

Five-Year Review Report

Second Five-Year Review Report For Ketchikan Pulp Company Site Ketchikan, Alaska

August 2010

PREPARED BY:

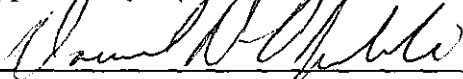
U.S. Army Corps of Engineers, Alaska District
Elmendorf AFB, AK

FOR:

U.S. Environmental Protection Agency
Region 10 Environmental Cleanup Office
Seattle, WA

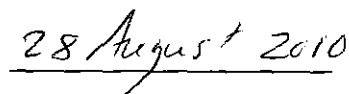


Approved by:



Daniel D. Opalski, Director
Office of Environmental Cleanup
US EPA Region 10

Date:



28 August 2010

[This page intentionally left blank.]

Table of Contents

List of Acronyms	vi
EXECUTIVE SUMMARY	1
Five-Year Review Summary Form	3
1 INTRODUCTION.....	5
2 SITE CHRONOLOGY.....	6
3 BACKGROUND.....	8
3.1 Physical Characteristics.....	8
3.2 Land and Resource Use.....	9
3.3 History of Contamination.....	11
3.4 Initial Response	12
3.5 Basis for Taking Action	13
4 REMEDIAL ACTIONS	15
4.1 Marine OU Remedy Selection	15
4.2 Marine OU Remedy Implementation.....	15
4.3 Marine OU Long-Term Monitoring and Reporting	19
4.4 Uplands OU Remedy Selection.....	21
4.5 Uplands OU Remedy Implementation	21
4.6 Uplands OU Long-Term Monitoring and Reporting	22
5 PROGRESS SINCE THE LAST FIVE-YEAR REVIEW	22
6 FIVE-YEAR REVIEW PROCESS	23
6.1 Administrative Components/Community Involvement/ Document Review	23
6.2 Data Review - Marine OU	23
6.3 Data Review - Uplands OU.....	27
7 TECHNICAL ASSESSMENT.....	29
7.1 Question A: Is the Remedy Functioning as Intended by the Decision Documents?.....	29
7.2 Question B: Are the Exposure Assumptions, Toxicity Data, Cleanup Levels, and Remedial Action Objectives (RAOs) used at the Time of the Remedy Still Valid?.....	30
7.3 Question C: Has any Other Information Come to Light that Could Call into Question the Protectiveness of the Remedy?.....	31
7.4 Technical Assessment Summary.....	31
8 ISSUES.....	33
9 RECOMMENDATIONS AND FOLLOW-UP ACTIONS	34
10 PROTECTIVENESS STATEMENT	35
11 NEXT FIVE-YEAR REVIEW	35

LIST OF TABLES

Table 1	Chronology of Site Events
Table 2	Summary of Recovery Status for Various Biological Indicators in Ward Cove Based on 2007 Data
Table 3	Summary of Issues
Table 4	Recommendations and Follow up Actions

LIST OF FIGURES

Figure 1	Ward Cove Property Location
Figure 2	Marine and Uplands Operable Units, former Ketchikan Pulp Company Site, Ketchikan, Alaska
Figure 3	Location of the Ward Cove AOC, areas of thin layer placement, dredging, piling removal, and natural recovery (Figure 2, from 2009 Final Remedial Action Report)
Figure 4	Summary of TOC concentrations, exceedances of chemical criteria, and significant biological effects for samples collected in Ward Cove AOC in July 2004 and 2007 (Figure 34a, from 2007 Monitoring Report)
Figure 5	Summary of TOC concentrations, exceedances of chemical criteria, and significant biological effects for samples collected in Ward Cove references areas in July 2004 and 2007 (Figure 34b, from 2007 Monitoring Report)

LIST OF ATTACHMENTS

Attachment 1	Interview Records
Attachment 2	Site Inspection Checklist
Attachment 3	Photographs
Attachment 4	Map of Ward Cove Properties
Attachment 5	Ketchikan Pulp Site Parcels
Attachment 6	Ward Cove Plat and Replats
Attachment 7	Zoning Areas and Regulations
Attachment 8	Commitment for Title Insurance
Attachment 9	Letter from Perkins Coie, to Jacques Gusmano, EPA dated June 27, 2006, regarding Institutional Control Documents for Ward Cove Pipeline Parcels

- Attachment 10 Equitable Servitude and Easement, and Subordination Agreement Pipeline Parcels, by Ketchikan Gateway Borough to ADNR, recorded May 1, 2006
- Attachment 11 2003 Agreement between Ketchikan Gateway Borough, Gateway Forest Products, and Ketchikan Pulp Company, recorded July 16, 2008
- Attachment 12 Ketchikan Pulp Company Residential Risk Calculation
- Attachment 13 Certification of Completion Letters for Uplands and Marine Operable Units, dated January 21 and 22, 2010
- Attachment 14 Letter from Sheila Eckman (EPA) to KGB (Bockhorst) and Alaska Assistant Attorney General (Welsh), dated January 25, 2010, regarding: CERCLA Liability Associated with Potential Redevelopment of Ward Cove
- Attachment 15 Environmental Easement and Declaration of Covenants, recorded July 18, 2003, between Ketchikan Gateway Borough, Ketchikan Pulp Company, and Gateway Forest Products
- Attachment 16 Environmental Easement and Declaration of Covenants, recorded July 15, 2004, between Ketchikan Gateway Borough and Ketchikan Pulp Company
- Attachment 17 Executive Summary, 2007 Monitoring Report for Sediment Remediation in Ward Cove, Alaska (April 2009)
- Attachment 18 Letter from Karen Keeley (EPA) to Phil Benning (KPC), dated May 7, 2009, regarding: EPA Approval of 2007 Monitoring Report
- Attachment 19 Environmental Easement, recorded August 6, 2001, between Ketchikan Pulp Company and State of Alaska, Department of Natural Resources
- Attachment 20 Environmental Easement and Declaration of Restrictive Covenants, recorded October 28, 1999, between Ketchikan Pulp Company and State of Alaska, Department of Natural Resources

List of Acronyms

ADOT&PF	Alaska Department of Transportation and Public Facilities
ADEC	Alaska Department of Environmental Conservation
ADNR	Alaska Department of Natural Resources
APDES	Alaska Pollution Discharge Elimination System
AMHS	Alaska Marine Highway System
AOC	Administrative Order on Consent
ARAR	Applicable or Relevant and Appropriate Requirement
ATS	Alaska Tidelands Survey
ATSDR	Agency for Toxic Substances and Disease Registry
BLM	Bureau of Land Management
CD	Consent Decree
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CFR	Code of Federal Regulations
CoC	Contaminants of Concern
CSFo	Cancer Slope Factor, oral
cy	Cubic Yards
DTSR	Detailed Technical Studies Report
EMS	Emergency Medical System
EPA	United States Environmental Protection Agency
ESI	Expanded Site Investigation
GFP	Gateway Forest Products
HI	Hazard Index
IC	Institutional Controls
KGB	Ketchikan Gateway Borough
KPC	Ketchikan Pulp Company
LMRP	Long-Term Monitoring and Reporting Plan
LP	Louisiana-Pacific Corporation
mg/kg	Milligrams per kilogram
MLLW	Mean Lower Low Water
NCP	National Contingency Plan
NPDES	National Pollutant Discharge Elimination System
NPL	National Priorities List

O&M	Operations and Maintenance
OSWER	Office of Solid Waste and Emergency Response
OU	Operable Unit
PAH	Polynuclear Aromatic Hydrocarbons
PCB	Polychlorinated Biphenyl
ppm	Parts Per Million
PRG	Preliminary Remediation Goal
PRP	Potentially Responsible Party
RA	Remedial Action
RCRA	Resource Conservation and Recovery Act
RD	Remedial Design
RD/RA	Remedial Design/Remedial Action
RAO	Remedial Action Objective
RI	Remedial Investigation
RI/FS	Remedial Investigation/Feasibility Study
RKG	Renaissance Ketchikan Group
ROD	Record of Decision
SARA	Superfund Amendments and Reauthorization Act
TEC	Toxic Equivalent Concentration
USS	United States Survey

[This page intentionally left blank.]

EXECUTIVE SUMMARY

The Ketchikan Pulp Company (KPC) site is located on the shoreline of Ward Cove, near Ketchikan, Alaska. The KPC site is not listed on the National Priorities List (NPL). The site is divided into two Operable Units (OUs): the Uplands Operable Unit and the Marine Operable Unit. This is the second Five-Year Review Report, and it is a statutory review.

The remedy at the Marine OU is protective of human health and the environment. For the Marine OU, remedial action construction is complete the remedy is functioning as intended, and the Certificate of Completion has been issued. The remedial action objectives (RAOs) for the sediment remedy have been achieved, and institutional controls (ICs) and Restrictive Covenants remain in effect. No issues or follow-up actions were identified as a result of the five-year review process. Monitoring pursuant to the Long-Term Monitoring and Reporting Plan (LMRP) is no longer necessary.

The remedy at the Uplands OU is protective of human health and the environment. For the Uplands OU, construction is complete, the RAOs have been met, the Certification of Completion has been issued, and ICs and Restrictive Covenants remain in effect. These ICs and Restrictive Covenants remain effective and protective due to the responsible stewardship of Ketchikan Pulp Company and the Ketchikan Gateway Borough (Borough).

The Borough is actively leasing and/or preparing for the sale of portions of the property. Additional coordination may be necessary should extensive construction result from property development or transfer. Once per year, the Borough (or current property owner) should submit a brief report to the United States Environmental Protection Agency (EPA) and Alaska Department of Environmental Conservation (ADEC) on institutional control implementation and property changes. A plain language summary of the enforceable institutional controls is recommended to be developed by the Ketchikan Gateway Borough for distribution to interested lessees or purchasers.

All remedies at the site are protective of human health and the environment.

[This page intentionally left blank.]

Five-Year Review Summary Form

SITE IDENTIFICATION		
Site name (from WasteLAN): Ketchikan Pulp Company		
EPA ID (from WasteLAN): AKD009252230		
Region: 10	State: AK	City/County: Ketchikan, Ketchikan Gateway Borough
SITE STATUS		
NPL status: <input type="checkbox"/> Final <input type="checkbox"/> Deleted <input checked="" type="checkbox"/> Other (specify) NPL equivalent site		
Remediation status (choose all that apply): <input type="checkbox"/> Under Construction <input type="checkbox"/> Operating <input checked="" type="checkbox"/> Complete		
Multiple OUs?* <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	Construction completion date: 02 /25 /2005	
Has site been put into reuse? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		
REVIEW STATUS		
Lead agency: <input checked="" type="checkbox"/> EPA <input type="checkbox"/> State <input type="checkbox"/> Tribe <input type="checkbox"/> Other Federal Agency		
Author name: Karen Keeley (Marine OU) and Jacques Gusmano (Uplands OU)		
Author title: RPMs	Author affiliation: EPA	
Review period:** 02 /02 /2010 to 08 /02 /2010		
Date(s) of site inspection: 05/24-25/2010		
Type of review: <input type="checkbox"/> Post-SARA <input type="checkbox"/> Pre-SARA <input type="checkbox"/> NPL-Removal only <input checked="" type="checkbox"/> Non-NPL Remedial Action Site <input type="checkbox"/> NPL State/Tribe-lead <input type="checkbox"/> Regional Discretion		
Review number: <input type="checkbox"/> 1 (first) <input checked="" type="checkbox"/> 2 (second) <input type="checkbox"/> 3 (third) <input type="checkbox"/> Other (specify) _____		
Triggering action: <input type="checkbox"/> Actual RA Onsite Construction at OU #____ <input type="checkbox"/> Actual RA Start at OU#____ <input type="checkbox"/> Construction Completion <input checked="" type="checkbox"/> Previous Five-Year Review Report <input type="checkbox"/> Other (specify)		
Triggering action date (from WasteLAN): 08/02/2005		
Due date (five years after triggering action date): 08/02/2010		

* ["OU" refers to operable unit.]

** [Review period should correspond to the actual start and end dates of the Five-Year Review in WasteLAN.]

Five-Year Review Summary Form, cont'd.

Issues:

1. Marine OU. None.
2. Uplands OU. None. The Ketchikan Gateway Borough (Borough) is actively seeking industrial development through lease and/or sale of the former Ketchikan Pulp Company property. New construction could test the protectiveness and enforcement capabilities of the institutional controls and Restrictive Covenants. Additional coordination may be necessary during construction to ensure proper interpretation of institutional control guidelines.

Recommendations and Follow-up Actions:

1. Sitewide. None.
2. Marine OU. None.
3. Uplands OU. The Borough should inform EPA and the Alaska Department of Environmental Conservation (ADEC) of lease/sale activity and EPA and ADEC should increase oversight during a time of high construction activity, at least once each year. The Borough (or current property owner) should submit a yearly summary of actions taken at the property, including sales, leases, implementation of ICs. The Borough should develop a plain language summary of the enforceable institutional controls for distribution to interested lessees or purchasers, with approval by EPA and ADEC.

Protectiveness Statement(s):

1. Marine OU. The remedy at the Marine OU is protective of human health and the environment. For the Marine OU, remedial action construction is complete, the remedy is functioning as intended, and the Certificate of Completion has been issued. The remedial action objectives (RAOs) for the sediment remedy have been achieved, and institutional controls (ICs) and Restrictive Covenants remain in effect.
2. Uplands OU. The remedy at the Uplands OU is protective of human health and the environment. For the Uplands OU, construction is complete, the RAOs have been met, the Certification of Completion has been issued, and ICs and Restrictive Covenants remain in effect.
3. Sitewide. All remedies at the site are protective of human health and the environment.

Other Comments:

None.

KETCHIKAN PULP COMPANY SITE KETCHIKAN, ALASKA

1 INTRODUCTION

The purpose of this second Five-Year Review is to ensure that remedial actions selected in the Records of Decision (RODs) for the Ketchikan Pulp Company Site Operable Units (OU) are being implemented, that they continue to be protective of human health and the environment, and are functioning as designed. To achieve this purpose, this review evaluates the status of implementation of the selected remedies, identifies any significant variances from the RODs, and makes recommendations for reconciling variances and/or for improving performance of remedial actions. In addition, the review identifies any new information that becomes evident, documents that no new contaminant sources or exposure pathways were discovered, and verifies that no new work was performed that was not identified in the RODs. The methods, findings, and conclusions of reviews are documented in the Five-Year Review reports. In addition, Five-Year Review reports identify issues or deficiencies found during the review, if any, and recommendations to address them.

The United States Environmental Protection Agency (EPA) is preparing this Five-Year Review pursuant to CERCLA Section 121 and the National Contingency Plan (NCP). CERCLA Section 121(c) states that:

If the President selects a remedial action that results in any hazardous substances, pollutants, or contaminants remaining at the site, the President shall review such remedial action no less often than each five years after initiation of such remedial action to assure that human health and the environment are being protected by the remedial action being implemented. In addition, if upon such review it is the judgment of the President that action is appropriate at such site in accordance with section [104] or [106], the President shall take or require such action. The President shall report to the Congress a list of facilities for which such review is required, the results of all such reviews, and any actions taken as a result of such reviews.

The EPA interpreted this requirement further in the NCP, at 40 Code of Federal Regulations (CFR) Section 300.430(f)(4)(ii), which states:

If a remedial action is selected that results in hazardous substances, pollutants, or contaminants remaining at the site above levels that allow for unlimited use and unrestricted exposure, the lead agency shall review such action no less often than every five years after the initiation of the selected remedial action.

The United States Environmental Protection Agency (EPA), Region 10, is the lead Agency for the Ketchikan Pulp Company site. This is the second five-year review for the

site. The triggering action for this review is the date of the first five-year review, as shown in EPA's WasteLAN database: August 2, 2005. The EPA Region 10 conducted a first five-year review of the remedy implemented at the Uplands and Marine Operable Units (OUs) from February through June 2005 at the Ketchikan Pulp Company (KPC) site in Ketchikan, Alaska. The second five-year review is required due to the fact that hazardous substances, pollutants, or contaminants remain at the site above levels that allow for unlimited use and unrestricted exposure.

At the request of the EPA, the U.S. Army Corps of Engineers assisted with preparation of the second five-year review of the remedy implemented at the site in Ketchikan, Alaska. This review was conducted by staff from the Alaska District office on Elmendorf Air Force Base in Anchorage, Alaska, during April 2010 – August 2010. This report documents the results of the review.

2 SITE CHRONOLOGY

The KPC site is not on the NPL.

Table 1 - Chronology of Site Events

Event	Date
KPC operated a dissolving sulfite pulp mill	1954-1997
Preliminary site investigations	1991, 1993
EPA Consent Decree (Clean Water Act and Clean Air Act) Remedial Investigation/ Feasibility Study (RI/FS) work for Marine OU performed pursuant to this decree	September 19, 1995
Responsible party implements RI/FS (referred to as Detailed Technical Studies Report [DTSR] for the Marine OU)	September 1995 – March 2000
EPA performed Expanded Site investigation (ESI)	1997
EPA Administrative Order on Consent (AOC) between KPC, Louisiana-Pacific Corporation (the parent company of KPC), and the Alaska Department of Environmental Conservation (ADEC) - Primarily for the Uplands OU	1997
Final DTSR	May 1999
Issued Proposed Plan - Marine OU	July 12, 1999
Proposed Plan and RI/FS for Marine OU made available to public	July 1999 – August 1999
Recording of "Environmental Protection Easement and Declaration of Restrictive Covenants"	October 28, 1999
Sale of KPC assets to Gateway Forest Products (GFP), Inc., including Ward Cove real property other than the landfill and the pipeline and dam parcels, USS 3400 and 3401.	November 5, 1999
ROD Signed - Marine OU	March 29, 2000
ROD Signed - Uplands OU	June 7, 2000

Event	Date
EPA approval of remedial design – Marine OU	October 24, 2000
EPA/KPC/LP/GFP Consent Decree (CERCLA) for responsible party performance of Remedial Design/ Remedial Action entered by federal court	November 20, 2000
Start of remedial action - Marine OU	October 24, 2000
Field construction - Marine OU	October 2000 – February 2001
Pre-final inspection performed - Marine OU	February 28, 2001
Final inspection performed - Marine OU	April 4, 2001
EPA approval of final construction report - Marine OU	July 10, 2001
EPA approval of final Long-Term Monitoring and Reporting Plan for Marine OU	September 17, 2001
EPA approval of addendum to the Long-Term Monitoring and Reporting Plan for the Marine OU	January 3, 2002
Environmental Easement and Declaration of Covenants, by and between KPC, KGB and Gateway Forest Products	July 18, 2003
Field sampling for long-term monitoring in Marine OU	July 2004
Environmental Easement and Declaration of Covenants, by and between KPC and KGB	July 15, 2004
Responsible party submits draft 2004 Monitoring Report for Marine OU	October 2004
Ketchikan Gateway Borough creates Ward Cove Southeast (S.E.) replat (Plat No. 2005-30) and auctions off some of the parcels	August 2005
EPA comment letter on draft 2004 Monitoring Report for Marine OU	January 14, 2005
Preliminary Close Out Report signed for Marine OU	February 25, 2005
Responsible party submits final 2004 Monitoring Report for Marine OU	June 27, 2005
EPA first five-year review completed	August 2, 2005
Renaissance Ketchikan Group purchases Ward Cove properties	May 2006
Ketchikan Gateway Borough creates the Ward Cove West Replat (Plat No. 2006-10)	March 2006
IC Documents for Ward Cove Pipeline Parcels Approved	June 27, 2006
Field sampling for second long-term monitoring event – Marine OU	July 2007
KPC submits draft of 2007 Monitoring Report for Marine OU	January 31, 2008
Ketchikan Gateway Borough reacquires Ward Cove property from Renaissance Ketchikan Group through foreclosure	October 2008
EPA comment letter on draft 2007 Monitoring Report for Marine OU	October 28, 2008

Event	Date
Tenants sign new leases with the Ketchikan Gateway Borough	2009
KPC submits final 2007 Monitoring Report for Marine OU	April 24, 2009
EPA approves 2007 Monitoring Report for Sediment Remediation in Ward Cove, AK	May 7, 2009
EPA fact sheet mailed indicating RAOs met for Marine OU	May 2009
Pre-certification inspection/meeting for Marine OU	June 10, 2009
Certification of completion and extension letter for Remedial Action Report for Marine OU	June 11, 2009
Draft Remedial Action Report – Marine OU	August 5, 2009
Final Remedial Action Report – Marine OU	October 1, 2009
EPA issues Certification of Completion for Remedial Action, Uplands Operable Unit	January 21, 2010
EPA issues Certification of Completion for Remedial Action, Marine and Uplands Operable Units	January 22, 2010

3 BACKGROUND

3.1 Physical Characteristics

The Ketchikan Pulp Company (KPC) site is located on the shoreline of Ward Cove, approximately 5 miles north of Ketchikan, Alaska (Figure 1). The KPC site is comprised of uplands and patented tidelands in Ward Cove. Ward Cove is one mile long and has a maximum width of 0.5 mile. Ward Creek, located on the east end of Ward Cove, is the primary source of fresh water to the Cove.

The Marine OU includes all of Ward Cove and other marine areas where there has been a migration of hazardous substances from Ward Cove or the Uplands OU (Figure 2). The Marine OU consists of approximately 250 acres in Ward Cove, of which approximately 80 acres have been designated in the ROD as an Area of Concern where remedial action objectives have been met and sediment contamination no longer poses a risk to benthic organisms. Sediments in the cove are subtidal; intertidal sediments are limited to a very small area near the mouth of Ward Creek. The shoreline of the cove is mostly rocky and relatively steep.

Located on the north shoreline of Ward Cove, the Uplands OU covers approximately 85 acres. Ward Cove is a coastal valley bounded by Slide Ridge to the north and Ward Mountain to the south.

To the north of the former pulp mill area, the terrain slopes steeply upward to a peak approximately 2,100 feet above mean sea level, at a distance of approximately one mile from the shoreline. The area surrounding the former pulp mill is largely forested with pockets of industrial/commercial and residential properties clustered along North

Tongass Highway, and some properties used for recreational purposes. There is no residential area along the shoreline.

The former pulp mill was built mainly on steep bedrock. Course gravel fill and “shot rock” were used as fill material to a depth of 11 feet to 25 feet. The former mill area is fenced and has an unmanned gate access.

The area has a maritime climate, characterized by mild, wet conditions, receiving an average 151 inches of precipitation annually.

Groundwater in the Uplands OU consists of a transient, shallow aquifer system that exists in the fill areas above the fractured bedrock, a shallow aquifer in the fractured bedrock, and a potential discontinuous deeper aquifer within the fractured bedrock. This groundwater is considered Class III groundwater and thus, non-potable. According to the ADEC, the shallow aquifer and potential deeper aquifer are not considered a reasonably expected future source of drinking water.

A pipeline (wood stave) running from Lake Connell to the former pulp mill facility provides an industrial water supply. Drinking water for this area is supplied by the Ketchikan public water supply system and is stored in a water storage tank on site. A service road allows access to most of the pipeline. A gate limits motor vehicle access by the public. A large dam at Connell Lake (man-made) and the four-foot diameter pipeline supplied water to the former mill and now serve as a fire prevention water source for the North Tongass Fire and Emergency Medical Services (EMS) Area. There are plans for other potential industrial uses of this water supply. There are several historic small storage/disposal areas along the pipeline. The habitat along the pipeline is heavily forested and since the pipeline is gravity fed, the general gradient is downward towards Ward Cove.

The Wood Waste and Ash Disposal Landfill is located at Dawson Point, just west of the former pulp mill facility and east of Refuge Cove. The area around the landfill is heavily forested. The landfill is situated on thin soil covering fractured bedrock. Groundwater flows through fractures steeply down-gradient to Ward Cove and Refuge Cove. Groundwater is not now used as a resource and does not likely represent a future resource.

3.2 Land and Resource Use

The former KPC facility began operations as a dissolving sulfite pulp mill in 1954 and discharged pulp mill effluent to Ward Cove until March 1997, when pulping operations terminated. Equipment associated with pulp mill operations has largely been dismantled and removed from the site. In November 1999, the KPC upland mill property (excluding the landfill and the pipeline and dam parcels USS 3400 and 3401) and patented tidelands in Ward Cove were sold from KPC to Gateway Forest Products, Inc. (GFP).

For a short time, GFP operated a sawmill and veneer mill, producing lumber and veneer, chips for pulp, and hog fuel as a by-product. GFP initiated Chapter 11 Bankruptcy proceedings in 2001, and the U.S. Bankruptcy Court dismissed the action in 2002. GFP no longer owns or operates on any property within the KPC site.

At the present, the Ketchikan Gateway Borough (the Borough) reports that it owns all of the former KPC and GFP property which was subject to the consent decree and institutional controls. The only exception is that the landfill parcel is still owned by KPC.

The Borough originally obtained the property in 5 different ways. First, the Borough obtained 28 parcels from GFP in December 2002 in connection with the foreclosure on its deed of trust interest from a loan made in 1999. Second, the Borough foreclosed on acquired interests in a deed of trust originally granted in favor of Tymmatt, Inc. and Tyler Rental concerning USS 1706 and the unsubdivided remainder of USS 1754, to which title was acquired in December of 2002. Third, the Borough foreclosed on its loan interest, a first deed of trust, on USS 1056 lot 3 and the unnamed 10.25 acre portion of ATS 1 (an odd shaped portion which contains the dock and extends both in front of the former sawmill and inland under warehouses) and obtained title in December 2002. Fourth, in December 2003, Foothill Capital transferred to the Borough USS 1862; ATS 1 portion C-1; ATS 1 portion A; USS 2090 portion B; USS 2923; and a 5.16 acre portion of USS 056 adjacent to USS 2923. Fifth, KPC transferred USS 2004 lot 1; USS 3400; and USS 3401 to the Borough.

In 2005, the Borough subdivided the southeast side of Ward Cove (Ward Cove S.E. Replat 2005-30, see Attachment 6) and auctioned off parcels including: Tract 3011, Tract 3013, Tract 3015, Tract 3017, Tract 3019, USS 1656, USS 1653, USS 1655, USS 1208, USS 1207, and USS 1508. Tract 3017 contains the Dredge Spoils Subarea of the Uplands Operable Unit. Along the shoreline, this parcel also contains small portions of the Marine Operable Unit. In May 2006, Renaissance Ketchikan Group (RKG) purchased the remaining Ward Cove Properties and leased portions of the site to Ty-Matt, Loggerville Holdings, Rhineco, GCI, Tongass Forest Enterprises, Anderes Oil, The Grotti Vikings, Ketchikan Wood Technology, Lighthouse Marine, and Pool Engineering.

In March 2006, the Borough created the Ward Cove West Replat – Plat No 2006-10 (see Attachment 6). In May 2006, a 3 acre parcel along the pipeline, which was subject to an earlier agreement between the Borough and KPC, was transferred from BLM to the State of Alaska and from the State of Alaska to the Borough. After the transfer these parcels were made subject to the ICs and Restrictive Covenants of the ROD (see Attachments 9 and 10).

In October 2008, the Borough reacquired the property through foreclosure. Multiple tenants signed new leases with the Borough, including: Alaska Growth Capital, First City Players, First City Wood Haulers, Fritz Peters, GCI, Lighthouse Marine, Loggerville Holdings, Olson Marine, Rhineco, SEAPA, and Tongass Forest Enterprises. Current lessees at Ward Cove include the State of Alaska Department of Transportation and Public Facilities (ADOT&PF)/Alaska Marine Highway System (AMHS) Department of

Administration, Alaska Whole Wood (Tongass Forest Enterprises), Crux Equipment Leasing, Inc., First City Players, First City Wood Haulers, Fritz Peters, GCI, Olson Marine, and Rhineco, Inc.

The Borough continues to actively pursue sale or lease of the property. The State of Alaska purchased a portion of the former KPC Facility from Ketchikan Gateway Borough for lay-up and operational berths for the AMHS on June 17, 2010. A Phase II Environmental Site Assessment Report, Ketchikan Ward Cove Property was completed by CH2M Hill for the ADOT&PF (CH2M Hill, April 2010). The Borough is also in the process of subdividing the property for ease of sale. Since much of the land is subject to institutional controls and deed restrictions, the Borough is taking steps to ensure that prospective buyers and lessors are fully aware of the restrictions that are imposed on these properties. The Borough has published all the Ward Cove Environmental Notice Documents on their website:

www.borough.ketchikan.ak.us/planning/WardCoveProperty.htm.

The current land use for the surrounding area is recreational, residential, commercial, and industrial (see Attachment 7). The former KPC upland property is industrial/commercial and is expected to remain industrial/commercial. The majority of the parcels are zoned Heavy Industrial by the Ketchikan Gateway Borough (see Attachment 7). The primary use of Ward Cove is navigation and recreation, including fishing. Although there are potential land use changes being pursued by the Ketchikan Gateway Borough, it is anticipated that a mix of land uses similar to that described will continue into the future.

There are no public health advisories for consumption of seafood from Ward Cove.

3.3 History of Contamination

The KPC mill operated continuously from 1954 until 1997, processing raw logs into lumber, pulp, and hog fuel. The principal product of the KPC mill was dissolving-grade sulfite pulp. When pulp production began, effluent from the mill was discharged directly to Ward Cove. After 1971, effluent was treated in a wastewater treatment plant located at the mill. After treatment, wastewater was discharged to Ward Cove.

The processes and conditions considered possible sources of chemicals of concern (CoC) included wastewater discharges, wood waste and ash disposal in landfill, stormwater discharges, release of airborne contaminants from the power boilers, and spills and accidental releases.

Specifically for the Marine OU, contamination at the site was discovered through water quality and sediment studies of Ward Cove that were conducted to evaluate the potential environmental effects associated with discharges from the KPC facility. Mill operations affected sediments through the release of large quantities of organic material as by-products from wood pulping. This organic material has altered the physical structure of the sediments, and thus the type and amount of benthic (bottom-dwelling) organisms.

Degradation of the organic-rich pulping and by product has led to anaerobic conditions in the sediment and production of ammonia, sulfide, and 4-methylphenol in quantities that are potentially toxic to benthic organisms in sediments on the bottom of Ward Cove. The chemicals of concern for sediments are ammonia, sulfide, and 4-methylphenol.

For the Uplands OU, sources of contamination were the use of oils and lubricants in the fuel storage areas, maintenance shop and paint shop; polychlorinated biphenyls (PCBs) from electrical transformers and capacitors; heavy metal, polynuclear aromatic hydrocarbons (PAHs) and dioxins/furans from ash generation and sludge generation in storage areas, as well as the wood waste/ash landfill; and, naturally-occurring arsenic contamination from “shot rock” fill material.

Other areas of contamination were the aeration basins, grit chamber soils, filter plant soils and several storage/disposal areas along the pipeline. The soil contamination outlined above was remediated during pre-ROD activities. EPA supervised the removal actions, which were conducted by KPC. Imported soil and rock products containing fines to be placed on the surface at the site are controlled by a Management Plan for Arsenic in Rock and Soil. Other potential areas not discovered during the RI/FS are managed by the use of Institutional Controls and Environmental Protective Easements. The wood waste and ash landfill has been capped and is currently scheduled for monitoring for 30 years.

3.4 Initial Response

The KPC site is not listed on the NPL.

Marine OU - The sediment investigation and feasibility study was implemented pursuant to a Clean Water Act and Clean Air Act consent decree. The remediation of Ward Cove was originally part of a consent decree with KPC dated September 19, 1995. The consent decree embodied a settlement between the United States and KPC for violations at the KPC facility of the Clean Water Act and the Clean Air Act. Under the terms of the settlement, KPC agreed to pay a penalty of \$3.1 million. KPC also agreed to implement requirements for operating the mill (e.g., using only certified wastewater treatment operators) and to perform certain projects.

One such project was to develop and implement the Ward Cove Sediment Remediation Project. EPA Superfund performed oversight of the RI/FS and work performed under the consent decree. Upon completion of the RI/FS, the Proposed Plan (July 1999), and the ROD (March 2000), EPA supervised the completion of the sediment remediation project pursuant to a CERCLA Remedial Design/Remedial Action consent decree with KPC, its parent company, Louisiana-Pacific Corporation, and the new owner of the Ward Cove facility, GFP.

No removal actions or responses occurred prior to the ROD.

Uplands OU - KPC/LP, EPA, and ADEC entered into an Administrative Order on Consent (AOC) during June 1997. The AOC required KPC/LP to undertake RI/FS activities focused on the Uplands OU. In the Uplands OU, early pre-ROD actions involved the removal of contaminated soil and upland sediment (ditch sediment). Soil removal was completed at the access road ditch, railroad track areas, compressor area, the paint shop/maintenance shop, the former bulk fuel area, and storage areas along the pipeline. KPC also conducted building demolition and cleaned out roof cisterns used for water collection and storage of drinking water in the mill vicinity. These activities were conducted between spring of 1998 and summer of 1999 with ADEC and EPA oversight.

3.5 Basis for Taking Action

Marine OU - Hazardous substances in Ward Cove sediments include ammonia, hydrogen sulfide, and 4-methylphenol. These substances potentially pose an unacceptable ecological risk to benthic (bottom-dwelling) organisms.

An ecological risk assessment was also conducted using a food-web assessment to estimate risks of bioaccumulative chemicals to representative birds and mammals at the top of the Ward Cove food web. The chemicals evaluated were arsenic, cadmium, mercury, zinc, chlorinated dioxins/furans, and PAHs. The results of this assessment indicated that there are no unacceptable risks to higher trophic level organisms in Ward Cove.

A human health risk assessment was conducted to identify potential risks posed by chemicals detected in sediments or seafood (e.g., fish, shellfish). Ingestion of seafood that may contain chemicals bioaccumulated from the sediments was identified as the only complete exposure pathway for humans. The chemicals that were evaluated included: arsenic, cadmium, mercury, zinc, phenol, 4-methylphenol, chlorinated dioxins/furans, and PAHs. Results concluded that sediments in Ward Cove do not pose an unacceptable risk to human health.

Direct human contact with sediments in Ward Cove is unlikely because of the depth of water overlying the affected sediments and the cold climate. Although direct contact is unlikely, this potential exposure was evaluated in a worst-case analysis and results indicated that sediments do not pose unacceptable risks to people.

Uplands OU - The early actions taken in the Uplands OU removed the most contaminated source material, eliminated unacceptable risks from direct contact with soils, eliminated soil transport to Ward Cove, eliminated leaching of surface soil contaminants to groundwater, and minimized potential future direct contact with subsurface soils at the site.

The paint shop/maintenance shop had an excess carcinogenic risk estimate of 3×10^{-4} , exceeding industrial worker risk for the combination of total PCBs, arsenic, and benzo(a)pyrene, and a total non-carcinogenic hazard index (HI) of 8. Lead industrial soil

concentrations were also exceeded at the paint shop and the pipeline. State soil cleanup levels were exceeded in several areas prior to the EPA-supervised removal activities conducted by KPC. Institutional Controls and Environmental Protective Easements will monitor subsurface use and disturbance to control and minimize exposure for industrial uses.

A baseline human health and ecological risk assessment was conducted prior to the removal actions. This assessment and State cleanup standards formed the basis for the removal actions, which were conducted at the pulp mill site and the water pipeline access road. Several pathways were fully evaluated, but did not require quantitative risk calculations due to the lack of a complete exposure pathway or lack of chemicals of potential concern for the pathways. Exposure pathways that were quantitatively evaluated in the human health risk assessment were as follows:

- Current and future adult workers in onsite areas and in areas where aerial deposition has affected industrial soils were evaluated for potential exposures to CoCs via ingestion, dermal contact, and inhalation.
- Current or future adult workers who might contact soils along the former pipeline access road via ingestion, dermal contact or inhalation.
- Offsite residents (adults and children) in aerial deposition areas were evaluated for potential exposures to CoCs via ingestion, dermal contact, inhalation, and consumption of homegrown produce.
- Offsite residents who have amended their yards with grit were evaluated for potential exposures to dioxins in soil via ingestion, dermal contact, inhalation, and consumption of homegrown produce.

The only completed exposure pathways exceeding the human health based risk levels applied by the EPA and the State was for current adult workers at the pulp mill site (the paint shop/maintenance shop area as described above).

In addition, potential exposures for residents who use water from cisterns that may have been affected by aerial deposition of power boiler stack emissions was considered in the remedial investigation and in a separate consultation by the Agency for Toxic Substances and Disease Registry (ATSDR) in 1998. The ATSDR assessment determined that there were no adverse health effects prior to cistern cleaning.

4 REMEDIAL ACTIONS

4.1 Marine OU Remedy Selection

The ROD for the Marine OU of the KPC site was signed on March 29, 2000. Remedial Action Objectives (RAOs) were developed as a result of data collected during the RI to aid in the development and screening of remedial alternatives considered for the ROD. The RAOs were achieved for the Marine OU as stated in EPA's Final Remedial Action Report dated October 1, 2009.

In order to eliminate or minimize the ecological risk associated with the toxicity of Ward Cove sediments to benthic organisms, the response action achieved these RAOs:

- Reduce toxicity of surface sediments
- Enhance recolonization of surface sediments to support a healthy marine benthic infauna community with multiple taxonomic groups.

The major components of the remedy selected in the ROD are described below.

4.2 Marine OU Remedy Implementation

In a Consent Decree signed with EPA on November 20, 2000, KPC/LP agreed to perform RD/RA and implement long-term monitoring and pay past and future costs for carrying out work in the Marine OU. The RD was conducted in conformance with the ROD, and was approved in 2004. The field work for RA construction was completed in February 2001, and EPA approved the final construction report in July 2001. Pursuant to Paragraphs 41 through 43 of the CERCLA Consent Decree, KPC and GFP each agreed to implement institutional controls for the property owned by each company.

The remedy that was selected for the Marine OU is listed below (verbatim from the ROD, Part 1: Declaration). Following each component of the remedy that was listed in the ROD is italicized text describing actual construction completion. Figure 3 depicts the areas of thin layer placement, dredging, piling removal, and natural recovery.

- Placement of a thin-layer cap (approximately 6- to 12-inches) of clean, sandy material where practicable. Thin-layer capping is estimated to be practicable over approximately 21-acres within the Area of Concern. Thin-layer capping is preferable over mounding.

Constructed thin-layer (approximately 6- to 12-inches) placement of clean, sandy material over an estimated 27 acres. The increase in acreage is due to the fact that thin layer placement was found to be successful over a broader area, and it was not necessary to construct mounding.

- Placement of clean sediment mounds in areas where thin-layer capping is either infeasible or impracticable, and where mounding is considered to be practicable. Mounding is currently considered to be practicable in areas where the organic-rich sediments are less than 5 ft thick and have a bearing capacity that is greater than 6 psf. Mounding is estimated to be practicable over approximately 6-acres within the Area of Concern.

Thin-layer placement was found to be practicable over the entire 27-acres, so mounding was not constructed.

- Dredging of approximately 17,050 cubic yards (cy) of bottom sediments from an approximate 4-acre area in front of the main dock and dredging of approximately 3,500 cy of bottom sediments from an approximate 1-acre area near the shallow draft barge berth area to accommodate navigational depths, with disposal of the dredged sediments at an upland location. After dredging, a thin-layer cap of clean, sandy material will be placed in dredged areas unless native sediments or bedrock is reached during dredging.

Dredged approximately 8,701 cubic yards (cy; pay volume) of bottom sediments from an area in front of the main dock and an area near the shallow draft barge berth area to accommodate navigational depths, with disposal of the dredged sediments at an upland location. The dredging volume estimate was less than expected because native, clean sediments were encountered at a shallower depth than anticipated. After dredging, thin layer placement of clean, sandy material was constructed in dredged areas where native sediments or bedrock was not reached.

- Removal of sunken logs from the bottom of Ward Cove in areas to be dredged.

Sunken logs (approximately 680 tons) were removed from the bottom of Ward Cove in areas to be dredged.

- Natural recovery in areas where neither capping nor mounding is practicable. Natural recovery is estimated to be the remedy for approximately 50 acres of the 80-acre Area of Concern, as follows:
 - 1) 8-acre area in the center of Ward Cove and 2-acre area near Boring Station 8 that exhibit a very high-density of sunken logs (>500 logs/ 10,000 m²);
 - 2) 13.5-acre area where water depth to the bottom of the Cove is greater than -120 ft mean lower low water (MLLW) and the depth of the sediment is currently considered to be too great to cap;

- 3) 14.5-acre area where slopes are estimated to be greater than 40 percent and are currently considered to be too steep for capping or mounding material to remain in place;
- 4) 11-acre area where the organic-rich sediments do not have the bearing capacity (i.e., strength is less than 6 pounds per square foot) to support a sediment cap and are too thick (i.e., thickness is greater than 5 feet) to practicably allow for placement of sediment mounds; and,
- 5) 0.2-acre area near the sawmill log lift where maintenance dredging generally occurs on an annual basis.

In areas where thin-layer placement was not constructed, allowed for monitored natural recovery in approximately 52 acres.

- Institutional controls requiring that post-remediation activities within the Area of Concern that materially damage the thin-layer cap or mounds will be required to redress such damage, at the direction of EPA.

Institutional controls requiring that post-remediation activities within the Area of Concern that materially damage the thin-layer cap or mounds will be required to redress such damage, at the direction of EPA.

In 1999 – before EPA had issued the ROD and before KPC had entered into a Consent Decree (CD) to perform the remedial action – KPC recorded an Environmental Easement and Declaration of Covenants on its property (1999 Covenant). The 1999 Covenant described restrictions on the use of Ward Cove, including but not limited to a requirement that any damage to the sediment cap be redressed by KPC at EPA’s direction. The 1999 Covenant designated the State of Alaska, Department of Natural Resources (ADNR) as the holder of the easement, and the ADNR subsequently granted oversight of the easement to the ADEC.

After KPC completed the remedy in Ward Cove, the Ketchikan Gateway Borough (the Borough) took possession of the property on which KPC placed a thin-layer cap of clean sandy material as part of the remedial action. The Borough, the new owner, and KPC entered into and recorded an Environmental Easement and Declaration of Covenants in July 2004 (2004 Covenant). In the 2004 Covenant, the Borough agreed to comply with all Ward Cove institutional controls that were set forth in the Consent Decree and recorded in the 1999 Covenant, or otherwise, including the restriction on damaging the cap. It states:

The Borough covenants and agrees that it shall not, through any activities or operations at or in the Ward Cove Area, materially damage any cap or capping materials that may be applied to sediments in the Ward Cove Area under the Ward Cove Consent Decree.

According to the 2004 Covenant, in the event of any such damage to the cap, the Borough (or any future owner) must immediately report the damage to EPA and KPC and then restore the cap. The 2004 Covenant states that the restricted uses shall run with the land and be binding on all future owners, and the terms and conditions shall be for a period of twenty (20) years, after which time the Covenant shall be automatically extended for successive periods of ten (10) years unless an instrument signed by KPC has been recorded agreeing to terminate the restrictions.

The Ketchikan Gateway Borough submitted a letter request dated 16 February 2010 to Mr. Tom Irwin, Commissioner, Alaska Department of Natural Resources, requesting a release from some or all of the restrictions established in the 1999 Covenant. The request for a release from the specific provisions is under consideration by the State of Alaska. It is unclear whether the request is for the release of some or all of the restrictions in the 1999 Covenant.

It is EPA's position that total unrestricted use of the property is not feasible because the remedy called for certain waste to be left in place in combination with institutional controls that would prevent the disturbance of the waste remaining on site. While the remedy selected for the Marine OU assumed that Ward Cove would be redeveloped in the future, the institutional controls that were put in place to protect that remedy do affect how the site may be redeveloped. Section IX of the 2000 ROD specifically prohibits person from "using the Site in any manner that would interfere with or adversely affect the integrity or protectiveness" of the remedy. Section XI of the 2000 ROD specifically states that this institutional control will remain in effect even after the Remedial Action Objectives are achieved.

Any activity that materially damages the thin-layer sediment cap at Ward Cove would be a violation of the ROD, the institutional controls, the 1999 and 2004 Covenants, and may also be considered a release of hazardous substances, subjecting the owner of the sediments, to liability under Section 107(a) of CERCLA.

- Implementation of a long-term monitoring program for the remedial action until RAOs are achieved, at the direction of EPA.

EPA approved a long-term monitoring program for the remedial action, which was implemented until RAOs were achieved. Based on results of the 2007 long-term monitoring data, it was determined that RAOs were achieved in Ward Cove (EPA 2009, see Attachment 18).

- Subtidal investigation of sediments near the east end of the main dock, and subsequent dredging and disposal of PAH-contaminated sediments, as deemed appropriate by EPA.

PAH-contaminated sediments were dredged along with other dredged materials. Submerged creosote-soaked pilings were also removed from the area of PAH contaminated sediments.

The deviations from the remedy selected in the ROD are as follows:

- Thin-layer placement occurred over a larger area than was estimated in the ROD;
- The ROD allowed for “mounding” if thin-layer placement could not be implemented - “mounding” did not occur as thin-layer placement was effective in all areas;
- The dredging volume was less than was estimated in the ROD.

EPA determined that all RA construction activities, including the implementation of institutional controls, were performed according to specifications.

The Preliminary Close-Out Report was signed on February 25, 2005.

4.3 Marine OU Long-Term Monitoring and Reporting

Remediation activities were completed in 2001. On behalf of KPC/LP, KPC conducted long-term monitoring and reporting according to the monitoring plan that was approved by EPA in September 2001. The primary objectives of the Ward Cove long-term monitoring program include the following:

- Compare sediment toxicity in thin capped and natural recovery areas in the remediated area with sediment toxicity in reference areas located elsewhere in the cove
- Compare the characteristics of benthic communities in thin capped and natural recovery areas in the remediated area with the characteristics of communities in reference areas located elsewhere in the cove
- Evaluate temporal trends in sediment toxicity in the thin capped and natural recovery areas of the remediated area
- Evaluate temporal trends in the characteristics of benthic macroinvertebrate communities found in the thin capped and natural recovery areas of the remediated areas
- Evaluate chemical concentrations and their relationship to sediment toxicity and benthic community structure.

The specific components of sediment quality used for the monitoring program are as follows:

- Sediment chemistry - Surface (0 to 10 centimeters) sediment samples will be analyzed for conventionals, ammonia, and 4-methylphenol.
- Sediment toxicity - Surface sediment samples will be evaluated using amphipod bioassay toxicity tests.
- Benthic macroinvertebrate communities - Characteristics of benthic communities will be evaluated by collection and enumerating the organisms found in surface sediment samples.

Sediment chemistry and toxicity were assessed during the RI/FS and therefore these monitoring components could be compared to pre-remedial conditions as well as to reference areas. Temporal trends in sediment chemistry, sediment toxicity, and benthic infauna were evaluated by comparing pre-remediation data with monitoring data collected in July 2004 and 2007. The analytical methods for chemistry and toxicity testing were comparable to those used in the RI/FS. Benthic infauna measurements were compared to reference area conditions and qualitative data collected prior to remediation.

The design of the Ward Cove monitoring program built on different categories of benthic strata, which were based on water depth and on the kind of remedial action taken. Multiple sampling stations were evaluated within each benthic stratum to estimate average (or mean) conditions in the stratum and to provide a measure of within-stratum variability so that statistical analyses could be conducted. A total of 37 Area of Concern stations and 2 reference area stations were sampled during the monitoring program.

The characteristics of benthic communities can be influenced by water depth and sediment character. Therefore, the Area of Concern was subdivided into various benthic strata as follows based on water depth (four strata):

- very shallow areas (<20 ft water depth at mean lower low water (MLLW); 5 stations),
- shallow areas (20–70 ft MLLW; 16 stations),
- moderately deep areas (70–120 ft MLLW; 11 stations), and
- deep areas (>120 ft MLLW; 5 stations).

Remedial action strata were defined as either enhanced natural recovery (ENR) (i.e., thin layer placement (TLP) areas; 15 stations) or monitored natural recovery (MNR) areas (22 stations). The shallow, MNR stratum was further subdivided into an area with thick organic deposits (>5 feet) adjacent to the former pulp mill and an area with more limited organic deposits along the north shore near the mouth of the cove.

On May 7, 2009, EPA approved the final 2007 Monitoring Report for Sediment Remediation in Ward Cove, Alaska (April 2009). EPA also concurred that the Remedial Action Objectives for the sediment remedy were achieved, that the remedy at the Marine OU is protective of human health and the environment, and monitoring pursuant to the long-term monitoring and reporting plan (LMRP) is no longer necessary.

4.4 Uplands OU Remedy Selection

The selected remedy for the Uplands OU included compliance with already-existing institutional controls to ensure the former pulp mill area remains commercial/industrial and that portions of the pipeline access road where cleanup activities occurred are not developed for residential use. These institutional controls are implemented through:

- Ketchikan Gateway Borough zoning restrictions;
- Management Plan for Arsenic in Rock and Soil, prepared July 1998;
- Environmental Protection Easement and Declaration of Restrictive Covenants, recorded on October 28, 1999;
- Excavation and Soil Handling Procedures, outlined in the Institutional Controls Plan, dated June 2000;
- Environmental Easement between KPC and ADNR, recorded August 6, 2001;
- Environmental Easement and Declaration of Covenants, between Ketchikan Gateway Borough, Ketchikan Pulp Company, and Gateway Forest Products, recorded July 18, 2003;
- Environmental Easement and Declaration of Covenants, between Ketchikan Gateway Borough and Ketchikan Pulp Company, recorded July 15, 2004; and
- Equitable Servitude and Easements granted by the Ketchikan Gateway Borough in favor of the ADNR, recorded May 1, 2006.

The selected remedy for the Wood Waste and Ash Disposal Landfill was to close and cover the landfill with a geomembrane cap, place a topsoil cover over the geomembrane, establish a vegetative cover and maintain the final cover, the passive gas venting system, and the leachate treatment system. The cap was installed in 1997 with an open cell constructed on top of that cap to receive ash from the power boilers which ran until March 1998. The final cap for this remaining open cell was installed in 2001. The remedy also included long-term visual and surface water monitoring to detect the potential for public ecological receptor endangerment or water quality standard or permit violations. The Wood Waste and Ash Disposal Landfill was also included in the Institutional Control Plan, Management Plan for Arsenic in Rock and Soil, and recorded Restrictive Covenants.

4.5 Uplands OU Remedy Implementation

The Record of Decision was signed June 7, 2000. An Environmental Protection Easement and Declaration of Restrictive Covenants was recorded on October 28, 1999. An Environmental Easement between KPC and ADNR was recorded August 6, 2001 regarding the Wood Waste and Ash Disposal Landfill at Dawson Point. The Ketchikan Gateway Borough and Ketchikan Pulp Company entered into an Environment Easement and Declaration of Covenants which was recorded on July 15, 2004. An Equitable Servitude and Easement and Subordination Agreement for the Pipeline Parcels was recorded May 1, 2006. The Institutional Control Plan was finalized in June 2000. The

Management Plan for Arsenic in Rock and Soil was finalized July 1998. The Restrictive Covenants pertaining to the Uplands OU are in effect until contaminants left in the soil reach acceptable levels for unrestricted land use or until 2099, whichever comes first.

4.6 Uplands OU Long-Term Monitoring and Reporting

KPC conducts visual inspections and periodic maintenance of the landfill cap and collects surface water samples to assess the site surface water, as well as maintains operation of the landfill leachate treatment and aeration ponds. KPC submitted a new National Pollutant Discharge Elimination System (NPDES) permit application to the EPA (and ADEC) in March 2009. The EPA began transferring authority for Federal NPDES permitting and compliance/enforcement programs to the State of Alaska on October 31, 2008. As of October 31, 2009, the state of Alaska has authority under the Alaska Pollutant Discharge Elimination System (APDES) Program for the KPC Ward Cover Landfill Leachate permit (#AK0054492), which expired on 9/30/2009. The KPC continues to operate under the expired permit, as a new permit has not yet been issued by the state.

The Ketchikan Gateway Borough enforces ICs with all leaseholders and coordinates with EPA and ADEC on all potential subsurface construction projects.

5 PROGRESS SINCE THE LAST FIVE-YEAR REVIEW

RAOs have been achieved at the Marine and Uplands OUs since the last five year review. Certificates of Completion were documented for the Marine OU and Uplands OU by EPA letter to KPC dated January 22, 2010 (see Attachment 13).

Previous Protectiveness Statements from the last Five-Year Review (August 2, 2005): For the Marine OU, it stated: "The remedial action construction is complete, and the remedial action is an operating or ongoing remedial action. The remedy at the Marine OU is protective of human health and the environment."

For the Uplands OU, it stated: "The remedial action is complete. The remedy at the Uplands OU is protective of human health and the environment, and exposure pathways that would result in unacceptable risks are being controlled by institutional controls and Restrictive Covenants."

For Sitewide, it stated: "All remedies at the site are protective of human health and the environment."

Status of Recommendations:

For the Marine OU, there were no recommendations made in the previous Five-Year Review (August 2, 2005).

For the Uplands OU, the previous Five-Year Review (August 2, 2005) recommended: “Check with Ketchikan Gateway Borough on lease/sale activity of property formerly owned and operated by KPC at least once per year, and increase EPA oversight during time of high construction activity.” This recommendation has been addressed. The Ketchikan Gateway Borough has maintained good communication with EPA over the past five years in regards to leases, sales of property and proposed development. As a result, EPA has reviewed Sampling Plans and Construction Plans for several real and proposed construction projects, to determine consistency with ICs. This communication and coordination occurred several times a year, over the past five years.

For Sitewide, there were no recommendations made in the previous Five-Year Review (August 2, 2005).

6 FIVE-YEAR REVIEW PROCESS

6.1 Administrative Components/Community Involvement/ Document Review

The Five-Year Review team was comprised of the Remedial Project Managers responsible for the Marine and Uplands OU. There are no current active citizen groups associated with the KPC site. External stakeholders, including the state, were notified of the start of this five-year review in February 2010. In March 2010, a newspaper ad was placed in the Ketchikan Daily News to notify the public of the upcoming five-year review, and notification cards were mailed by EPA to addressees on the KPC Mailing List. The Five-Year Review consisted of a review of relevant documents including decision documents (RODs), remedial action completion reports, long-term monitoring plans and reports, environmental laws and regulations, and enforcement documents.

6.2 Data Review - Marine OU

The detailed results of the monitoring program are provided in the 2004 Monitoring Report for Sediment Remediation in Ward Cove, Alaska (Exponent, June 2005) and Final Remedial Action Report, Sediment Remediation in Ward Cove Marine Operable Unit, Ketchikan Pulp Company Site, Ketchikan, Alaska (Integral September 2009). The data from the final monitoring event (i.e., 2007) are summarized in the following table and in the text below:

Table 2. Summary of Recovery Status for Various Biological Indicators in Ward Cove Based on 2007 Data^a

Indicator	Stratum					
	Enhanced Natural Recovery (i.e., TLP)			Monitored Natural Recovery		
	1	2a	3a	2b	3b	4
Sediment Toxicity	/	/	/	/	/	/
Benthic Community Metrics ^b	100%	100%	100%	33% ^c	100%	100%
Abundance						
Total abundance	/	/	/	--	/	/
Taxa abundance						
Molluscs	/	/	/	--	/	/
Polychaetes	/	/	/	/	/	/
Arthropods	/	/	/	/	/	/
Richness						
Total richness	/	/	/	--	/ ^d	/
Taxa richness						
Molluscs	/	/	/	--	/ ^d	/
Polychaetes	/	/	/	--	/ ^d	/
Arthropods	/	/	/	/	/	/
SDI	/	/	/	--	/ ^d	/

/ = For sediment toxicity: Survival is greater than the 75 percent screening value specified in the long-term monitoring and reporting plan.

For benthic metrics: Value is not significantly lower ($P > 0.05$) than the respective mean reference value.

-- = Significantly lower ($P \leq 0.05$) than the respective mean reference value.

^a Sediment chemistry was analyzed, but not included in this table because it is not applicable to RAOs. Stratum 2c is not included in this table because results of the 2004 monitoring event showed that this area had achieved the RAOs (see above text for further explanation).

^b Percentages indicate the number of benthic metrics that are not significantly lower ($P > 0.05$) than their respective mean reference values (note that for Stratum 3b, uncertainty exists for some benthic metrics due to low statistical power).

^c Recovery of benthic communities is progressing in this stratum (see Integral 2009).

^d Low statistical power for benthic comparisons.

Based on the results of the monitoring program, it was determined that the RAOs have been achieved in Ward Cove. The results of the 2004 and 2007 monitoring events demonstrated that environmental conditions throughout the Ward Cove Area of Concern had improved substantially since the RI/FS was conducted in 1996–1999. In addition, most conditions showed continual improvement between 2004 and 2007. The TLP area was successful in eliminating sediment toxicity and stimulating colonization of benthic macroinvertebrate species such that diverse communities comprising multiple taxa now inhabit most parts of the TLP areas, and exhibit enhanced characteristics beyond those of the reference areas. In addition, recovery is proceeding in the MNR areas, such that all four areas surpassed sediment toxicity screening levels and three of the four areas have achieved healthy benthic communities with multiple taxonomic groups. The weight of evidence for the remaining MNR area (i.e., Stratum 2b; located in the northwest corner of the cove) indicates that, in addition to surpassing sediment toxicity screening levels, substantial and acceptable progress has been made towards diversification of benthic communities in that area, and will continue to proceed, because sediment toxicity in that area has achieved the RAO, concentrations of total organic carbon, ammonia, and

4 - methylphenol declined by 20 to 50 percent between 2004 and 2007, and the major source of CoCs to the Area of Concern has been removed.

On May 7, 2009, EPA concluded that the multiple lines of evidence used to evaluate sediment quality in the Ward Cove Area of Concern indicate that the RAOs have been achieved. The lines of evidence include quantitative and qualitative evaluations of temporal and spatial trends in toxicity responses (amphipod toxicity tests) and benthic macroinvertebrate community characteristics (including statistical analyses comparing benthic metrics between remediated and reference areas), as well as supporting measurements of sediment chemistry (i.e., CoCs and conventional variables).

A summary of 2004 and 2007 data are provided in Figures 4 and 5, and additional details on the long-term monitoring data are provided in the Executive Summary of the 2007 Monitoring Report (reproduced herein as Attachment 17).

The EPA determined that the remedial action objectives (RAOs) for the Marine OU have been achieved and that no further sediment monitoring would be performed pursuant to the LMRP.

As described in correspondence from EPA (Keeley) to KPC (Benning) dated May 7, 2009 (see Attachment 18), EPA stated the following:

EPA identified RAOs for the sediment cleanup in the Record of Decision. Specifically, the response action was intended to achieve the following RAOs:

- *Reduce toxicity of surface sediments*
- *Enhance recolonization of surface sediments to support healthy marine benthic macroinvertebrate communities with multiple taxonomic groups.*

As stated in the ROD, monitoring data were evaluated using a weight-of-evidence approach to determine whether consistent and acceptable progress was made toward achieving the RAOs. The weight-of-evidence approach is recommended by EPA for sediment quality assessments as part of EPA's national sediment assessment programs, and is consistent with the most current methods of sediment assessment recommended by national experts.

The multiple lines of evidence used to evaluate sediment quality in the Ward Cove Area of Concern indicate that the RAOs have been achieved. The lines of evidence include quantitative and qualitative evaluations of temporal and spatial trends in toxicity responses (amphipod bioassays) and benthic macroinvertebrate community characteristics (including statistical analyses comparing benthic metrics between remediated and reference areas), as well as supporting measurements of chemicals of concern and conventional variables (sediment chemistry).

In making this decision, EPA has considered the following information: site-specific studies, including the 2004 and 2007 monitoring results from Ward Cove; site-specific decision documents, including the ROD and the LMRP; EPA guidance on long-term monitoring programs, including the Contaminated Sediment Remediation Guidance for Hazardous Waste Sites; and technical support provided by EPA oversight contractors.

In consideration of other similar sites in Alaska, EPA evaluated the long-term monitoring approach and site monitoring data for the Alaska Pulp Corporation (APC) pulp mill site in Sitka, for which the Alaska Department of Environmental Conservation issued a ROD in 1999 (see Technical Memorandum, December 19, 2008). Based on that review, EPA's monitoring plan and decision-making approach is not inconsistent with the State's approach at the APC pulp mill site, and the environmental data set for Ward Cove is more comprehensive than that for the APC site.

Finally, in consideration of potential consistency issues with other EPA Superfund sediment decisions, I contacted Steve Ells, EPA OSRTI Sediments Team Leader, and performed a search on EPA's ROD database, to identify potential sediment sites that included both a RAO for benthic infauna recovery and a long-term monitoring plan that required collection and statistical analysis of benthic infaunal communities to assess the long-term effectiveness of the remedial action in achieving the RAOs. Based on this work, only two RODs were identified that meet both these criteria – the KPC Marine OU ROD and Region 10's Commencement Bay/Nearshore Tidel flats ROD, specifically for St. Paul Waterway. The decision-making approach for these RODs was similar.”

KPC submitted a Final Remedial Action Report for the Sediment Remediation in Ward Cove Marine Operable Unit, Ketchikan Pulp Company Site, Ketchikan, Alaska in September 2009 and the document was approved by EPA Region 10 on October 1, 2009.

The following documents pertaining to potential property transfer were received since the last five-year review:

- June 10, 2010. ADOT&PF letter and attachments regarding Project 68704 KTN Lay-up Berth & Mooring Structures. Attachments include:
 - April 2010 Budgetary Cost Estimate for Ketchikan Ward Cove Property Demolition & Cleanup for Layup Berth & Mooring Structures;
 - August 27, 2009 Response to Peer Reviews of CH2M Hill Ward Cove Scour Study; and
 - May 29, 2009 Potential for Scour at Ward Cove from Proposed AMHS Ferry Operations.

The letter indicates that the State of Alaska and the KGB have signed a memorandum of agreement to complete transfer of part of the Ward Cove property by June 30, 2010. The letter states: “The AMHS intends to make immediate use of the warehouse on this parcel and begin planning for an office facility and a vessel berth. Please note that the parcel to be acquired does not include the dock, avoids most of the sand cap, and roughly coincides with the

location the scour report indicates could be used as a working berth without disturbing the sand cap.”

- March 26, 2010. KPC (Attorney) letter to Alaska Department of Law regarding Environmental Covenants.
- March 17, 2010. Karen Keeley (EPA) letter to Cindy Schoniger (Alaska DNR) regarding Ketchikan Pulp Company Superfund Site – Restrictive Covenants, Ketchikan, Alaska.
- August 27, 2009. “Response to Peer Reviews of CH2M Hill Ward Cove Scour Study”, prepared by CH2M Hill.
- July 31, 2009. “Peer Review of the 2009 CH2M HILL Scour Study of Ward Cove”, prepared by Dalton, Olmsted & Fuglevand, Inc., and Windward Environmental LLC, for KGB.
- July 28, 2009. “Ward Cove Sediment Scour – Peer Review of Scour Assessment”, prepared by PND Engineers, Inc., for KGB.

6.3 Data Review - Uplands OU

The following documents were reviewed for the Uplands OU:

- Exponent. 1998. Remedial Investigation Report, Ketchikan Pulp Company Site, Volumes 1-III.
- Ecology and Environment. 1998. Final Ketchikan Pulp Company Expanded Site Inspection Report, Volume 1 and 2.
- Exponent. 1999. Technical Memorandum 9, Technical Approach for Evaluating Arsenic Bioavailability in Soil and Crushed Rock.
- US EPA. 2000. Ketchikan Pulp Company (KPC) Ketchikan, Alaska Uplands Operable Unit, Record of Decision.
- Exponent. 2000. Management Plan for Arsenic in Rock and Soil.
- Exponent. 2000. Institutional Control Plan for the Ketchikan Pulp Company Site.
- Ketchikan Gateway Borough. 2005. Ketchikan Gateway Borough Sale of West Ward Cove – Phase 2 Property Information.

In addition, interviews were conducted with the following individuals:

Jonathan Lappin - Ketchikan Gateway Borough, Lands Manager
Amy Briggs - Ketchikan Gateway Borough, Assistant Lands Manager
Phil Benning - KPC Environmental Operations
Barry Hogarty - Technical Environmental Consulting Services
Bill Janes - ADEC Project Manager
Robert Holston, Lighthouse Excursions (lessee)
Larry Jackson, Tongass Forest Enterprises (lessee)

Interview Records are provided in Attachment 1.

A site visit was conducted on May 24 and 25, 2010. The Site Inspection Checklist is provided in Attachment 2 and associated photographs are provided in Attachment 3. Site visit participants included representatives from the Ketchikan Gateway Borough Planning Department, KPC, U.S. Army Corps of Engineers, EPA, and ADEC. The visit included the mill area, dock facilities, wooden pipeline and associated dam, landfill, and aeration ponds. During the site visit, Borough records and protocols for management of this property were reviewed. Attachment 4 includes a map of the former KPC holdings that are now held by the Ketchikan Gateway Borough, and a summary of covenants, easements, and other authorities associated with institutional controls, and of other relevant real property interests or contractual terms. For complete information, refer to the Consent Decree, its attachments, the applicable easements and covenants.

Since the ROD specified Institutional Controls as the primary selected cleanup action, review of the Uplands OU involved a review of property ownership, land use and ICs, all of which play a significant role in the effectiveness of the intended remedy. Notable ownership changes since the last five year review include:

- Renaissance Ketchikan Group purchased Ward Cove Properties in May 2006.
- Ketchikan Gateway Borough reacquired the Ward Cove property through foreclosure in October 2008.
- The land ownership of all parcels associated with this former KPC site, except the Wood Waste and Ash Landfill, Tract 3017, and Tract 3005, Lot 3A are now in the ownership of the Ketchikan Gateway Borough.
- The State of Alaska purchased a portion (Tract 3005, Lot 3A) of the former KPC Facility from Ketchikan Gateway Borough for lay-up and operational berths for the AMHS on June 17, 2010.
- The Ketchikan Gateway Borough maintains records of all parcels and strictly enforces the Restrictive Covenants and ICs.
- The Ketchikan Gateway Borough is actively seeking to lease and/or sell these parcels to promote industrial growth and jobs for Ketchikan, while maintaining ICs and Restrictive Covenants outlined in the ROD.
- KPC has documented landfill cap integrity through periodic monitoring, settlement surveys, and cap inspections. Monitoring and inspections have verified the stability of the engineering.
- Conveyance of parcels of land along the pipeline corridor to the Borough from KPC have had easement and covenants recorded; also, a 3.11 acres parcel previously held by BLM and transferred to the Borough, had easements and covenants recorded.

Significant physical changes at the property since 2005 include:

- 2007. Powerhouse/Turbine Room & Wood Rooms 1&2 demolished by RKG.
- January 2009. Gold Coast Lodge sinks.
- September 2009. Gold Coast Lodge cleaned up by Ketchikan Ready Mix.
- September 2009. Oil spill at Ward Cove Dock cleaned up by Alaska Commercial Divers and R&M Engineering.
- October 2009. James G. Murphy Group auctions the Veneer Mill equipment.
- December 2009. M/V Sleep Bandit sinks.
- January 2010. Cleanup and removal of M/V Sleep Bandit completed.
- January 2010. Saw Mill Building demolished, oil spill cleaned up by Alaska Commercial Divers.
- May 2010. Oil tanks removed from the Ward Cove property.
- May 2010. James Church contracted to cleanup rubble from the Power House.

Because of the above developments over the past five years, the Borough now owns the majority of the former KPC and GFP property which is subject to the Consent Decree and Institutional Controls, so ownership and management of the properties is clearer, record keeping is thorough and complete, and the ICs are being enforced. The completeness of Borough records and their written guidance to prospective leaseholders and purchasers indicates that, for at least the foreseeable future, these ICs will be enforced.

7 TECHNICAL ASSESSMENT

7.1 Question A: Is the Remedy Functioning as Intended by the Decision Documents?

Marine OU – Yes. Construction of the remedial action is complete, all long-term monitoring efforts are complete, and the results show that the remedy is functioning as intended and that RAOs have been achieved.

Institutional Controls (ICs) are adequate and complete; no actions related to ICs are necessary.

Uplands OU – Yes. Most remediation activities were complete prior to the ROD. The ROD called for implementation of: a) institutional controls to limit use of the upland properties to commercial/industrial (with the exception of the pipeline access road where it was restricted to commercial/industrial or recreational use), to prohibit groundwater use, and to require sampling, characterization, and proper management of the soil in the event of excavation or demolition activities; b) an arsenic management plan to limit exposure to arsenic from crushed rock used on the site; and c) long-term monitoring and care of the landfill. All of these elements were put in place and are functioning as intended.

The Institutional Controls and Restrictive Covenants were designed to be protective after remediation, even in the event of land transfers, and have proven effective through multiple land transactions. The Borough now owns a majority of the former KPC and GFP property which is subject to the Consent Decree and Institutional Controls, with the exception of the Dawson Point Landfill and recently completed purchase of a portion of Ward Cove by the State of Alaska, so ownership and management of the properties is more clear, record keeping is thorough and complete, and the ICs are being enforced. The completeness of Borough records and their written guidance to prospective leaseholders and purchasers indicates that, for at least the near future, these ICs will be enforced.

In addition, most waste (asbestos, hazardous material) originally left on site after remediation has been removed and landfill closure has been successful with no runoff or unauthorized effluent apparent to date; therefore, the ICs in place are adequate and complete and there is no evidence that the original remedy is not protective and effective.

7.2 Question B: Are the Exposure Assumptions, Toxicity Data, Cleanup Levels, and Remedial Action Objectives (RAOs) used at the Time of the Remedy Still Valid?

Marine OU – Yes. Site conditions have not significantly changed since the ROD. However, ownership and land use for many of the Upland OU properties adjacent to the Marine OU have changed significantly since the ROD; the land owner at the time of the ROD has since filed for bankruptcy and is no longer operating a veneer or sawmill. The uncertainty in land use adjacent to the Marine OU, which is not part of the Marine OU, does not bear on the protectiveness of the remedy, and the original assumptions regarding current and future land use and contaminants of concern are still valid.

The cleanup levels and RAOs for this project are still valid. There are no changes in the standards identified as ARARs in the ROD, and there are no newly promulgated standards that might be ARARs to the site, that bear on the protectiveness of the remedy.

Uplands OU – Yes. After review of the Remedial Investigation and Risk Assessment produced by Exponent on behalf of KPC, and review of current State and Federal applicable or relevant and appropriate regulations (ARARs), EPA believes that the ROD exposure assumptions, cleanup levels, and RAOs are still protective.

As a result of the multiple transactions documented in Section 6.3 and referenced above, the Borough now owns a majority of the former KPC and GFP property which is subject to the Consent Decree and Institutional Controls, so ownership and management of the properties is clearer, record keeping is thorough and complete, and the ICs are being enforced. Since the Borough is actively leasing and/or preparing for sale portions of the property, the good communication and coordination that has been occurring will need to continue, and additional coordination may be necessary should extensive construction result

from property development or transfer. EPA has suggested that once per year, the Borough (or current property owner) should submit a brief report to the EPA and ADEC on institutional control implementation and property changes. EPA also recommends that a plain language summary of the enforceable institutional controls be developed by the Ketchikan Gateway Borough for distribution to interested lessees or purchasers. The ROD utilized industrial worker exposure assumptions for areas evaluated on-site. As part of this five year review, a recalculation based on a residential scenario was conducted using standard EPA equations and parameters (see Attachment 12). The total risk exceeds a threshold of 1E-04 for all areas with the exception of the former bottom ash storage pile soils, wood waste and sludge disposal subarea soils, and forested and developed area soil. This reinforces the ROD requirement that the Upland OU properties remain subject to ICs precluding residential use.

The original risk and exposure assessment calculated a PCB bioavailability of 100 percent, so the 10 ppm cleanup level is conservative and protective. The underlying oral toxicity values for arsenic, benzo(a)pyrene, and PCBs have not changed. The industrial screening level of 1000 mg/kg for lead remains protective.

EPA's dioxin reassessment has been developed and undergone review over many years with the participation of scientific experts in EPA and other federal agencies, as well as scientific experts in the private sector and academia. The Agency followed current cancer guidelines and incorporated the latest data and physiological/biochemical research into the assessment. The results of the assessment have currently not been finalized and have not been adopted into state or federal standards. EPA anticipates that a final revision to the dioxin toxicity numbers may be released by the end of 2010. In addition, EPA/OSWER has proposed to revise the interim preliminary remediation goals (PRGs) for dioxin and dioxin-like compounds, based on technical assessment of scientific and environmental data. However, EPA has not made any final decisions on interim PRGs at this time. Therefore, the dioxin toxicity reassessment for this Site will be updated during the next Five Year Review.

7.3 Question C: Has any Other Information Come to Light that Could Call into Question the Protectiveness of the Remedy?

Marine OU – No other information has come to light that could call into question the protectiveness of the remedy.

Uplands OU – No other information has come to light that could call into question the protectiveness of the remedy.

7.4 Technical Assessment Summary

Marine OU – According to the data reviewed, the remedy is functioning as intended by the ROD, and RAOs have been achieved. There have been no changes in the physical

conditions of the OU that would affect the protectiveness of the remedy. There have no newly-promulgated ARARs for sediments. There have been no changes to the standardized risk assessment methodologies and input parameters that could affect the protectiveness of the remedy. There is no other information that calls into question the protectiveness of the remedy.

Uplands OU – According to the data reviewed, the site inspection, and interviews, the remedy is functioning as intended by the ROD. The physical changes that have occurred in the mill area have resulted in the removal of some of the residual asbestos and hazardous substances which could have posed risks in the event of exposure under some scenarios.

As part of this five year review a residential risk assessment was recalculated which confirmed the need for the ROD requirement that the Upland OU properties remain subject to ICs precluding residential use.

There have been no newly promulgated ARARs for the chemicals of concern in the Uplands OU. There have been no substantial changes in risk assessment methodologies and input parameters that could affect the protectiveness of the remedy. There is no other information that calls into question the protectiveness of the remedy. Current management monitoring and record keeping practices of KPC and the Ketchikan Gateway Borough are excellent and have improved the effectiveness of the ICs and Restrictive Covenants.

8 ISSUES

This section addresses issues that, either currently or in the future, prevent the remedial action from being protective. Table 3 summarizes the issues.

Table 3. Summary of Issues

Issue	Currently Affects Protectiveness (Y/N)	Affects Future Protectiveness (Y/N)
Marine OU – None.		
Uplands OU – The Borough is actively seeking industrial development through lease and/or sale of this property. New construction could test the protectiveness and enforcement capabilities of the ICs and Restrictive Covenants. Additional coordination may be necessary during construction to ensure proper interpretation of IC guidelines.	N	N

EPA has determined that the Borough and KPC are performing their IC responsibilities and are expected to continue to do so, such that the remedy is and is expected to remain protective. Nonetheless, since the Borough is actively leasing and/or preparing for sale portions of the property, the good communication and coordination that has been occurring will need to continue, and additional coordination may be necessary should extensive construction result from property development or transfer.

9 RECOMMENDATIONS AND FOLLOW-UP ACTIONS

Table 4 lists recommendations and follow-up actions for each issue identified in Table 3.

Table 4. Recommendations and Follow up Actions

Recommendations and Follow-up Actions	Party Responsible	Oversight Agency	Milestone Date	Affect Protectiveness? (Y/N)	
				Current	Future
Marine OU – None.					
1.a.) Uplands OU – The Borough should inform EPA and ADEC of lease/sale activity and EPA and ADEC should increase oversight during a time of high construction activity, at least once each year.	KGB, EPA, ADEC	EPA, ADEC	8/2011	N	N
1.b.) Uplands OU – The Borough (or current property owner) should submit a yearly summary of actions taken at the property, including sales, leases, implementation of ICs.	KGB	EPA, ADEC	8/2011	N	N
1.c.) Uplands OU – The Borough should develop a plain language summary of the enforceable institutional controls for distribution to interested lessees or purchasers, with approval by EPA and ADEC.	KGB	EPA, ADEC	8/2011	N	N

As mentioned in Section 8, EPA has determined that the Borough and KPC are performing their IC responsibilities and are expected to continue to do so, such that the remedy is and is expected to remain protective. Nonetheless, since the Borough is actively leasing and/or preparing for sale portions of the property, the good communication and coordination that has been occurring will need to continue, and additional coordination may be necessary should extensive construction result from property development or transfer. Therefore EPA has made the recommendations above, the Borough has indicated its

willingness to follow through with implementation, and EPA will track their implementation and re-evaluate their effectiveness as part of the next five year review.

