



Haines Borough Planning Commission Regular Meeting Agenda

COMMISSIONERS:

ROB GOLDBERG, CHAIR
LEE HEINMILLER, VICE-CHAIR
LARRY GEISE
HEATHER LENDE
DON TURNER III
BRENDA JOSEPHSON
ROB MILLER

Thursday, February 11, 2016 - 6:30 p.m.

Assembly Chambers, 213 Haines Hwy.

1. CALL TO ORDER / PLEDGE TO THE FLAG
2. ROLL CALL
3. APPROVAL OF AGENDA
4. APPROVAL OF MINUTES: January 14, 2016
5. PUBLIC COMMENTS [Items not scheduled for public hearing]
6. CHAIRMAN'S REPORT
7. STAFF REPORT
 - A. Planning & Zoning Report
8. PUBLIC HEARINGS:
 - A. **Forster/Holmes – Restaurant Conditional Use Proposal – Action Item** – Property owners, Eric Forster & Cambria Holmes, have requested the Planning Commission approve a conditional use permit to allow the re-opening of the restaurant at 31 Tower Road to be entitled, "The Pilotlight", formerly known as "Mosey's Restaurant."
 - B. **Southern Energy, Inc. – Walker Lake Hydro Conditional Use Proposal – Action Item** – Property owner Floresce has requested the Planning Commission approve a conditional use permit to allow construction of a hydro operation at Walker Lake.
9. UNFINISHED BUSINESS:
 - A. **Michael Wilson – Heliport Conditional Use Proposal – Action Item** – Property owner Wilson has requested the Planning Commission approve a conditional use permit to allow the installation of a heliport at 35 Mile Haines Highway for the purposes of operating a Heli-Skiing business. At the 1/14/16 PC meeting the discussion of the proposal and appeal was postponed to the February 11th Planning Commission meeting due to: Julie Cozzi, as acting Borough Manager, had made the decision on prior use by right for the heliport, but was not available to answer questions about her reasons for making the decision. Also, two commissioners were absent, and four votes were needed for approval; thus, it would be fairer to the appellant to have his proposal and appeal heard (separately) by the entire seven member commission.
 - B. **Michael Wilson – Heliport Appeal – Action Item** – Property owner Wilson's appeal of the Haines Borough Manager's decision on historical use of AA35 (35 mile heliport) dated December 28, 2015.
 - C. **Clarify "Building Height"**—Postponed after discussion to the February 11th PC meeting. **Miller** submitting revised wording for discussion.
10. NEW BUSINESS:
 - A. Historic District/Building Review – None
 - B. Haines Borough Code Amendments: None
 - C. Project Updates: None
 - D. Other New Business – None
11. COMMISSION COMMENTS
12. CORRESPONDENCE
13. SCHEDULE MEETING DATE
 - A. Regular Meeting – Thursday, March 10, 2016 6:30 p.m.
14. ADJOURNMENT



**Haines Borough
Planning Commission Meeting
January 14, 2016
MINUTES**

Draft

1. **CALL TO ORDER/PLEDGE TO THE FLAG** – Chairman **Goldberg** called the meeting to order at 6:33 p.m. in Assembly Chambers and led the pledge to the flag.
2. **ROLL CALL** – **Present:** Chairman Rob **Goldberg**, Commissioners Lee **Heinmiller**, Brenda **Josephson**, Larry **Geise** and Rob **Miller**. **Absent:** Heather **Lende** and Don **Turner III**.
Staff Present: Brad **Ryan**, Interim Manager
Also Present: Diana **Lapham**, Emily **Files** and Karen **Garcia**.
3. **APPROVAL OF AGENDA**
Goldberg explained the reasons behind the postponement of Michael Wilson’s appeal of his Heliport CUP application decision. Julie Cozzi, as acting Borough Manager, had made the decision on prior use by right for the heliport, but she was not available to answer questions about her reasons for making the decision. Also, with two commissioners absent, and four votes needed for approval, it would be fairer to the appellant to have his appeal heard by the entire seven member commission.
Miller asked to add an Item i. under #10B2 Project Updates, regarding the harbor project and report from Harvey Smith. **Josephson** asked to add an Item ii. under #10B2 Project Updates, regarding 25-35 heliport planning. The other commissioners agreed.
Motion: **Miller** moved to “approve the agenda as amended.” **Josephson** seconded it. The motion carried unanimously.
4. **APPROVAL OF MINUTES** – December 10, 2015 Regular Meeting Minutes
Josephson asked to have #4 Approval of Minutes Motion corrected, removing the word “at” before “35 mile” in the first sentence, and changing #9A Motion from “send the Wilson’s conditional use proposal to the Borough Manager for a decision as to whether the proposed heliport is a use-by-right” to “send the Wilson’s request for pre-existing use-by-right to the Borough Manager for a decision.”
Motion: **Heinmiller** moved to “approve the December 10, 2015 minutes.” **Josephson** seconded it. The motion carried unanimously.
5. **PUBLIC COMMENTS**—None
6. **CHAIRMAN’S REPORT**—None
7. **STAFF REPORTS**
A. **Planning & Zoning Staff Report**—None
8. **PUBLIC HEARINGS**—None
9. **UNFINISHED BUSINESS**
A. **Michael Wilson – Heliport Conditional Use Proposal**—Postponed until the February 11, 2016 Planning Commission meeting.

10. NEW BUSINESS

A. **Historic District/Building Review:** None

B. **Haines Borough Code Amendments:**

1. **Clarify “Building Height”—Postponed** after discussion. **Miller** will work on revising the wording and have the revisions ready for the February 11, 2016 Planning Commission meeting.

2. **Project Updates**

i. **Harbor Project**—Report from Harvey Smith, State Coastal Engineer

Miller reported on a preliminary report of the harbor project, compiled by Harvey Smith. **Miller** will make sure the Planning Commissioners, the Ports & Harbor Committee, the Mayor, the Interim Manager and the Assembly receives emailed copies of the report.

ii. **25-35 Mile Heliport Planning**

Josephson asked for an update on Motion #8B from the November 12, 2015 Minutes: “request Assembly to set aside funds and task staff to identify possible sites for a heliport between 25 mile and at 35 mile”. **Goldberg** informed Commissioners of results of letters sent out to various organizations on a public heliport site at Chilkat Lake Road, and feedback received.

C. **Other New Business**—None

11. **COMMISSION COMMENTS**—Welcome to new Commissioner, Larry **Geise**, and Liaison, Diana **Lapham**

12. **CORRESPONDENCE** - None

13. **SET MEETING DATES**

A. Regular Meeting—Thursday, February 11, 2015.

14. **ADJOURNMENT**– 7:55 p.m.

Staff Report for February 11, 2016

1. Permits Issued Since January 1, 2016

DATE	OWNER/AGENT	TAX ID	LOT	BLK	SUBDIVISION	DEVELOPMENT	ZONE
1/20/16	Front Street LLC & Highland Estates, Inc.	C-TNS-21-0300, 0501, 0601, 1301, 1401, 1700 & TIDE	3-15A	21	Haines Townsite	Fill Work	WF
1/27/16	John H. Brainard	4-MBS-0A-0100 to 0400	1-4		Mud Bay Subdivision	Vacate Lot Lines	MB
1/28/16	Scott Rossman	C-STR-02-39A0	39		Small Tracts	Roof Extension on Shop	RMU

2. Projects

- Veterans Home sign project—Wayne Price carving posts
- A citizen submitted a complaint regarding possible parking expansion for a new restaurant on Tower Road (formerly Mosey’s Restaurant), which may infringe on citizen’s property. Letter was sent to new owners, Eric Forster and Cambria Holmes, for needed CUP and informing them of code parking regulations. Idea: expand Chilkat Center parking lot for business use.
- Chilkat Valley Preschool planning and drawings for Senior Center add-on construction
- Port Chilkoot Distillery covered porch, land-use permit (for March PC meeting)
- Scanning all Borough maps, reprinting some, archiving some at Museum



Haines Borough

Planning and Zoning

103 Third Ave. S., Haines, Alaska, 99827

Telephone: (907) 766-2231 * Fax: (907) 766-2716

APPLICATION FOR CONDITIONAL USE PERMIT

Permit#: _____

Date: _____

Use this form for use approval by the Planning Commission for conditional uses.

I. Property Owner/Agent		Owner's Contractor(If Any)	
Name: ERIC FORSTER CAMBRIA HOLMES		Name:	
Mailing Address: P.O. BOX 1727		Haines Borough Business License #:	
Contact Phone: Day Night 630 291		Alaska Business License #:	
Fax:		Contractor's License #:	
E-mail: eric@shump.com		Mailing Address:	
		Contact Phone: Day Night	
		Fax:	
		E-mail:	
II. Property Information			
Size of Property: .25 acres			
Property Tax #: C-PTC-06-0500			
Street Address: Soap suds ALLEY / 31 tower road			
Legal Description: Lot (s) 5 Block L Subdivision Part Chilleoot Subdivision			
OR Parcel/Tract _____ Section _____ Township _____ Range _____			
[Attach additional page if necessary.]			
Zoning: <input type="checkbox"/> Waterfront <input type="checkbox"/> Single Residential <input type="checkbox"/> Rural Residential <input checked="" type="checkbox"/> Significant Structures Area <input type="checkbox"/> Rural Mixed Use <input type="checkbox"/> Multiple Residential <input type="checkbox"/> Heavy Industrial <input type="checkbox"/> Waterfront Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial Light Commercial <input type="checkbox"/> Recreational <input type="checkbox"/> Mud Bay Zoning District <input type="checkbox"/> Lutak Zoning District <input type="checkbox"/> General Use			
III. Description of Work			
Type of Application (Check all that apply) <input type="checkbox"/> Residential <input checked="" type="checkbox"/> Commercial 1792 sq. ft. total 898 RESTAURANT sq. ft. 30 seating capacity if eating/drinking establishment <input type="checkbox"/> Industrial <input type="checkbox"/> Church <input type="checkbox"/> Other _____	Project Description (Check all that apply) <input type="checkbox"/> Single Family Dwelling <input type="checkbox"/> Change of Use <input type="checkbox"/> Multi-Family Dwelling Total # of Units _____ <input type="checkbox"/> Cabin <input type="checkbox"/> Addition <input type="checkbox"/> Accessory Structure <input checked="" type="checkbox"/> Other NO NEW CONSTRUCTION RESTAURANT	Water Supply Existing or Proposed <input type="checkbox"/> None <input type="checkbox"/> Community well <input type="checkbox"/> Private well <input checked="" type="checkbox"/> Borough Water System <input type="checkbox"/> Other _____	Sewage Disposal Existing or Proposed <input type="checkbox"/> None <input type="checkbox"/> Septic Tank <input type="checkbox"/> Holding Tank <input checked="" type="checkbox"/> Borough Sewer System <input type="checkbox"/> Pit Privy <input type="checkbox"/> Other _____

Valuation of Work:

NO NEW CONSTRUCTION - WANT TO OPEN RESTAURANT

Current use of adjacent properties:

RESIDENTIAL

Attach the following documents to the permit application:

SAME AS ED WACHSMAN'S

Site plan (see Attachment A) showing lot lines, bearings and distances, buildings, setbacks, streets, etc.

PREAPPLICATION (Required)

Pre-application Conference Date: _____

Prior to submission of an application, the developer shall meet with the manager for the purpose of discussing the site, the proposed development and the conditional use permit procedure. The manager shall discuss these matters with the developer with special attention to policies and approval criteria that may pose problems or constraints on the site or the proposed development activity and policies or approval criteria that may create opportunities for the developer.

APPLICATION

Please provide a written narrative explaining how your project will meet the following requirements. You may use the space provided on this form or attach your answers. A variance may only be granted if the Planning Commission finds that these six standards are met.

1. The use is so located on the site as to avoid undue noise and other nuisances and dangers.

Describe what safeguards are being provided (i.e. setbacks or buffers) to meet the condition. NOISE WILL NOT BE AN ISSUE DUE IN PART TO DINING ACTIVITIES TO BE HELD IN DOORS.

PARKING WILL BE DOWN STAIRS AND AWAY FROM STRUCTURE SO NO DANGER IS PRESENT. FIRE SPRINKLER SYSTEMS ARE IN PLACE FROM MUSEY'S OPERATION.

2. Explain how the development of the use is such that the value of the adjoining property will not be significantly impaired.

QUIET DINING ATMOSPHERE INCREASES PROPERTY VALUES WITH PROXIMITY TO FINE DINING ESTABLISHMENT. GARDENS AND LANDSCAPE WILL BE UPKEPT YEAR ROUND

3. Explain how the size and scale of the use is such that existing public services and facilities are adequate to serve the proposed use.

IT HAS BEEN A OPERATING RESTAURANT FOR 13 YEARS WITH NO CHANGE TO SEATING CAPACITY, AND SERVICES HAVE WORKED SO FAR.

4. Describe how or why the specific development scheme of the use is consistent and in harmony with the comprehensive plan and surrounding land uses.

QUIET EATING ESTABLISHMENT WILL BE ~~CONSTRUCTED~~
A BEAUTIFUL GARDEN AND STRUCTURE TO FEED
LOCALS AND TOURISTS ~~WITH~~ with LOCALLY SOURCED food

5. Explain how the granting of the conditional use will not be harmful to the public safety, health or welfare.

THERE IS DESIGNATED SAFE PARKING AREAS,
FIRE SUPPRESSION SYSTEMS ARE IN PLACE, AND
FOOD + BEVERAGES WILL BE SERVED OUT OF
A REC. APPROVED KITCHEN.
ALL STAFF WILL HAVE SAFE FOOD HANDLER'S CARDS

6. Describe the safeguards that will be provided so that the use will not significantly cause erosion, ground or surface water contamination or significant adverse alteration of fish habitat on any parcel adjacent to state-identified anadromous streams.

PLANTS/GARDENS ARE IN PLACE AS WELL AS
RETAINING WALLS TO ENSURE PROPER
SURFACE WATER MANAGEMENT

IV. FEE

A non-refundable fee of \$150 must accompany this application. Checks must be made payable to the HAINES BOROUGH.

NOTICE

Per HBC 18.50.040, Comments received from property owners impacted by the proposed development will be considered and given their due weight. Additionally, the Planning Commission may impose one or more of the following conditions:

1. Development Schedule. The conditions may place a reasonable time limit on construction activity associated with the development, or any portion thereof, to minimize construction-related disruption to traffic and neighbors, to ensure that lots are not sold prior to substantial completion of required public improvements, or to implement other requirements.
2. Use. The conditions may restrict the use of the development to specific uses indicated in the approval.
3. Owner's Association. The conditions may require that if a developer, homeowner or merchant association is necessary or desirable to hold or maintain common property, that it be created prior to occupancy.
4. Dedications. The conditions may require conveyances of title, licenses, easements or other property interests to the public, to public utilities, or to the homeowners association. The conditions may require construction of public utilities or improvements to public standards and then dedication of public facilities to serve the development and the public.
5. Construction Guarantees. The conditions may require the posting of a bond or other surety or collateral (which may provide for partial releases) to ensure satisfactory completion of all improvements required by the commission.
6. Commitment Letter. The conditions may require a letter from a utility company or public agency legally committing it to serve the development if such service is required by the commission.
7. Covenants. The conditions may require the recording of covenants or other instruments satisfactory to the borough as necessary to ensure permit compliance by future owners or occupants.
8. Design. The conditions may require the adoption of design standards specific to the use and site.

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

ATTACHMENT A

SITE PLAN REQUIREMENTS

1. Drawing showing dimensions, including elevations, of lot on which activity/construction is planned.
2. Existing streets, alleys, sidewalks, driveways, easements, including widths.
3. Existing buildings/structures on the property, their location, dimension and proximity to lot lines or other structures. (Measured from closest point on structure to other lot lines, structures, etc.)
4. Proposed construction—including location, dimensions, and proximity to lot lines or other structures. (Measured from closest point on structure to other lot lines, structures, etc.)
5. Existing and proposed non-building improvements, including surface water drainage plan, driveway placement, culvert(s), off street parking (location and dimensions), on-site water and/or wastewater handling systems.
6. Shore lines, steep slopes, or other evidence of natural hazards.
7. If zero lot line construction proposed, show plan for handling snowdrop onto adjoining properties.

It is strongly recommended that an as-built survey be performed prior to submittal of the application.

CRB 1173

HAINES BOROUGH

P.O. BOX 1209
HAINES, ALASKA 99827
Phone (907) 766-2231 • Fax (907) 766-2716

CASH RECEIPT

Date Feb. 1, 2016 024012

Received From Eric Forster

Address P.O. Box 1727, Haines

One Hundred Fifty and 00/100 Dollars \$ 150.00

For Conditional Use Permit
C-PTC-02-0500

ACCOUNT		HOW PAID	
AMT. OF ACCOUNT		CASH	
AMT PAID		CHECK	<input checked="" type="checkbox"/>
BALANCE DUE		MONEY ORDER <input type="checkbox"/>	
		CREDIT CARD <input type="checkbox"/>	

By Vathya Frenelle

ERIC P FORSTER
SHTUMPA
PO BOX 1727
HAINES, AK 99827-1727

89-6/1252

1014

DATE 02-1-2016

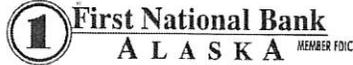
HAINES BOROUGH

\$ 150 00

PAY TO THE ORDER OF
one hundred + fifty

xx
100

DOLLARS Security Features
guaranteed
Don't let us fool you



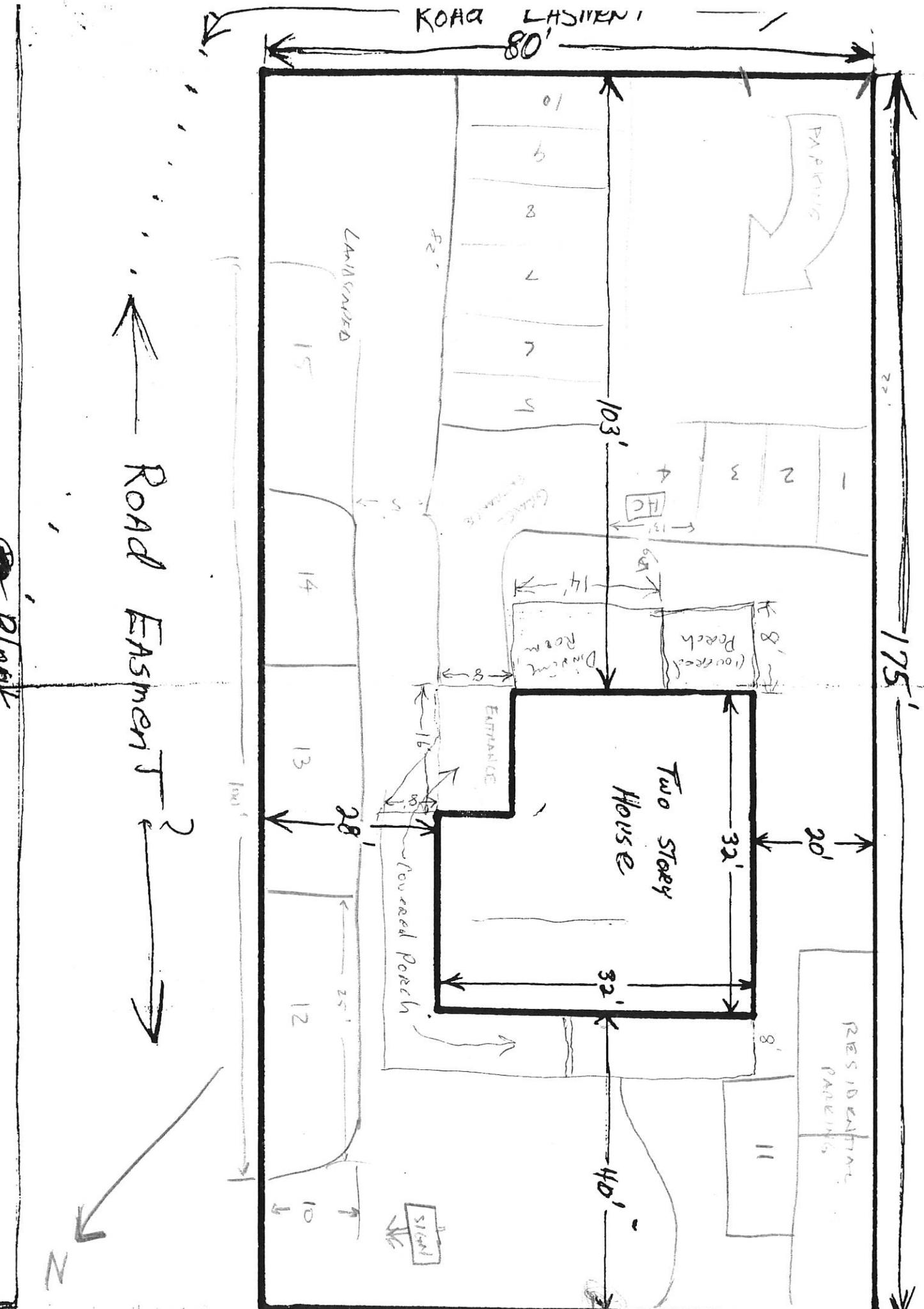
www.FNBAlaska.com

MEMO Conditional use

Eric Forster

⑆ 25200060⑆ 3102 499 5⑈ 1014

D. NANNNEY RES.



Kathy Friedle

From: Brad Ryan
Sent: Friday, February 05, 2016 10:24 AM
To: Kathy Friedle

35 Mile Heliport: Julie Cozzi and I met with the owners of the proposed 35 Mile heliport prior to their upcoming planning commission meeting. My recommendation was to apply for the conditional use permit. I agree with Mr. Sosa's previous recommendation for the Planning Commission to approve the conditional use permit.

New Restaurant: We met with the new owners of the former Mosey's Restaurant in the Fort Seward area and discussed their permit request from the Planning Commission. There is generally good support for this location to open back up as a restaurant. However, there were two concerns voiced. The first was parking, and we had a discussion about better signage and using the Chilkat Center parking. The second was the smell of compost from a former compost pile but that has been cleaned up.

Brad A. Ryan
(907) 314-0648
bryan@haines.ak.us
Haines Borough Interim Manager



HAINES BOROUGH, ALASKA
P.O. BOX 1209
HAINES, AK 99827
(907) 766-2231 ext. 22, FAX (907) 766-2716

January 28, 2016

Eric Forster
Cambria Holmes
PO Box 1727
Haines, AK 99827

Re: Conditional Use Permit Needed
C-PTC-0L-0500, Portion of Lot 5, Block L, Port Chilkoot Subdivision

Dear Mr. Forster & Ms. Holmes,

In the process of reviewing the account for the above-listed property, it has come to the attention of the Haines Borough that you will need to apply for a Conditional Use Permit if you intend to continue using the property as a restaurant. Your property is located within the Significant Structure Area (SSA) zone. Commercial use for structures from 500 to 5,000 square feet of floor area is classified as "medium commercial" businesses allowed with a conditional use permit in the SSA zone.

Based on Haines Borough Code (HBC) 18.50, conditional use permits are required, as follows:

- HBC 18.50.10 Purpose: "The conditional use process is intended to afford the commission and the community the flexibility necessary to make development approvals that are appropriate to specific sites, uses, designs and situations."

The last approved conditional use permit for a restaurant on this property has expired. Conditional use permits are usually approved for a period of three years, upon which renewal is then required.

Parking is limited to restaurant and occupant use per HBC 18.80.40. The previous conditional use permit issued was based on a maximum seating of 30 and required access easement maintenance.

I have enclosed a Conditional Use Permit Application. Please complete it with the required \$150 fee and submit it to the Haines Borough. If you have any questions, please contact the Borough.

Sincerely,

Kathryn Friedle
Administrative Assistant
Haines Borough Planning and Zoning
kfriedle@haines.ak.us
Enclosure



HAINES BOROUGH, ALASKA
P.O. BOX 1209
HAINES, AK 99827
(907) 766-2231 FAX (907) 766-2716

February 1, 2016

Re: Restaurant Conditional Use Permit Application
Eric Forster & Cambria Holmes
Lot 5, Block L, Port Chilkoot Subdivision
31 Tower Road

Dear Land Owner,

Haines Borough records show that you own property within 200 feet of the above-listed property. The property owners, Eric Forster & Cambria Holmes, have requested for the Planning Commission to approve a conditional use permit to allow the operation of a restaurant on their property.

The Haines Borough Planning Commission will hold a public hearing on the matter at the next regular Planning Commission meeting. The meeting will be held at 6:30 p.m. at the Haines Borough Assembly Chambers on Thursday, February 11, 2016. As an owner of property within 200 feet of the above-listed property you are being notified that you are invited to attend and comment at the meeting. If you have any questions on the matter please contact the Borough.

Sincerely,

A handwritten signature in cursive script that reads "Kathryn Friedle".

Kathryn Friedle
Administrative Assistant
Lands Department
kfriedle@haines.ak.us

cc: Eric Forster
Cambria Holmes

List of Property Owners Notified

J.B. & Linda Axsom
P.O. Box 1372
Haines, AK 99827

Roger Beasely
6503 Santolina Cove
Austin, TX 78731

Fred Wiley
233 Front Street
Juneau, AK 99801

Tresham Gregg
P.O. Box 776
Haines, AK 99827

Greg & Leigh Horner
P.O. Box 996
Haines, AK 99827

David Nanney
Donna Truax
P.O. Box 387
Haines, AK 99827

The Marks Trust
c/o Michael Marks
Lorraine Dudzik
P.O. Box 1101
Haines, AK 99827

Peter & Sherrie Goll
P.O. Box 261
Haines, AK 99827

Susan Nelson
Tim June
P.O. Box 672
Haines, AK 99827

Fred Shields
P.O. Box 77
Haines, AK 99827

Teresa Povey
P.O. Box 44
Haines, AK 99827

Aldeanna Stout
P.O. Box 666
Haines, AK 99827

Byron & Laura Rettinger
9090 Davenport Rd.
Woodland, MI 48897

Tim & April Ackerman
P.O. Box 733
Haines, AK 99827

Diane Light
P.O. Box 132
Haines, AK 99827

Eric Forster
Cambria Holmes
P.O. Box 1727
Haines, AK 99827

Kathy Friedle

From: Tim Ackerman [ackerman@aptalaska.net]
Sent: Thursday, February 04, 2016 1:17 PM
To: Kathy Friedle
Subject: Conditional use permit

Thank you for giving us the information on the Restaurant conditional use permit and we would like to leave a comment since I will be out of town for the planning commission meeting that is on the 11th of this month. The only concern we have is that the chipseal that was put on the road last year be maintained to keep the dust down due to the increase of traffic on soapsuds alley when they open the restaurant for business we should see at least 50 cars and trucks a day in addition to the amount of traffic from the daily users of the road that creates quite a lot of dust in and around our street. Last year we would put water on the dirt road in the early morning to keep the dust to a minimum . we welcome the new owners of the restaurant and hope they do well it is a good addition to the neighborhood. thanks for allowing us to comment. Tim n April Ackerman Soapsuds Alley. Please correct the restaurant address to Soapsuds Alley # 31 Thanks.

RECEIVED
JAN 20 2016

HAINES BOROUGH



Haines Borough

Planning and Zoning

103 Third Ave. S., Haines, Alaska, 99827

Telephone: (907) 766-2231 * Fax: (907) 766-2716

APPLICATION FOR CONDITIONAL USE PERMIT

Permit#: _____

Date: _____

Use this form for use approval by the Planning Commission for conditional uses.

I. Property Owner* Applicant		Owner's Agents (If Any)	
Name:	<i>Southern Energy Inc</i>	Name:	<i>Darrell Maple</i>
Mailing Address:	<i>P.O. Box 489, Haines, AK 99827</i>	Mailing Address:	<i>660 S Oregon St. Jacksonville, OR 97530</i>
Contact Phone: Day Night	<i>(907) 766-2899</i>	Contact Phone: Day Night	<i>(541) 261-3764</i>
Fax:	<i>(907) 766-2699</i>	Fax:	<i>N/A</i>
E-mail:	<i>northemva@ptalaska.com</i>	E-mail:	<i>Sd.kmaple@mind.net</i>

II. Property Information

Size of Property: *See attached Corp Permit*

Property Tax #: *See attached Corp Permit*

Street Address: *See attached Corp Permit*

Legal Description: Lot (s) _____ Block _____ Subdivision _____
 OR
 Parcel/Tract _____ Section _____ Township _____ Range _____

[Attach additional page if necessary.] *X See attached Corp Permit*

Zoning: Waterfront Single Residential Rural Residential Significant Structures Area
 Rural Mixed Use Multiple Residential Heavy Industrial Waterfront Industrial Commercial
 Industrial Light Commercial Recreational Mud Bay Zoning District Lutak Zoning District General Use

III. Description of Work

Type of Application (Check all that apply)	Project Description (Check all that apply)	Water Supply Existing or Proposed	Sewage Disposal Existing or Proposed
<input type="checkbox"/> Residential <input type="checkbox"/> Commercial _____ sq. ft. _____ seating capacity if eating/ drinking establishment <input type="checkbox"/> Industrial <input type="checkbox"/> Church <input checked="" type="checkbox"/> Other <i>small Hydro</i>	<input type="checkbox"/> Single Family Dwelling <input type="checkbox"/> Change of Use <input type="checkbox"/> Multi-Family Dwelling Total # of Units _____ <input type="checkbox"/> Cabin <input type="checkbox"/> Addition <input type="checkbox"/> Accessory Structure <input checked="" type="checkbox"/> Other <i>Sm. Hydro</i>	<input checked="" type="checkbox"/> None <input type="checkbox"/> Community well <input type="checkbox"/> Private well <input type="checkbox"/> Borough Water System <input checked="" type="checkbox"/> Other <i>Stream/Lake</i>	<input checked="" type="checkbox"/> None <input type="checkbox"/> Septic Tank <input type="checkbox"/> Holding Tank <input type="checkbox"/> Borough Sewer System <input type="checkbox"/> Pit Privy <input type="checkbox"/> Other _____
Valuation of Work: <i>\$4-7 million</i>			

Current use of adjacent properties: *Vacant Lands*

Attach the following documents to the permit application: *See attached Corp Permit*

Site plan (see Attachment A) showing lot lines, bearings and distances, buildings, setbacks, streets, etc.

PREAPPLICATION (Required)

Pre-application Conference Date: _____ *To be scheduled w/owner*

Prior to submission of an application, the developer shall meet with the manager for the purpose of discussing the site, the proposed development and the conditional use permit procedure. The manager shall discuss these matters with the developer with special attention to policies and approval criteria that may pose problems or constraints on the site or the proposed development activity and policies or approval criteria that may create opportunities for the developer.

APPLICATION

Please provide a written narrative explaining how your project will meet the following requirements. You may use the space provided on this form or attach your answers. A variance may only be granted if the Planning Commission finds that these six standards are met.

1. The use is so located on the site as to avoid undue noise and other nuisances and dangers.

Describe what safeguards are being provided (i.e. setbacks or buffers) to meet the condition.

See attached Army Corp of Engineers Permit

The application is to develop a small hydro with association of its component parts, (dam, transmission, penstock, powerhouse, channel)

2. Explain how the development of the use is such that the value of the adjoining property will not be significantly impaired.

See attached Army Corp of Engineers permit

No impairment of value. Availability of addition power is normally a benefit to the properties.

3. Explain how the size and scale of the use is such that existing public services and facilities are adequate to serve the proposed use.

No public Services Required

4. Describe how or why the specific development scheme of the use is consistent and in harmony with the comprehensive plan and surrounding land uses.

The use is consistent with the General Use District as already determined by the Commission when including the use in the District, by Conditional Use Permit application.

5. Explain how the granting of the conditional use will not be harmful to the public safety, health or welfare.

The provision of additional hydroelectric power will be a benefit the Haines residents by decreasing reliance on diesel generation & supplemental lower cost Hydro.

6. Describe the safeguards that will be provided so that the use will not significantly cause erosion, ground or surface water contamination or significant adverse alteration of fish habitat on any parcel adjacent to state-identified anadromous streams.

See attached approved Army Corp of Engineers Permit

IV. FEE

A non-refundable fee of \$150 must accompany this application. Checks must be made payable to the HAINES BOROUGH.

NOTICE

Per HBC 18.50.040, Comments received from property owners impacted by the proposed development will be considered and given their due weight. Additionally, the Planning Commission may impose one or more of the following conditions:

1. Development Schedule. The conditions may place a reasonable time limit on construction activity associated with the development, or any portion thereof, to minimize construction-related disruption to traffic and neighbors, to ensure that lots are not sold prior to substantial completion of required public improvements, or to implement other requirements.
2. Use. The conditions may restrict the use of the development to specific uses indicated in the approval.
3. Owner's Association. The conditions may require that if a developer, homeowner or merchant association is necessary or desirable to hold or maintain common property, that it be created prior to occupancy.
4. Dedications. The conditions may require conveyances of title, licenses, easements or other property interests to the public, to public utilities, or to the homeowners association. The conditions may require construction of public utilities or improvements to public standards and then dedication of public facilities to serve the development and the public.
5. Construction Guarantees. The conditions may require the posting of a bond or other surety or collateral (which may provide for partial releases) to ensure satisfactory completion of all improvements required by the commission.
6. Commitment Letter. The conditions may require a letter from a utility company or public agency legally committing it to serve the development if such service is required by the commission.
7. Covenants. The conditions may require the recording of covenants or other instruments satisfactory to the borough as necessary to ensure permit compliance by future owners or occupants.
8. Design. The conditions may require the adoption of design standards specific to the use and site.

