fry. The plan provides for the majority of work to be accomplished during the winter months when the ground is frozen and water levels are low. Areas being actively mined will be separated from spawning beds by margins so the spawning beds are not impacted by ground disturbing activities and sediment. You will maintain 10-foot margins adjacent to the streambanks and keep riprap on site to use in case Lemon Creek cuts through the margins and threatens the integrity of existing Lemon Creek streambanks and revetments.

You will enter the site from the industrial side of the river to avoid disruption of the Davis Avenue neighborhood. You will place temporary culverts for the access ramp from the industrial side of the river to the mining area. The culverts will be removed when the site is not being mined so that fish passage is assured

Project Description

An excavator and dump trucks will approach a ramp to Lemon Creek at the intersection of Anka Street and Ralph's Way. At the bottom of the ramp, a temporary battery of up to five four-foot diameter culverts will be placed in Lemon Creek. The culverts will be pulled from the river each year by March 15th and may be reinstalled after May 15th or when mining resumes. Fill will be placed on the culverts to form a roadbed and riprap will be placed to form headwalls at the inlet. Equipment will cross the river over the culverts to the eastern most island. This route will be used by all equipment entering and exiting Lemon Creek to minimize impacts to chum salmon eggs in the spawning gravels. The equipment will traverse the project area downstream to the most westerly of four project area island groups, taking the shortest possible route from one island group to the next, and traveling only along that route (attachment 1). The routes may be hardened with gravel and cobble to form a stable ford.

Beginning at the west end of the west island and working east, you will extract sand and gravel from the island group to a minimum depth of two feet below the depth of the thalweg in the active portion of the river, leaving a margin around the edges of the island group that the active channel does not penetrate. After an island group is mined, the excavator will move east, digging a trench that will connect the pit with the adjacent island group. Up to four island groups within the project area will be mined from June 1st through March 15th. Other agencies will issue permits that restrict your work to shorter seasons.

After May 15th and before June 1st, the east end of the eastern most pit will be breached and Lemon Creek will be diverted into the new stream channel created by pits and trenches. This will occur after the juvenile chum salmon have outmigrated from the area and before adult chum salmon return to spawn. This will dewater the area of the river where salmon spawned the year prior. We anticipate chum salmon will spawn in the newly created channel when they begin returning to Lemon Creek in mid-July.

Berms may need to be built with native materials to divert the river away from the active mining locations or to help train the river into new channels. After the river is flowing through the created channel, mining may proceed in the newly dried side areas of Lemon Creek. The mining will alternate between the middle and the sides of Lemon Creek each fish year from May 16th thru March 14th (attachments 2 and 3). This design will minimize sedimentation into the river by keeping mining activities in the dry portion of the streambed, separated from the flowing waters of Lemon Creek. There will be large, but short term, pulses of sediment into lower Lemon Creek when the culverts and access ramp are installed and removed, and when the mining areas are connected with trenches and the river is rerouted. However, those pulses will occur after juvenile chum salmon have outmigrated the system and before adult chum salmon return to spawn. This protocol will allow you to mine the river except for the time period March 15th through May 15th, the sensitive chum salmon hatching and outmigration period.

We anticipate this activity will cause upstream headcutting. This will be physically beneficial to Lemon Creek as transiting material will be extracted during downstream mining operations, lowering a larger portion of the streambed, and increasing flood conveyance capacity. We also anticipate that material will aggrade at the downstream end of the project as the streambed will be higher on the downstream property than in the project area. Downstream mining projects will need to be designed to connect to this project to ensure continuity as the river is rerouted each year.

Large woody debris and other organics in the area will be saved and may be used during berm construction. Between May 15th and June 1st of each year, before the river is rerouted, an OHMP biologist will field inspect the site to help decide where debris will best function to stabilize stream banks and provide fish habitat. Additionally, OHMP biologists will be on site to trap stranded Dolly Varden char or juvenile salmonids and release them into the active channel as areas are dewatered. Please contact us several days prior to rerouting the river.

Mining will be followed by the construction of habitat elements including pool-riffle-gravel bar sequences, backwatered side channels along the downstream end of the gravel bars, placement of woody debris on the apex of gravel bars and along backwatered side channels as shown in the Inter-Fluve report, figure 15 (attachment 4). You are not required to place large wood into the existing riprap as you do not propose to disturb the existing riprap. Additionally, the Alaska Department of Fish and Game Lemon Creek Baseline Aquatic Habitat Characterization details key habitat components in Reach 2 from Glacier Highway Bridge to the Corrections Center (attachment 5). Though Reach 2 of the habitat characterization is about three times larger than the project area, the chart on page ten provides guidance for reconstruction of the channel, including gradient, width, depth, pools, and large wood.

OHMP biologists will continue to monitor project progress as we conduct our Lemon Creek juvenile salmonid research project in lower Lemon Creek. This work will include a stream habitat survey using US Forest Service protocol so that the existing condition of Lemon Creek can be replicated after mining is complete. OHMP will continue to work with you to protect and create anadromous fish habitat during mining and rehabilitation activities. We expect the dynamic nature of Lemon Creek will require OHMP to modify this permit during mining operations.

Anadromous Fish Act and Coastal Consistency Requirements

Lemon Creek, Stream #111-40-10100, provides habitat for anadromous fish per AS 41.14.870(a). Adult chum and coho salmon migrate into Lemon Creek to spawn from mid-July through early November. Dolly Varden char may be found in the area year-round. Chum fry and coho smolts migrate downstream from late-March through May.

Your project is consistent with the Standards of the Alaska Coastal Management Program, AK 0611-05J, issued July 27, 2007.

Therefore, in accordance with AS 41.14.870(d) and 11 AAC 110, your proposal to mine sand and gravel in Lemon Creek is approved according to the project description and the terms of this permit.

You are responsible for the actions of contractors, agents, or other persons who perform work to accomplish the approved project. For any activity that significantly deviates from the approved plan, you shall notify OHMP and obtain written approval in the form of a permit amendment before beginning the activity. Any action that increases the project's overall scope or that negates, alters, or minimizes the intent or effectiveness of any stipulation contained in this permit will be deemed a significant deviation from the approved plan. The final determination as to the significance of any deviation and the need for a permit amendment is the responsibility of the OHMP. Therefore, it is recommended you consult OHMP immediately when a deviation from the approved plan is being considered.

This letter constitutes a permit issued under the authority of AS 41.14.870. This permit must be retained on site during construction. Please be advised that this determination applies only to activities regulated by OHMP; other divisions with ADNR also may have jurisdiction under their respective authorities. This determination does not relieve you of your responsibility to secure other permits; state, federal, or local. You are still required to comply with all other applicable laws.

In addition to the penalties provided by law, this permit may be terminated or revoked for failure to comply with its provisions or failure to comply with applicable statutes and regulations. The department reserves the right to require mitigation measures to correct disruption to fish created by the project which was a direct result of failure to comply with this permit or any applicable law.

You shall indemnify, save harmless, and defend the department, its agents, and its employees from any and all claims, actions or liabilities for injuries or damages sustained by any person or property arising directly or indirectly from permitted activities or your performance under this permit. However, this provision has no effect if, and only if, the sole proximate cause of the injury is the department's negligence.

This permit decision may be appealed in accordance with the provisions of AS 44.62.330-630.

If you have any questions, please contact me at 465-4275, or Habitat Biologist Kristen Dunlap at 465-1635.

Sincerely,
Edmund J. Fogels
Acting Deputy Commissioner



By Jackie Timothy
Juneau Area Manager
Office of Habitat Management and Permitting

Cc: by email

Al Ott, OHMP, Fairbanks
Kristen Dunlap, OHMP, Juneau
Sadie Wright, OPMP, Juneau
Joe Donohue, OPMP, Juneau
Mark Fink, ADF&G, Anchorage
Brian Glynn, ADF&G, Juneau
Kevin Monagle, ADF&G, Juneau
Tom Schumacher, ADF&G, Juneau
Brenda Krauss, DEC, Juneau
Teri Camery, Coastal District, Juneau
Garth Zimbleman, COE, Juneau
Neil Stichert, USFWS, Juneau
Sue Walker, NMFS, Juneau

**STATE OF ALASKA
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
CERTIFICATE OF REASONABLE ASSURANCE**

A Certificate of Reasonable Assurance, in accordance with Section 401 of the Federal Clean Water Act and the Alaska Water Quality Standards, is issued to Ralph Horecny, PO Box 211474, Auke Bay, AK 99821. The proposed project would place clean gravel fill into waters of the U.S., including wetlands, for the purpose of installing berms in Lemon Creek to divert the creek waters around a proposed gravel mining operation.