10 PROTECTIVENESS STATEMENT

Marine OU. The remedial action construction is complete and the remedy is functioning as intended. The remedy at the Marine OU is protective of human health and the environment.

Uplands OU. The remedial action is complete. The remedy at the Uplands OU is protective of human health and the environment, and exposure pathways that would result in unacceptable risks are being controlled by ICs and Restrictive Covenants.

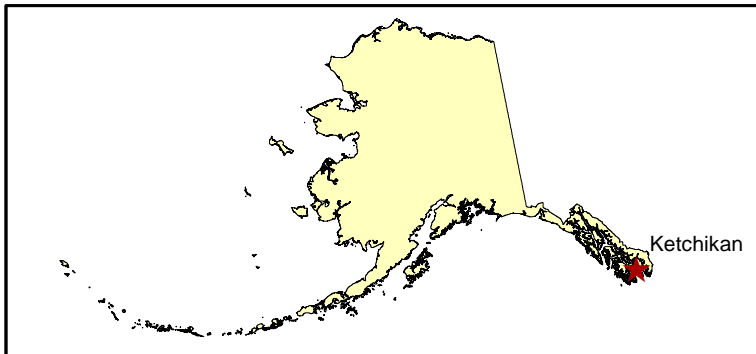
Sitewide. The remedial actions at all OUs of the site are protective, therefore the site is protective of human health and the environment and all necessary ICs are in place and functioning.

11 NEXT FIVE-YEAR REVIEW

The next review is due by __ August 2015.

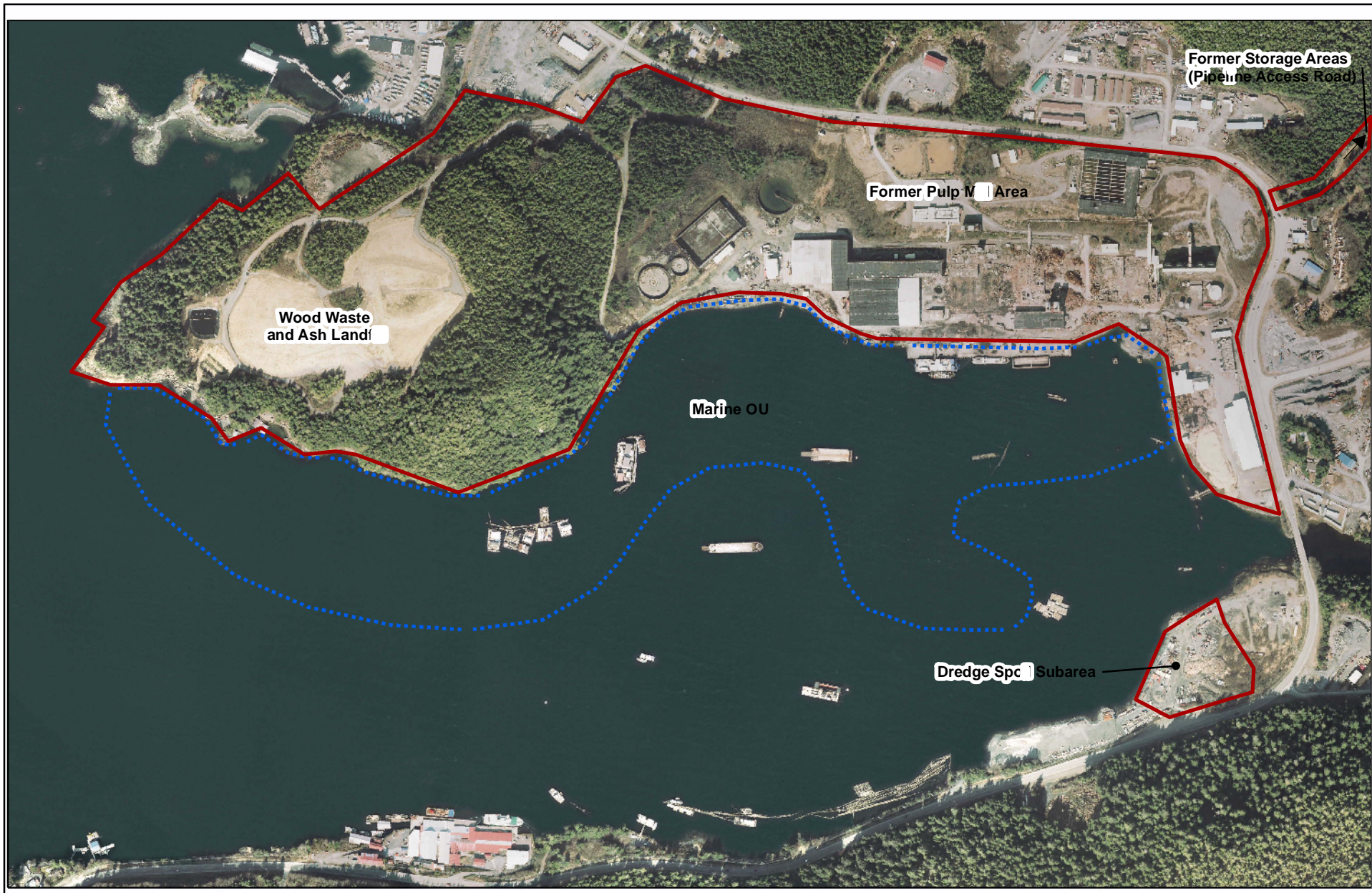


Former Ketchikan
Pulp Company



Source: USGS 7.5-Minute Topographic Quadrangle, Ketchikan (B-6), Alaska, 1995.

FIGURE 1 Former Ketchikan Pulp Company Ward Cove Property Location



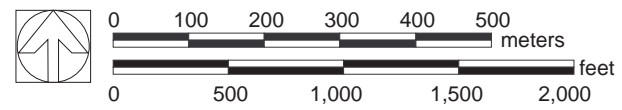
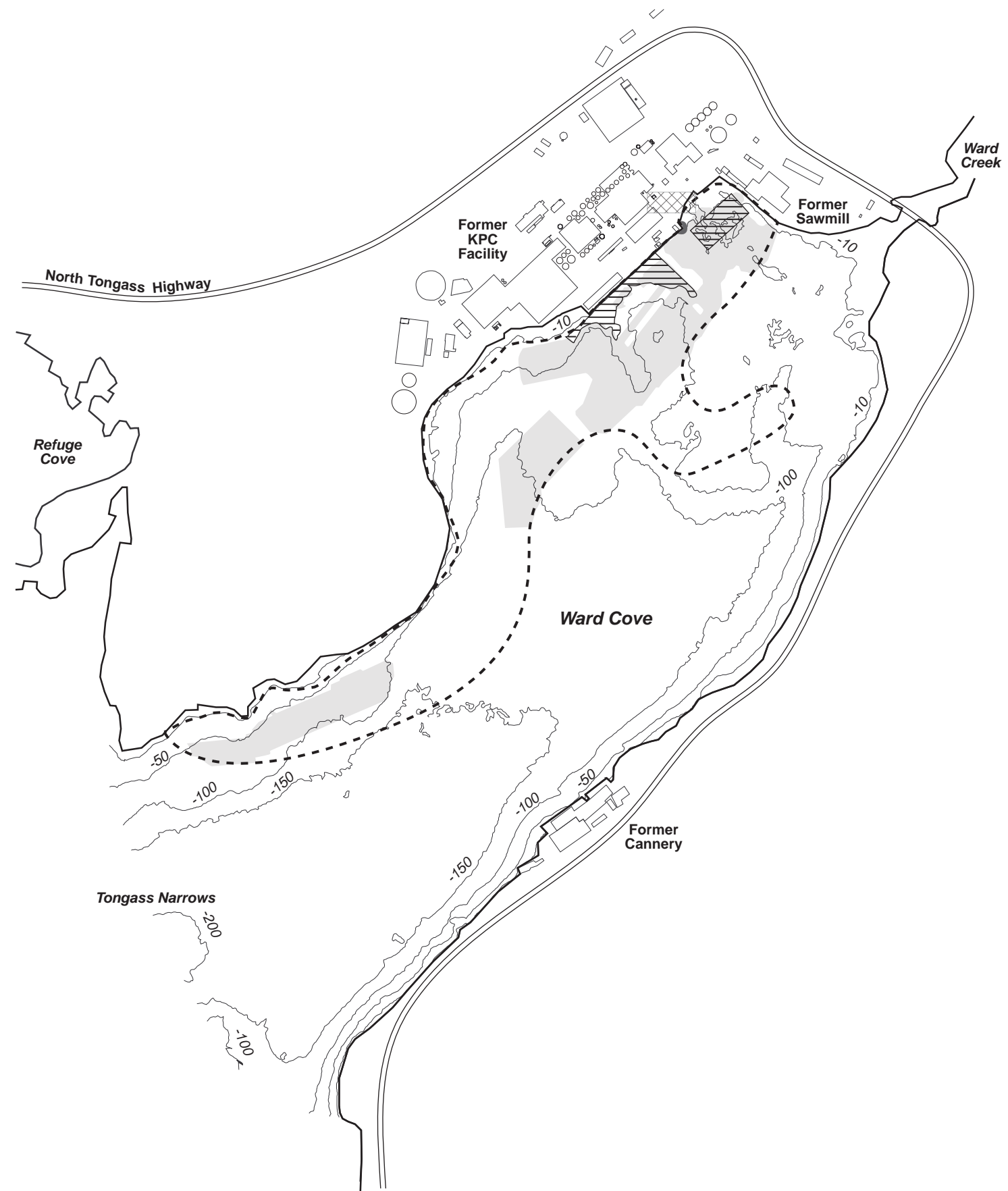
Legend

Operable Unit (OU) Boundary (approximate)

- Uplands OU
- Marine OU

FIGURE 2

Marine and Uplands Operable Units,
Former Ketchikan Pulp Company Site
Ketchikan, Alaska



LEGEND

- - - - Boundary of AOC

Remediation Areas

Dredged areas

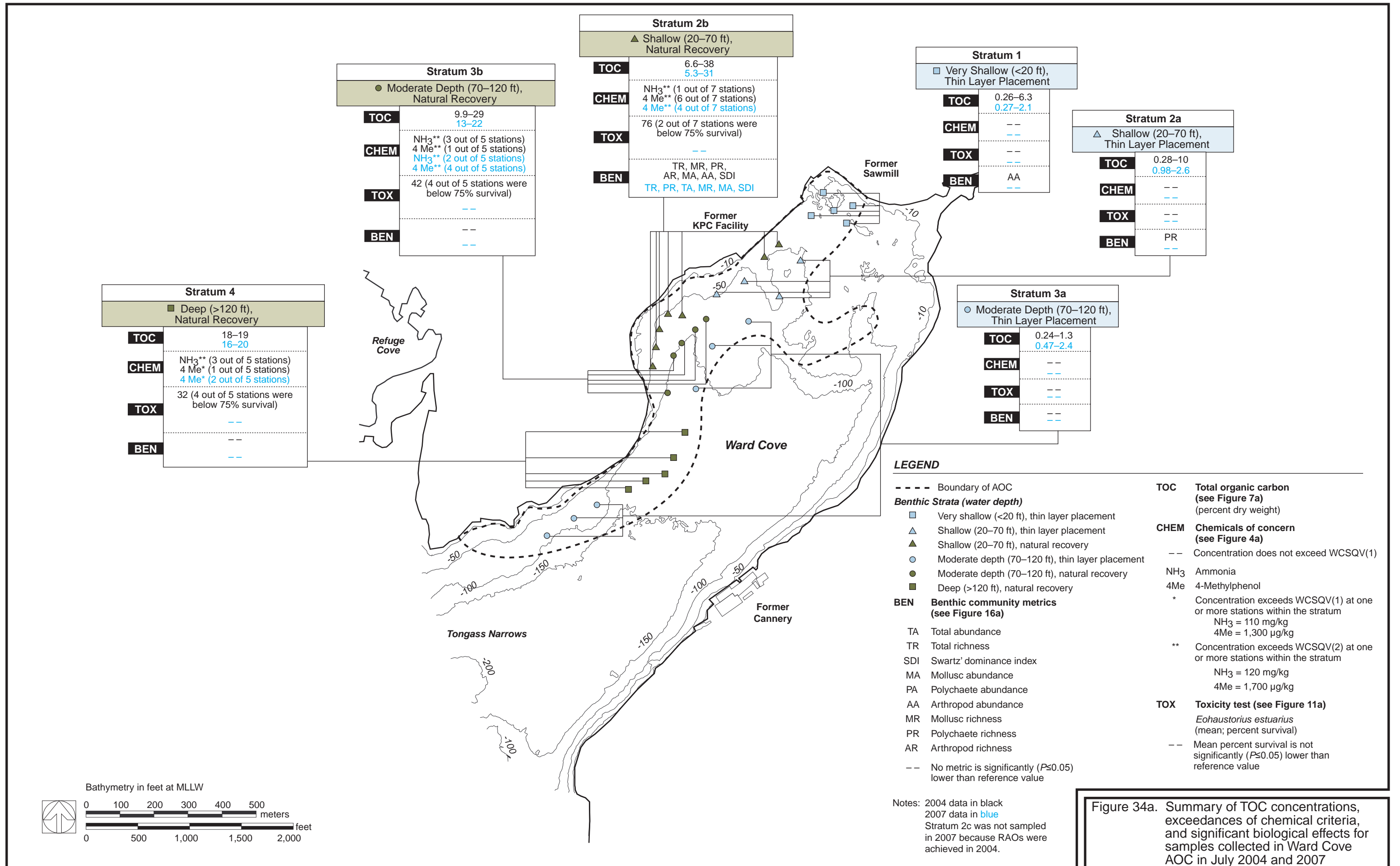
Thin layer placement areas

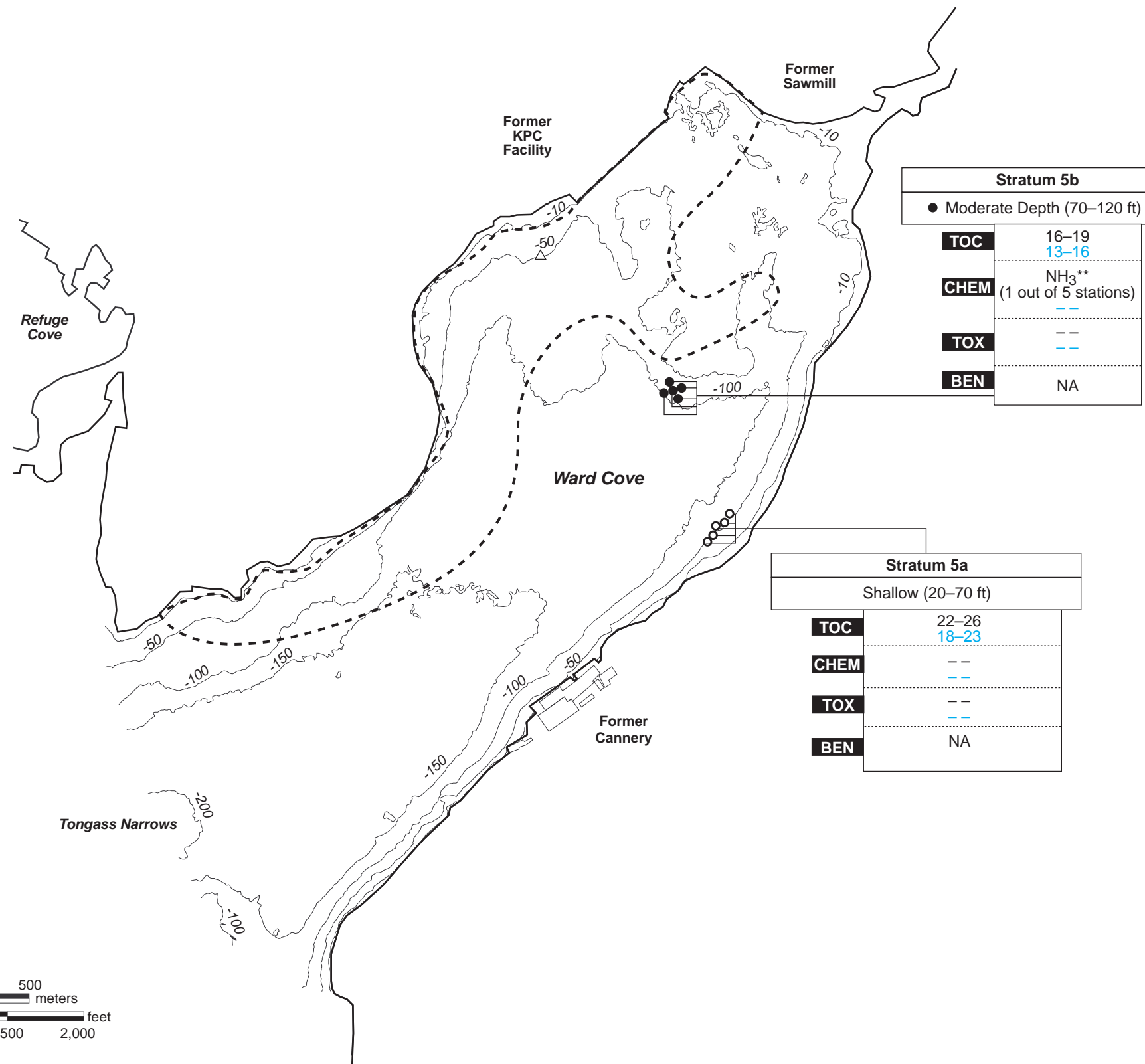
Submerged pilings removed

Notes: Areas within AOC boundary not marked with hatching or shading are subject to natural recovery.

Bathymetry in feet at MLLW

Figure 2. Location of the Ward Cove AOC; areas of thin layer placement, dredging, piling removal, and natural recovery





LEGEND

--- Boundary of AOC

Benthic Strata (water depth)

- Reference area; shallow (20–70 ft)
- Reference area; moderate depth (70–120 ft)

TOC Total organic carbon (see Figure 7b)
(percent dry weight)

CHEM Chemicals of concern (see Figure 4b)

- NH₃ Ammonia
- 4Me 4-Methylphenol
- * Concentration exceeds WCSQV(1)
- ** Concentration exceeds WCSQV(2)
- Concentration does not exceed WCSQV(1)

TOX Toxicity test (see Figure 11b)
Eohaustorius estuarius (mean; percent survival)

- Mean and all replicate samples exceeds minimum acceptable value by 75 percent

BEN Benthic community metrics (see Figure 16b)

- TA Total abundance
- TR Total richness
- SDI Swartz' dominance index
- MA Mollusc abundance
- PA Polychaete abundance
- AA Arthropod abundance
- MR Mollusc richness
- PR Polychaete richness
- AR Arthropod richness
- NA Not applicable because stratum is a reference area

Note: 2004 data in black
2007 data in blue

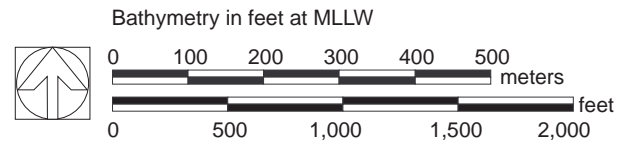


Figure 34b. Summary of TOC concentrations, exceedances of chemical criteria, and significant biological effects for samples collected in Ward Cove reference areas in July 2004 and 2007

Five-Year Review Report

Second Five-Year Review Report For Ketchikan Pulp Company Site Ketchikan, Alaska

August 2010

VOLUME 2 - ATTACHMENTS

PREPARED BY:

**U.S. Army Corps of Engineers, Alaska District
Elmendorf AFB, AK**

FOR:

**U.S. Environmental Protection Agency
Region 10 Environmental Cleanup Office
Seattle, WA**



LIST OF ATTACHMENTS

- Attachment 1 Interview Records
- Attachment 2 Site Inspection Checklist
- Attachment 3 Photographs
- Attachment 4 Map of Ward Cove Properties
- Attachment 5 Ketchikan Pulp Site Parcels
- Attachment 6 Ward Cove Plat and Replats
- Attachment 7 Zoning Areas and Regulations
- Attachment 8 Commitment for Title Insurance
- Attachment 9 Letter from Perkins Coie, to Jacques Gusmano, EPA dated June 27, 2006, regarding Institutional Control Documents for Ward Cove Pipeline Parcels
- Attachment 10 Equitable Servitude and Easement, and Subordination Agreement Pipeline Parcels, by Ketchikan Gateway Borough to ADNR, recorded May 1, 2006
- Attachment 11 2003 Agreement between Ketchikan Gateway Borough, Gateway Forest Products, and Ketchikan Pulp Company, recorded July 16, 2008
- Attachment 12 Ketchikan Pulp Company Residential Risk Calculation
- Attachment 13 Certification of Completion Letters for Uplands and Marine Operable Units, dated January 21 and 22, 2010
- Attachment 14 Letter from Sheila Eckman (EPA) to KGB (Bockhorst) and Alaska Assistant Attorney General (Welsh), dated January 25, 2010, regarding: CERCLA Liability Associated with Potential Redevelopment of Ward Cove
- Attachment 15 Environmental Easement and Declaration of Covenants, recorded July 18, 2003, between Ketchikan Gateway Borough, Ketchikan Pulp Company, and Gateway Forest Products
- Attachment 16 Environmental Easement and Declaration of Covenants, recorded July 15, 2004, between Ketchikan Gateway Borough and Ketchikan Pulp Company
- Attachment 17 Executive Summary, 2007 Monitoring Report for Sediment Remediation in Ward Cove, Alaska (April 2009)
- Attachment 18 Letter from Karen Keeley (EPA) to Phil Benning (KPC), dated May 7, 2009, regarding: EPA Approval of 2007 Monitoring Report
- Attachment 19 Environmental Easement, recorded August 6, 2001, between Ketchikan Pulp Company and State of Alaska, Department of Natural Resources
- Attachment 20 Environmental Easement and Declaration of Restrictive Covenants, recorded October 28, 1999, between Ketchikan Pulp Company and State of Alaska, Department of Natural Resources

Attachment 1

Interview Records

**KETCHIKAN PULP COMPANY SITE
SECOND FIVE-YEAR REVIEW
INTERVIEW QUESTIONNAIRE**

INTERVIEW RECORD	
Name:	Larry Jackson
Title:	owner
Organization:	Alaska Whole Woods
Street Address:	Po box 1178
City, State, Zip:	Ward cove Alaska 99928
Telephone No.:	907-617-4542
E-Mail Address:	
Interview Date:	
Interview Type: (Phone/Visit/Email)	
Interviewed By:	

The following general questions were adapted from the EPA's Comprehensive Five-Year Review Guidance and Supplement for Evaluation of Institutional Controls.

INTERVIEW QUESTIONS

1. What is your overall impression of the work conducted at the site?

There has been some very sloppy demolition under private ownership of Jerry Jenkins, leaving more environmental liabilities.

2. From your perspective, what effect have remedial operations at the site had on the surrounding community?

The area seems stable

3. Are you aware of any concerns from the local community regarding the site, operation, administration, implementation, or overall protectiveness of the remedies in the Record of Decision?

I have been actively involved in trying to do long term planning for the site. It would be nice if the EPA could be more actively involved with helping perspective buyers understand the limits and liabilities of the site

4. Are you aware of any events, incidents, or activities at the site such as vandalism, trespassing, or emergency responses from local authorities?

Yes, there was some waste oil dumped by vandals this past winter in the area of the main dock. It was remediated by the borough

**KETCHIKAN PULP COMPANY SITE
SECOND FIVE-YEAR REVIEW
INTERVIEW QUESTIONNAIRE**

- 5. Are you aware of any changes in land use, access, or other site conditions that have occurred since the last 5-Year Review (2005) that you feel may impact the protectiveness of the site?**

The Ketchikan Gateway Borough is in the process of subdividing the site for sale. They have limited understanding of the consent decree and the obligations of potential buyers.

- 6. Were any problems or difficulties encountered after the initiation of remedial action that impacted construction progress and implementability?**

Not aware of any

- 7. Are there regular on-site inspections and/or operation, maintenance and monitoring (OMM) presence at the site? What is the frequency of O&M site inspections and activities?**

The borough is currently the owner and is not monitoring the site 24 hours a day and has very lax security.

- 8. Have there been unexpected O&M difficulties or costs at the site since start-up or in the last five years?**

- 9. Have there been any significant changes in the O&M requirements, maintenance schedules, or sampling routines since start-up or with in the last five years? If so, do they affect the protectiveness or effectiveness of the remedy?**

The borough has done no operations or maintenance or monitoring of buildings and contaminants

- 10. Have there been opportunities to optimize the operation, maintenance, or sampling efforts? Please describe changes, cost savings, and/or improved efficiency.**

- 11. Are you aware of any problems with the existing Institutional Controls? Enforceability, etc.?**

There are none and I am a lease holder for 7 years on the site

- 12. Is information reaching the potential site users or other groups?**

Not really

**KETCHIKAN PULP COMPANY SITE
SECOND FIVE-YEAR REVIEW
INTERVIEW QUESTIONNAIRE**

13. Is the property being used in a manner consistent with the land, groundwater, and other media restrictions? Are you aware of any breaches of the use restrictions/institutional controls?

For the most part

14. Has the surrounding land use, access, or other site conditions changed since implementation of the remedy? Are you aware of any current or impending land and/or resource use changes or development plans that you may feel impact the protectiveness of the site remedy?

Refere to the subdivision in process

15. Have any complaints been filed or unusual activities been noted at the site? If so, how were they addressed?

16. What type of monitoring is currently being implemented to determine compliance with the institutional controls?

Non that I'm aware of

17. Do site circumstances warrant further coordination or periodic communications with the State or Borough or other agencies?

Yes! Please get involved in this subdivision process and inform potential buyers of their legal responsibilities

18. Do you have any comments, suggestions, or recommendations regarding the site's management or operation?

See the last comment

**KETCHIKAN PULP COMPANY SITE
SECOND FIVE-YEAR REVIEW
INTERVIEW QUESTIONNAIRE**

INTERVIEW RECORD	
Name:	Robert B. Holston Jr.
Title:	Owner
Organization:	Lighthouse Excursions, Inc. & Loggerville Holdings, LLC
Street Address:	11380 Alderwood St.
City, State, Zip:	Ketchikan, AK 99901
Telephone No.:	907-225-6919
E-Mail Address:	holston@kpu.net.net
Interview Date:	May 14, 2010
Interview Type: (Phone/Visit/Email)	Self-form
Interviewed By:	MAIL

The following general questions were adapted from the EPA's Comprehensive Five-Year Review Guidance and Supplement for Evaluation of Institutional Controls.

INTERVIEW QUESTIONS

1. What is your overall impression of the work conducted at the site?
I see no signs of toxicity on the site.
2. From your perspective, what effect have remedial operations at the site had on the surrounding community? Land use is limited with the existing restrictions. Many acres off site were contaminated far more than some acres on site.
3. Are you aware of any concerns from the local community regarding the site, operation, administration, implementation, or overall protectiveness of the remedies in the Record of Decision? Yes. There needs to be a mechanism in place to evaluate any contamination on subdivided parcels and allow containment, abatement or other remedies to diminish or eliminate land use restrictions.
4. Are you aware of any events, incidents, or activities at the site such as vandalism, trespassing, or emergency responses from local authorities? None.
5. Are you aware of any changes in land use, access, or other site conditions that have occurred since the last 5-Year Review (2005) that you feel may impact the protectiveness of the site?
The KGB has contracted RAM Engineering to perform a subdivision of the site into parcels that will presumably be sold or longterm leased.

KETCHIKAN PULP COMPANY SITE
SECOND FIVE-YEAR REVIEW
INTERVIEW QUESTIONNAIRE

6. Were any problems or difficulties encountered after the initiation of remedial action that impacted construction progress and implementability?

Remediation Corp experienced excessive cost in digging a trench across a parking lot, due to lab fees.

7. Are there regular on-site inspections and/or operation, maintenance and monitoring (OMM) presence at the site? What is the frequency of O&M site inspections and activities?

I think the "doughnut" has routine inspections. ~~It~~ the remainder of the site does not.

8. Have there been unexpected O&M difficulties or costs at the site since start-up or in the last five years?

Not on my leased parcel.

9. Have there been any significant changes in the O&M requirements, maintenance schedules, or sampling routines since start-up or within the last five years? If so, do they affect the protectiveness or effectiveness of the remedy?

Not on my leased parcel.

10. Have there been opportunities to optimize the operation, maintenance, or sampling efforts? Please describe changes, cost savings, and/or improved efficiency.

Sampling efforts would increase if the sampling procedure allowed for a parcel to be found free of contamination.

11. Are you aware of any problems with the existing Institutional Controls? Enforceability, etc.?

Much of the site, especially the "doughnut" is infested with Tanzy Rag Wart Weed, an invasive species.

12. Is information reaching the potential site users or other groups?

Institutional control information is included with all leases.

13. Is the property being used in a manner consistent with the land, groundwater, and other media restrictions? Are you aware of any breaches of the use restrictions/institutional controls? *None.*

Yes.

KETCHIKAN PULP COMPANY SITE
SECOND FIVE-YEAR REVIEW
INTERVIEW QUESTIONNAIRE

14. Has the surrounding land use, access, or other site conditions changed since implementation of the remedy? Are you aware of any current or impending land and/or resource use changes or development plans that you may feel impact the protectiveness of the site remedy? **NONE.** The site remedy seems to contradict itself. It states several areas of concern were abated & brought up to cleanliness standards, yet dead use restrictions are placed on ALL of the site's area.
15. Have any complaints been filed or unusual activities been noted at the site? If so, how were they addressed?
NONE.
16. What type of monitoring is currently being implemented to determine compliance with the institutional controls?
Each lease agreement comes with all institutional controls attached.
17. Do site circumstances warrant further coordination or periodic communications with the State or Borough or other agencies?
When parcels are sold, the new owner should have a procedure available to determine the extent of any remaining contamination and what abatement or containment actions are required.
18. Do you have any comments, suggestions, or recommendations regarding the site's management or operation?
To my count there are 56 documents controlling the site. Findings are sometimes contradicting one another. Example - Arsenic
One document states any ~~rock~~ Rock fill brought on site must come from a Quarry that is tested @ low arsenic levels. Another document states that 6 quarries were checked & all had high arsenic content but the leachability was circa 1%. Thus they all could be used as rock sources. Example - Clean
Some areas were never contaminated, never tested and yet are controlled as if they are contaminated. A simple, inexpensive testing procedure should be put into place to allow these areas to be clean or contaminated but NOT found to be contaminated (by virtue of association under the site's

Attachment 2

Site Inspection Checklist

Site Inspection Checklist

I. SITE INFORMATION			
Site name: Ketchikan Pulp Site	Date of inspection: 5/25/2010		
Location and Region: Anchorage, AK, Region 10	EPA ID: AKD009252230		
Agency, office, or company leading the five-year review: EPA	Weather/temperature: Overcast/52 °F		
Remedy Includes: (Check all that apply) <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> <input checked="" type="checkbox"/> Landfill cover/containment <input checked="" type="checkbox"/> Access controls <input checked="" type="checkbox"/> Institutional controls <input type="checkbox"/> Groundwater pump and treatment <input type="checkbox"/> Surface water collection and treatment <input type="checkbox"/> Other _____ _____ </td> <td style="width: 50%; vertical-align: top;"> <input type="checkbox"/> Monitored natural attenuation <input type="checkbox"/> Groundwater containment <input type="checkbox"/> Vertical barrier walls </td> </tr> </table>		<input checked="" type="checkbox"/> Landfill cover/containment <input checked="" type="checkbox"/> Access controls <input checked="" type="checkbox"/> Institutional controls <input type="checkbox"/> Groundwater pump and treatment <input type="checkbox"/> Surface water collection and treatment <input type="checkbox"/> Other _____ _____	<input type="checkbox"/> Monitored natural attenuation <input type="checkbox"/> Groundwater containment <input type="checkbox"/> Vertical barrier walls
<input checked="" type="checkbox"/> Landfill cover/containment <input checked="" type="checkbox"/> Access controls <input checked="" type="checkbox"/> Institutional controls <input type="checkbox"/> Groundwater pump and treatment <input type="checkbox"/> Surface water collection and treatment <input type="checkbox"/> Other _____ _____	<input type="checkbox"/> Monitored natural attenuation <input type="checkbox"/> Groundwater containment <input type="checkbox"/> Vertical barrier walls		
Attachments: <input type="checkbox"/> Inspection team roster attached <input checked="" type="checkbox"/> Site map attached			
II. INTERVIEWS (Check all that apply)			
1. O&M site manager Phillip Benning KPC Environmental Operations 5/25/2010 <div style="display: flex; justify-content: space-between; margin-left: 100px;"> Name Title Date </div> Interviewed: <input checked="" type="checkbox"/> at site <input type="checkbox"/> at office <input type="checkbox"/> by phone Phone no. _____ Problems, suggestions; <input type="checkbox"/> Report attached _____ _____			
2. O&M staff _____ _____ _____ <div style="display: flex; justify-content: space-between; margin-left: 100px;"> Name Title Date </div> Interviewed <input type="checkbox"/> at site <input type="checkbox"/> at office <input type="checkbox"/> by phone Phone no. _____ Problems, suggestions; <input type="checkbox"/> Report attached _____ _____			

III. ON-SITE DOCUMENTS & RECORDS VERIFIED (Check all that apply)

1.	O&M Documents <input type="checkbox"/> O&M manual <input type="checkbox"/> As-built drawings <input type="checkbox"/> Maintenance logs Remarks _____	<input type="checkbox"/> Readily available <input type="checkbox"/> Readily available <input type="checkbox"/> Readily available	X Up to date X Up to date X Up to date	<input type="checkbox"/> N/A <input type="checkbox"/> N/A <input type="checkbox"/> N/A
2.	Site-Specific Health and Safety Plan <input type="checkbox"/> Contingency plan/emergency response plan Remarks _____	<input type="checkbox"/> Readily available <input type="checkbox"/> Readily available	<input type="checkbox"/> Up to date <input type="checkbox"/> Up to date	X N/A X N/A
3.	O&M and OSHA Training Records Remarks _____	<input type="checkbox"/> Readily available	<input type="checkbox"/> Up to date	X N/A
4.	Permits and Service Agreements <input type="checkbox"/> Air discharge permit X Effluent discharge <input type="checkbox"/> Waste disposal, POTW <input type="checkbox"/> Other permits _____ Remarks <u>Operating under expired water discharge (NPDES) permit, new permit application submitted in 2009, authority has been transferred to State of Alaska for reissuance.</u>	<input type="checkbox"/> Readily available <input type="checkbox"/> Readily available <input type="checkbox"/> Readily available <input type="checkbox"/> Readily available	<input type="checkbox"/> Up to date X Up to date <input type="checkbox"/> Up to date <input type="checkbox"/> Up to date	X N/A <input type="checkbox"/> N/A X N/A X N/A
5.	Gas Generation Records Remarks _____	<input type="checkbox"/> Readily available	<input type="checkbox"/> Up to date	X N/A
6.	Settlement Monument Records Remarks _____	<input type="checkbox"/> Readily available	<input type="checkbox"/> Up to date	X N/A
7.	Groundwater Monitoring Records Remarks _____	<input type="checkbox"/> Readily available	<input type="checkbox"/> Up to date	X N/A
8.	Leachate Extraction Records Remarks _____	<input type="checkbox"/> Readily available	<input type="checkbox"/> Up to date	X N/A
9.	Discharge Compliance Records <input type="checkbox"/> Air X Water (effluent) Remarks _____	<input type="checkbox"/> Readily available <input type="checkbox"/> Readily available	<input type="checkbox"/> Up to date X Up to date	X N/A <input type="checkbox"/> N/A
10.	Daily Access/Security Logs Remarks _____	<input type="checkbox"/> Readily available	<input type="checkbox"/> Up to date	X N/A

C. Institutional Controls (ICs)

1. **Implementation and enforcement**
Site conditions imply ICs not properly implemented Yes No N/A
Site conditions imply ICs not being fully enforced Yes No N/A

Type of monitoring (e.g., self-reporting, drive by) Self-reporting
Frequency Monthly
Responsible party/agency Ketchikan Pulp Company, Ketchikan Gateway Borough
Contact Phillip Benning KPC Environmental Operations
Name Title Date Phone no.

Reporting is up-to-date Yes No N/A
Reports are verified by the lead agency Yes No N/A

Specific requirements in deed or decision documents have been met Yes No N/A
Violations have been reported Yes No N/A
Other problems or suggestions: Report attached

2. **Adequacy** ICs are adequate ICs are inadequate N/A
Remarks _____

D. General

1. **Vandalism/trespassing** Location shown on site map No vandalism evident
Remarks _____

2. **Land use changes on site** N/A
Remarks _____

3. **Land use changes off site** N/A
Remarks _____

VI. GENERAL SITE CONDITIONS

A. Roads Applicable N/A

1. **Roads damaged** Location shown on site map Roads adequate N/A
Remarks _____

B. Other Site Conditions		
Remarks _____ _____ _____ _____ _____		
VII. LANDFILL COVERS <input type="checkbox"/> Applicable <input checked="" type="checkbox"/> N/A		
A. Landfill Surface		
1.	Settlement (Low spots) <input type="checkbox"/> Location shown on site map Areal extent _____ Depth _____ Remarks _____ _____	X Settlement not evident
2.	Cracks <input type="checkbox"/> Location shown on site map Lengths _____ Widths _____ Depths _____ Remarks _____ _____	X Cracking not evident
3.	Erosion <input type="checkbox"/> Location shown on site map Areal extent _____ Depth _____ Remarks _____ _____	X Erosion not evident
4.	Holes <input type="checkbox"/> Location shown on site map Areal extent _____ Depth _____ Remarks _____ _____	X Holes not evident
5.	Vegetative Cover X Grass X Cover properly established X No signs of stress <input type="checkbox"/> Trees/Shrubs (indicate size and locations on a diagram) Remarks _____ _____	
6.	Alternative Cover (armored rock, concrete, etc.) <input checked="" type="checkbox"/> N/A Remarks <u>In good condition</u> _____	
7.	Bulges <input type="checkbox"/> Location shown on site map Areal extent _____ Height _____ Remarks _____ _____	X Bulges not evident
8.	Wet Areas/Water Damage X Wet areas/water damage not evident <input type="checkbox"/> Wet areas <input type="checkbox"/> Location shown on site map Areal extent _____ <input type="checkbox"/> Ponding <input type="checkbox"/> Location shown on site map Areal extent _____ <input type="checkbox"/> Seeps <input type="checkbox"/> Location shown on site map Areal extent _____ <input type="checkbox"/> Soft subgrade <input type="checkbox"/> Location shown on site map Areal extent _____ Remarks _____ _____	

9.	Slope Instability	<input type="checkbox"/> Slides	<input type="checkbox"/> Location shown on site map	<input checked="" type="checkbox"/> No evidence of slope instability
	Areal extent _____			
	Remarks _____			
B. Benches				
	<input type="checkbox"/> Applicable	<input checked="" type="checkbox"/> N/A		
(Horizontally constructed mounds of earth placed across a steep landfill side slope to interrupt the slope in order to slow down the velocity of surface runoff and intercept and convey the runoff to a lined channel.)				
1.	Flows Bypass Bench	<input type="checkbox"/> Location shown on site map	<input type="checkbox"/> N/A or okay	
	Remarks _____			
2.	Bench Breached	<input type="checkbox"/> Location shown on site map	<input type="checkbox"/> N/A or okay	
	Remarks _____			
3.	Bench Overtopped	<input type="checkbox"/> Location shown on site map	<input type="checkbox"/> N/A or okay	
	Remarks _____			
C. Letdown Channels				
	<input type="checkbox"/> Applicable	<input checked="" type="checkbox"/> N/A		
(Channel lined with erosion control mats, riprap, grout bags, or gabions that descend down the steep side slope of the cover and will allow the runoff water collected by the benches to move off of the landfill cover without creating erosion gullies.)				
1.	Settlement	<input type="checkbox"/> Location shown on site map	<input type="checkbox"/> No evidence of settlement	
	Areal extent _____	Depth _____		
	Remarks _____			
2.	Material Degradation	<input type="checkbox"/> Location shown on site map	<input type="checkbox"/> No evidence of degradation	
	Material type _____	Areal extent _____		
	Remarks _____			
3.	Erosion	<input type="checkbox"/> Location shown on site map	<input type="checkbox"/> No evidence of erosion	
	Areal extent _____	Depth _____		
	Remarks _____			

4.	Undercutting	<input type="checkbox"/> Location shown on site map <input type="checkbox"/> Areal extent _____ <input type="checkbox"/> Depth _____	<input checked="" type="checkbox"/> No evidence of undercutting Remarks _____ _____
5.	Obstructions	Type _____ <input type="checkbox"/> Location shown on site map <input type="checkbox"/> Areal extent _____ <input type="checkbox"/> Size _____ <input type="checkbox"/> Remarks _____ _____	<input checked="" type="checkbox"/> No obstructions Remarks _____ _____
6.	Excessive Vegetative Growth	Type _____ <input checked="" type="checkbox"/> No evidence of excessive growth <input type="checkbox"/> Vegetation in channels does not obstruct flow <input type="checkbox"/> Location shown on site map <input type="checkbox"/> Areal extent _____ <input type="checkbox"/> Remarks _____ _____	
D. Cover Penetrations <input checked="" type="checkbox"/> Applicable <input type="checkbox"/> N/A			
1.	Gas Vents	<input type="checkbox"/> Active <input checked="" type="checkbox"/> Passive <input type="checkbox"/> Properly secured/locked <input type="checkbox"/> Functioning <input type="checkbox"/> Routinely sampled <input checked="" type="checkbox"/> Good condition <input type="checkbox"/> Evidence of leakage at penetration <input type="checkbox"/> Needs Maintenance <input type="checkbox"/> N/A <input type="checkbox"/> Remarks _____ _____	
2.	Gas Monitoring Probes	<input type="checkbox"/> Properly secured/locked <input type="checkbox"/> Functioning <input type="checkbox"/> Routinely sampled <input type="checkbox"/> Good condition <input type="checkbox"/> Evidence of leakage at penetration <input type="checkbox"/> Needs Maintenance <input checked="" type="checkbox"/> N/A <input type="checkbox"/> Remarks _____ _____	
3.	Monitoring Wells (within surface area of landfill)	<input type="checkbox"/> Properly secured/locked <input type="checkbox"/> Functioning <input type="checkbox"/> Routinely sampled <input type="checkbox"/> Good condition <input type="checkbox"/> Evidence of leakage at penetration <input type="checkbox"/> Needs Maintenance <input checked="" type="checkbox"/> N/A <input type="checkbox"/> Remarks _____ _____	
4.	Leachate Extraction Wells	<input type="checkbox"/> Properly secured/locked <input type="checkbox"/> Functioning <input type="checkbox"/> Routinely sampled <input type="checkbox"/> Good condition <input type="checkbox"/> Evidence of leakage at penetration <input type="checkbox"/> Needs Maintenance <input checked="" type="checkbox"/> N/A <input type="checkbox"/> Remarks _____ _____	
5.	Settlement Monuments	<input type="checkbox"/> Located <input type="checkbox"/> Routinely surveyed <input checked="" type="checkbox"/> N/A <input type="checkbox"/> Remarks _____ _____	

E. Gas Collection and Treatment <input type="checkbox"/> Applicable <input checked="" type="checkbox"/> N/A			
1.	Gas Treatment Facilities <input type="checkbox"/> Flaring <input type="checkbox"/> Thermal destruction <input type="checkbox"/> Collection for reuse <input type="checkbox"/> Good condition <input type="checkbox"/> Needs Maintenance Remarks _____ _____		
2.	Gas Collection Wells, Manifolds and Piping <input type="checkbox"/> Good condition <input type="checkbox"/> Needs Maintenance Remarks _____ _____		
3.	Gas Monitoring Facilities (<i>e.g.</i> , gas monitoring of adjacent homes or buildings) <input type="checkbox"/> Good condition <input type="checkbox"/> Needs Maintenance <input type="checkbox"/> N/A Remarks _____ _____		
F. Cover Drainage Layer <input checked="" type="checkbox"/> Applicable <input type="checkbox"/> N/A			
1.	Outlet Pipes Inspected Remarks _____ _____	<input checked="" type="checkbox"/> Functioning	<input type="checkbox"/> N/A
2.	Outlet Rock Inspected Remarks _____ _____	<input type="checkbox"/> Functioning	<input checked="" type="checkbox"/> N/A
G. Detention/Sedimentation Ponds <input checked="" type="checkbox"/> Applicable <input type="checkbox"/> N/A			
1.	Siltation Areal extent _____ Depth _____ <input type="checkbox"/> Siltation not evident Remarks _____ _____		<input checked="" type="checkbox"/> N/A
2.	Erosion Areal extent _____ Depth _____ <input checked="" type="checkbox"/> Erosion not evident Remarks _____ _____		
3.	Outlet Works Remarks _____ _____	<input checked="" type="checkbox"/> Functioning	<input type="checkbox"/> N/A
4.	Dam Remarks _____ _____	<input type="checkbox"/> Functioning	<input checked="" type="checkbox"/> N/A

H. Retaining Walls		<input type="checkbox"/> Applicable	<input checked="" type="checkbox"/> N/A
1.	Deformations Horizontal displacement _____ Rotational displacement _____ Remarks _____	<input type="checkbox"/> Location shown on site map	<input type="checkbox"/> Deformation not evident Vertical displacement _____
2.	Degradation Remarks _____	<input type="checkbox"/> Location shown on site map	<input type="checkbox"/> Degradation not evident
I. Perimeter Ditches/Off-Site Discharge		<input checked="" type="checkbox"/> Applicable	<input type="checkbox"/> N/A
1.	Siltation Areal extent _____ Remarks _____	<input type="checkbox"/> Location shown on site map	<input checked="" type="checkbox"/> Siltation not evident Depth _____
2.	Vegetative Growth X Vegetation does not impede flow Areal extent _____ Remarks _____	<input type="checkbox"/> Location shown on site map	<input type="checkbox"/> N/A Type _____
3.	Erosion Areal extent _____ Remarks _____	<input type="checkbox"/> Location shown on site map	<input checked="" type="checkbox"/> Erosion not evident Depth _____
4.	Discharge Structure Remarks _____	<input checked="" type="checkbox"/> Functioning	<input type="checkbox"/> N/A
VIII. VERTICAL BARRIER WALLS		<input type="checkbox"/> Applicable	<input checked="" type="checkbox"/> N/A
1.	Settlement Areal extent _____ Remarks _____	<input type="checkbox"/> Location shown on site map	<input type="checkbox"/> Settlement not evident Depth _____
2.	Performance Monitoring Type of monitoring _____ <input type="checkbox"/> Performance not monitored Frequency _____ Head differential _____ Remarks _____		<input type="checkbox"/> Evidence of breaching

C. Treatment System		X Applicable	N/A
1.	Treatment Train (Check components that apply)	<input checked="" type="checkbox"/> Metals removal <input type="checkbox"/> Air stripping <input checked="" type="checkbox"/> Filters <input type="checkbox"/> Additive (e.g., chelation agent, flocculent) <input type="checkbox"/> Others	<input checked="" type="checkbox"/> Oil/water separation <input type="checkbox"/> Carbon adsorbers <input type="checkbox"/> Bioremediation <input type="checkbox"/> Needs Maintenance <input type="checkbox"/> Sampling ports properly marked and functional <input type="checkbox"/> Sampling/maintenance log displayed and up to date <input type="checkbox"/> Equipment properly identified <input type="checkbox"/> Quantity of groundwater treated annually _____ <input type="checkbox"/> Quantity of surface water treated annually _____ Remarks _____ _____
2.	Electrical Enclosures and Panels (properly rated and functional)	<input type="checkbox"/> N/A <input checked="" type="checkbox"/> Good condition	<input type="checkbox"/> Needs Maintenance Remarks _____ _____
3.	Tanks, Vaults, Storage Vessels	<input type="checkbox"/> N/A <input checked="" type="checkbox"/> Good condition	<input type="checkbox"/> Proper secondary containment <input type="checkbox"/> Needs Maintenance Remarks _____ _____
4.	Discharge Structure and Appurtenances	<input type="checkbox"/> N/A <input checked="" type="checkbox"/> Good condition	<input type="checkbox"/> Needs Maintenance Remarks _____ _____
5.	Treatment Building(s)	<input type="checkbox"/> N/A <input checked="" type="checkbox"/> Good condition (esp. roof and doorways)	<input type="checkbox"/> Needs repair <input type="checkbox"/> Chemicals and equipment properly stored Remarks _____ _____
6.	Monitoring Wells (pump and treatment remedy)	<input type="checkbox"/> Properly secured/locked <input type="checkbox"/> All required wells located	<input type="checkbox"/> Functioning <input type="checkbox"/> Needs Maintenance <input type="checkbox"/> Routinely sampled <input type="checkbox"/> N/A <input type="checkbox"/> Good condition Remarks _____ _____
D. Monitoring Data			
1.	Monitoring Data	<input checked="" type="checkbox"/> Is routinely submitted on time	<input checked="" type="checkbox"/> Is of acceptable quality
2.	Monitoring data suggests:	<input type="checkbox"/> Groundwater plume is effectively contained	<input type="checkbox"/> Contaminant concentrations are declining

C. Early Indicators of Potential Remedy Problems

Describe issues and observations such as unexpected changes in the cost or scope of O&M or a high frequency of unscheduled repairs, that suggest that the protectiveness of the remedy may be compromised in the future.

None. _____

D. Opportunities for Optimization

Describe possible opportunities for optimization in monitoring tasks or the operation of the remedy. Reduced water discharge monitoring requested in NPDES/APDES permit renewal application.

Attachment 3

Photographs



Photo 1. Administration building, leased to Alaska Marine Highway



Photo 2. View east from Administration building downslope towards demolished buildings



Photo 3. View southwest wood of stave tank from Administration building



Photo 4. View southeast of demolished buildings from Administration building



Photo 5. Electrostatic precipitators and demolished brick buildings



Photo 6. View east of condemned building (left) and Alaska Marine Highway leased building (right)



Photo 7. View east of silos



Photo 8. View east of demolished buildings



Photo 9. View northwest of demolished buildings where scrap metal has been removed for sale



Photo 10. View west of demolished building where scrap metal has been removed for sale



Photo 11. View northeast of demolished buildings and silos



Photo 12. View northwest of demolished buildings



Photo 13. View north of silos



Photo 14. View east of building leased by Alaska Marine Highway's



Photo 15. View southeast of AMH leased building



Photo 16. View west of Ward Cove



Photo 17. Trenching done in accordance with the Record of Decision



Photo 18. More trenching



Photo 19. Sunken ship in Ward Cove



Photo 20. Remaining dock pilings for Ketchikan Pulp Mill



Photo 21. View south of Ward Cove



Photo 22. Debris pile on the Uplands Unit



Photo 23. Leased warehouse on the northeast section of the Uplands Unit



Photo 24. View east of building and electrostatic precipitators



Photo 25. View northeast of demolished building and the AMH Admin building on the hill



Photo 26. View northwest of lease holder's wood storage



Photo 27. Entering a leased building that is a custom woodworking shop



Photo 28. Leased buildings on the northwest corner of the Ketchikan Pulp Site (KPS)



Photo 29. Lighthouse Excursion's floating logger camp



Photo 30. Lighthouse Excursion's leased parcel of the KPS



Photo 31. Climbing into the clarifier of the wastewater treatment area



Photo 32. Outside wall of the wastewater treatment area



Photo 33. Leased Lighthouse Excursion building



Photo 34. Floating abandoned houses



Photo 35. View northeast of KPS



Photo 36. View east of KPS



Photo 37. Leased abandoned floating houses



Photo 38. Aboveground storage tanks



Photo 39. Stairway to nowhere



Photo 40. Roof of unused building



Photo 41. Outside wall of custom woodworking leased building



Photo 42. Logs from custom woodworking operation stored at the KPS



Photo 43. Panoramic view of the site facing east



Photo 44. Panoramic view of the site facing southeast



Photo 45. Panoramic view of the site facing south



Photo 46. Panoramic view of the site facing southwest. Leaseholder's boat docked in background



Photo 47. Panoramic view of the site facing west



Photo 48. Panoramic view of the site facing northwest



Photo. 49. Geomembrane lined sediment lagoon at the KPS landfill



Photo 50. Aerators that were deactivated in 2007



Photo 51. Generator for landfill



Photo 52. Landfill generator building



Photo 53. Fencing around the landfill



Photo 54. Landfill vents for gas migration



Photo 55. Outflow from landfill



Photo 56. Final stage of landfill outflow



Photo 57. Landfill vents



Photo 58. Close-up of landfill vent



Photo 59. View north from the landfill



Photo 60. View southeast from the landfill



Photo 61. Gated and locked entry to the dam at Connell Lake.



Photo 62. Connell Lake Dam



Photo 63. Connell Lake



Photo 64. Walkway on the Connell Lake Dam



Photo 65. Outflow from dam into wood stave pipeline

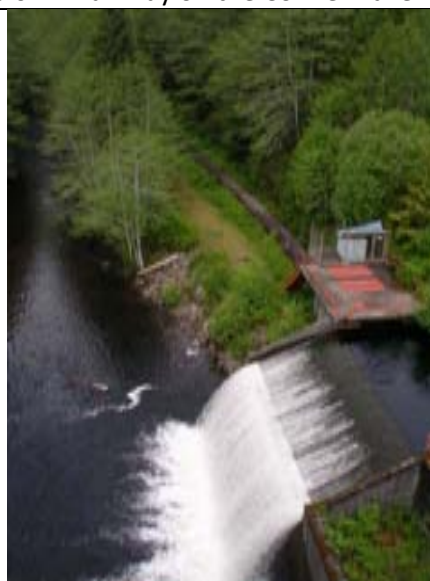


Photo 66. Outflow from dam



Photo 67. Close up of wood stave pipeline



Photo 68. Locked Ketchikan Gateway Borough gate



Photo 69. Close up of sign on Ketchikan Gateway Borough gate



Photo 70. Wood stave pipeline flowing from Connell Lake Dam to the KPC Site



Photo 71. KPC site pipeline



Photo 72. Aerial view of the KPC site. The landfill is in the foreground and the mill is in the background



Photo 73. Aerial view looking northeast at KPC site



Photo 74. Aerial view of KPC site.



Photo 75. Aerial view of the KPC site landfill

Attachment 4

Map of Ward Cove Properties



Tract 3005, Lot 3

Mapping data shown
is for informational use
only and is not sufficient
for legal descriptions.



Attachment 5

Ketchikan Pulp Site Parcels

Former Ketchikan Pulp Company



303310001000 (Parcel) 3100012.115, 1319933.214 (1)

303310001000 (Parcel) (1)

PARCELNO	LOCATION	OWNER_NAME	OWNER_2	APR_LAND_V	APR_IMPS	ADDRESS	CITY	STATE	ZIP	Display Field
303310001000	WARD LAKE RD	KETCHIKAN GATEWAY BOROUGH		585300	1253700	1900 FIRST AVE SUITE 210	KETCHIKAN	AK	99901	KETCHIKAN GATEWAY BOROUGH

Former Ketchikan Pulp Company

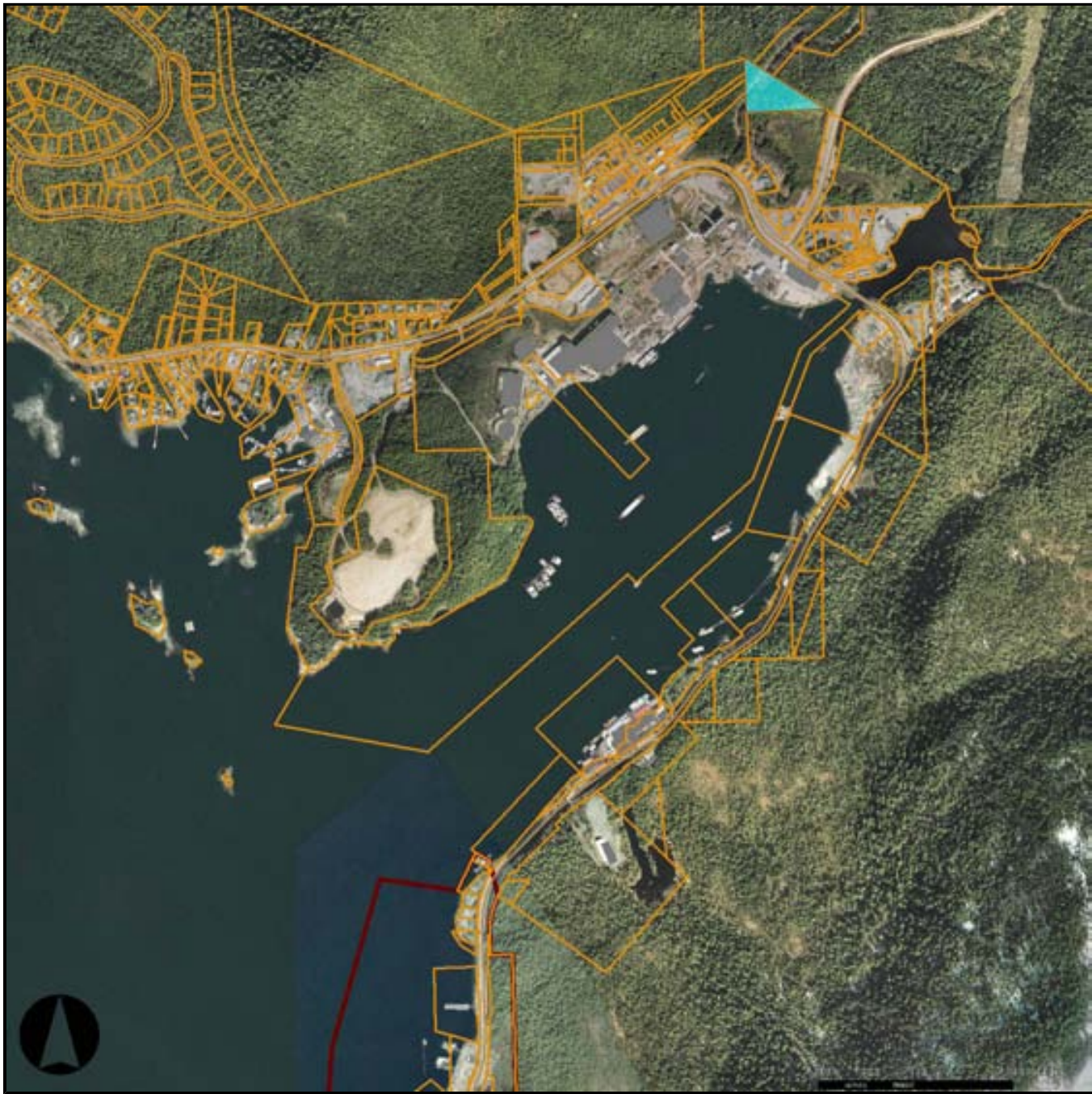


307490034001 (Parcel) 3090678.782, 1313266.547 (1)

307490034001 (Parcel) (1)

PARCELNO	LOCATION	OWNER_NAME	OWNER_2	APR_LAND_V	APR_IMPS	ADDRESS	CITY	STATE	ZIP	Display Field
307490034001	PIPELINE ROW E SIDE APPROX 1400' FROM NTH	KETCHIKAN GATEWAY BOROUGH			0	1900 FIRST AVE SUITE 210	KETCHIKAN	AK	99901	KETCHIKAN GATEWAY BOROUGH

Former Ketchikan Pulp Company

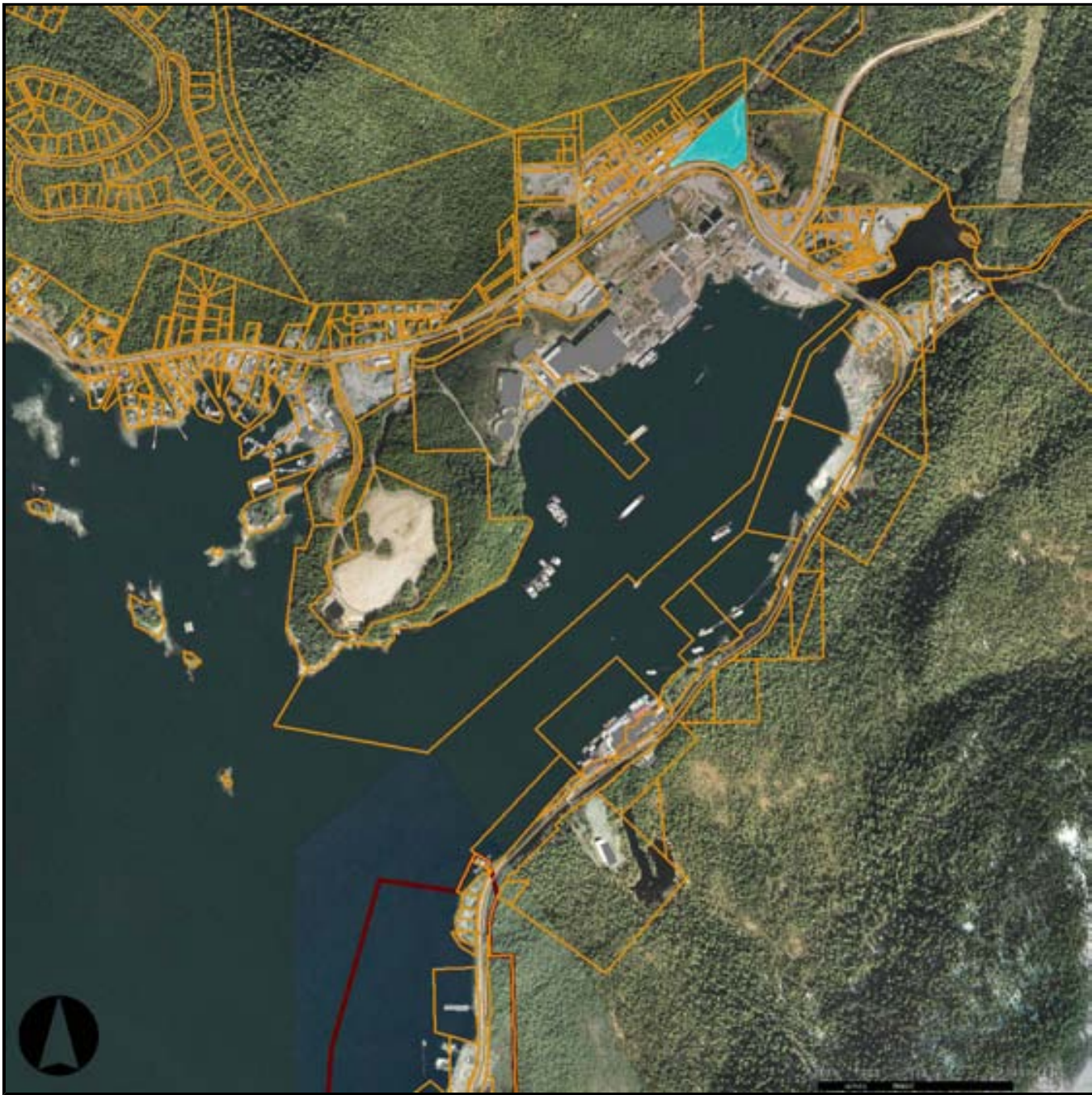


313310002000 (Parcel) 3090012.115, 1312683.214 (1)

313310002000 (Parcel) (1)

PARCELNO	LOCATION	OWNER_NAME	OWNER_2	APR_LAND_V	APR_IMPS	ADDRESS	CITY	STATE	ZIP	Display Field
313310002000	N TONGASS HWY 7100 BLK	KETCHIKAN GATEWAY BOROUGH		59600	0	1900 FIRST AVE SUITE 210	KETCHIKAN	AK	99901	KETCHIKAN GATEWAY BOROUGH

Former Ketchikan Pulp Company

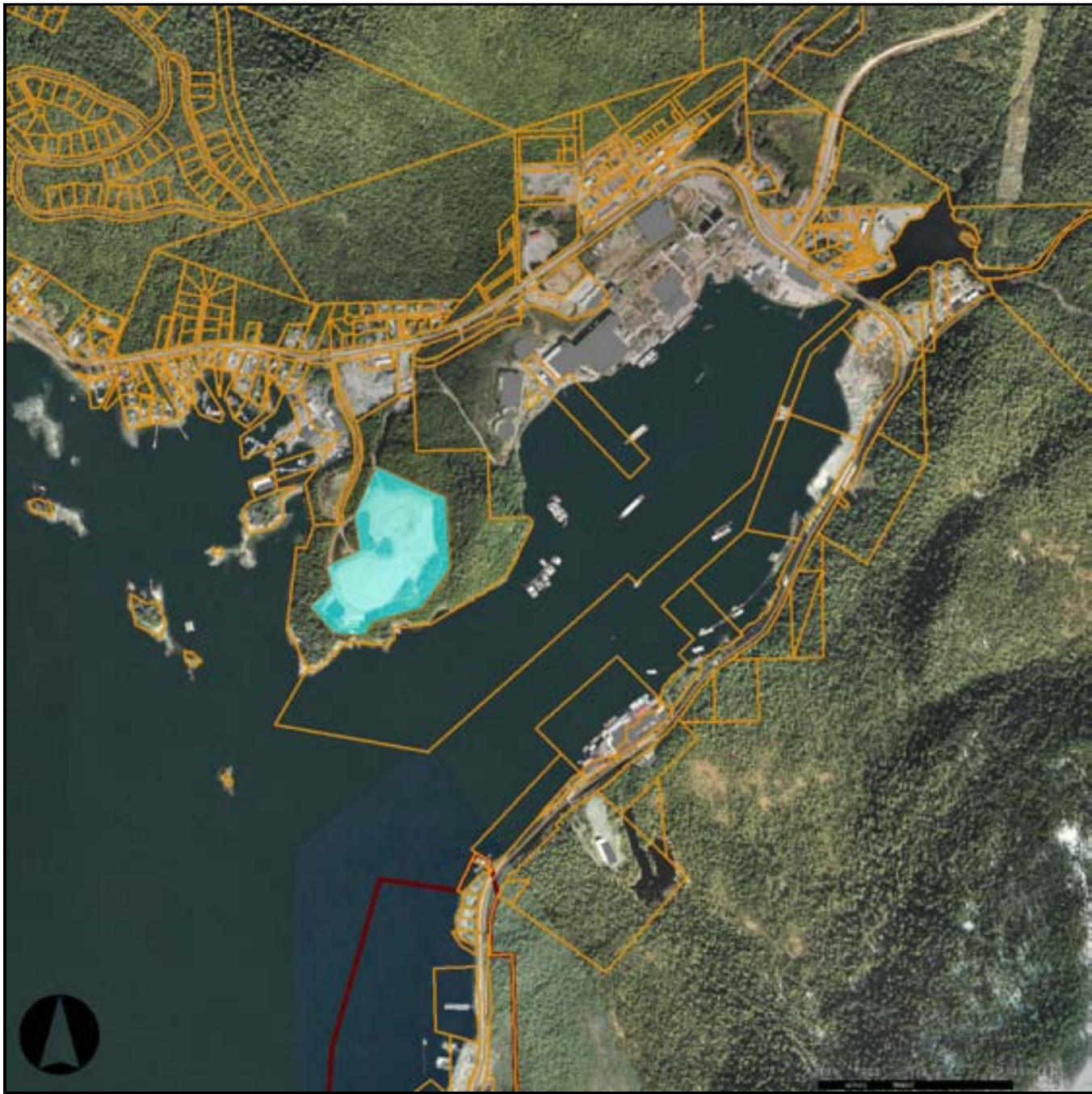


313310032500 (Parcel) 3089651.004, 1312294.325 (1)

313310032500 (Parcel) (1)

PARCELNO	LOCATION	OWNER_NAME	OWNER_2	APR_LAND_V	APR_IMPS	ADDRESS	CITY	STATE	ZIP	Display Field
313310032500	N TONGASS HWY 7200 BLK	KETCHIKAN GATEWAY BOROUGH		273300	0	1900 FIRST AVE SUITE 210	KETCHIKAN	AK	99901	KETCHIKAN GATEWAY BOROUGH

Former Ketchikan Pulp Company

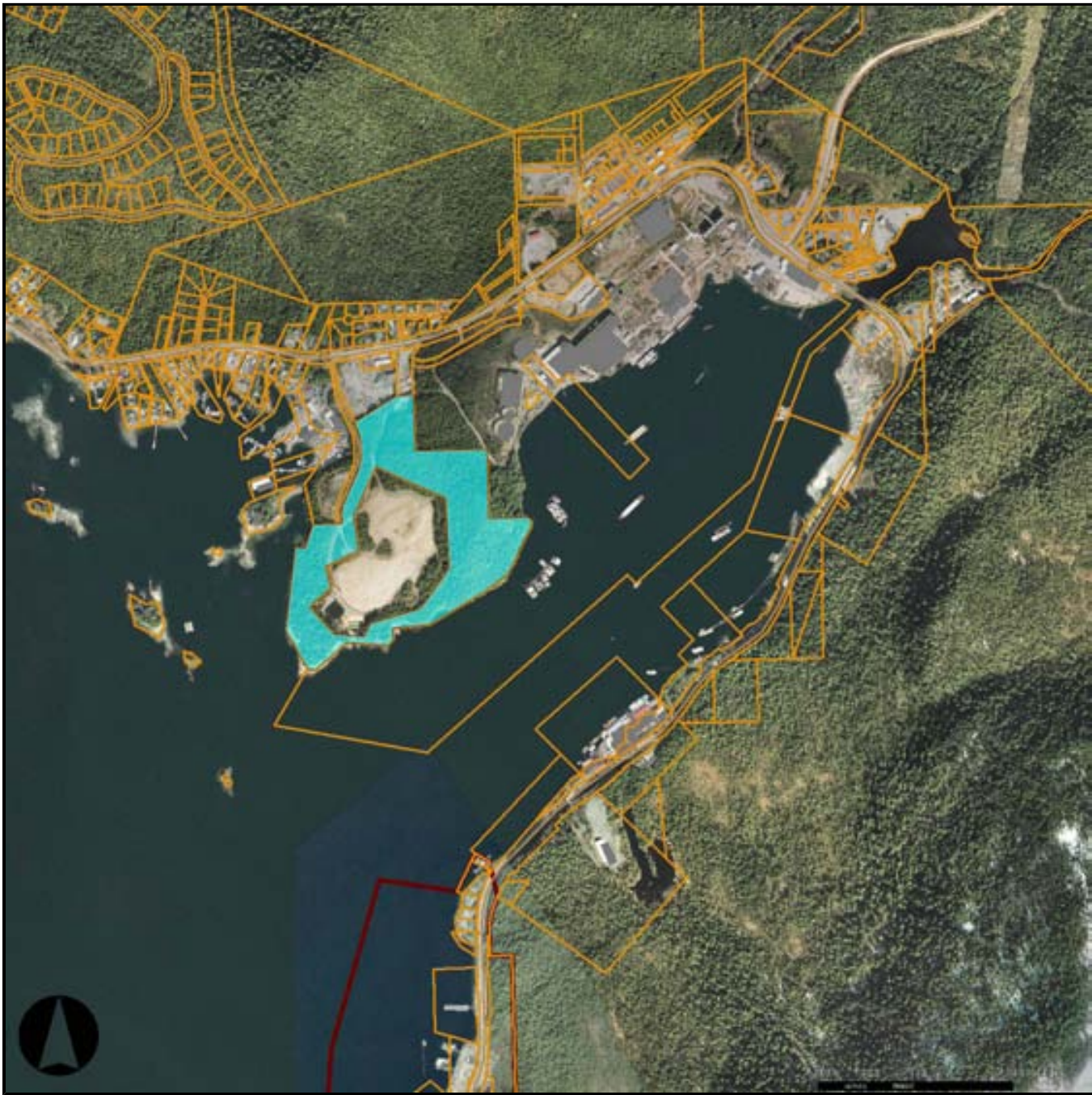


313340038000 (Parcel) 3086651.004, 1308572.103 (1)

313340038000 (Parcel) (1)

PARCELNO	LOCATION	OWNER_NAME	OWNER_2	APR_LAND_V	APR_IMPS	ADDRESS	CITY	STATE	ZIP	Display Field
313340038000	BRUSICH RD	KETCHIKAN PULP COMPANY	ATTN BENNING PHIL	16000	0	PO BOX 6600	KETCHIKAN	AK	99901	KETCHIKAN PULP COMPANY

Former Ketchikan Pulp Company

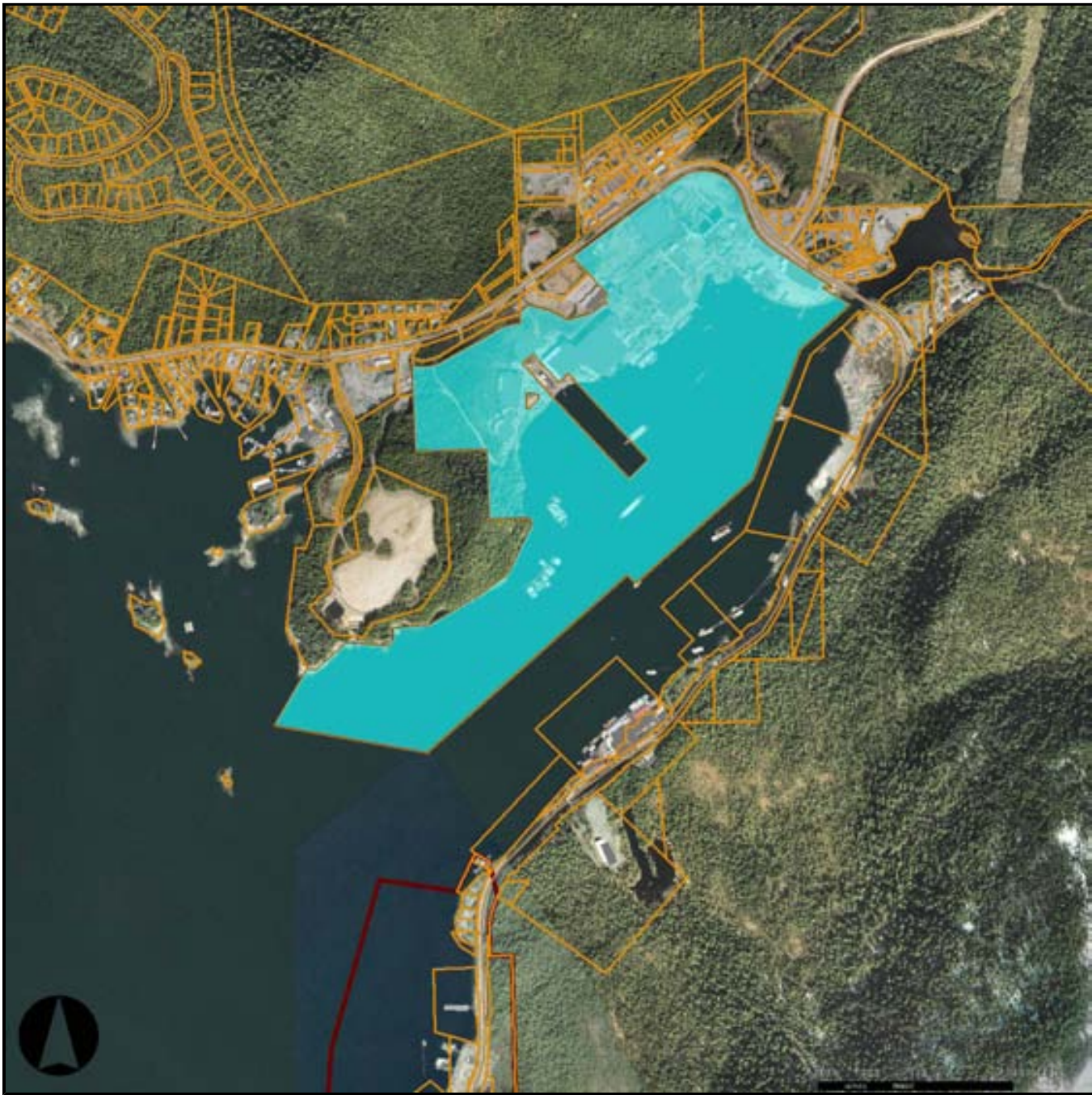


313340039500 (Parcel) 3087262.115, 1309183.214 (1)