V. CERTIFICATION

I hereby certify that I am the owner or duly authorized owner's agent, that I have read this application and that all information is correct. I further certify that I have read, understand and will comply with all of the provisions and permit requirements outlined hereon. I also certify that the site plan submitted is a complete and accurate plan showing any and all existing and proposed structures on the subject property and that the use will comply with all required conditions and specifications, will be located where proposed and when developed, will be operated according to the plan as submitted. All contract work on this project will be done by a contractor holding valid licenses issued by the State of Alaska and the Haines Borough. **I am aware that if I begin construction prior to receiving permit approval, I will be assessed a \$250.00 "After-the-Fact" fee.**

Waneel Maple
 Owner of Agent

1/11/2016
 Date

PROVISIONS: The applicant is advised that issuance of this permit will not relieve responsibility of the owner or owner's agents to comply with the provisions of all laws and ordinances, including federal, state and local jurisdictions, which regulate construction and performance of construction, or with any private deed restrictions.

Office Use Only Below This Line

<input type="checkbox"/> Applicant Notified Application is Complete and Accepted _____ <small>(Date) (Notified via) (Initials)</small>					
Non-Refundable Permit Fee \$ <u>150.00</u> Receipt No. <u>024147</u> Received By: <u>Tolsen</u> Date: <u>1.20.16</u>			Information/Documentation Req'd Rec'd <input type="checkbox"/> <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> <input type="checkbox"/> State DEC <input type="checkbox"/> <input type="checkbox"/> Variance/Conditional Use Permit <input type="checkbox"/> <input type="checkbox"/> Sign Permit		
Zoning	Bldg. Height	Lot Coverage %	Const. Type	Occupancy	# Stories
This application meets all applicable Borough policies and a permit is issued, conditional on the substantial completion of construction within two years and the following special requirements:					
Planning Commission Chair:			Date:		

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

RECEIVED
JAN 20 2016
HAINES BOROUGH

Southern Energy Inc.
P.O. Box 489
Haines, Alaska 99827
(541) 766-2899
Email: northern@aptalaska.net

January 11, 2016
Xi Cui, "Tracy"
Haines Borough Planning Dept.
P.O. Box 1209
Haines, Alaska 99827

Re: Conditional Use Permit Application
Walker Lake Hydro

Dear Tracy,

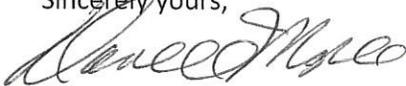
Enclosed please find the original "Conditional Use" permit application for Walker Lake Hydro. Our staff will drop by the \$150 permit fee this week. If you would kindly schedule any required pre-application conference directly with John Floreske Jr. at (907) 766-2899 it would be appreciated.

We forwarded to you as an attachment by email the approved Army Corp Permit for this project which should be more than sufficient to supplement the application questions and to provide the "Attachment A" site plan submittal.

If you could also coordinate with John directly the timing of the scheduling for the Planning Commissions hearing on the application for perhaps the February or March meeting it would be best to ensure he will be able to attend.

I will be out of office until February 14th but on return will check in with you and for any emails you may have sent. In the meantime, if you have any questions do contact John directly or Melissa at the office in Haines as they will more than likely be able to assist you.

Sincerely yours,



Darrell Maple, agent for
John Floreske Jr.
Southern Energy Inc.
(541) 261-3764
Email: sdkmaple@mind.net

Darrell Maple

From: Darrell Maple <sdkmaple@mind.net>
Sent: Monday, January 11, 2016 8:41 AM
To: 'xcui@haines.ak.us'
Subject: FW: POA-2012-311_Walker Lake, 2nd Trans - construct Walker Lake Hydroelectric Project - Haines, AK (UNCLASSIFIED)
Attachments: POA-2012-311_Walker Lake, 2nd Trans.pdf

-----Original Message-----

From: Darrell Maple [<mailto:sdkmaple@mind.net>]
Sent: Monday, January 11, 2016 8:14 AM
To: 'xcui@haines.ak.us.'
Cc: 'dolsen@haines.ak.us.'; Northern Construction (northern@aptalaska.net)
Subject: FW: POA-2012-311_Walker Lake, 2nd Trans - construct Walker Lake Hydroelectric Project - Haines, AK (UNCLASSIFIED)

Hi Tracy!

This is Darrell Maple with Southern Energy Inc. in Haines. Attached please find the original signed Army Corp of Engineers Permit with all the associated drawings for your use in reviewing our Conditional Use Permit Application for Walker Lake Hydro. I am preparing the original permit now and will mail it to signed as the agent for John Floreske Jr. I am requesting John to have his staff there prepare a check to drop by to cover the conditional use permit fee. I am going to be gone from January 11th, (today) thru February 14th, 2016 out of the U.S. If you have any questions please contact John there in his office at 766-2899. Once you have determined the application to be sufficient if you would check with John on when he would like to have it go before the Planning Commission it would be appreciated. May be the February or March meeting depending upon your agenda requirements and want to be certain he will be in town to attend to answer questions. Melissa there in the office usually will have any additional documents that you may need in my absence so please contact her.

I have copied Dean Olsen to keep him informed on your staff as well but I did not copy Rob Golberg as didn't know if he was still Chairman of Planning. In the past we kept him in the loop as well as the Mayor but we were directed to send all communications directly thru you once we made the application.

Thanks! Darrell Maple for John Floreske Jr., Southern Energy Inc.



HAINES BOROUGH, ALASKA
P.O. BOX 1209
HAINES, AK 99827
(907) 766-2231 FAX (907) 766-2716

February 1, 2016

Re: Walker Lake Hydroelectric Project P-1436-000
Sections 27 & 34, T28S, R55E; Sections 1-3, T29S, R55E
Section 6, T29S, R56E, Copper River Meridian
USGS Quad Map Skagway B-4

Dear Land Owner,

Haines Borough records show that you own property within 200 feet of the above-listed property. The project developer, John Floreske, has requested for the Planning Commission to approve a conditional use permit to allow the construction of a hydroelectric power generator at Walker Lake.

The Haines Borough Planning Commission will hold a public hearing on the matter at the next regular Planning Commission meeting. The meeting will be held at 6:30 p.m. at the Haines Borough Assembly Chambers on Thursday, February 11, 2016. As an owner of property within 200 feet of the above-listed property you are being notified that you are invited to attend and comment at the meeting. If you have any questions on the matter please contact the Borough.

Sincerely,

A handwritten signature in blue ink that reads "Kathryn Friedle".

Kathryn Friedle
Administrative Assistant
Lands Department
kfriedle@haines.ak.us

cc: John Floreske

List of Property Owners Notified

State of Alaska Land

State of Alaska
Dept of Natural Resources
Mining Land & Water
Realty Services Section
550 W 7th Avenue Suite 1050A
Anchorage Alaska 99501

State of Alaska
Dept of Natural Resources
Mining Land & Water
South East Regional Office
PO Box 111020
Juneau Alaska 99811-1020

UA Land Management
1815 Bragaw Street Suite 101
Anchorage, AK 99508-3438

Southern Energy Inc.

P.O. Box 489; Mile 1.5 Haines Highway
Haines, Alaska 99827

Tele #: (907) 766-2899; Fax #: (907) 766-2699

E-Mail Address: northern@aptalaska.net

January 15, 2015

Secretary

Federal Energy Regulatory Commission

888 First Street, NE. (PJ-12.2)

Washington, D.C. 20426

Via: E-file Transmittal

Re: Walker Lake Hydroelectric Project P-14346-000

Declaration of Intention: Walker Lake Hydroelectric Project P-1436-000
Request for Determination of Non Jurisdiction

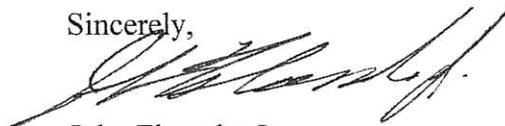
Dear Sir,

Enclosed please find an original e-filed transmittal of the Declaration of Intention for the Walker Lake Hydroelectric Project. We ask for your review and consideration that the project be declared non-jurisdictional. We base our request upon our findings that this is a non-Federal project which:

1. **Is not** located on navigable waters of the United States.
2. **Does not** occupy public lands or reservations of the United States.
3. **Does not** utilize surplus water or waterpower from a Federal dam.
4. **Is not** located on a body of water over which Congress has Commerce Clause jurisdiction nor does the project affect the interests of interstate or Foreign commerce.

Thank you for your attention in this matter.

Sincerely,



John Floreske Jr.
President
Southern Energy Inc.

Southern Energy Inc.

P.O. Box 489; Mile 1.5 Haines Highway

Haines, Alaska 99827

Tele #: (907) 766-2899; Fax #: (907) 766-2699

E-Mail Address: northern@aptalaska.net

Declaration of Intention

Walker Lake Hydroelectric

Project P -14346-000

“Request for Non-Jurisdictional Determination”

Submitted to

Federal Energy Regulatory Commission

January 15, 2015

**Declaration of Intention
Walker Lake Hydroelectric
Project P -14346-000
“Request for Non-Jurisdictional Determination”**

The location of the project:

State: Alaska
 Town: Haines
 Street: not applicable (remote hydro site)
 County: Haines Borough
 Stream: Walker Lake/Walker Stream
 River Basin Name: Little Salmon River
 Township, Range, Section, and Meridian:

<u>Township</u>	<u>Range</u>	<u>Sections</u>	
28 S	54 E	36	S 1/2
28 S	55 E	26	SE ¼ of the S 1/2
28 S	55 E	27	S 1/2
28 S	55 E	33	SW 1/4 of the S 1/2
28 S	55 E	34	
29 S	55 E	1	N 1/2 of the S 1/2
29 S	55 E	1	N 1/2
29 S	55 E	2	N 1/2
29 S	55 E	3	N 1/2
29 S	55 E	4	N 1/2
29 S	56 E	6	NE 1/4 of the N 1/2

The exact name, business address, telephone number, FAX number, and E-Mail address of the applicant are:

**Southern Energy Inc.
 John Floreske Jr., President
 P.O. Box 489; Mile 1.5 Haines Highway
 Haines, Alaska 99827
 Tele #: (907) 766-2899; Fax #: (907) 766-2699
 E-Mail Address: northern@aptalaska.net**

**Declaration of Intention
Walker Lake Hydroelectric
Project P -14346-000
“Request for Non-Jurisdictional Determination”**

The exact name, business address, telephone number, FAX number, and E-Mail address of the person authorized to act as agent for the applicant is:

**Lynn Canal Professional Services
Darrell Maple, President
660 S. Oregon Street
Jacksonville, Oregon
Tele #: (541) 702-2190; Cell #: (541) 261-3764
Email Address: sdkmaple@mind.net
No Fax.**

The exact name, business address, telephone number, FAX number, and E-Mail address of the local electric utility company is:

**Inside Passage Electric Cooperative
P.O. Box 210149
Auke Bay, Alaska 99821
Tele #: (907) 789-3196
Fax #: (907) 790-8517
Email: jmitchell@alaska.com**

**Alaska Power and Telephone
P.O. Box 30
Haines, Alaska 99827
Tele #: (907) 766-6500
Fax #: (907) 766-6505
Email#: haines@aptalaska.com**

DESCRIPTION OF THE PROPOSED PROJECT

Project Area

Walker Lake is located at the head of Lynn Canal in Southeast Alaska, approximately 30 miles inland up the Chilkat side of the peninsula separating the Chilkoot and Chilkat Rivers. It is within the Haines Borough and near the City of Haines and Chilkat Indian Village. The existing lake is at elevation 1180' (MSL) and drains into Walker Creek and the Little Salmon River.

The following information is based on a preliminary assessment of the project and represents the highest and best use of the project site for the anticipated demand.

**Declaration of Intention
Walker Lake Hydroelectric
Project P -14346-000
“Request for Non-Jurisdictional Determination”**

Project Description cont.

1. **Number, physical composition, dimensions, general configuration and, where applicable, age and condition, or any dams, spillways, penstocks, powerhouses, tailraces, or other structures, as presently envisioned.**

- a. **Dam, Intake and Spillway.**

The project includes the construction of two small dams on Walker Lake to provide extra storage for power plant operation. Storage would be required to meet peak loads, especially in the winter time. The two dams and outlet structure, (including trash racks), would be located at the extreme southeast tip of Walker Lake. The dams will be of rock fill construction, approximately 15' in width at the crest. If insufficient suitable impervious material can be found on site then the dam may alternatively have a membrane or concrete lining on the upstream face. The lake surface elevation will rise from 1180 feet (MSL) to 1195 feet (MSL). The estimated crest length of the two dams will be approximately 250' long and 325' long, respectively and will have base lengths of 150' & 225'. The dams would increase the surface area size of the lake from 160 acres to 180 acres and provide for an active storage capacity of 4300 acre-feet between elevations 1170' and 1195'. The reservoir would be drawn down in the winter and early spring, and refill in the late spring and early summer. The intake will be located at an estimated elevation of 1170' (MSL). The spillway will be constructed of concrete and include a diversion channel for controlled releases to the creek. Intake and reservoir outlet works to control reservoir releases, will be free-standing concrete structures diverting flow into the penstock.

- b. **Penstock.**

A 24" penstock would run the entire length from the outlet at the intake on the dams, converging together into one penstock following the relatively flat section on the upper ridge above Walker Creek, and then arriving at the ridge where the penstock will drop, (along a 50 to 80% grade), to the powerhouse, adjacent to the Little Salmon River, a total distance of approximately 12,000 feet. The penstock will be buried and located within a cleared corridor about 50' to 100' wide for approximately 10,000 lineal feet of the total, and will be above ground approximately 1000 to 2,000 lineal feet.

**Declaration of Intention
Walker Lake Hydroelectric
Project P -14346-000
“Request for Non-Jurisdictional Determination”**

Project Description cont.

b. Penstock.

Portions of the penstock where it drops down the steep slope to the powerhouse will be exposed. The penstock will also be buried where the access road and terrain permit adjacent to the Powerhouse area.

c. Powerhouse.

The powerhouse would be a prefabricated- 26' foot by 38' foot wood framed metal sided building, located on the North bank of the Little Salmon River, just upstream from the present bridge, at approximately 400' in elevation. The powerhouse will be on a reinforced concrete foundation. The powerhouse will contain one generating unit with an installed capacity of 1 MW. Hydraulic capacity will be approximately 18 cfs, with an estimated 780' of head (net). The power house site may need crushed rock fill to support the concrete foundation as well as maintenance vehicles and pad mounted transformers. The power house will contain the main control board, supervisory equipment, turbine, generator, and provisions for remote control/switching.

d. Tailrace.

The tailrace will be a conduit and rip rap lined excavated channel extending about 50 feet from the power house to the Little Salmon River.

e. Access.

An existing logging road of approximately 3.1 miles in length would need to have major rehabilitation. Additionally, another 6 miles of existing logging roads would require minor rehabilitation. A new access road of 1.0 miles in total length may be necessary to construct to access the dam and intake structures. Several culvert installations may be required. Access during construction and periods of operation will also be necessary by helicopter.

**Declaration of Intention
Walker Lake Hydroelectric
Project P -14346-000
“Request for Non-Jurisdictional Determination”**

Project Description cont.

2. **The estimated number, surface area, storage capacity, and normal maximum surface elevation (mean sea level) of any reservoirs, whether existing or proposed, that would be part of the project.**

One reservoir will be created by the dams at the outlet of Walker Lake. The dams will raise the normal maximum surface elevation of the lake from approximately 1180' MSL to 1195' MSL and increase the surface area from 160 acres to 180 acres. Storage capacity of the lake will be increased from 5600 acre- feet to 8300 acre-feet. The useable/active storage capacity will be 4300 acre-feet. These elevations and acre feet datum are all subject to further field study.

3. **The estimated number, length, voltage, interconnections, and, where applicable, age and condition of any primary transmission lines whether exiting or proposed, that would be part of the project.**

A 4 mile long, 12.5 KV transmission line would interconnect with Inside Passage Electric Cooperatives existing 12.5 KV transmission system at the intersection of Porcupine Road and Chilkat Lake Road near the Klehini River Bridge. The applicant intends to construct all of the transmission line underground.

4. **The total estimated average annual energy production and installed capacity, the hydraulic head for estimating capacity and energy output, and the estimated number, rated capacity, and where applicable, the age and condition of any turbines and generators, whether existing or proposed, that would be part of the project works.**

Estimated average annual energy production.....	3615 MWH
Estimated installed capacity.....	1 MW
Estimated average hydraulic head.....	780 feet
Hydraulic capacity.....	18.0 cfs
Number of generating units.....	one

**Declaration of Intention
Walker Lake Hydroelectric
Project P -14346-000
“Request for Non-Jurisdictional Determination”**

Project Description cont.

5. Lands of the United States.

This project rests entirely on State Lands. Southern Energy Inc. has filed all necessary easement and right of way applications with the various State of Alaska entities. We have obtained first to file rights on all the lands required for the project.

General Comments.

1. FERC may want to review our Preliminary Permit Application P #14346-000 for complete detail.
2. See attached Army Corp approved permit # POA -2012-311 Walker Lake, issued February 12th, 2013 to our company, Southern Energy Inc. which provides extensive detail and mapping.

Jurisdictional Analysis.

1. Navigability of the stream, including current and historical uses.

There are no navigable streams.

2. Land Status (private, State owned, Federally owned)

All lands are State of Alaska lands.

3. State whether the project will use surplus water or waterpower from a Government Dam:

No surplus water or waterpower will be used from a government dam.

**Declaration of Intention
Walker Lake Hydroelectric
Project P -14346-000
“Request for Non-Jurisdictional Determination”**

Jurisdictional Analysis cont.

4. Affects Interstate Commerce:

The project does not affect Interstate Commerce. The power is not connected to any power grid that supplies power out of the local area or the State.

5. State which power company the project will be connected to and include dates of construction or modifications to the project (if existing), any increase in generation and dates of such increases, if applicable.

The project will be interconnected to the Inside Passage Electric Cooperative distribution system and may also serve the Alaska Power and Telephone Company utility thru “wheeling”. The power may also be provided to “independent” consumers as may be authorized by the Regulatory Commission of Alaska as a non-utility independent power generator if necessary.

Draft Construction Schedule

Task Description	2013	2014	2015	2016	2017
Project Permitting COE/ADFG/Other	XXXXXXXXXXXXXXXXXXXX	XXXXXXXXXXXXXXXXXXXX	xxx		
Weir Analysis/Data Collection	XXXXXXXXXXXXXXXXXXXX	XXXXXXXXXXXXXXXXXXXX	xxxxxx		
Preliminary Survey/Clear & Grub	xxxxxxx	Xxxxxxxx	xxxxxxx		
Completion of ADNR Entry Permits	XXXXXXXXXXXXXXXXXXXX	XXXXXXXXXXXXXXXXXX	XXXXXXXXXXXXXXXXXXXX		
Dam Construction	xxxxxxx	Xxxxxxxx	xxxxxxx		
Penstock Construction	xxxxxxx	Xxxxxxxx	XXXXXXXXXXXX		
Hydroplant Construction	xxxxxxx	Xxxxxxxx	XXXXXXXXXXXX		
Salmon Enhancement Channel		Xxxxxxxx			
Underground Transmission Line Const.			XXXXXXXXXXXX		
Electrical Interconnect			xxxxxx		
5 Year Monitoring Program			XXXXXXXXXXXXXXXXXXXX x	XXXXXXXXXXXXXXXXXXXX x	XXXXXXXXXXXXXXXXXXXX -->

**Declaration of Intention
Walker Lake Hydroelectric
Project P -14346-000
“Request for Non-Jurisdictional Determination”**

Stream/River Profile & Stream flow records.

1. Show a profile of the stream/lake within the vicinity of the project.

See Southern Energy Inc.’s FERC Preliminary Permit Project drawings P- 14346-000 also see the attached referenced Army Corp Permit # POA – 2012-311 for detailed project drawings.

2. Provide references to stream flow records. Please see the following two project streamflow data reports for appropriate data:

- a.) Public –data File 90-14. Summary of Streamflow Data for the Little Salmon River and Walker Lake Creek, Skagway B-3 and B-4 Quadrangles, Alaska. By Stan Carrick and Roy Ireland, Alaska Division of Geological and Geophysical Surveys. March 1990.

- b.) Reconnaissance Level Feasibility Study. Walker Lake Hydropower Project near Klukwan, Alaska. Prepared for the Alaska Power Authority. By: Ott Water Engineers. June 1988. A1132.01

Attach the following maps:

1. A general map showing the stream or streams to be utilized and the approximate location, (showing the nearest town or city) and the general plan of the project.

See Southern Energy Inc.’s FERC Preliminary Permit Project drawings P- 14346-000 and the attached referenced Army Corp Permit # POA – 2012-311.

2. A detailed map of the proposed or existing project, including the reservoir, intake or dam, penstocks, powerhouse, and primary transmission lines. Show all Federal lands, and lands owned by States, if any occupied by the project.

See Southern Energy Inc.’s FERC Preliminary Permit Project drawings P- 14346-000 and the attached referenced Army Corp Permit # POA – 2012-311.

UNITED STATES OF AMERICA
FEDERAL REGULATORY COMMISSION

Southern Energy Inc. P-14346-000 Walker Lake Hydro

Certificate of Service

I hereby certify that I have this 15th day of January, 2015 served a copy of Southern Energy Inc's Declaration of Intent to request the Walker Lake Hydroelectric Project be declared non-jurisdictional upon each person listed below by regular U.S. Mail.

Dated at Haines, Alaska, this 15th day of January, 2015.



John Floreske Jr.
President,
Southern Energy Inc.
P.O. Box 489
Haines, Alaska 99827
Tele #: (907) 766-2899; Fax #: (907) 766-2699

Service To:

Richard George, Chairman
Tlingit Haida Regional Electric Authority
Management
P.O. Box 210149
Auke Bay, Alaska 99821

Division of Alaska Land (AK963)
Bureau of Land
222 W. 7th Avenue, Stop 13
Anchorage, AK 99513-7504

NOAA Fisheries
Alaska Regional Office
P.O. Box 21668
709 W. 9th Street
Juneau, Alaska 99802-1168



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, ALASKA
REGULATORY DIVISION
P.O. BOX 6898, CEPOA-RD
JBER, ALASKA 99506-0898

FEB 12 2013

Regulatory Division
POA-2012-311

Mr. John Floreske
Southern Energy, Incorporated
Post Office Box 489
Haines, Alaska 99827

Dear Mr. Floreske:

Enclosed is the signed Department of the Army permit, file number POA-2012-311, Walker Lake, authorizing the discharge of fill into waters of the U.S., including wetlands, to construct the Walker Lake Hydroelectric Project. The project site is located within Sections 27 and 34 of T. 28 S., R. 55 E., Sections 1, 2, and 3 of T. 29 S., R. 55 E., and Section 6 of T. 29 S., R. 56 E., Copper River Meridian; USGS Quad Map Skagway B-4; Latitude 59.3927° N., Longitude 136.1438° W.; in Haines, Alaska. Also enclosed is a Notice of Authorization which should be posted in a prominent location near the authorized work.

If changes to the plans or location of the work are necessary for any reason, plans must be submitted to us immediately. Federal law requires approval of any changes before construction begins.

Nothing in this letter excuses you from compliance with other Federal, State, or local statutes, ordinances, or regulations.

Please contact me via email at Shannon.R.Morgan@usace.army.mil, by mail at the address above, by phone at (907) 753-5556, or toll free from within Alaska at (800) 478-2712, if you have questions.

Sincerely,

A handwritten signature in cursive script that reads "Shannon Morgan".

Shannon Morgan
Team Leader, South Section

Enclosures



**This notice of authorization must be
conspicuously displayed at the site of work.**

United States Army Corps of Engineers
WALKER LAKE

A permit to: PLACE FILL MATERIAL IN 0.61 ACRE OF WATERS OF
THE U.S. TO CONSTRUCT THE WALKER LAKE HYDROELECTRIC
PROJECT

at: WALKER LAKE, NEAR HAINES, ALASKA; LATITUDE 59.3927°
N., LONGITUDE 136.1438° W.

has been issued to: SOUTHERN ENERGY, INCORPORATED

on: FEB 12 2013 and expires on: _____

Address of Permittee: PO BOX 489, HAINES, AK 99827

Permit Number:

POA-2012-311

FOR: *Shannon Morgan*
District Commander
SHANNON MORGAN
TEAM LEADER, SOUTH
REGULATORY DIVISION

DEPARTMENT OF THE ARMY PERMIT

Permittee: Southern Energy, Incorporated

Permit No.: POA-2012-311, Walker Lake

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

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

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

Project Description: Discharge a total of 12,994 cubic yards of fill material permanently into 0.46-acre of waters of the U.S., including wetlands, and 155 cubic yards of native material temporarily into 0.15-acre of wetlands in order to construct two dams and bury a penstock for the Walker Lake Hydroelectric Project.

All work will be performed in accordance with the attached plan, sheets 1-4, dated **June 8, 2012**.

Project Location: Sections 27 and 34 of T. 28 S., R. 55 E., Sections 1, 2, and 3 of T. 29 S., R. 55 E., and Section 6 of T. 29 S., R. 56 E., Copper River Meridian; USGS Quad Map Skagway B-4; Latitude 59.3927° N., Longitude 136.1438° W.; in Haines, Alaska.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on **January 31, 2018**. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
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. Project boundaries shall be clearly identified in the field by stakes or flagging. Sediment and erosion control measures (e.g., silt fencing) shall be installed prior to site clearing and construction to ensure avoidance of impacts to waters of the U.S., including wetlands, beyond the project footprint. In no case may disturbance extend beyond the identified fill footprint.
2. Fill material shall consist of clean fill, free of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.), and free of toxic pollutants.
3. Project construction shall not be located within one-quarter mile of an eagle nest site unless the U.S. Fish and Wildlife Service has determined that the activity will not adversely impact eagles. The permittee has additional responsibilities to protect eagles under the provisions of the Bald and Golden Eagle Protection Act (16 U.S.C. 668a-d).
4. Prior to beginning construction activities each day, all vehicles and equipment shall be inspected for any fluid leaks. If leaks are found, that equipment shall not be operated in wetlands or other waters of the U.S. until the leak is repaired. No vehicles or equipment shall be fueled, serviced, or stored within wetlands.
5. Invasive plant species shall be removed and/or controlled while encouraging the establishment of native vegetation via seeding or planting in areas disturbed by project construction.
6. As compensatory mitigation for the permanent loss of 0.46-acre of wetlands and other waters of the U.S., the permittee shall construct a salmon habitat enhancement channel connected to the Little Salmon River, in accordance with the attached approved compensatory mitigation plan. In accordance with this plan, the permittee shall submit to the Corps (U.S. Army Corps of Engineers, Regulatory Division, CEPOA-RD, P.O. Box 6898, JBER, Alaska 99506-0898) annual monitoring reports for a minimum of five (5) years/

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.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:
 - (X) Section 404 of the Clean Water Act (33 U.S.C. 1344).
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.

[Handwritten Signature] Pres.
(PERMITTEE) AND TITLE

1/17/13
(DATE)

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

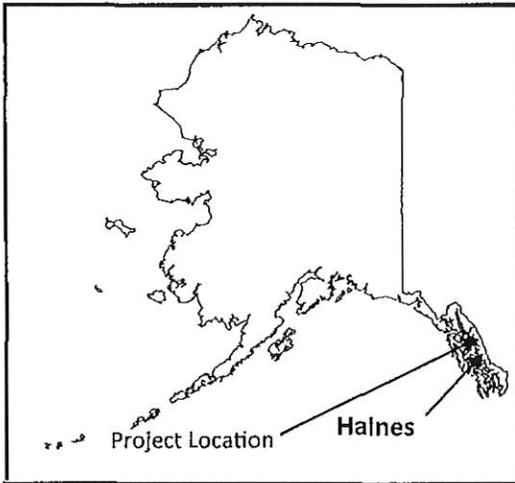
Shannon Morgan
FOR (DISTRICT COMMANDER)
Colonel Christopher D. Lestochi
Shannon Morgan, Team Leader
South Branch, Regulatory Division

11 February 2013
(DATE)

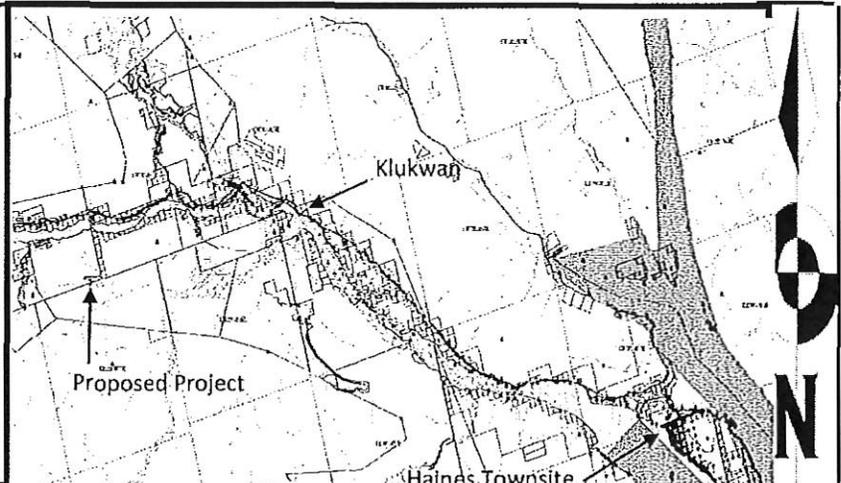
When the structures or work authorized by this permit are still in existence at the time the property is transferred the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated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

(TRANSFEREE)

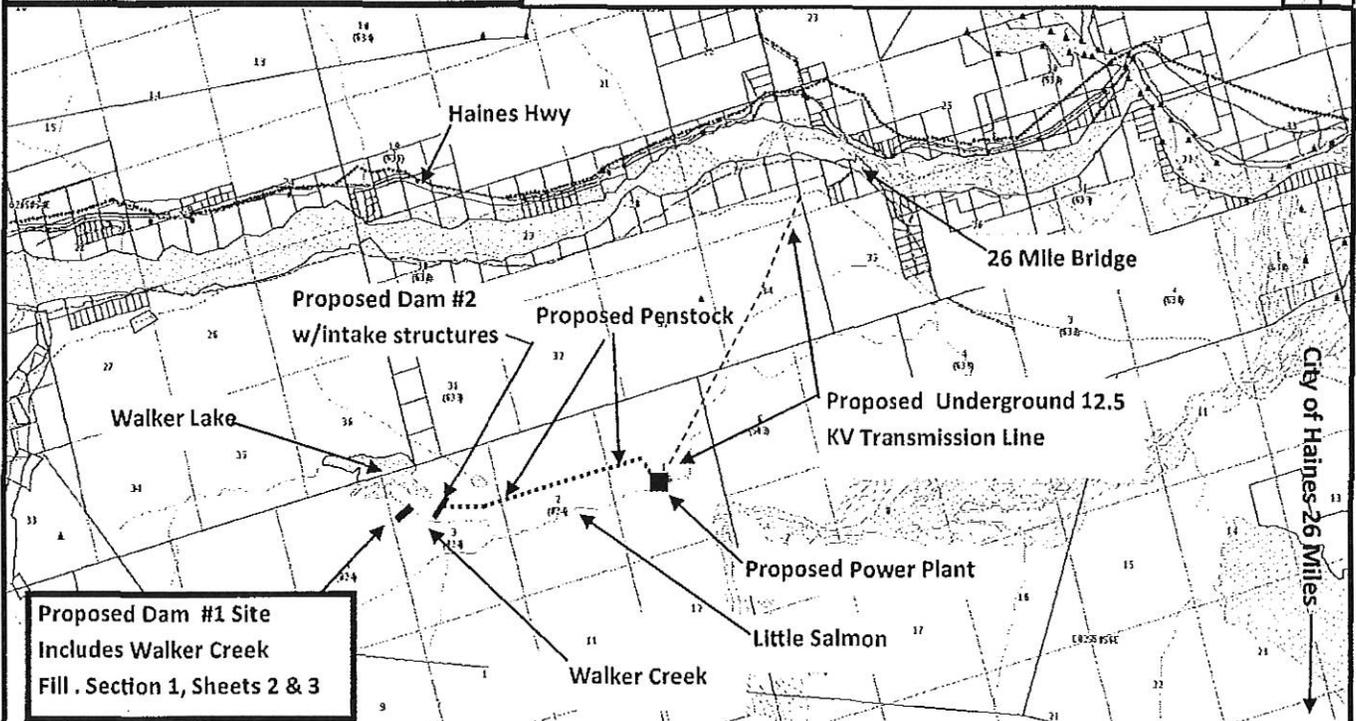
(DATE)



State of Alaska Location Map



Vicinity Map



PROJECT LOCATION MAP / PLAN VIEW

Proposed Activity: Walker Lake Hydroelectric Project - FERC Preliminary Permit # P- 14346

PERMIT DRAWINGS FOR

U.S. ARMY CORP OF ENGINEERS POA-2012-311

Prepared By: Southern Energy Inc. , Applicant
 P.O. Box 489, Haines, AK 99827
 (907) 766-2899

Range: 55E; CRM; TWP: 29S; Sec. 3
 Lat: N 59°23'34.0"; Long.: W 136°8'38.0"

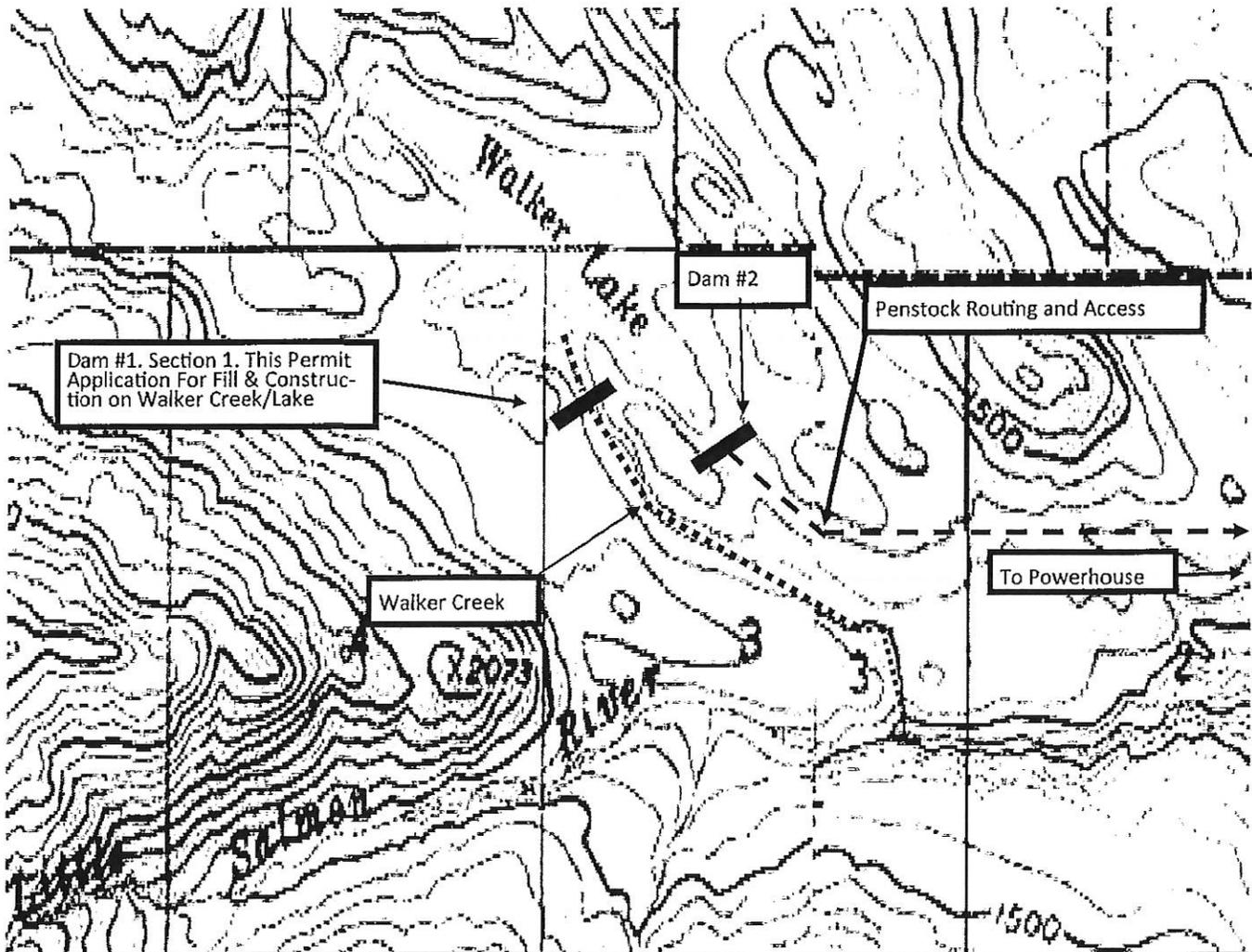
Date: April 16th, 2012

Project Land Ownership: Entirely upon St. of AK.