The original application was public noticed on November 1, 2006. On January 24, 2007 the Corps of Engineers sent agency reviewers a modified project proposal. On June 28, 2007 the City and Borough of Juneau issued a Conditional Use Permit for the project. On July 26, 2007 the Office of Project Management and Permitting issued their final consistency determination for the modified project. On August 2, 2007 the Office of Habitat Management and Permitting issued fish habitat permit FH06-I-0128 for the modified permit. On September 26, 2007 the agent for the applicant submitted information required to process his request for a short-term variance. The following is description of the applicant's modified project plans and specific request for a short-term variance.

Up to 200,000 cubic yards of sand and gravel would be removed from the bed of Lemon Creek. A temporary ramp consisting of gravel will be installed leading from the intersection of Anka Street and Ralph's Way down into the creek. Five 48" diameter, up to 40' long culverts will be temporarily installed for the creek to pass through while mining occurs. All materials used in building the structure will be stored above the ordinary high water when not in use. The culverts will be pulled from the river every year by March 15th and reinstalled at the beginning of the next mining season. Clean gravel fill will be placed on the culverts to create a roadbed. Approximately 50 cubic yards of riprap will be placed on the sides of the access ramp to prevent erosion. A total of approximately 327 cubic yards of fill material would cover 0.04 acres on the access ramp. This ramp will be the only access to Lemon Creek for mining gravel.

The applicant proposes a series of eight small individual berms (10' wide, 3' high, and 1,575' in length) that would prevent waters from entering the area where gravel extraction is occurring. With these berms properly installed the applicant will operate equipment outside of the flowing waters of Lemon Creek. The berms would be composed of approximately 1,750 cubic yards of fill material excavated from the creek bed and would cover approximately 0.36 acres. Up to 100 cubic yards of woody debris hard points would be added to provide fish habitat in the excavated area once the gravel extraction has been completed.

The Department will, in its discretion, treat an application for a permit under Section 404 of the Clean Water Act as an application for a short-term variance from applicable water quality standards. The applicant has requested a short-term variance under 18 AAC 70.200 for the construction and removal of a temporary ramp, the construction and removal of temporary berms in Lemon Creek, and the release of sediment-laden water at the conclusion of a season's mining activity. The agent has requested short-term variances for seven discrete activities for an annual total of 432 hours (18 days) during a 105 day operating period each year, or approximately 17% of the time. During that period any one variance from the water quality standard will not exceed 96 hours or 4% of the time.

For each period of seasonal operation (December 1 to March 15) the following short-term variances from the water quality standards are granted:

- A. One variance, for a period not to exceed 96 hours for the construction of a temporary ramp to access the creek;
- B. Four variances, each variance for a period not to exceed 48 hours for the construction of one set of parallel berms (two berms total) to create an area for equipment to operate outside of the flowing water, for a total of eight berms (a total of 192 hours);
- C. One variance, for a period not to exceed 96 hours for the removal of a temporary ramp to access the creek; and
- D. One variance, for a period not to exceed 48 hours for the redirection of creek flow into the new excavation.

Between each variance the applicant shall allow Lemon Creek return to its natural condition before proceeding with the activity granted in the next variance.

The proposed activity is located at Section 34 T. 40 S., R 66 E., Copper River Meridian, in Juneau, Alaska.

Public notice of the application for this certification was given as required by 18 AAC 15.180.

Water Quality Certification is required under Section 401 because the proposed activity will be authorized by a Corps of Engineers permit, reference number POA-1983-20-N, and a discharge may result from the proposed activity.

Having reviewed the application and comments received in response to the public notice, the Alaska Department of Environmental Conservation certifies that there is reasonable assurance that the proposed activity, as well as any discharge which may result, will comply with applicable provisions of Section 401 of the Clean Water Act and the Alaska Water Quality Standards, 18 AAC 70, provided that the following alternative measures are adhered to:

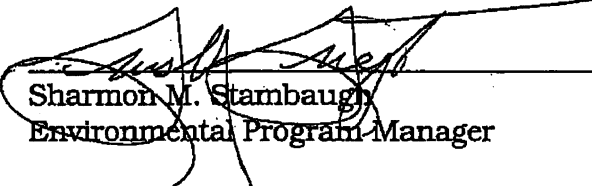
1. Reasonable precautions and controls must be used to prevent incidental and accidental discharge of petroleum products or other hazardous substances. Material such as sorbent pads shall be available and used immediately to contain and cleanup oil, fuel, hydraulic fluid, antifreeze or other pollutant spills as a result of construction activities.
2. Fuel storage and handling activities for earth moving equipment must be sited and conducted so there is no petroleum contamination of the ground, surface runoff or water bodies. No fueling of equipment shall take place below ordinary high water.
3. During the work construction equipment shall not be operated at the site if equipment is leaking fuel, oil, hydraulic fluid, or any other hazardous material. Equipment shall be inspected on a daily basis for leaks. If leaks are found the equipment shall not be used and pulled from service until the leak is repaired.
4. Gravel fill material or riprap imported to the creek for creation of the ramp or berms shall be free of trash or debris, and free of toxic materials in toxic amounts.
5. The period of seasonal operation 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 two-day period between May 15 and June 15.
6. The applicant shall submit to the Department (Brenda Krauss, ADEC, 410 Willoughby Ave., PO Box 111800, Juneau, AK 99811-1800) one week after receipt of this certification, and by November 1 in subsequent years, a copy of the mining plan required by Condition 3 in the City and Borough of Juneau (CBJ) Conditional Use Permit Number USE2006-000054. The applicant shall include with the mining plan water pollution control and mitigation measures.
7. The applicant shall comply with Conditions 7, 8, 9, 10, 12, and 13 of the CBJ Conditional Use Permit Number USE2006-000054 and submit to the Department (Brenda.krauss@alaska.gov) a copy of the inspection reports required by Condition 9 and the end of season mining report required by Condition 10.
8. If dewatering is to occur during material extraction, methods shall be implemented to filter or settle out suspended sediments from wastewater resulting from dewatering activities prior to its direct or indirect discharge into any natural body of water. Prior to dewatering, contact Alaska Department of Environmental Conservation (ADEC) (Alan Kukla, 907-269-7523), for the possible necessity of obtaining an ADEC dewatering permit. Permit requirement is related to volume of discharge.

9. The applicant shall notify the Department (Brenda Krauss phone 907-456-5321 or brenda.krauss@alaska.gov) three days prior to any ramp or berm construction or removal.
10. 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) 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.
11. 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 (as described in number 5 above) (Brenda.krauss@alaska.gov).
12. 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 (as described in number 5 above) (Brenda.krauss@alaska.gov).

13. During operations, if there is overflow due to insufficient capacity of bermed channels, or if there is breaching of the berms, then gravel hauling operations shall cease until corrective actions are taken and reported to the Department.
14. The applicant shall not use any chemical coagulant or flocculant to reduce turbidity or suspended sediment.
15. Compliance with this Certificate of Reasonable Assurance is subject to annual review. The Department will use in its review the applicant's compliance with the alternative measures of this Certificate. If the applicant does not comply with the alternative measures of this Certificate the Department will, in its discretion, revoke this Certificate.

This certification expires five (5) years after the date the certification is signed. If your project is not completed by then and work under Corps of Engineers Permit will continue, you must submit an application for renewal of this certification no later than 30 days before the expiration date (18 AAC 15.100).

Date 11/13/07


Sharmon M. Stambaugh
Environmental Program Manager

Notice of Intent (NOI) For Storm Water Discharges Associated With Industrial Activity Under the APDES Multi-Sector General Permit



Submission of this completed Notice of Intent (NOI) constitutes notice that the operator identified in Section I of this form requests authorization to discharge pollutants to waters of the United States from the facility or site identified in Section III under Alaska's APDES Storm Water Multi-Sector General Permit (MSGP) for industrial storm water. Submission of this NOI constitutes your notice to ADEC that the facility identified in Section III of this form meets the eligibility conditions of Part 1.1 of the MSGP. Please read and make sure you comply with all eligibility requirements, including the requirement to prepare a storm water pollution prevention plan. Refer to the instructions at the end of this form to complete your NOI.