313340039500 (Parcel) (1)

PARCELNO	LOCATION	OWNER_NAME	OWNER_2	APR_LAND_V	APR_IMPS	ADDRESS	CITY	STATE	ZIP	Display Field
313340039500	BRUSICH RD	KETCHIKAN GATEWAY BOROUGH		194300	0	1900 FIRST AVE SUITE 210	KETCHIKAN	AK	99901	KETCHIKAN GATEWAY BOROUGH

Former Ketchikan Pulp Company

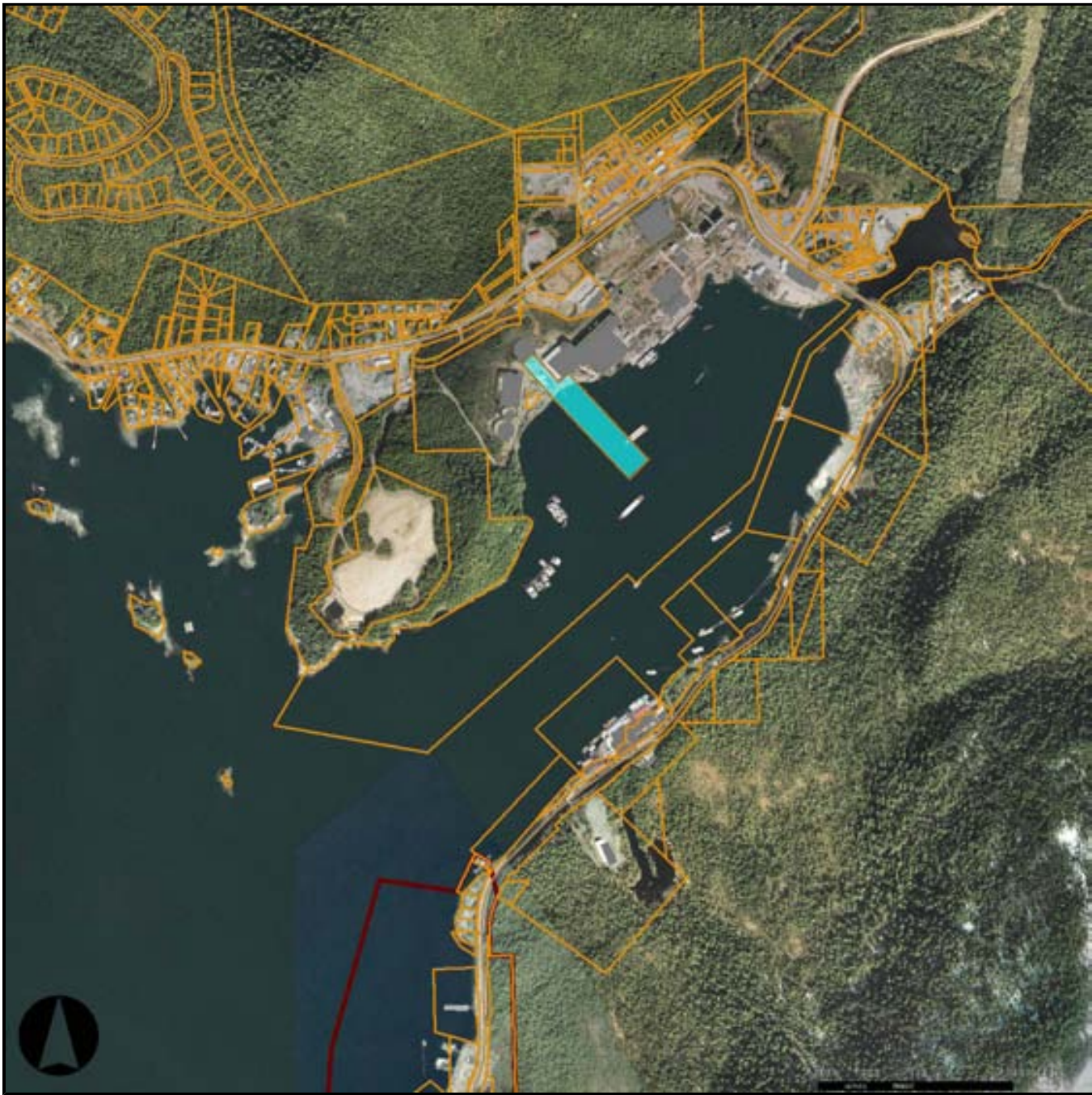


313340040100 (Parcel) 3089442.671, 1310210.992 (1)

313340040100 (Parcel) (1)

PARCELNO	LOCATION	OWNER_NAME	OWNER_2	APR_LAND_V	APR_IMPS	ADDRESS	CITY	STATE	ZIP	Display Field
313340040100	N TONGASS HWY 7037	KETCHIKAN GATEWAY BOROUGH		3476200	1615400	1900 FIRST AVE SUITE 210	KETCHIKAN	AK	99901	KETCHIKAN GATEWAY BOROUGH

Former Ketchikan Pulp Company



313340040500 (Parcel) 3088428.782, 1309766.547 (1)

313340040500 (Parcel) (1)

PARCELNO	LOCATION	OWNER_NAME	OWNER_2	APR_LAND_V	APR_IMPS	ADDRESS	CITY	STATE	ZIP	Display Field
313340040500	N TONGASS HWY 7691	KETCHIKAN GATEWAY BOROUGH		309400	266600	1900 FIRST AVE SUITE 210	KETCHIKAN	AK	99901	KETCHIKAN GATEWAY BOROUGH

Former Ketchikan Pulp Company

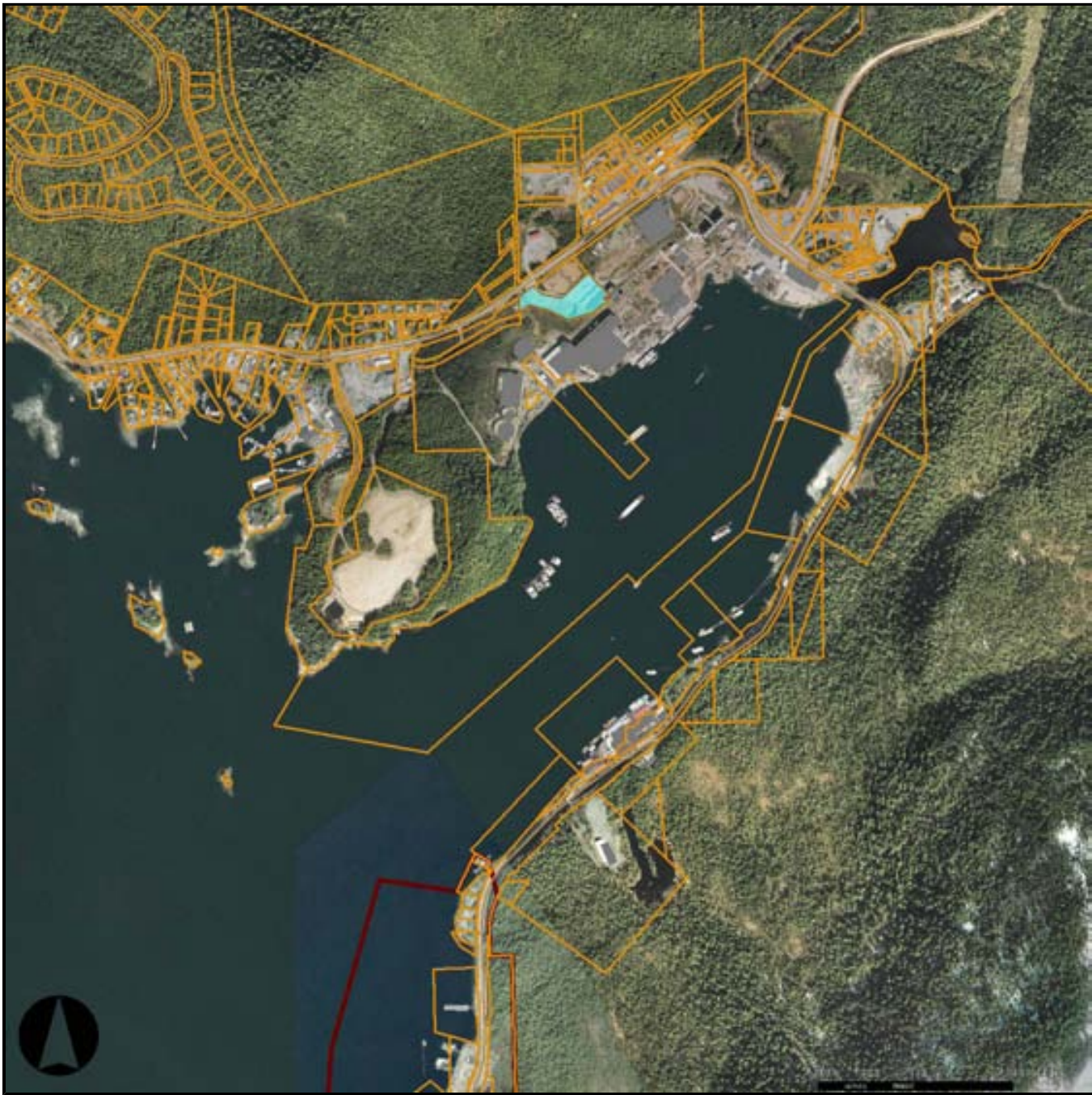


313340040700 (Parcel) 3087928.782, 1309905.436 (1)

313340040700 (Parcel) (1)

PARCELNO	LOCATION	OWNER_NAME	OWNER_2	APR_LAND_V	APR_IMPS	ADDRESS	CITY	STATE	ZIP	Display Field
313340040700	N TONGASS HWY 7757	KETCHIKAN GATEWAY BOROUGH		34500	37200	1900 FIRST AVE SUITE 210	KETCHIKAN	AK	99901	KETCHIKAN GATEWAY BOROUGH

Former Ketchikan Pulp Company

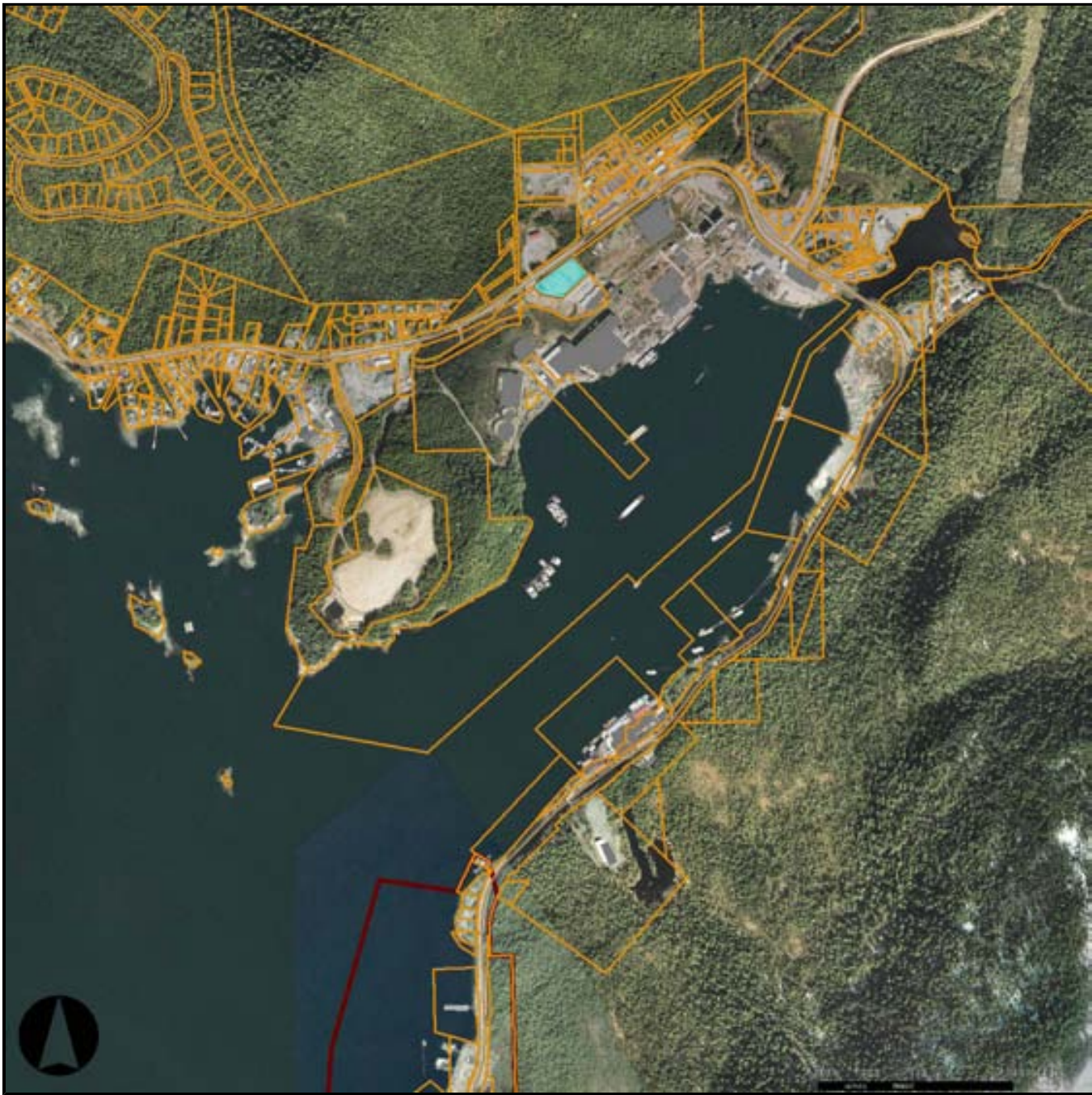


313340041500 (Parcel) 3088289.893, 1310738.77 (1)

313340041500 (Parcel) (1)

PARCELNO	LOCATION	OWNER_NAME	OWNER_2	APR_LAND_V	APR_IMPS	ADDRESS	CITY	STATE	ZIP	Display Field
313340041500	N TONGASS HWY 7559	KETCHIKAN GATEWAY BOROUGH		472600	522700	1900 FIRST AVE SUITE 210	KETCHIKAN	AK	99901	KETCHIKAN GATEWAY BOROUGH

Former Ketchikan Pulp Company

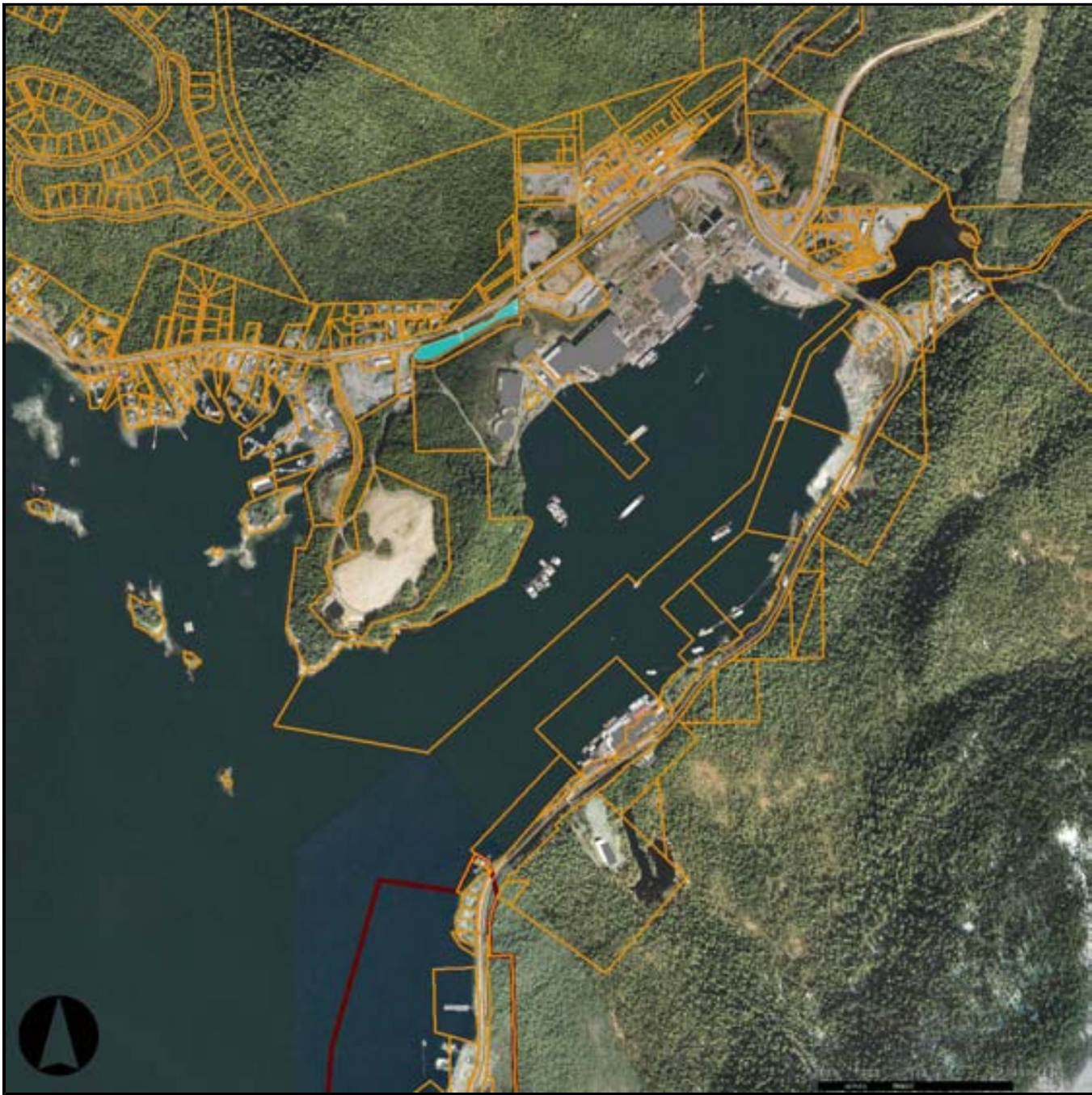


313340041600 (Parcel) 3088206.56, 1311072.103 (1)

313340041600 (Parcel) (1)

PARCELNO	LOCATION	OWNER_NAME	OWNER_2	APR_LAND_V	APR_IMPS	ADDRESS	CITY	STATE	ZIP	Display Field
313340041600	N TONGASS HWY 7559	KETCHIKAN GATEWAY BOROUGH		294900	0	1900 FIRST AVE SUITE 210	KETCHIKAN	AK	99901	KETCHIKAN GATEWAY BOROUGH

Former Ketchikan Pulp Company



313340041700 (Parcel) 3087039.893, 1310377.659 (1)

313340041700 (Parcel) (1)

PARCELNO	LOCATION	OWNER_NAME	OWNER_2	APR_LAND_V	APR_IMPS	ADDRESS	CITY	STATE	ZIP	Display Field
313340041700	N TONGASS HWY 7700 BLK	KETCHIKAN GATEWAY BOROUGH		301100	0	1900 FIRST AVE SUITE 210	KETCHIKAN	AK	99901	KETCHIKAN GATEWAY BOROUGH

Attachment 6

Ward Cove Plat and Replats

No. 61-784

This certifies that the within instrument was filed
for record in the office of the

KETCHIKAN RECORDING DISTRICT

and filed on the 5th day

of June 1961 at 3:32

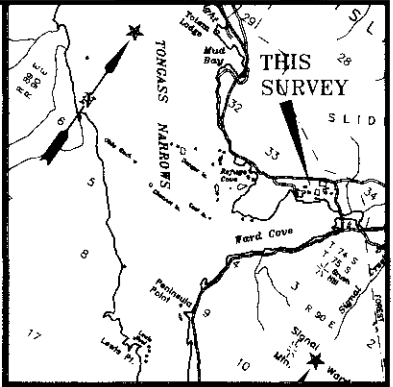
P o'clock P.M. and indexed in Vol. 1

of Plats Pickel # 32

of the record of said office at Ketchikan, Alaska.

RICHARD B. LAUBER - - - Recorder

--DISTRICT MAGISTRATE--



VICINITY MAP

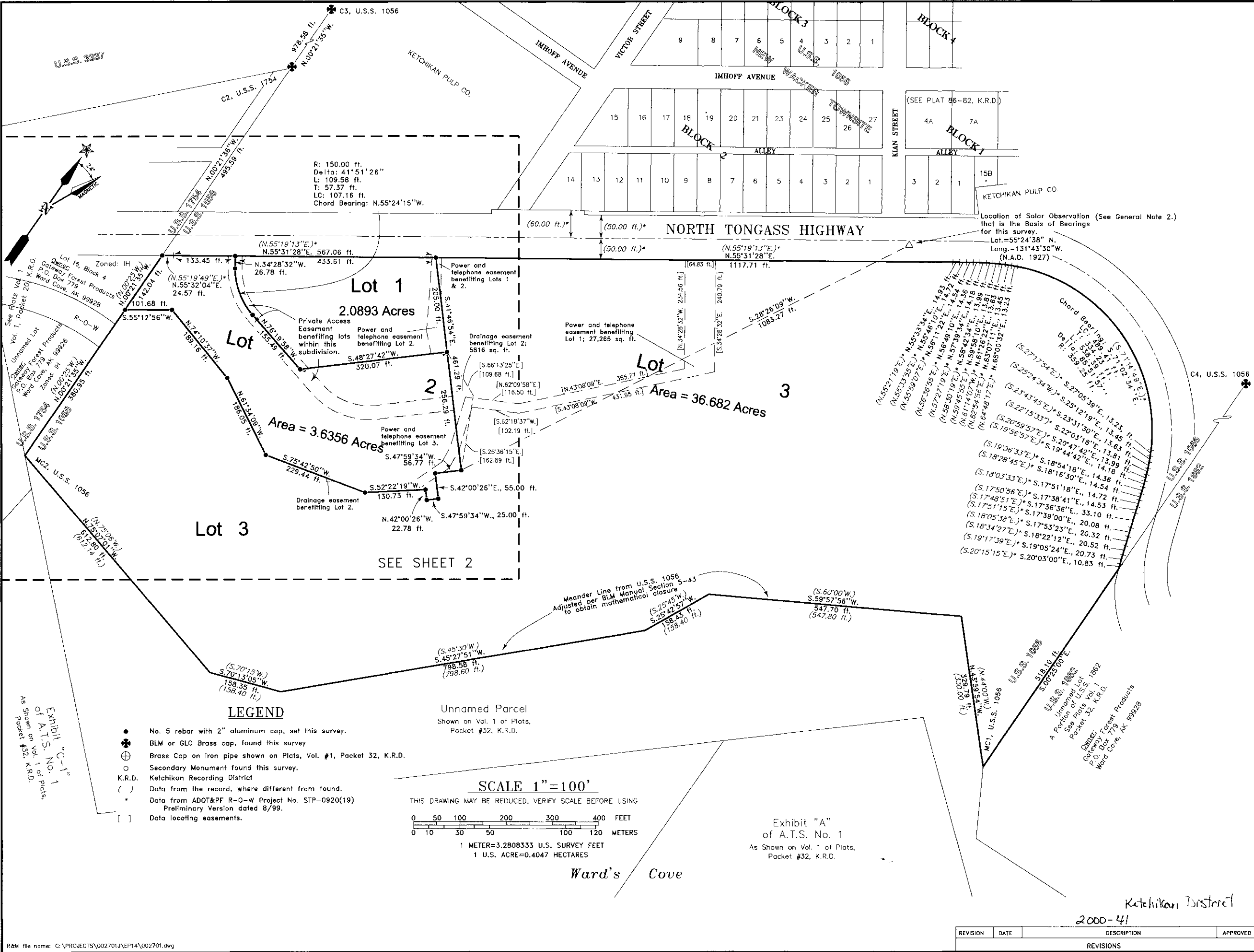
SCALE: 1 INCH = 1 MILE

GENERAL NOTES

- 1.) This plat depicts the subdivision of all the land within U.S.S. 1056, between the Right-of-Way of the North Tongass Highway and the shore of Ward's Cove. It creates Lots 1, 2 and 3 of the Gateway Subdivision.
- 2.) The Basis of Bearings for this survey is a Solar Observation made on July 13, 1996.
- 3.) The Alaska Dept. of Environmental Conservation has suspended their program of subdivision review. Owners of lots within this subdivision should contact the Dept. of Environmental Conservation for their water and wastewater regulation before developing lots within this subdivision.

PLAT NOTES

No. of Lots before this action: 1
 No. of Lots after this action: 3
 Total area of subdivision: 42,407 Ac.
 Area Dedicated as public right-of-way: 0 Ac.
 Present Zoning: IH
 Proposed Zoning: IH



LEGEND

- No. 5 rebar with 2" aluminum cap, set this survey.
- ⊕ BLM or GLO Brass cap, found this survey
- ⊕ Brass Cap on Iron pipe shown on Plats, Vol. #1, Packet 32, K.R.D.
- Secondary Monument found this survey.
- K.R.D. Ketchikan Recording District
- () Data from the record, where different from found.
- * Data from ADO&PF R-O-W Project No. STP-0920(19) Preliminary Version dated 8/99.
- [] Data locating easements.

SCALE 1"=100'

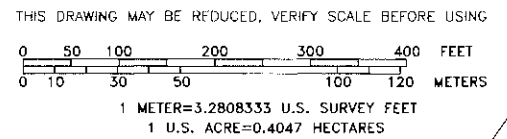


Exhibit "A"
 of A.T.S. No. 1
 As Shown on Vol. 1 of Plats,
 Packet #32, K.R.D.

Dates of field survey: Jan. 17 through June 9, 2000
 KETCHIKAN RECORDING DISTRICT

DO NOT SCALE, USE DIMENSIONS WHENEVER POSSIBLE

GATEWAY SUBDIVISION
 Within U.S.S. 1056 (H.E.S. 55)

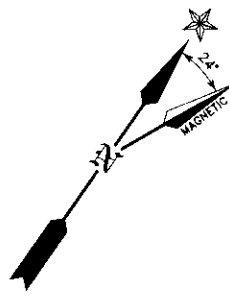
CLIENT: Gateway Forest Products
 P.O. Box 779
 Ward Cove, AK 99928

R&M
 R&M ENGINEERING-KETCHIKAN, INC. Phone: (907) 225-7917
 355 Carlanna Lake Road Fax: (907) 225-3441
 Ketchikan, Alaska 99901 rmketch@ptalaska.net

DATE: Aug. 9, 2000 DRAWN BY: JJP JOB NO. 002701
 SCALE: As Indicated APPRVD BY: SHEET 1 OF 2

2000-41

REVISION	DATE	DESCRIPTION	APPROVED



CERTIFICATE OF APPROVAL BY THE PLATTING BOARD
 I hereby certify that the subdivision shown hereon has been found to comply with the subdivision regulations of the Ketchikan Gateway Borough and that the said plat has been approved for recording in the office of the District Recorder, First Judicial District, Ketchikan, Alaska.
Bob Lunden
 Planning Board Chairperson
Shawn Young
 Borough Assessor
Tom Soltz
 KPU Engineering Manager
Frank Rive
 Planning Dept. Official
None Required
 Borough Surveyor

OWNER'S CERTIFICATE
 I hereby certify that I am the owner of the portion of U.S.S. 1056 shown hereon and that I hereby approve the plat of this survey.
James R. Lish...
 Owner

NOTARY'S ACKNOWLEDGMENT
 State of Alaska)
 First Judicial District) SS
 The foregoing instrument was acknowledged before me this 9th day of August, 2000 by:
James R. Lish...
Charlotte J. Herk
 Notary Public in and for Alaska
 My commission expires: 11-3-03

CERTIFICATE OF PAYMENT OF TAXES
 I hereby certify that, to the best of my knowledge, all past and current local property taxes and other charges assessed against the property described hereon are: paid in full. exempt.
Walter Entell
 Director of Administrative Services
 Ketchikan Gateway Borough
8-8-00
 Date

Lot 16, Block 4
 Owner:
 Gateway Forest Products
 P.O. Box 779
 Ward Cove, AK 99928
 Zoned: IH

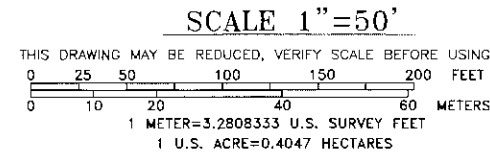
See Plats Vol. 1
 Vol. 1, Packet 201 K.R.D.
 R-O-W

Unnamed Lot
 Owner:
 Gateway Forest Products
 P.O. Box 779
 Ward Cove, AK 99928
 Zoned: IH

U.S.S. 7764
 U.S.S. 1056
 NC2, U.S.S. 1056

Unnamed Parcel
 Shown on Vol. 1 of Plats
 Packet #32, K.R.D.
 Exhibit "C-1"
 of A.T.S. No. 1
 As Shown on Vol. 1 of Plats
 Packet #32, K.R.D.

- LEGEND**
- No. 5 rebar with 2" aluminum cap, set this survey.
 - ⊕ BLM or GLO Brass cap, found this survey.
 - ⊕ Brass Cap on iron pipe shown on Plats, Vol. #1, Packet 32, K.R.D.
 - ⊕ Secondary Monument found this survey.
 - K.R.D. Ketchikan Recording District
 - () Data from the record, where different from found.
 - * Data from ADOT&PF R-O-W Project No. STP-0920(19) Preliminary Version dated 8/99.
 - [] Data locating easements.



SURVEYOR'S CERTIFICATE
 I hereby certify that I am properly registered and licensed to practice land surveying in the State of Alaska, that this plat represents a survey made by me or under my direct supervision, that the monuments shown hereon actually exist as described, and that all dimensions and other details are correct.
 Date August 9, 2000 Registration Number: LS-7217
John P. Pearson
 Registered Land Surveyor



This plat creates a new sewer easement 10 ft. wide centered on an existing sewer line, treatment plant and outfall, over Lot 3 benefiting Lots 1 and 2.

Line Table for Sewer Easement

NUMBER	DIRECTION	DISTANCE
L11	S.76°19'58"E.	17.00 ft.
L12	S.13°40'02"W.	15.00 ft.
L13	S.76°19'58"E.	126.56 ft.
L14	S.76°19'58"E.	75.46 ft.
L15	S.42°52'45"E.	88.48 ft.
L16	N.49°43'41"E.	191.04 ft.
L17	S.42°00'26"W.	101.54 ft.
L18	S.47°59'35"W.	10.00 ft.
L19	N.42°00'26"W.	75.61 ft.
L20	S.51°17'55"W.	8.70 ft.
L21	N.42°00'26"W.	15.98 ft.
L22	S.49°43'41"W.	182.20 ft.
L23	N.42°52'45"W.	95.03 ft.
L24	N.76°19'58"W.	216.01 ft.
L25	N.13°40'02"E.	25.00 ft.

Dates of field survey: Jan. 17 through June 9, 2000
KETCHIKAN RECORDING DISTRICT
 DO NOT SCALE, USE DIMENSIONS WHENEVER POSSIBLE

GATEWAY SUBDIVISION
 Within U.S.S. 1056 (H.E.S. 55)

CLIENT: Gateway Forest Products
 P.O. Box 779
 Ward Cove, AK 99928

R&M
 R&M ENGINEERING-KETCHIKAN, INC. Phone: (907) 225-7917
 355 Carionna Lake Road Fax: (907) 225-3441
 Ketchikan, Alaska 99901 rmketch@otialaska.net

DATE: Aug. 9, 2000 DRAWN BY: JPP JOB NO. 002701
 SCALE: As Indicated APPRVD BY: JPP SHEET 2 OF 2

REVISION	DATE	DESCRIPTION	APPROVED
REVISIONS			

PLAT ALTERATION NOTES:

PLAT NOTES

1. This Plat Alteration combines 8 upland parcels and 2 tideland parcels.

2. This Plat Alteration modifies the boundaries of 8 upland parcels and 2 tideland parcels to create 5 new parcels.

3. Total area of replat = 50.64 acres.

4. Plat and deed references are as follows:

a) Trustee's deed, KRD document # 2003-003391-0

b) A stipulation of settlement and order confirming settlement recorded in KRD book 151, pg 252.

c) The plats and field notes for US Survey No.'s 1208, 1508, 1653, 1659, & ATS 439

d) State of Alaska, right-of-way map, KRD Plat 92-43

e) Alaska Tidelands Survey No. 1 (CR 745 90E), according to the plat thereof recorded June 5, 1961 in KRD, Volume 1 of Plats of Packet No. 32, as KRD Document No. 61-786, and the accompanying metes and bounds set forth in Exhibit "A," Exhibit "C-1," and Exhibit "C-2" recorded May 5th, 1961 in KRD Book 11, Page 381, as KRD Document No. 61-783 is hereinafter referred to as "ATS 1."

f) Alaska Tidelands Survey No. 439, according to the plat thereof filed as Plat No. 76-31, is referred to as ATS 439.

5. Those portions of Tracts 3011, 3013, 3015, 3017 and 3019 which were previously included within either ATS 1, Exhibit C-2, or ATS 439 are subject to several restrictions, easements, covenants or a combination thereof. These include the following which are incorporated by reference as if they were fully set forth here:

a) Environmental Protection Easement and Declaration of Restrictive Covenants entered into by and between Ketchikan Pulp Company, Grantor, and the State of Alaska, Department of Natural Resources, Grantee, for use by the State of Alaska, Department of Environmental Conservation, according to the terms and provisions thereof, dated October 28, 1999 and recorded October 28, 1999 in KRD Book 305 at Page 772. The terms thereof include, without limitation, the requirement that certain language be included in any conveyance documents.

b) Environmental Easement and Declaration of Covenants ("2003 Easement and Covenants") entered into by and between Ketchikan Gateway Borough, a municipal corporation ("Borough"), Ketchikan Pulp Company, a Washington corporation, and Gateway Forest Products, Inc., an Alaska corporation, according to the terms and provisions thereof, dated July 14, 2003 and recorded July 18, 2003 under KRD Document No. 2003-004128-0. Within the 2003 Easement and Covenants, only the Recitals and other provisions before Section II, entitled "Parcels to Which the Covenants Shall Apply," the provisions of Section IV, entitled, "Easement," and the other sections thereafter affect the portions referenced in this note. Section II, entitled "Parcels to Which the Covenants Shall Apply," and Section III, entitled "Covenants," do not apply to the areas referenced in this Note.

c) CERCLA Remedial Design/Remedial Action Consent Decree ("Consent Decree"), entered November 22, 2000 in the United States District Court for the District of Alaska, Case no. A00-0225CV (JKS). The portions of Tracts 3011, 3013, 3015, 3017 and 3019 previously within either ATS 1, Exhibit C-2, or ATS 439 are within the Marine Operable Unit of the Site, as defined in the Consent Decree. In addition, the portions of Tracts 3017 and 3019 which were formerly portions of USS 1659 and USS 1508 on the seaward side of North Tongass Highway are within the Uplands Operable Unit of the Site, as defined in that Consent Decree.

d) Agreement entered July 14, 2003 ("2003 Agreement") by and between the Borough, Gateway Forest Products, Inc. and Ketchikan Pulp Company dated July 14, 2003. The terms of the 2003 Agreement include, without limitation, a requirement set forth in Section 11 (h) that specific language be included in any conveyance of an interest in the "Borough Property" as defined therein. Section 11(h) provides in part:

(h) The Borough agrees that it shall contractually require its successors, heirs, and assigns to affirmatively accept and be bound by the terms of this Agreement. To that end, the Borough shall include...in any lease, sale, or conveyance of any interest in all or part of the Borough Property and shall contractually require any successor, heir, or assign to impose such language in future leases, including amendments thereto, sales, and conveyances: [the required language then set forth.]

6. The Alaska Department of Environmental Conservation has suspended their program of subdivision plan review at the time of this survey. Contact ADEC for information about their requirements for development of lots within this subdivision.

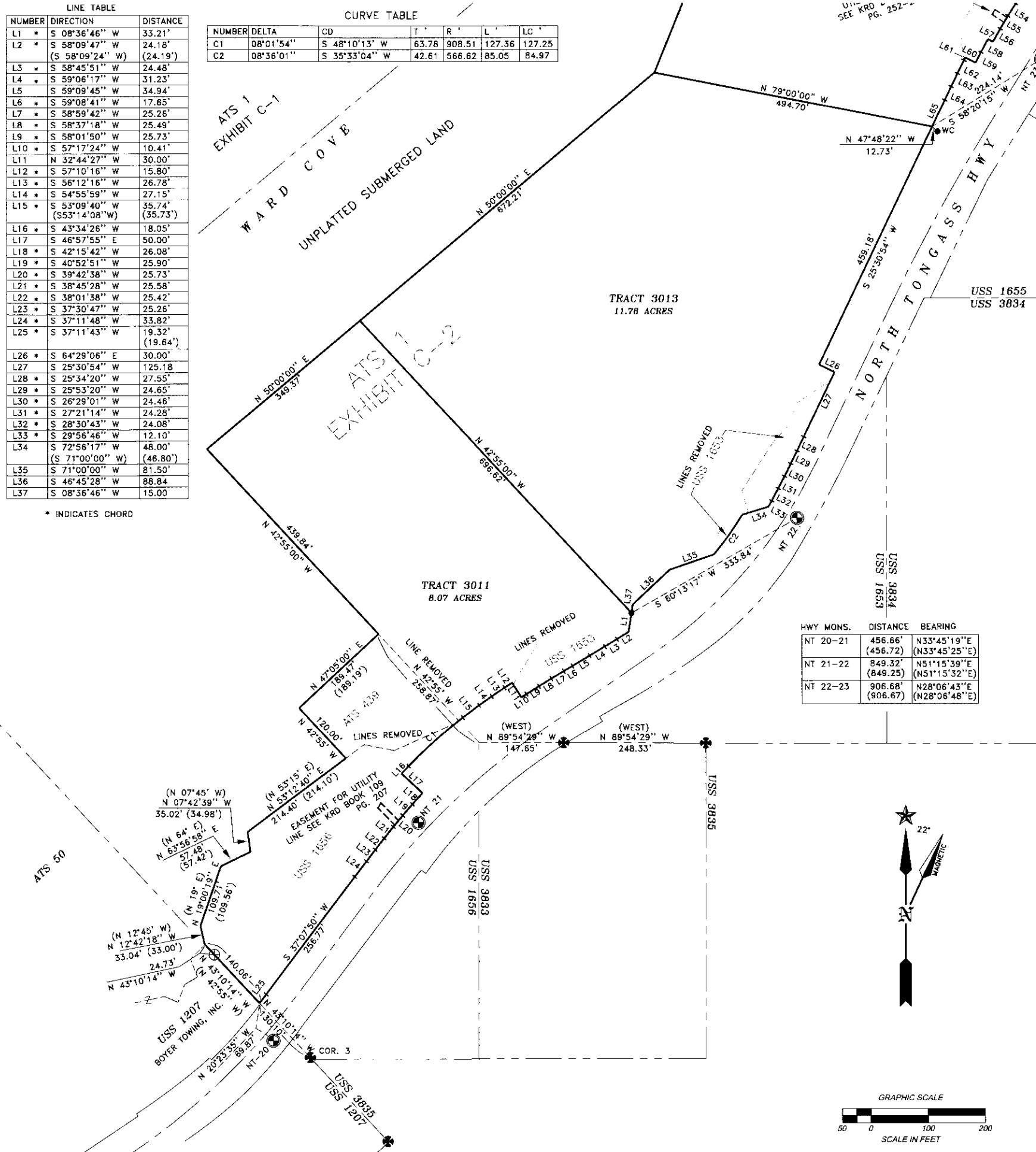
7. This note is required per Special Condition 2 of Resolution 3051A.

8. In the above notes "KRD" means Ketchikan Recording District.

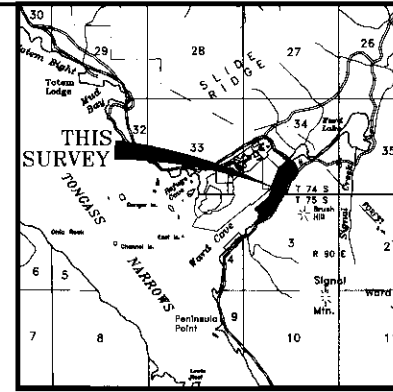
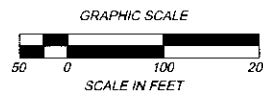
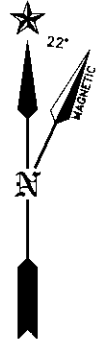
NUMBER	DIRECTION	DISTANCE
L1	S 08°36'46" W	33.21'
L2	S 58°09'47" W (S 58°09'24" W)	24.18' (24.19')
L3	S 58°45'51" W	24.48'
L4	S 59°06'17" W	31.23'
L5	S 59°09'45" W	34.94'
L6	S 59°08'41" W	17.65'
L7	S 58°59'42" W	25.26'
L8	S 58°37'18" W	25.49'
L9	S 58°01'50" W	25.73'
L10	S 57°17'24" W	10.41'
L11	N 32°44'27" W	30.00'
L12	S 57°10'16" W	15.80'
L13	S 56°12'16" W	26.78'
L14	S 54°55'59" W	27.15'
L15	S 53°09'40" W (S53°14'08"W)	35.74' (35.73')
L16	S 43°34'26" W	18.05'
L17	S 46°57'55" E	50.00'
L18	S 42°15'42" W	26.08'
L19	S 40°52'51" W	25.90'
L20	S 39°42'38" W	25.73'
L21	S 38°45'28" W	25.58'
L22	S 38°01'38" W	25.42'
L23	S 37°30'47" W	25.26'
L24	S 37°11'48" W	33.82'
L25	S 37°11'43" W	19.32' (19.64')
L26	S 64°29'06" E	30.00'
L27	S 25°30'54" W	125.18'
L28	S 25°34'20" W	27.55'
L29	S 25°53'20" W	24.65'
L30	S 26°29'01" W	24.46'
L31	S 27°21'14" W	24.28'
L32	S 28°30'43" W	24.08'
L33	S 29°56'46" W	12.10'
L34	S 72°56'17" W (S 71°00'00" W)	48.00' (46.80')
L35	S 71°00'00" W	81.50'
L36	S 46°45'28" W	88.84'
L37	S 08°36'46" W	15.00'

* INDICATES CHORD

NUMBER	DELTA	CD	T'	R'	L'	LC'
C1	08°01'54"	S 48°10'13" W	63.78	908.51	127.36	127.25
C2	08°36'01"	S 35°33'04" W	42.61	566.62	85.05	84.97



HWY MONS.	DISTANCE	BEARING
NT 20-21	456.66' (456.72)	N33°45'19"E (N33°45'25"E)
NT 21-22	849.32' (849.25)	N51°15'39"E (N51°15'32"E)
NT 22-23	906.68' (906.67)	N28°06'43"E (N28°06'48"E)



VICINITY MAP
SCALE: 1 INCH = 1 MILE

- LEGEND**
- () INDICATES RECORD DATA
 - LOT LINE TO BE REMOVED
 - - - EASEMENT LINE
 - PROPERTY LINE, N.A.P.
 - PROPERTY LINE THIS SUBDIVISION
 - (NAP) NOT A PART OF THIS SUBDIVISION
 - ⊕ BLM OR GLO MONUMENT RECOVERED
 - ⊙ BRASS CAP IN MONUMENT CASE RECOVERED
 - ⊕ ATS MONUMENT RECOVERED
 - 2" ALUMINUM CAP ON 5/8" REBAR SET

2005-30
KETCHIKAN RECORDING DISTRICT

WARD COVE S.E. REPLAT

THE SUBDIVISION OF PORTIONS OF
U.S. SURVEY No.'s 1208, 1508,
1653, 1656, 1659 & ATS 1, C-2 &
ATS 439

CREATING TRACTS 3011, 3013
3015, 3017 & 3019

OWNER: KETCHIKAN GATEWAY BOROUGH
344 FRONT STREET
KETCHIKAN, AK 99901

RAW ENGINEERING-KETCHIKAN, INC.
355 CARLIANNA LAKE RD, SUITE 200 Phone: (907) 225-7917
KETCHIKAN, ALASKA 99901 Fax: (907) 225-3441

DATE: 8/01/05 DRAWN BY: JMR & LR JOB NO.: 012310.47
SCALE: 1"=100' APPRVD BY: LR SHEET 1 of 2

OWNER'S CERTIFICATE

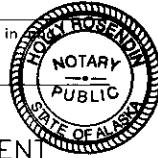
We hereby certify that we are the owners of portions of U.S. Survey No.'s 1208, 1508, 1653, 1656, 1659 & ATS 1, C-2 & ATS 439 as shown hereon and that we approve this plat of survey.

Owner: Ketchikan Gateway Borough Date: 8-1-05

NOTARY ACKNOWLEDGMENT

State of Alaska
The foregoing instrument was acknowledged before me this 1st day of August, 2005 by:

Roy Eckert
Holly Rosendin
Notary Public in and for Alaska
My commission expires: 9/15/08



CERTIFICATION OF PAYMENT OF TAXES

I hereby certify that, to the best of my knowledge all past and current local property taxes and other charges assessed against the property described hereon are: paid in full

Michael J. Hord
Director of Administrative Services
Ketchikan Gateway Borough

CERTIFICATE OF APPROVAL BY THE PLATTING BOARD

I hereby certify that the subdivision shown hereon has been found to comply with the subdivision regulations of the Ketchikan Gateway Borough, and that said plat has been approved by the board by plat resolution No. 3051A Dated March 8, 2005 and that the plat shown hereon has been approved for recording in the office of the district recorder, First Judicial District, Ketchikan, Alaska.

John
Platting Board Chairman
William
Planning Department Official
Michael J. Hord
Director of Administrative Services
John
KPU Engineering Manager
Robert
Borough Engineer
Robert
Director of Assessment

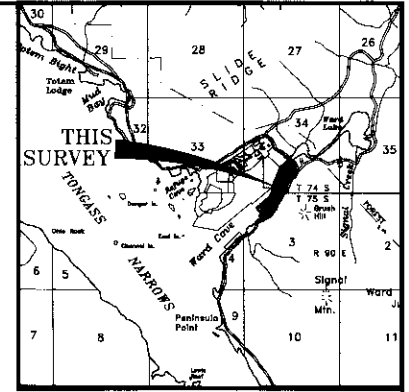
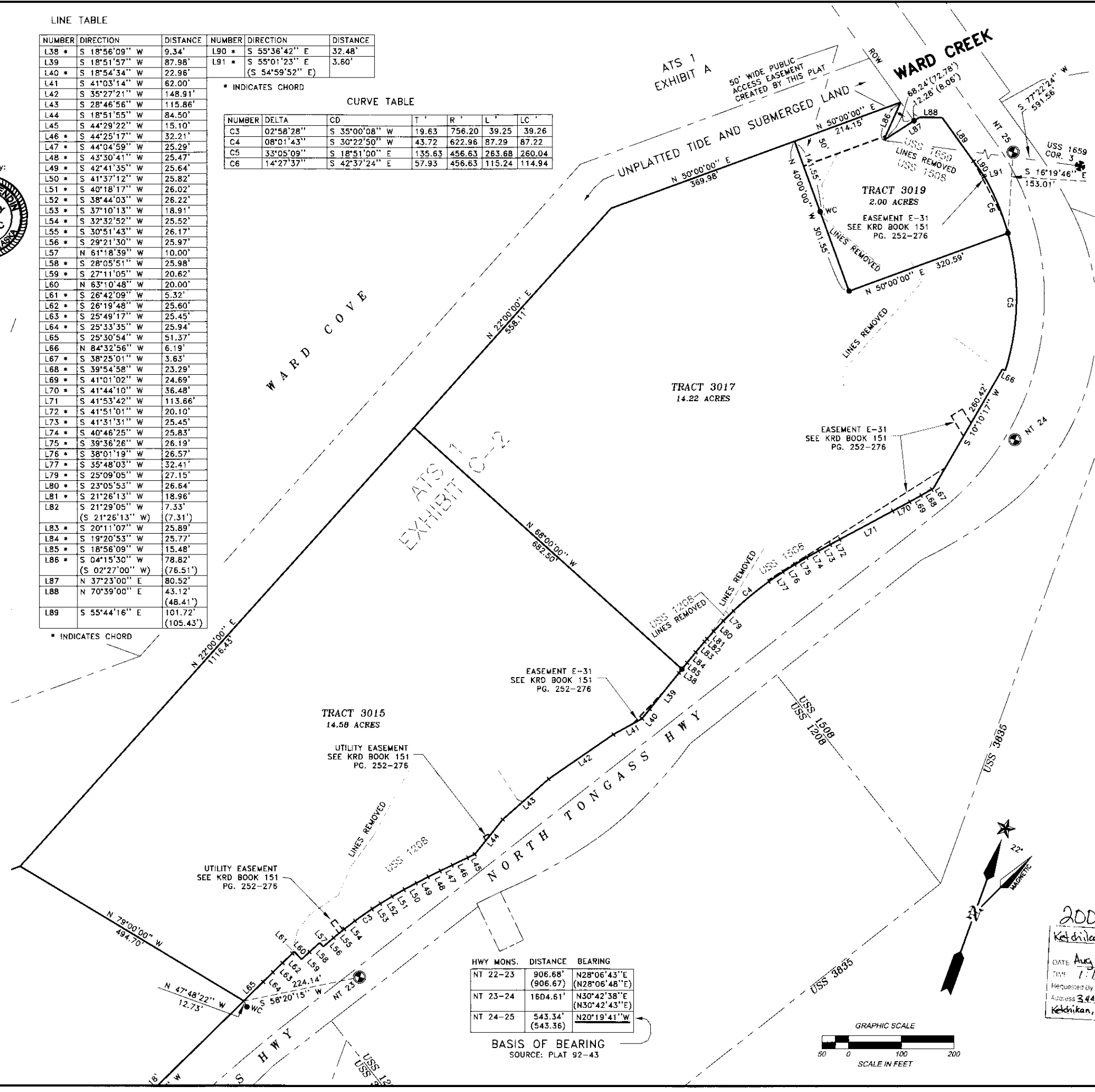
LINE TABLE

NUMBER	DIRECTION	DISTANCE	NUMBER	DIRECTION	DISTANCE
L38 *	S 18°56'09" W	9.34'	L90 *	S 55°36'42" E	32.48'
L39 *	S 18°51'57" W	87.98'	L91 *	S 55°01'23" E	3.60'
L40 *	S 18°54'34" W	22.96'		(S 54°59'52" E)	
L41 *	S 41°03'14" W	62.00'			
L42 *	S 35°27'21" W	148.91'			
L43 *	S 28°46'56" W	115.86'			
L44 *	S 18°51'55" W	84.50'			
L45 *	S 44°29'22" W	15.10'			
L46 *	S 44°25'17" W	32.21'			
L47 *	S 44°04'59" W	25.29'			
L48 *	S 43°30'41" W	25.47'			
L49 *	S 42°41'35" W	25.64'			
L50 *	S 41°37'12" W	25.82'			
L51 *	S 40°18'17" W	26.02'			
L52 *	S 38°44'03" W	26.22'			
L53 *	S 37°10'13" W	18.91'			
L54 *	S 32°32'52" W	25.52'			
L55 *	S 30°51'43" W	26.17'			
L56 *	S 29°21'30" W	25.97'			
L57 *	N 61°18'39" W	10.00'			
L58 *	S 28°05'51" W	25.98'			
L59 *	S 27°11'05" W	20.62'			
L60 *	N 63°10'48" W	20.00'			
L61 *	S 26°42'09" W	5.32'			
L62 *	S 26°19'48" W	25.60'			
L63 *	S 25°49'17" W	25.45'			
L64 *	S 25°33'35" W	25.94'			
L65 *	S 25°30'54" W	51.37'			
L66 *	N 84°32'56" W	6.19'			
L67 *	S 38°25'01" W	3.63'			
L68 *	S 39°54'58" W	23.29'			
L69 *	S 41°01'02" W	24.69'			
L70 *	S 41°44'10" W	36.48'			
L71 *	S 41°53'42" W	113.66'			
L72 *	S 41°51'01" W	20.10'			
L73 *	S 41°31'31" W	25.45'			
L74 *	S 40°46'25" W	25.83'			
L75 *	S 39°36'26" W	26.19'			
L76 *	S 38°01'19" W	26.57'			
L77 *	S 35°48'03" W	32.41'			
L79 *	S 25°09'05" W	27.15'			
L80 *	S 23°05'53" W	26.64'			
L81 *	S 21°26'13" W	18.96'			
L82 *	S 21°29'05" W	7.33'			
	(S 21°26'13" W)	(7.31')			
L83 *	S 20°11'07" W	25.89'			
L84 *	S 19°20'53" W	25.77'			
L85 *	S 18°56'09" W	15.48'			
L86 *	S 04°15'30" W	78.82'			
	(S 02°27'00" W)	(76.51')			
L87 *	N 37°23'00" E	80.52'			
L88 *	N 70°39'00" E	43.12'			
	(48.41')				
L89 *	S 55°44'16" E	101.72'			
	(105.43')				

* INDICATES CHORD

CURVE TABLE

NUMBER	DELTA	CD	T'	R'	L'	LC'
C3	02°58'28"	S 35°00'08" W	19.63	756.20	39.25	39.26
C4	08°01'43"	S 30°22'50" W	43.72	622.96	87.29	87.22
C5	33°05'09"	S 18°51'00" E	135.63	456.63	263.68	260.04
C6	14°27'37"	S 42°37'24" E	57.93	456.63	115.24	114.94



VICINITY MAP
SCALE: 1 INCH = 1 MILE

LEGEND

- () INDICATES RECORD DATA
- LOT LINE TO BE REMOVED
- - - EASEMENT LINE
- PROPERTY LINE, N.A.P.
- PROPERTY LINE THIS SUBDIVISION
- (NAP) NOT A PART OF THIS SUBDIVISION
- ⊕ BLM OR GLO MONUMENT RECOVERED
- ⊙ BRASS CAP IN MONUMENT CASE RECOVERED
- ⊕ ATS MONUMENT RECOVERED
- 2" ALUMINUM CAP ON 5/8" REBAR SET

SURVEYOR'S CERTIFICATE

I hereby certify that I am a registered surveyor, licensed in the State of Alaska, and that in July of 2005, a survey of the herein described lands was conducted under my direct supervision and that this plat is a true and correct representation of the field notes of said survey, and that the dimensions and other details are correct according to said field notes.

Date: 8/1/05
Signature: R. Roy J. Roth



KETCHIKAN RECORDING DISTRICT

WARD COVE S.E. REPLAT

THE SUBDIVISION OF PORTIONS OF U.S. SURVEY No.'s 1208, 1508, 1653, 1656, 1659 & ATS 1, C-2 & ATS 439

CREATING TRACTS 3011, 3013, 3015, 3017 & 3019

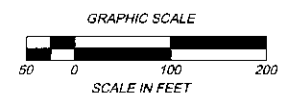
CLIENT: KETCHIKAN GATEWAY BOROUGH
344 FRONT STREET
KETCHIKAN, AK 99901

DATE: 8/01/05 DRAWN BY: JMR & LR JOB NO.: 012310.47

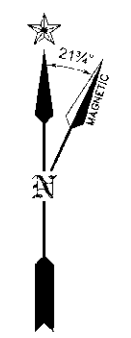
SCALE: 1"=100' APPRVD BY: LR SHEET 2 OF 2

HWY MONS.	DISTANCE	BEARING
NT 22-23	906.68' (906.67')	N28°06'43"E (N28°06'48"E)
NT 23-24	16D4.61'	N30°42'38"E (N30°42'43"E)
NT 24-25	543.34' (543.36')	N20°19'41"W

BASIS OF BEARING
SOURCE: PLAT 92-43



2005-30
Ketchikan, REC DIST \$25
DATE: Aug. 2, 2005
TIME: 1:16 P. M.
Requested by: KGB
Address: 344 Front St.
Ketchikan, AK 99901



SCALE 1"=100'
 THIS DRAWING MAY BE REDUCED. VERIFY SCALE BEFORE USING
 0 50 100 200 300 400 FEET
 0 10 20 30 40 50 60 70 80 90 100 110 120 METERS
 1 METER=3.2808333 U.S. SURVEY FEET
 1 U.S. ACRE=0.4047 HECTARES

LEGEND
 See Sheet 1 of 6

Witness Corner, true corner bears N.41°48'54"W., 1.76 ft. from monument. See Detail 2-A at far right. Also see General Note 9 on Sheet 6.

New easement granted to the North Tongass Fire Dept. for access to the fire suppression water connection. It passes from the N. Tongass Highway to the building.

Location of Solar Observation made on July 12, 1996 that is the Basis of Bearings for this survey.
 Lat.=55°24'38" N.
 Long.=131°43'30" W.
 (N.A.D. 1927)

Found an aluminum cap, 2 ins. diameter, set on a No. 5 rebar. The cap is marked, "GWS 3, LS 7217, 2002." This monument was set for the Gateway Subdivision No. 3; that project was canceled before a plat was recorded.

A No. 5 rebar with an aluminum cap, 2 ins. diameter marked "WC-W R, ROW, L3, TR 3005, LS 7217, 2006". The monument marks the intersection of Course 4 of U.S.S. 1056 and the west edge of the North Tongass Highway right-of-way.

Existing power & telephone easement shown on Plat 2002-41, K.R.D. Its dimensions are extended at the northwest end to reflect the current resolution of the right-of-way, see Note 9 on Sheet 6.

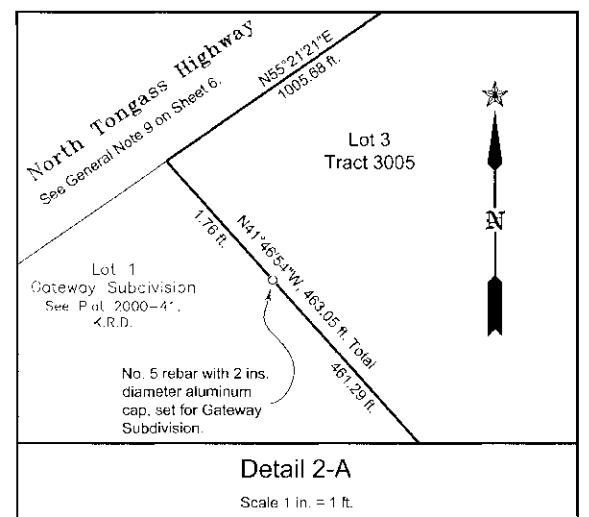
Existing power and telephone easement. See Plat 2000-41, K.R.D. Its dimensions are extended at the northwest end to reflect the current resolution of the right-of-way, see Note 9 on Sheet 6.

Existing drainage structure easement shown on Plat 2000-41, K.R.D.

Lot 3, Tract 3005
 Area = 272.82 Ac

Exhibit "A", Millsite of A.I.S. No. 1
 As Shown on Vol. 1 of Plats, Packet #52, K.R.D.
 Lot designations removed by this plat.

Cor. 4 of U.S.S. 1056;
 Cor. 2 of U.S.S. 2923 &
 Cor 9 of U.S.S. 1761



Line Table		
Line	Bearing	Length
L1	N55°23'39"E (N55°33'34"E)	14.94 ft. (14.93 ft.)
L2	N65°36'00"E (N55°46'10"E)	14.73 ft. (14.72 ft.)
L3	N56°01'10"E (N56°11'22"E)	14.55 ft. (14.54 ft.)
L4	N56°39'06"E (N56°49'10"E)	14.37 ft. (14.36 ft.)
L5	N57°29'25"E (N57°39'34"E)	14.19 ft. (14.18 ft.)
L6	N58°32'32"E (N58°42'34"E)	14.00 ft. (13.99 ft.)
L7	N59°48'00"E (N59°58'10"E)	13.82 ft. (13.81 ft.)
L8	N61°16'20"E (N61°26'22"E)	13.64 ft. (13.63 ft.)
L9	N62°56'51"E (N63°07'13"E)	13.46 ft. (13.45 ft.)
L10	N64°50'32"E (N65°00'32"E)	13.24 ft. (13.23 ft.)
Circular Curve		
L11	S27°15'43"E (S27°05'39"E)	13.24 ft. (13.23 ft.)
L12	S25°22'17"E (S25°12'19"E)	13.46 ft. (13.45 ft.)
L13	S23°41'42"E (S23°31'30"E)	13.64 ft. (13.63 ft.)
L14	S22°13'27"E (S22°03'18"E)	13.82 ft. (13.81 ft.)
L15	S20°57'44"E (S20°47'42"E)	14.00 ft. (13.99 ft.)
L16	S19°55'03"E (S19°44'42"E)	14.19 ft. (14.18 ft.)
L17	S19°04'14"E (S18°54'04"E)	14.37 ft. (14.36 ft.)
L18	S18°26'33"E (S18°16'30"E)	14.55 ft. (14.54 ft.)
L19	S18°01'36"E (S17°51'18"E)	14.73 ft. (14.72 ft.)
L20	S17°48'47"E (S17°38'41"E)	14.94 ft. (14.93 ft.)
L21	S17°46'41"E (S17°36'36"E)	15.15 ft. (15.14 ft.)
L22	S17°49'09"E (S17°39'00"E)	20.09 ft. (20.08 ft.)
L23	S18°03'29"E (S17°53'23"E)	20.33 ft. (20.32 ft.)
L24	S18°32'24"E (S18°22'12"E)	20.53 ft. (20.52 ft.)
L25	S19°15'31"E (S19°05'24"E)	20.74 ft. (20.73 ft.)
L26	S20°12'59"E (S20°15'15"E)	12.11 ft. (12.10 ft.)
2 in. aluminum cap on No. 5 rebar		

Line Table			Line Table		
Line	Bearing	Length	Line	Bearing	Length
2 in. aluminum cap on No. 5 rebar			Circular Curve		
L27	S20°12'59"E	8.84 ft.	L33	S44°40'21"E	22.03 ft.
L28	S21°25'11"E	21.16 ft.	L34	S46°48'49"E	21.78 ft.
L29	S22°51'30"E	21.37 ft.	L35	S48°45'10"E	21.58 ft.
L30	S24°32'18"E	21.58 ft.	L36	S50°25'53"E	21.37 ft.
L31	S26°27'33"E	21.78 ft.	L37	S51°52'24"E	21.16 ft.
L32	S28°37'04"E	22.02 ft.	L38	S53°04'12"E	20.95 ft.
Circular Curve			L39	S54°02'00"E	20.74 ft.
			L40	S54°45'01"E	20.53 ft.
			L41	S55°13'56"E	20.33 ft.
			L42	S55°28'21"E	20.09 ft.
2 in. aluminum cap on No. 5 rebar			2 in. aluminum cap on No. 5 rebar		

REVISION	DATE	DESCRIPTION	APPROVED

Ketchikan 2006-10
 Dates of Field Survey: Nov. 21, 2000 - March 9, 2006
 KETCHIKAN RECORDING DISTRICT
 DO NOT SCALE. USE DIMENSIONS WHENEVER POSSIBLE
Ward Cove - West Replat
 CLIENT: Ketchikan Gateway Borough
 344 Front Street
 Ketchikan, AK 99901

 R&M ENGINEERING-KETCHIKAN, INC. Phone: (907) 225-7917
 335 Christina Lake Road Ketchikan, Alaska 99901 Fax: (907) 225-3441
 DATE: Mar. 20, 2006 DRAWN BY: JPP JOB NO: 012310.65
 SCALE: 1 in. = 100 ft. APPROVED BY: JPP SHEET 2 OF 6

3/20/06

In Jan. 2000 we found and tied the GLO brass capped monument for Cor 2 of U.S.S. 1754, as set in 1927 in it's original position, verified with one of the remaining bearing trees.

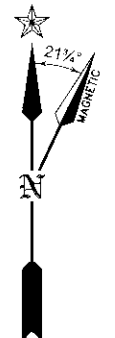
This monument was not originally placed on the boundary of U.S.S. 1754. The true position lies East, 14.87 ft. from the monument.

R: 230.44 ft.
L: 228.68 ft.
Δ: 56°51'33"
T: 124.75 ft.
Chord: S89°40'01"W
219.41 ft.

R: 2328.76 ft.
L: 590.89 ft.
Δ: 14°32'17"
T: 297.04 ft.
Chord: N69°14'10"E
569.31 ft.

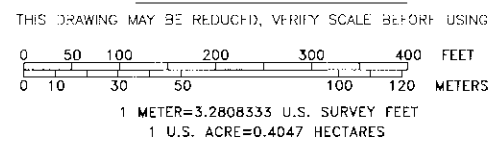
Found remains of original GLO monument, a rusted iron pipe, 1 in. diameter, filled with concrete, 1 ft. below the ground.

R: 290.44 ft.
L: 256.20 ft.
Δ: 50°32'27"
T: 137.11 ft.
Chord: N86°30'29"E
247.97 ft.



LEGEND
See Sheet 1 of 6

SCALE 1" = 100'

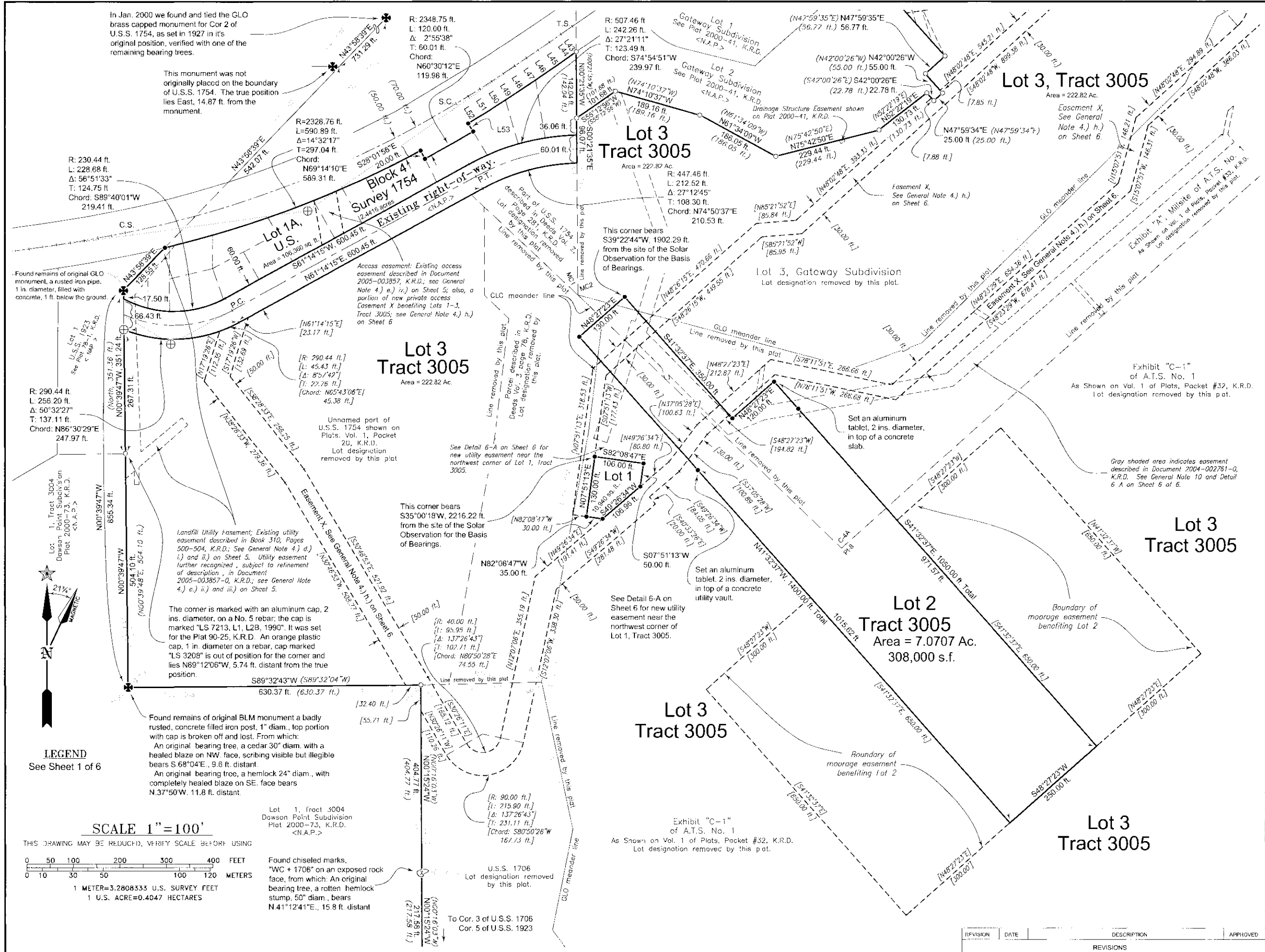


Found chiseled marks, "WC + 1706" on an exposed rock face, from which: An original bearing tree, a rotten hemlock stump, 50" diam., bears N41°12'41"E, 15.8 ft. distant

Lot 1, Tract 3004
Dawson Point Subdivision
Plat 2000-73, K.R.D.
<N.A.P.>

U.S.S. 1706
Lot designation removed by this plat.

To Cor. 3 of U.S.S. 1706
Cor. 5 of U.S.S. 1923

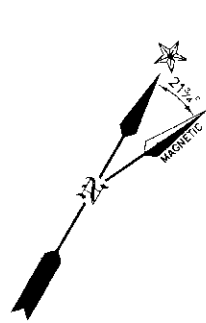


Line Table		
Line	Bearing	Length
Aluminum cap on No. 5 rebar		
L43	S54°53'58"W	5.45 ft.
L44	S55°21'17"W	30.10 ft.
L45	S55°30'25"W	30.16 ft.
L46	S55°44'04"W	30.23 ft.
L47	S56°02'06"W	30.30 ft.
L48	S56°24'39"W	30.36 ft.
L49	S56°51'56"W	30.43 ft.
L50	S57°23'34"W	30.49 ft.
L51	S57°59'46"W	30.56 ft.
L52	S58°40'37"W	30.61 ft.
L53	S30°57'27"E	20.00 ft.

Ketchikan 2006-10
 Dates of Field Survey: Nov. 21, 2000 - March 9, 2006
 KETCHIKAN RECORDING DISTRICT
 DO NOT SCALE, USE DIMENSIONS WHENEVER POSSIBLE
Ward Cove - West Replat
 CLIENT: Ketchikan Gateway Borough
 344 Front Street
 Ketchikan, AK 99901

 R&M ENGINEERING-KETCHIKAN, INC. Phone: (907) 225-7917
 355 Charlanna Lake Road Fax: (907) 225-3441
 Ketchikan, Alaska 99901
 DATE: Mar. 20, 2006 DRAWN BY: JPP JOB NO. 012310.65
 SCALE: 1 in. = 100 ft. APPRVD BY: JPP SHEET 3 OF 6
 REVISIONS

3/20/06



Refuge Cove

Lot 1, Tract 3004
Dawson Point Subdivision
Plat 2000-73, K.R.D.
<N.A.P.>

Dawson Point

Lot 2, Tract 3004
Dawson Point Subdivision
See Plat 2000-73, K.R.D.
<N.A.P.>

Lot 1, Tract 3004
Dawson Point Subdivision
Plat 2000-73, K.R.D.
<N.A.P.>

Found BLM brass cap, 2 1/2" diam., on an iron post, 1" diam. An original bearing tree, a hemlock 8" diam. with a healed blaze on NW face, scribing visible but illegible, bears S 25 1/2° E, 6.2 ft. distant.

In our work for the Dawson Point Subdivision in August 2000, we found a hemlock stump, 30 ins. diameter, blazed on the NW side and scribed "...C4 S17...BT", apparently set as an accessory in U.S.S. 1923. This does not match the description in the GLO Field Notes. No other evidence of the monument for WCC5 of U.S.S. 1923 was found. I was not able to resolve the problems with this evidence and apply it to a solution for the corner.

J.S.S. 1706
Lot designation removed by this plat.
N00°15'24"W (N00°16'03"W)
217.58 ft. (217.58 ft.)
357.78 ft. Total
(357.78 ft.)

A diligent search in August 2000 did not recover the chiseled marks that comprise the monument for MC 4, U.S.S. 1706.

(N39°01'46"W)
N39°01'06"W
46.85 ft.
(46.85 ft.)

(N00°13'59"W)
N00°14'37"E
20.23 ft.
(20.23 ft.)

U.S.C.&G.S. Triangulation Station "DECOY" 1951, not on the property line. "DECOY" bears S.13°34'52"W, 38.31 ft. from the nearest corner of Lot 3 along the meander line.

Found BLM brass cap, 2 1/2" diam., on an iron post, 1" diam.; grouted firmly into bedrock on the shore of Ward's Cove. An original bearing tree, a cedar snag 45 ins. diam. with a rotten and worm-eaten blaze on S face, bears N.15° E, 24.7 ft. distant.

Exhibit "C-1" of A.T.S. No. 1
As Shown on Vol. 1 of Plats, Packet #32, K.R.D.
Lot designation removed by this plat.

Outfall Easement: Existing easement for outfall described in Document 2005-003857-0, K.R.D.; see General Note 4.) c.) i) on Sheet 5. Outfall Easement area is subject to use restrictions as set forth in Document 2005-003857-0

Lot 3
Tract 3005
Area = 222.82 Ac.

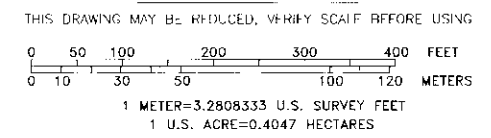
Tongass Narrows

Ward

Cove

Unsubdivided Tide and Submerged Lands
<N.A.P.>

SCALE 1" = 100'



LEGEND
See Sheet 1 of 6

Ketchikan 2006-10
Dates of Field Survey: Nov. 21, 2000 - March 9, 2006
KETCHIKAN RECORDING DISTRICT

DO NOT SCALE. USE DIMENSIONS WHENEVER POSSIBLE	
Ward Cove - West Replat	
CLIENT: Ketchikan Gateway Borough 344 Front Street Ketchikan, AK 99901	
R&M	
R&M ENGINEERING-KETCHIKAN, INC. Phone: (907) 225-7917 355 Carissima Lake Road Fax: (907) 225-3441 Ketchikan, Alaska 99901	
DATE: Mar. 20, 2006	DRAWN BY: JPP
SCALE: 1 in. = 100 ft.	APPROVED BY: JPP
JOB NO. 012310.65	
SHEET 4 OF 6	

REV	DATE	DESCRIPTION	APPROVED

3/20/06

GENERAL NOTES

1.) This plat alteration combines:

- a.) Lot 3 of the Gateway Subdivision (Plat 2000-41, K.R.D.);
- b.) The unnamed portion of U.S.S. 1862 that lies southwest of the N. Tongass Highway.
- c.) The two tracts of Exhibit "A", Millsite, A.T.S. 1 (Plats Vol. 1, Packet #32, K.R.D., the metes and bounds description for which is recorded at Deeds Book 11, Page 381, K.R.D.);
- d.) Exhibit "C-1", Tide and Submerged Lands On North Shore of Ward Cove, excluding Millsite, A.T.S. 1 (Plats Vol. 1, Packet #32, K.R.D., the metes and bounds description for which is recorded at Deeds Book 11, Page 381, K.R.D.);
- e.) U.S.S. 1706; and
- f.) Unsubdivided Remainder of U.S.S. 1754 lying south of an unnamed right-of-way and south of Block 4 (Plats Vol. 1, Packet 20, K.R.D.);

Then breaks this into three parcels, Lots 1, 2 and 3 of Tract 3005.