Scale: 1" = 1 Mile

Waterway: Walker Lake/Walker Stream

Figure: 1 of 4 Date: June 5, 2012



Dam #1 . Section 1. Detailed Proposed Dam Construction/Fill Information. Dam #1 is located about 100' downstream of Walker Lake and crosses perpendicular to Walker Stream. The dam is 60' wide at the base x 250' long. It is 25' high going from MSL of 1170' to MSL of 1195'. The current OHW mark is 1180' and will rise to 1195'. The fill will be of impervious dirt and rock fill with a membrane option if materials dictate. Walker Stream is an average of 15' wide with steep slopes at the dam crossing and is intermittent at 18 cfs. The fill in the waters of the U.S. ,(Walker Creek) , is 60'x 15' x 25' for a total of 833 cyds within a footprint of 900 sq. ft. (.02 acres). Total fill for Dam #1 is 10,996 cyds. The dam is 150' long on the base and 250' long at the crest. The crest is 15' in width. The project supplies 1 megawatt of power to the Inside Passage Electric Cooperative grid at 26 mile Haines Hwy.

FILL SECTION 1 (A). Dam Construction/Fill: Plan View

Proposed Activity: Walker Lake Hydroelectric Project - FERC Preliminary Permit # P- 14346

PERMIT DRAWINGS FOR

U.S. ARMY CORP OF ENGINEERS POA-2012-311

Prepared By: Southern Energy Inc. , Applicant
P.O. Box 489, Haines, AK 99827
(907) 766-2899

Date: April 16th, 2012

Scale: 1" = 1/2 Mile

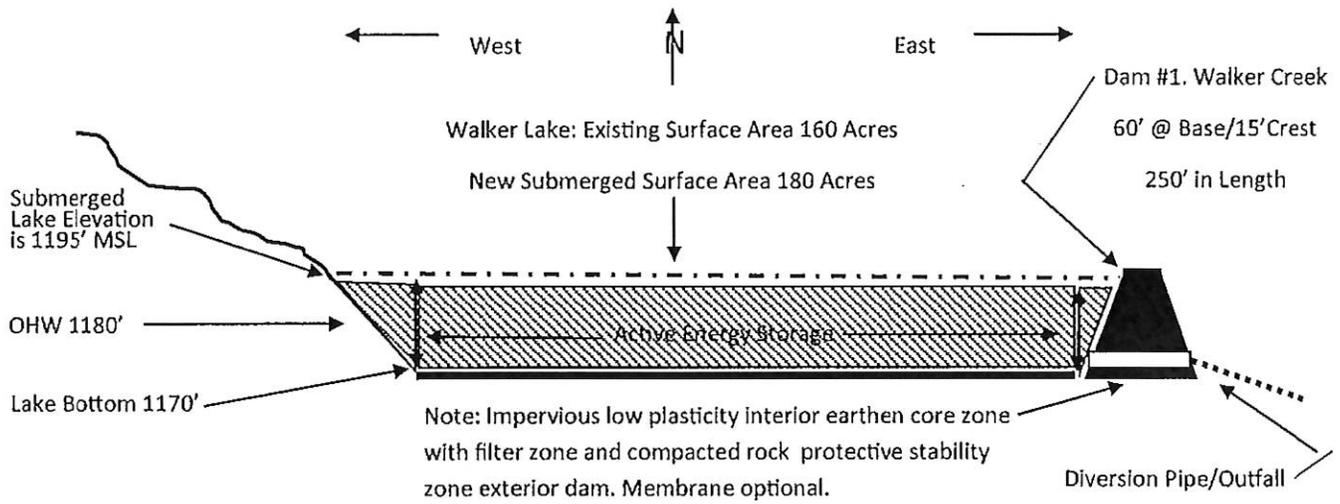
Range: 55E; CRM; TWP: 29S; Sec. 3

Lat: N 59°23'34.0"; Long.: W 136°8'38.0"

Project Land Ownership: Entirely upon St. of AK.

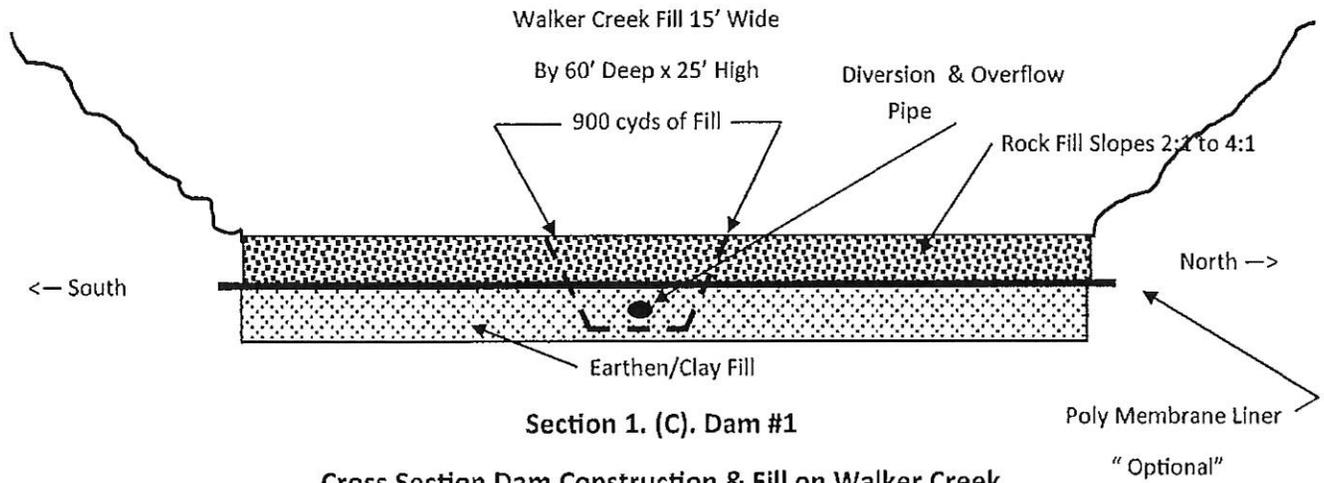
Waterway: Walker Lake/Walker Stream

Figure: 2 of 4 Date: June 5, 2012



Section 1. (B). Dam #1

Elevation View/Cross Section Dam Construction & Fill on Walker Lake/Creek



Section 1. (C). Dam #1

Cross Section Dam Construction & Fill on Walker Creek

FILL SECTION 1. Dam Construction: Elevation and Sectional View

Proposed Activity: Walker Lake Hydroelectric Project - FERC Preliminary Permit # P- 14346

PERMIT DRAWINGS FOR

U.S. ARMY CORP OF ENGINEERS POA-2012-311

Prepared By: Southern Energy Inc. , Applicant
 P.O. Box 489, Haines, AK 99827
 (907) 766-2899

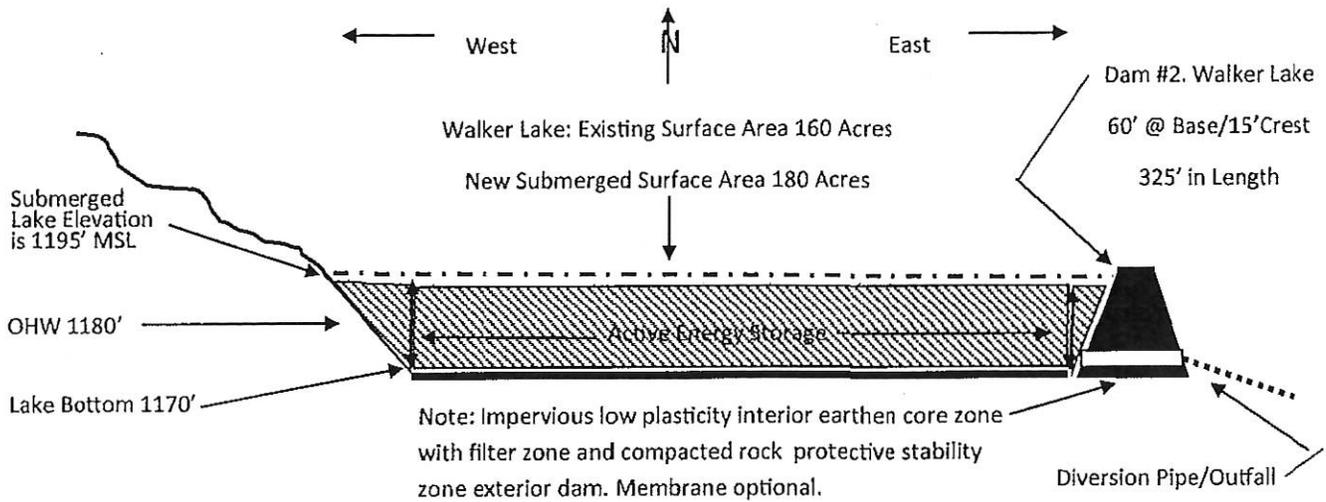
Range: 55E; CRM; TWP: 29S; Sec. 3
 Lat: N 59°23'34.0"; Long.: W 136°8'38.0"
 Project Land Ownership: Entirely upon St. of AK.

Date: April 16th, 2012

Waterway: Walker Lake/Walker Stream

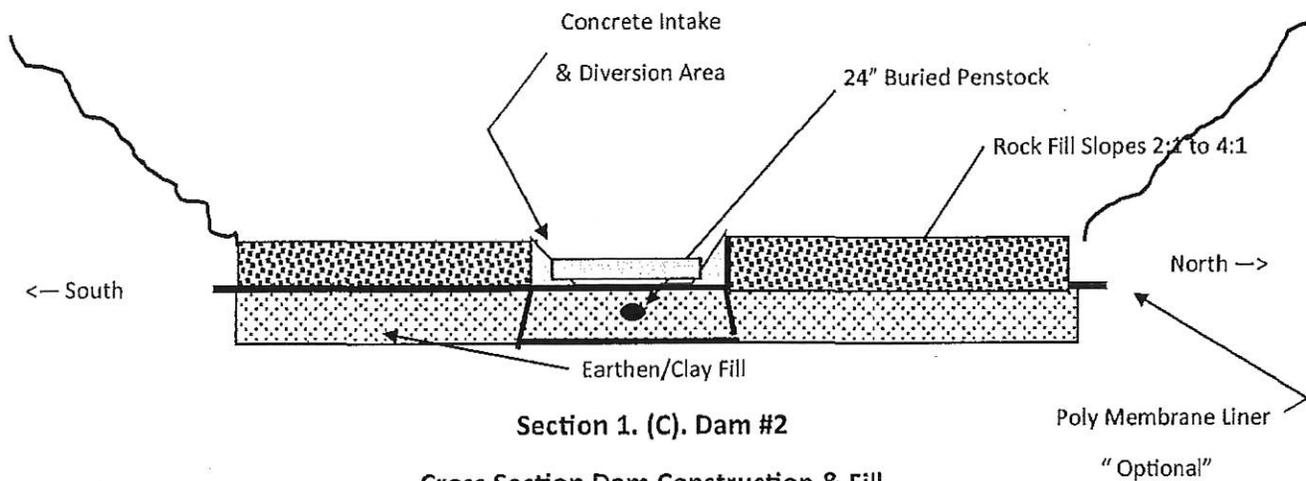
Scale: 1" = 1 Mile

Figure: 3 of 4 Date: June 5, 2012



Section 1. (B). Dam #2

Elevation View/Cross Section Dam Construction & Fill



Section 1. (C). Dam #2

Cross Section Dam Construction & Fill

FILL SECTION 1. Dam Construction: Elevation and Sectional View

Proposed Activity: Walker Lake Hydroelectric Project - FERC Preliminary Permit # P- 14346

PERMIT DRAWINGS FOR

U.S. ARMY CORP OF ENGINEERS POA-2012-311

Prepared By: Southern Energy Inc. , Applicant
P.O. Box 489, Haines, AK 99827
(907) 766-2899

Date: April 16th, 2012

Scale: 1" = 1 Mile

Range: 55E; CRM; TWP: 29S; Sec. 3

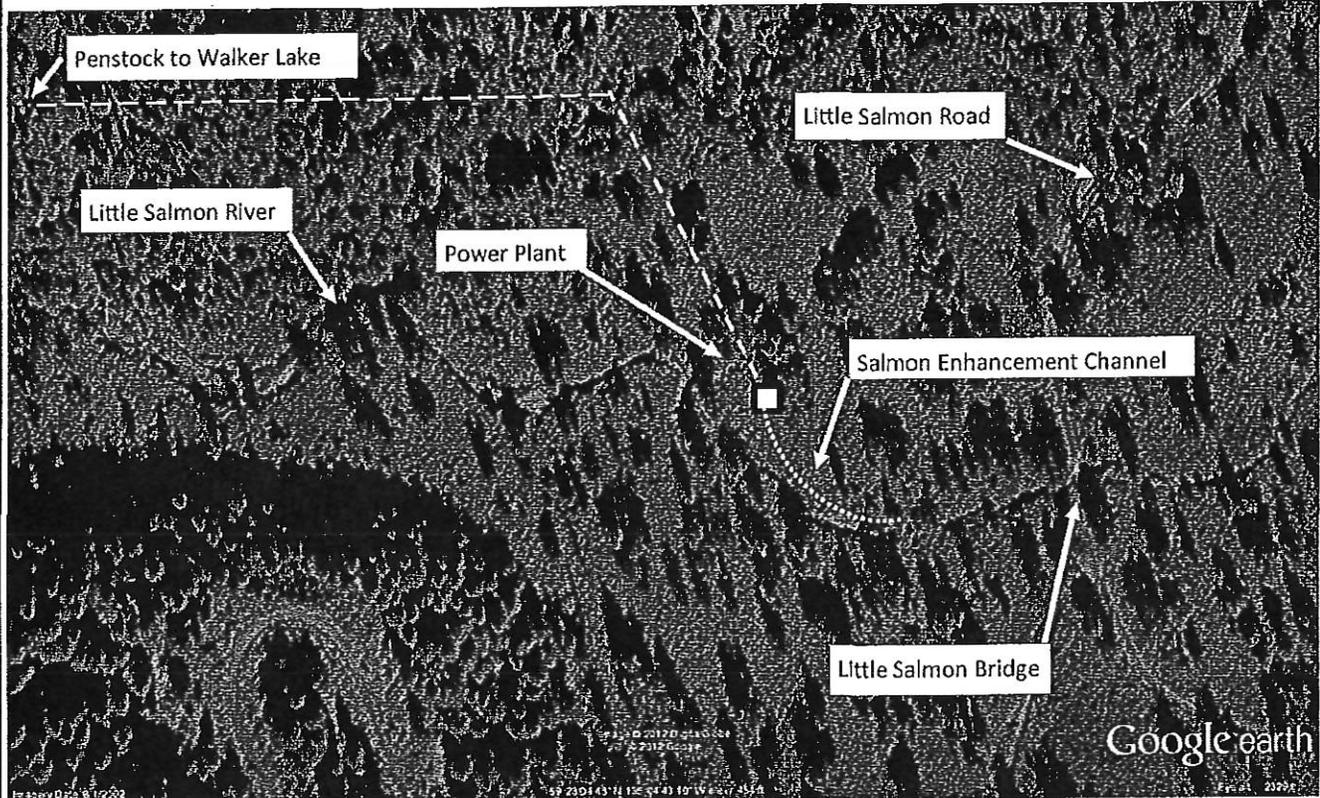
Lat: N 59°23'34.0"; Long.: W 136°8'38.0"

Project Land Ownership: Entirely upon St. of AK.

Waterway: Walker Lake/Walker Stream

Figure: 4 of 4 Date: June 5, 2012

Attachment #2 (B) (1)
Compensatory Mitigation Plan
Walker Lake Hydropower Project
POA – 2012-311
Plan Sheet



Site Location & Characteristics: The powerhouse site is approximately 500' West of the bridge crossing the Little Salmon River. It is a wooded hillside with steep slopes where the powerhouse is located. The enhancement channel will run approximately 200' in a gentle curve parallel with the river until its confluence at the outlet.

U.S.G.S. Quad Map: Skagway B-3

Range: 55 E

Section: 1

Latitude: 59° 23'03.13" N

Meridian: Copper River

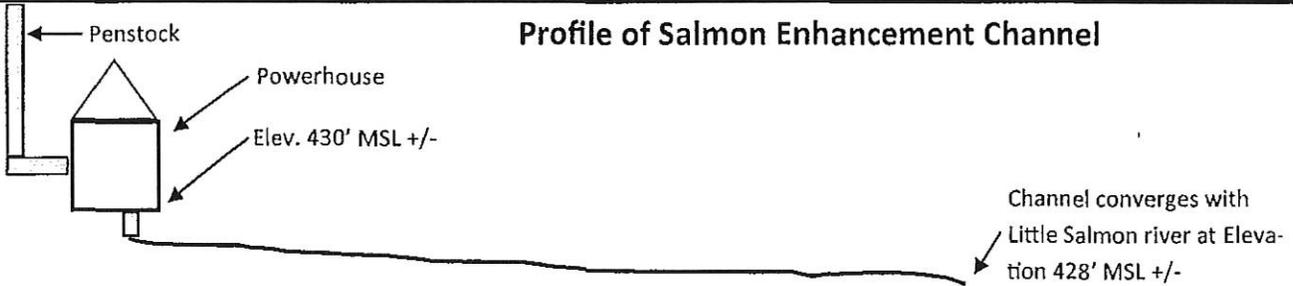
Township 29 S

Scale: 1" = 250'

Longitude: 136° 04' 37.97" W

Attachment #2 (B) (2)
Compensatory Mitigation Plan
Walker Lake Hydropower Project
POA – 2012-311
Section & Profiles

Profile of Salmon Enhancement Channel



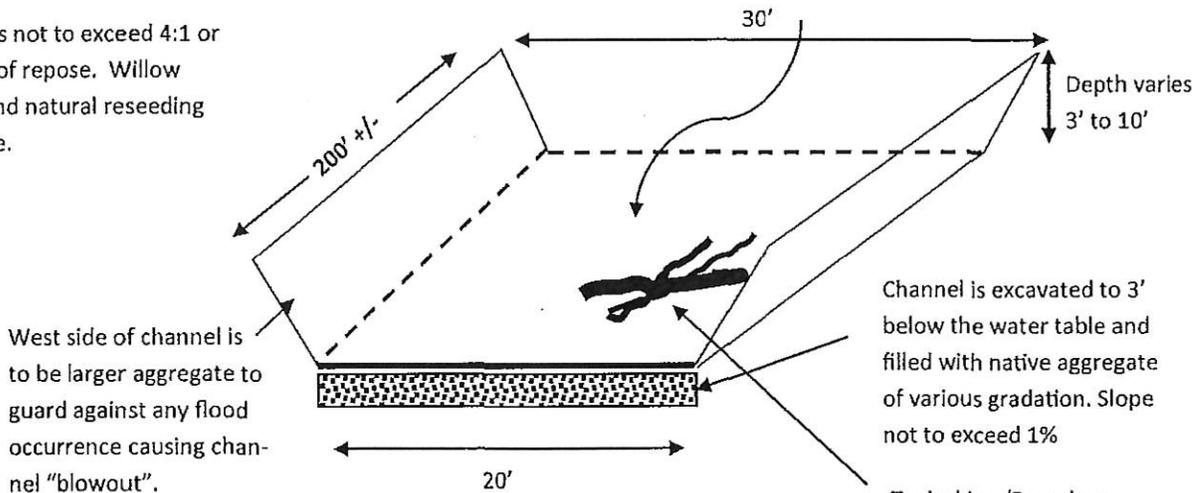
Channel is designed to carry a minimum of 3 to 5 cfs for overwintering salmon enhancement. Design flow of hydropower plant is expected to release up to 18 cfs and may be additionally influenced by groundwater inflows.

Scale: 1" = 50' Horizontal
 1" = 20' Vertical

Channel is approximately 200' in length and is a 1% Grade

Cross Section of Salmon Enhancement Channel

Side slopes not to exceed 4:1 or the angle of repose. Willow cuttings and natural reseeding to be done.



Channel to be cut by excavator and loader with best practice soil controls, (filter fabric, siltation screens or hay bales). Care taken to join outlet to Little Salmon river during non-sensitive fishery window periods.

Scale 1" = 10'

Attachment #2
Compensatory Mitigation Plan
Walker Lake Hydropower Project
POA – 2012-311

Preliminary Determination from USACE.

On August 29th, 2012 the U.S. Army Corp of Engineers, Anchorage Office, issued a “Revised Preliminary Determination” of “wetlands” within the Project Boundary. The COE report contains the qualitative and quantitative evaluations and determinations that are not duplicated in this Plan but referenced only. These wetlands are identified in the report and are summarized here:

Temporary Disturbance Areas:

Impacted Low Level Wetlands – The original application documents, and Preliminary JD, identified impacts of .13 acres of temporary wetland habitat. The “Revised Preliminary Jurisdictional Form” dated August 29th, 2012 has identified additional areas. This revised JD shows an additional 8.4 acres of temporary impacts due to the submergence caused by the construction of the two dams at Walker Lake. The applicant considers these to be low level wetlands in valuation.

Permanently Affected Areas:

Impacted Low Level Wetlands – The original application documents and preliminary JD identified .46 acres of permanent wetland habitat. The applicant considers these to be low level wetlands in valuation.

Compensatory Mitigation/Mitigation Project’s Credit Determination: Alaska District Regulatory Guidance Letter Sample Mitigation Ratios.

Using the USACE Alaska District Regulatory Compliance Letter, Appendix B Credit System to the 2009 Report the following Mitigation ratios were determined:

For “Restoration” or “**Enhancement Projects**”:

Low value is 1 to 1; Medium value is 1 to 1; and High value is 2 to 1.

The applicant has identified the permanently affected area of .46 acres as low value wetlands and considers the ratio of 1 to 1 as applying to our “Mitigation Plan”.

Attachment #2
Compensatory Mitigation Plan
Walker Lake Hydropower Project
POA – 2012-311

**Compensatory Mitigation/Mitigation Project's Credit Determination: Alaska District
Regulatory Guidance Letter Sample Mitigation Ratios cont.**

Our planned "Enhancement Channel" coming off the power plant tailrace is proposed for this mitigation effort. No mitigation is proposed for the additional submerged low value wetlands as it is considered a "conversion" of "Waters of the U.S." from one water body type to another, (wetlands to open water body). The ratio of one to one for the .46 acres of permanent loss has been applied to our planning efforts and will be integrated fully into our Alaska Dept. of Fish and Game Permit.

Project Objectives:

The applicant proposes to construct a "stream enhancement channel" coming from the "tailrace" of the power plant to the "Little Salmon River". The length, width and design of this channel are subject to final siting of the power plant, agency discussions and permitting.

Our primary targeted species is Chum Salmon with a fry survival goal rate of in excess of 10%. Our overwintering design flow of 17 cfs coming out of the tailrace of the hydroplant should contribute to fry survival rates as it exceeds the flow goal rate of the Herman Creek project which was 3 to 5%. Our goal is 250 spawners and 375 returning channel users with adult catch monitoring in the commercial fisheries. It is not known yet if native Coho or Dolly Vardens will use the channel as has been the case in Herman Creek Salmon Enhancement Channel. The use of the channel by overwintering habitat for Coho Salmon may be an ancillary benefit to the project.

The benefit to the project is to the commercial fisheries in upper Lynn Canal from the harvesting of additional Chum Salmon. Ancillary benefits will be to the public viewing of salmon in the channel as it enters the Little Salmon River adjacent and just upstream from the Little Salmon Bridge crossing.

Project Site Selection Criteria:

The site has been determined for production capability, stability, flooding, footprint, avoidance & minimization of impacts, and mitigation enhancement.

Description of Project Site.

The project site is located just upstream from the "Little Salmon River" bridge. The powerhouse has been moved from the original Walker Lake Hydro Study location, which was proposed to be on the alluvial fan area, to an area on the hillside above the river flood plain.

Attachment #2
Compensatory Mitigation Plan
Walker Lake Hydropower Project
POA – 2012-311

Description of Project Site. cont.

This route design also allows for minimizing the impact of the penstock thru the flood plain/river area by avoiding the area entirely and just coming directly off the steep mountainside into the powerplant. The Little Salmon River is anadromous catalog #: 115-32-10250-2067-3002. Walker Creek is not cataloged and was not recommended as such in the most recent ADF&G field survey of July and August, 2011.

A tailrace as discussed above will be constructed from the power plant to allow water from Walker Lake to flow back into the Little Salmon River. This component part of the overall project will come from the power plant which is located on a steep canyon on a heavily forested hillside just above the alluvial floodplain, (ADNR Steve Carrick analysis of alluvial nature 1988), on the North side of the Little Salmon River. The channel itself will bisect the alluvial flood plain on its connection outlet course to the river. There appears to be ample visual evidence of groundwater passing thru the alluvial flood plain area. Skagway B3/B4. Latitude 59.23.042 N; Longitude 136.08.102W. Tailrace elevation is approximately 400' MSL. (See Walker Lake Feasibility Study 1988 for detailed field observation report).

Site Protection Instruments, (easements):

No additional easements are required. The "Stream Enhancement Channel" will be on an easement/use agreement for the "Powerhouse Site/Tailrace", we have applied for from the Alaska Dept. of Natural Resources. Additionally, a separate Alaska Dept. of Fish and Game Permit will be required to construct, operate and maintain the channel.

Impact Site Qualitative and Quantitative Information:

Project Design.

Our project design incorporates the main design principals of the nearby "Herman Creek Salmon Enhancement Channel" which was completed in 1989. This previous referenced project has been deemed as one of the most successful enhancement projects in the State. We have updated our design based upon the monitoring plans and agency comments that reviewed this project since its inception and included other design changes from more recent projects. Generally the design will incorporate the following features:

The channel length is estimated to be upwards of 200' in length and 20' wide at the bottom with side slopes not to exceed 4 to 1, or the angle of repose, (.13 acres). The easement area requested from ADNR is larger to allow for maintenance and access to the site. The channel will be meandering curve and will be constructed of native, (onsite) gravel and boulders of varied size. This feature also minimizes the "siltation/sedimentation factor" that has foiled other similar projects.

Attachment #2
Compensatory Mitigation Plan
Walker Lake Hydropower Project
POA – 2012-311

Project Design, cont.

The depth normally will be a few feet below the water table to assist in over wintering of eggs. Grade will be set at 1% based on other successful velocity analysis. Our objective is to achieve a minimum of 3% to 7% cfs thru both tailrace discharge and groundwater sources on a year round basis. Boulders, gravel and woody debris will be placed throughout the channel as part of an attempt to mimic natural stream conditions and provide cover and shelter. Mature trees will be retained where possible but all non-native vegetation will be removed. Willow plantings, (cuttings), will be performed as well as natural reseeding of the banks and other disturbed areas over time. The channel's outflow will blend naturally into the river.

The design also incorporates features to minimize any "blowout" of the enhancement stream by excess flooding from the "Little Salmon River" by pushing the channel closest to the power plant, against the hillside and designing the curve to go with the flow of the existing topography and enter the river course at a slightly offset parallel manner. (one of the principal causes of other enhancement channel failures is blowout).

Please see the attached project plan, profile and sectional drawings referenced as: Attachment #2 (B)

Compensation Site Qualitative and Quantitative Information:

As discussed previously the applicant proposes a one to one ratio of mitigation thru enhancement by constructing the enhancement channel. We believe the new enhancement channel should actually be valued at a higher value than the low value permanent impacted .46 acres due to the ability of the channel to meet or exceed expectations for habitat restoration and fish enhancement. Our initial designs do meet the one to one ratios and comply with the USACE Alaska District Regulatory Compliance Letter, Appendix B Credit System to the 2009 Report.

The valuation obtained from the Haines Borough Assessor, (September 2012), indicates that the per acre market price for land within our project boundary is approximately \$7,956. Land of a submerged nature, with no road access would have far less value. On a one to one basis the very highest value would therefore be calculated as: (.46 x's \$7,946), or \$3,655. The anticipated value of the enhancement channel is \$45,000 to \$80,000 depending upon final permit requirements, (a 10 : 1, upwards of 20 : 1 ratio), far exceeding the one to one requirement.

This proposed permittee responsible compensatory mitigation project shows that the project will be sufficient to offset the authorized impacts and that the project will be conducted in accordance with a mitigation plan that complies with the "Final Rule". Please note that the discussion of values and ratios here is for general information only and not ratio or monetary determinations by the Corp.

Attachment #2
Compensatory Mitigation Plan
Walker Lake Hydropower Project
POA – 2012-311

Mitigation Work Plan.

Construction methods:

We will use an excavator and loader to remove the overburden, cut the channel, build the side slopes and place the native aggregate in the bottom. Dump trucks may be necessary to move large quantities of material to their proper location. In addition, hand tools and power tools will be used.

Project Schedule:

Please see the attached Project Schedule referenced as "Attachment #2 (A).

Best Practices:

Best practices will be used to ensure no siltation caused from construction activities will enter the Little Salmon River. Such products as fabric fencing, hay bales and siltation traps may be necessary. We will work with the ADF&G to ensure construction is done outside any primary fish egg laying, hatching periods or similar sensitive periods.