Section I. Operator Information	
Organization: Colaska Inc., DBA Secon	
Contact Person: Tim Dudley	
Mailing Address:	Street (PO Box): 1836 Anka St
	City: Juneau State: AK Zip: 99801
	Phone: 907-780-5145 Fax(optional):
	Email: tdudley@colaska.com
Section II Billing Contact Information	
Organization: Colaska Inc. DBA Secon	
Contact Person: Marsha Birchell	
Mailing Address: [] Check here if same as Operator Information	Street (PO Box): 1836 Anka St.
	City: Juneau State: AK Zip: 99801
	Phone: 907-780-1232 Fax(optional):
	Email: mbirchell@colaska.com
Section III. Facility Information	
Facility Name: Lemon Creek Gravel Extraction	
Have storm water discharges from your site been covered previously under an NPDES or APDES Permit? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
a. If Yes, provide the Tracking Number if you have coverage under EPA's MSGP 2000 or the NPDES permit number if you had coverage under an EPA individual permit.	
b. If no, was your facility in operation and discharging storm water prior to October 30, 2005? <input type="checkbox"/> Yes <input type="checkbox"/> No	
c. If no to "b", did your facility commence discharging after October 30, 2005 and before January 5, 2009? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Location Address	
Street: 1791 Anka Street	
City: Juneau State: AK Zip: 99801	
Borough or similar government subdivision: Juneau	
Latitude: 58.359444 Longitude: 134.488889	
Determined By: <input type="checkbox"/> GPS <input type="checkbox"/> USGS topographic map <input checked="" type="checkbox"/> Other Google Earth	
If you used a USGS topographic map, what was the scale?	
Estimated area of industrial activity at your site exposed to storm water: 9.55 (acres)	
Is this a federal facility? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Section IV. Discharge Information				
Does your facility discharge into a Municipal Separate Storm Sewer System (MS4)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
If yes, name of MS4 operator:				
Receiving Water and Wetlands information: (if additional space is needed for this question, fill out Attachment 1.)				
a. What is the name(s) of your receiving water(s) that receive storm water directly and/or through a MS4? If your receiving water is impaired, then identify the name of the impaired segment, if applicable, in parenthesis following the receiving water name.	b. Are any of your discharges directly into any segment of an "impaired" water?	c. If you answered yes to question b, then answer the following three questions:		
		i. What pollutant(s) are causing the impairment?	ii. Are the pollutant(s) causing the impairment present in your discharge?	iii. Has the TMDL been completed for the pollutant(s) causing the impairment?
Lemon Creek	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	turbidity and sediment	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Water Quality Standards (for new dischargers only)				
Are any of your discharges into any portion of a receiving water designated by the state under its antidegradation policy as a Tier 2 (or Tier 2.5) water (water quality exceeds levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
Has the receiving water(s) been designated by the state under its antidegradation policy as Tier 3 water (Outstanding Natural Resource Water)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
Federal Effluent Limitation Guidelines and Sector-Specific Requirements				
a. Are you requesting permit coverage for any storm water discharges subject to effluent limitation guidelines? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
b. If yes, which effluent limitation guidelines apply to your storm water discharge?				
40 CFR Part/Subpart	Eligible Discharges	Affected MSGP Sector	Check if applicable	
Part 411, Subpart C	Runoff from material storage piles at cement manufacturing facilities.	E	<input type="checkbox"/>	
Part 418, Subpart A	Runoff from phosphate fertilizer manufacturing facilities that comes into contact with any raw materials, finished products, by-products, or waste products (SIC 2874).	C	<input type="checkbox"/>	
Part 423	Coal pile runoff at steam electric generating facilities.	O	<input type="checkbox"/>	
Part 429, Subpart I	Discharges resulting from spray down or intentional wetting of logs at wet deck storage areas.	A	<input type="checkbox"/>	
Part 436, Subpart B, C, or D	Mine dewatering discharges at crushed stone mines, construction sand and gravel mines, or industrial sand mines.	J	<input checked="" type="checkbox"/>	
Part 443, Subpart A	Runoff from asphalt emulsion facilities.	D	<input type="checkbox"/>	
Part 445, Subparts A & B	Runoff from hazardous waste and non-hazardous waste landfills.	K,L	<input type="checkbox"/>	
c. If you are a Sector S (Air Transportation) facility, do you anticipate using more than 100,000 gallons of glycol-based deicing/anti-icing chemicals and/or 100 tons or more of urea on an average annual basis? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				

Identify the 4-digit Standard Industrial Classification (SIC) code or 2-letter Activity Code that best represents the products produced or services rendered for which your facility is primarily engaged, as define in MSGP: Primary SIC Code: **1442** Or Primary Activity Code:

Identify the applicable sector(s) and subsector(s) of industrial activity, including co-located industrial activity, for which you are requesting permit coverage.

a. Sector: **J** Subsector: **J1** b. Sector: Subsector: c. Sector: Subsector:

d. Sector: Subsector: e. Sector: Subsector: f. Sector: Subsector:

Is your site presently inactive or unstaffed? Yes No

a. If yes, is your site expected to be inactive and unstaffed for the entire permit term? Yes No

b. If no to a, then indicate the length of time that you expect your facility to be inactive and unstaffed. **323 days per year**

Section V. Storm water Pollution Prevention Plan (SWPPP) Contact Information

SWPPP Contact Name: **Buck Svinicki**

Phone: **907-780-5145** Email:

URL of SWPPP (if applicable):

Section VI. Endangered Species Protection

Using the instructions in Appendix E of the MSGP, under which criterion listed in Part 1.1.4.5 are you eligible for coverage under this permit?

A B C D E F

If you select criterion E from Part 1.1.4.5:

What federally-listed species or federally-designated critical habitat are in your "action area"?

List the pollutants expected to be present in your discharge:

If you are an existing discharger, do you have effluent monitoring data from EPA's MSGP 2000 or another previous NPDES permit? Yes No

1. If no, why not? No monitoring required for my sector Inactive/unstaffed site Other:

2. Do you have any other data characterizing pollutants in your storm water (describe)?

3. If you have benchmark monitoring data, did you exceed any of the applicable benchmarks? Yes No

4. Did you exceed any applicable effluent limitation guideline or cause or contribute to an exceedance of a state water quality standard? Yes No

5. If you answered "yes" to either question 3 or 4 above, for what pollutant(s)?

Attach documentation supporting criterion E eligibility. Documentation should address species and habitat listed above and the potential effects of pollutants in your discharge on the listed species and habitat.

If you select criterion F from Part 1.1.4.5, provide the operator's NPDES Tracking Number under which you are certifying eligibility:

Section VII. Historic Preservation

Using the instructions in Appendix F of the MSGP, under which criterion listed in Part 1.1.4.6 are you eligible for coverage under this permit? A B C D

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Printed Name: Tim Dudley

Title: General Manager

Signature:



Date: 2/25/12 Email: tdudley@colaska.com

NOI Preparer (Complete if NOI was prepared by someone other than the certifier)

Prepared By: Marsha Birchell

Organization: Colaska Inc. DBA Secon

Phone: 907-780-1232

Email: mbirchell@colaska.com

DRAFT MINUTES
WETLANDS REVIEW BOARD
REGULAR MEETING

November 1, 2012, 5:15 p.m. Marine View Bldg 4th Floor Conference Room

Meeting Summary

Board Members Present: Hal Geiger, Ron Berg, Jerry Medina, Lisa Hoferkamp, Dan Miller, K Koski

Board Members Absent: Andrew Campbell, Brenda Wright

A quorum was present.

Staff Members Present: Crystal Hitchings, Teri Camery, CBJ Planners

Public Present: Mike Short, Engineering Manager, SECON

Meeting called to order at 5:24 p.m.

II. September 20, 2012 Regular Meeting minutes were approved without changes.

III. Agenda was approved.

IV. Public Participation on Non-Agenda Items

None

V. Board Comments.

Mr. Koski notified the Board that this would be his last meeting. The Board, with Mr. Koski recused, unanimously passed a motion to reject Mr. Koski's resignation. Mr. Koski has been on the Board since its formation in 1992 and has been Board Chair for 10 years. Ms. Camery stated that an application for a new member had been received and that the CBJ Human Resources Department would review and decide on applications. Mr. Koski said he would like to see more accountability for the Board's recommendations. Ms. Camery said that she would follow-up with the work that Ms. Jones had started, which largely confirmed that the Planning Commission followed the Board's recommendations most of the time. She said she would look into opportunities for site visits.

Ms. Camery welcomed planner Crystal Hitchings as staff to the board and noted her experience with wetland delineation and restoration projects.

VI. Agenda Items

USE2012 0019 Lemon Creek Gravel Extraction Renewal

Ms. Camery explained that the Board is reviewing this proposal in its advisory role, and that a summary of the Board's discussion, in addition to the final motion and probably the draft minutes, would be included in the staff report to the Planning Commission. She explained that this project was first approved in 2007 as USE2006-00054. The permit was valid for five years and expired earlier this year. CBJ does not have a process for permit extension; instead a new Conditional Use Permit is required.