2.) It also combines Lots 1-12 of Block 4, U.S.S. 1754, as shown in Plats Vol. 1, Packet 20, K.R.D., into one parcel designated Lot 1-A, Block 4, U.S.S. 1754.

3.) Plat and deed references follow:

- a.) The plat and field notes of U.S.S. 1056 (H.E.S. 55), available from the Bureau of Land Management in Anchorage, AK.
- b.) The plat and field notes of U.S.S. 1706, available from the Bureau of Land Management in Anchorage, AK.
- c.) The plat and field notes of U.S.S. 1754, available from the Bureau of Land Management in Anchorage, AK.
- d.) The plat and field notes of U.S.S. 1923, available from the Bureau of Land Management in Anchorage, AK.
- e.) The plat and field notes of U.S.S. 1993, available from the Bureau of Land Management in Anchorage, AK.
- f.) The document recorded in Deeds, Book 3, Page 78, K.R.D.
- g.) The document recorded in Deeds, Book Z, Page 215, K.R.D. and corrected by the deed recorded in Deeds, Book Z, Page 281, K.R.D.
- h.) The plat of the Subdivision of U.S.S. 1754, filed in Plats Vol. 1, #20, K.R.D.
- i.) Alaska Tidelands Survey No. 1 (CR 74S 90E), according to the plat thereof recorded June 5, 1961 in K.R.D., Volume 1 of Plats at Packet No. 32, as K.R.D. Document No. 61-796, and the accompanying metes and bounds description set forth in Exhibit "A," Exhibit "C-1," and Exhibit "C-2" recorded May 5, 1961 in K.R.D., Deeds, Book 11, Page 381 as K.R.D. Document No 61-783 is hereinafter referred to as "ATS 1."
- j.) The plat of the Gateway Subdivision filed as Plat 2000-41, K.R.D.
- k.) The plat of the Dawson Point Subdivision filed as Plat 2000-73, K.R.D.

4.) All or portions of the lots established by this plat, to-wit, Lot 1, Tract 3005, Lot 2, Tract 3005, Lot 3, Tract 3005 and Lot 1A, Block 4, U.S. Survey 1754, are subject to several restrictions, easements, covenants or a combination thereof. These include the following which are incorporated by reference as if they were fully set forth here:

a.) Environmental Protection Easement and Declaration of Restrictive Covenants entered into by and between Ketchikan Pulp Company, Grantor, and the State of Alaska, Department of Natural Resources, Grantee, for use by the State of Alaska, Department of Environmental Conservation, according to the terms and provisions thereof, dated October 28, 1999 and recorded October 28, 1999 in K.R.D. Book 305 at Page 772 ("October 1999 Easement and Covenants"). The terms thereof include, without limitation, the requirement that certain language be included in any conveyance documents. The October 1999 Easement and Covenants apply to:

- i.) All of Lot 1, Tract 3005 including, without limitation, the portions previously within Exhibit C-1 of ATS 1;
- ii.) All of Lot 2, Tract 3005, including, without limitation, the portions previously within Exhibit A, Millsite, and Exhibit C-1 of ATS 1, the portions previously within U.S. Survey 1754 and the portions previously within Lot 3, Gateway Subdivision;
- iii.) All of Lot 3, Tract 3005, including, without limitation, the portions previously within Exhibit A, Millsite, and Exhibit C-1 of ATS 1, the portions previously within U.S. Survey 1706, U.S. Survey 1754, and U.S. Survey 1862, and the portions previously within Lot 3, Gateway Subdivision; and
- iv.) All of Lot 1A, Block 4, U.S. Survey 1754 including, without limitation, the portions previously within U.S. Survey 1754.

b.) Environmental Easement and Declaration of Covenants ("2003 Easement and Covenants") entered into by and between Ketchikan Gateway Borough, a municipal corporation ("Borough"), Ketchikan Pulp Company, a Washington corporation, ("KPC") and Gateway Forest Products, Inc., an Alaska corporation, according to the terms and provisions thereof, dated July 14, 2003 and recorded July 18, 2003 under K.R.D. Document No. 2003-004128-0.

Within the 2003 Easement and Covenants, the covenant provisions thereof, which are set forth in, collectively, the Recitals, the provisions of Section I, Definitions, Section II, Parcels to Which the Covenants Shall Apply, Section III, Covenants, Section V, Effective Date, and the other sections thereafter, apply to:

i.) Those portions of Lot 2, Tract 3005 previously within U.S. Survey 1754; and,

ii.) Those portions of Lot 3, Tract 3005 previously within U.S. Survey 1706 and the portions previously within the unsubdivided remainder, U.S. Survey 1754, according to the subdivision plat thereof recorded March 8, 1956 in Volume 1 of Plats at Packet 20 (hereinafter, "Unsubdivided Remainder, U.S. Survey 1754");

Within the 2003 Easement and Covenants, the easement provisions thereof, which are set forth in, collectively, the Recitals, the provisions of Section I, Definitions, the provisions of Section IV, Easement, Section V, Effective Date, and the other sections thereafter, apply as set forth in Notes 4.b.iii through 4.b.vii., below; activities for which said easement interest is granted include, without limitation, access to

the Ward Cove landfills located upon Lot 2, Tract 3004, according to the plat filed November 28, 2000 as Plat 2000-73 (hereinafter, "Ward Cove Landfills"); said easement provisions apply to:

iii.) All of Lot 1, Tract 3005 including, without limitation, the portions previously within Exhibit C-1 of ATS 1;

iv.) All of Lot 2, Tract 3005, including, without limitation, the portions previously within Exhibit A, Millsite, and Exhibit C-1 of ATS 1, the portions previously within U.S. Survey 1754 and the portions previously within Lot 3, Gateway Subdivision;

v.) All of Lot 3, Tract 3005, including, without limitation, the portions previously within Exhibit A, Millsite, and Exhibit C-1 of ATS 1, the portions previously within U.S. Survey 1706, U.S. Survey 1754, and U.S. Survey 1862, and the portions previously within Lot 3, Gateway Subdivision;

vi.) All of Lot 1A, Block 4, U.S. Survey 1754 including, without limitation, the portions previously within U.S. Survey 1754; and

vii.) In addition to the parcels specified in Section IV.A.1 of the 2003 Easements and Covenants, KPC's right of access with respect to the lots established by this plat shall also include access as set forth in Section IV.A.3 thereof through and across all access easements which have been or hereafter are established by, or reflected in, any plats of what previously constituted U.S. Survey 1056 or ATS 1, whether those access easements are designated as private access easements or otherwise.

c.) Environmental Easement and Declaration of Covenants ("2004 Easement and Covenants") entered into by and between the Borough and KPC, according to the terms and provisions thereof, dated July 14, 2004 and recorded July 15, 2004 under K.R.D. Document No. 2004-002967-0.

Within the 2004 Easement and Covenants, the covenant provisions thereof, which are set forth in, collectively, the Recitals, the provisions of Section I, Definitions, Section II, Parcels to Which the Covenants Shall Apply, Section III, Covenants, Section V, Effective Date, and the other sections thereafter, apply to:

i.) All of Lot 1, Tract 3005 including, without limitation, the portions previously within Exhibit C-1 of ATS 1;

ii.) Those portions of Lot 2, Tract 3005, previously within Exhibit A, Millsite, and Exhibit C-1 of ATS 1, and the portions previously within Lot 3, Gateway Subdivision; and,

iii.) Those portions of Lot 3, Tract 3005 previously within Exhibit A, Millsite, and Exhibit C-1 of ATS 1, the portions previously within U.S. Survey 1862, and the portions previously within Lot 3, Gateway Subdivision.

Within the 2004 Easement and Covenants, the easement provisions thereof, which are set forth, collectively, in the Recitals, the provisions of Section I, Definitions, the provisions of Section IV, Easement, Section V, Effective Date, and the other sections thereafter, apply as set forth in Notes 4.c.iv through 4.c.vii., below; activities for which said easement interest is granted include, without limitation, access to the Ward Cove Landfills located upon Lot 2, Tract 3004; said easement provisions apply to:

iv.) All of Lot 1, Tract 3005 including, without limitation, the portions previously within Exhibit C-1 of ATS 1;

v.) Those portions of Lot 2, Tract 3005, previously within Exhibit A, Millsite, and Exhibit C-1 of ATS 1, and the portions previously within Lot 3, Gateway Subdivision;

vi.) Those portions of Lot 3, Tract 3005 previously within Exhibit A, Millsite, and Exhibit C-1 of ATS 1, the portions previously within U.S. Survey 1862, and the portions previously within Lot 3, Gateway Subdivision; and,

vii.) In addition to the parcels specified in Section IV.A.1 of the 2004 Easements and Covenants, KPC's right of access with respect to the lots established by this plat shall also include access as set forth in Section IV.A.3 thereof, through and across all access easements which have been or hereafter are established by, or reflected in, any plats of what previously constituted U.S. Survey 1056 or ATS 1, whether those access easements are designated as private access easements or otherwise.

d.) Easement for Utility Line ("KPU Utility Easement") entered into by and between Gateway Forest Products, Inc., as Grantor and the City of Ketchikan d.b.a. Ketchikan Public Utilities, Grantee, according to the terms and provisions thereof, dated February 22, 2000 and recorded March 16, 2000 in Book 310 at Page 500.

With respect to the lots established by this plat, provisions of the KPU Utility Easement apply to:

i.) Within Lot 1A, Block 4, U.S. Survey 1754, those areas described in the KPU Utility Easement, which are shown on this plat labeled, "Landfill Utility Easement;" and,

ii.) Within Lot 3, Tract 3005, those portions of what constituted the Unsubdivided Remainder, U.S. Survey 1754 that are described in the KPU Utility Easement, which are also shown on this plat labeled, "Landfill Utility Easement."

e.) Consolidated Easement for Landfill ("Landfill Easement") entered into by and between the Borough and KPC, according to the terms and provisions thereof, dated September 23rd, 2005 and recorded September 29, 2005 under K.R.D. Document No. 2005-003857-0. Various provisions of the Landfill Easement apply to portions of the lots established by this plat as follows:

i.) Within Lot 3, Tract 3005, those portions of what previously constituted Exhibit C-1 of ATS 1 that are described in the Landfill Easement, which are shown on this plat labeled, "Outfall Easement." The areas of Lot 3 Tract 3005 labeled "Outfall Easement" are also subject to the use restrictions set forth in the Landfill Easement.

ii.) Within Lot 1A, Block 4, U.S. Survey 1754, those areas described in the KPU Utility Easement, which are shown on this plat labeled, "Landfill Utility Easement;" and,

iii.) Within Lot 3, Tract 3005, those portions of what constituted the Unsubdivided Remainder, U.S. Survey 1754 that are described in the KPU Utility Easement, which are also shown on this plat labeled, "Landfill Utility Easement."

iv.) Within Lot 1A, Block 4, U.S. Survey 1754, those portions of what previously constituted Block 4, U.S. Survey 1754 that are described in the Landfill Easement, and which are shown on this plat labeled, "Access Easement;" and,

v.) This plat shows an unnamed right-of-way situated between what was previously Block 4, U.S. Survey 1754 and the Unsubdivided Remainder, U.S. Survey 1754, which is labeled, "Existing Right-Of-Way." It was established by a dedication of streets in the subdivision plat of U.S. Survey 1754 recorded in Volume 1 of Plats at Packet 20. Referencing the parcels established by this plat, the Existing Right-Of-Way is situated between Lot 3, Tract 3005 and Lot 1A, Block 4, U.S. Survey 1754. To the extent that the Existing Right-Of-Way may be vacated and conveyed to the owner of Lot 1A, Block 4, U.S. Survey 1754 (previously Block 4, U.S. Survey 1754), then as set forth in the Landfill Easement, that area will become subject to applicable provisions of the Landfill Easement. To the extent that the Existing Right-Of-Way may be vacated and conveyed to the owner of Lot 3, Tract 3005 (previously the Unsubdivided Remainder, U.S. Survey 1754), then as set forth in the Landfill Easement, that area will also become subject to applicable provisions of the Landfill Easement.

f.) CERCLA Remedial Design/Remedial Action Consent Decree ("Consent Decree"), entered November 22, 2000 in the United States District Court for the District of Alaska, Case no. AN-0225CV (JKS). The Consent Decree applies to:

i.) All of Lot 1, Tract 3005 including, without limitation, the portions previously within Exhibit C-1 of ATS 1, all of which is within the Uplands Operable Unit of the Site, as defined in the Consent Decree;

ii.) All of Lot 2, Tract 3005, including, without limitation, the portions previously within Exhibit A, Millsite, and Exhibit C-1 of ATS 1, the portions previously within U.S. Survey 1754 and the portions previously within Lot 3, Gateway Subdivision; some portions of Lot 2, Tract 3005 are within the Uplands Operable Unit of the Site, and the remainder is within the Marine Operable Unit of the Site, as those terms are defined in the Consent Decree;

iii.) All of Lot 3, Tract 3005, including, without limitation, the portions previously within Exhibit A, Millsite, and Exhibit C-1 of ATS 1, the portions previously within U.S. Survey 1706, U.S. Survey 1754, and U.S. Survey 1862, and the portions previously within Lot 3, Gateway Subdivision; some portions of Lot 3, Tract 3005 are within the Uplands Operable Unit of the Site, and the remainder is within the Marine Operable Unit of the Site, as those terms are defined in the Consent Decree and;

iv.) All of Lot 1A, Block 4, U.S. Survey 1754 including, without limitation, the portions previously within U.S. Survey 1754; all of which is within the Uplands Operable Unit of the Site, as defined in the Consent Decree.

(Continued on Sheet 6)

Ketchikan 2006-10
KETCHIKAN RECORDING DISTRICT

DO NOT SCALE, USE DIMENSIONS WHENEVER POSSIBLE

Ward Cove - West Replat

CLIENT: Ketchikan Gateway Borough
344 Front Street
Ketchikan, AK 99901

RSM

R&M ENGINEERING-KETCHIKAN, INC. Phone: (907) 225-7917
355 Carlotta Lake Road Fax: (907) 225-3441
Ketchikan, Alaska 99901

DATE: Mar 20, 2006 DRAWN BY: JPP JOB NO. 012310.65

SCALE: None APPRVD BY: *JPP* SHEET 5 OF 6

REVISION	DATE	DESCRIPTION	APPROVED
REVISIONS			

3/20/06

GENERAL NOTES

(Continued from Sheet 5)

4.) g.) Agreement entered into July 14, 2003 ("2003 Agreement") by and between the Borough, Gateway Forest Products, Inc. and KPC. The terms of the 2003 Agreement include, without limitation, a requirement set forth in Section 11 (h) that specific language be included in any conveyance of an interest in the "Borough Property" as defined therein. Section 11(h) provides in part:

The Borough agrees that it shall contractually require its successors, heirs, and assigns to affirmatively accept and be bound by the terms of this Agreement. To that end, the Borough shall include, in any lease, sale, or conveyance of any interest in all or part of the Borough Property and shall contractually require any successor, heir, or assign to impose such language in future leases, including amendments thereto, sales, and conveyances: [the required language then set forth.]

By reason of the parcels designated therein as "Borough Property," the 2003 Agreement applies to:

- i.) All of Lot 1, Tract 3005 including, without limitation, the portions previously within Exhibit C-1 of ATS 1;
- ii.) All of Lot 2, Tract 3005, including, without limitation, the portions previously within Exhibit A, Millsite, and Exhibit C-1 of ATS 1, the portions previously within U.S. Survey 1754 and the portions previously within Lot 3, Gateway Subdivision; and,
- iii.) All of Lot 3, Tract 3005, including, without limitation, the portions previously within Exhibit A, Millsite, and Exhibit C-1 of ATS 1, the portions previously within U.S. Survey 1706, U.S. Survey 1754, and U.S. Survey 1862, and the portions previously within Lot 3, Gateway Subdivision.

h.) Easement X is a private access and utility easement benefiting Lot 1, Tract 3005 and also Lot 2, Tract 3005. Under the easement provisions referenced in Note 4.b.vii. and 4.c.vii, above KPC's right of access shall also include access through and across these access easements.

5.) The foregoing notes do not address whether and how these and other restrictions, easements, covenants and similar matters may apply to adjacent or nearby lots or other parcels which are not affected by this plat, designated "N.A.P." With respect to the lots established by this plat, the foregoing notes provide additional notice of the matters referenced, and neither what is set forth in, nor anything that may be omitted from, these notes is intended to limit or impair restrictions, easements, covenants or similar matters that are otherwise applicable, or the terms or provisions thereof.

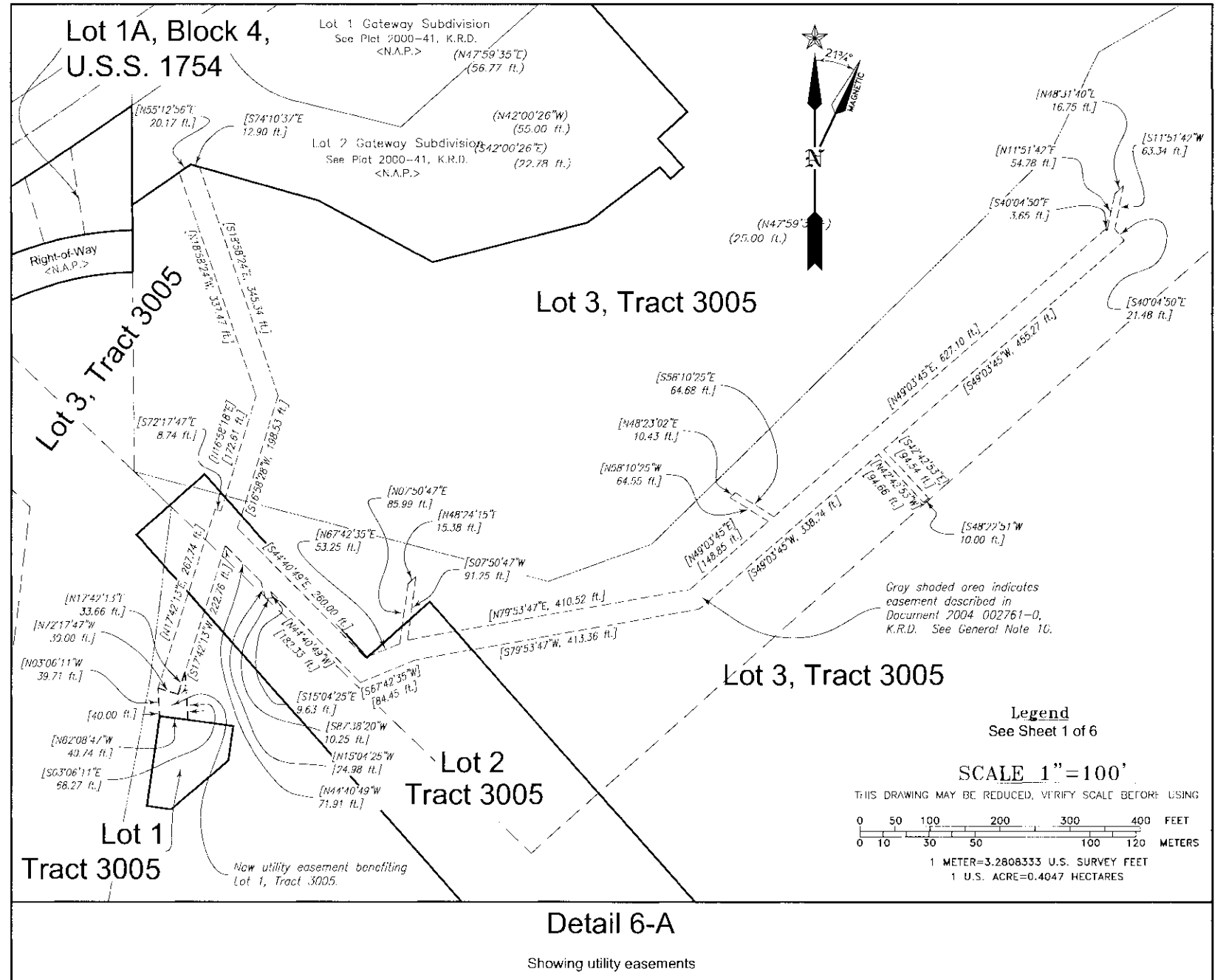
6.) The Alaska Department of Environmental Conservation has suspended their program of subdivision plan review at the time of this survey. Contact ADEC for information about their requirements for development of lots within this subdivision.

7.) There are new easements created by this plat for: sanitary sewer, storm drains, potable water, non-potable water, electric power and telecommunications. These easements are 20 feet wide centered on the actual structures that are now in place for these uses. The structures are buried and not visible at this time. These easements are held jointly by the owners of Lots 1, 2 and 3 of Tract 1005 as shown on this plat. Lot 1A, Block 4, U.S. 1754 is neither encumbered by nor benefits from these easements.

8.) In the above notes "K.R.D." means Ketchikan Recording District.

9.) The resolution of the North Tongass right-of-way shown on this plat is different from the resolution shown on Plat 2000-41, K.R.D. The resolution shown on this plat relies on ties to monumented corners on the right-of-way at the Revilla Road intersection that were not available for Plat 2000-41. This new, more thorough, resolution moves the right-of-way boundary northwest and makes some of the monumented corners along the right-of-way from Plat 2000-41 witness corners.

10.) The description of the easement for utility line described in Exhibit A of Document 2004-002761-0 is reduced to the point of being illegible in the recorded documents. I researched electronic and paper documents of the City of Ketchikan Dept. of Public Works and was able to find the drawing that Exhibit A was prepared from. Using those documents, I was able to determine the boundaries of the utility line easement. Detail 6-A, at far right, shows the boundaries of the utility easement.



Owner's Certificate

I hereby certify that I am the owner of:

- a.) Lots 1-3 of the Gateway Subdivision
- b.) the unnamd portion of U.S.S. 1862 that lies southwest of the N. Tongass Highway
- c.) Exhibit "A", Millsite and Exhibit "C-1" of A.T.S. 1
- d.) U.S.S. 1706
- e.) the unsubsided remainder of U.S.S. 1754 lying south of an unnamed right-of-way
- f.) Lots 1-12 of Block 4, U.S.S. 1754

all shown hereon and that I hereby approve the plat of this survey.

Roy Edwards
Borough Manager

3-20-06
Date

Notary's Acknowledgment

State of Alaska)
) ss
First Judicial District)

The foregoing instrument was acknowledged before me this 20 day of March, 2006 by:

Roy Edwards
Hariett J. Edwards

Notary Public in and for Alaska
my commission expires: 01/27/2010



Certificate of Approval by the Platting Board

I hereby certify that the subdivision shown hereon has been found to comply with the subdivision regulations of the Ketchikan Gateway Borough, and that said plat has been approved by the board by plat resolution No. 3133A dated Feb. 14, 2006 and that the plat shown hereon has been approved for recording in the office of the district recorder, First Judicial District, Ketchikan, Alaska.

[Signature] 3-21-06
Platting Board Chairman
[Signature] 3-21-06
Planning Department Official
[Signature] 3/22/06
Director of Administrative Services
[Signature] 3-21-06
KPU Engineering Manager
[Signature] 3-22-06
Borough Engineer

Certificate of Payment of Taxes

I hereby certify that, to the best of my knowledge, all past and current local property taxes and other charges assessed against the property described hereon are:

paid in full:
exempt:
[Signature] 3/20/06
Director of Administrative Services
Ketchikan Gateway Borough

2006-10
Ketchikan RECORDS
DATE: March 24 - 06
TIME: 9:22 A
FILED BY: KGB
ADDRESS: 344 Front St
Ketchikan, AK 99901

KETCHIKAN RECORDING DISTRICT	
DO NOT SCALE. USE DIMENSIONS WHENEVER POSSIBLE.	
Ward Cove - West Replat	
CLIENT:	Ketchikan Gateway Borough 344 Front Street Ketchikan, AK 99901
RSM	
RAM ENGINEERING-KETCHIKAN, INC. Phone: (907) 225-7917 355 Carlanna Lake Road Fax: (907) 225-3441 Ketchikan, Alaska 99901	
DATE:	MAR 20, 2006
DRAWN BY:	JPP
JOB NO.:	012310.65
SCALE:	1 in. = 100 ft.
APPROVED BY:	<i>[Signature]</i>
SHEET 6 OF 6	

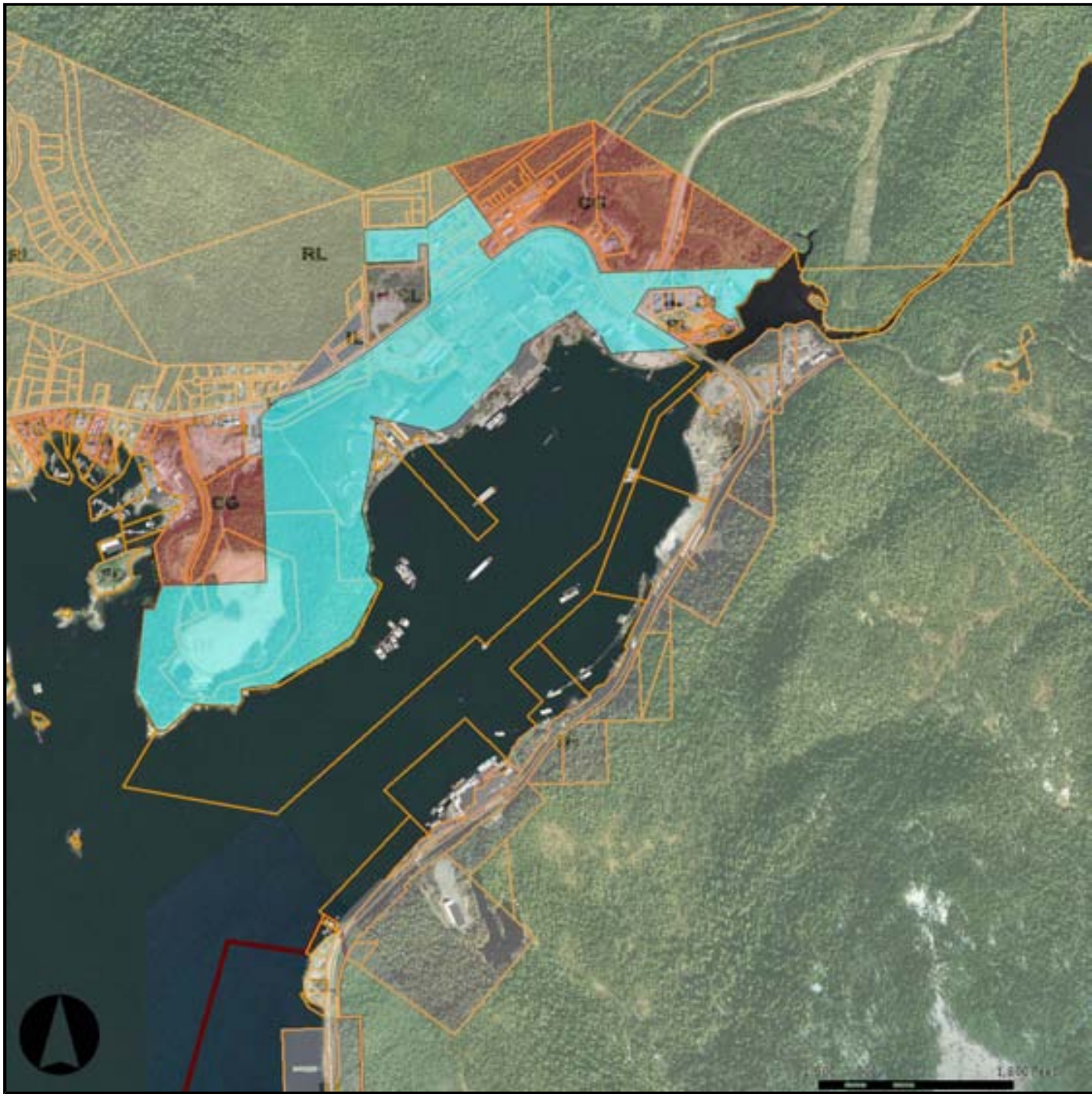
REVISION	DATE	DESCRIPTION	APPROVED

3/20/06

Attachment 7

Zoning Areas and Regulations

Industrial Zoned Area - KPC

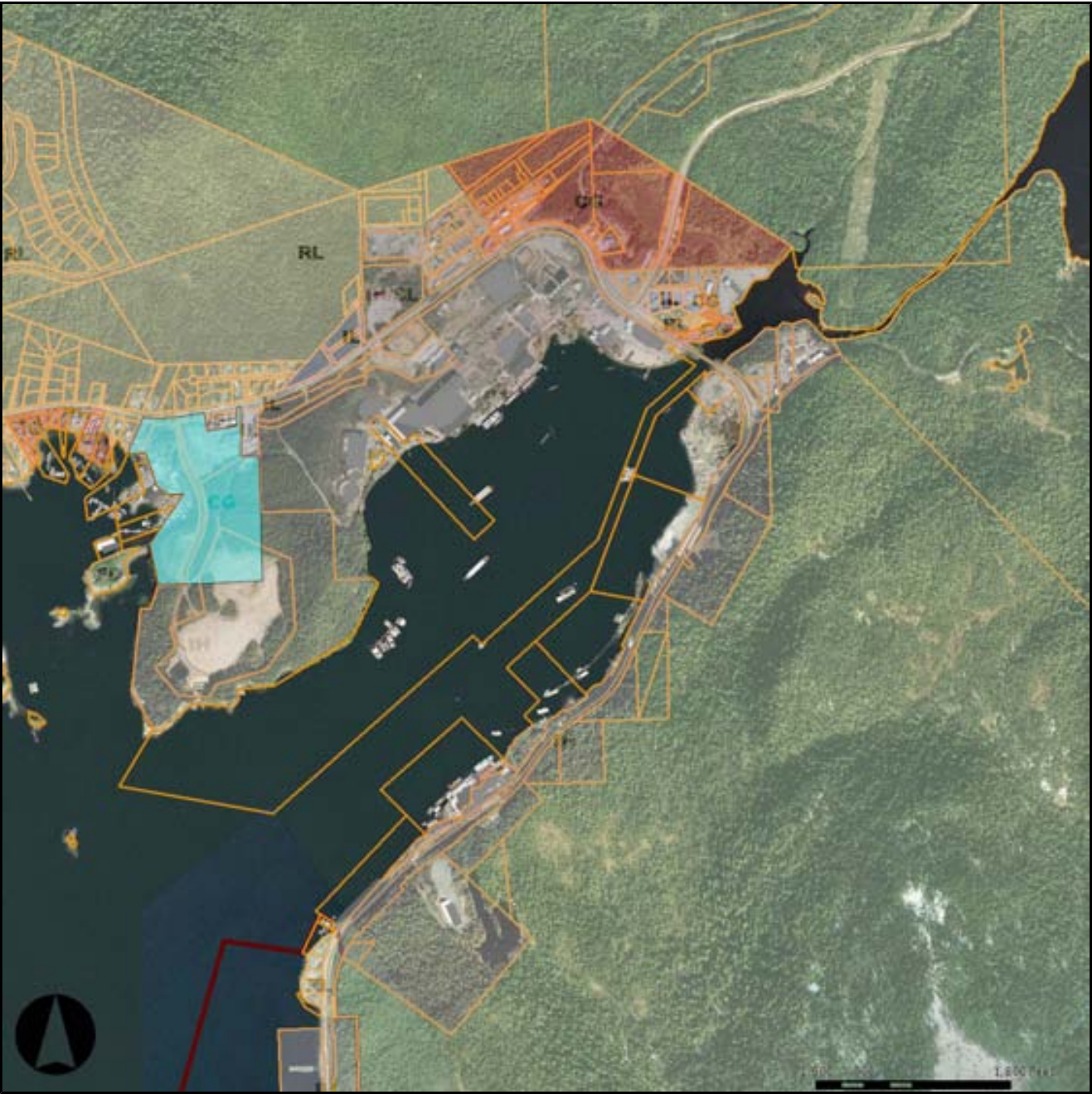


IH (ZONING) 3088912.158, 1311175.13 (1)

IH (ZONING) (1)

Object ID	ZONE_TYPE	ZONE_DIST	REZONE	ZONE_CLASS	SL_OVERLAY	MOBIL_OVER	OVERLAY	Shape.area	Shape.len	Display Field
187	IH	IH		INDUSTRIAL	NL			6615942.177255	22374.93043	IH

Commercial Zoned Area - KPC

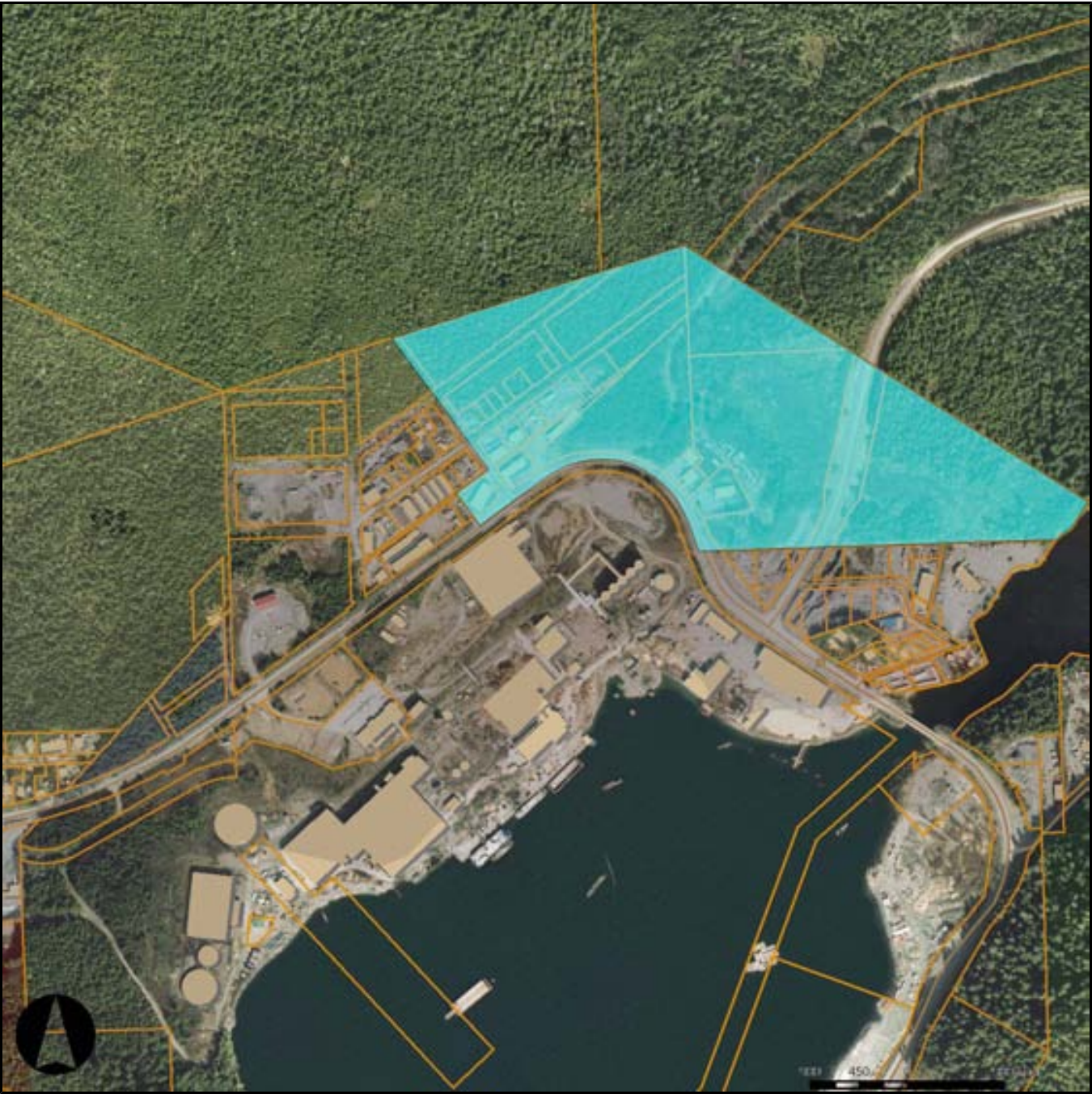


CG (ZONING) 3086641.324, 1309459.852 (1)

CG (ZONING) (1)

Object ID	ZONE_TYPE	ZONE_DIST	REZONE	ZONE_CLASS	SL_OVERLAY	MOBIL_OVER	OVERLAY	Shape.area	Shape.len	Display Field
145	CG	CG		COMMERCIAL	NL			1344527.474186	5868.649111	CG

Commercial Zoned Area - KPC



CG (ZONING) 3090024.22, 1312315.889 (1)

CG (ZONING) (1)

Object ID	ZONE_TYPE	ZONE_DIST	REZONE	ZONE_CLASS	SL_OVERLAY	MOBIL_OVER	OVERLAY	Shape.area	Shape.len	Display Field
248	CG	CG		COMMERCIAL	NL			2340389.050376	7704.481958	CG

Future Development Zoned Area - KPC



FD (ZONING) 3090138.752, 1313066.977 (1)

FD (ZONING) (1)

Object ID	ZONE_TYPE	ZONE_DIST	REZONE	ZONE_CLASS	SL_OVERLAY	MOBIL_OVER	OVERLAY	Shape.area	Shape.len	Display Field
222	FD	FD		FUTURE DEV.	NL			3375427546.45092	439596.636001	FD

60.10.070. IH Zone, Heavy Industrial Zone.

(A) *Uses permitted:*

(1) *Principal uses:*

- (a) All principal uses permitted in the IL Zone except multifamily dwellings and rooming and boarding houses provided that dormitories for persons employed on the premises and homes of a caretaker or watchman employed on the premises are permitted;
- (b) Automobile, airplane and truck assembling;
- (c) Airplane, rail and marine shipping terminals;
- (d) Food processing plants;
- (e) Wood processing plants;
- (f) Auto wrecking and junk yards provided that such uses be screened from all abutting major thoroughfares or collector streets by six (6) foot high sight-obscuring fences of good appearance acceptable to the planning and zoning commission;
- (g) Manufacturing plants using heavy machinery;
- (h) Coal or coke yards;
- (i) Hot-mix asphalt and concrete batch plants.
- (j) Fuel distribution facilities subject to continued compliance with relevant fire prevention codes and other applicable laws and regulations.

(2) The conditional uses which may be permitted by the planning commission as provided in section 60.10.110, are:

- (a) Mobile buildings as office, commercial or watchman's quarters subject to the requirements listed in section 60.10.100;
- (b) Mobile building sales lots subject to the requirements listed in section 60.10.100.
- (c) Boarding kennels subject to the requirements listed in section 60.10.113.
- (d) Commercial shopping centers subject to the requirements listed in 60.10.080(N).
- (e) Telecommunications facilities subject to the requirements of 60.10.117(A).

(3) Accessory uses which are clearly incidental to permitted uses and which will not create a nuisance or hazard including signs as permitted in section 60.10.090 and telecommunications antennas as set forth in section 60.10.117.

(4) All uses not otherwise prohibited by law.

(B) *Uses prohibited:*

(1) Any use or structure not listed under permitted principal or accessory uses.

(C) *Development requirements:*

(1) Minimum lot width: Fifty (50) feet.

(2) Lot area, yard, coverage and height requirements: None, except that whenever an IH Zone abuts or is separated by an alley from a residential zone, a fifty (50) foot wide buffer shall be provided, or where necessary be re-established, between the use or structure in the IH zone and the boundary of the residential zone.

(3) Off-street parking and loading shall be provided as required in section 60.10.085.

(Ord. No. 34, 5-27-68; Code 1969, §49.15.140; Ord. No. 368, §§16, 17, 7-21-80; Ord. No. 482, §1, 11-21-83; Ord. No. 939, §7, 5-16-94; Ord. No. 1031, §7, 5-19-97; Ord. No. 1079, §10, 11-16-98; Ord. No. 1091, §6, 3-1-99; Ord. No. 1093, §2, 5-17-99; Ord. No. 1150, §1, 9-18-00; Ord. No. 1294, §1, 2-2-04; Ord. No. 1398, §10, 7-24-06)

60.10.060. CG Zone. General Commercial Zone.

(A) *Uses permitted:*

(1) *Principle uses:*

- (a) All principal uses permitted in the CC Zone;
- (b) Gasoline service stations;
- (c) Automotive sales agencies;
- (d) Laundromats and bakeries;
- (e) Public and private off-street parking lots;
- (f) Drive-in businesses;
- (g) One (1) and two (2) family dwellings, provided that such uses shall be conducted on floors other than the ground floor except where the ground floor elevation differs from the elevation of the nearest adjacent improved right-of-way by greater than ten (10) feet. In cases where residential use is allowed as the sole use of the property, the development requirements of the medium density residential zone, 60.10.040(D) shall apply.

(2) Accessory uses which are clearly incidental and permitted uses and which will not create a nuisance or hazard, including signs as set forth in section 60.10.090 and telecommunications antennas as set forth in section 60.10.117.

(3) The following conditional uses may be permitted by the planning commission to the extent and in the manner provided in section 60.10.110 of the KGB Code:

- (a) All tax-exempt uses, subject to the requirements listed in section 60.10.080(A);
- (b) Manufacturing, fabricating, assembling, enclosed storage, and repairing, including automotive repair, provided that such uses meet development requirements (C)(1) through (C)(11) of the IL Zone;
- (c) Boarding kennels subject to the requirements listed in section 60.10.113.
- (d) Heliports and helistops;
- (e) Mobile buildings as office, commercial or watchman's quarters subject to the requirements listed in section 60.10.100;
- (f) Travel trailer parks subject to the requirements listed in section 60.10.100;

- (g) Mobile building sales lots subject to the requirements listed in section 60.10.100.
- (h) Small scale food and seafood processing operations as defined in section 60.10.140.
- (i) Veterinary clinics;
- (j) Commercial shopping centers subject to the requirements listed in 60.10.080(N).
- (k) Telecommunications facilities subject to the requirements of 60.10.117(A).

(B) *Uses prohibited:*

- (1) Any use or structure not listed under permitted principal, accessory and conditional uses.

(C) *Development requirements:*

- (1) Minimum lot width: Fifty (50) feet.
- (2) Lot area, yard and coverage requirements: None except as stated in section 60.10.080.
- (3) Maximum height of all structures: Fifty (50) feet measured as prescribed under definitions for maximum structure height or maximum building height and grade, as applicable.
- (4) Off-street parking and loading space required and shall be provided as required in section 60.10.085.
- (5) All open storage shall be enclosed by an eight (8) foot high fence.
- (6) Whenever a CG Zone abuts or is separated by an alley from a residential zone, the use or building in the CG Zone shall be screened by a sight-obscuring fence or hedge.

(Code 1969, §49.15.120; Ord. No. 64, 5-4-70; Ord. No. 136, §3, 8-20-73; Ord. No. 368, §14, 7-21-80; Ord. No. 414, §1, 5-3-82; Ord. No. 761, §9, 9-4-90; Ord. No. 939, §5, 5-16-94; Ord. No. 1031, §5, 5-19-97; Ord. No. 1041, §2, 9-2-97; Ord. No. 1079, §§6, 7, 11-16-98; Ord. No. 1089, §9, 2-16-99; Ord. No. 1091, §4, 3-1-99; Ord. No. 1294, §1, 2-2-04; Ord. No. 1391, §1, 4-17-06; Ord. No. 1398, §8, 7-24-06)

O.B.A.—Variances, 73-16.

60.10.030. FD Zone. Future Development Zone.

(A) *Uses permitted:*

(1) *Principal uses:*

- (a) Watershed reserves and wildlife preserves;
- (b) Campgrounds, hunting and fishing areas, skiing areas and other developments for outdoor recreation;
- (c) Forest reserves and agriculture;
- (d) Logging, mining and extraction of natural resources subject to the development requirements stated herein;
- (e) One (1) family dwellings, subject to the development requirements stated herein;
- (f) Hotels and lodges.
- (g) Temporary uses and buildings subject to the requirements listed in section 60.10.107.

(2) *Accessory uses:*

- (a) Structures and uses which are necessary to conducting permitted principal uses.
- (b) Telecommunications antennas which are attached to a permitted structure and which will not create a nuisance or hazard as set forth in 60.10.117.

(3) *[Conditional uses:]* The conditional uses which may be permitted by action of the planning commission as provided in section 60.10.110, are:

- (a) Travel trailer parks subject to the requirements listed in section 60.10.100;
- (b) Cottage industries subject to the requirements listed in section 60.10.074;
- (c) Storage of explosives, subject to compliance with all applicable local, state and federal laws and regulations.
- (d) Telecommunications facilities subject to the requirements of 60.10.117(A).

(B) *Uses prohibited:*

- (1) Any use or structures not listed under permitted principal and accessory uses.

(C) *Development requirements:*

- (1) For all logging, mining and similar industrial extractive activities, a strip of uncleared land at least one hundred (100) feet wide shall be provided between such uses and all public rights-of-way and all adjoining boundaries of residential zones or recreational areas.
- (2) For all cabins and similar residential structures permitted in this zone the development requirements shall be as stated in section 60.10.033(C) of the RS Zone.

(Code 1969, §49.15.060; Ord. No. 341, §2, 9-4-79; Ord. No. 368, §6, 7-21-80; Ord. No. 639, §4, 12-21-87; Ord. No. 716, §1, 11-20-89; Ord. No. 743, §§1, 2, 6-4-90; Ord. No. 939, §2, 5-16-94; Ord. No. 1031, §2, 5-19-97; Ord. No. 1294, §1, 2-2-04; Ord. No. 1398, §1, 7-24-06)

60.10.065. II Zone. Light Industrial Zone.

(A) *Uses permitted:*

(1) *Principal uses:*

- (a) All principal uses permitted in the CG Zone, except one (1) and two (2) family dwellings;
- (b) Enclosed storage yards and contractors' yards except for auto wrecking yards and junkyards;
- (c) Light manufacturing, fabricating, assembling and storage uses of a character that meets the development requirements listed below;
- (d) Automotive repair;
- (e) Bus and trucking terminals;
- (f) Veterinary clinics;
- (g) Dormitories for persons employed on the premises or dwellings for a caretaker or a watchman.

(2) The conditional uses which may be permitted by the planning commission to the extent and in the manner as provided in section 60.10.110 of the KGB Code:

- (a) All tax-exempt uses subject to the requirements listed in section 60.10.080(A);
- (b) Mobile buildings as office, commercial or watchman's quarters subject to the requirements listed in section 60.10.100;
- (c) Mobile building sales lots subject to the requirements listed in section 60.10.100;
- (d) Small scale food and seafood processing operations as defined in section 60.10.140;
- (e) Boarding kennels subject to the requirements listed in section 60.10.113;
- (f) Commercial shopping centers subject to the requirements listed in 60.10.080(N).
- (g) Fuel distribution facilities subject to continued compliance with relevant fire prevention codes and other applicable laws and regulations.
- (h) Telecommunications facilities subject to the requirements of 60.10.117(A).

(3) Accessory uses which are clearly incidental to permitted uses and which will not create a nuisance or hazard, including signs as set forth in section 60.10.090 and

telecommunications antennas as set forth in section 60.10.117.

(B) *Uses prohibited:* Any use or structure not listed under permitted principal or accessory uses.

(C) *Development requirements:*

(1) *Noise limitation:* In all IL Zones the noise emanating from the use of property shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness. The maximum permissible sound pressure level, measured at the boundary line between the IL Zone and any residential zone shall be no greater than the following between the hours of 7:00 p.m. and 7:00 a.m.:

<i>Frequency Band Cycles Per Second</i>	<i>Sound Pressure Level Decibels RE 0.0002 Dynes/cm²</i>
20—75	69
75—150	54
150—300	47
300—600	41
600—1,200	37
1,200—2,400	34
2,400—4,800	31
4,800—10,000	28

During other hours each of the sound level measurements may be increased not to exceed ten (10) decibels over the above figures.

(2) *Electrical interference:* The proposed use or structure shall not interfere with electrical processes in nearby buildings or land uses.

(3) *Lighting:* Any lighting shall not be used in a manner which produces glare on public highways and neighboring property. Arc welding, acetylene torch cutting and similar processes shall be performed so as not to be seen outside the property.

(4) *Fire and safety hazards:* The storage and handling of flammable liquids, liquefied petroleum, gases and explosives shall comply with the fire prevention code and all other applicable laws and regulations. Enameling and paint-spraying operations shall be permitted when incidental to the principal use and when such operations are contained within a building of two (2) hour fire-resistive construction.

(5) *Vibration:* Any machine or operation which causes a displacement exceeding three-thousandths (3/1000) of one (1) inch as measured at the property line is prohibited.

(6) *Odor:* Uses causing the emission of obnoxious odors of any kind and the emission of any toxic or corrosive fumes or gases are prohibited.

- (7) *Dust and smoke:* Dust and smoke created by industrial operations shall not be exhausted or wasted into the air in such a manner as to create a nuisance.
- (8) *Open storage:* Any storage shall not be located closer than twenty-five (25) feet to any street right-of-way. Any storage shall be enclosed with an eight (8) foot view-obscuring high fence of good appearance acceptable to the planning and zoning commission. Whenever lumber, coal or other combustible material is stored, a roadway shall be provided, graded and maintained from the street to the rear of the property to permit free access for fire trucks at any time.
- (9) *Shipping and receiving:* No shipping and receiving dock located within one hundred (100) feet of a residential district shall be operated between the hours of 7:00 p.m. and 7:00 a.m.
- (10) *Residential buffer:* Wherever an IL Zone abuts or is separated by an alley from a residential zone, the use or building in the IL Zone shall be screened by a sight-obscuring enclosure.
- (11) *Minimum lot width:* Fifty (50) feet.
- (12) *Lot area, yard and coverage requirements:* None except as stated in section 60.10.080.
- (13) *Maximum height of all structures:* Thirty (30) feet measured as prescribed under definitions for maximum structure height or maximum building height and grade as applicable.
- (14) *Off-street parking and loading space* shall be provided as required in section 60.10.085.

(Code 1969, §49.15.130; Ord. No. 368, §15, 7-21-80; Ord. No. 515, §3, 10-15-84; Ord. No. 761, §10, 9-4-90; Ord. No. 906, §1, 6-7-93; Ord. No. 939, §6, 5-16-94; Ord. No. 1031, §6, 5-19-97; Ord. No. 1041, §2, 9-2-97; Ord. No. 1079, §§8, 9, 11-16-98; Ord. No. 1089, §10, 2-16-99; Ord. No. 1091, §5, 3-1-99; Ord. No. 1093, §3, 5-17-99; Ord. No. 1121, §§1, 2, 11-15-99; Ord. No. 1294, §1, 2-2-04; Ord. No. 1391, §2, 4-17-06; Ord. No. 1398, §9, 7-24-06)

60.10.055. CC Zone. Central Commercial Zone.

(A) *Uses permitted:*

(1) Principal uses:

- (a) Retail and wholesale businesses;
- (b) Business and consumer services, including newspaper and printing establishments and radio and television studios;
- (c) Banks and business and professional offices;
- (d) Theaters and other commercial recreation uses;
- (e) Hotels and motels;
- (f) Multiple-family dwellings, dormitories, rooming and boarding houses, except when located on the ground floor and within fifty (50) feet of the right-of-way line of a collector street;
- (g) Private clubs, lodges, fraternal organizations, union halls, hiring halls and social halls, except establishments operating under a beverage dispensary or club license from the State of Alaska Alcohol Beverage Control Board;
- (h) One (1) and two (2) family dwellings, provided that any such use shall be conducted on floors other than the ground floor;
- (i) Residential use of commercial space, existing as of [June 7, 1993,] the adoption of this ordinance, provided that all residential building code requirements are met.
- (j) Temporary uses and buildings subject to the requirements listed in section 60.10.107.

(2) Accessory uses which are clearly incidental to permitted uses and which will not create a nuisance or hazard, including signs as set forth in section 60.10.090 and telecommunications antennas as set forth in section 60.10.117.

(3) The following conditional uses may be authorized by the planning commission to the extent and in the manner provided in section 60.10.110 of the KGB Code:

- (a) All tax-exempt uses, subject to the requirements listed in section 60.10.080(A);
- (b) Public and private off-street parking lots, concessionaire's stands (subject to the provisions contained in section 60.10.080(O)), drive-in businesses, gasoline service stations, auto sales agencies, minor and major automobile repair and tire recapping and other automobile repair and tire recapping and other automotive uses, subject to

the following requirements:

1. That exits and entrances be located to prevent traffic congestion and hazards;
 2. That the proposed use be located so it will not divide the concentrated pedestrian shopping area which is intended for this zone.
- (c) Light manufacturing, fabricating, assembling and repairing, subject to the following requirements:
1. Such use shall be conducted on floors other than the ground floor except where clearly subsidiary and incidental to a principal use permitted in this zone.
 2. Such uses may not include any uses not meeting the development requirements (1) through and including (11) of the IL Zone.
- (d) Heliports and helistops.
- (e) Mobile buildings as office, commercial or watchman's quarters subject to the requirements listed in section 60.10.100.
- (f) Travel trailer parks subject to the requirements listed in section 60.10.100.
- (g) Commercial shopping centers subject to the requirements listed in 60.10.080(N).
- (h) Telecommunications facilities subject to the requirements of 60.10.117(A).

(B) *Uses prohibited:* Any use of [or] structure not listed under permitted principal, accessory and conditional uses.

(C) *Development requirements:*

- (1) Minimum lot width: Twenty (20) feet.
- (2) Lot area, yard, coverage and height requirements: None except as stated in section 60.10.080.
- (3) Off-street parking and loading: In the CC Zone, it is planned that the off-street parking shall be provided principally by public and commercial parking lots and garages; therefore, private off-street parking in this zone will only be as required in section 60.10.085. Off-street loading space is required and shall be provided as required in section 60.10.085.
- (4)
 - (a) Any business, service, repair, storage or merchandise display shall be conducted wholly within an enclosed building, except concessionaire's stands operating under

the terms and conditions of a conditional use permit by action of the planning commission.

- (b) Conditional use permits for concessionaire's stands must be reviewed annually for compliance with the current development requirements contained in this chapter (title).

(Code 1969, §49.15.110; Ord. No. 136, §2, 8-20-73; Ord. No. 368, §12, 7-21-80; Ord. No. 515, §§1, 2, 10-15-84; Ord. No. 599, §1, 3-17-87; Ord. No. 906, §2, 6-7-93; Ord. No. 939, §§1, 4, 5-16-94; Ord. No. 1001, §1, 10-21-96; Ord. No. 1031, §§1, 4, 5-19-97; Ord. No. 1091, §3, 3-1-99; Ord. No. 1141, §1, 6-19-00; Ord. No. 1158, §1, 10-16-00; Ord. No. 1294, §1, 2-2-04; Ord. No. 1398, §7, 7-24-06)

60.10.005. Establishment of zones and provision for official zoning map.

(a) The Ketchikan Gateway Borough is hereby divided into the following zones, as shown on the official zoning map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter:

FD	Future Development Zone
RR	Rural Residential Zone
RS	Suburban Residential Zone
RL	Low Density Residential Zone
RN	Neighborhood Residential Zone
RM	Medium Density Residential Zone
RH	High Density Residential Zone
CD	Commercial Development Zone
CC	Central Commercial Zone
CG	General Commercial Zone
IL	Light Industrial Zone
IH	Heavy Industrial Zone
PLI	Public Lands and Institutions Zone
AD	Airport Development Zone
CI	Superimposed Cottage Industry Zone
HD	Creek Street Historic District Zone
MBU	Mobile Building Unrestricted Zone
MBR	Mobile Building Restricted Zone

(b) Regulations applying to each zone as set forth in the following sections of this chapter [title] and all other requirements of this chapter [title] are hereby adopted.

(c) Public notice shall be given in a newspaper of general circulation in the borough stating the date, time, place and purpose of the hearing. The notice shall be published at least ten (10) days prior to the date of the hearing. A copy of the proposed official zoning map shall be available in the department of planning and community development for public inspection. The official zoning map, and any rezone resulting in a change thereto, shall be adopted by the assembly by ordinance. After the official zoning map has been duly adopted as herein provided the borough clerk shall cause the following certificate to be permanently and securely affixed to each index sheet of each book of the official zoning map:

"I, _____, Borough Clerk for the Ketchikan Gateway Borough, Alaska, certify that the zoning map to which this certificate is affixed is Map Book _____ of the seven (7) official zoning map books which comprise the official zoning map duly adopted by Ordinance No. _____, on the _____ day of _____, 20____.

To this certificate, I have set my hand and the seal of the Ketchikan Gateway Borough, Alaska, this _____ day of _____, 20____.

Borough Clerk"

The official zoning map shall be kept in the department of planning and community development. Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the copy of the official zoning map that is located in the department of planning and community development shall be the final official zoning map authority regarding the current zoning status of land and water areas; provided, however, in the event of any discrepancy between the legal description or zoning of the property rezoned as set forth on the official zoning map and as described in the specific ordinance zoning or changing the zone of such property or area, the description and zoning set forth in the amending ordinance shall control and prevail over the official zoning map.

(d) Changes to the official zoning map resulting by reason of a rezone adopted by the assembly by ordinance shall be entered on the official zoning map by the borough manager or designee in accordance with the provisions of section 60.10.130(B)(9), of the KGB Code.

(e) In the event the official zoning map or any part thereof, becomes damaged, lost or destroyed the borough assembly may adopt a new official zoning map as herein provided which shall be based upon and generated from the most current digital zoning map computer tape, and upon adoption such new zoning map, or part thereof, shall supersede the prior official zoning map, or part thereof, and thereafter constitute the official zoning map.

(Code 1969, §49.15.010; Ord. No. 263, §§2—4, 9-6-77; Ord. No. 680, §§2, 3, 3-20-89; Ord. No. 738, §7, 4-23-90; Ord. No. 851, §1, 4-20-92; Ord. No. 1363, §2, 7-18-05)

Attachment 8

Commitment for Title Insurance

ALASKA ESCROW AND TITLE INSURANCE AGENCY, INC.

2030 Sea Level Drive Suite 201
Ketchikan, Alaska 99901
TEL:(907)225-9077 FAX:(907)225-9076

8800 Glacier Hwy Suite 102
Juneau, Alaska 99801
TEL:(907)789-1161 FAX:(907)789-1159

Title Officer: Mike Jausoro
Reference: 68704

Order Number: 38427

**COMMITMENT FOR TITLE INSURANCE
SCHEDULE A**

Updated March 16, 2010 (See Effective Date)bm
Amended and Updated March 23, 2010 (See effective date) KAS
Amended May 10, 2010 (See Effective date)bm

1. Effective Date: March 22, 2010 at 8:00 a.m.

2. Policy Or Policies To Be Issued:

(X) ALTA OWNER S POLICY, (6/17/06)
(X) STANDARD () EXTENDED

Amount: TO BE DETERMINED
Premium: \$250.00

Proposed Insured: State of Alaska

() ALTA LOAN POLICY (6/17/06)

Amount:
Premium:

3. The estate or interest in the land described or referred to in this Commitment and covered herein is:

FEE SIMPLE ESTATE

4. Title to said estate or interest in said land is at the effective date hereof vested in:

Ketchikan Gateway Borough

5. The land referred to in this commitment is described as follows:

Lots 2 and 3, Tract 3005 of the Ward Cove-West Replat of Lot 3, Gateway Subdivision (Plat 2000-41), apportion of U.S. Survey 1862, U.S. Survey 1706, unsubdivided remainder of U.S. Survey 1754 and a portion of Alaska Tidelands Survey No. 1, according to the plat thereof filed March 24, 2006 as Plat No. 2006-10, Ketchikan Recording District, First Judicial District, State of Alaska.

We have been informed but do not insure that the said property is also known as:
NHN North Tongass Highway
Ketchikan, Alaska 99901

SCHEDULE B

REQUIREMENTS

I. The following are the requirements to be complied with:

- (a) Pay the agreed amounts for the interest in the land and/or the mortgage to be insured:
- (b) Pay us the premiums, fees and charges for the policy.
- (c) Documents satisfactory to us creating the interest in the land and/or the mortgage to be insured must be signed, delivered and recorded.
- (d) You must tell us in writing the name of anyone not referred to in this Commitment who will get an interest in the land or who will make a loan on the land. We may then make additional requirements or exceptions.
- (e) Pursuant to the State of Alaska, Division of Insurance Order No. R92-1, dated May 4, 1992, the charge for providing this commitment is to be billed at this time. Payment of this charge must be made within 30 days of this initial billing. In the event this transaction fails to close, the minimum billing will be the cancellation fee in accordance with our filed rate schedule.

NOTE: Investigation should be made to determine if there are any service, installation, maintenance, construction, reimbursement and/or hookup charges/costs for sewer, water, garbage, electricity or other utilities outstanding and not of record.

NOTICE

In 1999, the Alaska Department of Natural Resources began recording maps of claimed rights of way which may have been created under a federal law known as "RS 2477", pursuant to Alaska Statute 19.30.400. Because the maps are imprecise, the exception from coverage shown on Paragraph 2f. General Exceptions has been taken. Questions regarding the State's RS 2477 claims should be directed to the Department of Natural Resources, Public Information Center, 770 W. 5th Avenue, Anchorage, Alaska 99501.

II. Schedule B of the Policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company:

- 1) Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment

SCHEDULE B

GENERAL EXCEPTIONS

- 2) a. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency which may result in taxes or assessments, or notice of such proceedings whether or not shown by the records of such agency or by the public records.
- b. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.
- c. (1) For Owners Policy: Easements, claims of easements, or encumbrances which are not shown by the public records.
(2) For Loan Policy: Easements, liens or encumbrances, or claims thereof which are not shown by the public records.
- d. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
- e. (1) Unpatented mining claims; (2) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (3) water rights, claims or title to water, whether or not the matters excepted under (1), (2) or (3) are shown by the public records.
- f. Rights of the state or federal government and/or public in and to any portion of the land for right of way as established by federal statute RS 2477 (whether or not such rights are shown by recordings of easements and/or maps in the public records by the State of Alaska showing the general location of these rights of way).
- g. Any lien or right to lien, for services, labor or material heretofore or hereafter furnished imposed by law and not shown by the public records.

SPECIAL EXCEPTIONS

- 3) Taxes and/or assessments, if any, due the City of Ketchikan and/or Ketchikan Gateway Borough, a report of which will follow.
- 4) Reservations and exceptions as contained in the U.S. Patent and acts relating thereto.
- 5) Reservations and exceptions as contained in the State of Alaska Patent and acts relating thereto.
- 6) Easements and notes as shown on Plat No. 2000-41 and Plat No. 2006-10.
- 7) Any prohibition of or limitation of use, occupancy or improvements of the land resulting from the rights of the public or riparian owners to use any portion thereof which is now or formerly may have been covered by water, and the rights of the public as set forth in Alaska statutes 38.05.128.

(Continued on next page)

SCHEDULE B

- 8) Terms, provisions and reservations under the Submerged Land Act (43 USC 1301, 67 Stat. 29) and the Enabling Act (Public Law 85-508, 72 Stat. 339).
- 9) Paramount rights and easements in favor of the United States to regulate commerce, navigation, fishing and the production of power.
- 10) Any adverse claim based upon the assertion that any portion of said land was not tidelands subject to disposition by the State of Alaska, or that any portion thereof has ceased to be tidelands by reason of erosion, or by reason of having become upland by accretion.
- 11) Environmental Easement and Declaration of Covenants, entered into by and between Ketchikan Gateway Borough, a municipal corporation, Ketchikan Pulp Company, a Washington corporation, and Gateway Forest Products, Inc., an Alaska corporation, according to the terms and provisions thereof, dated July 14, 2003 and recorded July 18, 2003 under Ketchikan Recording District Serial No. 2003-004128-0.
- 12) Environmental Protection Easement and Declaration of Restrictive Covenants, entered into by an between Ketchikan Pulp Company, Grantor, and the State of Alaska, Department of Natural Resources, Grantee, according to the terms and provisions thereof dated October 28, 1999 and recorded October 28, 1999 in Book 305 at Page 772.

Said instrument contains the following provision:

Notice requirement: Grantor agrees to include in any instrument conveying any interest in any portion of the Property, Including but not limited to deeds, leases and mortgages, a notice which is in substantially the following form:

NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL PROTECTION EASEMENT AND DECLARATION OF RESTRICTIVE COVENANTS, DATED _____, 19____ RECORDED IN THE KETCHIKAN RECORDED DISTRICT, FIRST JUDICIAL DISTRICT, STATE OF ALASKA, ON _____, 19____, IN BOOK ____ AT PAGE _____ THAT IS IN FAVOR OF AN ENFORCEBLY BY, THE STATE OF ALASKA.

(Continued on next page)

SCHEDULE B

- 13) Reservations and exceptions as contained in Deed recorded November 15, 1999 in Book 306 at Page 72 as follows:

Reserving and excepting, however, unto the Grantor, all right, title, equity and interest as set forth in the Plant Systems Easement, by and between Grantor and Grantee of even date, incorporated herein by reference as though fully set forth herein. The Plant Systems Easement establishes the terms and conditions of such easement over and upon the following of the parcels, described in Exhibit 1:

NOTE: Said instrument also contained the following conditions, reservations and restrictions which have been released by instrument recorded November 1, 2002 at Instrument No. 2002-004405-0.

Subject to, however, all covenants, restrictions and agreements as set forth in the Easement and Declaration of Covenants Regarding Allocation of Environmental Responsibilities, by and between Grantor and Grantee of even date, incorporated herein by reference as though fully set forth herein. The Easement and Declaration of Covenants Regarding Allocation of Environmental Responsibilities establishes the terms and conditions of covenants applicable to, and binding upon, Parcel No. 1 through and including Parcel No. 15 of the parcels of real property described in Exhibit 1.

Reserving and excepting, however, unto the Grantor, all right, title, equity and interest as set forth in the Easement and Declaration of Covenants Regarding Allocation of Environmental Responsibilities, by and between Grantor and Grantee of even date, incorporated herein by reference as though fully set forth herein. The Easement and Declaration of Covenants Regarding Allocation of Environmental Responsibilities establishes the terms and conditions of an easement over and upon Parcel No. 1 through and including Parcel No. 15 of the parcels of real property described in Exhibit 1.

- 14) Associated Real Property and Water Rights Agreement, and the terms and provisions thereof, entered into by an between Ketchikan Pulp Company, a Washington corporation, Seller, and Gateway Forest Productions, Inc., an Alaska corporation, Purchaser, dated November 3, 1999 and recorded November 5, 1999 in Book 306 at Page 84.

Subject to the terms and provisions as contained in Assignment Assumption and Release recorded July 18, 2003 at Document No. 2003-004126-0.

- 15) Plant Systems Easement, and the terms and provisions thereof, entered into by an between Gateway Forest Products, Inc., an Alaskan corporation, Grantor, and Ketchikan Pulp Company, a Washington corporation, Grantee, dated November 3, 1999 and recorded November 5, 1999 in Book 306 at Page 99.

Amendment to Plant Systems Easement recorded December 15, 2000 in Book 319 at page 360.

Second Amendment to Plat Systems Easement recorded January 3, 2001 in Book 320 at Page 421.

(Continued on next page)

SCHEDULE B

- 16) Water Use Site Easement, and the terms and provisions thereof, entered into by and between Gateway Forest Products, Inc., an Alaskan corporation, Grantor, and Ketchikan Pulp Company, a Washington corporation, Grantee, dated November 3, 1999 and recorded November 5, 1999 in Book 306 at Page 125.

Amendment to Water Use Site easement recorded December 12, 2000 in Book 319 at page 250.

- 17) Option Agreement to Purchase Water Use Site, and the terms and provisions thereof, entered into by and between Gateway Forest products, Inc., an Alaskan corporation, Grantor, and Ketchikan Pulp Company, a Washington corporation, Grantee, dated November 3, 1999 and recorded November 5, 1999 in Book 306 at Page 149.

Subject to the terms and provisions as contained in Assignment Assumption and Release recorded July 18, 2003 at Document No. 2003-004126-0 also with Exception No. 24.

- 18) Option Agreement to Purchase Excess Water, and the terms and provisions thereof, entered into by and between Gateway Forest Products, Inc., an Alaskan corporation, Grantor, and Ketchikan Pulp Company, a Washington corporation, Grantee, dated November 3, 1999 and recorded November 5, 1999 in Book 306 at Page 160.

Subject to the terms and provisions as contained in Assignment Assumption and Release recorded July 18, 2003 at Document No. 2003-004126-0.

(Continued on next page)

SCHEDULE B

- 19) Terms and provisions as contained in that certain Warranty Deed dated May 2, 2006 and recorded May 2, 2006 at Document No. 2006-001753-0 including the following:

FURTHER SUBJECT TO the limitations and obligations identified in Section 15 (d) of the Real Estate Sale Agreement entered into by and between GRANTEE, Renaissance Ketchikan Group LLC, as Purchaser, and GRANTOR, Ketchikan Gateway Borough, as Seller, executed on behalf of the GRANTOR/Seller by Borough Manager Roy Eckert on October 13, 2005 and identified as Borough Document 05-114, as amended by Addendum One, Addendum Two, Addendum Three and Addendum Four to said Real Estate Sale Agreement (hereinafter, collectively, "Amended Real Estate Sale Agreement"), including without limitation the following:

GRANTEE in further consideration for, and as a condition to, this Amended Real Estate Sale Agreement, hereby agrees that the real property interests it is hereby acquiring from the GRANTOR are subject to the same limitations and conditions as the ones applicable to the GRANTOR which are set forth in that certain Agreement dated July 13, 2003, by and between Ketchikan Pulp Company and the Ketchikan Gateway Borough, which is the GRANTOR hereunder, a copy of which Agreement is attached to the Amended Real Estate Sale Agreement as Exhibit O and is incorporated herein by reference as though fully set forth. In particular, all releases, waivers and limitations on claims against Ketchikan Pulp Company, its agents, servants, employees, officers, directors, partners, principals, shareholders, or any of their insurance companies and contractors, including but not limited to environmental claims, whether arising under CERCLA, 42 USC §9601 et seq.; RCRA, 42 USC §6901 et seq.; AS 46.03.822; or otherwise, as they now exist or hereafter may be amended, to which the GRANTOR concurred, are hereby agreed to be applicable and in full force and effect.

Further the parties to this agreement agree that Ketchikan Pulp Company, its shareholders, successors, heirs and assigns, are third party beneficiaries of this agreement and any future agreements concerning the property.

GRANTEE HEREBY AGREES THAT LANGUAGE IDENTICAL TO THE PREVIOUS TWO PARAGRAPHS SHALL BE INCORPORATED INTO ANY FUTURE LEASE, SALE, OR CONVEYANCE OF ANY INTEREST (INCLUDING DEEDS OF TRUST) IN ALL OR PART OF THE PROPERTY.

FURTHER SUBJECT TO the terms and provisions of that certain Agreement dated July 13, 2003 by and between Ketchikan Pulp Company and the Ketchikan Gateway Borough, which is the GRANTOR hereunder, a copy of which Agreement is attached to the Amended Real Estate Sale Agreement as Exhibit O, and is incorporated herein by reference as fully as if set forth.

FURTHER SUBJECT TO the leases identified in Exhibit E to the Amended Real Estate Sale Agreement.

(Special Exception No. 19 continued to next Page)

SCHEDULE B

RESERVING AND EXCEPTING, HOWEVER, UNTO THE GRANTOR, reservation of a 15% water usage right as provided in Section 3(a)(i) and 3(c) of the October 13, 2005 Real Estate Sale Agreement (Borough Document 05-114).

RESERVING AND EXCEPTING, HOWEVER, UNTO THE GRANTOR, reservation of the personal property identified in Section 3(a)(vii) and on Exhibit K of the October 13, 2005 Real Estate Sale Agreement (Borough Document 05-114).

- 20) Certain springing easements created by foreclosure as set forth on Exhibit "B" and "C" of that certain Deed of Trust dated November 2, 1999 and recorded November 5, 1999 in Book 306 at Page 169.
 - 21) Acknowledgment That Interest Conveyed Are Subject to Environmental Protection Easement and Declaration of Restrictive Covenants, entered into by and between the Ketchikan Gateway Borough, an Alaska municipal corporation, and Ketchikan Pulp Company, according to the terms and provisions thereof, dated August 2, 2003 and recorded August 4, 2003 under Ketchikan Recording District Serial No. 2003-004419-0.
 - 22) Subject to the terms and provisions as contained in Assignment Assumption and Release recorded July 18, 2003 at Document No. 2003-004126-0.
 - 23) Environmental Easement and Declaration of Covenants, entered into by and between Ketchikan Gateway Borough, a municipal corporation, and Ketchikan Pulp Company, a Washington corporation, according to the terms and provisions thereof, dated July 14, 2004 and recorded July 15, 2004 under Ketchikan Recording District Serial No. 2004-002967-0.
- NOTE: Effects of that certain Subordination Agreement, executed by Ketchikan Pulp Company, a Washington corporation, and the Ketchikan Gateway Borough, a municipal corporation, for the benefit of the State of Alaska, dated May 1, 2006 and recorded May 1, 2006 at Document No. 2006-001708-0.
- 24) Reservations, conditions, and easements as contained in that certain Quitclaim Deed between Ketchikan Pulp Company, a Washington corporation, Grantor, and the Ketchikan Gateway Borough, a municipal corporation, Grantee, dated July 11, 2003 and recorded July 22, 2003 at Document No. 2003-004183-0.
 - 25) Consolidated Easement for Landfill entered into by and between the Ketchikan Gateway Borough, a municipal corporation and Ketchikan Pulp Company, a Washington corporation, according to the terms and provisions thereof, dated September 23, 2005 and recorded at Document No. 2005-003857-0.
 - 26) Easement for Utility Line granted by Gateway Forest Products, Inc., Grantor, in favor of the City of Ketchikan d.b.a. Ketchikan Public Utilities, Grantee, according to the terms and provisions thereof, recorded March 16, 2000 in Book 310 at Page 500.

(Continued on next page)

SCHEDULE B

- 27) Easement for Utility Line granted by James K. Erickson, Gateway Forest Products, Inc., Grantor, to the City of Ketchikan d.b.a. Ketchikan Public Utilities, its successors and assigns, Grantee, according to the terms and provisions thereof, dated February 17, 2001 and recorded February 22, 2001 in Book 322 at Page 159.
- 28) Easement for Landfill Outfall, granted by Gateway Forest Products, Inc., an Alaska corporation, Grantor, in favor of Ketchikan Pulp Company, a Washington corporation, its successors and assigns, Grantee, according to the terms and provisions thereof, dated April 30, 2002 and recorded April 30, 2002 under Ketchikan Recording District, Serial No. 2002-001755-0.
- (Affects a portion lying within ATS No. 1 and other property)
- 29) Terms and provisions as contained in that certain Quitclaim Deed dated October 12, 2007 and recorded on October 12, 2007 at Document No. 2007-004314-0.
- 30) Judgment, and the terms and provisions thereof:
- | | |
|---------------|---|
| AGAINST: | Renaissance Ketchikan Group, LLC |
| AMOUNT: | \$102,312.42 plus additional interest and penalties that may accrue |
| RECORDED: | April 8, 2008 |
| DOCUMENT NO.: | 2008-001196-0 |
- 31) A copy of this report has been sent to Stewart Title for approval; said report is subject to any changes or amendments that may be required by Stewart Title.