Planned Vegetation:

As indicated in earlier sections of this report the permittee expects to retain large trees where possible, replant willow cuttings on the side slopes/banks, and allow natural revegetation to occur. We will also be removing all non-native vegetation. Hand planting of the willow cuttings and native grasses is expected to occur. In addition, we will place strategically located logs and branches in the channel to provide cover for juvenile fish.

Typical Drawings.

Plan, profile and cross sections typical drawings are attached and referenced as "Attachment #2 (B)(1) and #2 (B)(2).

Performance Plan.

Our primary targeted species is Chum Salmon with a fry survival goal rate of in excess of 10%. Our overwintering design flow of 17 cfs coming out of the tailrace of the hydroplant should contribute to fry survival rates as it exceeds the flow goal rate of the Herman Creek project which was 3 to 5%. Our goal is 250 spawners and 375 returning channel users with corresponding commercial fisheries catch numbers. See Monitoring Plan for additional detail.

Attachment #2
Compensatory Mitigation Plan
Walker Lake Hydropower Project
POA – 2012-311

Project Maintenance Plan:

The permittee will be responsible under the pending Alaska Dept. of Natural Resources Use/Easement application with requirements to maintain the channel in proper condition. In addition, as may be required, such conditions, and additional ones, may be included in the Alaska Dept. of Fish and Game permit. We believe that based upon the close coordination with ADF&G on the Herman Creek project it is best for their staff to provide an onsite fish monitoring program that provides for frequency analysis correlated to our planned project objectives. This may include fish traps, siltation channel analysis, and or flora advice. Fish tagging to enable us to separate the commercial fisheries take is recommended.

Monitoring Plan:

The applicant will work with the Alaska Dept. of Fish and Game in ensuring an adequate monitoring plan of the proposed stream enhancement channel is provided. This would include at least biannually conducting an onsite visit to ensure maintenance of the rock slopes and channel is performed. We would agree to making reports to ADF&G and the COE on these visits. Additional reporting and monitoring requirements may be necessary to ensure our project objectives are concurrent with the agencies expertise in this area. We believe the monitoring should be performed for the first five years after project completion with a minimum of annual reporting to the Corps.

Adaptive Management Plan/Long Term Management Plan :

If during the course of the monitoring plan we find that adjustments need to be made to the enhancement channel to meet the objectives the applicant will work with the agencies to come up with reasonable and alternative solutions. This may mean additional and different plantings, correction of any outlet blowouts, and/or changes to the stream channel including log and branch placement. After the initial five year monitoring period, subject to any adaptive changes to meet the performance standards the applicant will continue to monitor the project site on a biannual basis and provide for periodic and annual reporting as may be required by ADF&G and the Corp.

Attachment #2
Compensatory Mitigation Plan
Walker Lake Hydropower Project
POA – 2012-311

Stewardship and Responsibility for Implementation and Monitoring:

The applicant will agree to the conditions required in the upcoming ADF&G permit that will cover implementation and monitoring.

Financial Assurances:

This project will be a multimillion dollar project requiring complex tasking and scheduling. The enhancement channel is normally the last item constructed as it must come off the tailrace of the power plant. The applicant considers that the prior investment in permitting, project development and construction of all of the various component parts to the project, prior to the enhancement channel being constructed, is more than sufficient to ensure we complete this portion of the work. Without the enhancement channel in place, we would not be in compliance with conditions of our ADNR Use/Easement permit, could not prove up on our ADNR Water Rights Certificate, and any ACOE permit requirements. The resulting noncompliance would then place us in a situation where we would not be allowed to operate and sell power. We would also be tied into Power Sales Agreements with the local utility companies that ensure the completion of the project in a timely manner.

We would like to have the agencies review our track record on our completion and operation of the two existing small hydro projects in Haines, that being the Lutak Hydro project (sold to AP&T); and the 10 Mile Hydro project (sold to IPEC). Both properly completed and in full compliance, serving the needs of the public in the Haines area.

Approval of Mitigation Plan.

We request the ACOE to approve this Mitigation Plan as a part of our permit and agree to compliance of the same with any final ADNR & ADFG permits.

Additional References:

1980. D.B. Lister, D.G. Hickey and D.E. Marshall – Chum salmon survival and production @ seven improved groundwater fed spawning areas. Canadian reports.

Observation of the Distribution of Chum Salmon in S.E. Alaska. Dec. 2010. Ronald P. Josephson. ADF&G. SJ10-10-07 Juneau.

ADF&G Stream Survey, July 19th and 20th and August 26, 2011.



THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

Department of Environmental
Conservation

DIVISION OF WATER
Wastewater Discharge Authorization Program

555 Cordova Street
Anchorage, Alaska 99501-2617
Main: 907.269.6285
fax: 907.334.2415
www.dec.alaska.gov/water/wwclp

January 7, 2013

Certified Mail: 7009-2820-0001-7169-4268

Southern Energy, Inc
PO Box 489
Haines, Alaska 99827

Re: Walker Lake Dam
Reference No. POA-2012-311

Dear Project Manager:

In accordance with Section 401 of the Federal Clean Water Act of 1977 and provisions of the Alaska Water Quality Standards, the Department of Environmental Conservation (DEC) is issuing the enclosed Certificate of Reasonable Assurance for placement of fill material in waters of the U.S. in association with the development of two hydroelectric dams adjacent to Walker Lake in Haines, Alaska.

DEC regulations provide that any person who disagrees with this decision may request an informal review by the Division Director in accordance with 18 AAC 15.185 or an adjudicatory hearing in accordance with 18 AAC 15.195 – 18 AAC 15.340. An informal review request must be delivered to the Director, Division of Water, 555 Cordova Street, Anchorage, AK 99501, within 15 days of the permit decision. Visit <http://www.dec.state.ak.us/commish/ReviewGuidance.htm> for information on Administrative Appeals of Department decisions.

An adjudicatory hearing request must be delivered to the Commissioner of the Department of Environmental Conservation, 410 Willoughby Avenue, Suite 303, PO Box 111800, Juneau, AK 99811-1800, within 30 days of the permit decision. If a hearing is not requested within 30 days, the right to appeal is waived.

By copy of this letter we are advising the U.S. Army Corps of Engineers of our actions and enclosing a copy of the certification for their use.

Sincerely,

Handwritten signature of James Rypkema.

James Rypkema
Section Manager, Storm Water and Wetlands

Enclosure: 401 Certificate of Reasonable Assurance

cc: (with encl.)
Roberta Budnik, USACE, Anchorage
Lynn Canal Professional Services

Michael Daigneault, ADF&G/Habitat
Anchorage USFWS Field Office
Mark Jen, EPA, AK Operations

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 Southern Energy, Inc; PO Box 489; Haines, Alaska 99827 for placement of fill material in waters of the U.S. in association with the development of two dams adjacent to Walker Lake on the southeast end of the lake. The dams would be constructed of rock fill and impervious material. Dam 1 would require the discharge of up to 900 cubic yards (cy) of fill material into 0.02-acre of Walker Creek. Dam 2 would require the discharge of up to 12,094 cy of fill material into 0.44-acre of wetlands. At Dam 2, there would be a concrete intake structure, weir works, spillway, and trash racks. A 24-inch penstock would consist of PVC pipe, with an additional 1,000 to 2,000 feet of penstock consisting of steel pipe. Up to 200 feet of penstock would be within wetlands, requiring a temporary discharge of up to 155 cy of native material to be stockpiled in an area of 0.13-acre for penstock burial. The dams would cause Walker Lake to increase in size by up to 20 acres. There are some areas of fringe wetlands along Walker Lake, and therefore, up to 20 acres of wetland may be lost due to flooding. However, it is anticipated that the acreage of fringe wetlands lost due to flooding would be less than 20 acres.

A State Water Quality Certification is required under Section 401 because the proposed activity will be authorized by a U.S. Army Corps of Engineers permit, reference number POA-2012-311, and a discharge of pollutants to waters of the U.S. located in the State of Alaska may result from the proposed activity. Public notice of the application for this certification was given as required by 18 AAC 15.180 in the Corps Public Notice POA-2012-311 posted from August 6, 2012 to August 21, 2012.

The proposed activity is located within Sections 27 and 34 of T. 28 S., R. 55E., Sections 1, 2, and 3 of T. 29 S., R. 55 E., and Section 6 of T. 29 S., R. 56E., Copper River Meridian; in Haines, Alaska.

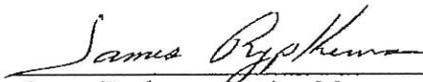
The Department of Environmental Conservation (DEC) reviewed the application and certifies that there is reasonable assurance that the proposed activity, as well as any discharge which may result, will comply with applicable provisions of Section 401 of the Clean Water Act and the Alaska Water Quality 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. Fuel storage and handling activities for equipment must be sited and conducted so there is no petroleum contamination of the ground, surface runoff or water bodies.
2. During construction, spill response equipment and supplies such as sorbent pads shall be available and used immediately to contain and cleanup oil, fuel, hydraulic fluid, antifreeze, or other pollutant spills. Any spill amount must be reported in accordance with Discharge Notification and Reporting Requirements (AS 46.03.755 and 18 AAC 75 Article 3). The applicant must contact by telephone the DEC Area Response Team for Southeast Alaska (907) 465-5340 during work hours or 1-800-478-9300 after hours. Also, the applicant must contact by telephone the National Response Center at 1-800-424-8802.

3. Runoff discharged to surface water (including wetlands) from a construction site disturbing one or more acres must be covered under Alaska's General Permit for Storm Water Discharges from Large and Small Construction Activities in Alaska (AKR100000). This permit requires a Storm Water Pollution Prevention Plan (SWPPP). For projects that disturb more than five acres, this SWPPP must also be submitted to DEC (William Ashton, 907-269-6283) prior to construction.
4. Construction equipment shall not be operated below the ordinary high water mark 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.
5. All work areas, material access routes, and surrounding wetlands involved in the construction project shall be clearly delineated and marked in such a way that equipment operators do not operate outside of the marked areas.
6. Any disturbed ground and exposed soil not covered with fill must be stabilized and re-vegetated with endemic species, grasses, or other suitable vegetation in an appropriate manner to minimize erosion and sedimentation, so that a durable vegetative cover is established in a timely manner.

This certification expires five (5) years after the date the certification is signed. If your project is not completed by then and work under U.S Army 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: January 7, 2013



James Rypkema, Section Manager
Storm Water and Wetlands



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, ALASKA
REGULATORY DIVISION
P.O. BOX 6898, CEPOA-RD
JBER, ALASKA 99506-0898

FEB 12 2013

Regulatory Division
POA-2012-311

Mr. John Floreske
Southern Energy, Incorporated
Post Office Box 489
Haines, Alaska 99827

Dear Mr. Floreske:

Enclosed is the signed Department of the Army permit, file number POA-2012-311, Walker Lake, authorizing the discharge of fill into waters of the U.S., including wetlands, to construct the Walker Lake Hydroelectric Project. The project site is located within Sections 27 and 34 of T. 28 S., R. 55 E., Sections 1, 2, and 3 of T. 29 S., R. 55 E., and Section 6 of T. 29 S., R. 56 E., Copper River Meridian; USGS Quad Map Skagway B-4; Latitude 59.3927° N., Longitude 136.1438° W.; in Haines, Alaska. Also enclosed is a Notice of Authorization which should be posted in a prominent location near the authorized work.

If changes to the plans or location of the work are necessary for any reason, plans must be submitted to us immediately. Federal law requires approval of any changes before construction begins.

Nothing in this letter excuses you from compliance with other Federal, State, or local statutes, ordinances, or regulations.

Please contact me via email at Shannon.R.Morgan@usace.army.mil, by mail at the address above, by phone at (907) 753-5556, or toll free from within Alaska at (800) 478-2712, if you have questions.

Sincerely,

Shannon Morgan
Shannon Morgan
Team Leader, South Section

Enclosures



**This notice of authorization must be
conspicuously displayed at the site of work.**

United States Army Corps of Engineers
WALKER LAKE

A permit to: PLACE FILL MATERIAL IN 0.61 ACRE OF WATERS OF
THE U.S. TO CONSTRUCT THE WALKER LAKE HYDROELECTRIC
PROJECT

at: WALKER LAKE, NEAR HAINES, ALASKA; LATITUDE 59.3927°
N., LONGITUDE 136.1438° W.

has been issued to: SOUTHERN ENERGY, INCORPORATED

on: FEB 12 2013 and expires on: _____

Address of Permittee: PO BOX 489, HAINES, AK 99827

Permit Number:

POA-2012-311

FOR: *Shannon Morgan*
District Commander
SHANNON MORGAN
TEAM LEADER, SOUTH
REGULATORY DIVISION

DEPARTMENT OF THE ARMY PERMIT

Permittee: Southern Energy, Incorporated

Permit No.: POA-2012-311, Walker Lake

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

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

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

Project Description: Discharge a total of 12,994 cubic yards of fill material permanently into 0.46-acre of waters of the U.S., including wetlands, and 155 cubic yards of native material temporarily into 0.15-acre of wetlands in order to construct two dams and bury a penstock for the Walker Lake Hydroelectric Project.

All work will be performed in accordance with the attached plan, sheets 1-4, dated **June 8, 2012**.

Project Location: Sections 27 and 34 of T. 28 S., R. 55 E., Sections 1, 2, and 3 of T. 29 S., R. 55 E., and Section 6 of T. 29 S., R. 56 E., Copper River Meridian; USGS Quad Map Skagway B-4; Latitude 59.3927° N., Longitude 136.1438° W.; in Haines, Alaska.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on **January 31, 2018**. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
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. Project boundaries shall be clearly identified in the field by stakes or flagging. Sediment and erosion control measures (e.g., silt fencing) shall be installed prior to site clearing and construction to ensure avoidance of impacts to waters of the U.S., including wetlands, beyond the project footprint. In no case may disturbance extend beyond the identified fill footprint.
2. Fill material shall consist of clean fill, free of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.), and free of toxic pollutants.
3. Project construction shall not be located within one-quarter mile of an eagle nest site unless the U.S. Fish and Wildlife Service has determined that the activity will not adversely impact eagles. The permittee has additional responsibilities to protect eagles under the provisions of the Bald and Golden Eagle Protection Act (16 U.S.C. 668a-d).
4. Prior to beginning construction activities each day, all vehicles and equipment shall be inspected for any fluid leaks. If leaks are found, that equipment shall not be operated in wetlands or other waters of the U.S. until the leak is repaired. No vehicles or equipment shall be fueled, serviced, or stored within wetlands.
5. Invasive plant species shall be removed and/or controlled while encouraging the establishment of native vegetation via seeding or planting in areas disturbed by project construction.
6. As compensatory mitigation for the permanent loss of 0.46-acre of wetlands and other waters of the U.S., the permittee shall construct a salmon habitat enhancement channel connected to the Little Salmon River, in accordance with the attached approved compensatory mitigation plan. In accordance with this plan, the permittee shall submit to the Corps (U.S. Army Corps of Engineers, Regulatory Division, CEPOA-RD, P.O. Box 6898, JBER, Alaska 99506-0898) annual monitoring reports for a minimum of five (5) years/

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.

Further Information:

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

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

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.

[Handwritten Signature]
(PERMITTEE) AND TITLE

1/17/13
(DATE)

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

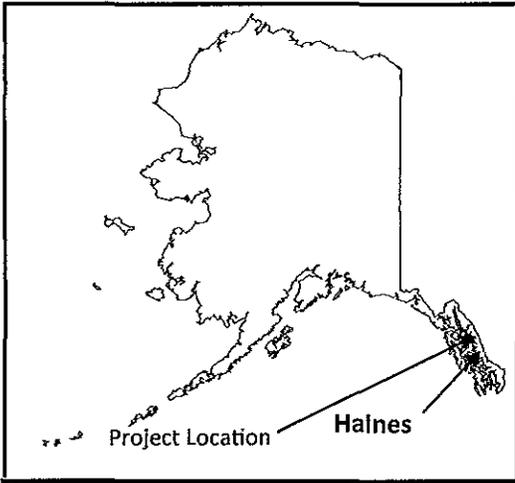
Shannon Morgan
FOR (DISTRICT COMMANDER)
Colonel Christopher D. Lestochi
Shannon Morgan, Team Leader
South Branch, Regulatory Division

11 February 2013
(DATE)

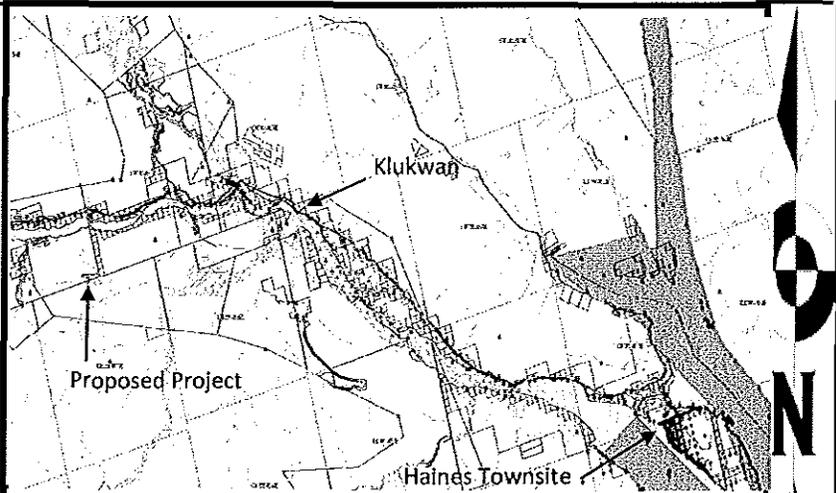
When the structures or work authorized by this permit are still in existence at the time the property is transferred the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated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

(TRANSFEREE)

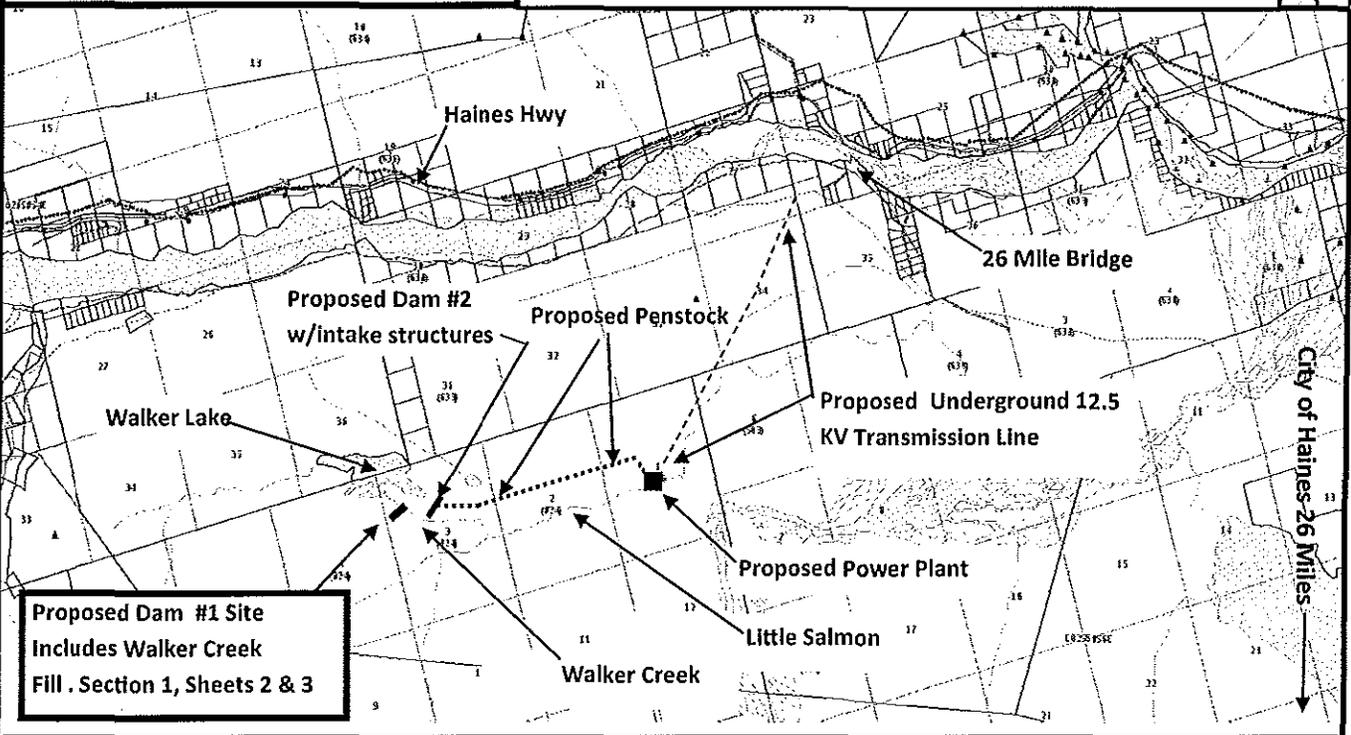
(DATE)



State of Alaska Location Map



Vicinity Map



**Proposed Dam #1 Site
Includes Walker Creek
Fill . Section 1, Sheets 2 & 3**

PROJECT LOCATION MAP / PLAN VIEW

Proposed Activity: Walker Lake Hydroelectric Project - FERC Preliminary Permit # P- 14346

PERMIT DRAWINGS FOR

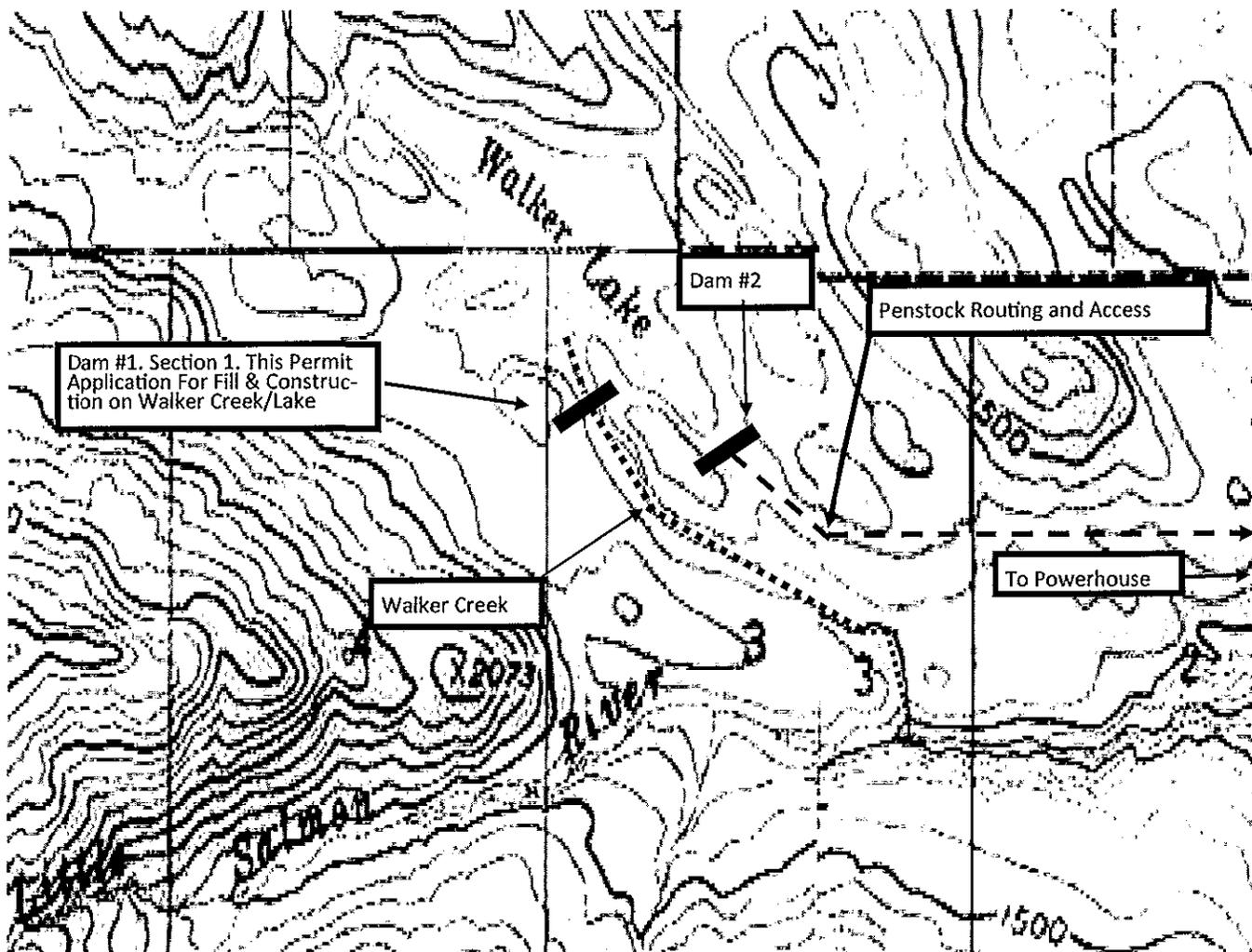
U.S. ARMY CORP OF ENGINEERS POA-2012-311

Prepared By: Southern Energy Inc. , Applicant
P.O. Box 489, Haines, AK 99827
(907) 766-2899

Date: April 16th, 2012

Scale: 1" = 1 Mile

Range: 55E; CRM; TWP: 29S; Sec. 3
Lat: N 59°23'34.0"; Long.: W 136°8'38.0"
Project Land Ownership: Entirely upon St. of AK.
Waterway: Walker Lake/Walker Stream
Figure: 1 of 4 Date: June 5, 2012



Dam #1. Section 1. Detailed Proposed Dam Construction/Fill Information. Dam #1 is located about 100' downstream of Walker Lake and crosses perpendicular to Walker Stream. The dam is 60' wide at the base x 250' long. It is 25' high going from MSL of 1170' to MSL of 1195'. The current OHW mark is 1180' and will rise to 1195'. The fill will be of impervious dirt and rock fill with a membrane option if materials dictate. Walker Stream is an average of 15' wide with steep slopes at the dam crossing and is intermittent at 18 cfs. The fill in the waters of the U.S. (Walker Creek), is 60'x 15' x 25' for a total of 833 cyds within a footprint of 900 sq. ft. (.02 acres). Total fill for Dam #1 is 10,996 cyds. The dam is 150' long on the base and 250' long at the crest. The crest is 15' in width. The project supplies 1 megawatt of power to the Inside Passage Electric Cooperative grid at 26 mile Haines Hwy.

FILL SECTION 1 (A). Dam Construction/Fill: Plan View

Proposed Activity: Walker Lake Hydroelectric Project - FERC Preliminary Permit # P- 14346

PERMIT DRAWINGS FOR

U.S. ARMY CORP OF ENGINEERS POA-2012-311

Prepared By: Southern Energy Inc. , Applicant
P.O. Box 489, Haines, AK 99827
(907) 766-2899

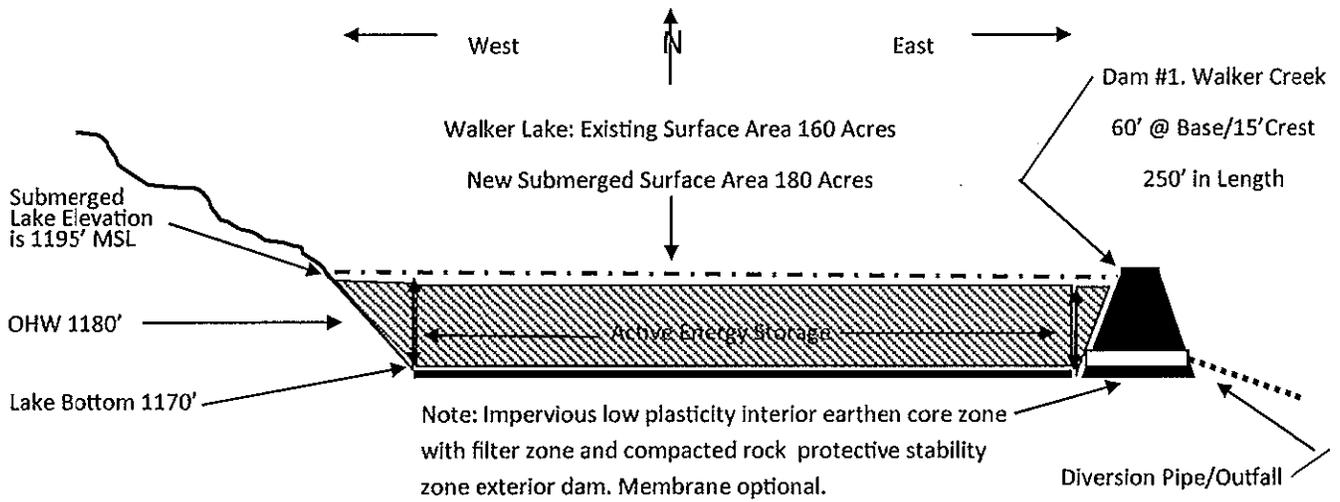
Range: 55E; CRM; TWP: 29S; Sec. 3
Lat: N 59°23'34.0"; **Long.:** W 136°8'38.0"
Project Land Ownership: Entirely upon St. of AK.

Date: April 16th, 2012 .

Waterway: Walker Lake/Walker Stream

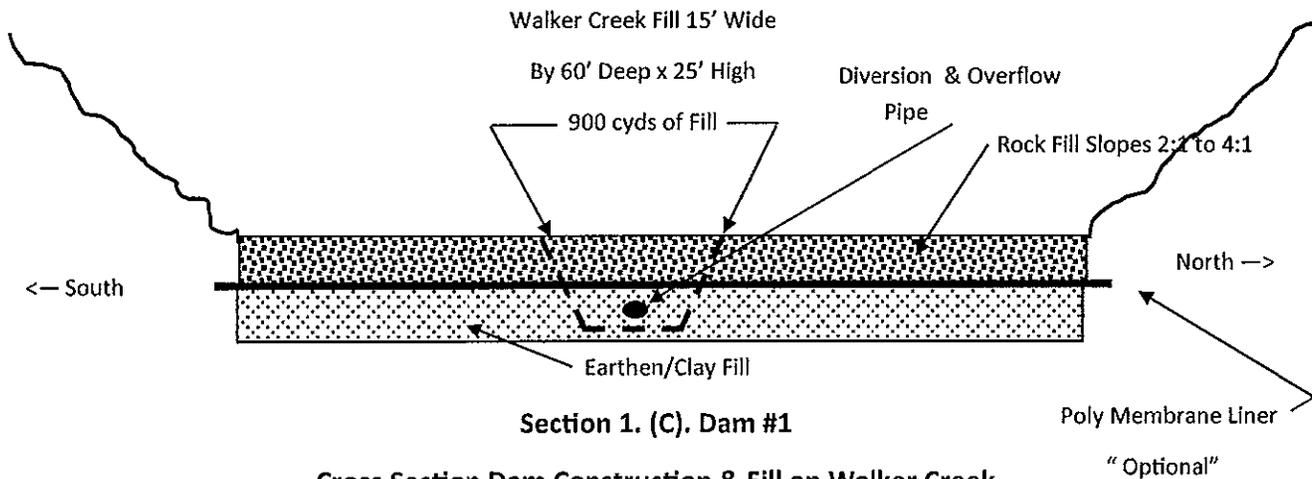
Scale: 1" = 1/2 Mile

Figure: 2 of 4 **Date:** June 5, 2012



Section 1. (B). Dam #1

Elevation View/Cross Section Dam Construction & Fill on Walker Lake/Creek



Section 1. (C). Dam #1

Cross Section Dam Construction & Fill on Walker Creek

FILL SECTION 1. Dam Construction: Elevation and Sectional View

Proposed Activity: Walker Lake Hydroelectric Project - FERC Preliminary Permit # P- 14346

PERMIT DRAWINGS FOR

U.S. ARMY CORP OF ENGINEERS POA-2012-311

Prepared By: Southern Energy Inc. , Applicant
P.O. Box 489, Haines, AK 99827
(907) 766-2899

Date: April 16th, 2012

Scale: 1" = 1 Mile

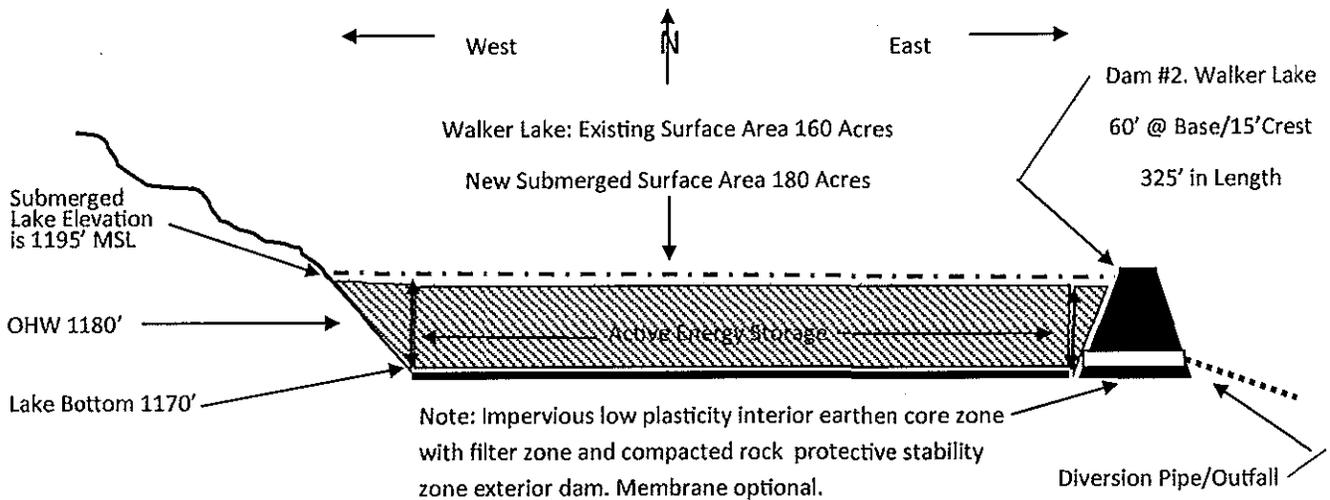
Range: 55E; CRM; TWP: 29S; Sec. 3

Lat: N 59°23'34.0"; Long.: W 136°8'38.0"

Project Land Ownership: Entirely upon St. of AK.