Ms. Camery directed the Board to the USE2006-0054 conditions for the project. She explained that the applicant has integrated almost all of these conditions into the new project description so the conditions do not have to be repeated again. Many of these conditions come from CBJ Engineering to protect the streambanks and protect downstream property owners. She noted that the applicant's request is for a 10 year permit with 400,000 cubic yards of gravel. Mr. Miller asked why the original permit was only valid for five years. Ms. Camery said that it was because gravel extraction in a salmon stream had never been conducted under the permit system before and many people were concerned about it. Ms. Camery noted that, because gravel was replenishing itself more quickly than anticipated, current mining operations do not reflect the original mining plan. Ms. Camery will rewrite Condition #23 to reflect actual operations.

Ms. Camery explained that the agencies met on October 29 to discuss the project. One issue is that the different agencies—CBJ, Corps of Engineers, DEC, and ADF&G—all have different permit timelines, which makes the review challenging for both agencies and the applicant. Agencies discussed different ways that permits might be adjusted to bring them into the same expiration and renewal times. To that end, CBJ will be recommending a six year permit timeline to coordinate with other agency timelines. The applicant supports this approach.

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.

At the agency meeting, USFWS wondered about setting a yearly maximum gravel extraction amount, so excessive amounts could not be taken at once to negatively impact the stream. Mr. Short explained that the gravel extraction amount is self-limiting, and that even if they took everything they possibly could in one year, the amount would not exceed 50,000 cubic yards. Therefore the current recommendation is for a six year permit with a maximum of 240,000 cubic yards of gravel and an annual maximum of 50,000 cubic yards.

Ms. Camery and Mr. Short explained the timing window for the project. Mining occurs only at low flow times in the winter. The 2007 CBJ Permit allowed mining to occur from December 1 to

March 15. No in-water work is allowed between March 16 and November 30, except for the allowance to enter the stream to connect excavated sections of the creek for one 7 day period between May 15 and June 15. This is the same timing window proposed under the current application.

Mr. Short said that Neil Stichert, U.S. Fish and Wildlife Service, has told him that the eggs that are in the gravel bars are not viable because they're stranded and frozen. The soil is generally frozen for several feet down. Any eggs laid on the bar during high water would be dry and frozen by the time SECON begins its excavation. Mr. Short explained that staying within the same gravel bar each year doesn't disturb the fish habitat.

Mr. Berg asked Mr. Short about DEC and ADF&G monitoring activities. Mr. Short explained that DEC requires turbidity tests on a daily basis, upstream of the project and 500 feet downstream. SECON takes these samples at random times during active excavation. Results are reported weekly to DEC. SECON has always been within range of minimum standards. Mr. Berg requested an explanation of the sampling protocol in the application. Mr. Short passed around sampling data from the past year and showed on a map where sampling occurs. He explained that if turbidity were to exceed the allowable amount, operations would be required to cease immediately until the cause were located and fixed. Any excessive turbidity must be reported to DEC.

The Board had an extended discussion about large woody debris (LWD). Mr. Geiger noted that LWD has to be placed in specific areas to be effective for habitat, and we do not have enough information on this area to make specific recommendations. Mr. Short explained that per the Alaska Department of Fish and Game's permit, woody debris needs to stay on site. So far it has been set toward the head of the creek or along the sides of the creek. Wood is placed outside of the excavation zone in a dry buffer zone. Mr. Short explained that the LWD is naturally anchored as gravel accumulates on top of it. To purposefully attempt to anchor the debris would damage the streambed and salmon egg habitat, and would cause turbidity and possible flooding. Mr. Short explained that earlier in the permit period lots of woody debris had been excavated, but there is less being encountered now. Although there was no formal plan for treatment of woody debris, Fish and Game seemed satisfied with how it has been handled. New fish habitat is being created by the existing placement practice.

Mr. Koski wondered if there should be a formal plan for placement of LWD, and if Lemon Creek could be a source of wood for other restoration projects. Mr. Short responded that ADF&G would not allow woody debris to be removed from the area, but that SECON would be happy to place it wherever ADF&G wanted them to, and noted that he would continue to work closely with ADF&G and/or the U.S. Fish and Wildlife Service on this matter.

The Army Corps of Engineers permit allows excavation of material, but not fill. The Corps does not appear to regulate LWD placement.

Ms. Hoferkamp asked about a final restoration plan for the creek and when restoration would start. Mr. Short explained that there is no plan at this time, because the gravel resource could last for decades. Board members discussed the possible formation of a subcommittee to begin

discussing restoration plans, but it was agreed that this may be premature at this time because the operation could last for 60 to 160 more years, depending on the amount of gravel coming down from Hidden Valley. Mr. Short and the Board discussed the possibility of mining gravel directly from its source and outside of spawning areas. Board members agreed they would need to conduct a site visit prior to have enough information to discuss this possibility. The upstream streambed is owned by Goldbelt Inc.

Lemon Creek has been mined since the 1940s. It was a placer mine before that.

SECON has a variance from the Corps and ADF&G to breach the gravel bars so the creek will move through all the excavated sites. The 2007 CBJ Permit includes an allowance to enter the stream to connect excavated sections of the creek for one 7 day period between May 15 and June 15. This timing will be continued with the 2012 permit. Several board members expressed serious concerns with fill and excavation in the creek during this time, because this is when salmon smolts are migrating downstream. Mr. Short explained the creek has always reconnected itself naturally. He emphasized that SECON absolutely does not want to be in the creek at this time because of the high water. This option needs to be retained in the CBJ application, because otherwise the CBJ permit will be in conflict with the Corps and ADF&G permits; however SECON has never gone into the creek at this time and does not intend to. He explained that this condition was developed under the original application when mining was conducted differently and no one understood what was going to happen there. He said that SECON has no intentions of moving the creek around.

MOTION:

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.

Approved without objection.

VII. Pending Permits and Updates

1. Habitat Mapping and Analysis Project

Ms. Camery explained that the grant agreement has been finalized and will go through Assembly appropriations this month. The Request For Proposals for LiDAR and imagery will be released in early January, and flights will be conducted in early spring. This imagery will be the basis for new stream maps and an update of the Juneau Wetlands Management Plan. The JWMP update will begin in spring/summer 2014. This project will go out for a competitive bid through the RFP process. The wetland methodology update will happen next spring and summer, 2013, through a sole-source contract with Dr. Paul Adamus. This contract requires free training which will be available to the Board.

VIII. Planning Commission Liaison Update.

None.

IX. Next meeting: The Board requested a follow-up discussion with Neil Stichert, USFWS, to discuss Lemon Creek and specific recommendations on use and placement of large woody debris. Ms. Camery suggested Thursday November 15 as an option, depending on Mr. Stichert's availability.

The meeting was adjourned at approximately 7:00 p.m.

Teri Camery

From: Ron King
Sent: Tuesday, October 02, 2012 1:35 PM
To: Teri Camery; 'Chiska Derr'; 'John_Hudson@fws.gov'; 'Neil_Stichert@fws.gov'; 'Timothy, Jackie L (DFG)'; Vigil, Randal P POA; Rorie Watt; Ed Foster; 'sheila.good@alaska.gov'; Heather Marlow; 'Tabor, Brock N (DEC)'; Charlie Ford; Dan Jager
Cc: Greg Chaney
Subject: RE: USE20120019 Agency Review Period for Lemon Creek Gravel Extraction 1 of 2

Teri, based on the extractions completed over the last few years and Secon's response to Streets and ADOT in regards to clean-up, GE finds the project to be viable and existing conditions satisfactory.

From: Teri Camery
Sent: Tuesday, October 02, 2012 12:36 PM
To: 'Chiska Derr'; 'John_Hudson@fws.gov'; 'Neil_Stichert@fws.gov'; 'Timothy, Jackie L (DFG)'; Vigil, Randal P POA; Ron King; Rorie Watt; Ed Foster; 'sheila.good@alaska.gov'; Heather Marlow; 'Tabor, Brock N (DEC)'; Charlie Ford; Dan Jager
Cc: Greg Chaney
Subject: USE20120019 Agency Review Period for Lemon Creek Gravel Extraction 1 of 2

Hi everyone,

Secon Inc. has submitted an application for a Conditional Use Permit to resume gravel extraction in Lemon Creek in the previously permitted area. Secon's previous Conditional Use Permit from CBJ expired on June 26, 2012 after a five year authorization. Permits from the Corps of Engineers and Alaska Department of Fish and Game are still current. Secon proposes to mine in the same area, with the same traffic route, with the same conditions previously adopted, but for a period of 10 years and/or 400,000 cubic yards of gravel.