Mike Jausoro/kas
Updated March 16, 2010 (See Effective Date)bm
Amended and Updated March 23, 2010 (See effective date) KAS
Amended May 10, 2010 (See Effective date)bm

NOTE: Please be aware that a change in coverage amount may necessitate a change in the premium amount.

END OF GENERAL AND SPECIAL EXCEPTIONS

Attachment 9

Letter from Perkins Coie, to Jacques Gusmano, EPA dated June 27, 2006, regarding Institutional Control Documents for Ward Cove Pipeline Parcels



Eric B. Fjelstad
PHONE: 907.263.6973
EMAIL: efjelstad@perkinscoie.com

1029 West Third Avenue, Suite 300
Anchorage, AK 99501-1981
PHONE: 907.279.8561
FAX: 907.276.3108
www.perkinscoie.com

June 27, 2006

Jacques Gusmano
U.S. Environmental Protection Agency
Region 10 – Alaska Operations Office
Federal Building Room 537
222 West Seventh Avenue, No. 19
Anchorage, AK 99513-7588

Re: Institutional Control Documents for Ward Cove Pipeline Parcels

Dear Mr. Gusmano:

Please find enclosed copies of the following documents that, with the cooperation of the State of Alaska and the Ketchikan Gateway Borough, have been recorded in the Ketchikan Recording District to implement institutional controls with respect to the three Ward Cove pipeline parcels under the auspices of the CERCLA consent decree in *United States v. Gateway Forest Products, Inc., et al*, No. A00-225 CV (D. Alaska) ("Consent Decree"):

1. Patent from State of Alaska to Ketchikan Gateway Borough of Section 34, Lot 1 ("the 3.09 Acre Parcel") that is referred to in paragraph (46) of the Ward Cove Consent Decree as "the pipeline access road area." Patent to the 3.09 Acre Parcel was recorded on May 1, 2006 as Document No. 2006-1705;
2. Equitable Servitude and Easement (AS 34.17.010-AS 34.17.060), executed by the Ketchikan Gateway Borough, as Grantor, in favor of the State of Alaska, Department of Natural Resources, Division of Mining, Land and Water, Realty Services Section, Grantee, dated April 24, 2006, and recorded May 1, 2006, at Document No. 2006-001706-0, implementing institutional controls with respect to the 3.09 Acre Parcel;
3. Equitable Servitude and Easement (AS 34.17.010-AS 34.17.060), executed by the Ketchikan Gateway Borough, as Grantor, in favor of the State of Alaska, Department of Natural Resources, Division of Mining, Land and

[16411-0031/AA061780.005]

June 27, 2006

Page 2

Water, Realty Services Section, Grantee, dated April 24, 2006, and recorded May 1, 2006, at Document No. 2006-001707-0, implementing institutional controls with respect to portions of U. S. Survey 3400 and U. S. Survey 2923;

4. Subordination Agreement, executed by Ketchikan Pulp Company and the Ketchikan Gateway Borough for the benefit of the State of Alaska, dated May 1, 2006, and recorded May 1, 2006, at Document No. 2006-001708-0, by which KPC agreed to subordinate certain of its prior recorded interests to the rights of the State of Alaska under the two Equitable Servitude and Easement documents noted above; and,
5. Correction to Equitable Servitude and Easement dated May 26, 2006, and recorded June 2, 2006, at Document 2006-002278-0, by which Exhibit 1 to the institutional controls regarding U. S. Survey 3400 and U. S. Survey 2923 was effectively added to that document and made a matter of record.

The parcels made subject to these institutional controls are located upland of KPC's former Ward Cove pulp mill site, near the pipeline from the Connell Lake Dam. The institutional control documents were drafted in conformance with Appendix H of the Consent Decree, as well as the institutional control document that EPA and ADEC previously approved for the Ward Cove Landfills in 2001.

This completes obligations under the Consent Decree for the establishment of institutional controls at Ward Cove. To summarize, there are now four controlling instruments in place. The first instrument, entitled "Environmental Protection Easement and Declaration of Restrictive Covenants," was executed on October 28, 1999, and recorded October 28, 1999, at Book 305, Page 772, and applies to the main plant parcel and ancillary areas, including Alaska Tidelands Survey No. 1. The second instrument, entitled "Environmental Easement," was executed on June 29, 2001, was recorded August 6, 2001, at Book 329, Page 680, and applies to the Ward Cove landfill. Copies of these are also enclosed. The most recent two instruments, just executed and recorded in May 2006, apply to areas adjacent to the pipeline access road, upland of north of North Tongass Highway. Of these four areas, KPC still owns and operates the Ward Cove Landfills and retains responsibility for implementing the institutional controls in that area.

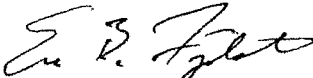
The State of Alaska was represented in this matter by Ruth Hamilton Heese from the Attorney General's Office ((907) 465-3600; Ruth_Hamilton_Heese@law.state.ak.us)

June 27, 2006

Page 3

and Sandra Singer from the Department of Natural Resources ((907) 269-8586; sandra_singer@dnr.state.ak.us). Should you have any questions, please contact Ms. Heese, Ms. Singer, or the undersigned.

Sincerely,



Eric B. Fjelstad

EBF:sc

cc: Gina Belt, U.S. DOJ w/encs.
Bill Janes, ADEC w/encs.
~~Barry J. Hogarty w/encs.~~
Ruth Hamilton Heese, Dept. of Law w/o encs.
Sandra Singer, ADNR w/o encs.
Scott Brandt-Erichsen, KGB w/o encs.
Phil Benning, KPC w/o encs.
John Peterson, Ziegler Law Firm w/o encs.

Attachment 10

Equitable Servitude and Easement, and Subordination Agreement Pipeline Parcels, by Ketchikan Gateway Borough to ADNR, recorded May 1, 2006

**EQUITABLE SERVITUDE AND EASEMENT**

AS 34.17.010 – AS 34.17.060

This Equitable Servitude and Easement (hereinafter "Instrument") is made by and between the Ketchikan Gateway Borough, a second class Borough of the State of Alaska (whose address is 344 Front Street, Ketchikan, Alaska 99901), as grantor (hereinafter, with its successors and assigns, "Grantor"), and the State of Alaska (whose address is State of Alaska, Department of Natural Resources, Division of Mining, Land and Water, Realty Services Section, 550 West Seventh Avenue, Suite 1050A, Anchorage, Alaska 99501-3579), as grantee (hereinafter, with its assigns, "Grantee"), for good and valuable consideration.

WHEREAS, all of the real property referred to herein is located in, and all patents referred to as recorded are in the **Ketchikan Recording District**, First Judicial District, State of Alaska;

WHEREAS, Grantor is the owner of the following described parcel of real property, which is hereinafter referred to as the "Property":

TOWNSHIP 74 SOUTH, RANGE 90 EAST, COPPER RIVER MERIDIAN, ALASKA, Section 34: Lot 1, containing 3.09 acres more or less, according to the Survey Plat accepted by the United States Department of Interior, Bureau of Land Management in Anchorage, Alaska on January 28, 2003, and officially filed March 3, 2003;

WHEREAS, Grantor wishes to make the Property subject to this Instrument;

WHEREAS, the Property was formerly used by Ketchikan Pulp Company ("KPC") for storage of industrial materials, which resulted in its contamination with substances defined as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601 *et seq.* ("CERCLA"), and 18 AAC 75;

WHEREAS, on November 20, 2000, KPC, Gateway Forest Products ("GFP"), and the United States entered into a CERCLA consent decree in the case of *United States v. Gateway Forest Products, Inc.*, et al, No. A00-225 CV (D. Alaska) ("Consent Decree") to address hazardous substances contamination issues associated with KPC's historical operating areas at Ward Cove, including the Property;

WHEREAS, the Consent Decree required KPC and Gateway to implement appropriate institutional controls on certain portions of real property owned or controlled by KPC or GFP, as the case may be;

WHEREAS, the Consent Decree is binding upon KPC, GFP, the United States, and their respective heirs, successors, and assigns;

WHEREAS, KPC was granted permission to utilize the Property under a 1952 Amendment to Special Use Permit, and that Amendment extended to the Property, the terms of the 1951 Forest Service Special Use Permit that allowed KPC to build and operate the Connell Lake dam, and the pipeline for it that runs adjacent to the Property on U.S. Survey 3400;

WHEREAS, Grantor previously included areas adjacent to U.S. Survey 3400 in municipal entitlement lands that Grantor selected from the State of Alaska, and such lands selected by Grantor included the Property, but issuance of patent to the State of Alaska was delayed;

WHEREAS, investigation and remediation work undertaken by KPC and completed in 1998 identified the Property as an area where institutional controls would be required;

WHEREAS, KPC entered a services agreement with the U.S. Department of Interior, Bureau of Land Management ("BLM") in 2000 under which, when BLM undertook to survey surrounding municipal entitlement lands for patent to the State of Alaska, it would survey the Property as a separate parcel. This would allow the area to be made subject to institutional controls to be patented by BLM as a separate parcel;

WHEREAS, the Patent to the State of Alaska with respect to the Property was issued by BLM on November 21, 2005 as Fed. Patent No. 50-2006-0058, recorded on the 30th day of November, 2005 as Document No. 2005-4744-0;

WHEREAS, the State of Alaska issued the Patent to Grantor with respect to the Property on the 25th day of April, 2006 as Patent No. 20179, recorded concurrently with this Instrument;

WHEREAS, GFP went into bankruptcy during 2001;

WHEREAS, on July 14, 2003, KPC, GFP, and Grantor entered into a settlement agreement ("Settlement Agreement") to resolve issues arising from or relating to the GFP bankruptcy. Under the Settlement Agreement, the Grantor undertook obligations relating to establishment of and compliance with institutional controls on property formerly owned by KPC and GFP, including the Property;

WHEREAS, the Alaska Department of Environmental Conservation ("ADEC") has determined that groundwater is not a current or potential future drinking water source on or around the Property;



WHEREAS, ADEC has determined, and Grantor has agreed, that the recording of this Instrument is necessary as an institutional control as part of the Consent Decree; and

WHEREAS, the requirements, rights, covenants, conditions, prohibitions, and restrictions of this Instrument (hereinafter "Provisions") are intended to protect human health, safety, and welfare and the environment and maintain and enhance water quality.

NOW, THEREFORE, pursuant to the laws of Alaska, including AS 34.17.010-AS 34.17.060, Grantor does hereby grant and convey to Grantee forever, with warranties of title, subject however to easements, rights, reservations, conditions, restrictions, and limitations of the United States, and third parties, if any, of record, an equitable servitude and easement, including the right of entry thereto, of the nature and character and to the extent set forth below.

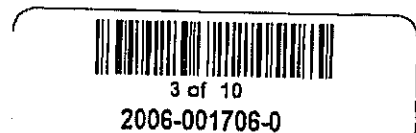
1. Restrictions:

Unless otherwise specifically authorized in writing by ADEC or its successor in administrative function or assigns, the Property is subject to the following restrictions (hereinafter, "Restrictions"):

- a. Uses of the Property are limited to commercial or industrial use.
- b. The Property shall not, at any time, be used, in whole or in part, for human habitation, schooling of children, hospital care, child care, or any purpose necessitating around-the-clock residence by humans.
- c. Drilling of drinking water wells is prohibited.
- d. Controls specified in the "Management Plan for Arsenic and Rock and Soil," prepared by Exponent for KPC, dated July 1998, to limit concentrations of arsenic from crushed rock shall be complied with.
- e. No activities shall be allowed on the Property, without prior approval of ADEC in writing, that involve use of groundwater, or potential exposure of Waste Materials within the Property. Waste Materials shall mean (i) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14) or AS 46.03.826(5); (ii) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); and (iii) any "solid waste" under Section 1004(27) of the Resource Conservation & Recovery Act ("RCRA"), 42 U.S.C. § 6903(27), AS 46.03.900(26), or the State of Alaska Solid Waste Management Regulations, 18 AAC 60.

2. Required Activities:

Grantor shall comply with the Restrictions in this Instrument and with the terms and conditions of any ADEC permit regulating activities on the Property.



3. Right-of-Entry:

During reasonable hours, after reasonable notice, and subject to reasonable security requirements, ADEC and its Authorized Representatives shall have the right to enter in, on, upon, over, and across any portion of the Property to determine whether the Provisions herein have been or are being complied with. This Right-of-Entry shall include a right of access for, but not be limited to, conducting the following activities:

- a. Verifying any data or information submitted to the United States or the State of Alaska.
- b. Conducting investigations relating to contamination located at or near the Property.
- c. Obtaining samples.
- d. Assessing the need for, planning, or implementing additional response actions at or near the Property.
- e. Implementing the activities required to be performed under the Consent Decree pursuant to the conditions set forth in Paragraph (101) of the Consent Decree.
- f. Inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Grantor or its agents consistent with Section XXIV (Access to Information) of the Consent Decree.
- g. Monitoring and assessing compliance with the Consent Decree and any requirements or restrictions of this instrument.
- h. Determining whether the Property is being used in a manner that is prohibited or restricted, or that may need to be prohibited or restricted, by or pursuant to the Consent Decree.

Violation of, or reasonable suspicion of the violation of, any of the Provisions herein shall give ADEC and its Authorized Representatives the right, privilege, and license to enter in, on, upon, over, and across any portion of the Property and to investigate, abate, mitigate, or cure such violation, at the expense of Grantor, provided written notice of the violation is given to Grantor, describing what activity is necessary to investigate or correct the violation, and Grantor fails to cure the violation within a time specified in such notice. Such activities include, but are not limited to, the right to store, move, and remove equipment and supplies; construct, operate, maintain, alter, repair, and remove devices for the monitoring, containment, and treatment of contamination in soil, air and water; investigate and collect samples; excavate and remove waste, pollutants, hazardous substances, contaminated soils, contaminated waste; deposit uncontaminated soil; and the performance of any other activity which may be reasonably necessary and incident to ADEC's investigation and response. Any such entry by ADEC or its Authorized Representatives shall not be deemed a trespass or any other wrongful entry or remaining on the Property, and Grantee shall not be subject to liability to Grantor for such entry



or any action taken to investigate, abate, mitigate, or cure a violation. ADEC and its Authorized Representatives shall be considered invitees on the Property, and the Grantor shall make every reasonable effort to inform ADEC and its Authorized Representatives of hazards or hazardous areas to prevent personal injury.

To enable them to carry out the activities contemplated under this Instrument, Grantor also grants and conveys to Grantee, for the use and benefit of ADEC and its Authorized Representatives, a right of access over and across those portions of the following-described real property: U. S. Survey 3400; Triangle, U. S. Survey 2923; and, that portion of U. S. Survey 1056 lying northerly of the northerly boundary line of North Tongass Highway, Ketchikan Recording District, First Judicial District, State of Alaska, being adjacent to U. S. Survey 2923 and comprised of 5.16 acres. The portions of these three parcels which shall be subject to this right of access shall consist of the areas thereof located between the Property and the adjacent public rights-of-way of North Tongass Highway and Revilla Road, and which are subject to the Easement by and between Ketchikan Pulp Company, as grantor, and the United States of America, acting by and through the Forest Service, Department Agriculture, recorded October 23, 2000, at Book 317, Page 595 ("the Easement"). In addition, to the extent the Property is adjacent to, but not abutting, the areas subject to the Easement, the right of entry hereby granted shall also extend to those areas of the foregoing parcels which are necessary or convenient to allow access to the Property. With respect to the areas subject to the Easement, this right of access is granted in accordance with, and subject to, the terms of the Easement. The right of access hereby granted is for purposes of allowing ADEC and its Authorized Representatives to conduct any and all activities contemplated by this Instrument.

4. Contaminants of Concern that May be Present on the Property:

During an investigation and remediation of the Property completed in 1998, contaminated soil and surface debris were removed from the Property by KPC. There are areas on the Property where contaminants may remain in the soil in concentrations potentially greater than cleanup levels established by ADEC or EPA. These contaminants include petroleum products, polychlorinated bipheynyls, pentachlorophenol, lead, chromium, and arsenic. Most areas, where active remediation activities occurred, were filled to original grade with clean soil, covered with clean soil, and seeded with grass.

5. General Provisions:

a. This Instrument is for the benefit of Grantee and conveys the perpetual right to Grantee, acting through ADEC and contractors, employees, and authorized representatives acting on ADEC's behalf (herein, "Authorized Representatives"), to enforce and implement the Provisions herein. Nothing herein shall be deemed to create in any third party the right to enforce this Instrument.

b. No right of access or use by the general public to any portion of the Property is conveyed or authorized by this Instrument.



c. All real estate, lots, parcels, or portions thereof located within or on the Property, and any lease, conveyance, or transfer covering or describing any part thereof or interest therein, shall be subject to the Provisions herein. By acceptance of such conveyance or transfer, each lessee, transferee, or grantee and each of their heirs, successors, transferees, or assigns agrees with Grantor and each other to be bound by the Provisions herein.

d. Grantor hereby reserves unto itself, its successors, and assigns, any and all rights and privileges in and to the use of the Property, including the right of access to the Property, which are not contrary to the restrictions, rights, and easement granted herein.

e. The Provisions herein shall run with the land in perpetuity, and shall be binding upon Grantor, and each of Grantor's heirs, successors, grantees, lessees, transferees, and assigns and each of their heirs, successors, grantees, lessees, transferees, and assigns.

f. Nothing in this Instrument shall relieve Grantor from liability for injuries occurring on, or resulting from, its activities on the Property for which Grantor would otherwise ordinarily be liable. Grantor shall be liable for and shall indemnify and hold Grantee harmless from liability for injuries and damage which arise because of its status as Grantee. Grantor shall also indemnify Grantee for all costs, including attorneys' fees, which arise from its status as Grantee.

g. Grantor hereby covenants to and with Grantee that Grantor is lawfully seized of the surface estate, in fee simple, of the Property, has good and lawful right and power to sell and convey the same, that the same is free and clear of encumbrances, except as specified herein and as of record, and that Grantor will forever warrant and defend the equitable servitude and easement (including the right of entry) conveyed to Grantee by this Instrument against the claims and demands of all persons.

h. To the maximum extent permitted by law, the Provisions herein shall not be subject to waiver or abandonment due to non-enforcement or violation of this Instrument or any of the Provisions herein on all or any portion of the Property. No waiver of the breach of any of the Provisions herein shall constitute a waiver of a subsequent breach of the same Provision or any other Provision. No right of action shall accrue for or on account of the failure of any person to exercise any right created by this Instrument or for imposing any Provision which may be unenforceable.

i. This Instrument may be enforced by Grantors or Grantee in a court of law. The interpretation and performance of this Instrument shall be governed by the laws of Alaska.

j. Upon violation of any of the Provisions herein, Grantee may seek any available legal or equitable remedy to enforce this Instrument, and shall be entitled to recover damages for violations of the Provisions herein to the public or to the environment protected herein under applicable federal or state law.



k. Any notice, demand, request, consent, approval, or communication that a party desires or is required to give another shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, addressed as follows:

To Grantor:

Ketchikan Gateway Borough
Attn: Borough Attorney
344 Front Street
Ketchikan, AK 99901

To Grantee:

Department of Natural Resources
Director, Division of Mining, Land and Water
Realty Services Section
550 West Seventh Avenue, Suite 1050A
Anchorage, AK 99501-3579

With a copy to:

Program Manager, Contaminated Sites Program
Alaska Department of Environmental Conservation
Division of Spill Prevention and Response
410 Willoughby, Suite 303
Juneau, AK 99801-1795

l. The determination that any Provision herein, or its application to any person or circumstance, is invalid shall not affect any other Provision herein or its application, and the other Provisions herein shall remain in full force and effect.

m. Any general rule of construction to the contrary notwithstanding, this Instrument shall be construed so as to effect the purpose for which it was granted to Grantee. Any ambiguities shall be resolved in a manner that best accomplishes the purpose of this Instrument.

n. Grantor shall notify ADEC and Grantee at least ten (10) days before the effective date of any conveyance, grant, gift, or other transfer, in whole or in part, of Grantor's interest in the Property. Grantor shall include in any instrument conveying any interest in any portion of the Property, including, but not limited to, deeds, leases, and mortgages, a notice which is in substantially the following form:

NOTICE: The interest conveyed hereby is subject to an Equitable Servitude and Easement dated _____, 2__, recorded in the public land records on _____, 2__, in book _____, page _____, of the Ketchikan Recording District, First Judicial District, State of Alaska, in favor of, and enforceable by, the State of Alaska.



o. Grantor shall notify ADEC within ten (10) days prior to Grantor's petitioning for or filing of any document initiating a rezoning of the Property under the Ketchikan Gateway Borough zoning code or any successor code.

p. This Equitable Servitude and Easement does not impose liability on the State of Alaska nor does it make the State of Alaska a responsible party under the Comprehensive Environmental Response, Compensation and Liability Act or AS 46.03 or similar federal or state statutes, regulations or local ordinances.

6. Termination:

This Instrument shall be vacated and shall be of no further force and effect upon the recordation in the Ketchikan Recording District, First Judicial District, State of Alaska by ADEC of a Notice of Vacation of Equitable Servitude and Easement. ADEC shall execute and record a Notice of Vacation of Equitable Servitude and Easement at such time as it, in its sole discretion, determines that the prohibited and required activities and other provisions of this Instrument are no longer necessary for the protection of human health, safety, welfare, and the environment. The Notice of Vacation of Equitable Servitude and Easement shall be executed by ADEC and state that ADEC has determined that the prohibited and required activities and other provisions of the Equitable Servitude and Easement are no longer necessary for the protection of human health, safety, and welfare, and the environment and further state that the Equitable Servitude and Easement are hereby vacated. If Grantor requests a termination of this Instrument, any costs incurred by ADEC in reviewing a potential termination shall be paid by Grantor.

IN WITNESS WHEREOF Grantor and Grantee have set their hands on the dates written below. This Instrument is effective on the date of the last acknowledged signature.

[SIGNATURES CONTAINED ON THE FOLLOWING PAGE]



KETCHIKAN GATEWAY BOROUGH

By Roy A. Eckert
Roy A. Eckert
General Manager

GRANTOR'S ACKNOWLEDGMENT

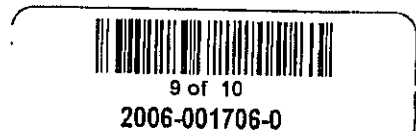
STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this 24 day of April, 2006, before me, the undersigned, a Notary Public for the State of Alaska, duly commissioned and sworn as such, personally appeared Roy A. Eckert, to me known and known to be the ^{Borough} General Manager, and the person who executed the above and foregoing Equitable Servitude and Easement on behalf of the Ketchikan Gateway Borough, and who acknowledged to me that he signed the same as the ^{Borough} General Manager, in the name of and for and on behalf of the Ketchikan Gateway Borough, freely and voluntarily and by authority of the Ketchikan Gateway Borough Assembly and on oath stated that he was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first above written.



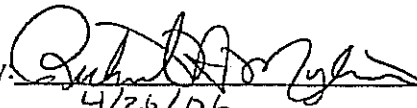
Notary Public for Alaska
Harriett J. Edwards
My commission expires: 1/27/2010



ACCEPTANCE

ON BEHALF OF the State of Alaska, pursuant to AS 38.05.035(a)(12), I do hereby accept this Equitable Servitude and Easement conveying to the State of Alaska, its successors in administrative function and assigns, the interests in the Property described therein as an Institutional Control, pursuant to 18 AAC 75.375 (as of 1/22/99), to be managed and enforced by the Department of Environmental Conservation or its successor, pursuant to the management right assignment issued as ADL 107454 for the portion of U.S. Survey 3400 described in this Instrument, to protect human health, safety, and welfare, and the environment and to enhance or maintain water quality.

**STATE OF ALASKA, DEPARTMENT
OF NATURAL RESOURCES**

By: 
4/26/06
Director
Division of Mining, Land and Water

Location Index:

Section 4,
Township 74 S., Range 90 E.,
Copper River Meridian, Alaska

Section 33,
Township 75 S., Range 90 E.,
Copper River Meridian, Alaska

AFTER RECORDING RETURN TO:

Ruth Hamilton Heese
Assistant Attorney General
State of Alaska
Department of Law
Environmental Section
P.O. Box 110300
Juneau, AK 99811



A
L
A
S
K
A

2006-001707-0

Recording Dist: 102 - Ketchikan
5/1/2006 8:46 AM Pages: 1 of 10



CC

EQUITABLE SERVITUDE AND EASEMENT

AS 34.17.010 – AS 34.17.060

This Equitable Servitude and Easement (hereinafter "Instrument") is made by and between the Ketchikan Gateway Borough, a second class Borough of the State of Alaska (whose address is 344 Front Street, Ketchikan, Alaska 99901), as grantor (hereinafter, with its successors and assigns, "Grantor"), and the State of Alaska (whose address is State of Alaska, Department of Natural Resources, Division of Mining, Land and Water, Realty Services Section, 550 West 7th Avenue, Suite 1050A, Anchorage, Alaska 99501-3579), as grantee (hereinafter, with its assigns, "Grantee"), for good and valuable consideration.

WHEREAS, all of the real property referred to herein is located in, and all deeds referred to as recorded are in the **Ketchikan Recording District**, First Judicial District, State of Alaska;

WHEREAS, Grantor is the owner of the following described parcels of real property:

U. S. Survey 3400; and

That certain portion of U.S. Survey 2923, more particularly described as follows: Beginning at the northerly corner of the Crawford Tract, otherwise known as Corner No. 2 of U.S. Survey 2923; thence South 55°45' East along the northeasterly boundary of the Crawford Tract a distance of 863.37 feet; thence South 89°33' West a distance of 709.81 feet, more or less, to a point on the westerly boundary of the Crawford Tract; thence North 0°27' West along the westerly boundary of the Crawford Tract a distance of 491.50 feet, more or less, to the point of beginning, hereinafter referred to as "Triangle, U. S. Survey 2923."

WHEREAS, Grantor wishes to make two specific areas of U. S. Survey 3400 and one specific area within the Triangle, U. S. Survey 2923 subject to this Instrument;

WHEREAS, the two portions of U. S. Survey 3400 and the one area within the Triangle, U. S. Survey 2923, which are to be made subject to this Instrument are described with particularity in Exhibit 1, attached hereto and incorporated herein by reference;

WHEREAS, the areas of U. S. Survey 3400 and of the Triangle, U. S. Survey 2923 to be made subject to this Instrument are described in Exhibit 1 as, respectively, "Parcel 1," "Parcel 2" and "Parcel 3," and are hereinafter referred to collectively as the "Property".

WHEREAS, the Property was formerly used by Ketchikan Pulp Company ("KPC") for storage of industrial materials, which resulted in its contamination with substances defined as

hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601 *et seq.* ("CERCLA"), and 18 AAC 75;

WHEREAS, on November 20, 2000, KPC, Gateway Forest Products ("GFP"), and the United States entered into a CERCLA consent decree in the case of *United States v. Gateway Forest Products, Inc., et al*, No. A00-225 CV (D. Alaska) ("Consent Decree") to address hazardous substances contamination issues associated with KPC's historical operating areas at Ward Cove, including the Property;

WHEREAS, the Consent Decree required KPC and Gateway to implement appropriate institutional controls on certain portions of real property owned or controlled by KPC or GFP, as the case may be;

WHEREAS, the Consent Decree is binding upon KPC, GFP, the United States, and their respective heirs, successors, and assigns;

WHEREAS, KPC conveyed Triangle, U.S. Survey 2923 to GFP by a Quitclaim Deed recorded on November 5, 1999, at Book 306, Page 72;

WHEREAS, GFP went into bankruptcy during 2001 and, through a series of foreclosures and related matters, the most recent of which was a Quitclaim Deed to Grantor recorded on December 18, 2003, as Document No. 2003-006529-0, Grantor became owner of Triangle, U.S. Survey 2923;

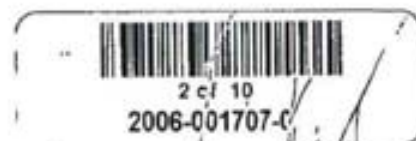
WHEREAS, on July 14, 2003, KPC, GFP, and Grantor entered into a settlement agreement ("Settlement Agreement") to resolve issues arising from or relating to the GFP bankruptcy. Under the Settlement Agreement, the Grantor undertook obligations relating to establishment of and compliance with institutional controls on property formerly owned by KPC and GFP, including the Property;

WHEREAS, by Quitclaim Deed executed incident to the Settlement Agreement on July 14, 2003, and recorded on July 18, 2003, as Document No. 2003-004125-0, KPC conveyed U.S. Survey 3400 to Grantor. That Quitclaim Deed explicitly incorporated the Settlement Agreement into its terms;

WHEREAS, the Alaska Department of Environmental Conservation ("ADEC") has determined that groundwater is not a current or potential future drinking water source on or around the Property;

WHEREAS, ADEC has determined, and Grantor has agreed, that the recording of this Instrument is necessary as an institutional control as part of the Consent Decree; and

WHEREAS, the requirements, rights, covenants, conditions, prohibitions, and restrictions of this Instrument (hereinafter "Provisions") are intended to protect human health, safety, and welfare and the environment and maintain and enhance water quality.



NOW, THEREFORE, pursuant to the laws of Alaska, including AS 34.17.010-AS 34.17.060, Grantor does hereby grant and convey to Grantee forever, with warranties of title, subject however to easements, rights, reservations, conditions, restrictions, and limitations of the United States, and third parties, if any, of record, an Equitable Servitude and Easement over the Property, including the right of entry thereto, of the nature and character and to the extent set forth below.

1. Restrictions:

Unless otherwise specifically authorized in writing by the Alaska Department of Environmental Conservation or its successor in administrative function or assigns (hereinafter, "ADEC"), the Property is subject to the following restrictions (hereinafter, "Restrictions"):

- a. Uses of the Property are limited to commercial or industrial use.
- b. The Property shall not, at any time, be used, in whole or in part, for human habitation, schooling of children, hospital care, child care, or any purpose necessitating around-the-clock residence by humans.
- c. Drilling of drinking water wells is prohibited.
- d. Controls specified in the "Management Plan for Arsenic and Rock and Soil," prepared by Exponent for KPC, dated July 1998, to limit concentrations of arsenic from crushed rock shall be complied with.
- e. No activities shall be allowed on the Property, without prior approval of ADEC in writing, that involve use of ground water, or potential exposure of Waste Materials within the Property. Waste Materials shall mean (i) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14) or AS 46.03.826(5); (ii) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); and (iii) any "solid waste" under Section 1004(27) of the Resource Conservation & Recovery Act ("RCRA"), 42 U.S.C. § 6903(27), AS 46.03.900(26), or the State of Alaska Solid Waste Management Regulations, 18 AAC 60.

2. Required Activities:

Grantor shall comply with the Restrictions in this Instrument and with the terms and conditions of any ADEC permit regulating activities on the Property.

3. Right of Entry:

During reasonable hours, after reasonable notice, and subject to reasonable security requirements, ADEC and its Authorized Representatives shall have the right to enter in, on, upon, over, and across any portion of the Property to determine whether the Provisions herein



have been or are being complied with. This right of entry shall include a right of access for, but not be limited to, conducting the following activities:

- a. Verifying any data or information submitted to the United States or the State of Alaska.
- b. Conducting investigations relating to contamination located at or near the Property.
- c. Obtaining samples.
- d. Assessing the need for, planning, or implementing additional response actions at or near the Property.
- e. Implementing the activities required to be performed under the Consent Decree pursuant to the conditions set forth in Paragraph (101) of the Consent Decree.
- f. Inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Grantor or its agents consistent with Section XXIV (Access to Information) of the Consent Decree.
- g. Monitoring and assessing compliance with the Consent Decree and any requirements or restrictions of this instrument.
- h. Determining whether the Property is being used in a manner that is prohibited or restricted, or that may need to be prohibited or restricted, by or pursuant to the Consent Decree.

Violation of, or reasonable suspicion of the violation of, any of the Provisions herein shall give ADEC and its Authorized Representatives the right, privilege, and license to enter in, on, upon, over, and across any portion of the Property and to investigate, abate, mitigate, or cure such violation, at the expense of Grantor, provided written notice of the violation is given to Grantor, describing what activity is necessary to investigate or correct the violation, and Grantor fails to cure the violation within a time specified in such notice. Such activities include, but are not limited to, the right to store, move, and remove equipment and supplies; construct, operate, maintain, alter, repair, and remove devices for the monitoring, containment, and treatment of contamination in soil, air and water; investigate and collect samples; excavate and remove waste, pollutants, hazardous substances, contaminated soils, contaminated waste; deposit uncontaminated soil; and the performance of any other activity which may be reasonably necessary and incident to ADEC's investigation and response. Any such entry by ADEC or its Authorized Representatives shall not be deemed a trespass or any other wrongful entry or remaining on the Property, and Grantee shall not be subject to liability to Grantor for such entry or any action taken to investigate, abate, mitigate, or cure a violation. ADEC and its Authorized Representatives shall be considered invitees on the Property and the Grantor shall make every reasonable effort to inform ADEC and its Authorized Representatives of hazards or hazardous areas to prevent personal injury.



To enable them to carry out the activities contemplated under this Instrument, Grantor also grants and conveys to Grantee, for the use and benefit of ADEC and its Authorized Representatives, a right of access over and across those portions of the following-described real property: U. S. Survey 3400; Triangle, U. S. Survey 2923; and, that portion of U. S. Survey 1056 lying northerly of the northerly boundary line of North Tongass Highway, Ketchikan Recording District, First Judicial District, State of Alaska, being adjacent to U. S. Survey 2923 and comprised of 5.16 acres. The portions of these three parcels which shall be subject to this right of access shall consist of the areas thereof located between the Property and the adjacent public rights-of-way of North Tongass Highway and Revilla Road, and which are subject to the Easement by and between Ketchikan Pulp Company, as grantor, and the United States of America, acting by and through the Forest Service, Department Agriculture, recorded October 23, 2000, at Book 317, Page 595 ("the Easement"). In addition, to the extent the Property is adjacent to, but not abutting, the areas subject to the Easement, the right of entry hereby granted shall also extend to those areas of the foregoing parcels which are necessary or convenient to allow access to the Property. With respect to the areas subject to the Easement, this right of access is granted in accordance with, and subject to, the terms of the Easement. The right of access hereby granted is for purposes of allowing ADEC and its Authorized Representatives to conduct any and all activities contemplated by this Instrument.

4. Contaminants of Concern that May be Present on the Property:

During an investigation and remediation of the Property completed in 1998, contaminated soil and surface debris were removed from the Property by KPC. There are areas on the Property where contaminants may remain in the soil in concentrations potentially greater than cleanup levels established by ADEC or EPA. These contaminants include petroleum products, polychlorinated bipheynyls, pentachlorophenol, lead, chromium, and arsenic. Most areas where active remediation activities occurred were filled to original grade with clean soil, covered with clean soil, and seeded with grass.

5. General Provisions:

a. This Instrument is for the benefit of Grantee and conveys the perpetual right to Grantee, acting through ADEC and contractors, employees, and authorized representatives acting on ADEC's behalf (herein, "Authorized Representatives"), to enforce and implement the Provisions herein. Nothing herein shall be deemed to create in any third party the right to enforce this Instrument.

b. No right of access or use by the general public to any portion of the Property is conveyed or authorized by this Instrument.

c. All real estate, lots, parcels, or portions thereof located within or on the Property, and any lease, conveyance, or transfer covering or describing any part thereof or interest therein, shall be subject to the Provisions herein. By acceptance of such conveyance or transfer, each lessee, transferee, or grantee and each of their heirs, successors, transferees, or assigns agrees with Grantor and each other to be bound by the Provisions herein.



d. Grantor hereby reserves unto itself, its successors, and assigns, any and all rights and privileges in and to the use of the Property, including the right of access to the Property, which are not contrary to the restrictions, rights, and easement granted herein.

e. The Provisions herein shall run with the land in perpetuity, and shall be binding upon Grantor, and each of Grantor's heirs, successors, grantees, lessees, transferees, and assigns and each of their heirs, successors, grantees, lessees, transferees, and assigns.

f. Nothing in this Instrument shall relieve Grantor from liability for injuries occurring on, or resulting from, its activities on the Property, for which Grantor would otherwise ordinarily be liable. Grantor shall be liable for and shall indemnify and hold Grantee harmless from liability for injuries and damage which arise because of its status as Grantee. Grantor shall also indemnify Grantee for all costs, including attorneys' fees, which arise from its status as Grantee.

g. Grantor hereby covenants to and with Grantee that Grantor is lawfully seized of the surface estate, in fee simple, of the Property, has good and lawful right and power to sell and convey the same, that the same is free and clear of encumbrances, except as specified herein and as of record, and that Grantor will forever warrant and defend the equitable servitude and easement (including the right of entry) conveyed to Grantee by this Instrument against the claims and demands of all persons.

h. To the maximum extent permitted by law, the Provisions herein shall not be subject to waiver or abandonment due to non-enforcement or violation of this Instrument or any of the Provisions herein on all or any portion of the Property. No waiver of the breach of any of the Provisions herein shall constitute a waiver of a subsequent breach of the same Provision or any other Provision. No right of action shall accrue for or on account of the failure of any person to exercise any right created by this Instrument or for imposing any Provision which may be unenforceable.

i. This Instrument may be enforced by Grantors or Grantee in a court of law. The interpretation and performance of this Instrument shall be governed by the laws of Alaska.

j. Upon violation of any of the Provisions herein, Grantee may seek any available legal or equitable remedy to enforce this Instrument, and shall be entitled to recover damages for violations of the Provisions herein to the public or to the environment protected herein under applicable federal or state law.

[CONTINUED ON THE FOLLOWING PAGE]



k. Any notice, demand, request, consent, approval, or communication that a party desires or is required to give another shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, addressed as follows:

To Grantor:

Ketchikan Gateway Borough
Attn: Borough Attorney
344 Front Street
Ketchikan, AK 99901

To Grantee:

Department of Natural Resources
Director, Division of Mining, Land and Water
Realty Services Section
550 West 7th Avenue, Suite 1050A
Anchorage, AK 99501-3579

With a copy to:

Program Manager, Contaminated Sites Program
Alaska Department of Environmental Conservation
Division of Spill Prevention and Response
410 Willoughby Suite 303
Juneau, AK 99801-1795

l. The determination that any Provision herein, or its application to any person or circumstance, is invalid shall not affect any other Provision herein or its application, and the other Provisions herein shall remain in full force and effect.

m. Any general rule of construction to the contrary notwithstanding, this Instrument shall be construed so as to effect the purpose for which it was granted to Grantee. Any ambiguities shall be resolved in a manner that best accomplishes the purpose of this Instrument.

n. Grantor shall notify ADEC and Grantee at least ten (10) days before the effective date of any conveyance, grant, gift, or other transfer, in whole or in part, of Grantor's interest in the Property. Grantor shall include in any instrument conveying any interest in any portion of the Property, including, but not limited to, deeds, leases, and mortgages, a notice which is in substantially the following form:

NOTICE: The interest conveyed hereby is subject to an Equitable Servitude and Easement dated _____, 2__, recorded in the public land records on _____, 2__, in book _____, page _____, of the Ketchikan Recording District, First Judicial District, State of Alaska, in favor of, and enforceable by, the State of Alaska.



o. Grantor shall notify ADEC and Grantee within ten (10) days prior to Grantor's petitioning for or filing of any document initiating a rezoning of the Property under the Ketchikan Gateway Borough zoning code or any successor code.

p. This Equitable Servitude and Easement does not impose liability on the State of Alaska nor does it make the State of Alaska a responsible party under the Comprehensive Environmental Response, Compensation and Liability Act or AS 46.03 or similar federal or state statutes, regulations or local ordinances.

6. Termination:

This Instrument shall be vacated and shall be of no further force and effect upon the recordation in the Ketchikan Recording District, First Judicial District, State of Alaska by ADEC of a Notice of Vacation of Equitable Servitude and Easement. ADEC shall execute and record a Notice of Vacation of Equitable Servitude and Easement at such time as it, in its sole discretion, determines that the prohibited and required activities and other provisions of this Instrument are no longer necessary for the protection of human health, safety, welfare and the environment. The Notice of Vacation of Equitable Servitude and Easement shall be executed by ADEC and state that ADEC has determined that the prohibited and required activities and other provisions of the Equitable Servitude and Easement are no longer necessary for the protection of human health, safety and welfare and the environment and further state that the Equitable Servitude and Easement are hereby vacated. If Grantor requests a termination of this Instrument, any costs incurred by ADEC in reviewing a potential termination shall be paid by Grantor.

IN WITNESS WHEREOF Grantor and Grantee have set their hands on the dates written below. This Instrument is effective on the date of the last acknowledged signature.

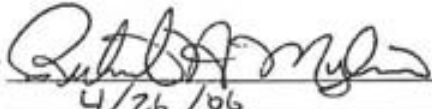
[SIGNATURES CONTAINED ON THE FOLLOWING PAGE]



ACCEPTANCE

ON BEHALF OF the State of Alaska, pursuant to AS 38.05.035(a)(12), I do hereby accept this Equitable Servitude and Easement conveying to the State of Alaska, its successors in administrative function and assigns, the interests in the Property described therein as an Institutional Control, pursuant to 18 AAC 75.375 (as of 1/22/99), to be managed and enforced by the Department of Environmental Conservation or its successor, pursuant to the management right assignment issued as ADL 107453 for the portion of U.S. Survey 2923 described in this Instrument, to protect human health, safety, and welfare, and the environment and to enhance or maintain water quality.

STATE OF ALASKA, DEPARTMENT OF NATURAL RESOURCES

By 
4/26/06
Director
Division of Mining, Land and Water

Location Index:

Section 4,
Township 74 S., Range 90 E.,
Copper River Meridian, Alaska

Section 33,
Township 75 S., Range 90 E.,
Copper River Meridian, Alaska

AFTER RECORDING RETURN TO:

Ruth Hamilton Heese
Assistant Attorney General
State of Alaska
Department of Law
Environmental Section
P.O. Box 110300
Juneau, AK 99811



A
L
A
S
K
A

2006-001708-0

Recording Dist: 102 - Ketchikan
5/1/2006 8:54 AM Pages: 1 of 7



cc

SUBORDINATION AGREEMENT

This Subordination Agreement ("this Agreement"), made and entered into this 1 day of May, 2006 by, between and among **KETCHIKAN PULP COMPANY**, a Washington corporation, Post Office Box 6600, Ketchikan, Alaska 99901 ("KPC"), the **KETCHIKAN GATEWAY BOROUGH**, a municipal corporation, 344 Front Street, Ketchikan, Alaska 99501 ("Borough"), for the benefit of the **STATE OF ALASKA**, whose address is State of Alaska, Department of Natural Resources, Division of Mining, Land and Water, Realty Services Section, 550 West Seventh Avenue, Suite 1050A, Anchorage, Alaska 99501-3579 ("State"), WITNESSETH:

RECITALS

WHEREAS, all real property referred to in this Agreement is located in, and all documents and plats referred as filed or recorded, are filed or recorded in the Ketchikan Recording District, First Judicial District, State of Alaska;

WHEREAS, by Quitclaim Deed executed on or about July 11, 2003 and recorded July 18, 2003 under Ketchikan Recording District Serial No. 2003-004125-0 ("the USS 3400 Quitclaim"), KPC quitclaimed to the Borough parcels of real property and related interests, including fee ownership of U. S. Survey 3400;

WHEREAS, the USS 3400 Quitclaim set forth the following Acknowledgment and Acceptance of Conveyance ("Borough Acceptance"), which was duly executed on behalf of the Borough on or around July 14, 2003:

The Ketchikan Gateway Borough ("Borough") hereby acknowledges and accepts the conveyance from

Ketchikan Pulp Company ("KPC"), set forth in the within and foregoing Quitclaim Deed, of KPC's right, title and interest in and to U.S. Survey 3400..., which conveyance and acceptance is subject to (1) the reservations stated therein; and, (2) the terms and conditions of the Agreement by and between the Borough and KPC dated July 14, 2003 ("Agreement"). Upon the terms and conditions of the Agreement, the Borough hereby assumes all obligations arising from or related to U.S. Survey 3400...

Any and all right, title and interest reserved to or otherwise arising for the benefit of KPC with respect to U. S. Survey 3400 by reason of the USS 3400 Quitclaim including, without limitation, by reason of the Borough Acceptance, are hereinafter referred to as "USS 3400 Quitclaim Interests;"

WHEREAS, on or about July 14, 2003 the Borough, KPC and Gateway Forest Products, Inc., an Alaska corporation, entered into the Environmental Easement and Declaration of Covenants, recorded July 18, 2003 under Ketchikan Recording District Serial No. 2003-004128-0 and hereinafter referred to as "the 2003 Covenants and Easement."

WHEREAS, the 2003 Covenants and Easement recognized and established certain covenant and easement rights for the benefit of KPC with respect to U. S. Survey 3400 and portions of U. S. Survey 2923, hereinafter referred to as the "USS 3400 and USS 2923 Covenant and Easement Interests."

WHEREAS, the 2003 Covenants and Easement also recognized and established certain covenant and easement rights for the benefit of KPC with respect to Lot 1, Section 34, T.74S., R.90E., C.R.M., as more particularly described in Exhibit A thereof; said parcel is hereinafter referred to as "Lot 1, Section 34;"

WHEREAS, the covenant and easement rights recognized and established under the 2003 Covenants and Easement with respect to Lot 1, Section 34, for the benefit of KPC are hereinafter referred as the "Lot 1, Section 34 Covenant and Easement Interests;"



Whereas, on or about July 14, 2004 the Borough and KPC entered into the Environmental Easement and Declaration of Covenants, recorded July 15, 2004 under Ketchikan Recording District Serial No. 2004-002967-0 and hereinafter referred to as "the 2004 Covenants and Easement."

WHEREAS, the 2004 Covenants and Easement recognized and established certain covenant and easement rights for the benefit of KPC with respect to portions of U. S. Survey 2923, hereinafter referred to as the "USS 2923 Covenant and Easement Interests."

WHEREAS, by the State's Patent recorded on the 15th day of May, 2006 under Ketchikan Recording District Serial No. 2006-001705-0, the State has issued patent conveying to the Borough Lot 1, Section 34, which parcel is described therein as "Section 34: Lot 1, containing 3.09 acres more or less, according to the Survey Plat accepted by the United States Department of the Interior, Bureau of Land Management in Anchorage, Alaska on January 28, 2003, and officially filed March 3, 2003;" nevertheless, for purposes of this Agreement only, said parcel is still referred to as "Lot 1, Section 34;"

WHEREAS, the Borough, as the owner of Lot 1, Section 34, with the cooperation and consent of KPC, has granted to the State, with respect to Lot 1, Section 34, the Equitable Servitude and Easement that was recorded on the 15th day of May, 2006 under Ketchikan Recording District Serial No. 2006-001706-0, and is hereinafter referred to as the "Lot 1, Section 34 DNR Servitude and Easement;"

WHEREAS, the Borough, with the cooperation and consent of KPC has granted to the State, with respect U. S. 3400 and portions of U. S. 2923, the Equitable Servitude and Easement that was recorded on the 15th day of May, 2006 under Ketchikan Recording District Serial No. 2006-001707-0, and is hereinafter referred to as the "USS 3400 and USS 2923 DNR Servitude and Easement;"

WHEREAS, as set forth in this Agreement, the parties desire to adjust the priorities between the interests reserved or granted to KPC under the foregoing recorded



documents and the two Equitable Servitude and Easement documents recently granted by the Borough to and for the benefit of the State.

NOW, THEREFORE, in consideration of the promises and of the mutual agreements and covenants hereinafter set forth, the Borough and KPC hereby agree as follows:

1. Subordination in Favor of State's Lot 1, Section 34 DNR Servitude and Easement. Notwithstanding the prior recording of the 2003 Covenants and Easement, KPC hereby agrees to, and by this instrument hereby does, subordinate its Lot 1, Section 34 Covenant and Easement Interests to the interests in and to Lot 1, Section 34, granted by the Borough to the State in the Lot 1, Section 34 DNR Servitude and Easement.

2. Subordination of USS 3400 Quitclaim Interests in Favor of State's USS 3400 and USS 2923 DNR Servitude and Easement. Notwithstanding the prior recording of the USS 3400 Quitclaim, KPC hereby agrees to, and by this instrument hereby does, subordinate its USS 3400 Quitclaim Interests to the interests in and to U.S. Survey 3400 granted by the Borough to the State in the USS 3400 and USS 2923 DNR Servitude and Easement.

3. Subordination of USS 3400 and USS 2923 Covenant and Easement Interests in Favor of State's USS 3400 and USS 2923 DNR Servitude and Easement. Notwithstanding the prior recording of the 2003 Covenants and Easement, KPC hereby agrees to, and by this instrument hereby does, subordinate its USS 3400 and USS 2923 Covenant and Easement Interests to the interests in and to U.S. Survey 3400 and U. S. Survey 2923 granted by the Borough to the State in the USS 3400 and USS 2923 DNR Servitude and Easement.

4. Subordination of USS 2923 Covenant and Easement Interests in Favor of State's USS 3400 and USS 2923 DNR Servitude and Easement. Notwithstanding the prior recording of the 2004 Covenants and Easement, KPC hereby agrees to, and by this instrument hereby does, subordinate its USS 2923 Covenant and Easement Interests to the interests in and to U.S. Survey 2923 granted by the Borough



to the State in the USS 3400 and USS 2923 DNR Servitude and Easement.

5. **Parties' Rights and Obligations Otherwise to Remain in Full Force and Effect.** This Agreement shall only affect the parties' rights and obligations as expressly set forth herein. The provisions of this Agreement herein shall run with the land in perpetuity, and shall be binding upon the parties, and their respective heirs, successors, grantees, lessees, transferees, and assigns, and each of their heirs, successors, grantees, lessees, transferees, and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first written above.

KETCHIKAN PULP COMPANY

Christopher M. Keyes
Christopher M. Keyes
Assistant Secretary

By *Neil Sherman*
Neil Sherman
President

KETCHIKAN GATEWAY BOROUGH

Harriet Edwards
Harriet Edwards
Clerk

By *Roy A. Eckert*
Roy A. Eckert
Manager

STATE OF ALASKA)
: ss.
FIRST JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this 1 day of May, 2006, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared **Roy A. Eckert** and **Harriet Edwards**, to me known to be the Manager and the Clerk of the Ketchikan Gateway Borough, a municipal corporation established pursuant to the laws of the State



WHEN RECORDED, RETURN TO:

Ruth Hamilton Heese
Assistant Attorney General
State of Alaska
Department of Law
Environmental Section
Post Office Box 110300
Juneau, Alaska 99811



*see***CORRECTION TO EQUITABLE SERVITUDE AND EASEMENT**

This Correction To Equitable Servitude And Easement ("this Correction"), made and entered into this 26th day of May, 2006, is made by, between and among the **Ketchikan Gateway Borough**, a second class Borough of the State of Alaska (whose address is 344 Front Street, Ketchikan, Alaska 99901), hereinafter "Borough", **Renaissance Ketchikan Group LLC**, an Idaho Limited Liability Company (whose mailing address is 3695 S. Jojoba Way, Chandler, Arizona 85248), hereinafter "Renaissance", and the **State of Alaska** (whose address is State of Alaska, Department of Natural Resources, Division of Mining, Land and Water, Realty Services Section, 550 West 7th Avenue, Suite 1050A, Anchorage, Alaska 99501-3579), hereinafter, "State", WITNESSETH:

Recitals

A. All property descriptions referenced in this Correction are located in, and all references to recorded documents are recorded in, the **Ketchikan Recording District**, First Judicial District, State of Alaska.

B. On or about April 24, 2006, the Borough, as grantor, executed the Equitable Servitude and Easement ("the Servitude") that was recorded on May 1, 2006 as Document No. 2006-001707-0. On or about April 26, 2006, the State, as grantee, executed the acceptance set forth in the Servitude.

C. By the Servitude, upon the terms set forth therein, the Borough granted and conveyed to the State, as grantee, an Equitable Servitude and Easement with respect to certain specified areas within the following described parcels of real property:

U. S. Survey 3400; and

That certain portion of U.S. Survey 2923, more particularly described as follows: Beginning at the northerly corner of the Crawford Tract, otherwise known as Corner No. 2 of U.S. Survey 2923; thence South 55°45' East along the northeasterly boundary of the Crawford Tract a distance of 863.37 feet; thence South 89°33' West a distance of 709.81 feet, more or less, to a point on the westerly boundary of the Crawford Tract; thence North 0°27' West along the westerly boundary of the Crawford Tract a distance of 491.50 feet, more or less, to the point of beginning, hereinafter referred to as "Triangle, U. S. Survey 2923."

D. The two specific areas of U. S. Survey 3400 and the one specific area within the Triangle, U. S. Survey 2923 that were made subject to the Servitude were to be described with particularity in Exhibit 1, which was agreed upon by the Borough and the State. However, by oversight, when the Servitude document was finalized, executed and recorded, the exhibit was not attached to and recorded with the Servitude.

E. By the Statutory Warranty Deed recorded on May 2, 2006 as Document No. 2006-001753-0, the Borough conveyed to Renaissance a number of parcels, including U.S. Survey 3400 and the Triangle, U. S. Survey 2923. By the Deed of Trust and Security Agreement also recorded on May 2, 2006 as Document No. 2006-001754-0, Renaissance, as trustor, conveyed to Ketchikan Title Agency Inc., as trustee, for the benefit of the Borough, as beneficiary, a security interest in and to a number of parcels, including U. S. Survey 3400 and the Triangle, U. S. Survey 2923.

F. The parties, including Renaissance as the current owner of U. S. Survey 3400 and Triangle, U. S. Survey 2923, wish to execute and record this Correction with Exhibit 1 attached hereto, to address the status of Exhibit 1.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

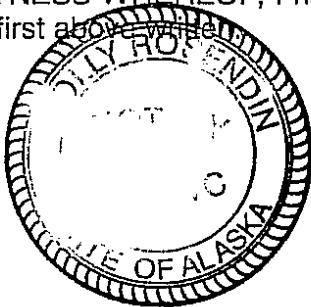
1. **Exhibit 1 Attached.** Exhibit 1 to the Servitude is attached hereto. By this reference, Exhibit 1 is incorporated into this Correction, and thereby incorporated into the Servitude.



STATE OF ALASKA)
) ss:
First District)

THIS IS TO CERTIFY that on this 04 day of May, 2006, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, **Jerry Jenkins** personally appeared before me and is known to be the Managing Member of Renaissance Ketchikan Group LLC, a limited liability company formed under the laws of the State of Idaho, the company which executed the above and foregoing instrument, and who on oath stated he is duly authorized to execute said instrument, and acknowledged that he signed the same freely and voluntarily on behalf of said company for the purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first above written.



Holly Rosendin
Notary Public for Alaska
Commission expires: 9/15/08

**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES**

Date: _____

By _____
Director
Division of Mining, Land and Water

STATE OF ALASKA)
) ss:
Third District)

THIS IS TO CERTIFY that on this _____ day of May, 2006; before me, the undersigned, a Notary Public for the State of Alaska, duly commissioned and sworn as such, personally appeared _____, to me known and known to be the Director of the Division of Mining, Land and Water, State of Alaska, Department of Natural Resources, and the person who executed the above and foregoing Correction to Equitable Servitude and Easement on behalf of the Alaska Department of Natural Resources, and who acknowledged to me that he signed the same as the Director of the Division of Mining, Land and Water, in the name of and for and on behalf of the Alaska Department of Natural Resources , freely and voluntarily and by authority of the Alaska Department of Natural Resources and on oath stated that he was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first above written.

Notary Public for Alaska
Commission expires: _____



STATE OF ARIZONA)
) ss:
Maricopa County)

THIS IS TO CERTIFY that on this ___ day of May, 2006, before me, the undersigned, a Notary Public in and for the State of Arizona, duly commissioned and sworn, **Jerry Jenkins** personally appeared before me and is known to be the Managing Member of Renaissance Ketchikan Group LLC, a limited liability company formed under the laws of the State of Idaho, the company which executed the above and foregoing instrument, and who on oath stated he is duly authorized to execute said instrument, and acknowledged that he signed the same freely and voluntarily on behalf of said company for the purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first above written.

Notary Public for Arizona
Commission expires: _____

**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES**

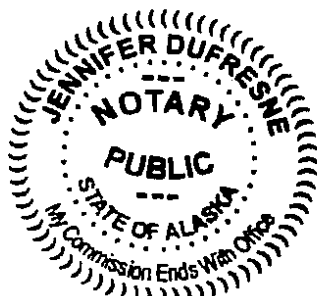
Date: 5-26-06

By [Signature]
Director
Division of Mining, Land and Water

STATE OF ALASKA)
) ss:
Third District)

THIS IS TO CERTIFY that on this 26th day of May, 2006, before me, the undersigned, a Notary Public for the State of Alaska, duly commissioned and sworn as such, personally appeared Richard Mylius to me known and known to be the Director of the Division of Mining, Land and Water, State of Alaska, Department of Natural Resources, and the person who executed the above and foregoing Correction to Equitable Servitude and Easement on behalf of the Alaska Department of Natural Resources, and who acknowledged to me that he signed the same as the Director of the Division of Mining, Land and Water, in the name of and for and on behalf of the Alaska Department of Natural Resources, freely and voluntarily and by authority of the Alaska Department of Natural Resources and on oath stated that he was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first above written.



Jennifer Dufresne
Notary Public for Alaska
Commission expires: with office

4A of 5
Page 4 of 5



Location Index:

Section 4,
Township 74 S., Range 90 E.,
Copper River Meridian, Alaska

Section 33,
Township 75 S., Range 90 E.,
Copper River Meridian, Alaska

AFTER RECORDING RETURN TO:

Ruth Hamilton Heese
Assistant Attorney General
State of Alaska
Department of Law
Environmental Section
P.O. Box 110300
Juneau, AK 99811



LEGAL DESCRIPTION
Equitable Servitude and Easement
February 22, 2006

"Parcel 1"

This description is a portion of U.S. Survey 3400, according to the official plat of U.S. Survey 3400 approved April 18, 1955 (herein referred to as "U.S. Survey 3400") and bounded by Tract C and Lot 1 of the BLM subdivision survey of Sections 27 and 34, Township 74 South, Range 90 East, Copper River Meridian (herein referred to as "Tract C" or "Lot 1", accordingly), according to the plat officially filed March 3, 2003, for purposes of granting an equitable servitude and easement, and is more particularly described as follows:

Commencing at Corner Number One of U.S. Survey 3400;

thence S 55°40'1"E (a record bearing of S 55°45' E) along the common property line between U.S. Survey 2923 and U.S. Survey 3400, a distance of 203.01'

thence N 42°21'27" E (a record bearing of N 42°20' E) along the common boundary of U.S. Survey 3400 and Tract C a distance of 321.98'

thence around a non-tangent curve to the right through a central angle of 11°10'08" an arc distance of 14.17', a chord bearing of S 47°54'27" W, a distance of 14.14' along the common boundary of U.S. Survey 3400 and Tract C (a record chord bearing of S 47°53' W, chord distance of 0.214 chains, arc length of 0.214 chains)

thence N 53° 28' 33" E (a record bearing of N 53° 26' E) along the common boundary of U.S. Survey 3400 and Lot 1 a distance of 767.06'

thence around a curve to the right through a central angle of 6° 16' 16" an arc distance of 19.28', a chord bearing of N 56° 36' 25" E along the common boundary of U.S. Survey 3400 and Lot 1 to the TRUE POINT OF BEGINNING;

thence N 10°18'10" E, a distance of 44.13'

thence N 29°27'51" E, a distance of 40.58'

thence N 54°29'56" E, a distance of 27.35'

thence N 70°52'13" E, a distance of 53.63'

thence N 74°51'05" E, a distance of 85.03'

thence N 75°20'17" E, a distance of 74.07'

Equitable Servitude and Easement

EXHIBIT 1
Page 1 of 9 Page(s)

U.S.S. 3400 and U.S.S 2923
Page 1



thence N 73°49'32" E, a distance of 77.24'
thence N 74°40'44" E, a distance of 76.77'
thence N 75°40'42" E, a distance of 71.89'
thence N 74°46'45" E, a distance of 66.88'
thence N 74°50'32" E, a distance of 53.73'
thence N 75°05'21" E, a distance of 62.17'
thence N 75°14'02" E, a distance of 83.06'
thence N 75°17'00" E, a distance of 87.94'
thence N 74°00'46" E, a distance of 65.32'
thence N 65°50'16" E, a distance of 62.38'
thence N 58°55'54" E, a distance of 65.91'
thence N 57°08'22" E, a distance of 88.36'
thence N 56°56'15" E, a distance of 80.26'
thence N 52°20'06" E, a distance of 59.55'
thence N 49°25'39" E, a distance of 55.00'
thence N 49°28'24" E, a distance of 61.21'
thence N 53°05'57" E, a distance of 68.26'
thence N 63°40'40" E, a distance of 59.99'
thence N 70°44'17" E, a distance of 68.12'
thence N 70°44'17" E, a distance of 68.12'
thence N 73°09'06" E, a distance of 55.53'
thence N 64°27'39" E, a distance of 62.61'

EXHIBIT 1
Page 2 of 9 Page(s)

Equitable Servitude and Easement

U.S.S. 3400 and U.S.S 2923
Page 2



thence N 53°49'48" E, a distance of 51.66'

thence N 49°30'19" E, a distance of 57.17'

thence N 52°42'27" E, a distance of 71.86'

thence N 63°48'49" E, a distance of 52.68'

thence N 76°59'28" E, a distance of 60.25'

thence S 89°50'49" E, a distance of 1.84'

thence S 89°50'49" E, a distance of 52.18'

thence S 85°33'55" E, a distance of 70.00'

thence S 84°55'15" E, a distance of 34.61'

thence S 06°04'00" W, a distance of 80.06' to the common boundary of U.S. Survey 3400 and Tract C

thence N 84°00'04" W, a distance of 114.34' along the common boundary of U.S. Survey 3400 and Tract C (a record bearing of N 83°56'00" W,)

thence around a curve to the left through a central angle of 48°51'00" an arc distance of 142.03', a chord bearing of S 71°34'26" W, a distance of 137.77' along the boundary of U.S. Survey 3400, (a record chord bearing of S 71°38'30" W, chord distance of 2.090 chains, arc length of 2.154 chains)

thence S 47°08'56" W, a distance of 70.33' along the common boundary of U.S. Survey 3400 and Tract C (a record bearing of S 47°13'W, a distance of 1.067 chains)

thence around a curve to the right through a central angle of 28°58'00" an arc distance of 198.07', a chord bearing of S 61°37'56" W, a distance of 195.97' along the common boundary of U.S. Survey 3400 and Tract C (a record chord bearing of S 61°42' W, chord distance of 2.973 chains, arc length of 3.006 chains)

thence S 76°06'56" W, a distance of 50.49' along the common boundary of U.S. Survey 3400 and Tract C (a record bearing of S 76°11' W, a distance of 0.766 chains)

thence around a curve to the left through a central angle of 27°34'00" an arc distance of 110.95', a chord bearing of S 62°19'56" W, a distance of 109.88' along the common boundary of U.S. Survey 3400 and Tract C, (a record chord bearing of S 62°24' W, chord distance of 1.667 chains, arc length of 1.684 chains)



thence S 48°32'56" W, a distance of 147.72' along the common boundary of U.S. Survey 3400 and Tract C (a record bearing of S 48°37' W, a distance of 2.241 chains)

thence around a non-tangent curve to the right through a central angle of 9°39'10" an arc distance of 70.05', a chord bearing of S 53°24'07" W, a distance of 69.97', along the common boundary of U.S. Survey 3400 and Tract C, (a record chord bearing of S 53°26'30" W, chord distance of 1.060 chains, arc length of 1.061 chains)

thence S 58°13'37" W, a distance of 214.00' along the common boundary of U.S. Survey 3400 and Tract C (a record bearing of S 58°16' W, a distance of 3.242 chains)

thence around a curve to the right, through a central angle of 16°52'00" an arc distance of 143.95', a chord bearing of S 66°39'37" W a distance of 143.43', along the common boundary of U.S. Survey 3400 and Tract C, (a record chord bearing of S 66°42' W, chord distance of 2.173 chains, arc length of 2.181 chains)

thence S 75°05'37" W, a distance of 788.20' along the common boundary of U.S. Survey 3400 and Tract C (a record bearing of S 75°08' W)

thence S 75°10'11" W, a distance of 48.32' along the common boundary of U.S. Survey 3400 and Tract C (a record bearing of S 75°08' W, a record distance of 0.733 chains)

thence around a curve to the left, through a central angle of 15°46'59" an arc distance of 48.51', a chord bearing of S 67°38'4" W a distance of 48.36', along the common boundary of U.S. Survey 3400, Tract C and Lot 1 to the POINT OF BEGINNING
Containing 162,891 square feet or 3.7395 acres, more or less.

"Parcel 2"

This description is a portion of U.S. Survey 3400, according to the official plat of U.S. Survey 3400 approved April 18, 1955 (herein referred to as "U.S. Survey 3400") and bounded by Tract C and Lot 1 of the BLM subdivision survey of Sections 27 and 34, Township 74 South, Range 90 East, Copper River Meridian (herein referred to as "Tract C" or "Lot 1", accordingly), according to the plat officially filed March 3, 2003, for purposes of granting an equitable servitude and easement, and is more particularly described as follows:

Commencing at Corner Number One of U.S. Survey 3400;

thence S 55°40'1"E (a record bearing of S 55°45' E) along the common boundary of U.S. Survey 2923 and U.S. Survey 3400, a distance of 138.02' to the TRUE POINT OF BEGINNING;

thence N 39°48'34" E, a distance of 16.71'

EXHIBIT 1
Page 4 of 9 Page(s)

Equitable Servitude and Easement

U.S.S. 3400 and U.S.S 2923
Page 4



thence N 39°56'49" E, a distance of 29.43'

thence N 40°06'23" E, a distance of 67.44'

thence N 40°47'15" E, a distance of 71.99'

thence N 41°14'51" E, a distance of 53.75'

thence N 44°16'36" E, a distance of 59.77'

thence N 54°44'59" E, a distance of 43.67'

thence N 80°01'48" E, a distance of 51.06'

thence S 81°18'08" E, a distance of 52.57' to a point along the common boundary of U.S. Survey 3400, Lot 1 and Tract C

thence S 53°28'33" W, a distance of 67.26' along the common boundary of U.S. Survey 3400 and Tract C

thence around a non-tangent curve to the left through a central angle of 11°10'08" an arc distance of 14.17', a chord bearing of S 47°54'27" W, a distance of 14.14' along the common boundary of U.S. Survey 3400 and Tract C (a record chord bearing of S 47°53' W, chord distance of 0.214 chains, arc length of 0.214 chains)

thence S 42°21'27" W, a distance of 321.98' along the common boundary of U.S. Survey 3400 and Tract C (a record bearing of S 42°20" W, a distance of 321.98 feet, or 4.872 chains)

thence N 55°40'01" W, a distance of 64.99' along the common boundary of U.S. Survey 3400 and U.S. Survey 2923 (a record bearing of N 55°45' W) to the POINT OF BEGINNING

Containing 25,751 square feet or 0.591 acres, more or less.

"Parcel 3"

This description is a portion of U.S. Survey 2923, according to the official plat of U.S. Survey 2923 approved July 5, 1950 (herein referred to as "U.S. Survey 2923") and according to the official plat of U.S. Survey 3400 approved April 18, 1955 (herein referred to as "U.S. Survey 3400"), for purposes of granting an equitable servitude and easement, and is more particularly described as follows:

Commencing at Corner Number One of U.S. Survey 3400;

EXHIBIT 1
Page 5 of 9 Page(s)

Equitable Servitude and Easement

U.S.S. 3400 and U.S.S 2923
Page 5



11 of 15

2006-002278-0

thence S 55°40'1" E (a record bearing of S 55°45' E) along the common boundary of U.S. Survey 2923 and U.S. Survey 3400, a distance of 138.02' to the TRUE POINT OF BEGINNING;

thence S 55°40'1" E (a record bearing of S 55°45' E) along the common boundary of U.S. Survey 2923 and U.S. Survey 3400, a distance of 49.38'

thence S 8°5'45" E, a distance of 30.45'

thence S 8°37'27" E, a distance of 74.29'

thence S 58°6'40" W, a distance of 69.41'

thence N 77°44'51" W, a distance of 43.63'

thence N 62°0'10" W, a distance of 67.23'

thence N 38°38'41" E, a distance of 46.59'

thence N 39°45'38" E, a distance of 58.65'

thence N 39°45'41" E, a distance of 59.60' to the common boundary of U.S. Survey 2923 and U.S. Survey 3400, the POINT OF BEGINNING
Containing 15,872 square feet or 0.364 acres, more or less.