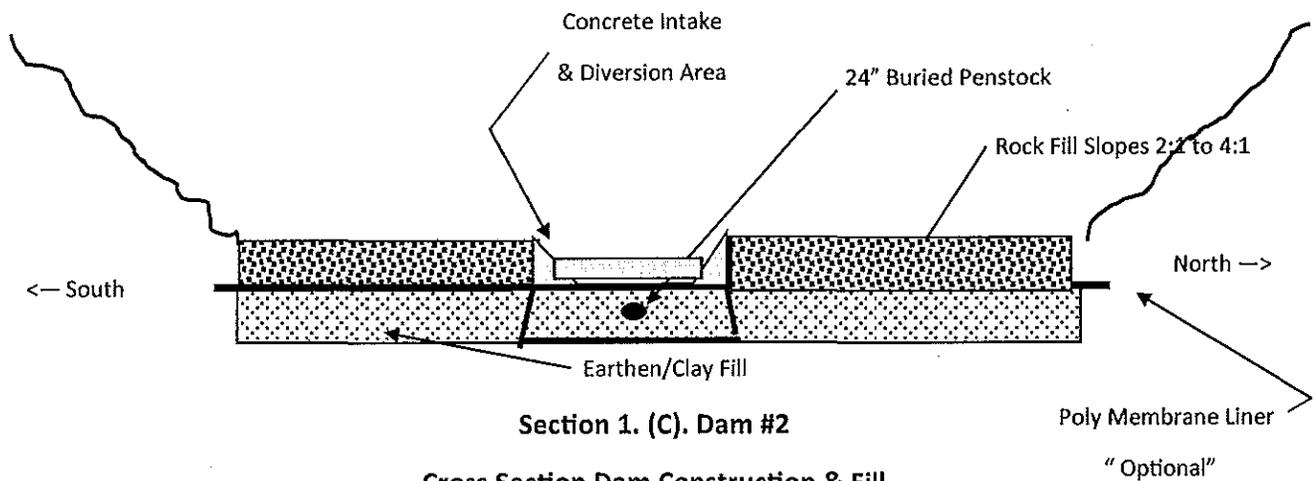
Waterway: Walker Lake/Walker Stream

Figure: 3 of 4 Date: June 5, 2012



Section 1. (B). Dam #2

Elevation View/Cross Section Dam Construction & Fill



Section 1. (C). Dam #2

Cross Section Dam Construction & Fill

FILL SECTION 1. Dam Construction: Elevation and Sectional View

Proposed Activity: Walker Lake Hydroelectric Project - FERC Preliminary Permit # P- 14346

PERMIT DRAWINGS FOR

U.S. ARMY CORP OF ENGINEERS POA-2012-311

Prepared By: Southern Energy Inc. , Applicant
P.O. Box 489, Haines, AK 99827
(907) 766-2899

Date: April 16th, 2012

Scale: 1" = 1 Mile

Range: 55E; CRM; TWP: 29S; Sec. 3

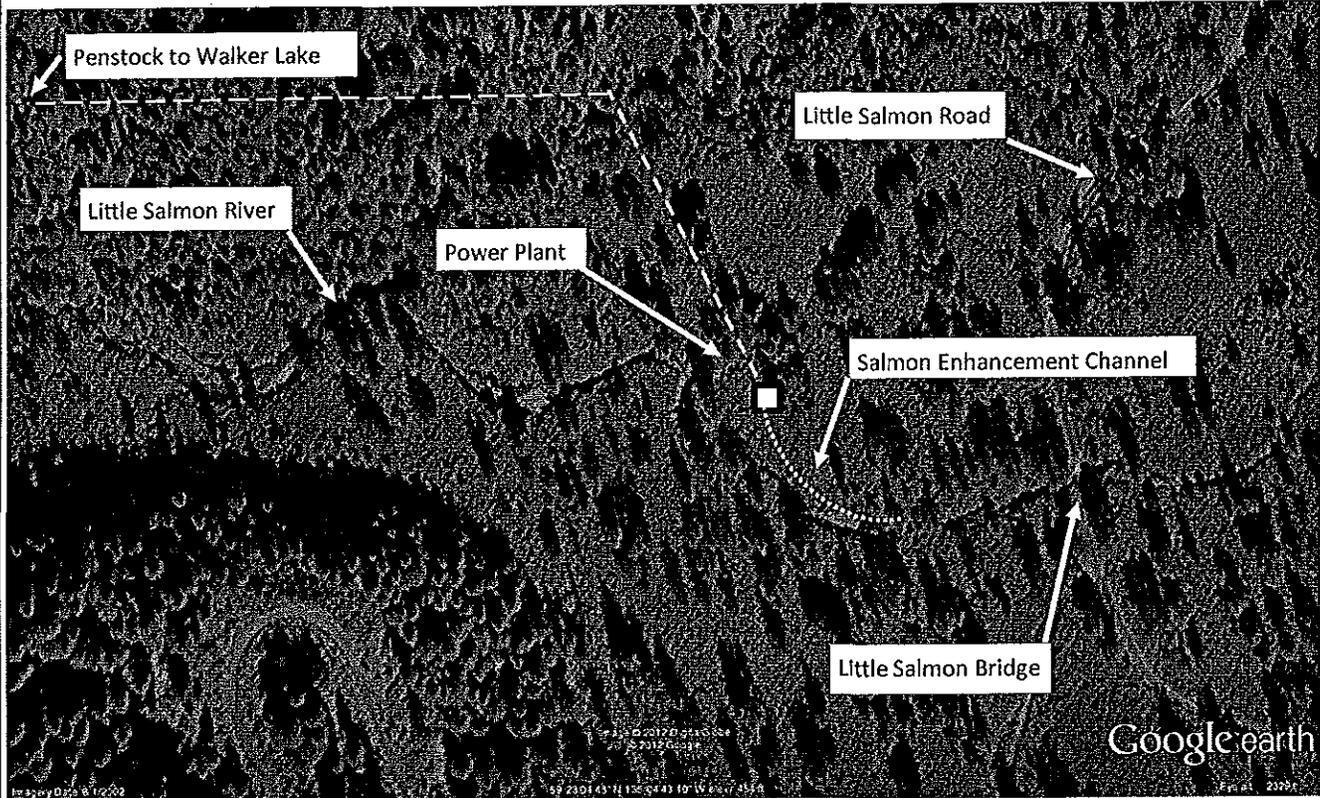
Lat: N 59°23'34.0"; **Long.:** W 136°8'38.0"

Project Land Ownership: Entirely upon St. of AK.

Waterway: Walker Lake/Walker Stream

Figure: 4 of 4 **Date:** June 5, 2012

Attachment #2 (B) (1)
Compensatory Mitigation Plan
Walker Lake Hydropower Project
POA – 2012-311
Plan Sheet



Site Location & Characteristics: The powerhouse site is approximately 500' West of the bridge crossing the Little Salmon River. It is a wooded hillside with steep slopes where the powerhouse is located. The enhancement channel will run approximately 200' in a gentle curve parallel with the river until its confluence at the outlet.

U.S.G.S. Quad Map: Skagway B-3

Range: 55 E

Section: 1

Latitude: 59° 23'03.13" N

Meridian: Copper River

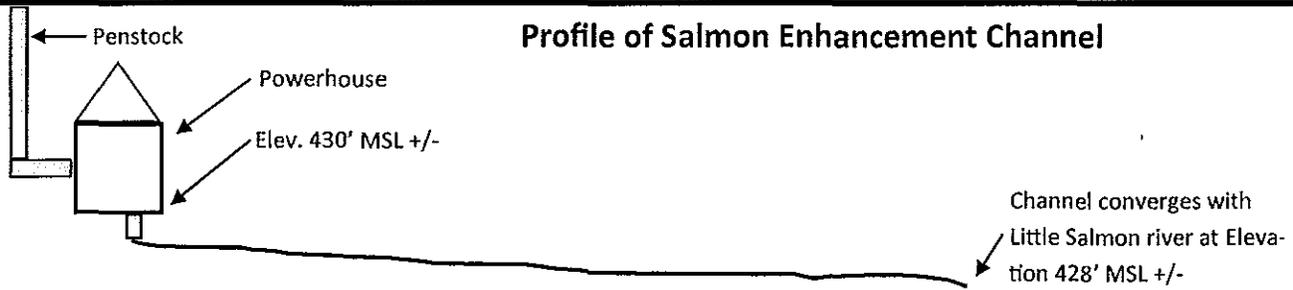
Township 29 S

Scale: 1" = 250'

Longitude: 136° 04' 37.97" W

Attachment #2 (B) (2)
Compensatory Mitigation Plan
Walker Lake Hydropower Project
POA – 2012-311
Section & Profiles

Profile of Salmon Enhancement Channel



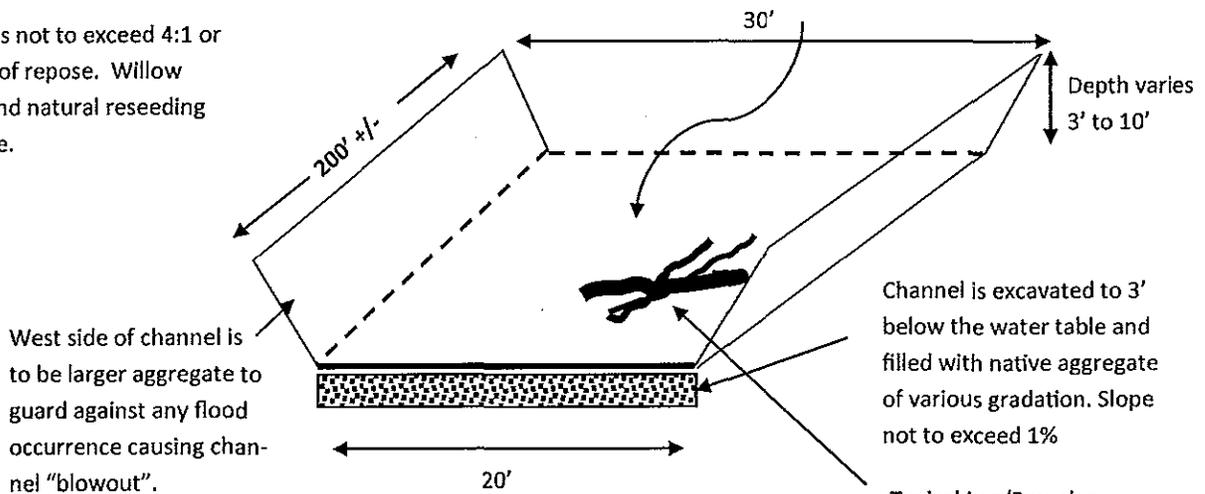
Channel is designed to carry a minimum of 3 to 5 cfs for overwintering salmon enhancement. Design flow of hydropower plant is expected to release up to 18 cfs and may be additionally influenced by groundwater inflows.

Scale: 1" = 50' Horizontal
 1" = 20' Vertical

Channel is approximately 200' in length and is a 1% Grade

Cross Section of Salmon Enhancement Channel

Side slopes not to exceed 4:1 or the angle of repose. Willow cuttings and natural reseeding to be done.



Channel to be cut by excavator and loader with best practice soil controls, (filter fabric, siltation screens or hay bales). Care taken to join outlet to Little Salmon river during non-sensitive fishery window periods.

Scale 1" = 10'

Attachment #2
Compensatory Mitigation Plan
Walker Lake Hydropower Project
POA – 2012-311

Preliminary Determination from USACE.

On August 29th, 2012 the U.S. Army Corp of Engineers, Anchorage Office, issued a “Revised Preliminary Determination” of “wetlands” within the Project Boundary. The COE report contains the qualitative and quantitative evaluations and determinations that are not duplicated in this Plan but referenced only. These wetlands are identified in the report and are summarized here:

Temporary Disturbance Areas:

Impacted Low Level Wetlands – The original application documents, and Preliminary JD, identified impacts of .13 acres of temporary wetland habitat. The “Revised Preliminary Jurisdictional Form” dated August 29th, 2012 has identified additional areas. This revised JD shows an additional 8.4 acres of temporary impacts due to the submergence caused by the construction of the two dams at Walker Lake. The applicant considers these to be low level wetlands in valuation.

Permanently Affected Areas:

Impacted Low Level Wetlands – The original application documents and preliminary JD identified .46 acres of permanent wetland habitat. The applicant considers these to be low level wetlands in valuation.

Compensatory Mitigation/Mitigation Project’s Credit Determination: Alaska District Regulatory Guidance Letter Sample Mitigation Ratios.

Using the USACE Alaska District Regulatory Compliance Letter, Appendix B Credit System to the 2009 Report the following Mitigation ratios were determined:

For “Restoration” or “**Enhancement Projects**”:

Low value is 1 to 1; Medium value is 1 to 1; and High value is 2 to 1.

The applicant has identified the permanently affected area of .46 acres as low value wetlands and considers the ratio of 1 to 1 as applying to our “Mitigation Plan”.

Attachment #2
Compensatory Mitigation Plan
Walker Lake Hydropower Project
POA – 2012-311

**Compensatory Mitigation/Mitigation Project's Credit Determination: Alaska District
Regulatory Guidance Letter Sample Mitigation Ratios cont.**

Our planned "Enhancement Channel" coming off the power plant tailrace is proposed for this mitigation effort. No mitigation is proposed for the additional submerged low value wetlands as it is considered a "conversion" of "Waters of the U.S." from one water body type to another, (wetlands to open water body). The ratio of one to one for the .46 acres of permanent loss has been applied to our planning efforts and will be integrated fully into our Alaska Dept. of Fish and Game Permit.

Project Objectives:

The applicant proposes to construct a "stream enhancement channel" coming from the "tailrace" of the power plant to the "Little Salmon River". The length, width and design of this channel are subject to final siting of the power plant, agency discussions and permitting.

Our primary targeted species is Chum Salmon with a fry survival goal rate of in excess of 10%. Our overwintering design flow of 17 cfs coming out of the tailrace of the hydroplant should contribute to fry survival rates as it exceeds the flow goal rate of the Herman Creek project which was 3 to 5%. Our goal is 250 spawners and 375 returning channel users with adult catch monitoring in the commercial fisheries. It is not known yet if native Coho or Dolly Vardens will use the channel as has been the case in Herman Creek Salmon Enhancement Channel. The use of the channel by overwintering habitat for Coho Salmon may be an ancillary benefit to the project.

The benefit to the project is to the commercial fisheries in upper Lynn Canal from the harvesting of additional Chum Salmon. Ancillary benefits will be to the public viewing of salmon in the channel as it enters the Little Salmon River adjacent and just upstream from the Little Salmon Bridge crossing.

Project Site Selection Criteria:

The site has been determined for production capability, stability, flooding, footprint, avoidance & minimization of impacts, and mitigation enhancement.

Description of Project Site.

The project site is located just upstream from the "Little Salmon River" bridge. The powerhouse has been moved from the original Walker Lake Hydro Study location, which was proposed to be on the alluvial fan area, to an area on the hillside above the river flood plain.

Attachment #2
Compensatory Mitigation Plan
Walker Lake Hydropower Project
POA – 2012-311

Description of Project Site. cont.

This route design also allows for minimizing the impact of the penstock thru the flood plain/river area by avoiding the area entirely and just coming directly off the steep mountainside into the powerplant. The Little Salmon River is anadromous catalog #: 115-32-10250-2067-3002. Walker Creek is not cataloged and was not recommended as such in the most recent ADF&G field survey of July and August, 2011.

A tailrace as discussed above will be constructed from the power plant to allow water from Walker Lake to flow back into the Little Salmon River. This component part of the overall project will come from the power plant which is located on a steep canyon on a heavily forested hillside just above the alluvial floodplain, (ADNR Steve Carrick analysis of alluvial nature 1988), on the North side of the Little Salmon River. The channel itself will bisect the alluvial flood plain on its connection outlet course to the river. There appears to be ample visual evidence of groundwater passing thru the alluvial flood plain area. Skagway B3/B4. Latitude 59.23.042 N; Longitude 136.08.102W. Tailrace elevation is approximately 400' MSL. (See Walker Lake Feasibility Study 1988 for detailed field observation report).

Site Protection Instruments, (easements):

No additional easements are required. The "Stream Enhancement Channel" will be on an easement/use agreement for the "Powerhouse Site/Tailrace", we have applied for from the Alaska Dept. of Natural Resources. Additionally, a separate Alaska Dept. of Fish and Game Permit will be required to construct, operate and maintain the channel.

Impact Site Qualitative and Quantitative Information:

Project Design.

Our project design incorporates the main design principals of the nearby "Herman Creek Salmon Enhancement Channel" which was completed in 1989. This previous referenced project has been deemed as one of the most successful enhancement projects in the State. We have updated our design based upon the monitoring plans and agency comments that reviewed this project since its inception and included other design changes from more recent projects. Generally the design will incorporate the following features:

The channel length is estimated to be upwards of 200' in length and 20' wide at the bottom with side slopes not to exceed 4 to 1, or the angle of repose, (.13 acres). The easement area requested from ADNR is larger to allow for maintenance and access to the site. The channel will be meandering curve and will be constructed of native, (onsite) gravel and boulders of varied size. This feature also minimizes the "siltation/sedimentation factor" that has foiled other similar projects.

Attachment #2
Compensatory Mitigation Plan
Walker Lake Hydropower Project
POA – 2012-311

Project Design, cont.

The depth normally will be a few feet below the water table to assist in over wintering of eggs. Grade will be set at 1% based on other successful velocity analysis. Our objective is to achieve a minimum of 3% to 7% cfs thru both tailrace discharge and groundwater sources on a year round basis. Boulders, gravel and woody debris will be placed throughout the channel as part of an attempt to mimic natural stream conditions and provide cover and shelter. Mature trees will be retained where possible but all non-native vegetation will be removed. Willow plantings, (cuttings), will be performed as well as natural reseeding of the banks and other disturbed areas over time. The channel's outflow will blend naturally into the river.

The design also incorporates features to minimize any "blowout" of the enhancement stream by excess flooding from the "Little Salmon River" by pushing the channel closest to the power plant, against the hillside and designing the curve to go with the flow of the existing topography and enter the river course at a slightly offset parallel manner. (one of the principal causes of other enhancement channel failures is blowout).

Please see the attached project plan, profile and sectional drawings referenced as: Attachment #2 (B)

Compensation Site Qualitative and Quantitative Information:

As discussed previously the applicant proposes a one to one ratio of mitigation thru enhancement by constructing the enhancement channel. We believe the new enhancement channel should actually be valued at a higher value than the low value permanent impacted .46 acres due to the ability of the channel to meet or exceed expectations for habitat restoration and fish enhancement. Our initial designs do meet the one to one ratios and comply with the USACE Alaska District Regulatory Compliance Letter, Appendix B Credit System to the 2009 Report.

The valuation obtained from the Haines Borough Assessor, (September 2012), indicates that the per acre market price for land within our project boundary is approximately \$7,956. Land of a submerged nature, with no road access would have far less value. On a one to one basis the very highest value would therefore be calculated as: (.46 x's \$7,946), or \$3,655. The anticipated value of the enhancement channel is \$45,000 to \$80,000 depending upon final permit requirements, (a 10 : 1, upwards of 20 : 1 ratio), far exceeding the one to one requirement.

This proposed permittee responsible compensatory mitigation project shows that the project will be sufficient to offset the authorized impacts and that the project will be conducted in accordance with a mitigation plan that complies with the "Final Rule". Please note that the discussion of values and ratios here is for general information only and not ratio or monetary determinations by the Corp.

Attachment #2
Compensatory Mitigation Plan
Walker Lake Hydropower Project
POA – 2012-311

Mitigation Work Plan.

Construction methods:

We will use an excavator and loader to remove the overburden, cut the channel, build the side slopes and place the native aggregate in the bottom. Dump trucks may be necessary to move large quantities of material to their proper location. In addition, hand tools and power tools will be used.

Project Schedule:

Please see the attached Project Schedule referenced as "Attachment #2 (A).

Best Practices:

Best practices will be used to ensure no siltation caused from construction activities will enter the Little Salmon River. Such products as fabric fencing, hay bales and siltation traps may be necessary. We will work with the ADF&G to ensure construction is done outside any primary fish egg laying, hatching periods or similar sensitive periods.

Planned Vegetation:

As indicated in earlier sections of this report the permittee expects to retain large trees where possible, replant willow cuttings on the side slopes/banks, and allow natural revegetation to occur. We will also be removing all non-native vegetation. Hand planting of the willow cuttings and native grasses is expected to occur. In addition, we will place strategically located logs and branches in the channel to provide cover for juvenile fish.

Typical Drawings.

Plan, profile and cross sections typical drawings are attached and referenced as "Attachment #2 (B)(1) and #2 (B)(2).

Performance Plan.

Our primary targeted species is Chum Salmon with a fry survival goal rate of in excess of 10%. Our overwintering design flow of 17 cfs coming out of the tailrace of the hydroplant should contribute to fry survival rates as it exceeds the flow goal rate of the Herman Creek project which was 3 to 5%. Our goal is 250 spawners and 375 returning channel users with corresponding commercial fisheries catch numbers. See Monitoring Plan for additional detail.

Attachment #2
Compensatory Mitigation Plan
Walker Lake Hydropower Project
POA – 2012-311

Project Maintenance Plan:

The permittee will be responsible under the pending Alaska Dept. of Natural Resources Use/Easement application with requirements to maintain the channel in proper condition. In addition, as may be required, such conditions, and additional ones, may be included in the Alaska Dept. of Fish and Game permit. We believe that based upon the close coordination with ADF&G on the Herman Creek project it is best for their staff to provide an onsite fish monitoring program that provides for frequency analysis correlated to our planned project objectives. This may include fish traps, siltation channel analysis, and or flora advice. Fish tagging to enable us to separate the commercial fisheries take is recommended.

Monitoring Plan:

The applicant will work with the Alaska Dept. of Fish and Game in ensuring an adequate monitoring plan of the proposed stream enhancement channel is provided. This would include at least biannually conducting an onsite visit to ensure maintenance of the rock slopes and channel is performed. We would agree to making reports to ADF&G and the COE on these visits. Additional reporting and monitoring requirements may be necessary to ensure our project objectives are concurrent with the agencies expertise in this area. We believe the monitoring should be performed for the first five years after project completion with a minimum of annual reporting to the Corps.

Adaptive Management Plan/Long Term Management Plan :

If during the course of the monitoring plan we find that adjustments need to be made to the enhancement channel to meet the objectives the applicant will work with the agencies to come up with reasonable and alternative solutions. This may mean additional and different plantings, correction of any outlet blowouts, and/or changes to the stream channel including log and branch placement. After the initial five year monitoring period, subject to any adaptive changes to meet the performance standards the applicant will continue to monitor the project site on a biannual basis and provide for periodic and annual reporting as may be required by ADF&G and the Corp.

Attachment #2
Compensatory Mitigation Plan
Walker Lake Hydropower Project
POA – 2012-311

Stewardship and Responsibility for Implementation and Monitoring:

The applicant will agree to the conditions required in the upcoming ADF&G permit that will cover implementation and monitoring.

Financial Assurances:

This project will be a multimillion dollar project requiring complex tasking and scheduling. The enhancement channel is normally the last item constructed as it must come off the tailrace of the power plant. The applicant considers that the prior investment in permitting, project development and construction of all of the various component parts to the project, prior to the enhancement channel being constructed, is more than sufficient to ensure we complete this portion of the work. Without the enhancement channel in place, we would not be in compliance with conditions of our ADNR Use/Easement permit, could not prove up on our ADNR Water Rights Certificate, and any ACOE permit requirements. The resulting noncompliance would then place us in a situation where we would not be allowed to operate and sell power. We would also be tied into Power Sales Agreements with the local utility companies that ensure the completion of the project in a timely manner.

We would like to have the agencies review our track record on our completion and operation of the two existing small hydro projects in Haines, that being the Lutak Hydro project (sold to AP&T); and the 10 Mile Hydro project (sold to IPEC). Both properly completed and in full compliance, serving the needs of the public in the Haines area.

Approval of Mitigation Plan.

We request the ACOE to approve this Mitigation Plan as a part of our permit and agree to compliance of the same with any final ADNR & ADFG permits.

Additional References:

1980. D.B. Lister, D.G. Hickey and D.E. Marshall – Chum salmon survival and production @ seven improved groundwater fed spawning areas. Canadian reports.

Observation of the Distribution of Chum Salmon in S.E. Alaska. Dec. 2010. Ronald P. Josephson. ADF&G. SJ10-10-07 Juneau.

ADF&G Stream Survey, July 19th and 20th and August 26, 2011.



THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

Department of Environmental
Conservation

DIVISION OF WATER
Wastewater Discharge Authorization Program

555 Cordova Street
Anchorage, Alaska 99501-2617
Main: 907.269.6285
fax: 907.334.2415
www.dec.alaska.gov/water/wwclp

January 7, 2013

Certified Mail: 7009-2820-0001-7169-4268

Southern Energy, Inc
PO Box 489
Haines, Alaska 99827

Re: Walker Lake Dam
Reference No. POA-2012-311

Dear Project Manager:

In accordance with Section 401 of the Federal Clean Water Act of 1977 and provisions of the Alaska Water Quality Standards, the Department of Environmental Conservation (DEC) is issuing the enclosed Certificate of Reasonable Assurance for placement of fill material in waters of the U.S. in association with the development of two hydroelectric dams adjacent to Walker Lake in Haines, Alaska.

DEC regulations provide that any person who disagrees with this decision may request an informal review by the Division Director in accordance with 18 AAC 15.185 or an adjudicatory hearing in accordance with 18 AAC 15.195 – 18 AAC 15.340. An informal review request must be delivered to the Director, Division of Water, 555 Cordova Street, Anchorage, AK 99501, within 15 days of the permit decision. Visit <http://www.dec.state.ak.us/commish/ReviewGuidance.htm> for information on Administrative Appeals of Department decisions.

An adjudicatory hearing request must be delivered to the Commissioner of the Department of Environmental Conservation, 410 Willoughby Avenue, Suite 303, PO Box 111800, Juneau, AK 99811-1800, within 30 days of the permit decision. If a hearing is not requested within 30 days, the right to appeal is waived.

By copy of this letter we are advising the U.S. Army Corps of Engineers of our actions and enclosing a copy of the certification for their use.

Sincerely,

Handwritten signature of James Rypkema in cursive.

James Rypkema
Section Manager, Storm Water and Wetlands

Enclosure: 401 Certificate of Reasonable Assurance

cc: (with encl.)
Roberta Budnik, USACE, Anchorage
Lynn Canal Professional Services

Michael Daigneault, ADF&G/Habitat
Anchorage USFWS Field Office
Mark Jen, EPA, AK Operations

**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 Southern Energy, Inc; PO Box 489; Haines, Alaska 99827 for placement of fill material in waters of the U.S. in association with the development of two dams adjacent to Walker Lake on the southeast end of the lake. The dams would be constructed of rock fill and impervious material. Dam 1 would require the discharge of up to 900 cubic yards (cy) of fill material into 0.02-acre of Walker Creek. Dam 2 would require the discharge of up to 12,094 cy of fill material into 0.44-acre of wetlands. At Dam 2, there would be a concrete intake structure, weir works, spillway, and trash racks. A 24-inch penstock would consist of PVC pipe, with an additional 1,000 to 2,000 feet of penstock consisting of steel pipe. Up to 200 feet of penstock would be within wetlands, requiring a temporary discharge of up to 155 cy of native material to be stockpiled in an area of 0.13-acre for penstock burial. The dams would cause Walker Lake to increase in size by up to 20 acres. There are some areas of fringe wetlands along Walker Lake, and therefore, up to 20 acres of wetland may be lost due to flooding. However, it is anticipated that the acreage of fringe wetlands lost due to flooding would be less than 20 acres.

A State Water Quality Certification is required under Section 401 because the proposed activity will be authorized by a U.S. Army Corps of Engineers permit, reference number POA-2012-311, and a discharge of pollutants to waters of the U.S. located in the State of Alaska may result from the proposed activity. Public notice of the application for this certification was given as required by 18 AAC 15.180 in the Corps Public Notice POA-2012-311 posted from August 6, 2012 to August 21, 2012.

The proposed activity is located within Sections 27 and 34 of T. 28 S., R. 55E., Sections 1, 2, and 3 of T. 29 S., R. 55 E., and Section 6 of T. 29 S., R. 56E., Copper River Meridian; in Haines, Alaska.

The Department of Environmental Conservation (DEC) reviewed the application and 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. Fuel storage and handling activities for equipment must be sited and conducted so there is no petroleum contamination of the ground, surface runoff or water bodies.
2. During construction, spill response equipment and supplies such as sorbent pads shall be available and used immediately to contain and cleanup oil, fuel, hydraulic fluid, antifreeze, or other pollutant spills. Any spill amount must be reported in accordance with Discharge Notification and Reporting Requirements (AS 46.03.755 and 18 AAC 75 Article 3). The applicant must contact by telephone the DEC Area Response Team for Southeast Alaska (907) 465-5340 during work hours or 1-800-478-9300 after hours. Also, the applicant must contact by telephone the National Response Center at 1-800-424-8802.

3. Runoff discharged to surface water (including wetlands) from a construction site disturbing one or more acres must be covered under Alaska's General Permit for Storm Water Discharges from Large and Small Construction Activities in Alaska (AKR100000). This permit requires a Storm Water Pollution Prevention Plan (SWPPP). For projects that disturb more than five acres, this SWPPP must also be submitted to DEC (William Ashton, 907-269-6283) prior to construction.
4. Construction equipment shall not be operated below the ordinary high water mark 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.
5. All work areas, material access routes, and surrounding wetlands involved in the construction project shall be clearly delineated and marked in such a way that equipment operators do not operate outside of the marked areas.
6. Any disturbed ground and exposed soil not covered with fill must be stabilized and re-vegetated with endemic species, grasses, or other suitable vegetation in an appropriate manner to minimize erosion and sedimentation, so that a durable vegetative cover is established in a timely manner.

This certification expires five (5) years after the date the certification is signed. If your project is not completed by then and work under U.S Army 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: January 7, 2013



James Rypkema, Section Manager
Storm Water and Wetlands



Haines Borough

Planning and Zoning
 103 Third Ave. S., Haines, Alaska, 99827
 Telephone: (907) 766-2231 * Fax: (907) 766-2716

APPLICATION FOR CONDITIONAL USE PERMIT

Permit#: _____

Date: _____

Use this form for use approval by the Planning Commission for conditional uses.

I. Property Owner/Agent/Owner's Contractor(If Any)			
Name:Name:		Haines Borough Business License #:Michael	
Mailing Address:Alaska Business License #:		Wilson	
99801		Contractor's License #:8484 Duran Ct. Juneau AK	
Contact Phone:DayNightMailing Address:		Contact Phone:DayNight907-209-0845	
Fax:		907-789-5528Fax:	
II. Property Information			
Size of Property: 10.4 Acres			
Property Tax #: 3-HHY-36-3426			
Street Address: 35 Mile Old Haines Highway			
Legal Description: Lot (s) _____ Block _____ Subdivision _____			
OR			
Parcel/Tract _____ Section _____ Township _____ Range _____			
[Attach additional page if necessary.]			
Zoning: Waterfront Single Residential Rural Residential Significant Structures Area			
Rural Mixed Use Multiple Residential Heavy Industrial Waterfront Industrial			
Commercial Industrial Light Commercial Recreational Mud Bay Zoning District			
X General UseLutak Zoning			
District			
III. Description of Work		Water Supply	Sewage Disposal
Type of Application		Existing or Proposed	Existing or Proposed
Project Description		None	None
(Check all that apply) (Check all that apply)		Community well	X Septic Tank
ResidentialSingle Family	Change of Use	X Private well	Holding Tank
Commercial Dwelling	_____ sq. ft. Multi-Family Dwelling	Borough Water	Borough Sewer
	Total # of Units _____	System	System
	_____seatingCabin	Other	Pit Privy
capacity ifAddition	Accessory Structure		Other
eating/drinking	X Otherestablishment		
Industrial _____	Helipad		
Church			
Other _____			

Valuation of Work:

Current use of adjacent properties:

There are no residences on adjacent properties or any activity occurring on adjacent properties

Attach the following documents to the permit application:

Site plan (see Attachment A) showing lot lines, bearings and distances, buildings, setbacks, streets, etc.