The application is quite large, therefore I'm sending it in two email messages. I would appreciate detailed comments from agencies and a careful review of the project description, so I can determine if the previously adopted conditions are still adequate or if new ones are necessary. Information regarding monitoring efforts from the previous five years of operation would also be very helpful.

Please provide comments by Friday October 19, and please let me know if you have questions, need additional information, or need additional time for review. This application is lengthy and it will take some time to study.

Thanks very much for your attention.

Teri Camery

Teri Camery, Senior Planner
 City and Borough of Juneau
 Community Development Department
 155 S. Seward
 Juneau, AK 99801
 (907) 586-0755 phone; (907) 586-3365 fax

 Please consider the environment before printing this email.

Teri Camery

From: Ed Foster
Sent: Monday, October 15, 2012 10:59 AM
To: Teri Camery; 'Chiska Derr'; 'John_Hudson@fws.gov'; 'Neil_Stichert@fws.gov'; 'Timothy, Jackie L (DFG)'; Vigil, Randal P POA; Ron King; Rorie Watt; 'sheila.good@alaska.gov'; Heather Marlow; 'Tabor, Brock N (DEC)'; Charlie Ford; Dan Jager
Cc: Greg Chaney
Subject: RE: USE20120019 Agency Review Period for Lemon Creek Gravel Extraction 1 of 2

Teri,

What they are doing makes a mess and can create hazards on the road way between their excavation site and their stock pile 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.

Thanks, Ed

From: Teri Camery
Sent: Tuesday, October 02, 2012 12:36 PM
To: 'Chiska Derr'; 'John_Hudson@fws.gov'; 'Neil_Stichert@fws.gov'; 'Timothy, Jackie L (DFG)'; Vigil, Randal P POA; Ron King; Rorie Watt; Ed Foster; 'sheila.good@alaska.gov'; Heather Marlow; 'Tabor, Brock N (DEC)'; Charlie Ford; Dan Jager
Cc: Greg Chaney
Subject: USE20120019 Agency Review Period for Lemon Creek Gravel Extraction 1 of 2

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The application is quite large, therefore I'm sending it in two email messages. I would appreciate detailed comments from agencies and a careful review of the project description, so I can determine if the previously adopted conditions are still adequate or if new ones are necessary. Information regarding monitoring efforts from the previous five years of operation would also be very helpful.

Please provide comments by Friday October 19, and please let me know if you have questions, need additional information, or need additional time for review. This application is lengthy and it will take some time to study.

Thanks very much for your attention.

Teri Camery

Teri Camery, Senior Planner
 City and Borough of Juneau

11/14/2012

Attachment 18

Teri Camery

From: Gray, Scott J (DOT) [scott.gray@alaska.gov]
Sent: Monday, October 22, 2012 3:02 PM
To: Teri Camery
Cc: Good, Sheila D (DOT)
Subject: RE: RE:

Thank you for the opportunity to comment on this. Please see my comments below.

Conditional Permit Page 6:

In stockpiling the material the water that is retained in the gravels from extraction are given an opportunity for escape back into the excavation sump.

How long will the extracted gravel sit to make sure the aggregate materials are not saturated with water? Given an opportunity is not a satisfactory time frame. How long should the saturated material sit before being loaded into the haul trucks?

Conditional Permit Page 8:

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.

I would like clarification for this, last year the conditional use permit stated "Clean up will be performed at the end of the project."

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 cleanup 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 every day the trucks spill materials on the highway.

The Conditional use permit is from January to March, these months are normally our snowiest and coldest times of the year. Our crews (DOT and CBJ) work long hours keeping the roads safe. 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 curb line, sidewalk and storm drainage system. We would greatly appreciate not having to worry about a contractor adding yet another element of surprise to our winter maintenance and our springtime cleanup.

Thanks again,

Scott J Gray

State of Alaska
M&O Specialist SER
907-465-4512 Office
907-723-0794 Cell
907-465-2021 Fax

From: Teri Camery [mailto:Teri_Camery@ci.juneau.ak.us]
Sent: Monday, October 22, 2012 8:34 AM
To: Gray, Scott J (DOT)
Subject: RE:

Thank you Scott, yes, a response would still be appreciated. If you can get it to me within a few days that'd be great.

Teri

Teri Camery, Senior Planner
City and Borough of Juneau
Community Development Department
155 S. Seward
Juneau, AK 99801
(907) 586-0755 phone; (907) 586-3365 fax



Please consider the environment before printing this email.

From: Gray, Scott J (DOT) [<mailto:scott.gray@alaska.gov>]
Sent: Monday, October 22, 2012 8:27 AM
To: Teri Camery
Subject:

Hi Teri,

Sheila was out last week and I was going to respond on Friday except that I was called into Grand Jury. I will give you a response shortly if I still have time?

Thanks,

Scott J Gray

State of Alaska
M&O Specialist SER
907-465-4512 Office
907-723-0794 Cell
907-465-2021 Fax

From: Teri Camery [mailto:Teri_Camery@ci.juneau.ak.us]
Sent: Friday, October 19, 2012 11:20 AM
To: Good, Sheila D (DOT)

11/14/2012



500 108th Ave. NE Suite 1740
Bellevue, Washington 98004
(425) 827-3193
Fax (425) 576-5113

P.O. Box 32159
Juneau, Alaska 99801
(907) 780-5145
Fax (907) 780-5896

P.O. Box 7035
Ketchikan, Alaska 99901
(907) 225-6491
Fax (907) 225-6492

October 25, 2012

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

RE: USE20120019
Lemon Creek Gravel Extraction
Response to Scott Gray DOT

Dear Ms. Camery

This letter is in reply to Scott Gray questions and concerns expressed via email;

Conditional Permit Page 6:

Question:

How long will the extracted gravel sit to make sure the aggregate materials are not saturated with water? Given an opportunity is not a satisfactory time frame. How long should the saturated material sit before being loaded into the haul trucks?

Answer:

In severing the gravels from the creek bed, the excavator's bucket contains sand, gravel and water from the extraction hole. By placing the gravels in a temporary stockpile before loading into the trucks gives the entrapped water time to escape. Most of the water will drain within minutes.



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Conditional Permit Page 8:

Question:

I would like clarification for this, last year the conditional use permit stated "Clean up will be performed at the end of the project."

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 cleanup 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 every day the trucks spill materials on the highway.

The Conditional use permit is from January to March, these months are normally our snowiest and coldest times of the year. Our crews (DOT and CBJ) work long hours keeping the roads safe. 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 curb line, sidewalk and storm drainage system. We would greatly appreciate not having to worry about a contractor adding yet another element of surprise to our winter maintenance and our springtime cleanup.

Answer:

I believe the question is "What are the plans for cleaning the streets?"

SECON with Channel Construction has been proactive in cleaning the streets during the hauling of the gravel to the storage site. From January 19th to February 8th 2012 Channel Construction operated a backhoe almost daily scraping the streets clear of any accumulation of snow, slush, water, or sand. At the end of the gravel extraction, TW Hall was retained to sweep the streets. If the city called for additional effort in cleaning the streets SECON immediately complied. When DOT expressed concern about Glacier Highway SECON cleaned that 900 foot zone.

SECON will continue being proactive in cleaning the streets. As expressed in Mr. Gray's email the weather and conditions change almost daily. SECON has an assortment of equipment at our disposal or can acquire the resources needed to clean the streets. The



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resources used in 2012 is a baseline that SECON is willing to commit in cleaning the streets, a backhoe to work daily as needed and a sweeper on call to collect the fugitive sands when required.

If SECON has an inadvertency in cleaning the streets to maintenance standards, please call and allow SECON to correct the oversight.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Short", written over a horizontal line.

Michael Short
Engineering Manager

Teri Camery

From: Ron King
Sent: Tuesday, October 30, 2012 1:54 PM
To: Teri Camery; 'MShort@COLASKA.COM'
Cc: Mark Millay; Autumn Lowrey
Subject: RE:

Teri - Mike my comments (items for discussion) for the operations components of the extraction. Some of these items may already be addressed.