Equitable Servitude and Easement

EXHIBIT 1
Page 6 of 9 Page(s)

U.S.S. 3400 and U.S.S 2923
Page 6



12 of 15
2008 002278 0

CURVE TABLE

NUMBER	DELTA	CHORD BEARING	T'	R'	ARC	CHORD LENGTH
C1	11°06'00"	N 47°59'54" E (N 47°32' E)	26.58	273.57 (4.131 cts)	53.00 (0.800 cts)	52.92 (0.799 cts)
C2	22°07'20"	N 64°34'24" E (N 64°06'30" E)	73.56	376.27 (5.701 cts)	145.28 (2.194 cts)	144.38 (2.180 cts)
C3	16°52'00"	N 66°33'53" E (N 66°42' E)	42.87	289.18 (4.380 cts)	85.13 (1.289 cts)	84.82 (1.285 cts)
C4	09°38'58"	N 53°18'23" E (N 53°28'30" E)	18.22	215.82 (3.270 cts)	36.35 (0.551 cts)	36.31 (0.550 cts)
C5	27°34'00"	N 62°16'35" E (N 62°24' E)	105.60	430.48 (6.529 cts)	207.11 (3.141 cts)	205.12 (3.111 cts)
C6	28°58'00"	N 61°34'35" E (N 61°42' E)	49.61	192.05 (2.913 cts)	97.09 (1.473 cts)	96.06 (1.457 cts)
C7	48°51'00"	N 71°31'05" E (N 71°38'30" E)	166.41	366.41 (5.557 cts)	312.40 (4.738 cts)	303.03 (4.956 cts)
C8	55°35'31"	N 68°07'08" E (N 68°14'30" E)	111.09	210.74 (3.193 cts)	204.47 (3.101 cts)	196.55 (2.981 cts)
C9	20°43'00"	N 29°58'17" E (N 30°03'30" E)	29.17	159.81 (2.420 cts)	57.71 (0.875 cts)	57.40 (0.870 cts)
C10	09°42'39"	N 14°47'37" E (N 14°50'30" E)	18.02	212.12 (3.214 cts)	35.95 (0.545 cts)	35.91 (0.544 cts)
C44	20°43'00"	S 29°58'17" W (S 30°03'30" W)	65.77	359.80 (5.450 cts)	130.09 (1.971 cts)	129.39 (1.960 cts)
C45	55°34'07"	S 68°10'26" W (S 68°14'30" W)	216.40	410.72 (6.223 cts)	398.34 (6.044 cts)	382.91 (5.809 cts)
C46	48°51'00"	S 71°34'28" W (S 71°38'30" W)	75.65	186.58 (2.527 cts)	142.03 (2.154 cts)	137.77 (2.090 cts)
C47	28°58'00"	S 81°37'56" W (S 81°42' W)	101.20	391.78 (5.943 cts)	198.07 (3.005 cts)	195.97 (2.973 cts)
C48	27°34'00"	S 62°19'56" W (S 62°24' W)	56.57	230.60 (3.499 cts)	110.95 (1.684 cts)	109.88 (1.667 cts)
C49	09°39'10"	S 53°24'07" W (S 53°28'30" W)	35.11	415.80 (6.300 cts)	70.05 (1.061 cts)	69.87 (1.060 cts)
C50	16°52'00"	S 66°39'37" W (S 66°42' W)	72.50	489.01 (7.410 cts)	143.95 (2.181 cts)	143.43 (2.173 cts)
C51	22°03'15"	S 64°29'56" W (S 64°06'30" W)	34.32	176.11 (2.671 cts)	67.79 (1.028 cts)	67.37 (1.022 cts)
C52	11°10'08"	S 47°54'27" W (S 47°53' W)	7.11	72.67 (1.101 cts)	14.17 (0.214 cts)	14.14 (0.214 cts)

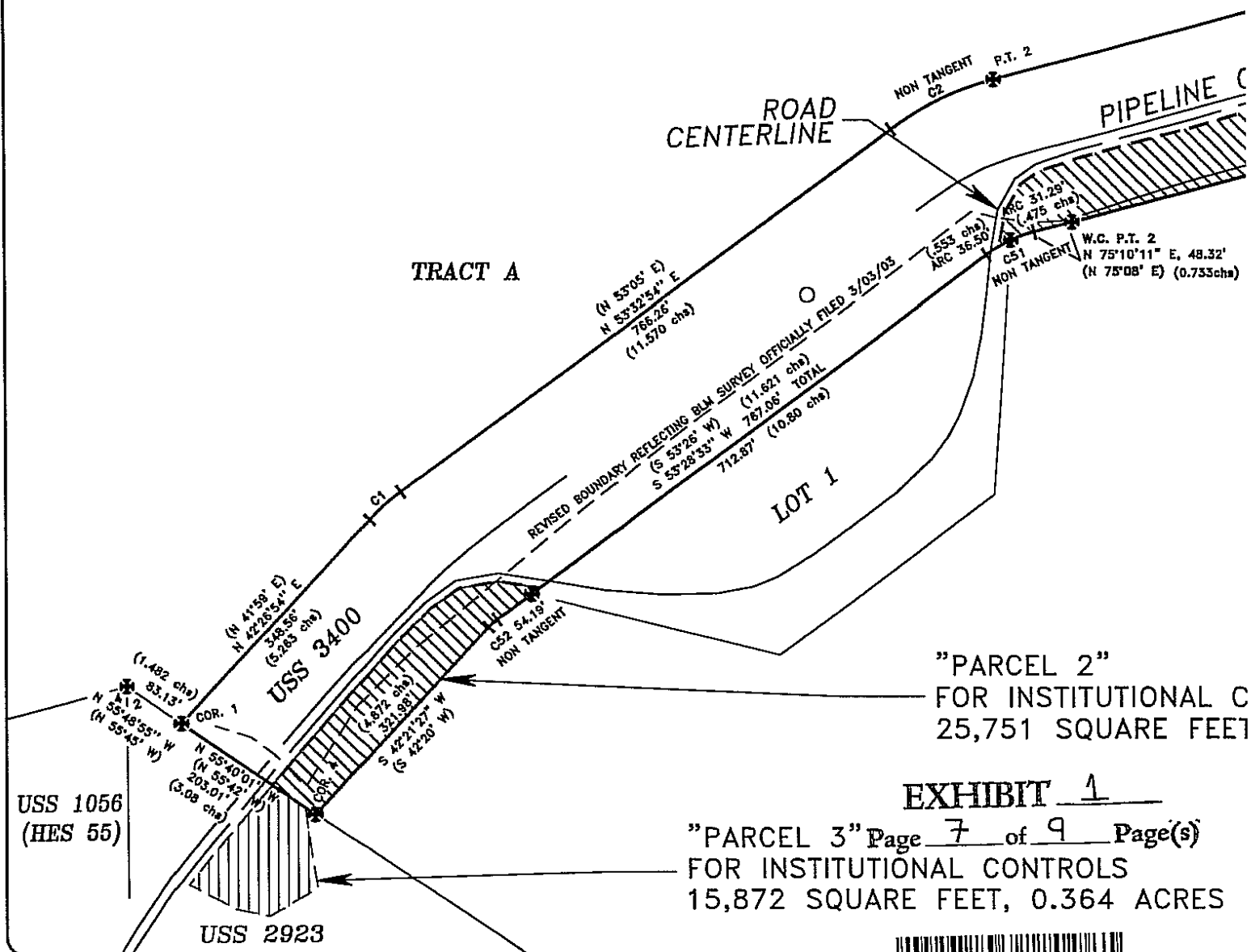


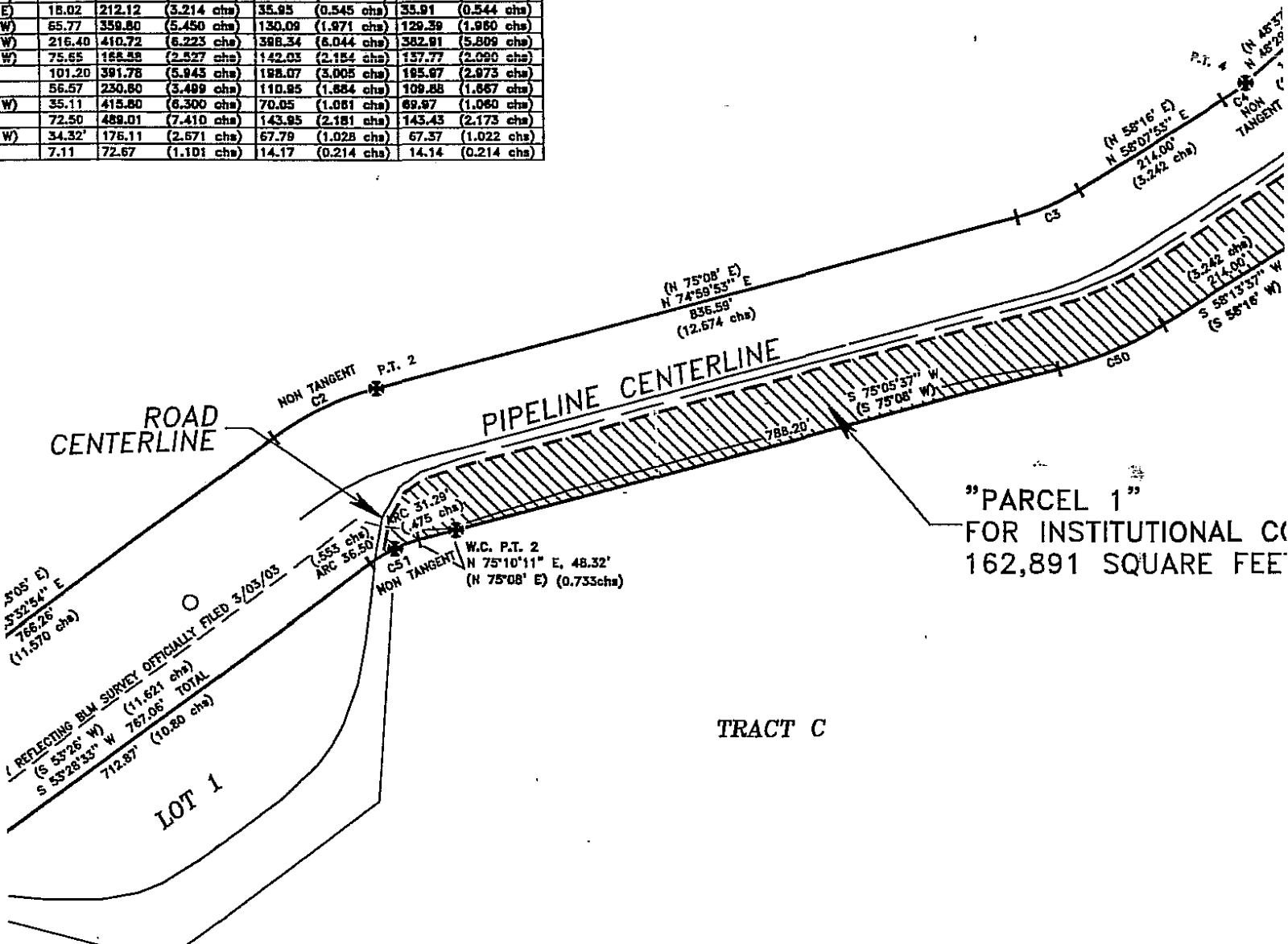
EXHIBIT 1

"PARCEL 3" Page 7 of 9 Page(s)
FOR INSTITUTIONAL CONTROLS
15,872 SQUARE FEET, 0.364 ACRES



CURVE TABLE

	T'	R'	ARC		CHORD LENGTH	
	26.58	273.57 (4.131 cba)	53.00 (0.800 cba)	52.92 (0.789 cba)		
	73.58	378.27 (5.701 cba)	145.28 (2.194 cba)	144.38 (2.180 cba)		
	42.87	289.18 (4.380 cba)	85.13 (1.289 cba)	84.82 (1.285 cba)		
	18.22	215.82 (3.270 cba)	36.35 (0.551 cba)	36.31 (0.550 cba)		
	105.60	430.48 (6.529 cba)	207.11 (3.141 cba)	205.12 (3.111 cba)		
	49.61	192.05 (2.913 cba)	97.09 (1.473 cba)	96.06 (1.457 cba)		
	166.41	388.41 (5.557 cba)	312.40 (4.738 cba)	303.03 (4.958 cba)		
	111.09	210.74 (3.193 cba)	204.47 (3.101 cba)	198.55 (2.981 cba)		
	29.17	159.81 (2.420 cba)	57.71 (0.875 cba)	57.40 (0.870 cba)		
	18.02	212.12 (3.214 cba)	35.95 (0.545 cba)	35.91 (0.544 cba)		
	65.77	359.80 (5.450 cba)	130.09 (1.971 cba)	129.39 (1.960 cba)		
	216.40	410.72 (6.223 cba)	388.34 (6.044 cba)	382.91 (5.809 cba)		
	75.65	168.58 (2.527 cba)	142.03 (2.154 cba)	137.77 (2.090 cba)		
	101.20	391.78 (5.943 cba)	198.07 (3.005 cba)	195.87 (2.973 cba)		
	56.57	230.80 (3.499 cba)	110.95 (1.684 cba)	109.88 (1.667 cba)		
	35.11	415.80 (6.300 cba)	70.05 (1.061 cba)	69.97 (1.060 cba)		
	72.50	489.01 (7.410 cba)	143.95 (2.181 cba)	143.43 (2.173 cba)		
	34.32	176.11 (2.671 cba)	67.79 (1.028 cba)	67.37 (1.022 cba)		
	7.11	72.67 (1.101 cba)	14.17 (0.214 cba)	14.14 (0.214 cba)		

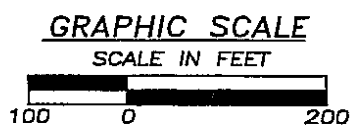


"PARCEL 1"
FOR INSTITUTIONAL CONTROLS
162,891 SQUARE FEET

"PARCEL 2"
FOR INSTITUTIONAL CONTROLS
25,751 SQUARE FEET, 0.591 ACRES

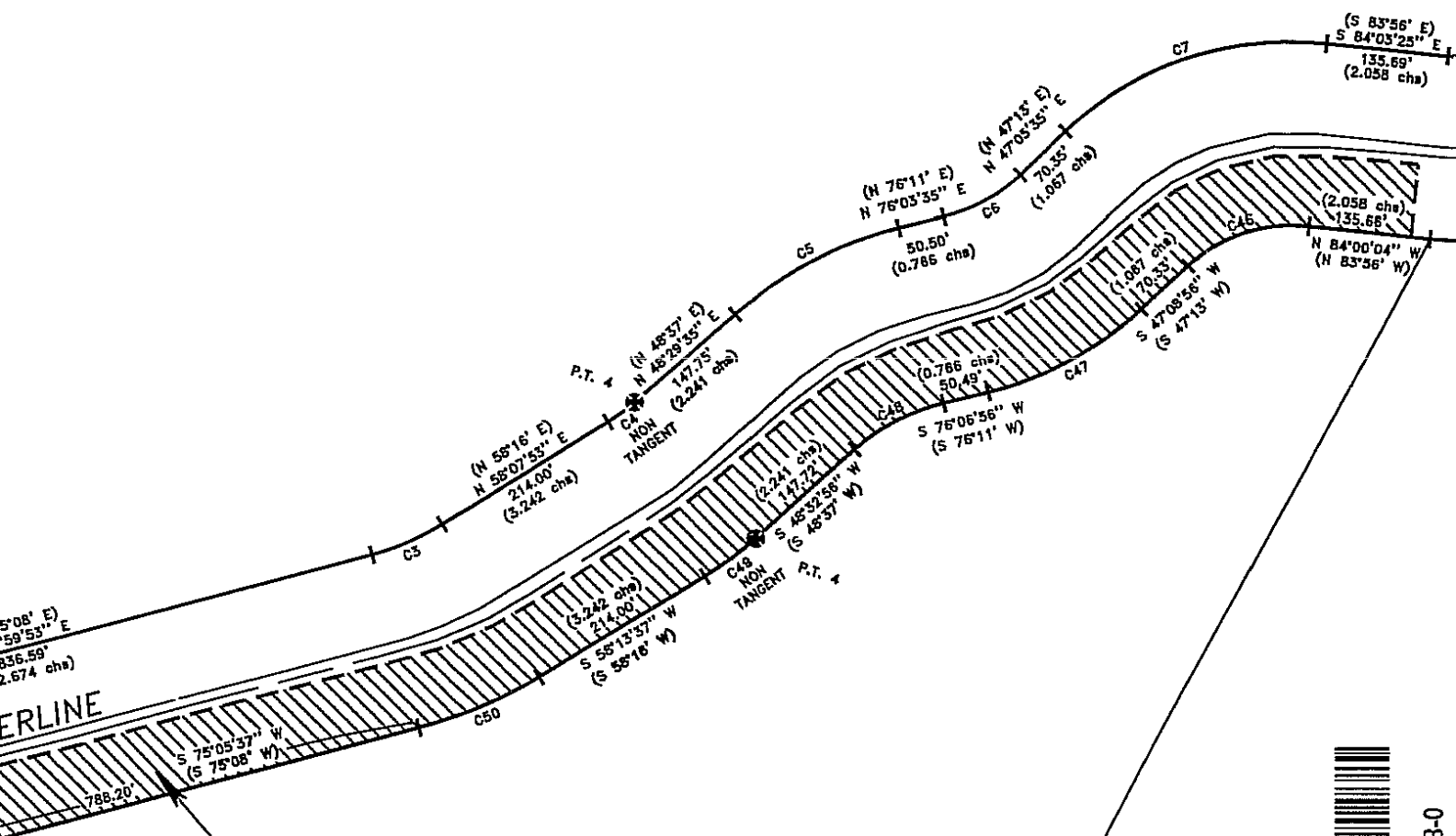
"PARCEL 3"
FOR INSTITUTIONAL CONTROLS
15,872 SQUARE FEET, 0.364 ACRES

EXHIBIT 1
Page 8 of 9 Page(s)

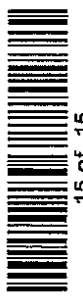


PROJECT NO. 052758	SCALE: 1" = 200'	DRAWN BY:
-----------------------	---------------------	-----------





"PARCEL 1"
FOR INSTITUTIONAL CONTROLS
162,891 SQUARE FEET, 3.7395 ACRES



15 of 15
2006-002278-0

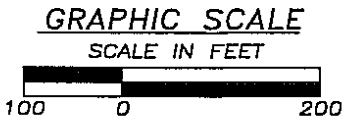
TRACT C

TRACT 37

EXHIBIT 1
Page 9 of 9 Page(s)

CONTROLS
591 ACRES

AREAS UNDER
INSTITUTIONAL CONTROLS
U.S. SURVEYS 3400 & 2923
KETCHIKAN, ALASKA



CLIENT: KETCHIKAN PULP COMPANY
P.O. BOX 6600
KETCHIKAN, ALASKA 99901

PROJECT NO. 052758	SCALE: 1" = 200'	DRAWN BY: S.A.M.	CHECKED BY: S.A.M.	DATE: 2/22/06	SHEET NO. 1 OF 1
-----------------------	---------------------	---------------------	-----------------------	------------------	---------------------

Attachment 11

2003 Agreement between Ketchikan Gateway Borough, Gateway Forest Products, and
Ketchikan Pulp Company, recorded July 16, 2008

2008-002806-0

Recording Dist: 102 - Ketchikan
7/16/2008 11:11 AM Pages: 1 of 72

A
L
A
S
K
A



After Recording Return to:

Ketchikan Gateway Borough
Borough Attorney's Office
344 Front Street
Ketchikan, AK 99901

THIS COVER SHEET HAS BEEN ADDED TO
THIS DOCUMENT TO PROVIDE SPACE FOR
THE RECORDING DATA. THIS COVER
SHEET APPEARS AS THE FIRST PAGE OF
THE DOCUMENT IN THE OFFICIAL PUBLIC
RECORD.

DO NOT DETACH

AGREEMENT

This Agreement is entered into this 14th day of July, 2003, by and between the Ketchikan Gateway Borough, Gateway Forest Products, Inc., and Ketchikan Pulp Company.

RECITALS

WHEREAS, Ketchikan Pulp Company sold its former pulp mill site, substantially all of its operating assets, and other real properties in or near Ward Cove, Ketchikan, Alaska, to Gateway Forest Products, Inc. pursuant to the terms and conditions of an Asset Purchase Agreement ("APA") dated November 3, 1999;

WHEREAS, Gateway Forest Products, Inc. and Ketchikan Pulp Company executed and delivered various Ancillary Agreements as part of the APA, including the Allocation of Environmental Responsibilities Agreement (Exhibit "F"), which set forth the environmental liabilities retained by Ketchikan Pulp Company and those being assumed by Gateway Forest Products, Inc., the terms and conditions of which were incorporated by reference into the Easement and Declaration of Covenants Regarding Allocation of Environmental Responsibilities (Exhibit "F-1"), both of which thereafter were incorporated by reference into the Quitclaim Deed, recorded in the Ketchikan Recording District on November 5, 1999 at Book 306, Page 72, effectuating the transfer of assets and real property from Ketchikan Pulp Company to Gateway Forest Products, Inc. as contemplated by the APA;

WHEREAS, Gateway Forest Products, Inc. unsuccessfully attempted to reorganize under Chapter 11 of the Bankruptcy Code and now is in default of its payment obligations to both Ketchikan Pulp Company and the Ketchikan Gateway Borough;

WHEREAS, Gateway Forest Products, Inc. granted Ketchikan Pulp Company an Easement For Landfill Outfall which was recorded as Document No. 2002-001755-0 on April 30, 2002;

WHEREAS, the parties may disagree with respect to the validity and applicability of the Environmental Allocation Agreement and the Environmental Allocation Easement, insofar as certain parcels of real property are concerned, the purpose of this Agreement is to fully and finally resolve any and all related disputes; to facilitate redevelopment of properties in the Ward Cove area; to remove asbestos from certain structures situated on USS 1056, Lot 3; and to provide for the orderly transfer to the Ketchikan Gateway Borough of certain properties currently owned by Gateway Forest Products, Inc. and Ketchikan Pulp Company;

WHEREAS, the parties further desire to modify the terms of the Environmental Allocation Agreement and the Environmental Allocation Easement, and to otherwise resolve certain issues outstanding between them; and



WHEREAS, capitalized terms shall be construed by reference to the definitions or explanations given in this Agreement, including the Recitals, the text, and the Definitions section;

NOW THEREFORE, in consideration of the mutual promises, covenants, and conditions set forth herein, the parties hereby agree as follows:

TERMS AND CONDITIONS

1. Parties and Scope.

(a) Except as otherwise specifically provided in this Agreement, the term "Borough" means and refers to the Ketchikan Gateway Borough, a municipal corporation organized pursuant to the laws of the State of Alaska. Where the term "Borough Entities" is utilized, it means and refers to the Borough, as well as its successors, heirs, and assigns, and also includes its employees, agents, contractors, invitees, licensees, representatives, permittees, joint venturers, instrumentalities, port authorities, any third party contractually related, directly or indirectly, other than Ketchikan Pulp Company and Gateway Forest Products, Inc., to the Borough, as well as their heirs, successors and assigns.

(b) Except as otherwise specifically provided in this Agreement, the term "Gateway" means and refers to Gateway Forest Products, Inc., an Alaska corporation.

(c) Except as otherwise specifically provided in this Agreement, the term "KPC" means and refers to Ketchikan Pulp Company, a Washington corporation.

(d) Notwithstanding the foregoing, the respective successors, heirs, and assigns of the Ketchikan Gateway Borough, Gateway Forest Products, Inc., and Ketchikan Pulp Company, shall be relieved of their obligations to comply with this Agreement to the extent such party no longer holds any interest in the Borough Property; provided, however, that any such party's responsibility and liability for acts and omissions occurring during the period in which that party held any ownership, leasehold, or other interest in the Borough Property (and any party's rights to payment, reimbursement, indemnification, release, or a defense regarding the same) shall survive such transfer. Nothing in this subsection shall diminish or relieve the obligations or liabilities of the Ketchikan Gateway Borough, Gateway Forest Products, Inc. or Ketchikan Pulp Company from the obligations of this Agreement.

2. Definitions.

The terms used in this Agreement shall have the following meanings, which are to be equally applicable to both the singular and plural forms of the terms defined. All documents and plats referred to as filed, recorded, or both, are on file in the Ketchikan Recording District, First Judicial District, State of Alaska:



(a) "Borough Property" means the following parcels of property, all of which are located in or near Ketchikan, Alaska. All references to Borough Property shall mean and include all fixtures, structures, facilities, and improvements upon such parcels and property, as well as all water rights and other appurtenant rights:

(i) **The "Ward Cove Parcels":**

- All of ALASKA TIDELANDS SURVEY NO. 1 (CR 74S 90E), according to the unrecorded plat thereof, (mistakenly recorded in the Juneau Recording District as Plat No. 292);
- Lot 3, Gateway Subdivision, within U.S. Survey 1056 (H.E.S.) according to the plat thereof filed August 14, 2000 as Plat No. 2000-41;
- That portion of U.S. Survey 1056, lying northerly of the northerly boundary of North Tongass Highway, being adjacent to U.S. Survey 2923 and comprised of 5.16 acres;
- U.S. Survey 1706;
- The Unsubdivided Remainder of U.S. Survey 1754;
- That portion of U.S. Survey 1862, more particularly described as follows: Beginning at U.S. Land Mark No. 2; thence North 32°27' West a distance of 155.5 feet to Corner No. 1 of U.S. Survey 1862 and the true point of beginning of the portion herein described; thence North 0°25' West a distance of 515 feet, more or less, to a point on the South Right of Way line of North Tongass Highway, which point is 50 feet from the center line of said highway and at right angles to Engineers Station 299+50; thence along that portion of a spiral curve to the left whose chord bears South 24°30' East a distance of 114.65 feet; thence along the arc of a 527.46 foot radius curve the long chord of which bears South 36°35' East a distance of 126.14 feet; thence along a spiral curve whose chord bears South 51°21' East a distance of 210.05 feet; thence South 55°27' East a distance of 316.97 feet; thence South 34°33' West a distance of 50 feet; thence South 55°27' East a distance of 137.00 feet; thence South 88°00' West a distance of 535 feet more or less along Meander Line No. 11 of U.S. Survey 1862; thence North 29°30' West a distance of 155.50 feet along Meander Line No. 12 of U.S. Survey 1862 to Corner No. 1, which is the point of beginning;

ALSO: That portion of U.S. Survey 1862 lying with the North Tongass Highway Right of Way as created by a deed dated April 1,



1949 and recorded in Volume "W" of Deeds at Page 362, Ketchikan Recording District, First Judicial District, State of Alaska, and as conveyed to Ketchikan Pulp Company by Quitclaim Deed recorded July 27, 1988 in Book 158 at Page 588;

- U.S. Survey 2090;
 - That certain portion of U.S. Survey 2923, more particularly described as follows: Beginning at the northerly corner of the Crawford Tract, otherwise known as Corner No. 2 of U.S. Survey 2923; thence South 55°45' East along the northeasterly boundary of the Crawford Tract a distance of 863.37 feet; thence South 89°33' West a distance of 709.81 feet, more or less, to a point on the westerly boundary of the Crawford Tract; thence North 0°27' West along the westerly boundary of the Crawford Tract a distance of 491.50 feet, more or less, to the point of beginning;
 - Tract 3004, Lot 1; and
 - Alaska Tidelands Survey No. 439.
- (ii) **The "Pipeline Access Road Parcel"** The term "Pipeline Access Road Parcel" means and refers to Lot 1, Sec. 34, T. 74S., R.90E., C.R.M., a diagram of which is attached hereto as Exhibit "A" to Appendix "1".
- (iii) **The "KPC Landfill Periphery Parcel":** The term "KPC Landfill Periphery Parcel" means and refers to Lot 1, Tract 3004, according to the plat filed November 28, 2000 as Plat 2000-73.
- (iv) **The "Dam and Pipeline Parcels":** The term "Dam and Pipeline Parcels" refers to U.S. Survey 3400 and U.S. Survey 3401.
- (b) "Costs" means, with respect to Remediation and Investigation activities, actual reasonable expenditures, including but not limited to, reasonable attorneys' fees and defense costs, contractor costs, consultant costs, governmental oversight costs and other necessary expenditures.
- (c) "Environmental Allocation Agreement" or "Exhibit "F,"" means the Allocation of Environmental Responsibilities Agreement;
- (d) "Environmental Allocation Easement" or "Exhibit "F-1,"" means the Easement and Declaration of Covenants Regarding Allocation of Environmental Responsibilities;



- (e) "Environmental Laws" means all State of Alaska, local, and federal laws, statutes, regulations, and ordinances of any kind relating to environmental protection or compliance as they currently exist and as they may come to be amended, including but not limited to, the federal Clean Water Act; Clean Air Act; Toxic Substances Control Act; Comprehensive Environmental Response, Compensation and Liability Act; Resource Conservation and Recovery Act; Federal Insecticide, Fungicide, and Rodenticide Act; Safe Drinking Water Act; Hazardous Materials Transportation Act; laws designated in Alaska Statutes Title 46; and common law, including causes of action arising in tort.
- (f) "Excess Water Option Agreement" means the Option Agreement to Purchase Excess Water, recorded in the Ketchikan Recording District on November 5, 1999, at Book 306, Page 160 (APA Exhibit "H-3");
- (g) "Foothill" means Foothill Capital Corporation, the entity which loaned Gateway some of the monies necessary to acquire the KPC assets and to complete construction of the veneer mill.
- (h) "Hazardous Substances" means substances which constitute hazardous substances under either the Comprehensive Environmental Response, Compensation Liability Act or under AS 46.03.822.
- (i) "Institutional Controls" means the Environmental Protection Easement and Declaration of Restrictive Covenants in favor of the State of Alaska, Department of Natural Resources, recorded on October 28, 1999, at Book 305, page 772 in the Ketchikan Recording District, and such other measures, controls, limitations, prohibitions, procedures, or protocols that the United States Environmental Protection Agency ("EPA"), the Alaska Department of Environmental Conservation ("DEC") or the Alaska Department of Natural Resources ("DNR") requires in order to maintain the integrity of a remedial or removal action or prevent a release or threatened release of a Hazardous Substance.
- (j) "Investigation or Investigatory" means actions to assess the nature and extent of Hazardous Substances contamination, including sampling and other necessary activities.
- (k) "Losses" means all known and unknown claims, causes of action, liabilities, payment requests or demands, losses, costs, expenses (including, without limitation, reasonable attorneys', experts', and other consultants' fees), penalties, fines, equitable relief, and damages.
- (l) "Mud Bight Tidelands Lease" means the KPC Alaska Tidelands Lease serialized by the State of Alaska, Department of Natural Resources, as



Tidelands Lease ADL 34507, that is applicable to the property identified as ATS No. 698, Tract B, which was assigned by KPC to Gateway, but which the State of Alaska refused to transfer because of new log storage permitting regulations, resulting in its retention by KPC.

- (m) "Office and Hangar Lease" means the Office and Hangar Lease Agreement, executed on November 3, 1999 and attached at Tab 5 to the APA, and for which a memorandum of lease for the office space was recorded November 15, 1999 at Book 306, Page 503 and a memorandum of lease for the hangar was recorded on November 12, 1999 at Book 306, Page 406.
- (n) "Plant Systems Easement" means that certain agreement recorded November 5, 1999 at Book 306, Page 990 (APA Exhibit "H-1"), as amended by the following:
- Amendment to Plant Systems Easement, recorded December 15, 2000, at Book 319, Page 360.
 - Second Amendment to Plant Systems Easement, recorded January 3, 2001, at Book 320, Page 421.
- (o) "Remediation" means actions to remove, clean up, treat, or dispose of Hazardous Substances from the environment, including but not limited to, actions which may be necessary to prevent, minimize, or mitigate damage to the public health or welfare or to the environment from a release or threatened release of a Hazardous Substance.
- (p) Subdivisions: Some portions of the Borough Property are the subject of either current subdivisions or ones to be recorded after the effective date of this Agreement. The properties which are the subject of such subdivision may be referenced in this Agreement with the description thereof as it currently exists or as it will as a result of such subdivision. These subdivisions are referred to as follows:
- (i) The term "No. 1 Subdivision" means and refers to Gateway Subdivision No. 1, a subdivision of U.S. Survey 1056, which created USS 1056, Lots 1, 2, and 3, according to the plat thereof filed and recorded on the 14 day of August, 2000 as Plat No. 2000-41.
 - (ii) The term "No. 2 Subdivision" means and refers to Gateway Subdivision No. 2, a subdivision of Lot 3 within U.S. Survey 1056, which will create USS 1056, Lot 3-A, and re-name the remainder of USS 1056 as Tract A, approved by the Ketchikan Gateway Borough Planning & Zoning Commission on October 9, 2001.



- (iii) The term "No. 3 Subdivision" means and refers to Gateway Subdivision No. 3, a subdivision of USS 1056, Tract A and ATS-1, Exhibit A, which will create USS 1056, Lot 3-B, and ATS-1, Lots A, B, C. and D, approved by the Ketchikan Gateway Borough Planning & Zoning Commission on February 12, 2002.
- (q) "Ward Cove Area" means the water body commonly known as Ward Cove, including marine waters to the ordinary high water mark and sediments underlying such waters, and also means the surface and subsurface areas of those portions of U.S. Surveys 1056, 1208, 1508, 1653, 1656, 1659, 1706, 1754, and 1862 lying seaward of the North Tongass Highway, and the filled portions of ATS-1, including any structures or other improvements located thereon.
- (r) "Ward Cove Consent Decree" means the consent decree with the EPA and the U.S. Department of Justice entered by the U.S. District Court for the District of Alaska: CERCLA Remedial Design/Remedial Action Consent Decree, *United States vs. Gateway Forest Products, Inc., Ketchikan Pulp Company, & Louisiana-Pacific Corporation*, Case No. A00-225 CV (JKS).
- (s) "Ward Cove Landfills" means the industrial landfill which KPC owns and operates upon Lot 2, Tract 3004, Dawson Point Subdivision, according to the plat thereof filed November 28, 2000 as Plat 2000-73.
- (t) "Water Rights Agreement" means the Associated Real Property and Water Rights Agreement, recorded November 5, 1999 at Book 306, Page 84 (APA Exhibit "H").
- (u) "Water Use Site Easement" means the Water Use Site Easement, recorded November 5, 1999, at Book 306, Page 125 (APA Exhibit "H-2"), as amended by the following:

Amendment to Water Use Site Easement, recorded December 12, 2000, at Book 319, Page 250.
- (v) "Water Use Site Option Agreement" means the Option Agreement to Purchase Water Use Site, recorded November 5, 1999, at Book 306, Page 149 (APA Exhibit "H-4"), as amended by the following:

Amendment to Option Agreement to Purchase Water Use Site, recorded December 12, 2000, at Book 319, Page 258.



All of the definitions provided in the Recitals are incorporated herein by reference as though fully set forth, and all of the definitions provided anywhere in this Agreement, including the Recitals and the text, shall constitute binding terms of this Agreement.

3. Property Covered.

(a) This Agreement applies to the Borough Property, more fully described in Section 2(a), which are the property interests the Borough has or is expected to receive, whether by foreclosure or otherwise, from Gateway, Foothill, or KPC. However, except as otherwise expressly provided, to the extent the Borough does not acquire any of the property interests, the terms of this Agreement shall not apply.

(b) The obligations of a future holder of any interest in a parcel or area of real property set forth in Section 2(a), or a portion thereof, shall be limited to the parcel, area, or portion held by such party and shall not be interpreted to create liability for other parcels or areas not held by such party.

4. Environmental Allocation Agreement And Environmental Allocation Easement Superseded.

(a) The Environmental Allocation Agreement and Environmental Allocation Easement currently apply to the following parcels:

- (i) All of ALASKA TIDELANDS SURVEY NO. 1 (CR 74S 90E), according to the unrecorded plat thereof, (mistakenly recorded in the Juneau Recording District as Plat No. 292), except Exhibit "C-2";
- (ii) Lot 3, Gateway Subdivision, within U.S. Survey 1056 (H.E.S.) according to the plat thereof filed August 14, 2000 as Plat No. 2000-41;
- (iii) That portion of U.S. Survey 1056, lying northerly of the northerly boundary of North Tongass Highway, being adjacent to U.S. Survey 2923 and comprised of 5.16 acres;
- (iv) U.S. Survey 1706;
- (v) The Unsubdivided Remainder of U.S. Survey 1754;
- (vi) That portion of U.S. Survey 1862, more particularly described as follows: Beginning at U.S. Land Mark No. 2; thence North $32^{\circ}27'$ West a distance of 155.5 feet to Corner No. 1 of U.S. Survey 1862 and the true point of beginning of the portion herein described; thence North $0^{\circ}25'$ West a distance of 515 feet, more or less, to a point on the South Right of Way line of North Tongass Highway, which point is 50 feet from the center line of said highway and at right angles to



Engineers Station 299+50; thence along that portion of a spiral curve to the left whose chord bears South 24°30' East a distance of 114.65 feet; thence along the arc of a 527.46 foot radius curve the long chord of which bears South 36°35' East a distance of 126.14 feet; thence along a spiral curve whose chord bears South 51°21' East a distance of 210.05 feet; thence South 55°27' East a distance of 316.97 feet; thence South 34°33' West a distance of 50 feet; thence South 55°27' East a distance of 137.00 feet; thence South 88°00' West a distance of 535 feet more or less along Meander Line No. 11 of U.S. Survey 1862; thence North 29°30' West a distance of 155.50 feet along Meander Line No. 12 of U.S. Survey 1862 to Corner No. 1, which is the point of beginning;

ALSO: That portion of U.S. Survey 1862 lying with the North Tongass Highway Right of Way as created by a deed dated April 1, 1949 and recorded in Volume "W" of Deeds at Page 362, Ketchikan Recording District, First Judicial District, State of Alaska, and as conveyed to Ketchikan Pulp Company by Quitclaim Deed recorded July 27, 1988 in Book 158 at Page 588;

- (vii) U.S. Survey 2090;
- (viii) That certain portion of U.S. Survey 2923, more particularly described as follows: Beginning at the northerly corner of the Crawford Tract, otherwise known as Corner No. 2 of U.S. Survey 2923; thence South 55°45' East along the northeasterly boundary of the Crawford Tract a distance of 863.37 feet; thence South 89°33' West a distance of 709.81 feet, more or less, to a point on the westerly boundary of the Crawford Tract; thence North 0°27' West along the westerly boundary of the Crawford Tract a distance of 491.50 feet, more or less, to the point of beginning; and
- (ix) Tract 3004, Lot 1.

(b) This Agreement and the accompanying Environmental Easement and Covenants ("Borough Easement"), the form of which is attached hereto as Appendix "1," shall supersede and replace the Environmental Allocation Agreement and Environmental Allocation Easement with respect to any parcel or parcels of the Borough Property listed in subsection (a), when the Borough takes title and the Borough Easement is executed and recorded.

(c) This Agreement and the Borough Easement shall not affect the applicability of the terms and conditions of the Environmental Allocation Agreement or Environmental Allocation Easement as to any real property other than any parcel or parcels to which the Borough has taken title.



(d) The Borough Easement shall be executed and recorded only after the Borough obtains title to the Borough Property, whether by foreclosure or otherwise, but shall be subject only to the Borough's title, including all reservations, easements and restrictions of record.

5. Applicability of the Borough Easement.

(a) Once title to any one or more parcels of Borough Property set forth in Section 2(a) is taken by the Borough, the Borough shall execute and deliver to KPC in recordable form, an easement in substantially the same form as Appendix "1."

(b) A Form of Easement and Covenant Vacation, removing the Environmental Allocation Agreement and the Environmental Allocation Easement, to be utilized only as and when the Borough obtains title to one or more parcels of the Borough Property, is attached as Appendix "2." KPC, Gateway and the Borough shall execute and record the Easement and Covenant Vacation contemporaneous with their execution and recordation of the Borough Easement; provided, however, that once Gateway no longer is the owner of a parcel, or a portion of any parcel, of the Borough Property, its agreement no longer shall be necessary to vacate the Environmental Allocation Agreement and the Environmental Allocation Easement with respect to that parcel or portion.

6. Governmental Easement Unaffected.

This Agreement shall not be interpreted to diminish the rights of the State of Alaska or the United States under that certain *Environmental Protection Easement and Declaration of Restrictive Covenants* recorded in the Ketchikan Recording District on October 28, 1999 at Book 305, Page 772.

7. Ward Cove Sand Cap.

(a) The Borough agrees to application of the covenants, which are set forth in Appendix "1" hereto, relating to the cap or capping materials that have been applied to the sediments of Ward Cove pursuant to the provisions of the Ward Cove Consent Decree ("Sand Cap").

(b) While the Borough, or any of its instrumentalities, for example a port authority, owns any portion of Alaska Tidelands Survey No. 1, the Borough further covenants and agrees that it shall be liable for any damage to the Sand Cap arising out of the acts or omissions of the Borough, its employees, agents, contractors, lessees, invitees, licensees, representatives, permittees, joint venturers, instrumentalities, port authorities, or any third party contractually related, directly or indirectly to the Borough, other than KPC and Gateway; provided, however, that the Borough shall not be responsible or liable for damage to the Sand Cap to the extent such damage results from the activities or operations of KPC, its agents, servants, employees, officers, directors, partners, principals, shareholders and contractors.



(c) The Borough agrees to impose appropriate contractual requirements and port use regulatory provisions regarding the capping materials on parties with which it does business, consistent with the requirements imposed in accordance with the terms of Appendix "1."

(d) KPC agrees that this Agreement does not diminish, or shift to the Borough, KPC's responsibility to monitor, at KPC's cost, the Ward Cove Cap, as set forth in the Ward Cove Consent Decree and in the *Long Term Monitoring and Reporting Plan for Sediment Remediation in Ward Cove* prepared by Exponent or any remediation which may be required as a result.

8. Institutional Controls.

(a) The Borough Entities agree that they will adhere to and comply with, at their expense, any and all Institutional Controls which apply to the Borough Property. Further, the Borough Entities agree that they will comply with future Institutional Controls which may become applicable to the Borough Property as a result of EPA, DEC, or DNR imposed limitations. The Borough shall have the right to seek modification of existing or future Institutional Controls. Any such amendment to Institutional Controls, or future limitations which relax restrictions imposed on the Borough Property, or which would result in costs assessed against, or otherwise adversely affect KPC, shall not be negotiated without KPC's participation. The Borough Entities will not seek payment or damages from KPC for the cost of implementing these Institutional Controls or for any resulting diminution in value of any such parcels.

(b) For each parcel or area comprising the Borough Property, the Borough Entities shall only be obligated to comply with the existing or new Institutional Controls that are applicable to such parcel or area.

(c) In the event that any governmental entity seeks to compel KPC to impose Institutional Controls on the Borough Property, KPC promptly will notify the Borough and tender to the Borough the right to conduct the requisite negotiations, subject to the limitations of this section. The Borough will grant KPC the opportunity to participate in those proceedings. Under no circumstances, however, shall this section be interpreted to require the Borough or KPC to indemnify the other for any costs of Remediation.

(d) The Borough agrees to impose, upon the Borough Entities, appropriate contractual requirements regarding adherence to and compliance with, at their expense, any Institutional Controls, consistent with the provisions contained in this section.

9. Government Oversight Costs.

(a) The parties acknowledge that the Ward Cove Consent Decree requires that governmental oversight costs must be paid if governmental oversight is required in connection with the Borough Property. The parties agree that each shall be responsible for any governmental oversight costs that may be assessed by appropriate government



agencies for obligations or liabilities allocated to each party under this Agreement, attributable to inquiries or operations that any of them have initiated or conducted or which may occur in the future. Each party shall further be liable for such costs when caused by inquiries or operations of: third parties which have been, or will be, doing, or seeking to do, business with or at the direction of a party; a past or prospective purchaser or lessee; or a third party objecting to past, current or proposed activities, uses or operations of a party or its permittees. For example, KPC would be responsible for oversight costs related to future remediation in Ward Cove arising from newly discovered contamination attributable to operations during its ownership. Similarly, the Borough would be responsible for oversight costs associated with future development or other operations at Ward Cove.

(b) In the event of any disagreement between the parties as to whether a particular governmental oversight cost is properly attributable to KPC, the Borough, Gateway, or should be shared in some manner between them, the parties agree that they shall jointly provide copies of this Agreement and any related relevant instruments to and solicit the opinion of that government agency with respect to responsibility for the oversight costs. The opinion of the government agency shall be deemed presumptively correct. Any party seeking to allocate responsibility differently than the agency shall have the burden of proof on that issue. Under no circumstances, however, shall this section be interpreted to require the Borough or KPC to indemnify the other for any costs of Remediation.

10. Disclosure of Environmental Conditions by KPC to Borough.

(a) Ketchikan Pulp Company has conducted an inquiry concerning environmental conditions at the Borough Property. To the best of KPC's knowledge, as defined under AS 45.01.201(28), it has disclosed to the Borough all material information concerning the environmental conditions at the Borough Property which arose prior to KPC's sale of the Borough Property to Gateway.

(b) KPC has provided the Borough the following information concerning known environmental conditions with respect to the Borough Property:

- (i) Items set forth in a letter from Donna Willard to Cabot Christianson dated September 28, 2001, including the Schedule of Exceptions attached to the APA;
- (ii) Items provided by John Peterson as set forth in his letter to Cabot Christianson dated October 2, 2001;
- (iii) Information provided to Borough consultant Ray Bloom set forth in the letter from Chris Paulson dated October 17, 2001;
- (iv) Four boxes of site characterization and other associated documents, a listing of which was included, developed by Exponent and PTI



Environmental Services under the Ward Cove CERCLA process overseen by EPA and DEC, which were shipped via Alaska Airlines Goldstreak along with a cover letter from John Peterson to Cabot Christianson dated December 17, 2001, as well as two indices entitled "Uplands Operable Unit" and "Marine Operable Unit;"

- (v) A synopsis prepared by KPC, and set forth in a letter from John Peterson to Cabot Christianson dated January 4, 2002, as well as the enclosures, including the one titled "Overview, Characterization Activities Associated with the Former Ketchikan Pulp Company Site," prepared by Exponent (December 2001);
- (vi) The ALTEC Report transmitted to Cabot Christianson and Scott Brandt-Erichsen, via Federal Express, on December 22, 2001; and
- (vii) Information provided to Scott Brandt-Erichsen in and with the February 20, 2002 letter from John Peterson, relating to the dam, pipeline and water rights.

(c) The Borough has had ample opportunity to review the information provided by KPC, as listed above, as well as to seek the advice of counsel and third-party consultants. The Borough also has had sufficient time to inspect the Borough Property and to confer with appropriate agency officials concerning its regulatory history. The Borough is entering into this Agreement in reliance upon its own due diligence, in addition to KPC's representations set forth herein.

(d) Except as provided In Section 19(b) and (h), if KPC agrees, or a court finds, (i) that KPC breached the representation in subsection (a) above by failing to disclose to the Borough material information concerning contamination attributable to KPC's operations at the Borough Property of which the Borough does not otherwise have knowledge, as defined under AS 45.01.201(28), prior to entering into this Agreement; or (ii) that subsequently discovered, undisclosed contamination arising from KPC's operations is found to exist, and if the Borough Entities are subject to a final agency directive or order that they are responsible for investigating or remediating such contamination, then KPC agrees that it will, at its option, either remediate or pay for the remediation of such contamination to the regulatory cleanup standards then applicable and in force. However, nothing herein shall be interpreted to limit KPC's ability to request adjudication or otherwise to challenge the nature or scope of Investigation or Remediation activities sought by any agency.

(e) The Borough Entities agree that such Remediation shall be the sole and exclusive remedy for any KPC liability, established pursuant to the provisions of subsection (d), and that the Borough Entities shall be precluded from seeking any other damages or equitable relief, including compensatory damages, consequential damages, lost income, and any other expenses, costs, or losses. The limitation on the Borough Entities' remedies in the preceding sentence shall apply only if KPC diligently pursues



the required Investigation and Remediation activities, and KPC does not unreasonably delay such activities or unreasonably interfere with the Borough Entities' use of the Borough Property.

11. Environmental/Real Property Release by the Borough and Subsequent Buyers.

(a) For purposes of this section only, Ketchikan Pulp Company shall mean and include the corporation and its agents, servants, employees, officers, directors, partners, principals, and shareholders, as well as all of their insurance companies and contractors ("KPC Releasees").

(b) Except as otherwise provided in this Agreement, the Borough hereby releases, forever discharges, and covenants not to sue the KPC Releasees with regard to any and all Losses, whether past, present, or future, arising out of or in any way related to the Ward Cove Area and the real property interests, together with any improvements situated thereon, which are identified in Section 2(a) hereof, including: (1) any environmental claims for conditions which have been discovered or disclosed as described in Section 10, whether arising under CERCLA, 42 U.S.C. § 9601 *et seq.*; RCRA, 42 U.S.C. § 6901 *et seq.*; AS 46.03.822; or any other authority; and (2) any and all other known and unknown claims and causes of action, whether arising under statute, contract, common law, tort, or any other law or legal theory (the "Release").

(c) The parties further covenant and agree that the provisions of this Agreement supersede and replace the environmental provisions contained in the loan agreement and the assignment and assumption agreement, both dated June 14, 1999, and that certain deed of trust dated December 13, 1999, recorded December 21, 1999 at Book 307, Page 629, Records of the Ketchikan Recording District, First Judicial District. The Release also shall extend, without limitation, to all Losses, whether attributable to KPC, Gateway, or otherwise, arising out of, or in any manner related to, the Environmental Allocation Agreement, the Environmental Allocation Easement, or both, or to the environmental obligations set forth in any one or more of the following: (1) Agreement For Loan dated June 14, 1999; (2) Agreement For Assignment, Assumption and Release dated June 14, 1999; and (3) the Deed of Trust dated December 13, 1999 and any amendments thereto.

(d) The Borough acknowledges and agrees that it is familiar with the decisions of the Alaska Supreme Court in *Witt v. Watkins*, 579 P.2d 1065 (Alaska 1978); *Schmidt v. Lashley*, 627 P.2d 201 (Alaska 1981); and *Mitchell v. Mitchell*, 655 P.2d 748 (Alaska 1982), and that it has contemplated the possibility that new facts may subsequently be discovered which may affect its rights to relief, and that, except as otherwise provided in this Agreement, it nevertheless is the Borough's intention to fully release and forever discharge the KPC Releasees and Gateway with regard to any and all known and unknown Losses arising out of or in any way related to the matters described herein.



(e) The Borough further acknowledges and agrees that it is familiar with the decision of the Alaska Supreme Court in *Young v. State*, 455 P.2d 889 (Alaska 1969), and that it nevertheless intends to fully release all individuals, firms or corporations who could at any future date be possible defendants in any action arising out of or in any way related to the matters set forth, as fully as though they were specifically listed and named herein.

(f) The Borough specifically renounces and releases any right it may now or hereafter have to reform, rescind, modify, or set aside this Release because of mutual or unilateral mistake. The risk of mistake is hereby assumed by the Borough. It is further acknowledged and agreed that no representation, promise, or inducement, other than those specifically expressed in this Agreement, has been made to secure this Release.

(g) The Borough acknowledges and agrees that it has had an adequate opportunity to consult with counsel of its own choosing and to review all of the terms and conditions herein, and that this Release is entered into without haste and without any disparity of bargaining power.

(h) The Borough agrees that it shall contractually require its successors, heirs, and assigns to affirmatively accept and be bound by the terms of this Agreement. To that end, the Borough shall include the following language in any lease, sale, or conveyance of any interest in all or part of the Borough Property and shall contractually require any successor, heir, or assign to impose such language in future leases, including amendments thereto, sales, and conveyances:

[Name of lessee, purchaser, or interest holder] in further consideration for, and as a condition to, this Agreement, hereby agrees that the real property interests it hereby is acquiring from the Borough, whether by deed, lease, deed of trust assignment or release, or otherwise, are subject to the same limitations and conditions as the ones applicable to the Borough which are set forth in that certain agreement dated _____, a copy of which is attached hereto and is incorporated by reference as though fully set forth. In particular, all releases, waivers and limitations on claims against Ketchikan Pulp Company, its agents, servants, employees, officers, directors, partners, principals, shareholders, or any of their insurance companies and contractors, including but not limited to environmental claims, whether arising under CERCLA, 42 U.S.C. § 9601 *et seq.*; RCRA, 42 U.S.C. § 6901 *et seq.*; AS 46.03.822; or otherwise, as they now exist or hereafter may be amended, to which the Borough concurred, are hereby agreed to be applicable and in full force and effect.

Further, the parties to this Agreement agree that Ketchikan Pulp Company, its shareholders, successors, heirs and assigns, are third party beneficiaries of this Agreement and any future agreements concerning the property.

[Name of lessee, purchaser, or interest holder] HEREBY AGREES THAT LANGUAGE IDENTICAL TO THE PREVIOUS TWO PARAGRAPHS SHALL BE INCORPORATED INTO ANY FUTURE LEASE, SALE, OR



CONVEYANCE OF ANY INTEREST (INCLUDING DEEDS OF TRUST) IN ALL OR PART OF THIS PROPERTY.

Furthermore, the Borough agrees that, in the event it releases all or a portion of its security interests set forth in that certain deed of trust executed by Gateway on April 16, 2001, which was recorded on April 17, 2001 at Book 324, Page 395, without taking title to the property thereby encumbered, the foregoing language likewise shall be included as a condition to any such release.

12. NPDES Permit and Outfall Pipe 001.

(a) The Borough agrees that it will maintain the Plant Pipeline System and Discharge System, to and through outfall pipe 001 and associated facilities, including any replacement or alternative discharge pipe or conveyance that is the functional equivalent of outfall 001, identified in NPDES Permit AK-000092-2 ("Outfall 001"), in good working order and in a condition sufficient to accommodate existing and future wastewater discharges associated with the Ward Cove Landfills.

(b) Throughout the period during which water from Connell Lake is required by NPDES Permit AK-00092-2 ("Permit") to be discharged through Outfall 001, the Borough shall use its best efforts to maintain a flow of approximately 2.0 to 2.2 MGD of water through the pipeline. The Borough furthermore agrees that KPC shall have the first priority right to use and discharge up to 2.2 MGD of water, leachate and other effluent to and through Outfall 001.

(c) The Borough and KPC have agreed to a cost sharing formula equitably allocating the associated expenses of the Permit, which is set forth in Appendix "3" to this Agreement. This formula will remain in force until KPC obtains its own NPDES permit and completes construction of its own outfall, at which time the cost sharing and the duties set out in subsections (a) and (b) shall terminate.

13. Easement for New Outfall.

(a) KPC is in the process of obtaining a new NPDES permit pursuant to which a separate outfall for the Ward Cove Landfills will be constructed. An easement for that purpose was granted by Gateway and recorded on April 30, 2002 as Document 2002-001755-0 ("New Outfall Easement"). In conjunction therewith, Gateway and the Borough have commenced, and will diligently pursue, the process necessary to modify, amend, or have reissued the current NPDES permit governing Outfall 001. If accepted by the issuing agency, the Borough will be named as permittee.

(b) In the pending foreclosure litigation entitled *Foothill Capital Corporation vs. Gateway Forest Products, Inc., et al.*, Case No. A02-275-CV (RRB), being prosecuted by Foothill on behalf of the Borough, the Borough shall cause Foothill to execute a subordination agreement protecting KPC's interest in the New Outfall Easement granted by Gateway to KPC as set forth in subsection (a). The Borough will



take all other measures necessary to ensure that the New Outfall Easement otherwise survives and remains unaffected by the foreclosure litigation.

(c) In the event the Environmental Allocation Easement is vacated from ATS-1, Exhibit "C-1," the New Outfall Easement shall be expressly excluded therefrom.

(d) If, in the permitting process, the EPA or DEC determines that another outfall location is necessary, Gateway and the Borough will execute all documents necessary to amend the New Outfall Easement. The easement shall consist of a right of free access to and across the property subject to the New Outfall Easement for the purpose of constructing, using, maintaining, and replacing the new outfall pipe and free access across other portions of ATS-1, Exhibit "C-1" as needed to construct, maintain, repair, and replace the new outfall. The Borough, Gateway, and KPC shall cooperate in good faith to promptly draft, execute, and record such easement when the precise location has been identified. To the extent Foothill retains or acquires any interest in the easement premises, the Borough also will cause Foothill to execute and deliver the necessary easement amendment documents.

(e) This easement shall include the provision that KPC, with respect to the construction, use, and maintenance of the new outfall pipe, and the Borough, with respect to its operations and activities in the area subject to the New Outfall Easement, shall each cooperate so as to not unreasonably interfere with the other's activities and operations.

14. Dam and Pipeline.

(a) KPC has agreed to donate, and the Borough has agreed to accept the gifting of, the assets set forth in subsection (b) hereof. The parties further agree that this Agreement, shall become binding and effective only upon consummation of their donation and acceptance.

(b) The following transactions will be executed, finalized, and simultaneously recorded as soon as reasonably practicable after the execution of this Agreement and submitted to DNR:

- (i) Quitclaim Deed conveying the Dam Parcel, Pipeline Parcel, Water Use Site Easement, Plant Systems Easement, and water rights to the Borough;
- (ii) Assignment of KPC's application pending before DNR to amend its Certificate of Appropriation filed March 21, 2002, and its Water Rights Application filed May 2, 2002 to the Borough;
- (iii) Assignment to and assumption of the Excess Water Option Agreement by the Borough;



- (iv) Assignment to and assumption of the Water Use Site Option Agreement by the Borough;
- (v) Assignment to and assumption of the Water Rights Agreement by the Borough; and
- (vi) Assignment to and assumption of the Certificate of Approval To Operate A Dam, NID ID#AK00010, issued by DNR on November 14, 2002.

(c) KPC shall release its rights in the temporary Special Use Permit issued by the United States Forest Service for operation of the Connell Lake dam facility and shall support its reissuance to the Borough.

(d) **The Borough expressly agrees that it is taking the foregoing assets, where is, as is, and without any warranty of any kind whatsoever.**

15. Ward Cove Landfills.

(a) KPC will retain ownership of the Ward Cove Landfills parcel described as Tract 3004, Lot 2. Except as otherwise provided herein, KPC agrees to be responsible for all operation, maintenance, and permitting obligations for the Ward Cove Landfills, other than the operation, maintenance, and use of Outfall 001 and associated facilities by Gateway, the Borough, and other parties. Promptly after the effective date of this Agreement, the Environmental Allocation Agreement and the Environmental Allocation Easement shall be vacated with respect to this parcel.

(b) KPC has agreed to donate, and the Borough has agreed to accept the gifting of, Tract 3004, Lot 1, upon the terms and conditions set forth in Appendix "1," Section III.A.6 which shall be reserved in KPC's quitclaim deed to the Borough, or the Borough shall grant to KPC, including a perpetual access easement between the public right of way of North Tongass Highway and Tract 3004, Lot 2, as well as a perpetual easement for an effluent discharge line and accompanying access between Tract 3004, Lot 2, and ATS-1, Exhibit "C-1" as set forth in Appendix "4" hereto.

(c) After construction of the effluent discharge line has been completed and its location established, the Borough will cooperate with KPC in executing and recording a single consolidated easement which will detail the pipeline location across both Tract 3004, Lot 1 and ATS-1, Exhibit "C-1." The consolidated easement will be upon terms consistent with the New Outfall Easement and the effluent discharge line easement across Tract 3004, Lot 1, and will supersede the provisions of both of those easements. In addition, in order that all of KPC's easements with respect to the Ward Cove Landfills are set forth in a single document, this consolidated easement also will include terms which provide for, and therefore supersede, the separate easement with respect to access to the Ward Cove Landfills from North Tongass Highway.



16. Pipeline Access Road Parcel.

(a) The three-acre parcel along the pipeline access road, the "Pipeline Access Road Parcel," as more particularly described in Section 2(a)(ii), is subject to the future imposition of Institutional Controls pursuant to Paragraph 46 of the Ward Cove Consent Decree. The parties will cooperate with each other and relevant government agencies with respect to the development and imposition of Institutional Controls required for the Pipeline Access Road Parcel.

(b) If acceptable to relevant government agencies, the Borough will retain ownership of the Pipeline Access Road Parcel upon receiving title from the State and work cooperatively with KPC to facilitate the development and implementation of Institutional Controls satisfactory to relevant government agencies responsible for activities under Paragraph 46 of the Ward Cove Consent Decree.

(c) If such relevant government agencies are not agreeable to the course of action described in the previous sentence, the Borough shall convey the Pipeline Access Road Parcel to KPC at no cost within 45 days of receiving title to the property from the State. In such instance, KPC and the Borough shall work cooperatively to develop Institutional Controls satisfactory to relevant government agencies under Paragraph 46 of the Ward Cove Consent Decree and within 45 days of KPC's compliance with Paragraph 46 of the Ward Cove Consent Decree as determined by relevant government agencies, KPC will reconvey the Pipeline Access Road Parcel to the Borough at no cost.

(d) The Borough will not seek payment or damages from KPC for the cost of implementing any Institutional Controls or for any resulting diminution in value of the Pipeline Access Road Parcel. Furthermore, the Borough agrees that it will adhere to and comply with, at its expense, any and all Institutional Controls, required by the Ward Cove Consent Decree or any other authority, which are or may become applicable to the Pipeline Access Road Parcel, the activities conducted thereon, or both and will cooperate with KPC with respect to any future modifications to Institutional Controls required by relevant government agencies.

17. Office and Hangar Lease.

(a) KPC agrees to compromise its rights under the Office and Hangar Lease ("Lease") as follows: KPC will vacate the offices in its former administration building which it currently occupies and the Lease as to that facility only will be terminated. In return, KPC shall be granted the right to occupy the helicopter hangar premises through December 31, 2005. That occupancy shall be rent-free on the same terms and conditions, including payment for utilities, set forth in the Office and Hangar Lease, at which point the Lease shall terminate.

(b) In the event that the Borough were to either sell the hangar property or acquire a long term paying tenant, KPC shall vacate the premises, provided that suitable alternate facilities (e.g. approximately 2600 square feet with telephone lines, electricity,



water and data ports), are made available in the administration building or another suitable structure. In that event, KPC would be entitled to utilize that space until December 31, 2005 on the same terms and conditions as the current Lease.

18. Mud Bight Tidelands Lease.

The Borough has elected to accept the Mud Bight Tidelands Lease and KPC will cooperate by executing appropriate documents, participating in meetings, and carrying out other steps reasonably necessary to effectuate the transfer. If the Borough fails to request a transfer or file the appropriate documents within ninety (90) days after this Agreement becomes effective, KPC shall be entitled to surrender the Mud Bight Tidelands Lease to the State of Alaska.

19. Asbestos Abatement.

(a) KPC shall retain a certified asbestos abatement contractor to remove, as soon as practicable (the estimate for which is four months after completion of a 30 day mobilization period) and, subject to obtaining all necessary permits and authorizations, the asbestos-containing materials ("ACM") specifically identified, from the following structures:

- (i) Powerhouse: Abatement of all ACM from the piping systems, tanks, and equipment throughout the powerhouse portion of the building, including the interiors and exteriors of the power and recovery boilers, as well as the piping in the 28 and 29 conveyors;
- (ii) Turbine Room: Abatement of all ACM, including the underbellies, but not the interiors, of the turbines, which, provided an acceptable release has been executed in accordance with Section 19(c), will remain in the building pending completion of the abatement work but thereafter shall be removed by their owners within ninety (90) days. The asbestos contractor shall use commercially reasonable efforts, so long as they do not result in additional costs, to protect the turbines from damage. However, in the event any such damage occurs, the liability of both KPC and the abatement contractor is limited to the price which the owners of the turbines paid at auction to acquire them;
- (iii) Wood Room: Abatement of panels in the electrical control room;
- (iv) Machine Room: Removal of the metal doors containing ACM; and
- (v) Roofing Materials: Removal of the roof coverings of the powerhouse/turbine complex which have been ascertained to be composed of a material containing non-friable asbestos.



(b) The Borough specifically acknowledges that other facilities at Ward Cove, including the Filter Plant, Secondary Treatment Plant, Administration Building, Maintenance/Stores Building, Wood Room and Machine Room/Finishing Room, may contain ACM in such elements as roofing materials, flooring and siding. The Borough hereby releases, indemnifies and will defend KPC from and against any and all liability, claims, losses and other expenses, including costs and attorney fees, whether arising under CERCLA, 42 U.S.C. § 9601 *et seq.*; RCRA, 42 U.S.C. § 6901 *et seq.*; AS 46.03.822; or any other authority, which may be incurred as a result of the continuing presence of any materials containing ACM in or on KPC's former Ward Cove structures, other than the materials identified for removal in subsection (a) hereof.

(c) Prior to the commencement of abatement work, the Borough and Gateway shall either: (i) secure the removal of property from the premises which is owned by third persons, other than the turbines which shall be removed within ninety (90) days following completion of the abatement work; (ii) obtain a release from such third parties, including one which will permit the turbines to remain in the building during the abatement process; or (iii) agree to indemnify, hold harmless and defend KPC from any liability, claims, losses or expenses incurred as a result of damages sustained to property owned by third parties. In addition, the owners of the turbines shall indemnify, hold harmless and defend the Borough from any liability, claims, losses, or expenses incurred as a result of any damage which might be sustained to the turbines.

(d) During the abatement process, surface areas in the powerhouse will be cleaned from the top level to the trenches on the first level. All ACM and cross-contaminated materials shall be disposed of in accordance with applicable law. All water used during the abatement will be filtered before being released. The abatement contractor will have the discretion to leave non-ACM wastes, such as refractory bricks and metal, in or adjacent to the buildings or to dispose of them. The asbestos abatement contractor shall not be obligated to perform any demolition but shall be entitled to perform such demolition or modifications of the buildings, structures and equipment as necessary or convenient to abate ACM.

(e) Gateway shall be the owner of the work/project. KPC shall secure all abatement services, which shall be performed in accordance with applicable law. The charges incurred for employment of an abatement contractor shall be the sole responsibility of KPC.

(f) Gateway and the Borough shall grant KPC and its agents vehicular access to the areas to be abated, including to the No. 2 set of evaporators; shall coordinate unrelated activities occurring at or around the premises to be abated thereby ensuring that the abatement work is not impeded; and shall otherwise fully cooperate in the endeavor. Furthermore, Gateway and the Borough shall provide an adequate, suitable outside storage area, between the bleach plant and the powerhouse, in which to collect all ACM material for subsequent shipping.



(g) The Borough will provide electrical power, sewer and water adequate for performance of the abatement work. The charges for those services will be based on usage and will be billed at the normal rates which other tenants at KPC's former Ward Cove facilities pay. After the first \$5,000.00 in electrical, sewer and water services have been provided at Borough cost or expense, KPC shall be billed the flat sum of \$1,500.00 per month until the abatement work has been completed. Only in the event that the abatement work has not been completed with twelve (12) months of its commencement shall the fee to be paid by KPC be subject to renegotiation.

(h) Gateway, on behalf of itself and future owners, future tenants, transferees, assignees, and successors, as well as the Borough to the extent it may become any of the foregoing, shall release KPC from any and all claims regarding ACM, to the extent KPC may be liable, under the Environmental Allocation Agreement and the Environmental Allocation Easement, statutory or common law, or for any other reason.

(i) Gateway and the Borough hereby agree to indemnify, hold harmless and defend KPC from and against any claims and losses regarding ACM located anywhere in or on the former KPC structures, other than those materials identified in subsection (a) hereof. Neither the Environmental Allocation Agreement, the Environmental Allocation Easement nor the Borough Easement will be applicable for purposes of imposing future liability on KPC for either ACM abatement activities or reimbursement therefore or indemnity for any related claims or losses, whether arising under CERCLA, 42 U.S.C. § 9601 *et seq.*; RCRA, 42 U.S.C. § 6901 *et seq.*; AS 46.03.822; or any other authority. Such claims, if any, shall be governed solely by the provisions of this Agreement.

(j) The Borough and Gateway each accept all risk that the abatement work may damage or otherwise adversely affect, directly or indirectly, the structures from which the ACM is removed or the condition of the contents of the building, including the power boilers. In the event that the turbines are not removed within ninety (90) days after the abatement work is completed, they shall be deemed to have been abandoned and may be disposed of at no cost to Gateway or their owners. The Borough or the then current owners shall accept all responsibility for any asbestos that might remain within their interiors. Acceptance of the foregoing risk constitutes a full and final release of all potential liability of KPC, its agents, employees, consultants and contractors, together with their employees, and extends to all damage or destruction, whether caused by negligence or other fault.

(k) The Borough will take possession and control of all structures from which ACM is removed immediately upon the conclusion of the abatement work. The Borough, at its sole cost and expense, plans to demolish the powerhouse once all ACM has been removed. The Borough shall indemnify, defend and hold KPC harmless from and against all liability, claims, expenses and losses associated therewith. KPC will cause the abatement contractor to provide to the Borough, at the completion of the project, a written certification that all ACM identified in subsection (a) has been removed, other than any which may be located inside the turbines. KPC will cause the abatement contractor, prior to mobilization, to agree to indemnify and defend the



Borough and Gateway on the same terms that the contractor agrees to indemnify and defend KPC from Losses arising from damage to property (other than the buildings, structures, and equipment from which, or in the area where, ACM is being abated) and injury to persons, including death. KPC shall also cause the abatement contractor, prior to mobilization to designate the Borough and Gateway as additional insureds under its general liability insurance coverage upon the same terms as KPC is so designated.

20. Reservation of Borough Rights.

Nothing in this Agreement shall be construed to limit, in any manner, the Borough's right to foreclose on any security interest which it holds with respect to the Borough Property, except that this Agreement shall remain effective notwithstanding the Borough's acquisition of subsequent ownership and title.

21. Notice, Cooperation, and Non-Interference.

(a) KPC and the Borough hereby covenant and agree to cooperate to avoid any unreasonable interference with KPC's and the Borough's respective activities and operations at the properties set forth in Section 2(a) hereof.

(b) KPC, Gateway and the Borough further covenant and agree to give the other parties advance written notice of any material excavation, digging, or other similar activities on any of the properties set forth in Section 2(a) hereof.

22. General Mutual Release of Existing Claims.

(a) For purposes of this section only, Ketchikan Gateway Borough shall mean and include the Borough, as well as any of its subdivisions, elected officials, managers, agents, and employees ("KGB Releasees"). Ketchikan Pulp Company shall mean and include the corporation and its agents, servants, employees, officers, directors, partners, principals, and shareholders, as well as all of their insurance companies and contractors ("KPC Releasees"). Gateway Forest Products, Inc. shall mean and include the corporation and its agents, servants, employees, officers, directors, partners, principals and shareholders, as well as their insurance companies and contractors ("Gateway Releasees").

(b) Except as otherwise provided in this Agreement, the Ketchikan Gateway Borough hereby dismisses, releases, forever discharges, and covenants not to sue, either the KPC Releasees or the Gateway Releasees with regard to any and all Losses existing upon the effective date of this Agreement, including but not limited to Losses arising out of or in any way related to: (1) Gateway; (2) the Gateway bankruptcy proceeding (Bankr. D. Alaska, Case No. K-01-00157); (3) the Ketchikan Gateway Borough's acquisition of claims relating to the Gateway bankruptcy proceeding; (4) the Participation Agreement executed by the Ketchikan Gateway Borough and Ketchikan Pulp Company in August of 1999 and the resulting veneer study provided by Ketchikan Pulp Company; and (5) any



and all other Losses arising under statute, contract, common law, tort, or any other law or legal theory, or any combination thereof.

(c) Except as otherwise provided in this Agreement, Ketchikan Pulp Company and Gateway Forest Products, Inc. hereby dismiss, release, forever discharge, and covenant not to sue, the KGB Releasees, with regard to any and all Losses existing upon the effective date of this Agreement, including but not limited to Losses arising out of or in any way related to: (1) Gateway; (2) the Gateway bankruptcy proceeding (Bankr. D. Alaska, Case No. K-01-00157); (3) the Ketchikan Gateway Borough's acquisition of claims relating to the Gateway bankruptcy proceeding; (4) the Participation Agreement executed by the Ketchikan Gateway Borough and Ketchikan Pulp Company in August of 1999 and the resulting veneer study provided by Ketchikan Pulp Company; and (5) any and all other Losses arising under statute, contract, common law, tort, or any other law or legal theory, or any combination thereof.

(d) The parties agree that the pending lawsuits entitled *Ketchikan Gateway Borough vs. Ketchikan Pulp Company et al.*, Case No. 1KE-02-489 CI, filed in the Superior Court for the State of Alaska, First Judicial District at Ketchikan; and *Ketchikan Pulp Company vs. Ketchikan Gateway Borough*, Case No. 3AN-03-7081 CI, filed in the Superior Court for the State of Alaska, Third Judicial District at Anchorage, will be dismissed with prejudice, each party thereto shall bear its own costs and attorney fees.

(e) With respect to that certain litigation entitled *Foothill Capital Corporation vs. Gateway Forest Products, Inc., et al.*, Case No. A02-275-CV (RRB), pending in the United States District Court for the District of Alaska, when this Agreement becomes binding and effective, KPC shall withdraw its opposition to Foothill's pending motion for summary judgment and, so long as its New Outfall Easement is protected as provided in this Agreement, shall lodge no further objections. Additionally, Gateway shall convey to the Borough any redemption or repurchase rights which it may have with respect to the property which is the subject of the foreclosure action brought by Foothill, and any rights under existing permits for the site, at no cost to the Borough. Furthermore, each party thereto shall bear its own costs and attorney fees.

(f) The parties acknowledge and agree that they are familiar with the decisions of the Alaska Supreme Court in *Witt v. Watkins*, 579 P.2d 1065 (Alaska 1978); *Schmidt v. Lashley*, 627 P.2d 201 (Alaska 1981); and *Mitchell v. Mitchell*, 655 P.2d 748 (Alaska 1982), and that they have contemplated the possibility that new facts may subsequently be discovered which may affect their rights to relief, and that, except as otherwise provided in this Agreement, it is nevertheless the parties' intention to fully release and forever discharge each other with regard to any and all known and unknown Losses arising out of or in any way related to the matters described herein.

(g) The parties further acknowledge and agree that they are familiar with the decision of the Alaska Supreme Court in *Young v. State*, 455 P.2d 889 (Alaska 1969), and that they nevertheless intend to fully release all individuals, firms or corporations who could at any future date be possible defendants in any action arising out of or in any way



related to the matters set forth herein as fully as though they were specifically listed and named herein.

(h) The parties specifically renounce and release any right they may now or hereafter have to reform, rescind, modify, or set aside this release because of mutual or unilateral mistake. The risk of mistake is hereby assumed by the parties. It is further acknowledged and agreed that no representation, promise, or inducement, other than those specifically expressed in this Agreement, has been made to secure this release.

(i) The parties acknowledge and agree that they have had an adequate opportunity to consult with counsel of their own choosing and to review all of the terms and conditions herein, and that this release is entered into without haste and without any disparity of bargaining power.

23. Further Assurances.

(a) The parties agree to draft, execute, and record, as appropriate, and as soon as reasonably practicable after the effective date of this Agreement, such documents as may be necessary or appropriate to carry out the intent of this Agreement, including any pleadings necessary to dismiss pending litigation.

(b) The parties also agree to perform any further acts and to draft, execute and record any additional documents that may be necessary and appropriate in the future to carry out the terms of this Agreement.

(c) After this Agreement has become binding and effective, KPC shall consent to the No. 2 and No. 3 Subdivisions of U.S. Survey 1056, Lot 3 and ATS-1, Exhibit "A," as well as their recordation.

24. Default and Remedies.

(a) Time is of the essence for this Agreement, and the parties hereto shall promptly perform all of the obligations set forth herein.

(b) A party shall be in material default ("Default") in the event that it fails to promptly perform any of its obligations under this Agreement.

(c) If a party Defaults in any way in the performance of any of its obligations under this Agreement, then the party or parties entitled to such performance shall be entitled to perform or secure performance of such obligation(s) and shall be entitled to recover any and all damages arising in any way from or caused by the Default. Recoverable damages shall include, but not be limited to, all expenses of performance, securing performance, or any combination thereof, and all incidental costs and damages incurred as a consequence of the Default, including fines, penalties and fees incurred, investigation and testing costs, if any, attorneys', experts', and other consultants' fees incurred, and any other damages suffered.



(d) The parties acknowledge and agree that the nature of many of the rights, obligations, and liabilities set forth in this Agreement are such that it would be impossible to measure and compensate, in money, the harm which will accrue by reason of a party's Default. As a result, any remedy at law for recovery of damages may be inadequate. The parties shall therefore be entitled, in their discretion, to enforce this Agreement in law or in equity, or both. If a party elects to seek equitable relief to enforce the provisions hereof, any party against whom such action or proceeding is brought hereby waives the claim or defense therein that the enforcing party has an adequate remedy at law, and such party shall not offer in any such action or proceeding the claim or defense that such remedy at law exists.

(e) The Borough agrees to indemnify and defend Ketchikan Pulp Company and hold it harmless from any Losses to Ketchikan Pulp Company arising out of or with respect to any Default relating to the Borough's obligation to ensure that any entity to which it conveys any interest in the Borough Property executes valid and enforceable instruments releasing Ketchikan Pulp Company, as set forth in Section 11 above. The Borough furthermore agrees to require its heirs, successors and assigns to place the identical language in any future conveyance and to cooperate with KPC in the event that action is necessary to enforce Section 11.

25. Notices.

All notices, requests, claims, demands and other communications given or made pursuant hereto shall be in writing (and shall be deemed to have been duly given or made upon receipt) by delivery in person, by facsimile (with confirmation copy of such faxed material delivered in person or by registered or certified mail, postage prepaid, return receipt requested) or by registered or certified mail (postage prepaid, return receipt requested) to the respective party at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this section):

(a) if to KPC:

Ketchikan Pulp Company
c/o Louisiana-Pacific Corporation
Legal Department
805 S.W. Broadway, Suite 700
Portland, Oregon 97205
Attention: Christopher M. (Kit) Keyes, Esq.
Facsimile: (503) 821-5323

and:

Ketchikan Pulp Company
c/o Louisiana-Pacific Corporation
P.O. Box 4000-98
Hayden Lake, Idaho 83835-9460



Attention: Chris Paulson
Facsimile: (503) 821-5431
Physical Address: 13403 N. Government Way

with a copy to:

Ziegler Law Firm
307 Bawden Street
Ketchikan, Alaska 99901
Attention: John Peterson, Esq.
Facsimile: (907) 225-5513

(b) if to the Borough:

Ketchikan Gateway Borough
344 Front Street
Ketchikan, Alaska 99901
Attention: Borough Manager
Facsimile: (907) 247-6625


with a copy to:

Ketchikan Gateway Borough
344 Front Street
Ketchikan, Alaska 99901
Attention: Borough Clerk
Facsimile: (907) 247-8439

(c) if to Gateway:

Gateway Forest Products, Inc.
Post Office Box 779
Ward Cove, Alaska 99928
Attention: Dick Leary
Facsimile: (907) 247-1646

and:

 Gateway Forest Products, Inc.
7517 Tyne Drive
Anchorage, Alaska 99502
Attention: Jim Erickson



26. No Third-Party Beneficiaries.

Except as otherwise set forth, this Agreement is for the sole benefit of the parties hereto and their respective successors, heirs, and assigns, and nothing herein, express or implied, is intended to or shall confer, upon any other person or entity, any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

27. Governing Law.

This Agreement shall be governed by, and construed in accordance with, the laws of the State of Alaska.

28. Jurisdiction; Venue; Service.

The parties each irrevocably consent to the exclusive venue and jurisdiction of any state or federal court located in the First or Third Judicial Districts, State of Alaska, for the purposes of any suit, action, or other proceeding of any type whatsoever arising out of this Agreement or the subject matter hereof; provided, however, that if jury trial is sought by any party, the proceeding will be instituted in a locale other than Ketchikan. To the maximum extent permitted by applicable law, each party waives and agrees not to assert, by way of motion, as a defense, or otherwise, in any such suit, action or proceeding any claim that it is not personally subject to the jurisdiction of the above named courts; that the suit, action, or proceeding is brought in an inconvenient forum; that the venue of the suit, action, or proceeding is improper; or that this Agreement or the subject matter hereof may not be enforced in or by such court. Each party agrees that service of process may be made upon it wherever it can be located or by certified mail directed to its address for notices under this Agreement.

29. Liberal Construction.

Notwithstanding any general rule of construction to the contrary, this Agreement shall be liberally construed in favor of effectuating the parties' intentions. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid or unenforceable.

30. Severability.

If any portion of this Agreement is deemed invalid, illegal, or incapable of being enforced by any rule of law, or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance contemplated hereby is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal, or incapable of being enforced, the parties shall negotiate in good faith to modify this



Agreement, in a mutually acceptable manner, so as to effect the original intent of the parties as closely as possible.

31. Interpretation.

(a) When required by the context, the singular includes the plural and vice versa, and the masculine includes the feminine and neuter genders, and vice versa.

(b) Except as otherwise specifically indicated, all references in this Agreement to an "Appendix" or "Appendices" are to the corresponding Appendices to this Agreement, as the same may be amended from time to time in accordance with the terms hereof.

(c) Headings used in this Agreement have been included for convenience and ease of reference only and shall not in any manner influence the construction or interpretation of any provision of this Agreement.

(d) "Includes" or "including" means "including, without limitation."

32. Opportunity to Review and Consult Counsel.

The parties to this Agreement acknowledge and agree that they have had an adequate opportunity to consult with counsel of their own choosing and to review all of the terms and conditions herein. The parties further represent that they have participated in the drafting of this Agreement, and they acknowledge and agree that this Agreement shall not be construed as having been drafted by any particular party or parties.

33. Amendments and Waiver.

This Agreement may not be amended or modified except by an instrument in writing duly executed by Ketchikan Pulp Company, Gateway Forest Products, Inc. and the Ketchikan Gateway Borough or their respective successors, heirs, and assigns, if any, holding an interest in the property at issue. Waiver of any term or condition of this Agreement shall only be effective if in writing, duly executed by the party to be bound thereby, and shall not be construed as a waiver of any subsequent breach or waiver of the same term or condition, nor as a waiver of any other term or condition.


34. Counterparts.

This Agreement may be executed in one or more counterparts, and by the different parties hereto in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same Agreement.




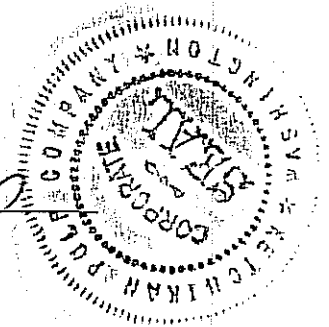
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and date first written above.