PREAPPLICATION (Required)

Pre-application Conference Date: _____

Prior to submission of an application, the developer shall meet with the manager for the purpose of discussing the site, the proposed development and the conditional use permit procedure. The manager shall discuss these matters with the developer with special attention to policies and approval criteria that may pose problems or constraints on the site or the proposed development activity and policies or approval criteria that may create opportunities for the developer.

APPLICATION

Please provide a written narrative explaining how your project will meet the following requirements. You may use the space provided on this form or attach your answers. A variance may only be granted if the Planning Commission finds that these six standards are met.

1. The use is so located on the site as to avoid undue noise and other nuisances and dangers.

Describe what safeguards are being provided (i.e. setbacks or buffers) to meet the condition.

The helipad is situated on an upper terrace in the middle of the cleared 10 acre lot as far away from the property line as possible. The property itself is well away and above the Haines highway to avoid vehicular traffic. The nearest resident is well over a mile away.

2. Explain how the development of the use is such that the value of the adjoining property will not be significantly impaired.

The adjoining properties are undeveloped at this time with no activity occurring. The proposed site is the only developed land on the abandoned old Haines highway. Activity and development in this area will help increase property values and tax revenues for the City of Haines.

3. Explain how the size and scale of the use is such that existing public services and facilities are adequate to serve the proposed use.

There is currently a residence on the property with a accommodation facilities including a well, septic system, restrooms, and kitchen facilities. When the conditional use permit is issued it will facilitate the construction of a lodge on an existing 40'x60' foundation with another existing well and septic system. There are plans for additional accommodation facilities with restrooms and food service.

4. Describe how or why the specific development scheme of the use is consistent and in harmony with the comprehensive plan and surrounding land uses.

This conditional use permit will allow Heli-Skiing operations to operate from AA35, an FAA approved landing area, consistent with Haines Borough Code section 5.18.080, that allows for safe operations away from existing residences and vehicular traffic.

5. Explain how the granting of the conditional use will not be harmful to the public safety, health or welfare.

The use of this area for helicopter operations will ensure public safety by being away from roadways and other occupied property.

6. Describe the safeguards that will be provided so that the use will not significantly cause erosion, ground or surface water contamination or significant adverse alteration of fish habitat on any parcel adjacent to state-identified anadromous streams.

The land is already developed, the FAA has reviewed the site and has granted a private heliport designation (AA35).

To safeguard surface water we will have containment for all fueling systems and will provide restroom and trash collection services to handle all human waste.

IV. FEE

A non-refundable fee of \$150 must accompany this application. Checks must be made payable to the HAINES BOROUGH.

NOTICE

Per HBC 18.50.040, Comments received from property owners impacted by the proposed development will be considered and given their due weight. Additionally, the Planning Commission may impose one or more of the following conditions:

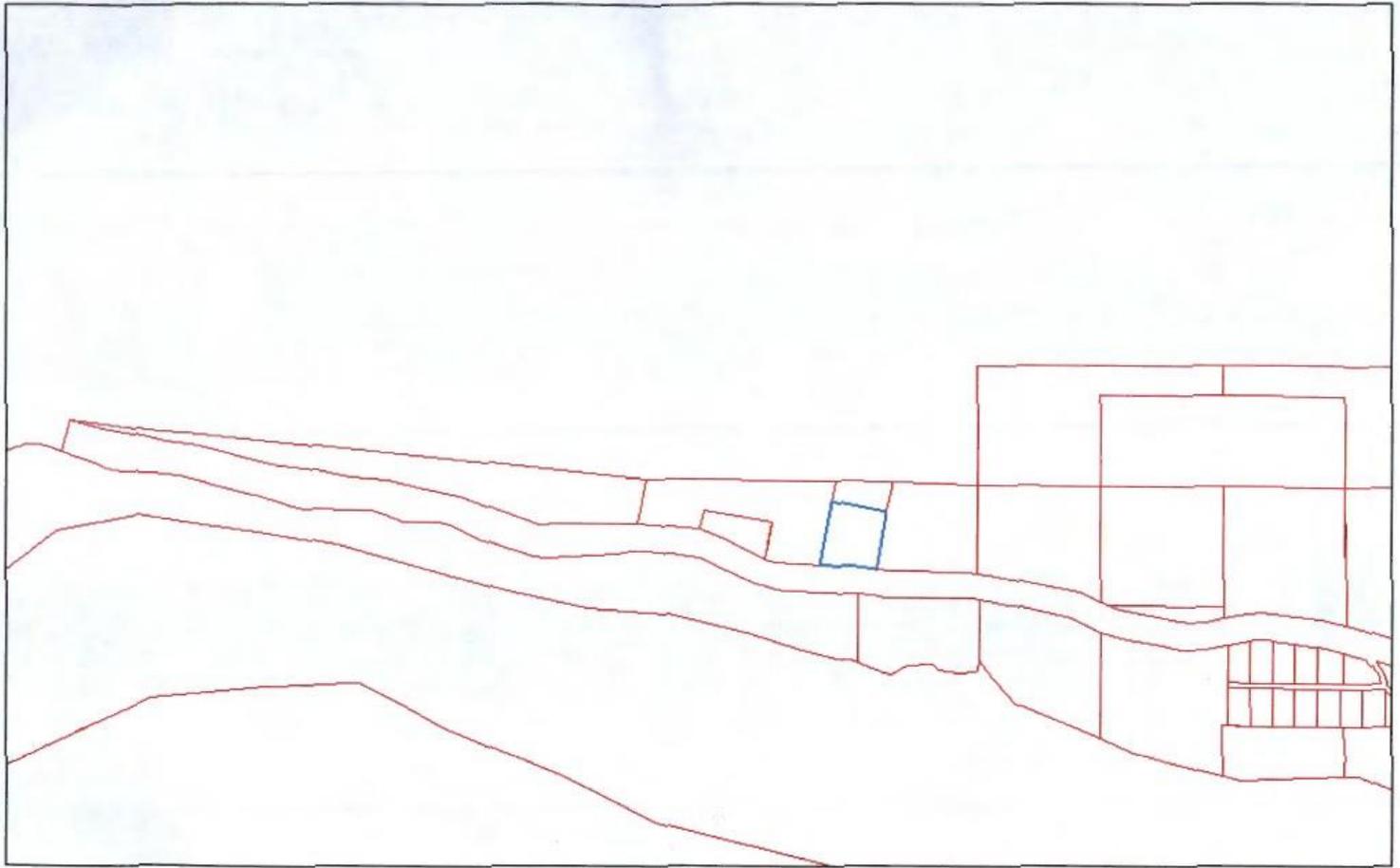
1. Development Schedule. The conditions may place a reasonable time limit on construction activity associated with the development, or any portion thereof, to minimize construction-related disruption to traffic and neighbors, to ensure that lots are not sold prior to substantial completion of required public improvements, or to implement other requirements.
2. Use. The conditions may restrict the use of the development to specific uses indicated in the approval.
3. Owner's Association. The conditions may require that if a developer, homeowner or merchant association is necessary or desirable to hold or maintain common property, that it be created prior to occupancy.
4. Dedications. The conditions may require conveyances of title, licenses, easements or other property interests to the public, to public utilities, or to the homeowners association. The conditions may require construction of public utilities or improvements to public standards and then dedication of public facilities to serve the development and the public.
5. Construction Guarantees. The conditions may require the posting of a bond or other surety or collateral (which may provide for partial releases) to ensure satisfactory completion of all improvements required by the commission.
6. Commitment Letter. Appeal: All decisions of the Borough Manager are appealable per HBC 18.30.050 Notice of Right to The conditions may require a letter from a utility company or public agency legally committing it to serve the development if such service is required by the commission.
7. Covenants. The conditions may require the recording of covenants or other instruments satisfactory to the borough as necessary to ensure permit compliance by future owners or occupants.
8. Design. The conditions may require the adoption of design standards specific to the use and site.

ATTACHMENT A

SITE PLAN REQUIREMENTS

1. Drawing showing dimensions, including elevations, of lot on which activity/construction is planned.
2. Existing streets, alleys, sidewalks, driveways, easements, including widths.
3. Existing buildings/structures on the property, their location, dimension and proximity to lot lines or other structures. (Measured from closest point on structure to other lot lines, structures, etc.)
4. Proposed construction—including location, dimensions, and proximity to lot lines or other structures. (Measured from closest point on structure to other lot lines, structures, etc.)
5. Existing and proposed non-building improvements, including surface water drainage plan, driveway placement, culvert(s), off street parking (location and dimensions), on-site water and/or wastewater handling systems.
6. Shore lines, steep slopes, or other evidence of natural hazards.
7. If zero lot line construction proposed, show plan for handling snowdrop onto adjoining properties.

It is strongly recommended that an as-built survey be performed prior to submittal of the application.



August 19, 2015

hainesborough_parcels07312015



Haines Borough Parcel Viewer



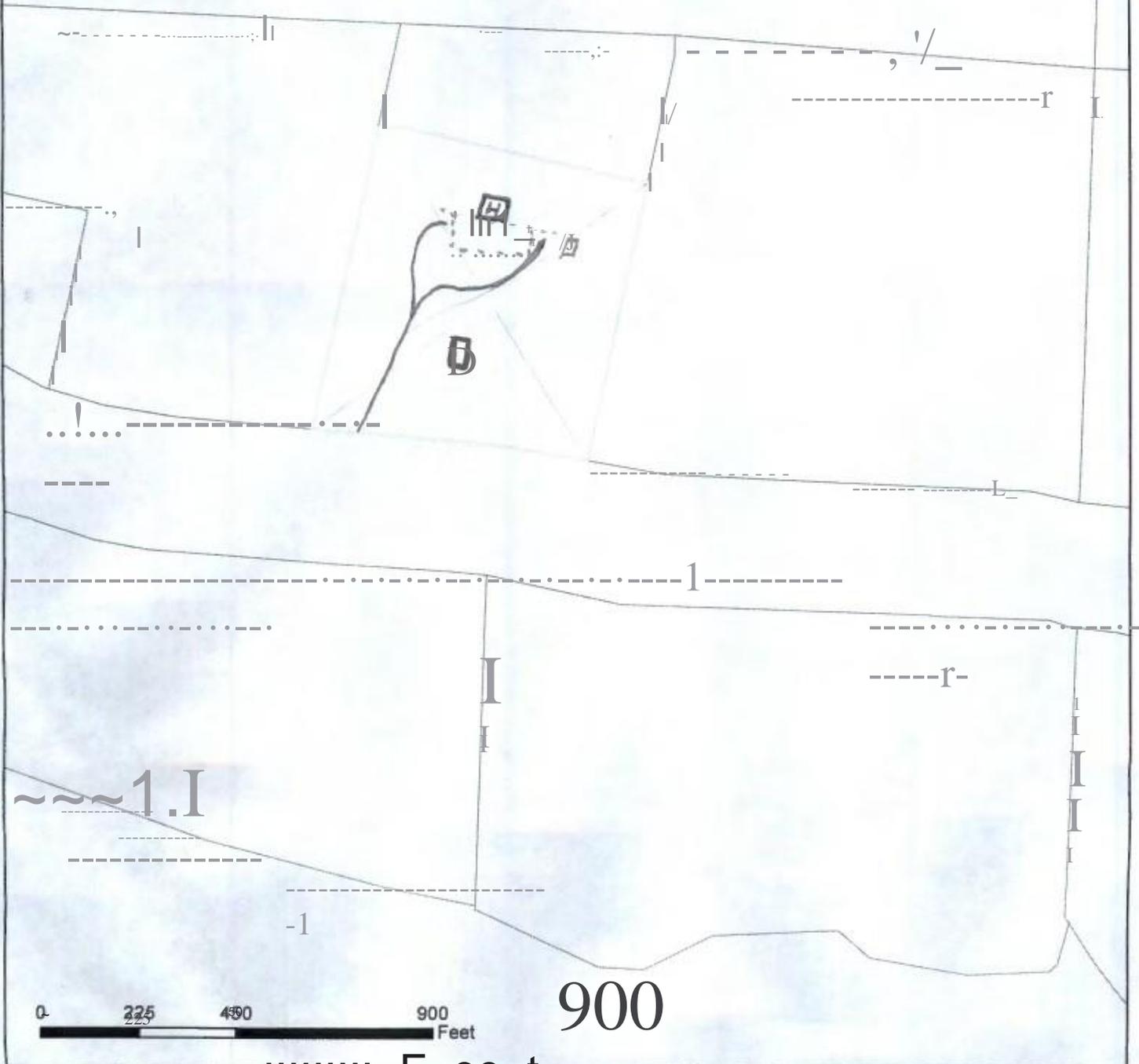
Find TAXIDNO.

haineborough_parcels/07512015: 3-111Y-35-3426

HOWNTYPE	PRI
OWNTYPE	PRIVATE
TAXIDNO	3-111Y-345-3426
PRIMARYOWNER	VICKI L. GARRODNER
SECONDARYOWNER	NEBE WILSON
ADDRESS	HC 60B BOX 2613
CITY	HAINES
STATE	AK
ZIPCODE	99827
COUNTRY	US
LEGALDESC1	USS:3426
LEGALDESC2	HAINES NWY:3426BLE
LEGALDESC3	1044 ACRES
Zone	GU
LAND	98000
EXEMPTLAND	0
TAXABLELAND	98000
IMPROVEMENT	75400
EXEMPTIMPROV	0
TAXABLEIMPROV	75400
ASSESSEDVALUE	173400
TAXABLEVALUE	173400
MILLRATE	0.85
TOTALTAX	1,413.21

[Zoom to](#)

Haines



~==~::~:~F=ee-t~::~:~...
~==~::~:~F=ee-t~::~:~...

Kathy Friedle

From: Brad Ryan
Sent: Friday, February 05, 2016 10:24 AM
To: Kathy Friedle

35 Mile Heliport: Julie Cozzi and I met with the owners of the proposed 35 Mile heliport prior to their upcoming planning commission meeting. My recommendation was to apply for the conditional use permit. I agree with Mr. Sosa's previous recommendation for the Planning Commission to approve the conditional use permit.

New Restaurant: We met with the new owners of the former Mosey's Restaurant in the Fort Seward area and discussed their permit request from the Planning Commission. There is generally good support for this location to open back up as a restaurant. However, there were two concerns voiced. The first was parking, and we had a discussion about better signage and using the Chilkat Center parking. The second was the smell of compost from a former compost pile but that has been cleaned up.

Brad A. Ryan
(907) 314-0648
bryan@haines.ak.us
Haines Borough Interim Manager

Kathy Friedle

From: Rob Goldberg [artstudioalaska@yahoo.com]
Sent: Wednesday, January 13, 2016 6:15 PM
To: Mike Wilson
Cc: Kathy Friedle; heliskialaska@gmail.com; haines35lodge@gmail.com
Subject: Re: Planning Commission Meeting on January 14, 2016

Hi Mike,

I stopped by the Borough office this afternoon and Kathy told me that you had called in asking for a postponement of a decision on your permit application. Reviewing the circumstances, I granted your request to put this off until February. I could have asked the entire commission for a vote on a postponement, but I didn't think it was fair to you to have to fly up for the meeting only to find that we had decided to postpone.

I hope to see you at next month's meeting.

Sincerely,
Rob Goldberg
Chairman, Haines Borough Planning Commission

Rob Goldberg and Donna Catotti
Catotti and Goldberg Art Studio
PO Box 1154 Haines, AK 99827 USA
907-766-2707
artstudioalaska.com

----- Forwarded Message -----

From: Liz Cornejo <liz@constantinemetals.com>

To: rob@artstudioalaska.com

Cc: 'Frisky' <friskyfreshfish@gmail.com>; 'Mike Wilson' <haines35lodge@gmail.com>; bryan@haines.ak.us

Sent: Wednesday, February 3, 2016 5:10 PM

Subject: 35 Mile Heliport

Mr. Goldberg,

Please consider these comments in the Planning Commission's review of the 35 Mile heliport.

Constantine has worked cooperatively with heliski operations in the Upper Valley for many years, and much of the area where we conduct our exploration work in the summer is used for skiing in the winter. I may not be aware of all the information and factors that are part of your evaluation, but I would like to highlight reasons why a heliport at 35 Mile appears to make a lot of sense. Both for reasons of fairness and for reducing impacts of noise disturbance.

AK Heliskiing, Mike Wilson, Seandog and Coastal Helicopters have a long history of operating together and it would only make sense that they wish to own and control their own heliport and base of operations. AK Heliskiing is a long time operator and pioneer of backcountry ski tours, and it appears they have chosen a base of operations at 35 Mile with clear operational and impact advantages.

- Moving off the highway increases safety by avoiding low flying aircraft over vehicles and landings near public facilities where the area is less controlled (one of the main reasons Constantine chose to move our base of operations from 33 Mile).
- The higher elevation of 35 Mile is advantageous in low ground fog conditions.
- 35 Mile has no immediate residential neighbors. The closest residents towards the border station are approximately 2 miles away, whereas the residences to the east are approximately 1 mile away. This a clear advantage over all other established heliports.

In short, the 35 mile location appears to meet the common sense test. It is about as far away from other residents as you can be (for any location located along the Haines Highway in the upper Chilkat Valley) and is closest to their most heavily utilized ski terrain. While Constantine does not currently have plans to use the 35 Mile heliport, we do place value in having a safe, alternate landing/fueling area on the highway side of Klehini. This could be particularly useful for supporting activities during the winter and shoulder season when camp/Porcupine Road is closed.

Diversity is a key element of a vibrant community. Haines is blessed with many opportunities to build economic strength, including tourism, skiing, outdoor adventure, micro-industry, fishing, timber, exploration and mining. We support the energy and efforts by Mike Wilson and AK Heliskiing to bring economic input to the local communities during a season of otherwise depressed economic activity. I also respect your need to balance the needs of all in the community and honor the Borough code, and hope that would include support for the 35 Mile heliport and their investment for the ongoing success of the heliski industry.

Sincerely,
Liz Cornejo

Liz Cornejo, M.Sc.
Manager, Exploration & Community

Constantine Metal Resources Ltd.
800 West Pender Street, Suite 320
Vancouver, British Columbia V6C 2V6 CANADA

Tel 604-629-2348
Cell 778-886-3173
Fax 604-608-3878
Email: liz@constantinemetals.com
Website: www.constantinemetals.com

Haines Borough, Alaska
ATTN: Planning Commission
P.O. Box 1209
Haines, Alaska 99827

January 05, 2016

Re: Appeal of the Haines Borough Managers Decision on historical use of AA35 (35 mile helipad) dated December 28, 2015

Haines Borough Planning Commission,

We ask the Planning Commission to review the managers decision and not include borough imposed use restrictions to AA35.

We believe the Haines Borough decision of limiting the use of AA35 is an arbitrary and capricious decision that is in violation of our rights. In 2008, in accordance with Federal Aviation Regulation Part 157 (Construct or otherwise establish a new airport), FAA form 7480-1, Notice of Landing Area Proposal, was submitted to the FAA. The FAA visited the site and deemed it safe and issued a letter of pre-approval in August of 2009 (All supporting documentation previously submitted to the Haines Borough).

We have used the area as a helipad on a consistent basis since 2009. It is one of five FAA approved landing areas in the Haines borough; Excursion Inlet (EXI), Haines Airport (HNS), Haines Harbor (3Z9), 18 Mile (18 Meadows Aerodrome 18AA), and 35 Mile (AA35).

There are other historical use sites in the borough that do not have use limitations; 33 Mile, Porcupine creek, Glacier creek and Ripinski ridge. There are many other permanent helipads inside the borough boundaries that are outside the zoning area; Sullivan River, Endicott ridge, a USFS repeater above William Henry bay, Lynns Intersection above Teardrop River, Point Howard microwave site, and numerous home sites in the Home shore area have areas that are used regularly.

Is the requirement to prove historical use at AA35 and limit use of the area consistent with borough actions regarding other historical use helipads?

In the letter to the Planning Commission dated December 28, 2015 there was a reference to "Snow Days" where use could be counted when the snow conditions made the use of the 33 mile helipad unusable. To date we have not experienced that condition.

We have experienced access problems with the House at 35 mile due to snow and road maintenance and have used AA35 to move personnel and gear to HNS and to the road side helipad at 33 mile.

AA35 is an approved helipad by the FAA (2008 original application), there are no residences with 1 mile of AA35. The state has abandoned all maintenance of the old highway which is the only access to this landing spot. The safety and remoteness of AA35 makes it a great place to have consolidated operations with no limitation on landings.

We have amended our Conditional Use Permit to include commercial heli-skiing (not company specific) at AA35.

A handwritten signature in blue ink, appearing to read 'Michael Wilson', with a stylized, cursive script.

Michael Wilson
Owner and Heliport (AA35) Manager



U.S. Department
of Transportation

222 W. 7th Ave #14
Anchorage, AK 99513-7587

Federal Aviation
Administration

August 24, 2009

Michael H. Wilson & Vicki Gardner
35 Mile Old Haines Highway
Haines, AK 99827

RE: *(See attached Table 1 for referenced case(s))*
DETERMINATION OF LANDING AREA PROPOSAL

Table 1 - Letter Referenced Case(s)

ASN	Prior ASN	Location	Latitude (NAD83)	Longitude (NAD83)	AGL (Feet)	AMSL (Feet)
2008-AAL-174-NRA		Haines, AK	59-26-15.20N	136-13-45.70W	0	690

Description: Establish new private heliport.

We have determined that the proposed private use landing area, will not adversely affect the safe and efficient use of the navigable airspace by aircraft, provided:

- All operations are conducted in VFR weather conditions.
- The landing area is limited to private use.

Please notify the FAA within 15 days of completing the landing area by calling the FAA Area Flight Service Station (AFSS) serving your landing area to let them know you are activating the landing area while the Airport Master Record form is being processed. Please tell the Flight Service Station representative that you have received an aeronautical determination from the FAA, and supply them with the name of your landing area and the coordinates.

Please return the enclosed Airport Master Record form to this office. When the processing of the Airport Master Record form is completed, your landing area will have a site number and a permanent location identifier. Indicate whether or not you would like to have your landing area shown on aeronautical charts. Charting also depends on the amount of "clutter" already on the charts near your site.

In order to avoid placing any unfair restrictions on users of the navigable airspace, this determination is valid until February 24, 2011. Should the facility not be operational by this date, an extension of the determination must be obtained by 15 days prior to the expiration date of this letter.

This determination does not constitute FAA approval or disapproval of the physical development involved in the proposal. It is a determination with respect to the safe and efficient use of navigable airspace by aircraft and with respect to the safety of persons and property on the ground.

In making this determination, the FAA has considered matters such as the effects the proposal would have on existing or planned traffic patterns of neighboring airports, the effects it would have on the existing airspace structures and projected programs of the FAA, the effects it would have on the safety of persons and property on the ground, and the effects that existing or proposed manmade objects (on file with the FAA), and known natural objects within the affected area would have on the airport proposal.

The FAA cannot prevent the construction of structures near an airport. The airport environs can only be protected through such means as local zoning ordinances, acquisitions of property in fee title or aviation easements, letters of agreement, or other means.

This determination does not preempt or waive any ordinance, law, or regulation of any other governmental body or agency.

Enclosures:

- Airport Master Record form

If you have any questions concerning this determination contact Gabriel Mahns, , (907)271-3665, gabriel.mahns@faa.gov.



Gabriel Mahns
DivUser

4/12/12



U.S. Department
of Transportation
**Federal Aviation
Administration**

June 21, 2012

Michael H. Wilson & Vicki Gardner
35 Mile Old Haines Highway
Haines, AK 99827

Dear Michael H. Wilson & Vicki Gardner

This letter is in regards to the Notice of Landing Area Proposal, FAA Form 7480-1 that you submitted to the FAA Airports Division on January 31, 2012.

We are prepared to issue our final determination on the proposal, but prior to doing so, we need to receive from you a completed Airport Master Record, FAA Form 5010-5. We are unable to register your landing area without that information.

I have attached a copy of the form to this letter for your convenience. Additionally, if you would like to obtain the form electronically, it is available here:

<http://www.faa.gov/forms/index.cfm/go/document.information/documentID/185478>

For information on completing the form, please refer to Advisory Circular 150/5200-35A, available here:

http://www.faa.gov/regulations_policies/advisory_circulars/index.cfm/go/document.information/documentID/393458

Upon completion of the form, please mail to:

Federal Aviation Administration, Airports Division
Attn: Mike Edelmann, AAL-618
222 W7th Ave, Suite 14
Anchorage, AK 99513

If you prefer, you can e-mail the completed form to the e-mail address below, or fax the completed form to (907) 271-2851.

Please reference Airspace Case number 2012-AAL-17-NRA in all communications.

Sincerely,

Mike Edelmann
FAA, Alaska Airports Division
Southeast Alaska Aviation Planner, AAL-618
907-271-5026 voice
907-271-2851 fax
mike.edelmann@faa.gov

Enclosure: FAA Form 5010-5

Julie Cozzi

From: Mike Wilson [mwilson@coastalhelicopters.com]
Sent: Thursday, December 10, 2015 12:35 PM
To: Julie Cozzi
Subject: List of 35 heli use since 2009
Attachments: download-1449782978447.pdf

Hi Julie

Here is a list of the use dates for helicopters at 35 mile since 2009. I have access to flight data that was dispatched and flight followed from Coastal in Juneau. When the helicopters were working the area under contract to various sub contractors (Alaska Heli ski and Constantine Metals) we have verbal verification from those operators.

I have a copy of the first FAA request for landing form submitted in Jan 2009 and the original letter of authorization from Aug 2009

Mike

January 2009, Initial application for heliport with the FAA

June 2009, FAA initial visit

March - April 2010, some landings performed by Alaska Heli-Skiing for client movement when road unpassable due to snow

July 18, 2010 Landing for fuel en-route to Tok

August 26, 2010 Landing for fuel en-route to Tok

August 28, 2010 Landing for fuel Tok - JNU

March - April 2011, some landings performed by Alaska Heli-Skiing for client movement when road unpassable due to snow

May 30, 2011 Landed for fuel en-route to Tok

July 2011, landing performed by Constantine for inspection of fuel system

March - April 2012, some landings performed by Alaska Heli-Skiing for client movement when road unpassable due to snow

May 24, 2012, FAA landed for final site inspection

July 01, 2012 Landed for fuel while working with Snow Lion (Jerry Fabrizio)

July 25, 2012, Landing for fuel en-route to Tok

August 12, 2012 Landing for fuel Tok - JNU

August 13, 2012 Landing for fuel en-route to Tok

March - April 2013, some landings performed by Alaska Heli-Skiing for client movement when road unpassable due to snow

September 02 2013 Landing for fuel while working with RAW TV

March - April 2014, some landings performed by Alaska Heli-Skiing for client movement when road unpassable due to snow

May 12, 2014 Landed for fuel, reported problem with the fuel system

April 2015 landings for fuel system assessment and site clearing

July 2015 landings while Constantine metals working on communication system



U.S. Department of Transportation

Federal Aviation Administration

August 24, 2009

Michael H. Wilson & Vicki Gardner
35 Mile Old Haines Highway
Haines, AK 99827

222 W. 7th Ave #14
Anchorage, AK 99513-7587

RE: (See attached Table 1 for referenced case(s))
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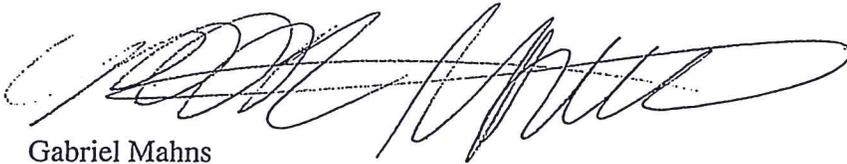
The FAA cannot prevent the construction of structures near an airport. The airport environs can only be protected through such means as local zoning ordinances, acquisitions of property in fee title or aviation easements, letters of agreement, or other means.

This determination does not preempt or waive any ordinance, law, or regulation of any other governmental body or agency.

Enclosures:

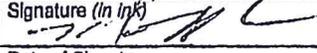
- Airport Master Record form

If you have any questions concerning this determination contact Gabriel Mahns, , (907)271-3665, gabriel.mahns@faa.gov.



Gabriel Mahns
DivUser

4/12/12 →

U.S. Department of Transportation Federal Aviation Administration		NOTICE OF LANDING AREA PROPOSAL					
Name of Proponent, Individual, or Organization 35 Mile Lodge			Address of Proponent, Individual, or Organization (No., Street, City, State, Zip Code) 35 Mile Old Haines Highway, Haines, AK 99827				
<input checked="" type="checkbox"/> Check if the property owner's name and address are different than above, and list property owner's name and address on the reverse.							
<input checked="" type="checkbox"/> Establishment or Activation		<input type="checkbox"/> Deactivation or abandonment		<input type="checkbox"/> Airport		<input type="checkbox"/> Ultralight Flightpark	
<input type="checkbox"/> Alteration		<input type="checkbox"/> Change of Status		<input checked="" type="checkbox"/> Heliport		<input type="checkbox"/> Seaplane Base	
						<input type="checkbox"/> Vertiport	
						<input type="checkbox"/> Other (Specify)	
A. Location of Landing Area							
1. Associated City/State Haines, Alaska		2. County/State (Physical Location of Airport) Haines			3. Distance and Direction From Associated City or Town		
4. Name of Landing Area 35 Mile Lodge		5. Latitude 59 ° 26 ' 15.2" N	6. Longitude 136 ° 13 ' 45.7"	7. Elevation 690ft MSL	Miles 27 NM	Direction SE	
B. Purpose							
Type Use <input type="checkbox"/> Public <input checked="" type="checkbox"/> Private <input type="checkbox"/> Private Use of Public Land/Waters		If Change of Status or Alteration, Describe Change N/A			<input type="checkbox"/> Establishment or change to traffic pattern (Describe on reverse)	Construction Dates To Begin/Begin Est. Completion	
C. Other Landing Areas							
		Ref. A5 above		D. Landing Area Data			Existing (if any)
		Direction From Landing Area	Distance From Landing Area	1. Airport, Seaplane Base, or Flightpark	Rwy #1	Rwy #2	Rwy #3
				Magnetic Bearing of Runway (s) or Sealane			
				Length of Runway (s) or Sealane (s) In Feet			
				Width of Runway (s) or Sealane (s) In Feet			
				Type of Runway Surface (Concrete, Asphalt, Turf, Etc.)			
				2. Heliport			
				Dimensions of Final Approach and Take off Area (FATO) In Feet	150 ft diameter		
				Dimensions of Touchdown and Lift-Off Area (TLOF) In Feet	50 ft diameter		
				Magnetic Direction of Ingress/Egress Routes	Ingress 360 Egress 180		
				Type of Surface (Turf, concrete, rooftop, etc.)	Turf		
E. Obstructions							
Type		Height Above Landng. Area	Direction From Landing Area	Distance From Landing Area	3. All Landing Areas	Description of Lighting (If any)	Direction of Prevailing Wind
Trees		10 feet	South	300 ft			
Trees		10 feet	East	100 ft			
House		10 feet	West	100 ft			
F. Operational Data							
1. Estimated or Actual Number Based Aircraft							
Airport, Flightpark, Seaplane base		Present (If est. Indicate by letter 'E')	Anticipated 5 Years Hence	Heliport	Present (If est. Indicate by letter 'E')	Anticipated 5 Years Hence	
Multi-engine				Under 3500 lbs. MGW	E 2	E 4	
Single-engine				Over 3500 lbs. MGW			
Glider							
G. Other Considerations							
Identification		Direction From Landing Area	Distance From Landing Area	2. Average Number Monthly Landings	Present (If est. Indicate by letter 'E')	Anticipated 5 Years Hence	Present (If est. Indicate by letter 'E')
				Jet			E 60
				Turboprop			
				Prop			
				Helicopter	30		
				Ultralight			
				Glider			
3. Are IFR Procedures For The Airport Anticipated <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes Within _____ Years Type Navaid:							
H. Application for Airport Licensing							
<input type="checkbox"/> Has Been Made		<input checked="" type="checkbox"/> Not Required		<input type="checkbox"/> County		<input type="checkbox"/> Municipal Authority	
<input type="checkbox"/> Will Be Made		<input type="checkbox"/> State					
I. CERTIFICATION: I hereby certify that all of the above statements made by me are true and complete to the best of my knowledge.							
Name, title (and address if different than above) of person filing this notice - type or print Michael H Wilson Juneau Alaska			Signature (in ink) 				
			Date of Signature January 18, 2009		Telephone No. (Precede with area code) 907-209-0845		

Paperwork Reduction Act Statement: The information collected on this form is necessary because it is the description of the physical and operational characteristics of the airport that will be on file with the FAA. The information on all airports will be maintained in FAA computers for record keeping purposes and used in airspace studies. Some of the information on public use airports is safety-critical and will be published in flight information handbooks and charts for pilot use. The burden associated with completing this form is estimated to be 30 minutes. Providing this information is mandatory if the proponent wishes to have the airport on file with the FAA and entered into the National Airspace System. No assurances of confidentiality are given. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number associated with this collection is 2120-0036. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave SW, Washington, DC 20591, Attn: Information Collection Clearance Officer, ABA-20.