- 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 allowing excess water to escape. Tilt time may be reduced if water escapement occurs sooner based on engineer's visual assessment and approval.
- 2) Select a haul route that shortens the amount of travel on CBJ and ADOT streets.
- 3) Protect catch basins along the route from sediment infiltration by use of manufactured CB filters.
- 4) Inspect traveled route a minimum of twice daily for material from the haul.
- 5) Sweep and clean the roadway at the end of each day or if a major spill occurs.
- 6) Additional clean-up during the day may be required by the engineer, CBJ or ADOT.
- 7) Construct rockery lane for debris removal from truck tires prior to entering Anka St.
- 8) No sediment migration from the truck or ramp will be allowed in the waterway.

Ron

From: Teri Camery
Sent: Monday, October 22, 2012 3:10 PM
To: Ron King
Subject: FW: RE:

Fyi on Lemon Creek gravel.

Teri Camery, Senior Planner
 City and Borough of Juneau
 Community Development Department
 155 S. Seward
 Juneau, AK 99801
 (907) 586-0755 phone; (907) 586-3365 fax



Please consider the environment before printing this email.

From: Gray, Scott J (DOT) [mailto:scott.gray@alaska.gov]
Sent: Monday, October 22, 2012 3:02 PM
To: Teri Camery
Cc: Good, Sheila D (DOT)
Subject: RE: RE:

Thank you for the opportunity to comment on this. Please see my comments below.

Conditional Permit Page 6:

In stockpiling the material the water that is retained in the gravels from extraction are given an opportunity for escape back into the excavation sump.

Teri Camery

From: Neil_Stichert@fws.gov
Sent: Friday, October 19, 2012 1:36 PM
To: Teri Camery
Cc: 'Tabor, Brock N (DEC)'; Charlie Ford; 'Chiska Derr'; Dan Jager; Ed Foster; Greg Chaney; Heather Marlow; 'Timothy, Jackie L (DFG)'; 'John_Hudson@fws.gov'; 'Vigil, Randal P POA'; Ron King; Rorie Watt; 'sheila.good@alaska.gov'; Teri Camery
Subject: Re: Agency Review Period for Lemon Creek Gravel Extraction 2 of 2

Teri-

I (and others) have tracked this project since its original proposal by the previous owners. The operational approach by SECON has been an improvement to that currently permitted by the Corps of Engineers and appears to be meeting the needs of the owner while minimizing the spatial impacts to the bed of Lemon Creek. It is my understanding that SECON has extracted approximately 25,000 CY annually during the years they extracted gravel. My observations support that this volume has largely replenished itself in-situ from the area of extraction without destabilizing banks nor forced the operator to move upstream or downstream into other vegetated bars or side channels used by salmon and resident fish.

I have a few brief comments to your outreach:

- 1) The conditional use application does not appear to specify an annual maximum, i.e. in the event that a market emerged, could the total permitted volume be extracted at one time? Maintaining a 'sustainable' annual extraction volume seems to be key in maintaining the desired floodplain condition for fish habitat in and adjacent to the mined segment.
- 2) SECON did collect surveyed pre-extraction x-sections of the mined stream segment and it would be useful to quantitatively evaluate changes in these x-sections from Year 1 to present. This could in part inform 1 above.
- 3) The opportunity for consistent conditioning of all the required permits presents itself now if CBJ, COE, and ADFG could adopt the same permit term and cycle. This would require a short term of this application, a coordinated discussion among the SECON and the agencies, and then respective issuance of the suite of permits next year. This approach may benefit the applicant as well as consistent management of the waterbody.

Thanks again for the outreach on this project and USFWS staff are available to work on this issue.

Sincerely-

Neil

Neil Stichert
Habitat Restoration and Coastal Program Biologist
Juneau Fish and Wildlife Service Field Office
3000 Vintage Blvd., Suite 201
Juneau, AK 99801
neil_stichert@fws.gov

Teri Camery

From: Neil_Stichert@fws.gov
Sent: Tuesday, November 06, 2012 7:22 PM
To: Teri Camery
Cc: Crystal Hitchings; Greg Chaney; 'James_Ray@fws.gov'
Subject: Re: Lemon Creek discussion with the WRB

Teri-

I can provide you and the board some perspective if we can find a time to do so. I am scheduled to be on vacation Nov. 10-15th and the 22nd is Thanksgiving, so I think you run out of Thursdays prior to your next planning meeting, which I think you said was on the 27th. James Ray is also not available for these times.

Nevertheless, habitat considerations for the WRB could include:

1) Prescribing the maximum volume of materials removed from creek annually. The only data points to date are the actuals from the past removals by SECON, which has been reported as about 25k cy per event. This volume appears to not have had persistent effects on the bed, as similar gravel bar configurations reform themselves in the excavation area by the following winter. Unless demonstrated otherwise, perhaps this is a reasonable removal volume without having to move upstream or downstream into portions of the floodplain and disturbing areas with more channel complexity and vegetated bars. To my knowledge, the original permitted volumes formulated by the previous owners were not founded on any actual volumetric calculations, plausible instream mining scenarios, or considerations for minimizing impacts.

2) A condition stipulating that large woody debris encountered during excavation be replaced to the surface of the floodplain, upstream or adjacent to the excavation area will encourage bar formation and/or side channel creation. Since the wood is not of value to the operator, this should not be a problematic issue. Specifics include partially burying the woody materials upstream or adjacent to the excavation in order to anchor them during high flows and also to entrain other woody materials. The windrow of previously excavated wood at the site is accreting new woody material, self vegetating, and creating a small side channel toward the toe of the rip-rap embankment. It's best viewed and described during a quick site visit.

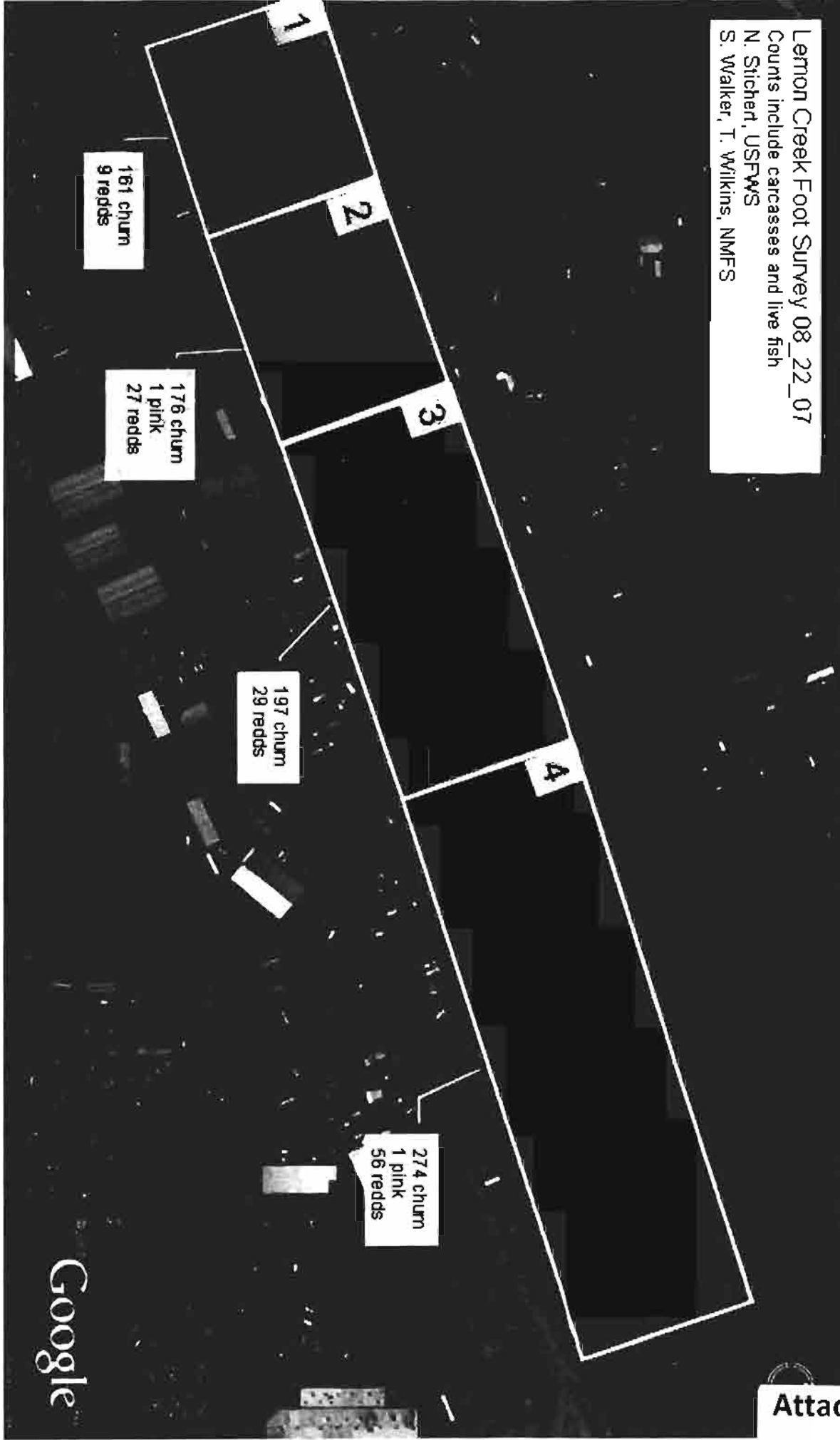
3) As you state, the applicant has added significant improvements to the operation. Looking back that the operational challenges at the site, most could have been avoided with better communication on several levels. One is simply having a required annual pre-operational meeting. The second is field staking the exact excavation configuration and setbacks from flowing water prior to coverage with snow and ice. Last, explicit instructions to the excavator operator that maintenance of the excavation setback from flowing water is important, and that conditions may vary throughout the operation including variable frost depth, subsurface flows and rising groundwater elevations in the excavation itself. In short, the owner and excavator need to adaptively manage the excavation more closely. To date, they've largely done this, but there is room for improvement.