KETCHIKAN GATEWAY BOROUGH

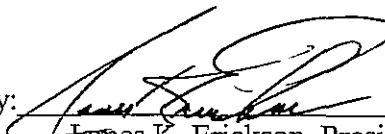
By: 
Roy A. Eckert, Manager

KETCHIKAN PULP COMPANY

By: 
Chris Paulson, President



GATEWAY FOREST PRODUCTS, INC.

By: 
James K. Erickson, President



APPENDIX "1"

FORM OF ENVIRONMENTAL EASEMENT AND DECLARATION OF COVENANTS

This Environmental Easement and Declaration of Covenants ("Easement"), made and entered into this ____ day of _____, 2003, by and between KETCHIKAN GATEWAY BOROUGH, a municipal corporation, 344 Front Street, Ketchikan, Alaska 99501, KETCHIKAN PULP COMPANY, a Washington corporation, Post Office Box 6600, Ketchikan, Alaska 99901, and GATEWAY FOREST PRODUCTS, INC., an Alaska corporation, Post Office Box 779, Ward Cove, Alaska 99928, WITNESSETH:

RECITALS

WHEREAS, all real property referred to in this Easement is located in, and all documents and plats referred as filed or recorded, are filed or recorded in the Ketchikan Recording District, First Judicial District, State of Alaska;

WHEREAS, on November 3, 1999, Ketchikan Pulp Company and Gateway Forest Products, Inc. entered into certain agreements including the Allocation of Environmental Responsibilities Agreement ("Environmental Allocation Agreement"), more commonly known as Exhibit "F," and the Easement and Declaration of Covenants Regarding Allocation of Environmental Responsibilities ("Environmental Allocation Easement"), more commonly known as Exhibit "F-1," which incorporated by reference Exhibit "F," governing certain properties;

WHEREAS, The Environmental Allocation Easement was specifically incorporated into that certain Quitclaim Deed executed by Ketchikan Pulp Company in favor of Gateway Forest Products, Inc., which was recorded on November 5, 1999 at Book 306, Page 72;

WHEREAS, the parties now desire to remove the Environmental Allocation Easement and the Environmental Allocation Agreement from certain parcels of real property located at Ward Cove, formerly owned by Ketchikan Pulp Company and to replace it with this Easement;

WHEREAS, the Ketchikan Gateway Borough, Ketchikan Pulp Company and Gateway Forest Products, Inc. have ongoing interests, including but not limited to, operational and regulatory considerations, in the Ward Cove real property and desire to impose on the those properties certain terms and conditions as covenants that will run with the land for the purpose of making such terms and conditions applicable to the



Ketchikan Gateway Borough, Ketchikan Pulp Company and Gateway Forest Products, Inc., as well as any of their successors and assigns holding an interest in the properties;

WHEREAS, the Ketchikan Gateway Borough, Ketchikan Pulp Company and Gateway Forest Products, Inc. entered into an Agreement dated _____, 2003 governing the parties' respective rights and responsibilities ("Agreement"); and

WHEREAS, Ketchikan Pulp Company has an ongoing interest in ensuring that it has access to the Ward Cove properties to accommodate the satisfaction of its continuing environmental obligations at the Ward Cove facility;

NOW, THEREFORE, In consideration of the promises and of the mutual agreements and covenants hereinafter set forth, the Ketchikan Gateway Borough, Ketchikan Pulp Company and Gateway Forest Products, Inc. hereby agree as follows:

I. DEFINITIONS.

The terms used in this Easement shall have the following meanings, which shall be equally applicable to both the singular and plural forms of the terms defined:

- A. "Borough" means and refers to the Ketchikan Gateway Borough, a municipal corporation organized pursuant to the laws of the State of Alaska, and the Borough's successors, heirs, and assigns.
- B. "Costs" means, with respect to Remediation and Investigation activities, actual reasonable expenditures, including but not limited to, reasonable attorneys' fees and defense costs, contractor costs, consultant costs, governmental oversight costs and other necessary expenditures.
- C. "Environmental Laws" means all State of Alaska, local, and federal laws, statutes, regulations, and ordinances of any kind relating to environmental protection or compliance as they currently exist and as they may come to be amended, including but not limited to, the federal Clean Water Act; Clean Air Act; Toxic Substances Control Act; Comprehensive Environmental Response, Compensation and Liability Act; Resource Conservation and Recovery Act; Federal Insecticide, Fungicide, and Rodenticide Act; Safe Drinking Water Act; Hazardous Materials Transportation Act; laws designated in Alaska Statutes Title 46; and common law, including causes of action arising in tort.
- D. "Gateway" means and refers to both Gateway Forest Products, Inc., an Alaska corporation, and Gateway's successors, heirs, and assigns.



- E. "Hazardous Substances" means substances which constitute hazardous substances under the Comprehensive Environmental Response, Compensation Liability Act or under AS 46.03.822.
- F. "Institutional Controls" means the Environmental Protection Easement and Declaration of Restrictive Covenants in favor of the State of Alaska, Department of Natural Resources, recorded on October 28, 1999, at Book 305, page 772 in the Ketchikan Recording District and such other measures, controls, limitations, prohibitions, procedures, or protocols that the United States Environmental Protection Agency ("EPA"), the Alaska Department of Environmental Conservation ("DEC") or the Alaska Department of Natural Resources ("DNR") requires in order to maintain the integrity of a remedial or removal action or prevent a release or threatened release of a Hazardous Substance.
- G. "Investigation or Investigatory" means actions to assess the nature and extent of Hazardous Substances contamination, including sampling and other necessary activities.
- H. "KPC" means and refers broadly to both Ketchikan Pulp Company, a Washington corporation, and KPC's successors, heirs, and assigns.
- I. "Remediation" means actions to remove, clean up, treat, or dispose of Hazardous Substances from the environment, including but not limited to, actions which may be necessary to prevent, minimize, or mitigate damage to the public health or welfare or to the environment from a release or threatened release of a Hazardous Substance.
- J. "Ward Cove Area" means the water body commonly known as Ward Cove including marine waters to the ordinary high water mark and sediments underlying such waters, and also means the surface and subsurface areas of those portions of U.S. Surveys 1056, 1208, 1508, 1653, 1656, 1659, 1706, 1754, and 1862 lying seaward of the North Tongass Highway, and the filled portions of ATS-1, including any structures or other improvements located thereon.
- K. "Ward Cove Consent Decree" means the consent decree with the EPA and the U.S. Department of Justice entered in the U.S. District Court for the District of Alaska: CERCLA Remedial Design/Remedial Action Consent Decree, *United States vs. Gateway Forest Products, Inc., Ketchikan Pulp Company, & Louisiana-Pacific Corporation*, Case No. A00-225 CV (JKS).
- L. "Ward Cove Landfills" means the industrial landfill which KPC owns and operates upon Tract 3004, Lot 2, Dawson Point Subdivision, according to the plat thereof filed November 28, 2000 as Plat 2000-73.



II. PARCELS TO WHICH THE COVENANTS SHALL APPLY.

The covenants contained in this Easement shall apply to the following parcels of real property ("Ward Cove Property"):

PARCEL NO. 1:

U.S. Survey 1706.

PARCEL NO. 2:

The unsubdivided Remainder, according to the subdivision plat of U.S. Survey 1754, recorded March 8, 1956 in Volume 1 of Plats at Packet 20.

PARCEL NO. 3:

Lot 1, Tract 3004, according to the plat filed November 28, 2000 as Plat 2000-73.

PARCEL NO. 4:

U.S. Survey 3400.

PARCEL NO. 5:

U.S. Survey 3401.

PARCEL NO. 6:

Lot 1, Sec. 34, T.74S., R.90E., C.R.M., as more particularly described in Exhibit "A" hereto.

III. COVENANTS.

The Borough, KPC and Gateway, for good and sufficient consideration received, do hereby covenant and declare that, with respect to the properties listed in Section II. hereof, the following provisions shall be covenants that run with and bind the Ward Cove Property and the parties, and each parties' respective personal representatives, heirs, successors and assigns as to the Ward Cove Property or any interest therein obtained through any mechanism, including but not limited to, conveyances, assignments, or foreclosures:



A. Touch and Concern.

The Ward Cove Covenants touch and concern the Ward Cove Property, in that each and all of the Covenants directly benefit the property, resolve regulatory issues which have limited development and thereby increase its market value. The Ward Cove Covenants are fully enforceable by the parties with respect to the Ward Cove Property or any interest therein. If a party refuses to acknowledge the applicability of the Ward Cove Covenants to such party, any other party shall be entitled to enforce the terms of this instrument in law and in equity.

B. Ward Cove Area.

1. The Borough covenants and agrees that it shall comply with any Institutional Controls which are or may become applicable to the Ward Cove Property, including those imposed through, or under the Ward Cove Consent Decree, or otherwise.

2. The Borough covenants and agrees that it shall not, through any activities or operations at or in the Ward Cove Area, materially damage any cap or capping materials that may be applied to sediments in the Ward Cove Area under the Ward Cove Consent Decree. The Borough further covenants and agrees that if it damages such cap, it will immediately report the relevant circumstances to EPA and KPC and restore the cap to a condition and to specifications as directed by the EPA or by any governmental body having primary regulatory jurisdiction over the work undertaken by KPC under the Ward Cove Consent Decree, but the Borough and KPC will be under no obligation to restore the cap until directed to do so by the EPA or other governmental body having jurisdiction.

3. The Borough's obligations, pursuant to Section 2 hereof, extend to the activities and operations of its employees, agents, contractors, invitees, licensees, representatives, permittees, joint venturers, instrumentalities, port authorities, and any third party contractually related, whether directly or indirectly.

4. Nothing in this Easement shall be interpreted to prohibit KPC from exercising any legal rights it may have with respect to matters arising under the Ward Cove Consent Decree.

5. KPC, Gateway and the Borough agree to give the other parties advance written notice of any material excavation, digging or other similar activities relating to the Ward Cove Property.

6. The Ward Cove Landfills are located within Lot 2, Tract 3004 ("Landfill Parcel") and are operated pursuant to a permit issued by the State of Alaska, Department of Environmental Conservation ("DEC"). Lot 1 of Tract 3004 surrounds the Landfill Parcel, which KPC agreed to donate to the Borough only upon the condition that use restrictions and other conditions would be implemented in order to ensure that neither the



Borough nor its successors in interest would unreasonably interfere with the operation and maintenance of the Ward Cove Landfills. To accomplish those objectives, KPC and the Borough covenant and agree as follows:

- a. The future use of Lot 1, Tract 3004 by the Borough and its successors in interest shall be limited to commercial activities of an industrial nature which are compatible with operation in close proximity to an industrial landfill;
- b. The Borough and its successors in interest shall take all reasonable measures to protect against any interference with operation of the Ward Cove Landfills, including appropriate terracing of any rock extraction to preserve subjacent support; and
- c. The Borough hereby fully and finally releases KPC from all liability arising from or in any way related to operation and maintenance of the Ward Cove Landfills, excepting only to the extent damages may occur from a violation of, or failure to obtain, the DEC permit for the landfills. This release extends to any and all claims and liabilities, whether arising from negligence, or other fault, or otherwise. The Borough shall require each of its successors in interest, whether by lease, deed, or otherwise, as a condition to acquisition of any interest in or to Lot 1, Tract 3004, to execute the same release in favor of KPC.

C. Future Subdivision.

These Covenants shall not preclude subdivision of any parcel of the Ward Cove Property; provided, however, that upon any subdivision, replat, plat modification or other similar action, all portions of the Ward Cove Property which previously were subject to these Covenants, shall remain subject thereto; provided, however, that the obligations imposed by these covenants shall be limited to the parcel, area, or portion held by a party and shall not be interpreted to create liability for other parcels or areas not held by such party.

D. Further Assurances.

1. The parties covenant and agree both to adhere to and comply with current Institutional Controls and to cooperate with respect to the development and implementation of additional Institutional Controls, which shall include the development of an instrument or instruments to ensure that Institutional Controls arising under the Ward Cove Consent Decree, or otherwise, will run with the property and be enforceable against bona fide purchasers.

2. The parties covenant and agree that this Easement shall govern and be binding with respect to, the acts and omissions of each respective party's employees,



agents, contractors, and any third party contractually related, whether directly or indirectly, to the respective party.

E. Term of Ward Cove Covenants.

Each and all of the Ward Cove Covenants, and all the burdens and benefits thereof, shall run with the Ward Cove Property and shall be binding on any person having any ownership interest in the Ward Cove Property under the terms and conditions set forth in the Ward Cove Covenants for a period of twenty (20) years from the Effective Date, after which time the Ward Cove Covenants shall be automatically extended for successive periods of ten (10) years each, unless an instrument properly signed by KPC, has been recorded in the Ketchikan Recording District, First Judicial District, State of Alaska, agreeing to terminate the Ward Cove Covenants in whole or in part.

F. Termination of Rights and Obligations of Covenants Through Transfer of Ownership Interest.

A party is relieved of its obligations to comply with the Ward Cove Covenants imposed on the Ward Cove Property upon, and to the extent, that a party transfers or no longer holds an interest in the Ward Cove Property, except that liability or responsibility for acts or omissions occurring prior to transfer shall survive such transfer; provided, however, that nothing in this Easement shall diminish or relieve the parties, or any successor or assign of the parties from their respective obligations under the Agreement.

The Borough, KPC, and Gateway, together with each parties' respective successors and assigns, are hereinafter referred to as the "Parties."

IV. EASEMENT.

A. Reservation of Easement.

1. The Parties acknowledge and agree that, upon the terms and conditions set forth in this Easement, the Borough grants to KPC an easement interest (the "Easement") in and to the following properties (the "Easement Property") to allow KPC and its successors and assigns to undertake any activity contemplated by the Agreement and by subsection III.B. hereof. It is the express intent of Grantor and Grantee that the burden and benefit of this Easement shall run with the land upon any conveyance of the Ward Cove Property, during the term of this Easement, including any extension thereof:

PARCEL NO. 1:

Lot 3, Gateway Subdivision, within U.S. Survey 1056 (H.E.S.) according to the plat thereof filed August 14, 2000 as Plat No. 2000-41.



PARCEL NO. 2:

That portion of U.S. Survey 1056, lying northerly of the northerly boundary of North Tongass Highway, being adjacent to U.S. Survey 2923 and comprised of 5.16 acres.

PARCEL NO. 3:

U.S. Survey 1706.

PARCEL NO. 4:

U.S. Survey 1754

PARCEL NO. 5:

That portion of U.S. Survey 1862, more particularly described as follows: Beginning at U.S. Land Mark No. 2; thence North $32^{\circ}27'$ West a distance of 155.5 feet to Corner No. 1 of U.S. Survey 1862 and the true point of beginning of the portion herein described; thence North $0^{\circ}25'$ West a distance of 515 feet, more or less, to a point on the South Right of Way line of North Tongass Highway, which point is 50 feet from the center line of said highway and at right angles to Engineers Station 299+50; thence along that portion of a spiral curve to the left whose chord bears South $24^{\circ}30'$ East a distance of 114.65 feet; thence along the arc of a 527.46 foot radius curve the long chord of which bears South $36^{\circ}35'$ East a distance of 126.14 feet; thence along a spiral curve whose chord bears South $51^{\circ}21'$ East a distance of 210.05 feet; thence South $55^{\circ}27'$ East a distance of 316.97 feet; thence South $34^{\circ}33'$ West a distance of 50 feet; thence South $55^{\circ}27'$ East a distance of 137.00 feet; thence South $88^{\circ}00'$ West a distance of 535 feet more or less along Meander Line No. 11 of U.S. Survey 1862; thence North $29^{\circ}30'$ West a distance of 155.50 feet along Meander Line No. 12 of U.S. Survey 1862 to Corner No. 1, which is the point of beginning;

ALSO: That portion of U.S. Survey 1862 lying with the North Tongass Highway Right of Way as created by a deed dated April 1, 1949 and recorded in Volume "W" of Deeds at Page 362, Ketchikan Recording District, First Judicial District, State of Alaska, and as conveyed to Ketchikan Pulp Company by Quitclaim Deed recorded July 27, 1988 in Book 158 at Page 588.

PARCEL NO. 6:

U.S. Survey 2090.

PARCEL NO. 7:

That certain portion of U.S. Survey 2923, more particularly described as follows:



Beginning at the northerly corner of the Crawford Tract, otherwise known as Corner No. 2 of U.S. Survey 2923; thence South 55°45' East along the northeasterly boundary of the Crawford Tract a distance of 863.37 feet; thence South 89°33' West a distance of 709.81 feet, more or less, to a point on the westerly boundary of the Crawford Tract; thence North 0°27' West along the westerly boundary of the Crawford Tract a distance of 491.50 feet, more or less, to the point of beginning.

PARCEL NO. 8:

U.S. Survey 3400.

PARCEL NO. 9:

U.S. Survey 3401.

PARCEL NO. 10:

Lot 1, Sec. 34, T. 74S., R.90E., C.R.M., as more particularly described in Exhibit "A" hereto.

PARCEL NO. 11:

Tract 3004, Lot 1, according to the plat filed November 28, 2000 as Plat 2000-73.

PARCEL NO. 12:

All of ALASKA TIDELANDS SURVEY NO. 1 (CR 74S 90E), according to the unrecorded plat thereof (mistakenly recorded in the Juneau Recording District as Plat No. 292).

PARCEL NO. 13:

ALASKA TIDELANDS SURVEY NO. 439.

2. The Parties covenant and agree that KPC hereby is granted an easement interest in and to the Easement Property set forth in subsection A.1. hereof, consisting of a right of free access to and across the Easement Property to allow KPC to undertake or observe any sampling and Investigatory activities, Remediation activities, and any reasonable actions necessary to support or implement Investigatory and Remediation activities at the Easement Property. KPC's right of access shall also include, without limitation, the right to use the Easement Property to the extent reasonably necessary for a staging area or otherwise to comply with Environmental Laws and the directives or orders of governmental agencies relating to the Easement Property.



3. KPC's right of access shall also include access through and across all access easements which have been or hereafter are established by, or reflected in, any plats of U.S. Survey 1056 or ATS-1, whether those access easements are designated as private access easements or otherwise.

4. KPC's access rights, as described herein, shall not prevent the Borough Entities from constructing any buildings or other improvements on the Borough Property. In that event, KPC will exercise its access and staging rights in a manner which will not unreasonably interfere with the Borough Entities' uses or development of the properties.

B. Term.

The Easement shall become effective on the Effective Date and shall have an initial term of twenty (20) years from the Effective Date, after which time the Easement shall be automatically extended for successive periods of ten (10) years each, unless an instrument properly signed by KPC, has been recorded in the Ketchikan Recording District, First Judicial District, State of Alaska, agreeing to terminate the Easement in whole or in part.

C. Subdivision.

This Easement shall not preclude the subdivision of any parcels of the Ward Cove Property, but upon any subdivision, replat, plat modification, or other similar action, all portions of the Ward Cove Property which previously were subject to this Easement shall remain subject thereto.

V. EFFECTIVE DATE.

This Easement shall become effective ("Effective Date") on the date of recordation, simultaneous with recordation of the Vacation of Covenants and Easement releasing the same parcels

VI. LIBERAL CONSTRUCTION.

Any general rule of construction to the contrary, this Easement shall be liberally construed in favor of effectuating the Parties' desire to establish the Easement in favor of KPC and to make the Ward Cove Covenants run with, and apply to, the Ward Cove Property and to make the Ward Cove Covenants binding upon any and all successors and assigns of the Parties. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid or unenforceable.



VII. DISPUTES.

The parties each irrevocably consent to the exclusive venue and jurisdiction of any state or federal court located in the First or Third Judicial Districts, State of Alaska, for the purposes of any suit, action, or other proceeding of any type whatsoever arising out of this Agreement or the subject matter hereof; provided, however, that if jury trial is sought by any party, the proceeding will be instituted in a locale other than Ketchikan. To the maximum extent permitted by applicable law, each party waives and agrees not to assert, by way of motion, as a defense, or otherwise, in any such suit, action or proceeding any claim that it is not personally subject to the jurisdiction of the above named courts; that the suit, action, or proceeding is brought in an inconvenient forum; that the venue of the suit, action, or proceeding is improper; or that this Agreement or the subject matter hereof may not be enforced in or by such court. Each party agrees that service of process may be made upon it wherever it can be located or by certified mail directed to its address for notices under this Agreement.

VIII. MISCELLANEOUS.

A. Notices.

All notices, requests, claims, demands and other communications given or made pursuant hereto shall be in writing (and shall be deemed to have been duly given or made upon receipt) by delivery in person, by telecopy (with confirmation copy of such telecopied material delivered in person or by registered or certified mail, postage prepaid, return receipt requested) or by registered or certified mail (postage prepaid, return receipt requested) to the respective party at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section VIII.A.):

1. if to KPC:

Ketchikan Pulp Company
c/o Louisiana-Pacific Corporation
Legal Department
805 S.W. Broadway, Suite 700
Portland, Oregon 97205
Attention: Christopher M. (Kit) Keyes, Esq.
Facsimile: (503) 821-5323



and:

Ketchikan Pulp Company
c/o Louisiana-Pacific Corporation
P.O. Box 4000-98
Hayden Lake, Idaho 83835-9460
Attention: Chris Paulson
Facsimile: (208) 762-1667

Physical Address: 13403 N. Government Way

with a copy to:

Ziegler Law Firm
307 Bawden Street
Ketchikan, Alaska 99901
Attention: John Peterson, Esq.
Facsimile: (907) 225-5513

2. if to the Borough:

Ketchikan Gateway Borough
344 Front Street
Ketchikan, Alaska 99901
Attention: Borough Manager
Facsimile: (907) 247-6625

with a copy to:

Ketchikan Gateway Borough
344 Front Street
Ketchikan, Alaska 99901
Attention: Borough Clerk
Facsimile: (907) 247-8439

3. if to Gateway:

Gateway Forest Products, Inc.
Post Office Box 779
Ward Cove, Alaska 99928
Attention: Dick Leary
Facsimile: (907) 247-1646



and:

Gateway Forest Products, Inc.
7517 Tyne Drive
Anchorage, Alaska 99502
Attention: Jim Erickson

B. Headings.

The descriptive headings contained in this Easement are for convenience of reference only and shall not affect in any way the meaning or interpretation of this Easement.

C. Severability.

If any provision of this Easement, or the application of any provision to a person or circumstance, is found to be invalid, illegal, or incapable of being enforced by any rule of law or public policy, the remainder of the provisions of this Easement, or the application of such provisions to persons or circumstances other than those to which it is found to be invalid or unenforceable, as the case may be, shall not be affected thereby.

D. No Third-Party Beneficiaries.

This Easement is for the sole benefit of the Parties and their respective successors and permitted assigns, and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Easement.

E. Amendment; Waiver.

This Easement may not be amended or modified except by an instrument in writing duly executed and recorded by the Parties. Waiver of any term or condition of this Agreement shall only be effective if in writing, duly executed by the Party to be bound thereby, and shall not be construed as a waiver of any subsequent breach or waiver of the same term or condition, or a waiver of any other term or condition of this Easement; provided however, that once Gateway no longer is the owner of any part or parcel of the Ward Cove Property, its agreement no longer shall be necessary to effectuate amendment of either the Covenants or the Easement and its signature no longer will be required.

F. Governing Law.

This Easement shall be governed by, and construed in accordance with, the laws of the State of Alaska, applicable to covenants and agreements affecting real property executed and to be performed in that State.



NOTICE: THE INTERESTS CONVEYED HEREBY ARE SUBJECT TO AN ENVIRONMENTAL PROTECTION EASEMENT AND DECLARATION OF RESTRICTIVE COVENANTS DATED OCTOBER 28, 1999, RECORDED IN THE KETCHIKAN RECORDING DISTRICT, FIRST JUDICIAL DISTRICT, STATE OF ALASKA, ON OCTOBER 28, 1999 AT BOOK 305, PAGE 772.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed as of the date first written above.

GATEWAY FOREST PRODUCTS, INC.

By _____

James K. Erickson
President

Richard D. Leary
Secretary

KETCHIKAN PULP COMPANY

By _____

Chris Paulson
President

Douglas P. Anderson
Assistant Secretary

KETCHIKAN GATEWAY BOROUGH

By _____

Roy A. Eckert
Manager

Harriet Edwards
Clerk



STATE OF ALASKA)
 : ss.
FIRST JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this ____ day of _____, 2003, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared **Roy A. Eckert** and **Harriet Edwards**, to me known to be the Manager and the Clerk of the Ketchikan Gateway Borough, a municipal corporation established pursuant to the laws of the State of Alaska which executed the above and foregoing instrument; who on oath stated that they were duly authorized to execute said instrument and affix the borough seal thereto on behalf of the Borough and that the seal affixed thereto is the borough seal thereof; and who acknowledged to me that the same was signed freely and voluntarily on behalf of the Borough for the uses and purposes therein mentioned.

WITNESS my hand and seal the day and year last above written.

Notary Public in and for Alaska
My Commission Expires: _____

STATE OF ALASKA)
 : ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this ____ day of _____, 2003, before me, the undersigned, a notary public in and for the State of Alaska, duly commissioned and sworn, personally appeared **James K. Erickson**, to me known to be the President, of Gateway Forest Products, Inc., an Alaska corporation, the corporation which executed the above and foregoing instrument; who on oath stated that they were duly authorized to execute said instrument and affix the corporate seal thereto on behalf of said corporation and that the seal affixed thereto is the corporate seal thereof; who acknowledged to me that they signed and sealed the same freely and voluntarily on behalf of said corporation for the uses and purposes therein mentioned.

WITNESS my hand and official seal the day and year in this certificate first above written.

Notary Public for Alaska
Commission expires: _____



STATE OF ALASKA)
 : ss.
FIRST JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this ____ day of _____, 2003, before me, the undersigned, a notary public in and for the State of Alaska, duly commissioned and sworn, personally appeared **Richard D. Leary**, to me known to be the Secretary, of Gateway Forest Products, Inc., an Alaska corporation, the corporation which executed the above and foregoing instrument; who on oath stated that they were duly authorized to execute said instrument and affix the corporate seal thereto on behalf of said corporation and that the seal affixed thereto is the corporate seal thereof; who acknowledged to me that they signed and sealed the same freely and voluntarily on behalf of said corporation for the uses and purposes therein mentioned.

WITNESS my hand and official seal the day and year in this certificate first above written.

Notary Public for Alaska
Commission expires: _____

STATE OF IDAHO)
 : ss.
COUNTY OF KOOTENAI)

THIS IS TO CERTIFY that on this ____ day of _____, 2003, before me, the undersigned, a notary public in and for the State of Idaho duly commissioned and sworn, personally appeared **Chris Paulson and Douglas P. Anderson**, to me known to be the President and Assistant Secretary respectively of Ketchikan Pulp Company, a Washington corporation, the corporation which executed the above and foregoing instrument; who on oath stated that they was duly authorized to execute said instrument on behalf of said corporation and who acknowledged to me that he signed and sealed the same freely and voluntarily on behalf of said corporation for the uses and purposes therein mentioned.

WITNESS my hand and official seal the day and year in this certificate first above written.

Notary Public for Idaho
Commission expires: _____



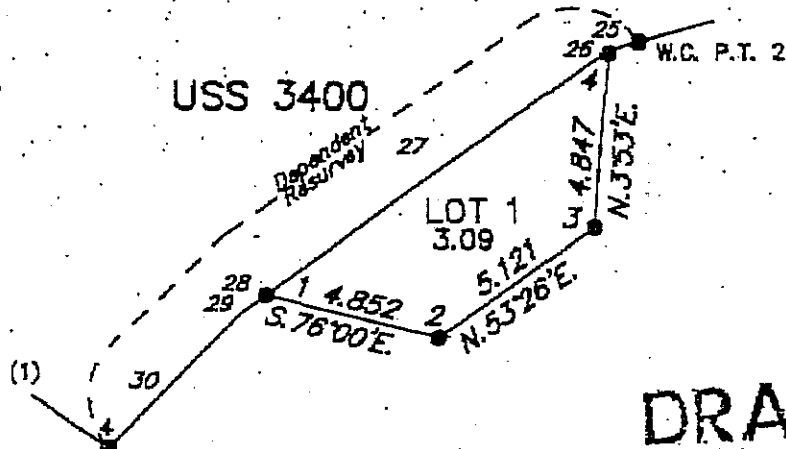
DRAFT

DRAFT

USS 3307
USS 3769

Mean
Magnetic
Declination
23 1/2° E.

ENLARGED DIAGRAM



USS 1761
USS 2923

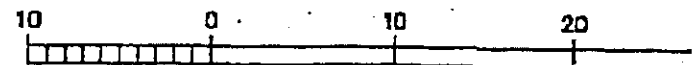
Sec. 34

USS 1761
USS 2632
USS 3835

N.G.S.
"DECOY 1951"
Lat. 55° 23' 56.544" N.
Long. 131° 44' 28.823" W.
NAO 27



Chains



Chains

P.S.T.

Area Surveyed: 730.77 ac



49 of 72

2008-002806-0

APPENDIX "2"

VACATION OF COVENANTS AND EASEMENT

This Vacation of Easement and Covenants ("Vacation"), made and entered into this ____ day of _____, 2003 by and between, KETCHIKAN GATEWAY BOROUGH, a municipal corporation, 344 Front Street, Ketchikan, Alaska 99501 ("Borough"), KETCHIKAN PULP COMPANY, a Washington corporation, Post Office Box 6600, Ketchikan, Alaska 99901 ("KPC"), and GATEWAY FOREST PRODUCTS, INC., an Alaska corporation, Post Office Box 779, Ward Cove, Alaska 99928 ("Gateway"), WITNESSETH:

RECITALS

WHEREAS, all real property referred to in this Vacation is located in, and all documents and plats referred as filed or recorded, are filed or recorded in the Ketchikan Recording District, First Judicial District, State of Alaska;

WHEREAS, on November 3, 1999, KPC and Gateway entered into an Allocation of Environmental Responsibilities Agreement ("Environmental Allocation Agreement") setting forth the environmental liabilities retained by KPC and those being assumed by Gateway;

WHEREAS, the terms of the Environmental Allocation Agreement were incorporated by reference into the Easement and Declaration of Covenants Regarding Allocation of Environmental Responsibilities ("Environmental Allocation Easement");

WHEREAS, the Quitclaim Deed, recorded in the Ketchikan Recording District on November 5, 1999 at Book 306, Page 72, effectuating the transfer of certain assets and real property from KPC to Gateway, specifically reserved and incorporated by reference the Environmental Allocation Easement;

WHEREAS, the Borough thereafter acquired security interests in certain of the affected parcels or real property;

WHEREAS, KPC, Gateway and the Borough now desire to release certain of the parcels of real property from the constraints of the Environmental Allocation Easement; and

WHEREAS, KPC, Gateway and the Borough also desire to establish terms which will permit release of the Environmental Allocation Agreement and the Environmental



Allocation Easement without Gateway's consent, once Gateway no longer is the owner of a parcel or a portion of a parcel which previously was subject thereto;

NOW, THEREFORE, in consideration of the promises and of the mutual agreements and covenants hereinafter set forth, the Borough, KPC and Gateway hereby agree as follows:

The Environmental Allocation Easement shall hereby be vacated and be of no further force or effect with respect to the following described property:

PARCEL NO. 1:

U.S. Survey 1706.

PARCEL NO. 2:

The Unsubdivided Remainder, according to the subdivision plat of U.S. Survey 1754 recorded March 8, 1956 in Volume 1 of Plats at Packet 20.

PARCEL NO. 3:

Lots 1 and 2, Tract 3004, according to the plat filed November 28, 2000 as Plat 2000-73.

This Vacation shall become effective ("Effective Date") on the date of recordation, simultaneous with recordation of the Environmental Easement and Covenants affecting the same parcels with which it will be replaced.

Once Gateway no longer is the owner of a parcel, or a portion of any parcel, of the property previously subject thereto, its agreement no longer shall be necessary to vacate the Environmental Allocation Agreement and the Environmental Allocation Easement with respect to that portion or parcel.



IN WITNESS WHEREOF, the parties hereto have caused this Vacation to be duly executed as of the date first written above.

GATEWAY FOREST PRODUCTS, INC.

By _____
James K. Erickson
President

Richard D. Leary
Secretary

KETCHIKAN PULP COMPANY

By _____
Chris Paulson
President

Douglas P. Anderson
Assistant Secretary

KETCHIKAN GATEWAY BOROUGH

By _____
Roy A. Eckert
Manager

Harriet Edwards, Clerk

STATE OF ALASKA)
 : ss.
FIRST JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this ____ day of _____, 2003, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared **Roy A. Eckert** and **Harriet Edwards**, to me known to be the Manager and the Clerk of the Ketchikan Gateway Borough, a municipal corporation established pursuant to the laws of the State of Alaska which executed the above and foregoing instrument; who on oath stated that they were duly authorized to execute said instrument and affix the borough seal thereto on behalf of the Borough and that the seal affixed thereto is the borough seal thereof; and who acknowledged to me that



the same was signed freely and voluntarily on behalf of the Borough for the uses and purposes therein mentioned.

WITNESS my hand and seal the day and year last above written.

Notary Public in and for Alaska
My Commission Expires: _____

STATE OF ALASKA)
 : ss.
FIRST JUDICIAL DISTRICT)

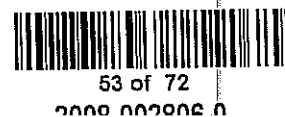
THIS IS TO CERTIFY that on this ____ day of _____, 2003, before me, the undersigned, a notary public in and for the State of Alaska, duly commissioned and sworn, personally appeared **Richard D. Leary**, to me known to be the Secretary, of Gateway Forest Products, Inc., an Alaska corporation, the corporation which executed the above and foregoing instrument; who on oath stated that they were duly authorized to execute said instrument and affix the corporate seal thereto on behalf of said corporation and that the seal affixed thereto is the corporate seal thereof; who acknowledged to me that they signed and sealed the same freely and voluntarily on behalf of said corporation for the uses and purposes therein mentioned.

WITNESS my hand and official seal the day and year in this certificate first above written.

Notary Public for Alaska
Commission expires: _____

STATE OF ALASKA)
 : ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this ____ day of _____, 2003, before me, the undersigned, a notary public in and for the State of Alaska, duly commissioned and sworn, personally appeared **James K. Erickson**, to me known to be the President, of Gateway Forest Products, Inc., an Alaska corporation, the corporation which executed the above and foregoing instrument; who on oath stated that they were duly authorized to execute said instrument and affix the corporate seal thereto on behalf of said corporation and that the seal affixed thereto is the corporate seal thereof; who acknowledged to me that they signed and sealed the same freely and voluntarily on behalf of said corporation for the uses and purposes therein mentioned.



WITNESS my hand and official seal the day and year in this certificate first above written.

Notary Public for Alaska
Commission expires: _____



STATE OF IDAHO)
 : ss.
COUNTY OF KOOTENAI)

THIS IS TO CERTIFY that on this ____ day of _____, 2003, before me, the undersigned, a notary public in and for the State of Idaho, duly commissioned and sworn, personally appeared **Chris Paulson** and **Douglas P. Anderson**, to me known to be the President and Assistant Secretary respectively of Ketchikan Pulp Company, a Washington corporation, the corporation which executed the above and foregoing instrument; who on oath stated that they was duly authorized to execute said instrument on behalf of said corporation and who acknowledged to me that he signed and sealed the same freely and voluntarily on behalf of said corporation for the uses and purposes therein mentioned.

WITNESS my hand and official seal the day and year in this certificate first above written.

Notary Public for Idaho
Commission expires: _____



APPENDIX "3"

COST SHARING AGREEMENT

This Agreement ("Agreement") is entered into by and between the Ketchikan Gateway Borough ("Borough") and Ketchikan Pulp Company ("KPC"), for the sharing of costs with respect to certain NPDES permit obligations.

In consideration of the mutual promises, covenants and conditions set forth herein, the parties hereby agree as follows:

TERMS AND CONDITIONS

I. PURPOSE.

The purpose of this Agreement is to allocate the costs of water sampling, testing and reporting as required for compliance with USEPA NPDES Permit # AK 000092-2 ("Main Outfall Permit").

II. STATEMENT OF MUTUAL INTERESTS AND BENEFITS:

A. Gateway Forest Products, Inc. is presently the owner of, and permittee with respect to, the Main Outfall Permit. The Borough owns, leases or otherwise controls property which contains infrastructure leading to the discharge point at Outfall 001 in Ward Cove which is permitted under the Main Outfall Permit. KPC owns an industrial landfill on property near Dawson Point in Ward Cove which contains infrastructure presently leading to the same discharge point and outfall in Ward Cove permitted under the Main Outfall Permit.

B. From time to time in the past, the Borough and KPC have each paid or otherwise assisted in defraying expenses for sampling, testing, reporting or other operations under the Main Outfall Permit. Given the parties' similar interests with respect to operations under the Main Outfall Permit, they now wish to establish more definite terms for the sharing of costs with respect to such operations.

C. KPC has applied for issuance of a new NPDES permit for separate discharge from its Dawson Point landfill ("New Outfall Permit"). In addition, the Main Outfall Permit will expire on December 15, 2003 and the Borough is pursuing re-issuance



of the Main Outfall Permit, with either Gateway Forest Products, Inc. or the Borough to be named as permittee.

D. The operational cost sharing under this Agreement will be an interim arrangement which, unless earlier terminated, will not continue once KPC begins separate operations under the New Outfall Permit. From that point, each party will be responsible for its own costs of operation.

III. BOROUGH OBLIGATIONS.

The Borough hereby commits to the following obligations and responsibilities:

- A. Use of its personnel or contractor(s) to conduct the water sampling, testing, and reporting required under the Main Outfall Permit;
- B. Compilation of actual costs of sampling, testing, and reporting, including reasonable personnel costs actually incurred in such sampling, testing and reporting; and
- C. Payment of a 60% proportionate share of the costs of sampling, testing, and reporting, including personnel costs as described above.

IV. KPC OBLIGATIONS.

KPC shall pay a 40% proportionate share of the costs of sampling, testing, and reporting, including a 40% proportionate share of personnel costs as described above. With respect thereto:

- A. Payments shall be based on monthly invoices;
- B. Payments shall be payable to the Ketchikan Gateway Borough and shall be made within 30 days of receipt of an invoice and supporting documentation, which shall include Borough employee time cards and rates of pay, as well as invoices evidencing any out-of-pocket expenses; and
- C. Borough employees, the costs for which are shared by KPC are not, for any purpose or in any manner or context, employees of KPC. Independent contractors retained by the Borough, the costs for which are shared by KPC are not, for any purpose or in any manner or context, contractors of KPC.



V. INDEMNIFICATION.

A. Each party will be responsible for its own acts and omissions, and those of its officers, employees, agents, and permittees, and for any discharges from property under its ownership, lease, or other control which are a material cause of any violation of permit requirements or applicable law. Each party will indemnify, defend and hold harmless the other party, to the maximum extent allowed by law, from any claim of, or liability or penalty for, any discharge for which a party bears responsibility as set forth above, and for errors, omissions or negligent or willful acts of any kind, including attorney fees, damages to property or injury to a person, and death, occasioned thereby which may result from the sampling, testing, and reporting activities undertaken pursuant to the terms of this Agreement.

B. In the event of any disagreement between the parties as to whether the matters which are addressed in subsection A., including: (1) whether a particular discharge is a material cause of any violation of permit requirements or applicable law; (2) whether, based upon the allocation described in subsection A., a particular discharge is the responsibility of KPC or the Borough; or (3) whether the responsibility should be shared between them, based upon the allocation of responsibility set forth in subsection A., the parties agree that they shall jointly solicit the opinion of the government agency asserting the violation. If the government agency is unwilling to render an opinion, the parties shall select a mutually acceptable third party to hear arguments and resolve the dispute. The decision of the government agency or third party, as the case may be, shall be deemed presumptively correct. Any party seeking to allocate responsibility differently than that government agency or third party, as the case may be, shall have the burden of proof on that issue. Under no circumstances, however, shall this section be interpreted to require the Borough or KPC to indemnify the other for any costs of Remediation.

VI. RETENTION AND ACCESS REQUIREMENTS FOR RECORDS.

A. The Borough shall maintain all records of sampling, testing, and reporting under the Main Outfall Permit pursuant to this Agreement and each party, or its representative, shall have access to and the right to examine all such records. The right of access to records, regarding activity of the Borough's employees and independent contractors in sampling, testing and reporting under the Main Outfall Permit pursuant to this Agreement, shall not expressly or impliedly establish any right of access or examination with respect to any other records of the Borough, KPC or any other entity or person.

B. As used in this provision, the term "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other



form. All records pertinent to the testing shall be retained for a minimum period of five (5) years or as otherwise required by law.

VII. PUBLIC RECORDS.

A. The parties understand and agree that this Agreement and the sampling, testing, and reporting records of the Borough, its employees and independent contractors, generated pursuant hereto, are public records. These records are, to the extent not otherwise exempt therefrom, subject to the State and Borough public records laws.

B. In addition, to the extent that books, records and documents of the Borough, with respect to revision of the Main Outfall Permit, constitute public records and are not otherwise exempt from State and Borough public records laws, this Agreement does not change that status.

C. KPC's books, records and documents, whether with respect to operations under the Main Outfall Permit prior to the execution of this Agreement, with respect to the New Outfall Permit, or otherwise, are not subject to Federal, State, or Borough public record laws and are not made subject thereto by this Agreement.

VIII. PARTICIPATION IN SIMILAR ACTIVITIES.

This Agreement in no manner restricts KPC or the Borough from participating in similar activities with other public or private agencies, organizations, and individuals.

IX. COMMENCEMENT AND PERFORMANCE PERIOD.

This Agreement is effective as of the date the last required signature is appended on behalf of both KPC and the Borough.

X. TERMINATION.

A. Any of the parties, in writing, may terminate this Agreement at any time before the date of expiration by providing 30 days' written notice.

B. Neither the Borough nor KPC shall incur any contractual or other obligation to any third party which would be subject to the cost sharing terms of this Agreement, unless such obligation is expressly subject to termination upon not less than



thirty (30) days' prior written notice. Upon either party issuing written notice of termination of this Agreement, neither party shall be liable for any cost sharing obligation which is incurred more than thirty (30) days after the date that notice of termination is provided. Following notice of termination, the parties shall be obligated with respect to cost sharing only for expenses which are within the scope of this Agreement, and incurred either prior to the notice of termination or in the thirty (30) day period following notice. This Agreement will then terminate at the end of the thirty (30) day notice period, except that obligations which are incurred within the term of this Agreement will survive until discharged by performance or by operation of law.

XI. MISCELLANEOUS.

A. Notices.

All notices, requests, claims, demands and other communications given or made pursuant hereto shall be in writing (and shall be deemed to have been duly given or made upon receipt) by delivery in person, by telecopy (with confirmation copy of such telecopied material delivered in person or by registered or certified mail, postage prepaid, return receipt requested) or by registered or certified mail (postage prepaid, return receipt requested) to the respective party at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section XI.A):

1. if to KPC:

Ketchikan Pulp Company
c/o Louisiana-Pacific Corporation
Legal Department
805 S.W. Broadway, Suite 700
Portland, Oregon 97205
Attention: Christopher M. (Kit) Keyes, Esq.
Facsimile: (503) 821-5323

and:

Ketchikan Pulp Company
c/o Louisiana-Pacific Corporation
P.O. Box 4000-98
Port Hayden, Idaho 83835-9460
Attention: Chris Paulson
Facsimile: (208) 762-1667

Physical Address: 14303 N. Government Way



with a copy to:

Ziegler Law Firm
307 Bawden Street
Ketchikan, Alaska 99901
Attention: John Peterson, Esq.
Facsimile: (907) 225-9401

2. if to the Borough:

Ketchikan Gateway Borough
344 Front Street
Ketchikan, Alaska 99901
Attention: Borough Manager
Facsimile: (907) 247-6625

with a copy to:

Ketchikan Gateway Borough
344 Front Street
Ketchikan, Alaska 99901
Attention: Borough Clerk
Facsimile: (907) 247-8439

B. Headings.

The descriptive headings contained in this Agreement are for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement.

C. Severability.

If any provision of this Agreement, or the application of any provision to a person or circumstance, is found to be invalid, illegal, or incapable of being enforced by any rule of law or public policy, the remainder of the provisions of this Agreement, or the application of such provisions to persons or circumstances other than those to which it is found to be invalid or unenforceable, as the case may be, shall not be affected thereby.

D. No Third-Party Beneficiaries.

This Agreement is for the sole benefit of the Parties and their respective successors and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.



E. Amendment; Waiver.

This Agreement may not be amended or modified except by an instrument in writing duly executed and recorded by the Parties. Waiver of any term or condition of this Agreement shall only be effective if in writing, duly executed by the Party to be bound thereby, and shall not be construed as a waiver of any subsequent breach or waiver of the same term or condition, or a waiver of any other term or condition of this Agreement.

F. Governing Law.

This Agreement shall be governed by, and construed in accordance with, the laws of the State of Alaska.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the last written date below.

DATE: _____

KETCHIKAN GATEWAY BOROUGH

By: _____
Roy A. Eckert
Manager

DATE: _____

KETCHIKAN PULP COMPANY

By: _____
Chris Paulson
President



APPENDIX "4"

EASEMENT FOR LANDFILL OUTFALL AND ACCESS

This Easement For Landfill Outfall And Access ("Easement"), made and entered into this ___ day of _____, 2003 by and between the **Ketchikan Gateway Borough**, a municipal corporation organized pursuant to the laws of the State of Alaska, 344 Front Street, Ketchikan, Alaska 99901, ("**Borough**") and **Ketchikan Pulp Company**, a Washington corporation qualified to do business in Alaska, Post Office Box 6600, Ketchikan, Alaska 99901, ("**KPC**"), WITNESSETH:

RECITALS

A. All real property referred to in this Easement is located in, and all documents and plats referred to as filed or recorded, are filed or recorded in, the Ketchikan Recording District, First Judicial District, State of Alaska.

B. By Quitclaim Deed of even date, to be recorded immediately prior to this Easement, KPC is donating to the Borough the following described real property, referred to hereinafter as the "Donated Property":

Lot 1, Tract 3004, Dawson Point Subdivision, according to the plat thereof filed November 28, 2000 as Plat 2000-73.

C. KPC is the owner of record, retaining ownership of the following described real property, referred to hereinafter as the "Landfill Parcel:"

Lot 2, Tract 3004, Dawson Point Subdivision, according to the plat thereof filed and recorded on November 28, 2000 as Plat 200-73.

D. There are industrial landfills ("Ward Cove Landfills") located upon the Landfill Parcel which are permitted and utilized by KPC for the disposal and



remediation of industrial waste material generated from KPC's pulping and related operations at its Ward Cove pulp mill.

E. The continued operation of the Ward Cove Landfills will require the construction, operation and maintenance of a separate outfall pipeline ("Outfall") which will run seaward from the Landfill Parcel, across the Donated Parcel and across a portion of Alaska Tideland Survey No. 1, Exhibit "C-1," so as to convey landfill effluent to be discharged into the marine waters of Ward Cove.

F. As contemplated by the parties, KPC has filed an application with the U.S. Environmental Protection Agency in order to construct and operate the separate Outfall to serve only Ward Cove Landfills.

G. The operation of the Ward Cove Landfills requires that KPC maintain an assured route for vehicular, heavy equipment and pedestrian access from the public right-of-way of North Tongass Highway to and from the Landfill Parcel.

Reserving and excepting, however, unto the Grantor, all right, title, equity and interest as set forth in the Easement For Landfill Outfall And Access, by and between Grantor and Grantee of even date, incorporated herein by reference as though fully set forth herein. The Easement For Landfill Outfall And Access establishes the terms and conditions of an easement for a landfill outfall, and an easement for access, over and upon and across the said Lot 1, Tract 3004, Dawson Point Subdivision.

NOW, THEREFORE, incident to KPC's donation to the Borough of the Donated Parcel, and for other good and valuable consideration, the receipt of which is acknowledged, the Borough and KPC hereby acknowledge and agree that KPC has reserved and excepted from its Quitclaim Deed conveyance of the Donated Parcel to the Borough, for its assigns and its successors in ownership of the Landfill Parcel, perpetual easements, upon the terms and conditions of this Easement, as follows:



1. **Outfall Easement.** There is reserved to KPC an easement over, under, upon and across the Donated Parcel, in order for KPC to design, construct, operate, use, inspect, maintain, repair and replace (all of which are hereinafter collectively referred to as "Operate" or, as the context requires, "Operation") the Outfall pipeline for the discharge of effluent from the Ward Cove Landfills to an elevation approximately 50 feet below MLLW. The easement for the Outfall shall consist of two aspects, an exclusive easement for the actual Outfall pipe, and a nonexclusive area for construction, maintenance and other support operations.

a. The portion of the Donated Property upon, over, under and across which the exclusive aspect of the outfall easement is reserved (hereinafter, "Outfall Easement Area") is more particularly described as follows:

A strip of land 50' wide, 25' on either side of the centerline of an Outfall pipeline, which KPC shall be entitled to construct and maintain upon the Donated Property in the approximate location shown on Exhibit "A," attached hereto and incorporated herein by this reference.

This location is subject to amendment after the Outfall is constructed, as set forth below. Within the Outfall Easement Area, KPC's entitlement to Operate the Outfall pipe and related infrastructure, if any, shall be exclusive, such that the Borough shall not conduct any tree falling, construction, excavation, or other ground disturbing activities without KPC's prior written consent, which consent shall not be compelled by operation of law or otherwise.

b. The portion of the Donated Property upon, over, under and across which the nonexclusive aspect of the outfall easement is reserved ("Outfall Support Area") is more particularly described as follows:

A strip of land 100' wide, 50' on either side of the centerline of an Outfall pipeline, which KPC shall be entitled to construct and maintain upon the



Donated Property in the approximate location shown on Exhibit "A," attached hereto and incorporated herein by this reference.

This location is also subject to amendment after the Outfall is constructed, as set forth below. KPC shall be entitled to use the Outfall Support Area for access to the Outfall Easement Area and otherwise as necessary or convenient to support Operation of the Outfall pipe and related infrastructure, if any. KPC's rights to the portion of the Outfall Support Area outside the Outfall Easement Area shall be nonexclusive and, therefore, shall not prevent the Borough from conducting activities therein which do not interfere with KPC's Operation of the Outfall pipe and related infrastructure, if any.

2. **Amendment of Easement After Construction of Outfall.** After KPC has completed construction of the Outfall, KPC shall be entitled to prepare and record an Amended Easement Description which will specify with greater particularity the as-built location of the Outfall and, with reference thereto, the location of the Outfall Easement Area and the Outfall Support Area. In the event that the Borough is then the owner of Alaska Tideland Survey No. 1, Exhibit "C-1," which is the parcel seaward of the Donated Property, then this Easement, together with the corresponding easement for the Operation of the Outfall across that parcel, shall be consolidated into a single perpetual easement providing for the Operation of the Outfall and related infrastructure, if any, and for access to the Landfill Parcel from both North Tongass Highway and the navigable waters of Ward Cove.

3. **Access Easement.** The plat of the Dawson Point Subdivision, filed November 28, 2000 as Plat 2000-73 is hereinafter referred to as the "Plat." There is also reserved to KPC an easement ("Access Easement") upon and across all of the access and other easement areas of the Donated Parcel described or referenced in the Plat,



whether referenced in the Plat as private, joint use, or otherwise. The Access Easement shall apply to the locations and areas depicted or described in the Plat ("Access Areas"). The Access Easement shall be for a private easement upon across and through all of the Access Areas, and is reserved for KPC, its assigns and successors in the Landfill Parcel, their employees and third parties authorized by any of them, including personnel of independent contractors. The Access Easement also permits ingress and egress for their vehicles and equipment, including heavy equipment, to travel between the Landfill Parcel and the public right of way of North Tongass Highway. These access rights shall include access for all activities which may be necessary or convenient to Operation of the Ward Cove Landfills, including maintenance and repair of the roads and other Access Areas. KPC's easement rights to the Access Areas shall be non-exclusive, and the Borough and its successors and assigns also shall be entitled to use the Access Areas for purposes and in manners which do not interfere with the access and other rights reserved to KPC to for the Operation of the Ward Cove Landfills.

4. Utility and Leachate Pipeline. There are also reserved to KPC a perpetual easement to Operate the utility line which provides utility service to the Landfill Parcel ("Utility Easement") and an easement to Operate the leachate pipeline which runs from the Landfill Parcel to the treatment facility located on U.S. Survey 1754 ("Leachate Easement"). The Utility Easement and the Leachate Easement shall apply to the locations and areas depicted or described in the Plat. The Leachate Easement shall be subject to termination by KPC when it is able to begin use of its separate Outfall pipe, and therefore discontinue use of the leachate pipeline shown in the Plat.



5. Easement to Run with and Be Binding Upon the Property.

This Easement shall run with the Donated Property and be binding upon the Borough, as well as its successors and assigns in and to the Donated Property. The easement rights herein granted to KPC shall be for the benefit of, and shall run with, the Landfill Parcel, and shall be for the benefit of KPC's successors in the Landfill Parcel and KPC's assigns.

DATED at Ketchikan, Alaska this ____ day of _____, 2003.

KETCHIKAN GATEWAY BOROUGH

By: _____

Roy A. Eckert
Manager

Harriet Edwards
Clerk

KETCHIKAN PULP COMPANY

By _____

Chris Paulson
President

Douglas P. Anderson
Assistant Secretary



STATE OF ALASKA)
 : ss.
FIRST JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this ____ day of _____, 2003, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared **Roy A. Eckert** and **Harriet Edwards**, to me known to be the Manager and the Clerk of the Ketchikan Gateway Borough, a municipal corporation established pursuant to the laws of the State of Alaska which executed the above and foregoing instrument; who on oath stated that they were duly authorized to execute said instrument and affix the borough seal thereto on behalf of the Borough and that the seal affixed thereto is the borough seal thereof; and who acknowledged to me that the same was signed freely and voluntarily on behalf of the Borough for the uses and purposes therein mentioned.

WITNESS my hand and seal the day and year last above written.

Notary Public in and for Alaska
My Commission Expires: _____

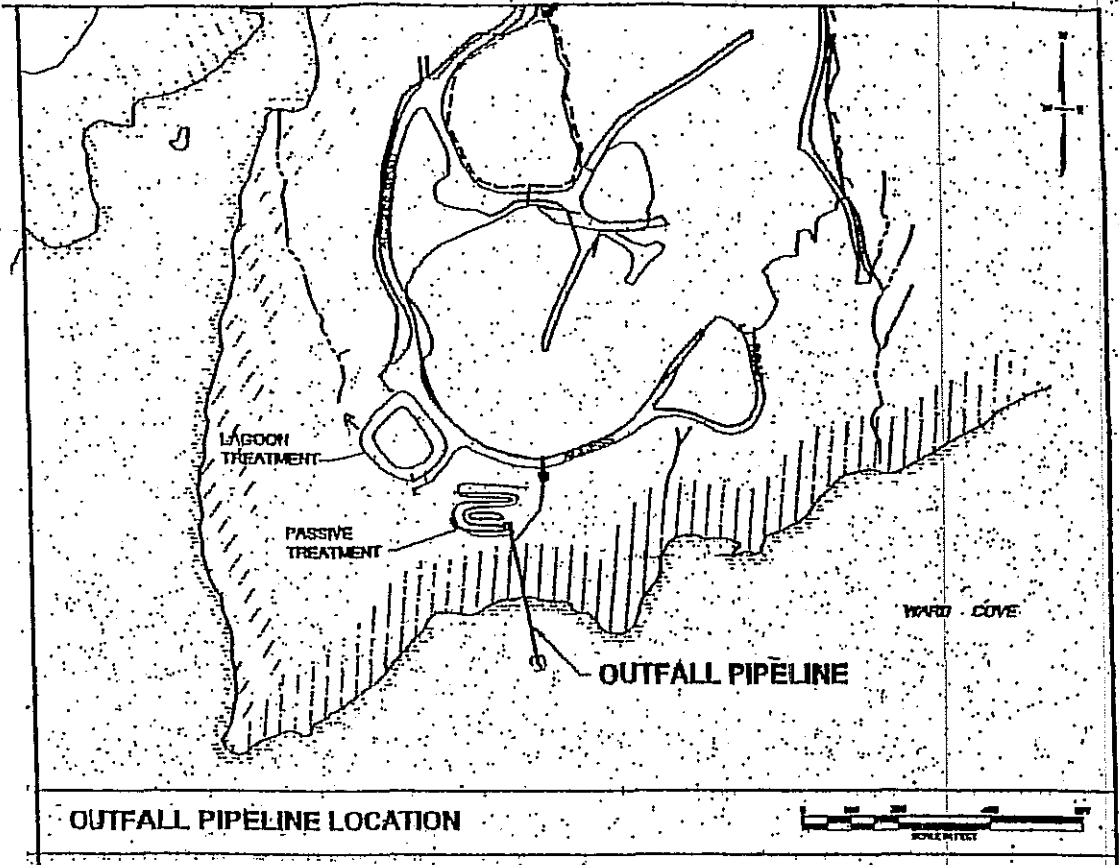
STATE OF IDAHO)
 : ss.
COUNTY OF KOOTENAI)

THIS IS TO CERTIFY that on this ____ day of _____, 2003, before me, the undersigned, a notary public in and for the State of Idaho, duly commissioned and sworn, personally appeared **Chris Paulson** and **Douglas P. Anderson** to me known to be the President and Assistant Secretary respectively of Ketchikan Pulp Company, a Washington corporation, the corporation which executed the above and foregoing instrument; who on oath stated that they was duly authorized to execute said instrument on behalf of said corporation and who acknowledged to me that he signed and sealed the same freely and voluntarily on behalf of said corporation for the uses and purposes therein mentioned.

WITNESS my hand and official seal the day and year in this certificate first above written.

Notary Public for Idaho
Commission expires: _____







Attachment 12

Ketchikan Pulp Company Residential Risk Calculation

Ketchikan Pulp Company (EPA ID AKD009252230) Five-Year Review - Residential Risk Calculation 25-Jun-10

Recalculation of Table 6, 'Summary of upper-bound carcinogenic risk estimates and noncancer hazard indices for CoPCs in soil-worker scenario,' from the ROD.

Recalculation completed through Oak Ridge National Laboratory (ORNL) Risk Assessment Information System (RAIS) Contaminated Media (Risk) Calculator.)

http://rais.ornl.gov/cgi-bin/prg/RISK_search?select=chem

Standard EPA equations and parameters used for calculations.

Consistent with the ROD, Aroclor 1254 data used for total PCBs,

Consistent with the ROD, 2,3,4,8-TCDD TEF used for Dioxons and Furans.

Resident Equation Inputs for Soil/Sediment

Variable	Value
EF _r (exposure frequency) day/yr	350
ED _r (exposure duration - resident) yr	30
ED ₀₋₂ (exposure duration first phase) yr	2
ED ₂₋₆ (exposure duration second phase) yr	4
ED ₆₋₁₆ (exposure duration third phase) yr	10
ED ₁₆₋₃₀ (exposure duration fourth phase) yr	14
LT (lifetime - resident) yr	70
ET _r (exposure time - resident) hr	24
BW _a (body weight - adult) kg	70
BW _c (body weight - child) kg	15
ED _c (exposure duration - child) yr	6
IRS _a (soil intake rate - adult) mg/day	100
IRS _c (soil intake rate - child) mg/day	200
SA _a (skin surface area - adult) cm ² /day	5700
SA _c (skin surface area - child) cm ² /day	2800
AF _a (skin adherence factor - adult) mg/cm ²	0.07
AF _c (skin adherence factor - child) mg/cm ²	0.2
IFS _{adj} (age-adjusted soil ingestion factor) mg-yr/kg-day	114.3
DFS _{adj} (age-adjusted soil dermal factor) mg-yr/kg-day	360.8
IFSM _{adj} (mutagenic age-adjusted soil ingestion factor) mg-yr/kg-day	489.5
DFSM _{adj} (mutagenic age-adjusted soil dermal factor) mg-yr/kg-day	1445

Toxicity and Physical-Chemical Data

Chemical	Chronic RfD (mg/kg-day)	Ingestion SF (mg/kg-day) ⁻¹	Chronic RfC (mg/m ³)	Inhalation Unit Risk (µg/m ³) ⁻¹	ABS _{gi}	ABS _{derm}	Dia	Diw	H'	Kd	Volatilization Factor (m ³ /kg)	Particulate Emission Factor (m ³ /kg)
Arsenic, Inorganic	0.0003	1.5	0.000015	0.0043	1	0.03	-	-	-	29	-	1360000000
Benzo[a]pyrene	-	7.3	-	0.0011	1	0.13	-	-	0.0000187	-	-	1360000000
PeCDD, 2,3,7,8-	-	130000	-	-	1	0.03	-	-	0.0000899	-	-	1360000000
Aroclor 1254	0.00002	2	-	0.000571	1	0.14	-	-	0.0115699	-	-	1360000000

Resident RISK for Soil/Sediment - Access Road Ditch Soils and Sediments

Chemical	Concentration (mg/kg)	Ingestion HQ	Innaiation Particulates and Volatiles HQ	Dermal HQ	Total HI	Ingestion Risk	Innaiation Particulates and Volatiles Risk	Dermal Risk	Total Risk
Arsenic, Inorganic	157	6.69	0.00738	0.562	7.26	0.000369	0.00000204	0.0000349	0.000404
PeCDD, 2,3,7,8-	0.00016					0.0000326		0.00000308	0.0000357
*Total Risk/HI	-	6.69	0.00738	0.562	7.26	0.000401	0.00000204	0.000038	4.40E-04

Output generated 25JUN2010:16:08:38

Resident RISK for Soil/Sediment - Wood Room / Log Deck Soils

Chemical	Concentration (mg/kg)	Ingestion HQ	Innaiation Particulates and Volatiles HQ	Dermal HQ	Total HI	Ingestion Risk	Innaiation Particulates and Volatiles Risk	Dermal Risk	Total Risk
Arsenic, Inorganic	84	3.58	0.00395	0.301	3.88	0.000197	0.00000109	0.0000187	0.000216
*Total Risk/HI	-	3.58	0.00395	0.301	3.88	0.000197	0.00000109	0.0000187	2.16E-04

Output generated 23JUN2010:18:48:08

Resident RISK for Soil/Sediment - Soils Near No. 3 Evaporator

Chemical	Concentration (mg/kg)	Ingestion HQ	Innaiation Particulates and Volatiles HQ	Dermal HQ	Total HI	Ingestion Risk	Innaiation Particulates and Volatiles Risk	Dermal Risk	Total Risk
Arsenic, Inorganic	65	2.77	0.00306	0.233	3.01	0.000153	8.45E-08	0.0000145	0.000167
*Total Risk/HI	-	2.77	0.00306	0.233	3.01	0.000153	8.45E-08	0.0000145	1.67E-04

Output generated 23JUN2010:18:52:49

Resident RISK for Soil/Sediment - Aeration Basin Soils

Chemical	Concentration (mg/kg)	Ingestion HQ	Innaiation Particulates and Volatiles HQ	Dermal HQ	Total HI	Ingestion Risk	Innaiation Particulates and Volatiles Risk	Dermal Risk	Total Risk
Arsenic, Inorganic	90	3.84	0.00423	0.322	4.16	0.000211	0.000000117	0.00002	0.000232
*Total Risk/HI	-	3.84	0.00423	0.322	4.16	0.000211	0.000000117	0.00002	2.32E-04

Output generated 23JUN2010:18:55:39

Resident RISK for Soil/Sediment - Grit Chamber Soils

Chemical	Concentration (mg/kg)	Ingestion HQ	Innaiation Particulates and Volatiles HQ	Dermal HQ	Total HI	Ingestion Risk	Innaiation Particulates and Volatiles Risk	Dermal Risk	Total Risk
Arsenic, Inorganic	100	4.26	0.0047	0.358	4.62	0.000235	0.00000013	0.0000222	0.000257
*Total Risk/HI	-	4.26	0.0047	0.358	4.62	0.000235	0.00000013	0.0000222	2.57E-04

Output generated 23JUN2010:18:55:39

Resident RISK for Soil/Sediment - Paint Shop / Former Maintenance Shop Soils

Chemical	Concentration (mg/kg)	Ingestion HQ	Innaiation Particulates and Volatiles HQ	Dermal HQ	Total HI	Ingestion Risk	Innaiation Particulates and Volatiles Risk	Dermal Risk	Total Risk
Aroclor 1254	116	74.2		29.1	103	0.000363	0.00000002	0.000161	0.000524
Arsenic, Inorganic	670	28.6	0.0315	2.4	31	0.00157	0.000000871	0.000149	0.00172
Benzo[a]pyrene	2					0.0000979	1.69E-09	0.0000576	0.000135
*Total Risk/HI	-	103	0.0315	31.5	134	0.00203	0.000000893	0.000347	2.38E-03

Output generated 25JUN2010:15:51:52

Resident RISK for Soil/Sediment - Former Bottom Ash Storage Pile Soils

Chemical	Concentration (mg/kg)	Ingestion HQ	Inhalation Particulates and Volatiles HQ	Dermal HQ	Total HI	Ingestion Risk	Inhalation Particulates and Volatiles Risk	Dermal Risk	Total Risk
Arsenic, Inorganic	24	1.02	0.00113	0.0859	1.11	0.0000564	3.12E-08	0.00000534	0.0000617
*Total Risk/HI	-	1.02	0.00113	0.0859	1.11	0.0000564	3.12E-08	0.00000534	6.17E-05

Output generated 23JUN2010:19:06:03

Resident RISK for Soil/Sediment - Near-Shore Fill Subarea Soils

Chemical	Concentration (mg/kg)	Ingestion HQ	Inhalation Particulates and Volatiles HQ	Dermal HQ	Total HI	Ingestion Risk	Inhalation Particulates and Volatiles Risk	Dermal Risk	Total Risk
Arsenic, Inorganic	132	5.63	0.00621	0.473	6.1	0.00031	0.000000172	0.0000294	0.00034
*Total Risk/HI	-	5.63	0.00621	0.473	6.1	0.00031	0.000000172	0.0000294	3.40E-04

Output generated 23JUN2010:19:24:49

Resident RISK for Soil/Sediment - Woodwaste and Sludge Disposal Subarea Soils

Chemical	Concentration (mg/kg)	Ingestion HQ	Inhalation Particulates and Volatiles HQ	Dermal HQ	Total HI	Ingestion Risk	Inhalation Particulates and Volatiles Risk	Dermal Risk	Total Risk
Arsenic, Inorganic	22	0.938	0.00103	0.0788	1.02	0.0000517	2.86E-08	0.00000489	0.0000566
*Total Risk/HI	-	0.938	0.00103	0.0788	1.02	0.0000517	2.86E-08	0.00000489	5.66E-05

Output generated 24JUN2010:14:29:11

Resident RISK for Soil/Sediment - Former Storage Area Long Water Pipeline Soils

Chemical	Concentration (mg/kg)	Ingestion HQ	Inhalation Particulates and Volatiles HQ	Dermal HQ	Total HI	Ingestion Risk	Inhalation Particulates and Volatiles Risk	Dermal Risk	Total Risk
Aroclor 1254	15	9.59		3.76	13.3	0.000047	2.59E-09	0.0000206	0.0000677
Arsenic, Inorganic	26	1.11	0.00122	0.0931	1.2	0.0000611	3.38E-08	0.00000578	0.0000669
*Total Risk/HI	-	10.7	0.00122	3.85	14.6	0.000108	3.64E-08	0.0000265	1.35E-04

Output generated 25JUN2010:16:20:32

Resident RISK for Soil/Sediment - Forested and Developed Area Soil

Chemical	Concentration (mg/kg)	Ingestion HQ	Inhalation Particulates and Volatiles HQ	Dermal HQ	Total HI	Ingestion Risk	Inhalation Particulates and Volatiles Risk	Dermal Risk	Total Risk
Arsenic, Inorganic	11	0.469	0.000517	0.0394	0.509	0.0000258	1.43E-08	0.00000245	0.0000283
PeCDD, 2,3,7,8-	0.000062					0.0000126		0.0000012	0.0000138
*Total Risk/HI	-	0.469	0.000517	0.0394	0.509	0.0000385	1.43E-08	0.00000364	4.21E-05

Output generated 25JUN2010:16:29:01

Attachment 13

Certification of Completion Letters for Uplands and Marine Operable Units, dated January 21
and 22, 2010



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
ALASKA OPERATIONS OFFICE
Room 537, Federal Building
222 W. 7th Avenue, #19
Anchorage, AK 99513-7588

January 21, 2010

Phil Benning
Ketchikan Pulp Company
P.O.Box 6600
Ketchikan, AK. 99901

Barry Hogarty
TECS-AK
P.O.Box 6193
Ketchikan, AK. 99901

Re: Certification of Completion, Requirements of Consent Decree,
Upland Operable Unit, Ketchikan Pulp Company Site
CERCLA Remedial Design/Remedial Action Consent Decree No.A00-225CV

Dear Mr. Benning and Ms. Hogarty:

Pursuant to Paragraph 66(a) of the above referenced Consent Decree (CD), this letter provides Certification of Completion of the Remedial Action for the Uplands Operable Unit (OU) of the Ketchikan Pulp Company site (KPC Site).

EPA's certification is based on my personal inspection of the KPC Site in May 2005, as well as the certification provided by the Alaska Department of Environmental Conservation (ADEC) that the wood waste and ash disposal Landfill at the KPC Site has been closed in accordance with the ADEC solid waste permit and all applicable regulations. Specifically, ADEC approved the KPC Landfill Closure Plan on May 8th, 2001 and on August 10, 2001 verified closure of the landfill and commencement of landfill monitoring, to end in 2025, according to ADEC Solid Waste Regulations.

In addition, pursuant to Section IX and Appendix H of the Consent Decree, KPC has completed its obligations to establish institutional controls at the Site. To summarize, four controlling instruments have been recorded at the Site, which are more fully described by KPC counsel Eric Fjelstad in a letter to EPA dated June 27, 2006.

With this letter, EPA has concluded that all CD requirements for the Uplands OU have been performed and the Remedial Action Objectives have been achieved.

This Certification shall not affect KPC'S remaining obligations under the CD, such as monitoring the landfill and enforcing the institutional controls at the KPC Site.

This Certification does not limit EPA's right to perform periodic reviews of the Site pursuant to Section 121(c) of CERCLA, 42 U.S.C. 9621(c), or to take or require any action that in the judgment of EPA

is appropriate at the Site in accordance with Section 98 of the CD, and in accordance with 42 U.S.C. 9604,9606,9607.

If you have any questions, please contact me at gusmano.jacques@epa.gov or call (907) 271-1271.

Sincerely,

Jacques Gusmano

cc:

April Ingram, Louisiana-Pacific Corporation
Karen Keeley, EPA Marine OU Project Manager
Kelly Cole, EPA Office of Regional Counsel
Deb Yamamoto, Unit Manager, EPA Office of Environmental Cleanup
Bill Janes, ADEC Project Manager



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF
ENVIRONMENTAL CLEANUP

January 22, 2010

Phil Benning
Ketchikan Pulp Company
P.O. Box 6600
Ketchikan, AK 99901

Re: Certification of Completion, Requirements of Consent Decree
Marine and Uplands Operable Units, Ketchikan Pulp Company Site
CERCLA Remedial Design/Remedial Action Consent Decree No. A00-225 CV (JKS)

Dear Mr. Benning:

Pursuant to Paragraph 66(b) of the above-referenced Consent Decree (CD), this letter provides Certification of Completion of the Remedial Action for the Marine Operable Unit (OU) of the Ketchikan Pulp Company Site (KPC) Site. Pursuant to Paragraph 66(c) of the CD, this Marine OU Certification, together with the Uplands OU Certification dated January 21, 2010, constitutes Certification of Completion of the Remedial Action for the entire KPC Site.

EPA's Certification of the Marine OU is based on the Remedial Action Report (Integral Consulting, Inc.; September 30, 2009), which was certified by KPC/Louisiana-Pacific (L-P) on September 30, 2009 and approved by the U.S. Environmental Protection Agency (EPA) on October 1, 2009 (see Record of Preparation, Review, and Approval in the Remedial Action Report, p. v). EPA's approval of the Remedial Action Report constitutes EPA's conclusion and certification that KPC has completed Remedial Action for the Marine OU in full satisfaction of the requirements of the CD, and that the Remedial Action Objectives have been achieved.

This Certification shall not affect KPC's remaining obligations under this CD. In response to KPC's questions regarding certain remaining requirements under the CD, EPA clarifies the following:

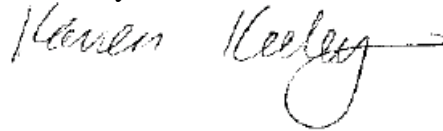
- Annual progress reports for the Marine OU. Pursuant to Paragraph 48 of the CD, KPC/L-P submitted its last annual progress report in November 2009. No further progress reports need to be submitted.

- Section XII, Assurance of Ability to Complete Work. Now that Remedial Action is complete, KPC/L-P is no longer required to submit annual financial assurance pursuant to Section XIII of the CD.
- Section XVII, Indemnification and Insurance, Paragraph 75. KPC/L-P must maintain insurance until the first anniversary of EPA's Certification of Completion of the Remedial Action (i.e., until January 2011), as described in Section XVII of the CD.
- Section XXV, Retention of Records. Pursuant to Paragraph 114 of the CD, KPC/L-P shall preserve and retain all records and documents now in its possession or control or which come into its possession or control that relate in any manner to the performance of the Work or liability of any person for response actions at the Site for ten (10) years after receipt of this certification (i.e., until January 2020). KPC/L-P shall also instruct their contracts and agents to do the same for ten (10) years.

This certification does not limit EPA's right to perform periodic reviews of the Site pursuant to Section 121(c) of CERCLA, 42 U.S.C. § 9621(c), or to take or require any action that in the judgment of EPA is appropriate at the Site in accordance with Section 98 of the CD, and in accordance with 42 U.S.C. §§ 9604, 9606, or 9607.

If you have any questions, please contact me at 206-553-2141 or keeley.karen@epa.gov.

Sincerely,



Karen Keeley
EPA Project Manager

cc: Kelly Cole, EPA Office of Regional Counsel
Sheila Eckman, Unit Manager, EPA Office of Environmental Cleanup
Jacques Gusmano, EPA Alaska Operations Office
Lucinda Jacobs, Integral Consulting, Inc.
Bill Janes, Alaska Department of Environmental Conservation

Attachment 14

Letter from Sheila Eckman (EPA) to KGB (Bockhorst) and Alaska Assistant Attorney General (Welsh), dated January 25, 2010, regarding: CERCLA Liability Associated with Potential Redevelopment of Ward Cove



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF
ENVIRONMENTAL CLEANUP
ECL-111

January 25, 2010

Mr. Dan Bockhorst
Ketchikan Gateway Borough
1900 1st Avenue
Ketchikan, Alaska 99901

Mr. Richard Welsh
Asst. Attorney General
Transportation Section
P.O. Box 110300
Juneau, Alaska 99811-0300

Re: CERCLA Liability Associated with Potential Redevelopment of Ward Cove in
Ketchikan, Alaska

Dear Mssrs. Bockhorst and Welsh:

This letter addresses issues related to the Alaska Department of Transportation & Public Facilities Marine Highway System's (AMHS) and the Ketchikan Gateway Borough's (KGB) proposed agreement to use Ward Cove as a ferry lay-up berth and operational facility. The primary purpose of this letter is to apprise AMHS and KGB about CERCLA liability that the proposed operations may cause. It also summarizes issues that EPA has been discussing with KGB and AMHS since early 2009.