**INSTRUCTIONS
NOTICE OF LANDING AREA
PROPOSAL**

**As Used Herein, The Term "Airport" Means
Any Landing or Takeoff Area such as Airport, Heliport, Helistop, Vertiport, Gliderport, Seaplane Base,
Ultralight Flightpark, or Balloonport**

Federal Aviation Regulations Part 157 requires all persons to notify the FAA at least 90 days before any construction, alteration, activation, deactivation, or change to the status or use of a civil or joint-use (civil/military) airport. Notice is not required for the establishment of a temporary airport at which operations will be conducted under visual flight rules (VFR) and will be used for less than 30 days with no more than 10 operations per day. Notice also is not required for the intermittent use of a site that is not an established airport, which is used for less than one year and at which flight operations will be conducted only under VFR. Intermittent use means the use of the site for no more than 3 days in any one week and for no more than 10 operations per day.

Required notice shall be submitted on this form from each person who intends to do any of the following:

1. Construct or otherwise establish a new airport or activate an airport.
2. Construct, realign, alter, or activate any runway, or other aircraft landing or takeoff area of an airport.
3. Construct realign, alter, or activate a taxiway associated with a landing or takeoff area on a public-use airport.
4. Deactivate, discontinue using, or abandon an airport or any landing or takeoff area of an airport for a period of one year or more.
5. Deactivate, abandon, or discontinue using a taxiway associated with a landing or takeoff area on a public-use airport.
6. Change the status of an airport from private use (use by the owner or use by the owner and other persons authorized by the owner) to an airport open to the public or from public-use to another status.
7. Change status from IFR to VFR or VFR to IFR.
8. Establish or change any traffic pattern or traffic pattern altitude or direction.

The notice required shall be made by submitting this form to the nearest Federal Aviation Administration Regional Office or Airports District Office. However, in an emergency involving essential public service or when the delay arising from the 90-day advance notice requirement would result in an unreasonable hardship, you may provide notice to the appropriate FAA Airports District/Field Office by telephone in lieu of submitting this form. The FAA may require the subsequent submission of this form when necessary for safety or other reasons.

Section 901 of the Federal Aviation Act of 1958, as amended, provides that any person who violates a rule, regulation or order issued under Title III of this Act shall be subject to a civil penalty not to exceed \$ 1,000 for each violation.

GENERAL INSTRUCTIONS

1. For any project falling in categories 1, or 2 above, complete all appropriate sections.
2. For any project falling in categories 3, 4, or 5 above, complete sections A, B, D (if appropriate), and I.
3. For status change (categories 6 or 7 above), from private use to public use or from VFR to IFR, complete sections A, B, E, G, and I. For all other changes, complete sections A, B, and I.
4. For traffic pattern establishment or change (category 8) complete all appropriate sections. Traffic pattern description should be entered on the reverse side of FAA Form 7480-1.
5. Express all bearings as magnetic and mileages as nautical.
6. Please Print or Type All Items.

Section A - Identify Reference Datum of Coordinates (NAD 83 or NAD 27)

Section B - If the airport is to be used by the owner only, or by the owner and persons authorized by the owner, check "private". If the landing and takeoff area of the airport is publicly owned and the operator is a non-government entity, then check "private use of public lands". If the airport is to be available for use by the general public without a requirement for prior approval of the owner or operator, then check "public". If necessary, use the reverse side of the form or a separate sheet of paper to describe changes or alterations.

Section C - Airport or seaplane base: List VFR airports and heliports within 5NM, and IFR airports within 20NM. Heliports: List VFR airports and heliports within 3NM and IFR airports within 10NM.

Section D - Attach U.S. Geological Survey quadrangle map or equivalent. Plot locations of facility to the nearest second, runway alignments, associated taxiways or sealane alignments. When appropriate, use city map for heliports.

Section E - List and plot on quadrangle map or equivalent any obstructions within: 3NM of a VFR airport or a seaplane base; 5NM of an IFR airport; or 5,000 feet of a heliport.

Section F - Self-explanatory.

Section G - List schools, churches and residential communities within a 2NM radius for airports and within a 1NM radius for heliports. List all waste disposal sites within a 5NM radius.

Section H - Self-explanatory.

Notification to the FAA does not waive the requirements of any other government agency.

ADDRESSES OF THE REGIONAL OFFICES

Submit your completed form by mail to:

Western Pacific Region

AZ, CA, HI, NV, GU
Federal Aviation Administration
Airports Division, AWP-800
15000 Aviation Boulevard
Hawthorne, CA 90261
Mail Address:
P. O. Box 92007
Worldway Postal Center
Los Angeles, CA 90009
Tel. 310-725-3608 Fax: 310-725-6847

Alaskan Region

AK
Federal Aviation Administration
Airports Division, AAL-800
222 West 7th Avenue, Box 14
Anchorage, AK 99513
Tel. 807-271-5438 Fax: 807-271-2851

Eastern Region

DC, DE, MD, NJ, NY, PA, VA, WV
Federal Aviation Administration
Airports Division, AEA-600
1 Aviation Plaza
Jamaica, NY 11434-4809
Tel. 718-553-3330 Fax: 718-995-5694

Southern Region

AL, FL, GA, KY, MS, NC, SC, NT, PR, VI
Federal Aviation Administration
Airports Division, ASO-600
1701 Columbia Avenue
College Park, GA 30337
Mail Address:
P. O. Box 20638
Atlanta, GA 30320
Tel. 404-305-6700 Fax: 404-305-6730

Northwest Mountain Region

CO, ID, MT, OR, UT, WA, WY
Federal Aviation Administration
Airports Division, ANM-600
1601 Lind Avenue, S.W., Suite 315
Renton, WA 98005-4056
Tel. 425-227-2600 Fax: 425-227-1600

Great Lakes Region

IL, IN, MI, MN, ND, OH, SD, WI
Federal Aviation Administration
Airports Division, AGL-600
2300 East Devon Avenue
Des Plaines, IL 60018
Tel. 847-294-7272 Fax: 312-294-7036

Southwest Region

AR, LA, NM, OK, TX
Federal Aviation Administration
Airports Division, ASW-600
2601 Meacham Boulevard
Fort Worth, TX 76137-4298
Tel. 817-222-5600 Fax: 817-222-5984

Central Region

IA, KS, MO, NE
Federal Aviation Administration
Airports Division, ACE-625 9
01 Locust
Kansas City, MO 64106-2325
Tel. 816-329-2600 Fax: 816-329-2610

New England Region

CT, MA, ME, NH, RI, VT
Federal Aviation Administration
Airports Division, ANE-600
12 New England Executive Park
Burlington, MA 01803
Tel. 781-238-7600 Fax: 781-238-7808

From: mwilson@coastalhelicopters.com
To: [Julie Cozzi](#)
Cc: [sean dog](#)
Subject: Fwd: July 18 2010
Date: Friday, December 11, 2015 9:33:54 AM
Attachments: [July 18 2010.pdf](#)

Hi Julie

After our conversation with Jan Hill yesterday we want to make sure you have the information supporting our routine use of the 35 mile property for helicopter landings and operations. I will be sending you a series of files that contain information on some of those flights

Mike

----- Forwarded message -----

From: "Mike Wilson" <mwilson@coastalhelicopters.com>
Date: Dec 10, 2015 11:57
Subject:
To: "sean dog" <heliskialaska@gmail.com>
Cc:

Seq	DBTable	DBCode Value	Item	OldValue
825656	25	43712	Misc. Entry	\$1254.60 fuel HNS50g Tok 131g FBK77g
817975	25	43712	EndingHobbs	70.3
817974	25	43712	StartingHobbs	64.3
814668	25	43712	Misc. Entry	36607 6.0
791533	25	43712	Returned	
791532	25	43712	Misc. Entry	Manley, Done for the day
791528	25	43712	Misc. Entry	manley hot springs as per sat track
791508	25	43712	Misc. Entry	fairbanks- manly w2 1900 nxt
791504	25	43712	Misc. Entry	Landed Fairbanks
791436	25	43712	Misc. Entry	tok-fai 1730nxt
791356	25	43712	Misc. Entry	landed tok
791250	25	43712	Misc. Entry	drycreek - tok per tracker
791097	25	43712	Misc. Entry	35 for tokw/ 2 15:00 next
791094	25	43712	Misc. Entry	landed 35 mile for fuel
791075	25	43712	Misc. Entry	landed 35mile per sat track

791015	25	43712	Misc. Entry	endicott for 35 mile 1130NC
791013	25	43712	Misc. Entry	favorite channel IBto35mile
791001	25	43712	Misc. Entry	35mile w/2 95
790999	25	43712	Departed	
790874	25	43712	Ready To Launch	False
790873	25	43712	Manifest Printed	
789990	25	43712	Time	7:00:00AM
784116	25	43712	Operator	
774922	25	43712	DateChange	07/15/10
765601	25	43712	New Record Added	

Julie Cozzi

From: Mike Wilson [mwilson@coastalhelicopters.com]
Sent: Thursday, December 10, 2015 12:28 PM
To: Julie Cozzi
Subject: Fwd: Aug 28 2010
Attachments: August 28 2010.pdf

----- Forwarded message -----

From: "Mike Wilson" <mwilson@coastalhelicopters.com>
Date: Dec 10, 2015 12:11
Subject:
To: "sean dog" <heliskialaska@gmail.com>
Cc:

Seq	DBTable	DBCode Value	Item	OldValue
836915	25	45777	Misc. Entry	37012 5.6
836912	25	45777	Misc. Entry	void last flight slip
835544	25	45777	Misc. Entry	36999 5.6
833878	25	45777	Tach Time	
833876	25	45777	EndingHobbs	
833875	25	45777	StartingHobbs	
833874	25	45777	Returned	
833873	25	45777	Misc. Entry	landed 33mile RON
833872	25	45777	Misc. Entry	landed 33 mile
833865	25	45777	Misc. Entry	35 mile for 33 mile
833694	25	45777	Misc. Entry	Landed 35 mile for fuel
833693	25	45777	Misc. Entry	approaching Surgeon Mt
833690	25	45777	Misc. Entry	Dezadeash Lake IBto 33mile
833689	25	45777	Misc. Entry	60 min next as per ST
833673	25	45777	Misc. Entry	passing Kloo Lake
833672	25	45777	Use Tour Duration Defaults	True
833671	25	45777	WB Default Tach in Minutes	
833670	25	45777	WB Tach in Minutes	
833669	25	45777	Tach in Minutes	
833668	25	45777	Duration in Minutes	
833646	25	45777	Misc. Entry	approaching Kluana Lake

833612	25	45777	Misc. Entry	62 43.70 N, 141 45.87 W
833611	25	45777	Misc. Entry	8mi NE of Jatahmund L per ST
833590	25	45777	Misc. Entry	tok-33mi 1800NC
833571	25	45777	Misc. Entry	landed Tokwill call off
833565	25	45777	Misc. Entry	Latitude6346.24 N Longitude 144 42.35 W
833530	25	45777	Misc. Entry	fairbanksfor Tok 1600 NC
833491	25	45777	Misc. Entry	Lnd FairbanksLook At wx will call whn off
833490	25	45777	Misc. Entry	landed fairbanksper ST
833488	25	45777	Misc. Entry	off the fairbanks 1330 NC
833463	25	45777	Misc. Entry	Latitude6438.83 N Longitude 148 33.10 W
833462	25	45777	Misc. Entry	landed river waiting for weather
833458	25	45777	Misc. Entry	Latitude6437.18 N Longitude 148 33.10 W
833418	25	45777	Misc. Entry	to fairbanks via Nenana 1200NC
833404	25	45777	Misc. Entry	standing by for weather NC1200
833361	25	45777	Misc. Entry	waiting on weather 1000NC
833360	25	45777	Misc. Entry	landed Tanana River 1 W of Lunch Lake
833344	25	45777	Misc. Entry	w/1 Manly - Fairbanks NC900
833343	25	45777	Departed	7:15:25 AM
833342	25	45777	Departure Time	7:15:25 AM
833341	25	45777	Departed	
833173	25	45777	Operator	
833171	25	45777	Date Change	08/29/10

830623	25	45777	New Record Added	
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To whoever it might concern.

March 2011, we visited Alaska Heliski . We stayed up at 35 mile. We lived there for about one month. This year was really stormy one, and we had to extend our stay to get in enough skiing/ filming for our skimovie project. Several of times we got totally snowed in. We had a 4wd , but it was hard to get up and down from the Highway. At some time we got picked up by Helicopters directly outside the house to go skiing.

Asbjørn Eggebø Næss. Freeskier/ Filmmaker , Norway.

Julie Cozzi

From: Mike Wilson [mwilson@coastalhelicopters.com]
Sent: Thursday, December 10, 2015 12:26 PM
To: Julie Cozzi
Subject: Fwd: May 30 2011
Attachments: May 30 2011.pdf

----- Forwarded message -----

From: "Mike Wilson" <mwilson@coastalhelicopters.com>
Date: Dec 10, 2015 12:00
Subject:
To: "sean dog" <heliskialaska@gmail.com>
Cc:

Seq	DBTable	DBCodeValue	Item	OldValue
927115	25	52273	Misc. Entry	38738 5.5
926839	25	52273	Tach Time	
926838	25	52273	EndingHobbs	
926836	25	52273	Returned	
926816	25	52273	Duration in Minutes	450
926794	25	52273	Misc. Entry	past Delta per ST
926774	25	52273	Misc. Entry	63 48.30 N, 144 51.65 W
926744	25	52273	Misc. Entry	tok-Fairbanks 1900 nxt
926736	25	52273	Use Tour Duration Defaults	True
926735	25	52273	Duration in Minutes	600
926713	25	52273	Misc. Entry	tokin it up while fueling. Will call off
926688	25	52273	Misc. Entry	63 5.25 N, 142 28.66 W
926670	25	52273	Misc. Entry	Backoff to Tok
926613	25	52273	Misc. Entry	landed 60 mi Eof Tok to put fuel on 1615 nxt
926584	25	52273	Misc. Entry	62 19.88 N, 141 4.59 W
926570	25	52273	Misc. Entry	62 11.96 N, 140 52.99 W
926467	25	52273	Misc. Entry	61 24.79 N, 139 3.57 W
926304	25	52273	Misc. Entry	35 mile for tok 1600 nxt
926208	25	52273	Misc. Entry	endicott - 35 1245nxt
926073	25	52273	Misc. Entry	35 mile w2 100
926072	25	52273	Departed	
926066	25	52273	Misc. Entry	100 w/2 to 33
926031	25	52273	Manifest Printed	
925984	25	52273	Time	11:00:00 AM
925980	25	52273	Ready To Launch	False

925965	25	52273	Time	10:00:00 AM
925896	25	52273	Time	9:30:00 AM
925860	25	52273	Time	9:00:00 AM
925851	25	52273	Time	8:30:00 AM
925836	25	52273	Time	8:00:00 AM
916838	25	52273	Operator	Tyler Burrows 4-LA
915956	25	52273	Operator	Jarod Fader 6-LA
915955	25	52273	New Record Added	

Julie Cozzi

From: Mike Wilson [mwilson@coastalhelicopters.com]
Sent: Thursday, December 10, 2015 12:29 PM
To: Julie Cozzi
Subject: Fwd: July 01 2012
Attachments: July 01 2012.pdf

----- Forwarded message -----

From: "Mike Wilson" <mwilson@coastalhelicopters.com>
Date: Dec 10, 2015 12:12
Subject:
To: "sean dog" <heliskialaska@gmail.com>
Cc:

Seq	DBTable	DBCCode Value	Item	OldValue
1168469	25	63539	Misc. Entry	41611 2.4
1167796	25	63539	Returned	
1167792	25	63539	Duration in Minutes	160
1167763	25	63539	Misc. Entry	crossing berners bay
1167762	25	63539	Duration in Minutes	140
1167745	25	63539	Misc. Entry	south chilkat inlet s/b
1167731	25	63539	Misc. Entry	Haines - JNU/w3
1167698	25	63539	Duration in Minutes	200
1167697	25	63539	Duration in Minutes	140
1167696	25	63539	Duration in Minutes	110
1167695	25	63539	Misc. Entry	30 min next per ST
1167691	25	63539	Misc. Entry	35 mile for cahoun
1167682	25	63539	Misc. Entry	Landed 35 mile per ST
1167670	25	63539	Misc. Entry	30 min next per ST 1030NC
1167666	25	63539	Misc. Entry	porcupine for cahoun per ST
1167494	25	63539	Misc. Entry	w/370
1167493	25	63539	Departed	
1167481	25	63539	Ready To Launch	False
1167480	25	63539	Manifest Printed	
1167123	25	63539	Operator	MacBleth 2
1166548	25	63539	Operator	

1156902	25	63539	Vessel	724AM
1153776	25	63539	Time	8:30:00 AM
1152575	25	63539	Vessel	Unassigned
1152560	25	63539	Tour	Charter
1152559	25	63539	WB Default Tach in Minutes	120
1152558	25	63539	WB Tach in Minutes	120
1152557	25	63539	Tach in Minutes	120
1152556	25	63539	Duration in Minutes	120
1149901	25	63539	New Record Added	

Julie Cozzi

From: Mike Wilson [mwilson@coastalhelicopters.com]
Sent: Thursday, December 10, 2015 12:26 PM
To: Julie Cozzi
Subject: Fwd: July 25 2012
Attachments: July 25 2012.DOC

----- Forwarded message -----

From: "Mike Wilson" <mwilson@coastalhelicopters.com>
Date: Dec 10, 2015 12:07
Subject:
To: "sean dog" <heliskialaska@gmail.com>
Cc:

Seq	DBTable	DBCode Value	Item	OldValue
1200401	25	60965	Misc. Entry	41957 5.9
1200360	25	60965	Tach Time	
1200359	25	60965	Ending Hobbs	
1200347	25	60965	Returned	
1200346	25	60965	Return Time	
1200345	25	60965	Misc. Entry	per DA phone call, staying at sophie station
1200344	25	60965	Misc. Entry	confirmed landing at fbk, done for the day
1200336	25	60965	Misc. Entry	landed fbk per ST
1200204	25	60965	Misc. Entry	dept Tok in 5 call Lnd Fairbank
1200158	25	60965	Misc. Entry	landed in toke 1430nxt
1200114	25	60965	Misc. Entry	60 min next per ST 1400 NC
1200026	25	60965	Misc. Entry	spoke to Damon on the phone as asked to reset sat
1200015	25	60965	Misc. Entry	just passed Kluane Lake 4 Tok 1400NC
1199992	25	60965	Misc. Entry	30 min nxt via sat track 1230
1199916	25	60965	Misc. Entry	30 min next -per ST 1205NC
1199843	25	60965	Misc. Entry	30 min next 1103 1133 NC
1199793	25	60965	Misc. Entry	having trouble getting fuel at 35 mile 11
1199774	25	60965	Misc. Entry	landed 35 mile per ST
1199741	25	60965	Misc. Entry	30 min next per ST 1010NC
1199740	25	60965	Misc. Entry	passed sullivan island
1199642	25	60965	Departed	

1199590	25	60965	Ready To Launch	False
1199589	25	60965	Manifest Printed	
1199588	25	60965	Time	8:00:00 AM
1199313	25	60965	Departed	5:48:41 AM
1199312	25	60965	Departure Time	5:48:41 AM
1199298	25	60965	Departed	
1198834	25	60965	Configuration	
1198833	25	60965	Time	7:00:00 AM
1087983	25	60965	New Record Added [Serverside]	

Julie Cozzi

From: Mike Wilson [mwilson@coastalhelicopters.com]
Sent: Thursday, December 10, 2015 12:27 PM
To: Julie Cozzi
Subject: Fwd: Aug 12 2012
Attachments: August 12 2012.pdf

----- Forwarded message -----

From: "Mike Wilson" <mwilson@coastalhelicopters.com>
Date: Dec 10, 2015 12:08
Subject:
To: "sean dog" <heliskialaska@gmail.com>
Cc:

Seq	DBTable	DBCode Value	Item	OldValue
1223270	25	60983	Misc. Entry	42199 10.0
1222856	25	60983	Tach Time	-390
1222855	25	60983	EndingHobbs	12.5
1222853	25	60983	Returned	
1222852	25	60983	Misc. Entry	auke bay inbd cart
1222848	25	60983	Misc. Entry	eagle beach inbd
1222826	25	60983	Duration in Minutes	700
1222825	25	60983	Misc. Entry	35 mile inbound
1222823	25	60983	Misc. Entry	disregard last entry--still shut down
1222819	25	60983	Misc. Entry	startupper ST
1222813	25	60983	Misc. Entry	60 0.44 N, 137 6.88 W
1222774	25	60983	Duration in Minutes	600
1222773	25	60983	Misc. Entry	60 min next per st
1222673	25	60983	Misc. Entry	60 min next per st
1222441	25	60983	Misc. Entry	tok-35 mile 1800 nxt
1222438	25	60983	Misc. Entry	last entry via cellphone
1222409	25	60983	Misc. Entry	in tok getting fuel. in air in 15 min
1222261	25	60983	Misc. Entry	60 min next per ST 1445 NC
1222219	25	60983	Misc. Entry	heading to Tok 1500 nxt
1222204	25	60983	Misc. Entry	landed fbanks- will call when depart 1300
1222194	25	60983	Misc. Entry	landed fairbanks per ST

1222148	25	60983	Misc. Entry	Approx20 mi Sof Tanana
1222144	25	60983	Misc. Entry	60 min next per ST1230 NC
1222127	25	60983	Misc. Entry	Lat: 64 50.82 N Lon: 151 57 W Per Sat Track
1222111	25	60983	Misc. Entry	last entry per MW
1222110	25	60983	Misc. Entry	correction Galena - Fbanks - Tok poss .NU
1222046	25	60983	Misc. Entry	leaving galena for ANC1315 nxt
1222019	25	60983	Misc. Entry	1000 NC
1222018	25	60983	Misc. Entry	at galena, getting fuel, checking wx
1222017	25	60983	Misc. Entry	landed galena per ST
1221957	25	60983	Manifest Printed	
1221931	25	60983	Misc. Entry	60 min next per ST0945 NC
1221899	25	60983	Misc. Entry	60 min next per ST0845 NC
1221841	25	60983	Use Tour Duration Defaults	True
1221840	25	60983	Misc. Entry	per DA phone call
1221839	25	60983	Misc. Entry	red dog for galena 0945 NC
1221838	25	60983	Starting Hobbs	
1221837	25	60983	Departed	
1221836	25	60983	Departure Time	
1221835	25	60983	Tour	Red Dog Mine
1221834	25	60983	WB Default Tach in Minutes	
1221833	25	60983	WB Tach in Minutes	
1221832	25	60983	Tach in Minutes	

1221831	25	60983	Duration in Minutes	
1221789	25	60983	Manifest Printed	
1088001	25	60983	New Record Added [Serverside]	

Julie Cozzi

From: Mike Wilson [mwilson@coastalhelicopters.com]
Sent: Thursday, December 10, 2015 1:02 PM
To: Julie Cozzi
Subject: Sept 02 2013
Attachments: September 02 2013.pdf

Seq	DBTable	DBCbde Value	Item	OldValue
1485570	25	77178	Misc. Entry	44672 2.2 flight 2.0 sling charged
1485569	25	77178	Misc. Entry	44671 1.8 flight
1485466	25	77178	Misc. Entry	2.5 sling
1484271	25	77178	Misc. Entry	ramp 22 90.8
1484270	25	77178	Returned	
1484267	25	77178	Misc. Entry	spaulding IB needing Cart
1484257	25	77178	Misc. Entry	just passed berners bay @ 1801 PST
1484252	25	77178	Misc. Entry	Approaching endicott Ridge PST
1484210	25	77178	Misc. Entry	passing chilkat lake PST
1484208	25	77178	Misc. Entry	41% fuel
1484206	25	77178	Misc. Entry	called per sat phone IBw/1 asked about wx
1484201	25	77178	Misc. Entry	headed to JNU per ST
1484199	25	77178	Misc. Entry	at Big Nugget PST, Still no flipped switch or call
1484188	25	77178	Misc. Entry	Cahoon Crk for Big Nugget, Missed Ping @ 1659 PST
1484186	25	77178	Misc. Entry	missed ping but @ big nugget PST
1484166	25	77178	Tach Time from Hobbs Entry	
1484158	25	77178	Departed	8:21:48 AM
1484157	25	77178	Departure Time	8:21:48 AM
1484149	25	77178	Misc. Entry	Cahoon for Big Nugget PST
1484124	25	77178	Misc. Entry	1659 flipped switch 1530 NXT
1484121	25	77178	Misc. Entry	started up PST @ 1657

1484111	25	77178	Misc. Entry	still shut down/SBCahoon Crk PST
1484069	25	77178	Misc. Entry	shut down cahoon creek 59 20.91 N, 136 15.59 W PST
1484056	25	77178	Misc. Entry	still SB/ shut down Cahoon Crk PST
1484021	25	77178	Time	8:00:00 AM
1483994	25	77178	Misc. Entry	last per DC on Sat phone
1483988	25	77178	Duration in Minutes	570
1483985	25	77178	Duration in Minutes	450
1483984	25	77178	Misc. Entry	s/b cahoon 1700 next
1483982	25	77178	Misc. Entry	Landing Cahoon Crk
1483976	25	77178	Misc. Entry	35 mile for Cahoon Crk
1483967	25	77178	Misc. Entry	Landed 35 mike PST
1483963	25	77178	Misc. Entry	Cahoon Crk to 35 mile for fuel
1483959	25	77178	Misc. Entry	still shut down Cahoon Crk PST and no swith/call
1483945	25	77178	Misc. Entry	shut down cahoon PST 59 20.91 N, 136 15.59 W
1483930	25	77178	Misc. Entry	shut down cahoon PST
1483920	25	77178	Misc. Entry	layed down Cahoon Crk PST
1483915	25	77178	Misc. Entry	30M NXT Switch PST @ 1501, 1530 NXT
1483865	25	77178	Misc. Entry	working cahoon PST
1483863	25	77178	Misc. Entry	still working Cahoon Creek PST
1483846	25	77178	Misc. Entry	backworking cahoon PST
1483845	25	77178	Misc. Entry	start up porcupine PST
1483844	25	77178	Misc. Entry	Start up PST @ 1406
1483770	25	77178	Misc. Entry	shut down big nugget/porcupine area PST
1483767	25	77178	Duration in Minutes	400

1483679	25	77178	Misc. Entry	per sat phone, landed porcupine fueling 1500 next
1483664	25	77178	Misc. Entry	no call/switch yet, big nugget PST
1483628	25	77178	Misc. Entry	working cahoon crk still PST
1483627	25	77178	Misc. Entry	for Cahoon PST
1483595	25	77178	Misc. Entry	big nugget PST
1483584	25	77178	Misc. Entry	1305 flipped switch 1335NXT
1483550	25	77178	Misc. Entry	still working cahoon PST
1483529	25	77178	Misc. Entry	1235 flipped switch 1305 NXT
1483517	25	77178	Misc. Entry	backworking cahoon PST
1483513	25	77178	Misc. Entry	big nugget PST
1483500	25	77178	Misc. Entry	30 min next switch, 1230 next contact
1483498	25	77178	Misc. Entry	working cahoon PST
1483492	25	77178	Misc. Entry	big nugget PST
1483471	25	77178	Misc. Entry	59 20.91 N, 136 15.59 W PST
1483464	25	77178	Misc. Entry	Big nugget PST
1483462	25	77178	Misc. Entry	59 20.91 N, 136 15.59 W, layed down PST
1483459	25	77178	Misc. Entry	started working cahoon crk PST
1483454	25	77178	Misc. Entry	59 20.73 N, 136 15.03 W PST
1483419	25	77178	Misc. Entry	start up off big nugget PST
1483417	25	77178	Misc. Entry	shut down outside of constantine main camp PST
1483416	25	77178	Misc. Entry	still shut down Big Nugget PST

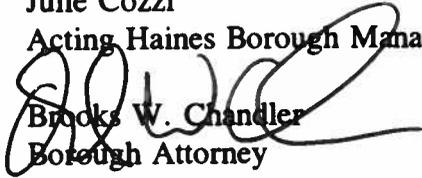
1483413	25	77178	Misc. Entry	shut down Big Nugget PST
1483386	25	77178	Misc. Entry	per (sat ?) phone, still setting up 1200 next
1483384	25	77178	Misc. Entry	before shutting down?
1483383	25	77178	Misc. Entry	OC notified of no call, possible switch flipped
1483378	25	77178	Misc. Entry	still sitting at big nugget PST.. no call yet
1483373	25	77178	Misc. Entry	sitting at big nugget PST
1483355	25	77178	Misc. Entry	Start up Porcupine PST
1483354	25	77178	Misc. Entry	Shut Down Porcupine PST
1483346	25	77178	Misc. Entry	back at porcupine PST
1483329	25	77178	Misc. Entry	@snow lion camp PST
1483312	25	77178	Misc. Entry	porcupine PST
1483296	25	77178	Misc. Entry	file, radio called in @ 0850
1483295	25	77178	Misc. Entry	Davidsons for Porcupine 1000 NXT, logged in wrong
1483272	25	77178	Misc. Entry	past sullivan river PST
1483248	25	77178	Misc. Entry	endicott PST
1483221	25	77178	Misc. Entry	porcupine w/ 186.3 100%
1483217	25	77178	Departed	
1483189	25	77178	Ready To Launch	False
1483188	25	77178	Manifest Printed	
1483187	25	77178	Operator	
1482455	25	77178	Vessel	
1482454	25	77178	DateChange	09/01/13

1482333	25	77178	Vessel	360CH
1482290	25	77178	Duration in Minutes	180
1481837	25	77178	DateChange	08/31/13
1479686	25	77178	DateChange	08/30/13
1477422	25	77178	DateChange	08/28/13
1475119	25	77178	DateChange	08/24/13
1473193	25	77178	DateChange	08/23/13
1471057	25	77178	Operator	
1471056	25	77178	Time	9:00:00AM
1471053	25	77178	Vessel	
1471052	25	77178	DateChange	08/22/13
1470850	25	77178	DateChange	08/21/13
1468069	25	77178	DateChange	08/20/13
1468066	25	77178	Vessel	360CH
1466767	25	77178	DateChange	08/19/13
1461627	25	77178	DateChange	08/15/13
1459242	25	77178	Use Tour Duration Defaults	True
1459241	25	77178	WB Default Tach in Minutes	90
1459240	25	77178	WB Tach in Minutes	90
1459239	25	77178	Tach in Minutes	90
1459238	25	77178	Duration in Minutes	110
1459224	25	77178	New Record Added	

MEMORANDUM

CONFIDENTIAL ATTORNEY CLIENT/COMMUNICATION ATTORNEY WORK PRODUCT

TO: Julie Cozzi
Acting Haines Borough Manager

FROM: 
Brooks W. Chandler
Borough Attorney

DATE: December 28, 2015

SUBJECT: WILSON HELIPAD CONDITIONAL USE APPLICATION

You have asked for our analysis of whether information submitted by the property owner of past historical use of a property generically referenced as "Mile 35" for helicopter landings constitutes a nonconforming use allowed by right by Title 18 of the Haines Borough Code of Ordinances. We have examined the history of use of the relevant property for helicopter landings and takeoffs as well as applicable provisions of Title 18 and general legal principles pertaining to nonconforming use property rights. Based on that review we have concluded as follows:

1. The past use of the property for helicopter landings does constitute a valid nonconforming use.
2. The scope of this nonconforming use should be limited to a specific number of helicopter landings per calendar year based on past historical levels of use.
3. The proposed use of the heliport in connection with commercial ski tours is a material change in the intensity of the nonconforming use for which a conditional use permit is required.

Based on these conclusions we recommend you inform the Planning Commission that seasonal use of the property as a substitute heliport for the Mile 33 heliport previously used

by Alaska Heliskiing does not qualify as a nonconforming use and requires a conditional use permit.

The reasons for these conclusions and recommendation are discussed in greater detail below.

FACTS

Ownership History of Property

On November 3, 2008 Vicki Gardner and Michael Wilson were deeded a portion of U.S. Survey 3426¹. Two deeds were issued by the previous owners. One deed indicates the property was “also showing of record as Lot 2 Choate Subdivision, First Addition according to Plat 94-20”. The second deed only references Lot 3 of the same subdivision. The referenced plat predated the existence of a platting authority and divides a portion of U.S. Survey 3426 into 3 lots. Lot 2 (“the Property”) is immediately adjacent to the Haines Highway and is shown as 10 acres in size. Lot 3 abuts Lot 2 and is also shown as 10 acres in size. The plat contains metes and bounds legal descriptions for Lot 1 and Lot 2 but not for Lot 3². The metes and bounds description of Lot 2 on the 2008 deed appears intended to match the metes and bounds description on the plat.

Zoning Regulations

Title 18 of the Haines Borough Code was amended effective March 22, 2011 by Ordinance No. 11-02-257 to require persons wishing to use property in the general use district as a heliport to obtain a conditional use permit. Prior to March 22, 2011, a heliport was a permitted use in the general use district.

¹ Ms. Gardner signed a deed conveying her interest in Lot 2 and the adjacent 10 acre Lot 3 parcel to Mr. Wilson on August 19, 2015.

² Borough property tax records separately track “lot 3 Choate Subdivision” (tax ID # 3-HHY-36-0300) and “A tract of land in USS 3626 (tax ID # 3-HHY-36-3426). The CUP application references 3-HHY-36-3426. This is presumed to be Lot 2 on the 1994 plat.