Thanks for the outreach about the Board seat. We'll have to get some internal advice about whether our staff with inherent roles in the Corps 404 process can be complementary to a CBJ Wetland Review Board role, or not. I will do this within the week.

11/7/2012

Attachment 23

Lemon Creek Foot Survey 08_22_07
Counts include carcasses and live fish
N. Sticher, USFWS
S. Walker, T. Wilkins, NMFS





PLANNING COMMISSION
NOTICE OF DECISION

Date: June 28, 2007

File No.: USE2006-000054

Ralph Horecny
P.O. BOX 211474
Auke Bay, AK 99821

Application For: A Conditional Use permit to extract up to 200,000 cubic yards of material from a privately-owned streambed in Lemon Creek over a five year period.

Legal Description: Mendota Park, Parcel 2

Parcel Code No.: 5-B12-0-131-004-1

Hearing Date: June 26, 2007

The Planning Commission, at its regular public meeting, adopted the analysis and findings listed in the attached memoranda dated May 16, 2007, and June 21, 2007, and approved the project to be conducted as described in the project description and project drawings submitted with the application. In granting approval, the Planning Commission made a finding of public need for the project as stated below:

The Planning Commission finds that the natural watershed characteristics and fish habitat functions of Lemon Creek have been compromised by human activity. Some will never be undone, but consistent with the recommendations in the Interfluv report, CJB has committed to restoring salmon habitat functions to be extent practical and reducing flood hazard for adjacent properties. CBJ has already had the Redimix Bridge, a major flow impediment, removed to reduce the flood hazard. CBJ is committed to working with property owners in Hidden Valley to stabilize the excessive erosion coming from the Valley. Finally, the restoration and remedial mining in the area from Lemon Creek Correctional Facility downstream is another recommendation of the Interfluv report to achieve long term flood hazard abatement and salmon habitat restoration.

Therefore the Public Need test is met to allow CBJ to make an exception to policies CBJ§49.70.950(d) and CBJ§49.70.905(4) with the following conditions:

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)
4. Prior to the commencement of mining, the applicant shall be required to stake property lines and a line offset 10' from property lines.
 5. Prior to the commencement of mining the applicant shall make a video of the entire area and submit the video to the Engineering Department.
 6. The top of excavation slopes shall be prohibited within 10' of any banks or the property lines.
 7. 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.
 8. 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.
 9. 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
 10. An inspection report shall be submitted at the end of the mining season which includes all items in above numbers 3 and 7. The report shall be submitted to the Engineering Department within one month of the end of the mining season, or April 15.
 11. 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.
 12. 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.)
 13. The applicant shall protect all vegetated slopes and maintain a similar non-disturbance zone identified above, unless a site-specific engineering analysis indicates otherwise.
 14. 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.
 15. Truck traffic from the development shall be routed only through the Anka Street/Glacier Highway intersection.

16. Truck traffic and heavy equipment operation associated with gravel extraction is strictly prohibited from the Davis Avenue side of the river.
17. 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.
18. 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.
19. Gravel extraction shall be limited to 40 days per year.
20. The permit shall expire after 5 years or after 200,000 cubic yards of gravel has been extracted, whichever comes first.
21. Any gravel extraction outside of the project description and supporting documents shall require Planning Commission approval for modification of the permit.
22. One month prior to the start of the mining season, the applicant shall submit an engineered project design for the access road. Design shall include topographic features and an analysis by a licensed hydraulic engineer which demonstrates that the road design and culverts are adequate and the road will not increase the base flood elevation in violation of CBJ Flood Hazard and FEMA regulations. The applicant may also propose an alternative method to transport gravel out of the riverbed to the road such as a conveyor system, or clear span bridge, at that time. The design and analysis shall be approved by CBJ Engineering before mining or construction commences.
23. 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', shall be integrated into the project description and development plan and implemented through the annual grading permit issued by CBJ.
24. If the final approved temporary access road from Lemon Creek to Ralph's Way cannot comply with the permit conditions for the truck scale approved under VAR2007-00010, no grading permits shall be issued until the truck scale project has been revised and a new variance has been approved by the Planning Commission. Alternatively the truck scale may be removed from the site.
25. 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.
26. The Applicant will clean up and maintain streets from any material deposited on the streets as the result of their operations.

Attachments: May 16, 2007 memorandum from Teri Camery and June 21 memorandum from Greg Chaney, Community Development Department, to the CBJ Planning Commission regarding USE2006-00054.

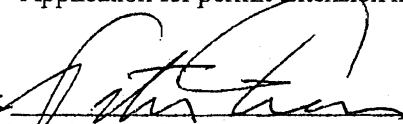
This Notice of Decision does not authorize construction activity. Prior to starting any project, it is the applicant's responsibility to obtain a building permit for any and all improvements requiring such.

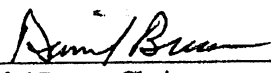
This Notice of Decision constitutes a final decision of the CBJ Planning Commission. Appeals must be brought to the CBJ Assembly in accordance with CBJ §01.50.030. Appeals must be filed by 4:30 P.M. on the day twenty days from the date the decision is filed with the City Clerk, pursuant to CBJ §01.50.030 (c). Any action by the applicant in reliance on the decision of the Planning Commission shall be at the risk that the decision may be reversed on appeal (CBJ Sec. 49.20.120).

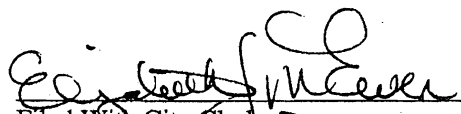
Effective Date: The permit is effective upon approval by the Commission, June 26, 2007.

Expiration Date: The permit will expire 18 months after the effective date, or December 26, 2008, if no Building Permit has been issued and substantial construction progress has not been made in accordance with the plans for which the development permit was authorized. Application for permit extension must be submitted thirty days prior to expiration date.

Project Planner:


Peter Freer, Planner
Community Development Department


Daniel Bruce, Chairman
Planning Commission


Filed With City Clerk


Date

7/2/07

cc: Plan Review
Aniakchak, Inc.

NOTE: The Americans with Disabilities Act (ADA) is a federal civil rights law that may affect this development project. ADA regulations have access requirements above and beyond CBJ - adopted regulations. Owners and designers are responsible for compliance with ADA. Contact an ADA - trained architect or other ADA trained personnel with questions about the ADA: Department of Justice (202) 272-5434, or fax (202) 272-5447, NW Disability Business Technical Center 1 (800) 949-4232, or fax (360) 438-3208.

PLANNING COMMISSION
NOTICE OF DECISION

Date: November 26, 2008

File No.: USE2008-00053

Bryce Kidd
5322 Shaune Drive
Juneau, AK 99801

Application For: A Conditional Use Permit to modify USE2006-00054, an extraction permit for a privately owned streambed in Lemon Creek. Modification to include alternate access locations/design.

Legal Description: MENDOTA PARK PARCEL 2

Parcel Code No.: 5-B12-0-131-004-1

Hearing Date: November 25, 2008

The Planning Commission, at its regular public meeting, adopted the analysis and findings listed in the attached memorandum dated November 19, 2008 and approved the Conditional Use permit to be conducted as described in the project description and project drawings submitted with the application and with the following condition:

- 1) The applicant shall be required to use Best Management Practices to minimize sedimentation into Lemon Creek and the CBJ Stormwater system.

