



# KENAI RIVER

Special Management Area

*"Working together...for the river"*

## ADVISORY BOARD

January 28, 2008

Mayor John Williams  
Kenai Peninsula Borough  
144 North Binkley  
Soldotna, AK 99669

Dear Mayor Williams:

The Alaska State Legislature created the Kenai River Special Management Area (KRSMA) to protect the fish and wildlife resources of the Kenai River. It is a purpose of the KRSMA Advisory Board to review and encourage the adoption of state, federal, and local regulations, which protect the habitat along the Kenai River. The KRSMA Board just completed a review of the Kenai River Comprehensive Management Plan. Development along the Kenai River corridor was a high priority issue that was identified during the review process. In support of our interest, the KRSMA Board sent comments on Ordinance 2007-33 and our members offered public testimony.

We are very supportive of protective measures like KPB Anadromous Streams Habitat Protection Ordinance, Chapter 21.18. However, the KRSMA Board has received anecdotal information from the public which suggests the referenced ordinance, as interpreted and implemented by the Borough Staff, may not be effective in protecting the important habitat along the Kenai River. This letter requests factual information about the ordinance and requests an opportunity to work with your office and the Assembly in making the ordinance more effective in protecting the habitat along the Kenai River.

The KRSMA Board has a couple of concerns based on anecdotal information regarding granting of conditional use permits. As you know, before a conditional use permit for development within the habitat protection zone may be permitted two criteria must be satisfied.

A conditional use permit may not be approved unless it is determined the activity will be conducted in a manner that does not result in significant erosion, destruction of wetlands or riparian habitat or result in or increase ground or water pollution. Conditional use permits are conditioned on compliance with all applicable federal, state and local laws and regulations.

Additionally, a conditional use permit may not be granted unless the planning commission determines that the owner will be deprived of reasonable use of the property without a conditional use permit being granted.

When the KRSMA Board sees developments within the 50 habitat protection zone we have problems understanding how these criteria were satisfied. In addition, regulations are only as good as the willingness to enforce them. It is our impression that there are a few cases of known non-compliance that have not been resolved by either the compliance officer or the legal department. Accordingly, to gain a better factual picture we respectfully ask for the following information:



Kenai Area Office, PO Box 1247, Soldotna, AK 99669, 907-262-5581  
Kenai Peninsula Borough, 144 N. Binkley, Soldotna, AK 99669 907-262-4441  
Kenai River Center 514 Funny River Road, Soldotna, AK 99669, 907-260-4882  
Alaska Division of Parks and Outdoor Recreation, Department of Natural Resources, in cooperation with the Kenai Peninsula Borough



1. Chapter 21.18.030 requires assessments of effectiveness every two years. Since the original ordinance was enacted in 1996, there should be numerous assessments which would allow us to determine how the ordinance has been viewed by the KPB.

2. The process/procedure the Borough uses when it receives complaints that fall under this Ordinance. We would like to see the step-by-step process you use to get from the point of discovery to the point fines are levied, law suits initiated, and/or restoration occurs. Please include an explanation of when in the process the fine starts and when it ceases to be imposed. Also include the criteria used to determine when resolution of a violation has occurred.

3. A summary of violations issued under KPB 21.24 (related to KPB 21.18) that occurred along the Kenai River since KPB 21.18 went into effect in 1996 and the action taken by the Borough to resolve these violations including the following:

- Number of violations by Year
- Location of violations
- Type/nature of violation
- Fines assessed
- Status of violation

4. A summary of Conditional Use Permits (CUP) and Variances issued since the 1996 enactment of 21.18, not including bank restoration or bank protection projects. Please include the following:

- Number of CUPs issued by year
- Location
- Type of uses permitted

5. A summary of Conditional Use Permits (CUP) denied since the 1996 enactment of 21.18, not including bank restoration or bank protection projects. Please include the following:

- Number of CUPs denied by year
- Location
- Type of use denied
- Reason for denial

The KRSMA Board would welcome the opportunity to discuss this matter at your earliest convenience. We would like to suggest a meeting perhaps near the end of February to discuss whatever responses you and your staff may be able to provide. We also invite you to attend any of our monthly meetings and a delegation of the Board would be more than happy to visit your offices and/or attend meetings or work sessions on the topic. The KRSMA Board would like to help in a positive way to better protect the important Kenai River. Thanks for your consideration.

Sincerely,

David Carey, President, KRSMA Advisory Board

Cc: Grace Merkes, KPB Assembly Chair  
Max Best, KPB Planning Director  
Colette Thompson, KPB Attorney  
John Mohorcich, Kenai River Center Manager  
Jack Sinclair, Kenai/PWS Area Superintendent  
Gary Knopp, KPB Assembly