Heliskiing and Helicopter Business Operations and Ownership Relevant to Historical Use of the Property

On January 12, 2005, an Alaskan limited liability corporation called Alaska Heliskiing LLC was incorporated. The company ("Alaska Heliski"), identified its business as "providing heliskiing tour services". Its principal office was located at 33 Mile Haines Highway. The members were Sean Brownell (49% owner) and Vicki Gardner (51% owner)³. Alaska Heliski receives an annual "skier day" allocation from the borough. The 2014 allocation was 1,400 skier days. Due in part to poor conditions, 792 skier days were used by Alaska Heliski in 2014.

Mr. Wilson is an employee of Coastal Helicopters ("Coastal")⁴. Coastal has been in business since 1989. Coastal contracts with Alaska Heliskiing to transport Alaska Heliskiing clients between a heliport located at 33 Mile and whatever terrain is being skied on a particular day. Alaska Heliskiing rents the 33 Mile helipad location from Robert Harris on a seasonal basis.

Historical Use of the Property

The current owner provided two versions of a "Notice of Landing Area Proposal"⁵ on a preprinted federal form. One signed and dated December 3, 2008 and a second signed and dated January 18, 2009. We have reviewed information contained in both forms but have not determined if both were actually submitted. The forms indicated a plan for "establishment or

³ As of February 4, 2014, Ms. Gardner had transferred her ownership interest to Powderfish LLC. Powderfish is owned by Ryan Johnson.

⁴ Coastal is a wholly owned subsidiary of THI, Inc. which itself is a wholly owned subsidiary of Survey Point Holdings, Inc. Survey Point has 3 shareholders including a fourth corporation Carrix, Inc.

⁵ The FAA does not "approve" private heliports and has recently decided not to certify public heliports. As of the time the application was submitted, federal regulations (14 CFR Part 157) required 90 days advance notification to FAA of any "activation" of a "civil airport". "Airport" was defined to include a Heliport. For reasons discussed in footnote 8 below, the property owner did not notify FAA they were "activating" the landing area until 2012.

activation” of a heliport for private use⁶. The identified dimensions of the final approach and take off area were listed as 150' X 150' with the lift-off and touch down area dimensions listed as 100' X 100' (10,000 sq. ft.). The estimated number of monthly landings identified in the notice as of 2008 was 40 with an estimate of 65 landings per month projected by 2014.

The FAA inspected the site in June of 2009 and “determined that the proposed private use landing area will not adversely affect the safe and efficient use of the navigable airspace” on August 24, 2009. The FAA determination letter requested the property owner “notify the FAA within 15 days of completing the landing area by calling the FAA . . . to let them know you are activating the landing area”. An Airport Master Record Form was enclosed with the FAA determination letter⁷. The heliport is currently identified on the FAA Airport Master Record form as the “35 Mile Lodge” private use airport with location number AA35.

There are some deteriorated structures on the property. It does not appear the structures have been used for residential or commercial purposes. The Borough assessor indicated no physical improvement of the property consistent with “construction” of a helipad has been made⁸. The property does have existing flat areas conducive to helicopter landings. A fueling station was placed on the property in 2009 or 2010. We assume this is not much more than drums of fuel with a dispensing device.

Helicopters owned by Coastal landed on the property before the zoning change in 2011. Landings occurred during Alaska Heliski operations when snow conditions made the Old Haines Highway impassable limiting use of the usual 33 mile helipad. This occurred a few days each year over the course of 4 years. Refueling landings of Coastal occurred three

⁶ The “private” designation meant that the heliport was intended for use only by the property owner and persons authorized by the property owner.

⁷ The August 24, 2009 letter was not received by the property owners because it was addressed to “35 Mile Old Haines Highway” rather than a mailing address. This resulted in the 2009 application lapsing effective February 24, 2011. A new application was submitted January 31, 2012. The second approval was issued by FAA on June 21, 2012.

⁸ A construction declaration permit would have been required for any heliport facilities involving construction that exceeds \$5,000 in value or exceeds 500 square feet. HBC 18.30.010(A)(2)(c).

times in 2010, once in 2011, 3 times in 2012, once in 2013 and once in 2014⁹. Constantine Mine landed a helicopter on the property to inspect the fuel system in 2011 and used the site when working on a communications system in 2015. FAA landed a helicopter on the property for a site inspection in 2012. Landings occurred related to site clearing and upkeep of the fuel system in April 2015. In summary, the landing information supplied by the property owner references between 15 and 30 landings over the past 6 years¹⁰. The Property has also been used for “unscheduled maintenance” of helicopters owned or operated by Coastal.

No written agreement between Coastal and Mr. Wilson or between Alaska Heliskiing and Mr. Wilson regarding use of the Property for helicopter landings has been provided. We assume any use of the property for landing helicopters between 2008 and 2011 was with the permission of the property owners without payment of rent or any use fee¹¹.

Conditional Use Permit (“CUP”) Application

A conditional use permit application was submitted on September 24, 2015 by Micheal Wilson. The CUP was for development of a helipad on a 10.4 acre property and for use of the property for helicopter operations. A property tax ID number corresponding to Lot 2 was referenced in the CUP application. The narrative indicated Mr. Wilson intended to “allow Alaska Heli-Skiing operation to move from the road side operation among residences at 33 mile” to the Property. The Property was described as having “a residence on the property” with accommodation facilities, restrooms and kitchen facilities with an existing 40' X 60' foundation intended to facilitate construction of a lodge. The application indicated there were “plans” for additional lodging, restrooms and food service on the Property.

⁹ It is not clear if Coastal purchased and stored the fuel at the site or whether fuel was sold by Mr. Wilson to Coastal.

¹⁰ The property owner was not able to provide precise information about the frequency of “snow day” landings. The estimate assumes 5-20 total snow day landings.

¹¹ Such fees would have been subject to Borough sales tax unless “not made in the regular course of business”. HBC 3.80.030(A), 3.80.050(1). No sales tax reports reflecting rent or lease of the property to Coastal or Alaska Heliski for use as a heliport between 2008 and 2011 are in borough records.

On December 10, 2015 the CUP application came before the Planning Commission for consideration. At that meeting Mr. Wilson and Mr. Brownell presented information regarding historical use of the Property as a heliport which “made the commissioners question whether this heliport was pre-existing and did not need a conditional use permit”¹². The planning commission adopted a motion to refer this nonconforming use question to the acting borough manager for a decision¹³.

LAW

Haines Borough Code of Ordinances

The general purposes of regulation of the use of private property in the Borough are set forth at HBC 18.10.020. These include ensuring “that the growth and development of the borough is in accord with the values of its residents”, that “growth is of a type, design and location that conforms to community standards” and “[t]o achieve the goals and implement the policies of the Haines Borough comprehensive plan”.

Title 18 of the Haines Borough Code designates property within the Borough into various zoning districts. The Property is located in the general use district. As mentioned above, Title 18 of the Haines Borough Code was amended effective March 22, 2011 by Ordinance No. 11-02-257 to require persons wishing to use property in the general use district as a heliport to obtain a conditional use permit.

HBC 18.20.020 defines “Heliport” as “a use or designated site for the routine commercial or private general operations, landing, takeoff, parking, storage, fueling, and/or maintenance of helicopters”. Heliports are also specifically referenced in the definition of a “Industrial, heavy” use.

Title 18 also contains what is commonly known as a “grandfather rights” provision whose more legal sounding name is “nonconforming use”. Such a provision which exempts existing uses from complying with new restrictions “is ordinarily included in zoning ordinances because of the hardship and doubtful constitutionality of compelling the immediate

¹² Goldberg e-mail to Cozzi (Dec. 11, 2015).

¹³ Regardless of your interpretation relative to the property owner’s rights, Alaska Heliskiing cannot be issued a commercial ski tour permit based on use of a heliport on Lot 2 unless this site has received a conditional use permit from the Planning Commission. HBC 5.18.080(F)(14).

discontinuance of nonconforming uses.”¹⁴ The concept of a nonconforming use exception to otherwise applicable zoning code provisions can be succinctly stated as “allowing someone already doing something to continue doing it even if they would be stopped by the new restriction¹⁵”.

HBC 18.60.020(M)(2)(A) identifies a nonconforming use as a “use which is prohibited or conditional under this title, but which was lawful prior to the effective date of this title or any subsequent revisions.”(emphasis supplied)¹⁶. “Use” is defined as “any significant activity on a lot” and includes “ [c]hange in the use or material increase in the use of a site”¹⁷. A nonconforming use “may be changed to an allowed use or another nonconforming use with approval of the manager”¹⁸.

The borough manager is authorized to administer Title 18. Questions regarding the manner in which Title 18 is administered by the manager may be appealed to the planning commission¹⁹. This includes any manager interpretation of Title 18 provisions²⁰.

There is no specific code reference to “enlargement” of a nonconforming use²¹. Therefore this question is properly determined initially by the borough manager as an

¹⁴ County of San Diego v. McClurken 234 P.2d 972, 975 (CA. (1951).

¹⁵ Black's Law Dictionary 629 (5th ed.1979).

¹⁶ This is consistent with the general definition of non conforming use. HBC 18.20.020 states: “Nonconforming use” means a lot, building, use, or portion thereof, which was lawfully erected, altered or maintained, but no longer conforms to the provisions for the zone in which it is located.”

¹⁷ HBC 18.20.020.

¹⁸ It does not make sense to require manager approval of an “allowed” use. If a use is allowed manager approval should not be required.

¹⁹ HBC 18.30.050.

²⁰ HBC 18.30.110.

²¹ This differs from nonconforming structures. HBC 18.60.020(M)(2) specifies a nonconforming building cannot be enlarged or replaced but can be repaired provided the repair does not “extend or expand the previously existing nonconformity”.

interpretation of Title 18. Court decisions in Alaska and other states on the subject of nonconforming uses provide useful guidelines.

Court Decisions

The legal principles relating to nonconforming uses attempt to balance the competing policies of protecting property interests and avoiding the expansion of uses that are no longer appropriate to a neighborhood²². Generally, the burden is on the property owner to establish a particular use qualifies as a nonconforming use²³. To qualify as a nonconforming use, the existing use must have been more than intermittent or occasional²⁴. The continued nonconforming use must be similar to the use existing at the time the zoning ordinance became effective²⁵.

In order to determine whether a use should be considered a "continuation" of a prior use or a "change" in use, courts have considered whether the use has a substantially different effect on the neighborhood²⁶. Intensification is permissible, however, where the nature and character of the use is unchanged and substantially the same facilities are used. The test is whether the intensified use is "different in kind" from the nonconforming use in existence

²² Wende v. Board of Adjustment of City of San Antonio, 27 S.W.3d 162 (Tex.App. 2000).

²³ SNPCO, Inc. v. City of Jefferson City, 363 S.W.3d 467, 474 (Tenn.2012).

²⁴ 1 R. Anderson, *Zoning* § 6.32, at 550 (3d ed. 1986); Meridian Minerals Co. v. King County, 810 P.2d 31, 37 (Wa. App. 1991). *See also*, *Zoning: Changes, After Adoption of Zoning Regulations, in Respect of Nonconforming Existing Use*, 147 A.L.R. 167, 168 (1943).

²⁵ Hansen Brothers Enterprises, Inc. v. Board of Supervisors, 907 P.2d 1324, 1330 (Ca. 1996); Salerni v. Scheuy, 102 A.2d 528, 532 (Conn. 1954)(change in restaurant operations from selling beer only to selling beer and liquor is a change in character and improper expansion of a nonconforming use). *See also* 8A McQuillin, *Municipal Corporations*, § 25.206, p. 114.

²⁶ Town of Wolfeboro v. Smith, 556 A.2d 751, 759 (N.H. 1989).

when the zoning ordinance was adopted²⁷.

Factors used by courts in determining whether an activity is within the scope of a nonconforming use include: “(1) the extent to which the current use reflects the nature and purpose of the original use; (2) any differences in the character, nature and kind of use involved; and (3) any substantial difference in effect upon the neighborhood resulting from differences in the activities conducted on the property.”²⁸

Helicopter Associates, Inc. v. Stamford, 519 A.2d 49 (Conn. 1986) is the closest factual case. The property owner had made an oral agreement with a helicopter company to allow use of his property as a heliport. The helicopter company planned to provide helicopter transportation services to local businesses. The company purchased two helicopters, hired pilots and began business operations on the property. The property owner made improvements to facilitate use of the property as a heliport including paving the site, painting landing lines and installing a windsock. In July of 1980 the helicopter company applied for a state license to operate a commercial heliport on the property. Such a license was required if more than 36 takeoffs and landings would take place each year. Two months after the license application was submitted city zoning regulations were changed to delete heliports as a permitted use. As of the date of this ordinance change ten takeoffs and landings had occurred. The state license was issued 8 months after the zoning change. The state license did not have a “cap” on the number of permitted takeoffs and landings from the property.

The trial court found that allowing an unlimited number of helicopter flights would constitute an improper expansion or change in character of the previous nonconforming use. The court found that the prior commercial flights were “merely casual” and prohibited all use of the property as a commercial heliport. This decision was modified on appeal by the Connecticut Supreme Court. The court first concluded that the prior operations as of the date of the zoning code change constituted use of the property as a commercial heliport. The

²⁷ Keller v. Bellingham, 600 P.2d 1276, 1281 (1979)(adding 6 electrolytic cells to the production line of a chlorine manufacturing plant was a permitted intensification rather than a prohibited enlargement of a nonconforming manufacturing use); quoted in, Meridian Minerals Co. v. King County, 810 P.2d at 38-39(increase of about 3.4 times the annual average production of quarry rock a prohibited enlargement of the prior nonconforming use).

²⁸Connecticut Resources Recovery Authority v. Town of Wallingford, 626 A.2d 705 (Conn. 1993).

court also found that the legal extent of this use as of the time of the zoning ordinance change was limited to 36 flights per year. The court held that up to 36 flights per year could be conducted on the property as a valid nonconforming use but that unlimited commercial flights would constitute an impermissible expansion of the nonconforming use.

In doing so, the court said “a mere increase in the amount of business done pursuant to a nonconforming use is not an illegal expansion of the original use . . . A change in the character of a use, however, does constitute an unlawful extension of the prior use.” The court felt that an unlimited number of flights was a “change in character”.

In Stephan and Sons, Inc. v. Municipality of Anchorage, 685 P.2d 98 (Alaska 1984) the Alaska Supreme Court considered whether a nonconforming use of property as a gravel pit was limited to thirteen acres of a 53 acre parcel or was allowed to continue on the entire 53 acres. The Anchorage nonconforming use ordinance specifically prohibited expansion of existing nonconforming uses “to occupy a greater area of land”. The Alaska Supreme Court approved a “doctrine” specific to mineral extraction uses of property called the “diminishing asset” doctrine. This rule allows a property owner to continue nonconforming resource extraction activity despite a prohibition on expansion adopted by ordinance if the property owner can prove an “objectively manifested intent” based on historical use to extend the historical use over the entire property. But the court found the property owner failed to establish such an intent because at the time gravel pit restrictions were added to the Anchorage code the existing operation covered only a small area of the property. This outcome is consistent with decisions in other states which have held that “mere preparation” for a specific use is not enough to establish a pre-existing non-conforming use. Rather “substantial steps” in commencement of a use are required²⁹.

ANALYSIS

The issue presented is whether the past use of the property as a heliport for less than 50 takeoffs and landings creates a legal right to use the same heliport for an unlimited number of takeoffs and landings without obtaining a conditional use permit. In our opinion, the answer is no.

²⁹ City of Pharr v. Pena, 853 S.W.2d 56, 64 (Tex.Ct.App.1993); Dickson County v. Jennette, 2000 WL 1121550 (Tenn.Ct.App. Aug. 9, 2000)(property owner was not “in operation” for mineral extraction use when had only blasted on two occasions and made one sale of rock prior to change in zoning code).

We believe at best any “nonconforming” use of the Property as a heliport should be limited to a number of annual takeoffs and landings similar to the number that occurred between November of 2008 and the 2011 revision to the general use district zoning ordinance. The past use of the property as a heliport was intermittent and not at a commercial level. Arguably, this use fails to establish a legal nonconforming use at any level of commercial activity. There is no indication of any pre-2011 formal agreement between Coastal and the property owner such as a lease for a specific term or a per landing fee. Neither the property owner, Alaska Heliski nor Coastal identified this location on a pre 2011 borough business license or commercial tour permit as a location where helicopter takeoffs and landings were occurring or were anticipated to occur. There is no indication of any pre-2011 investment in improvements related to development of a heliport intended for more than infrequent intermittent use.

The FAA approval effort is consistent with a general desire for future commercial use of the property as a helipad with up to 40 landings per month. This desire may have included possible winter heliski operations. However, nonconforming use status should be based on actual historic use as of the date of a change in the zoning regulations not possible or contemplated future use. Actual historic use was quite limited. In our opinion, this limited historic use is not sufficient to qualify the property for unlimited use as a commercial heliport.

We believe it is obvious unlimited use of the property for commercial heliport operations will have a substantial impact on the neighborhood compared to pre-2011 use of Lot 2 as a helipad. The likely expansion in use can be estimated based on the amount of skier days either allocated to or used by Alaska Heliski in 2014. Using a conservative estimate of a single take off and landing from the heliport per ski day (no return for lunch) and filling the helicopters used to maximum capacity a level of use of between 100 and 200 landings per season is a reasonable estimate. This is an increase of 10-40 times a historic level of use prior to the change in zoning code requiring a conditional use permit. In our opinion, such an increase in use cannot meet applicable legal criteria for an existing nonconforming use.

RECOMMENDATION

We recommend you inform the property owner and the Planning Commission that nonconforming use status is limited to documented past levels of historic use between 2008 and 2011. A suggested letter to the Planning Commission chair is attached.

Wilson Helipad Conditional Use Application Memorandum

December 28, 2015

Page 12

Because SEABA is currently threatening to sue the Borough and may assert nonconforming use rights as part of its lawsuit, we recommend you keep this memorandum confidential at this time.

If you have any questions regarding this topic, please let me know.

From: [Rob Goldberg](#)
To: [Julie Cozzi](#)
Cc: [Jan Hill](#); [Kathy Friedle](#)
Subject: 35 Mile Heliport CUP
Date: Friday, December 11, 2015 10:53:04 PM

Hi Julie,

At the Planning Commission's meeting of December 10th we had a discussion with Michael Wilson, the applicant and property owner, as well as with Sean Brownell, the owner of Alaska Heliskiing, who wishes to use the proposed heliport. They said that the property was purchased in 2008 with the intent to have a heliport there. They cleared a site and showed us a letter from the FAA which approved it as a heliport. They also showed us a log of landings and re-fueling that had taken place at the site from 2009 on.

The requirement for a heliport to have a conditional use permit in the General Use zone was enacted in 2011. The evidence presented to us at the meeting made the commissioners question whether this heliport was pre-existing and did not need a conditional use permit. A motion was made, and approved unanimously, that this be sent to you, as acting Borough Manager, for a decision. I would be happy to discuss this with you further, if you need more background information.

Thank you.

Rob Goldberg
Chairman, Haines Borough Planning Commission

Rob Goldberg and Donna Catotti
Catotti and Goldberg Art Studio
PO Box 1154 Haines, AK 99827 USA
907-766-2707
artstudioalaska.com

From: [S Diggity](#)
To: [Julie Cozzi](#)
Subject: 35 mile use by right summary
Date: Saturday, December 12, 2015 7:34:34 AM

To the borough manager,

I believe that the previous historical helicopter activity at 35 mile has been substantial enough to claim that this pre-existing use has allowed a use by right helipad. We have met the requirements as outlined in borough code and can provide sufficient documentation to back this up.

I was fortunate to have a great working relationship with Jerry and Kathy Lapp while using the helipad at 33 mile and it was during that time when Jerry Lapp suggested I try to Purchase the property at 35 mile from Sunny Jones. Jerry advised that I could land helicopters up there as a use by right and Jerry told me that it was an ideal spot to operate because there were no neighbors within approximately a mile of the property.

I contacted my long time friend and pilot Mike Wilson who works at coastal helicopters and together we purchased the land in 2008 with the intent of putting in a helipad to conduct commercial helicopter business at the 35 location. At the time of purchase and for many years after, helipads were allowed in the general use zone as a use by right and the helipad at 35 mile has been used lawfully ever since without a single complaint.

In 2009 we applied to the FAA for a helipad on the property and in June of 2009 the FAA flew by helicopter and landed at the site for an inspection. In August of 2009 the FAA mailed out a letter of approval of the helipad at our 35 mile property.

After the approval in 2009 we placed a fueling system on sight and have been landing helicopters up there for many different types of commercial helicopter activities every year since 2009 without ever having a complaint or a 2 year lapse in activity. These routine commercial activities have included refueling, helicopter maintenance, transport of cargo and personnel for mining and communication operations as well as the installation of a microwave tower that directs high speed internet across the Klehini valley to Constantine minerals camp at Porcupine.

From a logistical standpoint the helipad at 35 mile is strategic to Helicopters transiting from Juneau to the interior around Fairbanks and beyond. Topping off with fuel at 35 mile safely allows pilots to fly the shortest route to Fairbanks over Canada to the next refueling station in TOK. Helicopters might otherwise have to fly along the coast which takes many many more hours of flight and fuel. 35 Mile helipad provides an economical and safety benefit to all helicopters flying to the interior of Alaska from southeast AK.

As you may know, the state of Alaska highway maintenance crew has abandoned this Mile long stretch of highway where the 35 mile property is located and there are no longer any road services to the 35 mile property. There have been a number of occasions when we have accessed the property by helicopter in the winter and spring to do routine maintenance on the property when the road is impassable. Helicopters have landed up there during Heliski season so we could shovel snow off the buildings and do repairs for damages caused to the structures by heavy accumulated snowfall. We have had substantial snow damage that crushed some of the additions to a couple buildings on more than one occasion and have had to make many major repairs over the years. It snows a lot up there.

There has also been a few occasions when Heliski guests were snowed in at 35 and we had to extract them and their belongings from the property by helicopter. We use the building at 35 to house some of our guests during Heliski season.

A timeline of helicopter activity has been provided with a packet of supporting documentation from coastal helicopters flight logs and other various documents to substantiate our claims. I believe we have provided enough documentation to prove the point we are making. If you need anything else

please don't hesitate to ask.

Thank you for taking the time to make a determination for us on the use by right helipad that we have been operating from at 35 mile since 2009.

Have a great day and I am looking forward to your reply,

Sincerely,

Sean Brownell

Shred the Pow

> On Dec 11, 2015, at 2:50 PM, Julie Cozzi <jcozzi@haines.ak.us> wrote:

>

> I think an actual written letter from you guys that this is a preexisting heliport and the reasons why it should qualify as a use-by-right. I will then attach all of the other documentation to that letter and make my ruling as manager. Does that sound okay?

>

> Julie

>

> -----Original Message-----

> From: S Diggity [<mailto:heliskialaska@gmail.com>]

> Sent: Friday, December 11, 2015 2:45 PM

> To: Julie Cozzi

> Subject: 35 mile

>

> Hello Julie,

>

> Please let me know what else you may need from us to make your job easier on the 35 mile use by right helipad.

>

> Mike has flown back to Juneau so he can access his computer and we are here ready to help!

>

> Sincerely,

> Sean Brownell

>

> Shred the Pow

From: haines35lodge@gmail.com
To: [Julie Cozzi](#)
Subject: 35 Mile heli pad
Date: Monday, December 14, 2015 4:04:49 AM

Hi Julie,

I am writing to back up the letter sent by Sean. I don't need to restate all he has said.

I will reiterate the logistical advantage of the area for ferrying helicopters to the interior. It does save fuel and time to go the interior Canadian route if we do not have to land in Canada and clear customs. We used to be able to fly from Juneau to Northway (just barely), when Northway lost it's fuel vendor we used the coastal route until we began to be able to fuel at 35 mile.

We have used the location for some unscheduled maintenance troubleshooting, it is remote but has amenities that help greatly; phone, facilities, and fuel. The area is safe to be in and easily accessible in the summer (thanks to the work Sean has done to keep the road open).

Thank you for taking the time to work on this. If you have any questions please call me when ever.

Mike

Mike Wilson
Juneau Alaska
907-209-0845

December 15, 2015

To: Haines Borough Assembly and Borough Mayor

cc: Planning Commission, Borough Manager

Re: Conditional Use Permit for 35 Mile heliport

After two public hearings and one “Unfinished Business” item before the Planning Commission, Mike Wilson has decided that instead of seeking a Conditional Use Permit (CUP) for a heliport at his 35 Mile property, he will claim “Use-by-Right” as an existing use. Why didn’t he make this claim soon after March 22, 2011, when heliports became a conditional use in the General Use Zone? Why did Mr. Wilson allow two public hearings on the CUP to proceed according to borough code and then just hours before the third Planning Commission meeting provide documents claiming existing use? Neither the commissioners nor the public had time before the meeting to review all the documents he submitted on the day of the meeting. I believe this last minute attempt to stop the Conditional Use Permit procedure is a disingenuous effort to circumvent the public process and I ask that the Planning Commission proceed with the CUP application.

Mr. Wilson summarizes helicopter landings at his 35 Mile property from 2009-2015, however only the activity prior to March 22, 2011, should be evaluated to establish existing use. The rest of the data is intended to show continued use and is relevant **only** after existing use has been established. The unsubstantiated data he has provided does not establish existing use. Here is the data he provided for pre-March 22, 2011:

An FAA initial visit (not declared a landing), 3 fueling events in 2010, and March thru April in 2010 and 2011 for “some landings performed by Alaska Heli-Skiing for client movement when road unpassable due to snow.” One letter provided by Mr. Wilson is from an Alaska Heliskiing client, a freeskiier/filmmaker from Norway, who states while visiting ‘Alaska Heliski,’ “At some time we got picked up by Helicopters directly outside the house to go skiing.” (March 2011)

Since the 35 Mile property was neither on the list of existing use heliports nor had the PC approved its use, the heli-ski tour landings were not in compliance with borough code and can't be used to establish existing use. Also, enforcement action should be taken for Alaska Heliskiing’s use of an unauthorized heliport for heli-ski clients.

5.18.080 Commercial ski tours, commercial ski productions and special ski competition events.

.....

F. General Permit Conditions and Regulations. Commercial ski tours, commercial ski productions and special ski competition events are governed as follows:

.....

14. Every permit holder shall use one of the following heliports:

- a. Haines Airport;
- b. The Stewart landing strip at 18 Mile Haines Highway;
- c. The heliport adjacent to the 33 Mile Roadhouse;
- d. Any heliport authorized by the Haines Borough planning commission as a conditional use.

~~~~~

In light of the documents submitted by Mr. Wilson to establish existing use, it appears that he gave incomplete and incorrect information on his CUP application. In the application, Mr. Wilson doesn't claim prior use, in fact he states, "...we want to simply land a helicopter there." Mr. Wilson should be held accountable for submitting a misleading and incorrect CUP application.

[Excerpts from Mr. Wilson's CUP application]:

- 1. Describe how or why the specific development scheme of the use is consistent and in harmony with the comprehensive plan and surrounding land uses.

**This conditional use permit will allow the Alaska Heli-Skiing operation to move from the road side operation among residences at 33 mile to a more private, remote and safer operational area away from existing residences and vehicular traffic.**

- .....
- 1. Describe the safeguards that will be provided so that the use will not significantly cause erosion, ground or surface water contamination or significant adverse alteration of fish habitat on any parcel adjacent to state-identified anadromous streams.

**The land is already developed, we want to simply land a helicopter there.** The FAA has reviewed the site and has granted a private heliport designation [sic] (AA35). To safe guard surface water we will have containment for all fueling systems and will provide restroom and trash collection services to handle all humsn [sic] waste.

.....

1. CERTIFICATION

**I hereby certify that I am the owner or duly authorized owner's agent, that I have read this application and that all information is correct.** I further certify that I have read, understand

and will comply with all of the provisions and permit requirements outlined hereon. I also certify that the site plan submitted is a complete and accurate plan showing any and all existing and proposed structures on the subject property and that the use will comply with all required conditions and specifications, will be located where proposed and when developed, will be operated according to the plan as submitted. All contract work on this project will be done by a contractor holding valid licenses issued by the State of Alaska and the Haines Borough.

Borough code defines a heliport as:

**18.20.020 Definitions – Regulatory.**

“Heliport” means a use or designated site for the routine commercial or private general operations, landing, takeoff, parking, storage, fueling, and/or maintenance of helicopters.

~~~~~

Three unsubstantiated landings to refuel at 35 Mile do not fit the definition of ‘heliport’ and do not constitute existing use.

Mr. Wilson’s Conditional Use Permit application for a heliport at 35 Mile should be processed at the next Planning Commission meeting according to borough code.

Thank you for your review of this important issue.

Sincerely,

Carolyn Weishahn

Haines Borough
POB 1209
Haines, AK 99827

December 14, 2015

Dear Assembly, Mayor and Manager,

I believe that the Conditional Use Permit for a heliport at the Wilson 35 mile property must still be obtained. It appears from the flight data submitted by the applicant that between six and ten landings occurred at the site prior to the adoption of Ordinance 11-02-257. This does not constitute "routine" operations. The FAA certification is for air traffic only, as it states, not ground operations.

It is discouraging that rather than respecting the permitting process and the neighbors that object to this proposed use, the applicant has chosen to subvert the process by claiming historical use. We have planning code and laws for a reason, to require a public process so that non-conforming activities do not impact other property owners.

Based on the past and current history of siting heliports on private property in the Haines Borough and the legal expense that accompanies these requests, I recommend that the Borough put a moratorium on conditional use permits for heliports. As stated in the Comprehensive Plan this activity should take place on public property that is appropriate for this high impact land use.

Whether the operators agree to use a public heliport or not is a mute point. Once it is developed then use would be required by permit, as it is now for the heliski operators with the existing heliports. This issue will continue to divide the residents and property owners of the Haines Borough until resolution by our government.

Helicopter operations are highly intrusive on the values and the quality of life for many of the residents of our Borough. By allowing such activity on private property the Borough is negating its responsibility to protect those values for present and future property owners.

It is disappointing that when Rob Goldberg the Chair of the Planning Commission canvassed the issue of a public heliport in the upper valley, only one of the three permitted operators agreed to work with the Borough on it. If the other two businesses chose to work with our government and residents instead of consistently working against our community on the issue of helicopter noise, then considerable time and resources would be saved.

Sincerely,

Thom Ely
POB 1014
Haines, AK 99827

Kathy Friedle

From: Rob Goldberg [artstudioalaska@yahoo.com]
Sent: Thursday, February 04, 2016 10:55 AM
To: Kathy Friedle
Subject: building height language

Hi Kathy,

Here is the proposed code change for building height from Rob Miller. Please include it in the packet.

For 18.20

Building Height: The vertical distance from **grade plane** to the highest point on the building, but not including chimneys, radio antennas, water towers, church spires, structures or enclosures constructed primarily for mechanical equipment and similar building mechanical features.

Grade Plane: A reference plane representing the average of finished ground level adjoining the building at **exterior walls**. Where the finished ground level slopes away from the **exterior walls**, the reference plane shall be established as the average of the finished ground level measured at the lot line or, where the lot line is more than 6 feet from the building, measured at a point 6 feet from the building. Window wells, stairwells and garage ramps intended solely to provide below-ground access to the structure need not be included in the average when calculating **grade plane**. Calculations shall disregard any fill or construction which the manager finds to have no significant purpose other than elevating the **grade plane**. In reaching such finding, the manager shall consider only those architectural, structural, safety, aesthetic, access or other purposes claimed by the developer and supported by reasonable evidence.

Exterior Wall: A wall, bearing or nonbearing, that is used as an enclosing wall for a building.

For 18.30

B. Building height is measured from the grade plane to the highest point on the building, but not including radio antennas, water towers, church spires, structures or enclosures constructed primarily for mechanical equipment and similar building mechanical features.

Thanks.

Rob

Rob Goldberg and Donna Catotti
Catotti and Goldberg Art Studio
PO Box 1154 Haines, AK 99827 USA
907-766-2707
artstudioalaska.com

Kathy Friedle

From: Rob Goldberg [artstudioalaska@yahoo.com]
Sent: Monday, January 04, 2016 11:16 AM
To: Kathy Friedle
Cc: Julie Cozzi
Subject: building height

Hi Kathy,

Here's an attempt to clarify the code language for building height.

Here is the existing language:

18.20.020 "Building height" means the maximum vertical dimension of a building which is measured from a horizontal plane intersecting the mean building grade and measured at the center of each of the four exterior walls, but not including radio antennas, water towers, church spires, structures or enclosures constructed primarily for mechanical equipment and similar building mechanical features.

18.80.030 B. Height is measured from the average grade of the footprint of the structure to the highest point on the structure, measured at the center of each of the four exterior walls.

Proposed new language:

18.20.020 "Building height" means the maximum vertical dimension of a building as measured from the mean building grade to the highest point on the structure, but not including chimneys, radio antennas, water towers, church spires, and structures or enclosures constructed primarily for mechanical equipment and similar building mechanical features. On sloped sites, building height shall be determined by averaging the height measurements of the uphill and downhill sides of the building.

18.80.030 B. Height is measured from the mean building grade to the highest point on the structure, but not including chimneys, radio antennas, water towers, church spires, and structures or enclosures constructed primarily for mechanical equipment and similar building mechanical features. On sloped sites, building height shall be determined by averaging the height measurements of the uphill and downhill sides of the building.

Thanks.

Rob

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