Attachments: November 19, 2008 memorandum from Teri Camery, Community Development, to the CBJ Planning Commission regarding USE2008-00053.

This Notice of Decision does not authorize construction activity. Prior to starting any project, it is the applicant's responsibility to obtain the required building permits.

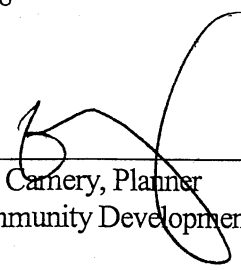
This Notice of Decision constitutes a final decision of the CBJ Planning Commission. Appeals must be brought to the CBJ Assembly in accordance with CBJ §01.50.030. Appeals must be filed by 4:30 P.M. on the day twenty days from the date the decision is filed with the City Clerk, pursuant to CBJ §01.50.030 (c). Any action by the applicant in reliance on the decision of the Planning Commission shall be at the risk that the decision may be reversed on appeal (CBJ §49.20.120).

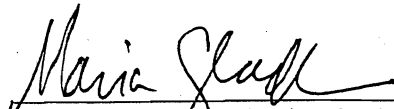
Effective Date: The permit is effective upon approval by the Commission, November 25, 2008

Expiration Date: The permit will expire 18 months after the effective date, or May 25, 2010 if no Building Permit has been issued and substantial construction progress has not been made in accordance with the plans for which the development permit was authorized. Application for permit extension must be submitted thirty days prior to the expiration date.

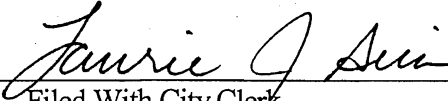
Bryce Kidd
File No.: USE2008-00053
November 26, 2008
Page 2 of 2

Project Planner: _____


Teri Carnery, Planner
Community Development Department



Maria Gladziszewski, Vice-Chair
Planning Commission



Filed With City Clerk

11/26/08

Date

cc: Plan Review

NOTE: The Americans with Disabilities Act (ADA) is a federal civil rights law that may affect this development project. ADA regulations have access requirements above and beyond CBJ-adopted regulations. Owners and designers are responsible for compliance with ADA. Contact an ADA - trained architect or other ADA trained personnel with questions about the ADA: Department of Justice (202) 272-5434, or fax (202) 272-5447, NW Disability Business Technical Center (800) 949-4232, or fax (360) 438-3208.

November 19, 2012
Community Development Department

To whom it may concern,

I am writing in response to the notice of the public hearing I recently received in the mail regarding a conditional use permit to extract 240,000 cubic yards of material from the Lemon Creek streambed over a six year period. I am completely opposed to the extraction of material from the Lemon Creek streambed because in the past years that extraction was been permitted 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 the walls of my condominium shaking. One year while I was out walking I swear there was drilling going on because of the way the ground shook and the noise which 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 that was going on. I noticed that in the late spring and summer there were less salmon and fewer eagles. The extracting and drilling has a huge impact on the salmon, the eagles, ravens and all the habitat that live in this area not to mention all the noise the construction equipment makes. My children cannot go around the stream nor can anyone walk their dogs. I hate what it is doing to the environment and the unnatural shaping of the streambed that happens every time the area is left after extraction. 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.

I regret receiving this notice six years ago in 2006 when I first moved into the 1901 condominiums on Davis and I received this very same notice and did nothing not realizing the damage done to the streambed. I cannot let this go by again without voicing my objection.

Respectfully,

Amalia Monreal

Resident of 1901 Davis Ave #A5

Juneau, AK 99801

Teri Camery

From: John Bohan
Sent: Tuesday, November 20, 2012 12:24 PM
To: 'SHORT, Michael (JUNSC)'; Teri Camery; Ron King; Rorie Watt
Cc: Greg Chaney; Hal Hart; Alan Steffert
Subject: RE: Lemon Creek gravel extraction comment

Teri,

Thanks for the opportunity, however, this is not a situation Engineering will comment on, as it has nothing to do with us and should be addressed directly by SECON, as they have done.

We support SECON and concur with their response. We support the gravel extraction and believe the gravel extraction is actually a proactive step in countering stream bed aggradation (future potential flood issues from raised stream bed) from the significant amount of gravels that are continually deposited in this area. Were the gravels allowed to continue to collect, the river bed would continue to rise above the current levels of bank protection (rip rap etc) and cause significant property damage.

Thanks
 John Bohan, PE
 CBJ Chief CIP Engineer
 155 S. Seward St
 Juneau AK 99801
 (907)586-0876 fax 463-2606

From: SHORT, Michael (JUNSC) [mailto:MShort@COLASKA.com]
Sent: Tuesday, November 20, 2012 11:42 AM
To: Teri Camery; Ron King; Rorie Watt; John Bohan
Cc: Greg Chaney
Subject: RE: Lemon Creek gravel extraction comment

Please find attached letter in response to Ms. Amalia Monreal.

Michael Short

Secon
 Engineering Manager

From: Teri Camery [mailto:Teri_Camery@ci.juneau.ak.us]
Sent: Tuesday, November 20, 2012 10:09 AM
To: Ron King; Rorie Watt; John Bohan; SHORT, Michael (JUNSC)
Cc: Greg Chaney
Subject: Lemon Creek gravel extraction comment
Importance: High

Hi everyone,

The attached comment letter from a neighboring resident has some very serious concerns about damage to surrounding properties as a result of gravel extraction. I would appreciate a formal response from both SECON and CBJ Engineering on these concerns. My staff report is due today, without exception because of the Thanksgiving

Teri Camery

From: Ron King
Sent: Tuesday, November 20, 2012 1:47 PM
To: Teri Camery
Cc: Greg Chaney
Subject: RE: Lemon Creek gravel extraction comment

My apology, a formal response to the letter will not fit in the timeframe you have requested. Here are some thoughts.

FYI .. The property in question has an open grading permit to this date has never been completed.

The embankment issues are a function of the developments proximity to topographical features up stream, historical bank armoring, flood events and recent, incomplete embankment armoring by the developer. The combination of these functions controls the alignment of the thread of the stream and high water events. Excavations within the stream bed become settling ponds for the silt-laden concentrations that occur during high water events and should have no adverse affect on the embankments.

From: Teri Camery
Sent: Tuesday, November 20, 2012 10:09 AM
To: Ron King; Rorie Watt; John Bohan; 'SHORT, Michael (JUNSC)'
Cc: Greg Chaney
Subject: Lemon Creek gravel extraction comment
Importance: High

Hi everyone,

The attached comment letter from a neighboring resident has some very serious concerns about damage to surrounding properties as a result of gravel extraction. I would appreciate a formal response from both SECON and CBJ Engineering on these concerns. My staff report is due today, without exception because of the Thanksgiving holiday. So I need your response no later than 1:30 p.m. If that really isn't possible, then I'll address this issue with SECON and Engineering's comments only at next Tuesday's hearing and not in the staff report.

Thanks for your quick attention.

Teri

Teri Camery, Senior Planner
 City and Borough of Juneau
 Community Development Department
 155 S. Seward
 Juneau, AK 99801
 (907) 586-0755 phone; (907) 586-3365 fax



Please consider the environment before printing this email.

From: Amalia Monreal [mailto:amonreal@ccthita.org]
Sent: Monday, November 19, 2012 9:24 PM
To: Teri Camery



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November 20, 2012

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

RE: USE 2012-0019 Lemon Creek Gravel Extraction
Letter of Ms. Amalia Monreal, November 19, 2012

Dear Ms. Camery;

I cannot speak as to the damage to Ms. Monreal house. It would take a professional survey of her dwelling along with the majority of others houses in the area to confirm that two weeks of digging gravel with an excavator has caused structural damage hundreds of feet away. Please note that excavators are use predominantly in utility installation and unclassified excavation much closer to structures and have inflicted no damage for many years.

As to the condominium shaking, I agree that it is possible to feel ground vibrations from distance activities. SECON apologies for the inconveniences and is committed to minimize the duration and scope as much as possible.

SECON does not drill or make a drilling noise from our activities.

The creek land is private property. It is now a concern that people are entering during or after the gravel extraction. During the actual gravel extraction event supervision along with signage ensures that people are not entering the site.

All during the process of gravel extraction from the start of the permitted activities to the conclusion, the habitat is being monitored by several agencies. The conditions that are outlined in this permits deal with these issues, otherwise there would be no need of these conditions to be imposed upon the gravel extraction.



Lemon Creek gravel bed is actually being elevated by the transported alluvial gravels being deposited. The severed site is literally filled in with these gravels within months.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Short". The signature is written over a light gray rectangular background.

Michael Short
Engineering Manager