Ward Cove consists of approximately 250 acres. In March 2000, EPA issued a Record of Decision (ROD) addressing the Marine Operable Unit (Marine OU) at the Ketchikan Pulp Company Site (KPC Site), which set forth a remedy that addressed 80 acres of contamination in Ward Cove. The remedy was intended to protect the environment, and more specifically, the benthic community populating the sediments there. Of the 80-acre remedy, the ROD called for monitored natural recovery on approximately 53 acres and for a thin-layer sand cap for the remaining 27 acres. Under EPA oversight, KPC performed remedial action construction in Ward Cove between 2000 and 2001. In May 2009, EPA concluded that the multiple lines of evidence used to evaluate sediment quality in the Marine OU indicate that the Remedial Action Objectives have been achieved, and that sediments support healthy benthic communities. Because waste was left in place, the ROD also called for institutional controls to ensure that the remedy would remain intact and protective of the environment. The institutional control at issue here requires post-remediation activities within the area of concern that materially damage the thin-layer cap to be redressed, at the direction of EPA. The use restrictions set forth in the ROD are currently still in effect at Ward Cove. The 2000 ROD language has not changed, nor has the way in which EPA interprets and enforces the ROD.

Unrestricted use of Ward Cove would have been feasible only if all contaminated sediments had been dredged, removed, and properly disposed. Given the location of Ward Cove, the amount and type of contamination, and the cost of such disposal (estimated to be more than \$200 million in past studies), this was not a feasible alternative at the time (see Response to Comment 73 in the ROD). However, in designing the remedial action, EPA did take into consideration the anticipated future uses in the cove. EPA also sought public comment on its proposed remedy – a combination of monitored natural recovery, thin-layer capping, and dredging. The Borough supported EPA’s remedy at the time (KGB letter to EPA, September 10, 1999, which included reference to the KGB’s earlier September 22, 1998 letter).

To ensure that the remedy selected would remain protective, the ROD called for institutional controls to be established that would restrict certain uses in Ward Cove. The Borough was consulted on the anticipated future uses and restrictions set forth in the proposed remedy. The future use of the cove was assumed to include normal vessel traffic and anchoring. EPA stated in the ROD that certain pile-driving activities would be consistent with the remedy, but that dredging would materially damage the cap and would therefore be prohibited. During the design phase, and based on public input, EPA considered the requirements for reasonably anticipated current and future commercial navigation in Ward Cove (see Design Analysis Report for the Marine Operable Unit of the KPC Site, prepared by Exponent and Hartman Consulting Corporation, September 2000). As stated in the document, “The Ward Cove channel and berth will cater to a range of ship types appropriate for reasonably anticipated current and future shipping activity in Ward Cove. These anticipated uses focus on two types of deep draft ships, the bulk cargo vessel and the cruise ship.” A propeller scour analysis was also conducted. Based on input at the time, ferry traffic was not considered in these analyses.

To implement the ROD, Section IX (Access & Institutional Controls) of the 2000 Superfund Consent Decree (CD) for the Marine OU specifically prohibited persons from “using the Site in any manner that would interfere with or adversely affect the integrity or protectiveness of the remedial measures to be implemented pursuant to this Consent Decree.” In particular, paragraph 43(b) of the CD ensures that “If projects or activities materially damage the Sediment Cap applied to Patented Tidelands, Gateway [the owner at the time] shall be required, at the direction of EPA, to redress such impacts, e.g., Gateway shall be required to repair or replace the impacted portions of the Sediment Cap if a dredging project exposes substantial areas of non-native organic-rich sediments and thus adversely affects the continued recovery of the benthic community in the sediments.”

Paragraph 43(b) of the CD also required that a Monitoring and Reporting Work Plan (Plan) be submitted to EPA in order to further implement Paragraph 27 of the CD and the provision related to Sediment Cap damage. The part of the Plan related to Sediment Cap damage, which was submitted by Exponent on January 3, 2002 and approved by EPA on January 15, 2002, described the procedure for actions that could materially damage the cap. The Plan clearly stated that the CD’s requirement to refrain from damaging the cap and to replace the cap if necessary were binding on the current and any future owners of patented tidelands in Ward Cove. It also stated, among other things, that “The property owner of the tidelands will be liable for EPA’s costs associated with reviewing and overseeing the action or proposed action that is deemed by EPA to violate the institutional control.”

In 1999 – before EPA had issued the ROD and before KPC had entered into a CD to perform the remedial action – KPC recorded an Environmental Easement and Declaration of Covenants on its property (1999 Covenant). The 1999 Covenant described restrictions on the use of Ward Cove, including a requirement that any damage to the sediment cap be redressed by KPC at EPA's direction. It designated the State of Alaska, Department of Natural Resources and the Department of Environmental Conservation as the holder of the easement.

After KPC completed the remedy in Ward Cove, it replaced the 1999 Covenant with a new one. The July 2004 Environmental Easement and Declaration of Covenants (2004 Covenant) is the one that currently applies, and it is an agreement between KPC and the Borough, which was the new owner of the KPC Site. In the 2004 Covenant, the Borough agreed to comply with all Ward Cove institutional controls that were set forth in the Consent Decree, including the restriction on damaging the cap. It states:

The Borough covenants and agrees that it shall not, through any activities or operations at or in the Ward Cove Area, materially damage any cap or capping materials that may be applied to sediments in the Ward Cove Area under the Ward Cove Consent Decree.

According to the 2004 Covenant, in the event of any such damage to the cap, the Borough (or any future owner) must immediately report the damage to EPA and KPC and then restore the cap. The 2004 Covenant states that the restricted uses shall run with the land and be binding on all future owners, and the terms and conditions shall be for a period of twenty (20) years, after which time the Covenant shall be automatically extended for successive periods of ten (10) years unless an instrument signed by KPC has been recorded agreeing to terminate the restrictions. EPA would have to approve any such termination and would do so only if the contamination were completely removed and there was no longer a need for a thin-layer cap.

Therefore, while the remedy selected for the Marine OU assumed that Ward Cove would be redeveloped in the future, the institutional controls that were put in place to protect that remedy do affect how the site may be redeveloped. Any activity that materially damages the thin-layer sediment cap at Ward Cove would be a violation of the ROD, the institutional controls, and the 2004 Covenant, and may also be considered a release of hazardous substances, subjecting KGB, as owner of the sediments, to liability under Section 107(a) of CERCLA. See 42 U.S.C. § 9607(a). If AMHS becomes a lessee at Ward Cove and if its activities were to disrupt the sediment cap, it, too, would be subject to liability as an operator under CERCLA.

EPA has not conducted its own independent evaluation of whether your proposed redevelopment plans at Ward Cove would in fact materially damage the sand cap materials, or cause a release of hazardous substances. However, the agency does have a copy of the CH2M HILL May 2009 scour study titled "*Potential for Scour at Ward Cove from Proposed AMHS Ferry Operations.*" It is our understanding that AMHS commissioned this report as part of its due diligence when it was considering purchasing portions of Ward Cove for its ferry operations. The report concluded that AMHS ferry traffic would likely disturb the remedial sand cap in Ward Cove. EPA is also aware that KGB hired two firms to peer review CH2M HILL's assessment and conclusions: (1) Dalton, Olmsted & Fuglevand, Inc., and Windward

Environmental LLC, "*Peer Review of the 2009 CH2M HILL Scour Study of Ward Cove*" (July 31, 2009), (2) PND Engineers, Inc., "*Ward Cove Sediment Scour – Peer Review of Scour Assessment*" (July 28, 2009). Subsequently, CH2M HILL prepared "*Response to Peer Reviews of CH2M HILL Ward Cove Scour Study*" (August 27, 2009). EPA has copies of these reports as well.

If the proposed ferry operations were to result in a disruption to the capped sediments in Ward Cove, EPA could take a number of actions. It could, for example, perform its own independent monitoring in the future to determine if a release has occurred, the cost of which could be assessed against the current owner and/or operator. Another option would be to order one or both of the parties to remediate the damage and pay for EPA's oversight of the cleanup work.

While it is not EPA's role to approve or disapprove of specific development projects at the KPC Site, it is EPA's role to ensure that the remedy in place at Ward Cove remains protective of the environment. As the owner at the KPC Site, it is KGB's role to ensure that projects that proceed on site are consistent with the ROD, the institutional controls, and 2004 Covenant.

As a reminder, EPA will be conducting the next Five-Year Review for the KPC Site this year.

If you have any questions, please contact me at eckman.sheila@epa.gov or by phone 206-553-0455.

Sincerely,



Sheila Eckman
Unit Manager

cc: Phil Benning, KPC
Kelly Cole, EPA Office of Regional Counsel
Jacques Gusmano, EPA Alaska Operations Office
Karen Keeley, EPA Office of Environmental Cleanup
Bob Weinstein, Office of Senator Mark Begich, Field Representative, Southern Southeast Alaska

Attachment 15

Environmental Easement and Declaration of Covenants, recorded July 18, 2003, between
Ketchikan Gateway Borough, Ketchikan Pulp Company, and Gateway Forest Products



2003-004128-0

Recording Dist: 102 - Ketchikan
7/18/2003 3:20 PM Pages: 1 of 19

A
L
A
S
K
A



U

RECEIVED
Ziegler Law Firm

SEP 05 2003

Atty _____ Filed _____
File No. _____

Ketchikan Recording District

ENVIRONMENTAL EASEMENT AND DECLARATION OF COVENANTS

This Environmental Easement and Declaration of Covenants ("Easement"), made and entered into this 14th day of July, 2003, by and between KETCHIKAN GATEWAY BOROUGH, a municipal corporation, 344 Front Street, Ketchikan, Alaska 99501, KETCHIKAN PULP COMPANY, a Washington corporation, Post Office Box 6600, Ketchikan, Alaska 99901, and GATEWAY FOREST PRODUCTS, INC., an Alaska corporation, Post Office Box 779, Ward Cove, Alaska 99928, WITNESSETH:

RECITALS

WHEREAS, all real property referred to in this Easement is located in, and all documents and plats referred as filed or recorded, are filed or recorded in the Ketchikan Recording District, First Judicial District, State of Alaska;

WHEREAS, on November 3, 1999, Ketchikan Pulp Company and Gateway Forest Products, Inc. entered into certain agreements including the Allocation of Environmental Responsibilities Agreement ("Environmental Allocation Agreement"), more commonly known as Exhibit "F," and the Easement and Declaration of Covenants Regarding Allocation of Environmental Responsibilities ("Environmental Allocation Easement"), more commonly known as Exhibit "F-1," which incorporated by reference Exhibit "F," governing certain properties;

WHEREAS, The Environmental Allocation Easement was specifically incorporated into that certain Quitclaim Deed executed by Ketchikan Pulp Company in favor of Gateway Forest Products, Inc., which was recorded on November 5, 1999 at Book 306, Page 72;

WHEREAS, the parties now desire to remove the Environmental Allocation Easement and the Environmental Allocation Agreement from certain parcels of real property located at Ward Cove, formerly owned by Ketchikan Pulp Company and to replace it with this Easement;

WHEREAS, the Ketchikan Gateway Borough, Ketchikan Pulp Company and Gateway Forest Products, Inc. have ongoing interests, including but not limited to, operational and regulatory considerations, in the Ward Cove real property and desire to impose on the those properties certain terms and conditions as covenants that will run with the land for the purpose of making such terms and conditions applicable to the Ketchikan Gateway Borough, Ketchikan Pulp Company and Gateway Forest Products, Inc., as well as any of their successors and assigns holding an interest in the properties;



WHEREAS, the Ketchikan Gateway Borough, Ketchikan Pulp Company and Gateway Forest Products, Inc. entered into an Agreement dated _____, 2003 governing the parties' respective rights and responsibilities ("Agreement"); and

WHEREAS, Ketchikan Pulp Company has an ongoing interest in ensuring that it has access to the Ward Cove properties to accommodate the satisfaction of its continuing environmental obligations at the Ward Cove facility;

NOW, THEREFORE, In consideration of the promises and of the mutual agreements and covenants hereinafter set forth, the Ketchikan Gateway Borough, Ketchikan Pulp Company and Gateway Forest Products, Inc. hereby agree as follows:

I. DEFINITIONS.

The terms used in this Easement shall have the following meanings, which shall be equally applicable to both the singular and plural forms of the terms defined:

- A. "Borough" means and refers to the Ketchikan Gateway Borough, a municipal corporation organized pursuant to the laws of the State of Alaska, and the Borough's successors, heirs, and assigns.
- B. "Costs" means, with respect to Remediation and Investigation activities, actual reasonable expenditures, including but not limited to, reasonable attorneys' fees and defense costs, contractor costs, consultant costs, governmental oversight costs and other necessary expenditures.
- C. "Environmental Laws" means all State of Alaska, local, and federal laws, statutes, regulations, and ordinances of any kind relating to environmental protection or compliance as they currently exist and as they may come to be amended, including but not limited to, the federal Clean Water Act; Clean Air Act; Toxic Substances Control Act; Comprehensive Environmental Response, Compensation and Liability Act; Resource Conservation and Recovery Act; Federal Insecticide, Fungicide, and Rodenticide Act; Safe Drinking Water Act; Hazardous Materials Transportation Act; laws designated in Alaska Statutes Title 46; and common law, including causes of action arising in tort.
- D. "Gateway" means and refers to both Gateway Forest Products, Inc., an Alaska corporation, and Gateway's successors, heirs, and assigns.
- E. "Hazardous Substances" means substances which constitute hazardous substances under the Comprehensive Environmental Response, Compensation Liability Act or under AS 46.03.822.



- F. "Institutional Controls" means the Environmental Protection Easement and Declaration of Restrictive Covenants in favor of the State of Alaska, Department of Natural Resources, recorded on October 28, 1999, at Book 305, page 772 in the Ketchikan Recording District and such other measures, controls, limitations, prohibitions, procedures, or protocols that the United States Environmental Protection Agency ("EPA"), the Alaska Department of Environmental Conservation ("DEC") or the Alaska Department of Natural Resources ("DNR") requires in order to maintain the integrity of a remedial or removal action or prevent a release or threatened release of a Hazardous Substance.
- G. "Investigation or Investigatory" means actions to assess the nature and extent of Hazardous Substances contamination, including sampling and other necessary activities.
- H. "KPC" means and refers broadly to both Ketchikan Pulp Company, a Washington corporation, and KPC's successors, heirs, and assigns.
- I. "Remediation" means actions to remove, clean up, treat, or dispose of Hazardous Substances from the environment, including but not limited to, actions which may be necessary to prevent, minimize, or mitigate damage to the public health or welfare or to the environment from a release or threatened release of a Hazardous Substance.
- J. "Ward Cove Area" means the water body commonly known as Ward Cove including marine waters to the ordinary high water mark and sediments underlying such waters, and also means the surface and subsurface areas of those portions of U.S. Surveys 1056, 1208, 1508, 1653, 1656, 1659, 1706, 1754, and 1862 lying seaward of the North Tongass Highway, and the filled portions of ATS-1, including any structures or other improvements located thereon.
- K. "Ward Cove Consent Decree" means the consent decree with the EPA and the U.S. Department of Justice entered in the U.S. District Court for the District of Alaska: CERCLA Remedial Design/Remedial Action Consent Decree, *United States vs. Gateway Forest Products, Inc., Ketchikan Pulp Company, & Louisiana-Pacific Corporation*, Case No. A00-225 CV (JKS).
- L. "Ward Cove Landfills" means the industrial landfill which KPC owns and operates upon Tract 3004, Lot 2, Dawson Point Subdivision, according to the plat thereof filed November 28, 2000 as Plat 2000-73.



II. PARCELS TO WHICH THE COVENANTS SHALL APPLY.

The covenants contained in this Easement shall apply to the following parcels of real property ("Ward Cove Property"):

PARCEL NO. 1:

U.S. Survey 1706.

PARCEL NO. 2:

The unsubdivided Remainder, according to the subdivision plat of U.S. Survey 1754, recorded March 8, 1956 in Volume 1 of Plats at Packet 20.

PARCEL NO. 3:

Lot 1, Tract 3004, according to the plat filed November 28, 2000 as Plat 2000-73.

PARCEL NO. 4:

U.S. Survey 3400.

PARCEL NO. 5:

U.S. Survey 3401.

PARCEL NO. 6:

Lot 1, Sec. 34, T.74S., R.90E., C.R.M., as more particularly described in Exhibit "A" hereto.

III. COVENANTS.

The Borough, KPC and Gateway, for good and sufficient consideration received, do hereby covenant and declare that, with respect to the properties listed in Section II. hereof, the following provisions shall be covenants that run with and bind the Ward Cove Property and the parties, and each parties' respective personal representatives, heirs, successors and assigns as to the Ward Cove Property or any interest therein obtained through any mechanism, including but not limited to, conveyances, assignments, or foreclosures:

A. Touch and Concern.

The Ward Cove Covenants touch and concern the Ward Cove Property, in that each and all of the Covenants directly benefit the property, resolve regulatory issues



which have limited development and thereby increase its market value. The Ward Cove Covenants are fully enforceable by the parties with respect to the Ward Cove Property or any interest therein. If a party refuses to acknowledge the applicability of the Ward Cove Covenants to such party, any other party shall be entitled to enforce the terms of this instrument in law and in equity.

B. Ward Cove Area.

1. The Borough covenants and agrees that it shall comply with any Institutional Controls which are or may become applicable to the Ward Cove Property, including those imposed through, or under the Ward Cove Consent Decree, or otherwise.

2. The Borough covenants and agrees that it shall not, through any activities or operations at or in the Ward Cove Area, materially damage any cap or capping materials that may be applied to sediments in the Ward Cove Area under the Ward Cove Consent Decree. The Borough further covenants and agrees that if it damages such cap, it will immediately report the relevant circumstances to EPA and KPC and restore the cap to a condition and to specifications as directed by the EPA or by any governmental body having primary regulatory jurisdiction over the work undertaken by KPC under the Ward Cove Consent Decree, but the Borough and KPC will be under no obligation to restore the cap until directed to do so by the EPA or other governmental body having jurisdiction.

3. The Borough's obligations, pursuant to Section 2 hereof, extend to the activities and operations of its employees, agents, contractors, invitees, licensees, representatives, permittees, joint venturers, instrumentalities, port authorities, and any third party contractually related, whether directly or indirectly.

4. Nothing in this Easement shall be interpreted to prohibit KPC from exercising any legal rights it may have with respect to matters arising under the Ward Cove Consent Decree.

5. KPC, Gateway and the Borough agree to give the other parties advance written notice of any material excavation, digging or other similar activities relating to the Ward Cove Property.

6. The Ward Cove Landfills are located within Lot 2, Tract 3004 ("Landfill Parcel") and are operated pursuant to a permit issued by the State of Alaska, Department of Environmental Conservation ("DEC"). Lot 1 of Tract 3004 surrounds the Landfill Parcel, which KPC agreed to donate to the Borough only upon the condition that use restrictions and other conditions would be implemented in order to ensure that neither the Borough nor its successors in interest would unreasonably interfere with the operation and maintenance of the Ward Cove Landfills. To accomplish those objectives, KPC and the Borough covenant and agree as follows:



- a. The future use of Lot 1, Tract 3004 by the Borough and its successors in interest shall be limited to commercial activities of an industrial nature which are compatible with operation in close proximity to an industrial landfill;
- b. The Borough and its successors in interest shall take all reasonable measures to protect against any interference with operation of the Ward Cove Landfills, including appropriate terracing of any rock extraction to preserve subjacent support; and
- c. The Borough hereby fully and finally releases KPC from all liability arising from or in any way related to operation and maintenance of the Ward Cove Landfills, excepting only to the extent damages may occur from a violation of, or failure to obtain, the DEC permit for the landfills. This release extends to any and all claims and liabilities, whether arising from negligence, or other fault, or otherwise. The Borough shall require each of its successors in interest, whether by lease, deed, or otherwise, as a condition to acquisition of any interest in or to Lot 1, Tract 3004, to execute the same release in favor of KPC.

C. Future Subdivision.

These Covenants shall not preclude subdivision of any parcel of the Ward Cove Property; provided, however, that upon any subdivision, replat, plat modification or other similar action, all portions of the Ward Cove Property which previously were subject to these Covenants, shall remain subject thereto; provided, however, that the obligations imposed by these covenants shall be limited to the parcel, area, or portion held by a party and shall not be interpreted to create liability for other parcels or areas not held by such party.

D. Further Assurances.

1. The parties covenant and agree both to adhere to and comply with current Institutional Controls and to cooperate with respect to the development and implementation of additional Institutional Controls, which shall include the development of an instrument or instruments to ensure that Institutional Controls arising under the Ward Cove Consent Decree, or otherwise, will run with the property and be enforceable against bona fide purchasers.

2. The parties covenant and agree that this Easement shall govern and be binding with respect to, the acts and omissions of each respective party's employees, agents, contractors, and any third party contractually related, whether directly or indirectly, to the respective party.



E. Term of Ward Cove Covenants.

Each and all of the Ward Cove Covenants, and all the burdens and benefits thereof, shall run with the Ward Cove Property and shall be binding on any person having any ownership interest in the Ward Cove Property under the terms and conditions set forth in the Ward Cove Covenants for a period of twenty (20) years from the Effective Date, after which time the Ward Cove Covenants shall be automatically extended for successive periods of ten (10) years each, unless an instrument properly signed by KPC, has been recorded in the Ketchikan Recording District, First Judicial District, State of Alaska, agreeing to terminate the Ward Cove Covenants in whole or in part.

F. Termination of Rights and Obligations of Covenants Through Transfer of Ownership Interest.

A party is relieved of its obligations to comply with the Ward Cove Covenants imposed on the Ward Cove Property upon, and to the extent, that a party transfers or no longer holds an interest in the Ward Cove Property, except that liability or responsibility for acts or omissions occurring prior to transfer shall survive such transfer; provided, however, that nothing in this Easement shall diminish or relieve the parties, or any successor or assign of the parties from their respective obligations under the Agreement.

The Borough, KPC, and Gateway, together with each parties' respective successors and assigns, are hereinafter referred to as the "Parties."

IV. EASEMENT.

A. Reservation of Easement.

1. The Parties acknowledge and agree that, upon the terms and conditions set forth in this Easement, the Borough grants to KPC an easement interest (the "Easement") in and to the following properties (the "Easement Property") to allow KPC and its successors and assigns to undertake any activity contemplated by the Agreement and by subsection III.B. hereof. It is the express intent of Grantor and Grantee that the burden and benefit of this Easement shall run with the land upon any conveyance of the Ward Cove Property, during the term of this Easement, including any extension thereof:

PARCEL NO. 1:

Lot 3, Gateway Subdivision, within U.S. Survey 1056 (H.E.S.) according to the plat thereof filed August 14, 2000 as Plat No. 2000-41.



PARCEL NO. 2:

That portion of U.S. Survey 1056, lying northerly of the northerly boundary of North Tongass Highway, being adjacent to U.S. Survey 2923 and comprised of 5.16 acres.

PARCEL NO. 3:

U.S. Survey 1706.

PARCEL NO. 4:

U.S. Survey 1754

PARCEL NO. 5:

That portion of U.S. Survey 1862, more particularly described as follows: Beginning at U.S. Land Mark No. 2; thence North $32^{\circ}27'$ West a distance of 155.5 feet to Corner No. 1 of U.S. Survey 1862 and the true point of beginning of the portion herein described; thence North $0^{\circ}25'$ West a distance of 515 feet, more or less, to a point on the South Right of Way line of North Tongass Highway, which point is 50 feet from the center line of said highway and at right angles to Engineers Station 299+50; thence along that portion of a spiral curve to the left whose chord bears South $24^{\circ}30'$ East a distance of 114.65 feet; thence along the arc of a 527.46 foot radius curve the long chord of which bears South $36^{\circ}35'$ East a distance of 126.14 feet; thence along a spiral curve whose chord bears South $51^{\circ}21'$ East a distance of 210.05 feet; thence South $55^{\circ}27'$ East a distance of 316.97 feet; thence South $34^{\circ}33'$ West a distance of 50 feet; thence South $55^{\circ}27'$ East a distance of 137.00 feet; thence South $88^{\circ}00'$ West a distance of 535 feet more or less along Meander Line No. 11 of U.S. Survey 1862; thence North $29^{\circ}30'$ West a distance of 155.50 feet along Meander Line No. 12 of U.S. Survey 1862 to Corner No. 1, which is the point of beginning;

ALSO: That portion of U.S. Survey 1862 lying with the North Tongass Highway Right of Way as created by a deed dated April 1, 1949 and recorded in Volume "W" of Deeds at Page 362, Ketchikan Recording District, First Judicial District, State of Alaska, and as conveyed to Ketchikan Pulp Company by Quitclaim Deed recorded July 27, 1988 in Book 158 at Page 588.

PARCEL NO. 6:

U.S. Survey 2090.



PARCEL NO. 7:

That certain portion of U.S. Survey 2923, more particularly described as follows: Beginning at the northerly corner of the Crawford Tract, otherwise known as Corner No. 2 of U.S. Survey 2923; thence South 55°45' East along the northeasterly boundary of the Crawford Tract a distance of 863.37 feet; thence South 89°33' West a distance of 709.81 feet, more or less, to a point on the westerly boundary of the Crawford Tract; thence North 0°27' West along the westerly boundary of the Crawford Tract a distance of 491.50 feet, more or less, to the point of beginning.

PARCEL NO. 8:

U.S. Survey 3400.

PARCEL NO. 9:

U.S. Survey 3401.

PARCEL NO. 10:

Lot 1, Sec. 34, T. 74S., R.90E., C.R.M., as more particularly described in Exhibit "A" hereto.

PARCEL NO. 11:

Tract 3004, Lot 1, according to the plat filed November 28, 2000 as Plat 2000-73.

PARCEL NO. 12:

All of ALASKA TIDELANDS SURVEY NO. 1 (CR 74S 90E), according to the unrecorded plat thereof (mistakenly recorded in the Juneau Recording District as Plat No. 292).

PARCEL NO. 13:

ALASKA TIDELANDS SURVEY NO. 439.

2. The Parties covenant and agree that KPC hereby is granted an easement interest in and to the Easement Property set forth in subsection A.1. hereof, consisting of a right of free access to and across the Easement Property to allow KPC to undertake or observe any sampling and Investigatory activities, Remediation activities, and any reasonable actions necessary to support or implement Investigatory and Remediation



activities at the Easement Property. KPC's right of access shall also include, without limitation, the right to use the Easement Property to the extent reasonably necessary for a staging area or otherwise to comply with Environmental Laws and the directives or orders of governmental agencies relating to the Easement Property.

3. KPC's right of access shall also include access through and across all access easements which have been or hereafter are established by, or reflected in, any plats of U.S. Survey 1056 or ATS-1, whether those access easements are designated as private access easements or otherwise.

4. KPC's access rights, as described herein, shall not prevent the Borough Entities from constructing any buildings or other improvements on the Borough Property. In that event, KPC will exercise its access and staging rights in a manner which will not unreasonably interfere with the Borough Entities' uses or development of the properties.

B. Term.

The Easement shall become effective on the Effective Date and shall have an initial term of twenty (20) years from the Effective Date, after which time the Easement shall be automatically extended for successive periods of ten (10) years each, unless an instrument properly signed by KPC, has been recorded in the Ketchikan Recording District, First Judicial District, State of Alaska, agreeing to terminate the Easement in whole or in part.

C. Subdivision.

This Easement shall not preclude the subdivision of any parcels of the Ward Cove Property, but upon any subdivision, replat, plat modification, or other similar action, all portions of the Ward Cove Property which previously were subject to this Easement shall remain subject thereto.

V. EFFECTIVE DATE.

This Easement shall become effective ("Effective Date") on the date of recordation, simultaneous with recordation of the Vacation of Covenants and Easement releasing the same parcels

VI. LIBERAL CONSTRUCTION.

Any general rule of construction to the contrary, this Easement shall be liberally construed in favor of effectuating the Parties' desire to establish the Easement in favor of KPC and to make the Ward Cove Covenants run with, and apply to, the Ward Cove Property and to make the Ward Cove Covenants binding upon any and all successors and assigns of the Parties. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the



provision valid shall be favored over any interpretation that would render it invalid or unenforceable.

VII. DISPUTES.

The parties each irrevocably consent to the exclusive venue and jurisdiction of any state or federal court located in the First or Third Judicial Districts, State of Alaska, for the purposes of any suit, action, or other proceeding of any type whatsoever arising out of this Agreement or the subject matter hereof; provided, however, that if jury trial is sought by any party, the proceeding will be instituted in a locale other than Ketchikan. To the maximum extent permitted by applicable law, each party waives and agrees not to assert, by way of motion, as a defense, or otherwise, in any such suit, action or proceeding any claim that it is not personally subject to the jurisdiction of the above named courts; that the suit, action, or proceeding is brought in an inconvenient forum; that the venue of the suit, action, or proceeding is improper; or that this Agreement or the subject matter hereof may not be enforced in or by such court. Each party agrees that service of process may be made upon it wherever it can be located or by certified mail directed to its address for notices under this Agreement.

VIII. MISCELLANEOUS.

A. Notices.

All notices, requests, claims, demands and other communications given or made pursuant hereto shall be in writing (and shall be deemed to have been duly given or made upon receipt) by delivery in person, by telecopy (with confirmation copy of such telecopied material delivered in person or by registered or certified mail, postage prepaid, return receipt requested) or by registered or certified mail (postage prepaid, return receipt requested) to the respective party at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section VIII.A.):

1. if to KPC:

Ketchikan Pulp Company
c/o Louisiana-Pacific Corporation
Legal Department
805 S.W. Broadway, Suite 700
Portland, Oregon 97205
Attention: Christopher M. (Kit) Keyes, Esq.
Facsimile: (503) 821-5323

and:

Ketchikan Pulp Company
c/o Louisiana-Pacific Corporation

P.O. Box 4000-98
Hayden Lake, Idaho 83835-9460
Attention: Chris Paulson
Facsimile: (208) 762-1667

Physical Address: 13403 N. Government Way

with a copy to:

Ziegler Law Firm
307 Bawden Street
Ketchikan, Alaska 99901
Attention: John Peterson, Esq.
Facsimile: (907) 225-5513

2. if to the Borough:

Ketchikan Gateway Borough
344 Front Street
Ketchikan, Alaska 99901
Attention: Borough Manager
Facsimile: (907) 247-6625

with a copy to:

Ketchikan Gateway Borough
344 Front Street
Ketchikan, Alaska 99901
Attention: Borough Clerk
Facsimile: (907) 247-8439

3. if to Gateway:

Gateway Forest Products, Inc.
Post Office Box 779
Ward Cove, Alaska 99928
Attention: Dick Leary
Facsimile: (907) 247-1646

and:

Gateway Forest Products, Inc.
7517 Tyne Drive
Anchorage, Alaska 99502
Attention: Jim Erickson



B. Headings.

The descriptive headings contained in this Easement are for convenience of reference only and shall not affect in any way the meaning or interpretation of this Easement.

C. Severability.

If any provision of this Easement, or the application of any provision to a person or circumstance, is found to be invalid, illegal, or incapable of being enforced by any rule of law or public policy, the remainder of the provisions of this Easement, or the application of such provisions to persons or circumstances other than those to which it is found to be invalid or unenforceable, as the case may be, shall not be affected thereby.

D. No Third-Party Beneficiaries.

This Easement is for the sole benefit of the Parties and their respective successors and permitted assigns, and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Easement.

E. Amendment; Waiver.

This Easement may not be amended or modified except by an instrument in writing duly executed and recorded by the Parties. Waiver of any term or condition of this Agreement shall only be effective if in writing, duly executed by the Party to be bound thereby, and shall not be construed as a waiver of any subsequent breach or waiver of the same term or condition, or a waiver of any other term or condition of this Easement; provided however, that once Gateway no longer is the owner of any part or parcel of the Ward Cove Property, its agreement no longer shall be necessary to effectuate amendment of either the Covenants or the Easement and its signature no longer will be required.

F. Governing Law.

This Easement shall be governed by, and construed in accordance with, the laws of the State of Alaska, applicable to covenants and agreements affecting real property executed and to be performed in that State.

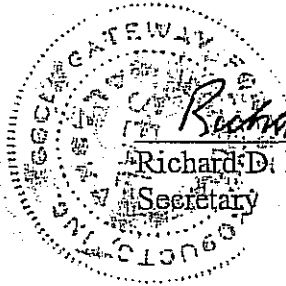
NOTICE: THE INTERESTS CONVEYED HEREBY ARE SUBJECT TO AN ENVIRONMENTAL PROTECTION EASEMENT AND DECLARATION OF RESTRICTIVE COVENANTS DATED OCTOBER 28, 1999, RECORDED IN THE KETCHIKAN RECORDING DISTRICT, FIRST JUDICIAL



DISTRICT, STATE OF ALASKA, ON OCTOBER 28, 1999 AT
BOOK 305, PAGE 772.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be
duly executed as of the date first written above.

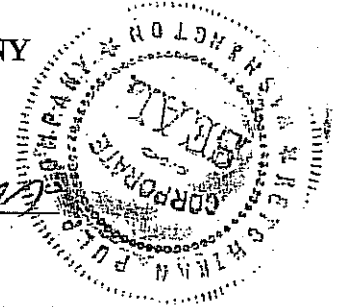
GATEWAY FOREST PRODUCTS, INC.



Richard D. Leary
Richard D. Leary
Secretary

By James K. Erickson
James K. Erickson
President

KETCHIKAN PULP COMPANY



Douglas P. Anderson
Douglas P. Anderson
Assistant Secretary

By Chris Paulson
Chris Paulson
President

KETCHIKAN GATEWAY BOROUGH

Harriet Edwards
Harriet Edwards
Clerk

By Roy A. Eckert
Roy A. Eckert
Manager

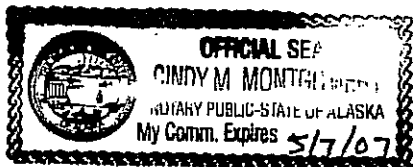
STATE OF ALASKA)
 : ss.
FIRST JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this 14th day of July, 2003, before
me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned
and sworn as such, personally appeared Roy A. Eckert and Harriet Edwards, to me
known to be the Manager and the Clerk of the Ketchikan Gateway Borough, a municipal
corporation established pursuant to the laws of the State of Alaska which executed the



above and foregoing instrument; who on oath stated that they were duly authorized to execute said instrument and affix the borough seal thereto on behalf of the Borough and that the seal affixed thereto is the borough seal thereof; and who acknowledged to me that the same was signed freely and voluntarily on behalf of the Borough for the uses and purposes therein mentioned.

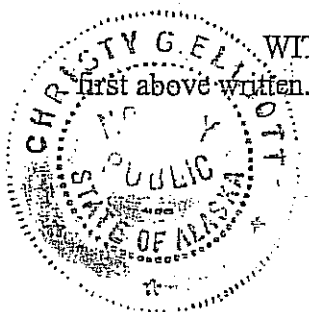
WITNESS my hand and seal the day and year last above written.



Cindy M. Montgomery
Notary Public in and for Alaska
My Commission Expires: 5/7/07

STATE OF ALASKA)
: ss.
FIRST JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this 15th day of July, 2003, before me, the undersigned, a notary public in and for the State of Alaska, duly commissioned and sworn, personally appeared **Richard D. Leary**, to me known to be the Secretary, of Gateway Forest Products, Inc., an Alaska corporation, the corporation which executed the above and foregoing instrument; who on oath stated that they were duly authorized to execute said instrument and affix the corporate seal thereto on behalf of said corporation and that the seal affixed thereto is the corporate seal thereof; who acknowledged to me that they signed and sealed the same freely and voluntarily on behalf of said corporation for the uses and purposes therein mentioned.



WITNESS my hand and official seal the day and year in this certificate first above written.

Christy G. Emlin
Notary Public for Alaska
Commission expires: 8/23/04

STATE OF ALASKA)
: ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this 16th day of July, 2003, before me, the undersigned, a notary public in and for the State of Alaska, duly commissioned and sworn, personally appeared **James K. Erickson**, to me known to be the President, of Gateway Forest Products, Inc., an Alaska corporation, the corporation which executed the

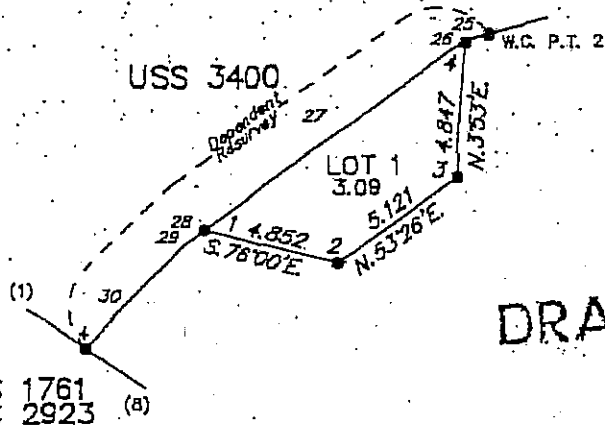


USS 3387 USS 1701
 USS 3769

Mean
 Magnetic
 Declination
 23 1/2° E

ENLARGED DIAGRAM

DRAFT

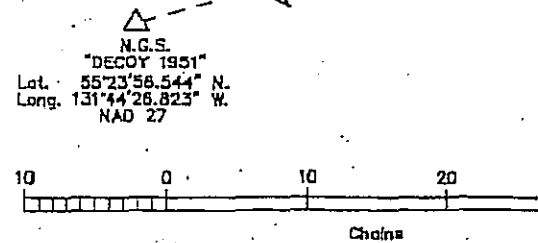


USS 1761
 USS 2923

Sec. 34

USS 1761
 USS 2632
 USS 3835

DRAFT



Area Surveyed: 730.77 ac

P.S.T.



Attachment 16

Environmental Easement and Declaration of Covenants, recorded July 15, 2004, between
Ketchikan Gateway Borough and Ketchikan Pulp Company



ccc/cc

ENVIRONMENTAL EASEMENT AND DECLARATION OF COVENANTS

This Environmental Easement and Declaration of Covenants ("Easement"), made and entered into this 14th day of July, 2004, by and between KETCHIKAN GATEWAY BOROUGH, a municipal corporation, 344 Front Street, Ketchikan, Alaska 99501 and KETCHIKAN PULP COMPANY, a Washington corporation, Post Office Box 6600, Ketchikan, Alaska 99901, WITNESSETH:

RECITALS

WHEREAS, all real property referred to in this Easement is located in, and all documents and plats referred as filed or recorded, are filed or recorded in the Ketchikan Recording District, First Judicial District, State of Alaska;

WHEREAS, on November 3, 1999, Ketchikan Pulp Company and Gateway Forest Products, Inc. entered into certain agreements including the Allocation of Environmental Responsibilities Agreement ("Environmental Allocation Agreement"), more commonly known as Exhibit "F," and the Easement and Declaration of Covenants Regarding Allocation of Environmental Responsibilities ("Environmental Allocation Easement"), more commonly known as Exhibit "F-1," which incorporated by reference Exhibit "F," governing certain properties;

WHEREAS, The Environmental Allocation Easement was specifically incorporated into that certain Quitclaim Deed executed by Ketchikan Pulp Company in favor of Gateway Forest Products, Inc., which was recorded on November 5, 1999 at Book 306, Page 72;

WHEREAS, the parties now desire to remove the Environmental Allocation Easement and the Environmental Allocation Agreement from certain parcels of real property located at Ward Cove, formerly owned by Ketchikan Pulp Company and to replace it with this Easement;

WHEREAS, the Ketchikan Gateway Borough and Ketchikan Pulp Company have ongoing interests, including but not limited to,

operational and regulatory considerations, in the Ward Cove real property and desire to impose on the those properties certain terms and conditions as covenants that will run with the land for the purpose of making such terms and conditions applicable to the Ketchikan Gateway Borough and Ketchikan Pulp Company, as well as any of their successors and assigns holding an interest in the properties;

WHEREAS, the Ketchikan Gateway Borough, Ketchikan Pulp Company and Gateway Forest Products, Inc. entered into an Agreement dated July 14, 2003 governing the parties' respective rights and responsibilities ("Agreement"); and

WHEREAS, Ketchikan Pulp Company has an ongoing interest in ensuring that it has access to the Ward Cove properties to accommodate the satisfaction of its continuing environmental obligations at the Ward Cove facility;

NOW, THEREFORE, In consideration of the promises and of the mutual agreements and covenants hereinafter set forth, the Ketchikan Gateway Borough and Ketchikan Pulp Company hereby agree as follows:

I. DEFINITIONS.

The terms used in this Easement shall have the following meanings, which shall be equally applicable to both the singular and plural forms of the terms defined:

- A. "Borough" means and refers to the Ketchikan Gateway Borough, a municipal corporation organized pursuant to the laws of the State of Alaska, and the Borough's successors, heirs, and assigns.
- B. "Costs" means, with respect to Remediation and Investigation activities, actual reasonable expenditures, including but not limited to, reasonable attorneys' fees and defense costs, contractor costs, consultant costs, governmental oversight costs and other necessary expenditures.
- C. "Environmental Laws" means all State of Alaska, local, and federal laws, statutes, regulations, and ordinances of any kind relating to environmental protection or compliance as they currently exist and as they may come to be amended, including but not limited to, the federal Clean Water Act; Clean Air Act; Toxic Substances Control Act; Comprehensive Environmental Response, Compensation and Liability Act; Resource Conservation and Recovery



Act; Federal Insecticide, Fungicide, and Rodenticide Act; Safe Drinking Water Act; Hazardous Materials Transportation Act; laws designated in Alaska Statutes Title 46; and common law, including causes of action arising in tort.

- D. "Gateway" means and refers to both Gateway Forest Products, Inc., an Alaska corporation, and Gateway's successors, heirs, and assigns.
- E. "Hazardous Substances" means substances which constitute hazardous substances under the Comprehensive Environmental Response, Compensation Liability Act or under AS 46.03.822.
- F. "Institutional Controls" means the Environmental Protection Easement and Declaration of Restrictive Covenants in favor of the State of Alaska, Department of Natural Resources, recorded on October 28, 1999, at Book 305, page 772 in the Ketchikan Recording District and such other measures, controls, limitations, prohibitions, procedures, or protocols that the United States Environmental Protection Agency ("EPA"), the Alaska Department of Environmental Conservation ("DEC") or the Alaska Department of Natural Resources ("DNR") requires in order to maintain the integrity of a remedial or removal action or prevent a release or threatened release of a Hazardous Substance.
- G. "Investigation or Investigatory" means actions to assess the nature and extent of Hazardous Substances contamination, including sampling and other necessary activities.
- H. "KPC" means and refers broadly to both Ketchikan Pulp Company, a Washington corporation, and KPC's successors, heirs, and assigns.
- I. "Remediation" means actions to remove, clean up, treat, or dispose of Hazardous Substances from the environment, including but not limited to, actions which may be necessary to prevent, minimize, or mitigate damage to the public health or welfare or to the environment from a release or threatened release of a Hazardous Substance.
- J. "Ward Cove Area" means the water body commonly known as Ward Cove including marine waters to the ordinary high water mark and sediments underlying such waters, and also means the surface and subsurface areas of those portions of U.S. Surveys 1056, 1208, 1508, 1653, 1656, 1659, 1706, 1754, and 1862 lying seaward of the North Tongass Highway, and the filled portions of ATS-1, including any structures or other improvements located thereon.



- K. "Ward Cove Consent Decree" means the consent decree with the EPA and the U.S. Department of Justice entered in the U.S. District Court for the District of Alaska: CERCLA Remedial Design/Remedial Action Consent Decree, *United States vs. Gateway Forest Products, Inc., Ketchikan Pulp Company, & Louisiana-Pacific Corporation*, Case No. A00-225 CV (JKS).
- L. "Ward Cove Landfills" means the industrial landfill which KPC owns and operates upon Tract 3004, Lot 2, Dawson Point Subdivision, according to the plat thereof filed November 28, 2000 as Plat 2000-73.

II. PARCELS TO WHICH THE COVENANTS SHALL APPLY.

The covenants contained in this Easement shall apply to the following parcels of real property ("Ward Cove Property"):

PARCEL NO. 1:

All of ALASKA TIDELANDS SURVEY NO. 1 (CR 74S 90E), according to the unrecorded plat thereof, (mistakenly recorded in the Juneau Recording District as Plat No. 292), except Exhibit "C-2" thereto, the parcel so excepted being more particularly described as follows:

From U.S.L.M. No. 2 measure South 71°56' East 896.28 feet to Corner M. C. 2 of U. S. Survey #1508 identical with Corner M. C. 1 of U. S. Survey #1659 and the point of beginning, thence following the meander lines established by and fronting U. S. Survey #1508: South 51°15' West 83.16 feet; South 7°00' East 66.66 feet; South 24°15' East 65.34 feet; South 70°00' East 139.26 feet; North 60°45' East 58.08 feet; South 45°00' East 45.54 feet; South 21°45' West 223.74 feet; South 23°45' East 29.70 feet; North 75°15' East 28.38 feet; North 41°30' East 203.28 feet; South 73°45' East 82.50 feet; South 84°30' East 88.44 feet; South 6°45' East 66.66 feet; South 19°00' West 93.72 feet; South 35°15' West 91.08 feet; South 53°15' West 68.64 feet; South 41°30' West 121.44 feet; South 64°00' West 84.48 feet; South 49°15' West 106.92 feet; South 11°30' West 138.60 feet to Corner M. C. 1 of U. S. Survey #1508 identical with Corner M. C. 1 of U. S. Survey #1208; thence following the meander lines established by and fronting U. S. Survey #1208: South 14°00' West 158.40 feet; South 34°30' West 19.80 feet; South 17°30' West 105.60 feet; South 53°45' West 46.20 feet; South 4°30' East 39.60 feet; South 23°45' West



85.80 feet; South 71°45' West 39.60 feet; South 6°15' West 46.20 feet; North 85°45' West 59.40 feet; North 52°45' West 66.00 feet; South 64°45' West 39.60 feet; South 45°00' West 39.60 feet; South 85°30' West 39.60 feet; North 55°15' West 26.40 feet; South 58°00' West 39.60 feet; South 8°45' West 144.54 feet; South 16°45' West 72.60 feet; South 3°30' West 59.40 feet; South 36°15' West 66.00 feet; South 16°45' West 39.60 feet; South 7°00' East 69.30 feet to Corner M. C. 4 of U. S. Survey #1208 identical with Corner M. C. 2 of U. S. Survey #1655; thence following the meander lines established by and fronting U.S. Survey #1655: South 24°00' West 29.70 feet; South 30°15' West 130.02 feet South 23°15' West 136.62 feet; South 9°00' West 89.10 feet; South 8°00' East 36.30 feet to Corner M. C. 1 of U. S. Survey #1655 identical with Corner M. C. 1 of U. S. Survey #1653; thence following the meander lines established by and fronting U. S. Survey #1653: South 10°00' West 132.00 feet; South 30°15' West 36.96 feet; North 79°45' West 64.02 feet; South 55°45' West 62.04 feet; South 18°30' West 38.94 feet; South 41°45' West 44.88 feet; South 32°45' West 96.36 feet; South 15°15' East 48.18 feet; South 64°30' West 60.72 feet; South 0°45' West 44.88 feet; South 25°00' West 120.78 feet; South 72°00' West 21.78 feet; North 51°15' West 44.22 feet; South 81°15' West 46.86 feet; South 74°15' West 165.66 feet; South 30°45' West 211.86 feet to Corner M. C. 2 of U. S. Survey #1653 identical with Corner M.C. 1 of U. S. Survey #1656; thence North 42°55' West 712.99 feet to a point identified as PT-1; thence North 50°00' East 1,011.33 feet to a point identified as PT-2; thence North 22°00' East 1,674.54 feet to a point identified as PT-3; thence North 50°00' East 580.76 feet to intersect with the R.O.W. line on the North Tongass Highway; thence South 2°27' West 76.51 feet to the point of beginning.

PARCEL NO. 2:

Lot 3, Gateway Subdivision, within U.S. Survey 1056 (H.E.S.) according to the plat thereof filed August 14, 2000 as Plat No. 2000-41.

PARCEL NO. 3:

That portion of U.S. Survey 1056, lying northerly of the northerly boundary of North Tongass Highway, being adjacent to U.S. Survey 2923 and comprised of 5.16 acres.



PARCEL NO. 4:

That portion of U.S. Survey 1862, more particularly described as follows:

Beginning at U.S. Land Mark No. 2; thence North 32°27' West a distance of 155.5 feet to Corner No. 1 of U.S. Survey 1862 and the true point of beginning of the portion herein described; thence North 0°25' West a distance of 515 feet, more or less, to a point on the South Right of Way line of North Tongass Highway, which point is 50 feet from the center line of said highway and at right angles to Engineers Station 299+50; thence along that portion of a spiral curve to the left whose chord bears South 24°30' East a distance of 114.65 feet; thence along the arc of a 527.46 foot radius curve the long chord of which bears South 36°35' East a distance of 126.14 feet; thence along a spiral curve whose chord bears South 51°21' East a distance of 210.05 feet; thence South 55°27' East a distance of 316.97 feet; thence South 34°33' West a distance of 50 feet; thence South 55°27' East a distance of 137.00 feet; thence South 88°00' West a distance of 535 feet more or less along Meander Line No. 11 of U.S. Survey 1862; thence North 29°30' West a distance of 155.50 feet along Meander Line No. 12 of U.S. Survey 1862 to Corner No. 1, which is the point of beginning.

ALSO: That portion of U.S. Survey 1862 lying within the North Tongass Highway Right of Way as created by a deed dated April 1, 1949 and recorded in Volume "W" of Deeds at Page 362, Ketchikan Recording District, First Judicial District, State of Alaska, and as conveyed to Ketchikan Pulp Company by Quitclaim Deed recorded July 27, 1988 in Book 158 at Page 588.

PARCEL NO. 5:

U.S. Survey 2090.

PARCEL NO. 6:

That certain portion of U.S. Survey 2923, more particularly described as follows: Beginning at the northerly corner of the Crawford Tract, otherwise known as Corner No. 2 of U.S. Survey 2923; thence South 55°45' East along the northeasterly



boundary of the Crawford Tract a distance of 863.37 feet; thence South 89°33' West a distance of 709.81 feet, more or less, to a point on the westerly boundary of the Crawford Tract; thence North 0°27' West along the westerly boundary of the Crawford Tract a distance of 491.50 feet, more or less, to the point of beginning.

III. COVENANTS.

The Borough and KPC, for good and sufficient consideration received, do hereby covenant and declare that, with respect to the properties listed in Section II. hereof, the following provisions shall be covenants that run with and bind the Ward Cove Property and the parties, and each parties' respective personal representatives, heirs, successors and assigns as to the Ward Cove Property or any interest therein obtained through any mechanism, including but not limited to, conveyances, assignments, or foreclosures:

A. Touch and Concern.

The Ward Cove Covenants touch and concern the Ward Cove Property, in that each and all of the Covenants directly benefit the property, resolve regulatory issues which have limited development and thereby increase its market value. The Ward Cove Covenants are fully enforceable by the parties with respect to the Ward Cove Property or any interest therein. If a party refuses to acknowledge the applicability of the Ward Cove Covenants to such party, any other party shall be entitled to enforce the terms of this instrument in law and in equity.

B. Ward Cove Area.

1. The Borough covenants and agrees that it shall comply with any Institutional Controls which are or may become applicable to the Ward Cove Property, including those imposed through, or under the Ward Cove Consent Decree, or otherwise.

2. The Borough covenants and agrees that it shall not, through any activities or operations at or in the Ward Cove Area, materially damage any cap or capping materials that may be applied to sediments in the Ward Cove Area under the Ward Cove Consent Decree. The Borough further covenants and agrees that if it damages such cap, it will immediately report the relevant circumstances to EPA and KPC and restore the cap to a condition and to specifications as directed by the EPA or by any governmental body having primary regulatory jurisdiction over the work undertaken by KPC under the Ward Cove Consent Decree, but the Borough and KPC will be under no obligation to restore the cap until directed to do so by the EPA or other governmental body having jurisdiction.



3. The Borough's obligations, pursuant to Section 2 hereof, extend to the activities and operations of its employees, agents, contractors, invitees, licensees, representatives, permittees, joint venturers, instrumentalities, port authorities, and any third party contractually related, whether directly or indirectly.

4. Nothing in this Easement shall be interpreted to prohibit KPC from exercising any legal rights it may have with respect to matters arising under the Ward Cove Consent Decree.

5. KPC and the Borough agree to give the other party advance written notice of any material excavation, digging or other similar activities relating to the Ward Cove Property.

6. The Ward Cove Landfills are located within Lot 2, Tract 3004 ("Landfill Parcel") and are operated pursuant to a permit issued by the State of Alaska, Department of Environmental Conservation ("DEC"). Lot 1 of Tract 3004 surrounds the Landfill Parcel, which KPC agreed to donate to the Borough only upon the condition that use restrictions and other conditions would be implemented in order to ensure that neither the Borough nor its successors in interest would unreasonably interfere with the operation and maintenance of the Ward Cove Landfills. To accomplish those objectives, KPC and the Borough covenant and agree as follows:

- a. The future use of Lot 1, Tract 3004 by the Borough and its successors in interest shall be limited to commercial activities of an industrial nature which are compatible with operation in close proximity to an industrial landfill;
- b. The Borough and its successors in interest shall take all reasonable measures to protect against any interference with operation of the Ward Cove Landfills, including appropriate terracing of any rock extraction to preserve subjacent support; and
- c. The Borough hereby fully and finally releases KPC from all liability arising from or in any way related to operation and maintenance of the Ward Cove Landfills, excepting only to the extent damages may occur from a violation of, or failure to obtain, the DEC permit for the landfills. This release extends to any and all claims and liabilities, whether arising from negligence, or other fault, or otherwise. The Borough shall require each of its successors in interest, whether by lease, deed, or otherwise, as a condition to acquisition of any interest in or to Lot 1, Tract 3004, to execute the same release in favor of KPC.



C. Future Subdivision.

These Covenants shall not preclude subdivision of any parcel of the Ward Cove Property; provided, however, that upon any subdivision, replat, plat modification or other similar action, all portions of the Ward Cove Property which previously were subject to these Covenants, shall remain subject thereto; provided, however, that the obligations imposed by these covenants shall be limited to the parcel, area, or portion held by a party and shall not be interpreted to create liability for other parcels or areas not held by such party.

D. Further Assurances.

1. The parties covenant and agree both to adhere to and comply with current Institutional Controls and to cooperate with respect to the development and implementation of additional Institutional Controls, which shall include the development of an instrument or instruments to ensure that Institutional Controls arising under the Ward Cove Consent Decree, or otherwise, will run with the property and be enforceable against bona fide purchasers.

2. The parties covenant and agree that this Easement shall govern and be binding with respect to, the acts and omissions of each respective party's employees, agents, contractors, and any third party contractually related, whether directly or indirectly, to the respective party.

E. Term of Ward Cove Covenants.

Each and all of the Ward Cove Covenants, and all the burdens and benefits thereof, shall run with the Ward Cove Property and shall be binding on any person having any ownership interest in the Ward Cove Property under the terms and conditions set forth in the Ward Cove Covenants for a period of twenty (20) years from the Effective Date, after which time the Ward Cove Covenants shall be automatically extended for successive periods of ten (10) years each, unless an instrument properly signed by KPC, has been recorded in the Ketchikan Recording District, First Judicial District, State of Alaska, agreeing to terminate the Ward Cove Covenants in whole or in part.

F. Termination of Rights and Obligations of Covenants Through Transfer of Ownership Interest.

A party is relieved of its obligations to comply with the Ward Cove Covenants imposed on the Ward Cove Property upon, and to the extent, that a party transfers or no longer holds an interest in the Ward Cove Property, except that liability or responsibility for acts or omissions occurring prior to transfer shall survive such



transfer; provided, however, that nothing in this Easement shall diminish or relieve the parties, or any successor or assign of the parties from their respective obligations under the Agreement.

The Borough and KPC, together with each parties' respective successors and assigns, are hereinafter referred to as the "Parties."

IV. EASEMENT.

A. Reservation of Easement.

1. The Parties acknowledge and agree that, upon the terms and conditions set forth in this Easement, the Borough grants to KPC an easement interest (the "Easement") in and to the following properties (the "Easement Property") to allow KPC and its successors and assigns to undertake any activity contemplated by the Agreement and by subsection III.B. hereof. It is the express intent of Grantor and Grantee that the burden and benefit of this Easement shall run with the land upon any conveyance of the Ward Cove Property, during the term of this Easement, including any extension thereof:

PARCEL NO. 1:

All of ALASKA TIDELANDS SURVEY NO. 1 (CR 74s 90E), according to the unrecorded plat thereof (mistakenly recorded in the Juneau Recording District as Plat No. 292), except Exhibit "C-2" thereto, the parcel so excepted being more particularly described as follows:

From U.S.L.M. No. 2 measure South 71°56' East 896.28 feet to Corner M. C. 2 of U. S. Survey #1508 identical with Corner M. C. 1 of U. S. Survey #1659 and the point of beginning, thence following the meander lines established by and fronting U. S. Survey #1508: South 51° 15' West 83.16 feet; South 7°00' East 66.66 feet; South 24° 15' East 65.34 feet; South 70°00' East 139.26 feet; North 60°45' East 58.08 feet; South 45°00' East 45.54 feet; South 21°45' West 223.74 feet; South 23°45' East 29.70 feet; North 75°15' East 28.38 feet; North 41°30' East 203.28 feet; South 73°45' East 82.50 feet; South 84°30' East 88.44 feet; South 6°45' East 66.66 feet; South 19°00' West 93.72 feet; South 35°15' West 91.08 feet; South 53°15' West 68.64 feet; South 41°30' West 121.44 feet; South 64°00' West 84.48 feet; South 49°15' West 106.92 feet; South 11°30' West 138.60 feet to Corner M.



C. 1 of U. S. Survey #1508 identical with Corner M. C. 1 of U. S. Survey #1208; thence following the meander lines established by and fronting U. S. Survey #1208: South 14°00' West 158.40 feet; South 34°30' West 19.80 feet; South 17°30' West 105.60 feet; South 53°45' West 46.20 feet; South 4°30' East 39.60 feet; South 23°45' West 85.80 feet; South 71°45' West 39.60 feet; South 6°15' West 46.20 feet; North 85°45' West 59.40 feet; North 52°45' West 66.00 feet; South 64°45' West 39.60 feet; South 45°00' West 39.60 feet; South 85°30' West 39.60 feet; North 55°15' West 26.40 feet; South 58°00' West 39.60 feet; South 8°45' West 144.54 feet; South 16°45' West 72.60 feet; South 3°30' West 59.40 feet; South 36°15' West 66.00 feet; South 16°45' West 39.60 feet; South 7°00' East 69.30 feet to Corner M. C. 4 of U. S. Survey #1208 identical with Corner M. C. 2 of U. S. Survey #1655; thence following the meander lines established by and fronting U.S. Survey #1655: South 24°00' West 29.70 feet; South 30°15' West 130.02 feet South 23°15' West 136.62 feet; South 9°00' West 89.10 feet; South 8°00' East 36.30 feet to Corner M. C. 1 of U. S. Survey #1655 identical with Corner M. C. 1 of U. S. Survey #1653; thence following the meander lines established by and fronting U. S. Survey #1653: South 10°00' West 132.00 feet; South 30°15' West 36.96 feet; North 79°45' West 64.02 feet; South 55°45' West 62.04 feet; South 18°30' West 38.94 feet; South 41°45' West 44.88 feet; South 32°45' West 96.36 feet; South 15°15' East 48.18 feet; South 64°30' West 60.72 feet; South 0°45' West 44.88 feet; South 25°00' West 120.78 feet; South 72°00' West 21.78 feet; North 51°15' West 44.22 feet; South 81°15' West 46.86 feet; South 74°15' West 165.66 feet; South 30°45' West 211.86 feet to Corner M. C. 2 of U. S. Survey #1653 identical with Corner M.C. 1 of U. S. Survey #1656; thence North 42°55' West 712.99 feet to a point identified as PT-1; thence North 50°00' East 1,011.33 feet to a point identified as PT-2; thence North 22°00' East 1,674.54 feet to a point identified as PT-3; thence North 50°00' East 580.76 feet to intersect with the R.O.W. line on the North Tongass Highway; thence South 2°27' West 76.51 feet to the point of beginning.

PARCEL NO. 2:

Lot 3, Gateway Subdivision, within U.S. Survey 1056 (H.E.S.) according to the plat thereof filed August 14, 2000 as Plat No. 2000-41.



PARCEL NO. 3:

That portion of U.S. Survey 1056, lying northerly of the northerly boundary of North Tongass Highway, being adjacent to U.S. Survey 2923 and comprised of 5.16 acres.

PARCEL NO. 4:

That portion of U.S. Survey 1862, more particularly described as follows: Beginning at U.S. Land Mark No. 2; thence North $32^{\circ}27'$ West a distance of 155.5 feet to Corner No. 1 of U.S. Survey 1862 and the true point of beginning of the portion herein described; thence North $0^{\circ}25'$ West a distance of 515 feet, more or less, to a point on the South Right of Way line of North Tongass Highway, which point is 50 feet from the center line of said highway and at right angles to Engineers Station 299+50; thence along that portion of a spiral curve to the left whose chord bears South $24^{\circ}30'$ East a distance of 114.65 feet; thence along the arc of a 527.46 foot radius curve the long chord of which bears South $36^{\circ}35'$ East a distance of 126.14 feet; thence along a spiral curve whose chord bears South $51^{\circ}21'$ East a distance of 210.05 feet; thence South $55^{\circ}27'$ East a distance of 316.97 feet; thence South $34^{\circ}33'$ West a distance of 50 feet; thence South $55^{\circ}27'$ East a distance of 137.00 feet; thence South $88^{\circ}00'$ West a distance of 535 feet more or less along Meander Line No. 11 of U.S. Survey 1862; thence North $29^{\circ}30'$ West a distance of 155.50 feet along Meander Line No. 12 of U.S. Survey 1862 to Corner No. 1, which is the point of beginning;

ALSO: That portion of U.S. Survey 1862 lying with the North Tongass Highway Right of Way as created by a deed dated April 1, 1949 and recorded in Volume "W" of Deeds at Page 362, Ketchikan Recording District, First Judicial District, State of Alaska, and as conveyed to Ketchikan Pulp Company by Quitclaim Deed recorded July 27, 1988 in Book 158 at Page 588.

PARCEL NO. 5:

U.S. Survey 2090.

PARCEL NO. 6:

That certain portion of U.S. Survey 2923, more particularly described as follows: Beginning at the northerly corner of the Crawford Tract, otherwise known as Corner No. 2 of U.S. Survey



2923; thence South 55°45' East along the northeasterly boundary of the Crawford Tract a distance of 863.37 feet; thence South 89°33' West a distance of 709.81 feet, more or less, to a point on the westerly boundary of the Crawford Tract; thence North 0°27' West along the westerly boundary of the Crawford Tract a distance of 491.50 feet, more or less, to the point of beginning.

2. The Parties covenant and agree that KPC hereby is granted an easement interest in and to the Easement Property set forth in subsection A.1. hereof, consisting of a right of free access to and across the Easement Property to allow KPC to undertake or observe any sampling and Investigatory activities, Remediation activities, and any reasonable actions necessary to support or implement Investigatory and Remediation activities at the Easement Property. KPC's right of access shall also include, without limitation, the right to use the Easement Property to the extent reasonably necessary for a staging area or otherwise to comply with Environmental Laws and the directives or orders of governmental agencies relating to the Easement Property.

3. KPC's right of access shall also include access through and across all access easements which have been or hereafter are established by, or reflected in, any plats of U.S. Survey 1056 or ATS-1, whether those access easements are designated as private access easements or otherwise.

4. KPC's access rights, as described herein, shall not prevent the Borough Entities from constructing any buildings or other improvements on the Borough Property. In that event, KPC will exercise its access and staging rights in a manner which will not unreasonably interfere with the Borough Entities' uses or development of the properties.

B. Term.

The Easement shall become effective on the Effective Date and shall have an initial term of twenty (20) years from the Effective Date, after which time the Easement shall be automatically extended for successive periods of ten (10) years each, unless an instrument properly signed by KPC, has been recorded in the Ketchikan Recording District, First Judicial District, State of Alaska, agreeing to terminate the Easement in whole or in part.

C. Subdivision.

This Easement shall not preclude the subdivision of any parcels of the Ward Cove Property, but upon any subdivision, replat, plat modification, or other similar action, all portions of the Ward Cove Property which previously were subject to this Easement shall remain subject thereto.



V. EFFECTIVE DATE.

This Easement shall become effective ("Effective Date") on the date of recordation, simultaneous with recordation of the Vacation of Covenants and Easement releasing the same parcels

VI. LIBERAL CONSTRUCTION.

Any general rule of construction to the contrary, this Easement shall be liberally construed in favor of effectuating the Parties' desire to establish the Easement in favor of KPC and to make the Ward Cove Covenants run with, and apply to, the Ward Cove Property and to make the Ward Cove Covenants binding upon any and all successors and assigns of the Parties. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid or unenforceable.

VII. DISPUTES.

The parties each irrevocably consent to the exclusive venue and jurisdiction of any state or federal court located in the First or Third Judicial Districts, State of Alaska, for the purposes of any suit, action, or other proceeding of any type whatsoever arising out of this Agreement or the subject matter hereof; provided, however, that if jury trial is sought by any party, the proceeding will be instituted in a locale other than Ketchikan. To the maximum extent permitted by applicable law, each party waives and agrees not to assert, by way of motion, as a defense, or otherwise, in any such suit, action or proceeding any claim that it is not personally subject to the jurisdiction of the above named courts; that the suit, action, or proceeding is brought in an inconvenient forum; that the venue of the suit, action, or proceeding is improper; or that this Agreement or the subject matter hereof may not be enforced in or by such court. Each party agrees that service of process may be made upon it wherever it can be located or by certified mail directed to its address for notices under this Agreement.



VIII. MISCELLANEOUS.

A. Notices.

All notices, requests, claims, demands and other communications given or made pursuant hereto shall be in writing (and shall be deemed to have been duly given or made upon receipt) by delivery in person, by telecopy (with confirmation copy of such telecopied material delivered in person or by registered or certified mail, postage prepaid, return receipt requested) or by registered or certified mail (postage prepaid, return receipt requested) to the respective party at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section VIII.A.):

1. if to KPC:

Ketchikan Pulp Company
c/o Louisiana-Pacific Corporation
Legal Department
805 S.W. Broadway, Suite 700
Portland, Oregon 97205
Attention: Christopher M. (Kit) Keyes, Esq.
Facsimile: (503) 821-5323

and:

Ketchikan Pulp Company
c/o Louisiana-Pacific Corporation
P.O. Box 4000-98
Hayden Lake, Idaho 83835-9460
Attention: Chris Paulson
Facsimile: (208) 762-1667

Physical Address: 13403 N. Government Way

with a copy to:

Ziegler Law Firm
307 Bawden Street
Ketchikan, Alaska 99901
Attention: John Peterson, Esq.
Facsimile: (907) 225-5513

2. if to the Borough:

Ketchikan Gateway Borough
344 Front Street
Ketchikan, Alaska 99901
Attention: Borough Manager
Facsimile: (907) 247-6625



with a copy to:

Ketchikan Gateway Borough
344 Front Street
Ketchikan, Alaska 99901
Attention: Borough Clerk
Facsimile: (907) 247-8439

B. Headings.

The descriptive headings contained in this Easement are for convenience of reference only and shall not affect in any way the meaning or interpretation of this Easement.

C. Severability.

If any provision of this Easement, or the application of any provision to a person or circumstance, is found to be invalid, illegal, or incapable of being enforced by any rule of law or public policy, the remainder of the provisions of this Easement, or the application of such provisions to persons or circumstances other than those to which it is found to be invalid or unenforceable, as the case may be, shall not be affected thereby.

D. No Third-Party Beneficiaries.

This Easement is for the sole benefit of the Parties and their respective successors and permitted assigns, and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Easement.

E. Amendment; Waiver.

This Easement may not be amended or modified except by an instrument in writing duly executed and recorded by the Parties. Waiver of any term or condition of this Agreement shall only be effective if in writing, duly executed by the Party to be bound thereby, and shall not be construed as a waiver of any subsequent breach or waiver of the same term or condition, or a waiver of any other term or condition of this Easement.

F. Governing Law.

This Easement shall be governed by, and construed in accordance with, the laws of the State of Alaska, applicable to covenants and agreements affecting real property executed and to be performed in that State.

NOTICE: THE INTERESTS CONVEYED HEREBY ARE SUBJECT TO AN ENVIRONMENTAL PROTECTION EASEMENT AND DECLARATION OF



RESTRICTIVE COVENANTS DATED OCTOBER 28, 1999, RECORDED IN THE KETCHIKAN RECORDING DISTRICT, FIRST JUDICIAL DISTRICT, STATE OF ALASKA, ON OCTOBER 28, 1999 AT BOOK 305, PAGE 772.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed as of the date first written above.

KETCHIKAN PULP COMPANY

Douglas P. Anderson
Assistant Secretary

By Chris Paulson
Chris Paulson
President

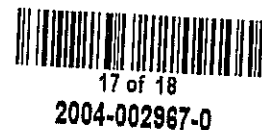
KETCHIKAN GATEWAY BOROUGH

Harriet Edwards
Harriet Edwards
Clerk

By Roy A. Eckert
Roy A. Eckert
Manager

STATE OF ALASKA)
: ss.
FIRST JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this 14th day of July, 2004, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared Roy A. Eckert and Harriet Edwards, to me known to be the Manager and the Clerk of the Ketchikan Gateway Borough, a municipal corporation established pursuant to the laws of the State of Alaska which executed the above and foregoing instrument; who on oath stated that they were duly authorized to execute said instrument and affix the Borough seal thereto on behalf of the Borough and that the seal affixed thereto is the Borough seal thereof; and who



Attachment 17

Executive Summary, 2007 Monitoring Report for Sediment Remediation in Ward Cove, Alaska
(April 2009)

**2007 MONITORING REPORT FOR
SEDIMENT REMEDIATION IN
WARD COVE, ALASKA**

Prepared for
Ketchikan Pulp Company
9487 North Tongass Highway
P.O. Box 6600
Ketchikan, AK 99901

Prepared by
The logo for Integral Consulting Inc. features the word "integral" in a blue, lowercase, sans-serif font. A thin, curved line starts under the letter 'i' and sweeps upwards and to the right, ending under the letter 'l'. Below the word "integral", the words "consulting inc." are written in a smaller, blue, lowercase, sans-serif font.

411 1st Avenue S.
Suite 550
Seattle, WA 98104

April 2009

CONTENTS

LIST OF FIGURES	iv
LIST OF TABLES	vii
ACRONYMS AND ABBREVIATIONS	ix
EXECUTIVE SUMMARY	x
1 INTRODUCTION	1-1
2 SUMMARY OF THE OVERALL MONITORING PROGRAM	2-1
2.1 MONITORING OBJECTIVES.....	2-1
2.2 MONITORING APPROACH.....	2-2
2.3 MONITORING PROGRAM DESIGN.....	2-3
3 METHODS USED DURING THE 2007 MONITORING EVENT	3-1
3.1 FIELD METHODS.....	3-1
3.2 LABORATORY METHODS.....	3-1
4 MODIFICATIONS TO THE MONITORING PLAN	4-1
5 DATA ANALYSIS AND INTERPRETATION	5-1
6 RESULTS OF THE 2004 MONITORING EVENT	6-1
6.1 SEDIMENT CHEMISTRY.....	6-1
6.1.1 Chemicals of Concern.....	6-1
6.1.2 Conventional Analytes.....	6-4
6.1.3 Summary of Sediment Chemistry.....	6-6
6.2 TOXICITY TESTING.....	6-7
6.2.1 Spatial Patterns.....	6-7
6.2.2 Temporal Patterns.....	6-10
6.2.3 Evaluation of Sulfide Concentrations in Pore Water.....	6-11
6.2.4 Summary of Sediment Toxicity Evaluations.....	6-12
6.3 BENTHIC MACROINVERTEBRATE COMMUNITIES.....	6-13
6.3.1 Overview of Spatial Patterns.....	6-13
6.3.2 Results of Statistical Comparisons.....	6-16
6.3.3 Patterns of Key Species.....	6-16
6.3.4 Comparisons of Benthic Macroinvertebrate Communities between 1992, 2004, and 2007.....	6-19
6.3.5 Multivariate Analysis of Benthic Macroinvertebrate Community Data.....	6-22
6.3.6 Evaluation of Taxa Richness at Individual Stations.....	6-24
6.3.7 Summary of Benthic Community Evaluations.....	6-25

7 EVALUATION OF REFERENCE AREAS.....7-1
8 CONCLUSIONS AND RECOMMENDATIONS8-1
9 REFERENCES.....9-1

Appendix A. Data Collected during the 2007 Sampling Event
Appendix B. Quality Assurance Reports for Data Collected during the 2007 Sampling Event
Appendix C. Details of Statistical Analyses

EXECUTIVE SUMMARY

This monitoring report has been prepared for Ketchikan Pulp Company in compliance with the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980 consent decree (November 2000), the Ward Cove remedial investigation and feasibility study (RI/FS) (Exponent 1999), the record of decision (ROD) for the Marine Operable Unit of Ward Cove (U.S. EPA 2000a), and the long-term monitoring and reporting plan for sediment remediation in Ward Cove (LMRP) (Exponent 2001), which was approved by the U.S. Environmental Protection Agency (EPA). The multiple lines of evidence used to evaluate sediment quality in the Ward Cove area of concern (AOC) indicate that the remedial action objectives (RAOs) have been achieved. The lines of evidence include quantitative and qualitative evaluations of temporal and spatial trends in toxicity responses, benthic macroinvertebrate community characteristics, and supporting measurements of chemicals of concern (CoCs) and conventional variables. These measurements have been conducted on AOC sediments since remedial efforts were implemented in 2000/2001.

BACKGROUND

The RI/FS was conducted in Ward Cove from 1996 to 1999. Of the approximately 250 acres of Ward Cove that were evaluated during the RI/FS, 80 acres were designated as an AOC where remedial action was warranted (Exponent 1999).

Sediment concentrations of persistent chemicals that are toxic or that have the potential to bioaccumulate in marine organisms (e.g., mercury, polychlorinated dibenzo-*p*-dioxin and polychlorinated dibenzofuran) were low and did not pose unacceptable risks to human health, fish, or wildlife (i.e., birds and mammals). However, potential risks to benthic macroinvertebrates were predicted from three CoCs (i.e., ammonia, 4-methylphenol, and sulfide) based on results of sediment toxicity tests and synoptic measurements of those chemicals. These CoCs are natural degradation products of pulp mill by-products, are themselves non-persistent, and are readily oxidized in the natural environment. The cessation of pulp mill activities in May 1997, the non-persistent nature of the CoCs, the physical constraints of the site bathymetry and sediment characteristics, and the potential for natural recovery were all considered during remedy selection.

Remedial action within the AOC was performed between October 2000 and February 2001. Because the risks were limited to benthic macroinvertebrate communities and the CoCs were non-persistent, the remedy relied largely on monitored natural recovery and enhanced natural recovery. Enhanced natural recovery using thin layer placement (TLP) with 6–12 in. of clean sand was successfully implemented at approximately 27 acres within Ward Cove. Monitored natural recovery was the preferred alternative for the remainder of the 80-acre AOC.

Although three CoCs were identified in the RI/FS, only ammonia and 4-methylphenol were selected in the ROD for the long-term monitoring effort, and evaluations of both CoCs were specified as being based on bulk sediment chemical measurements (i.e., as they were in the RI/FS). Sulfide was not selected for the long-term monitoring effort in the ROD because dissolved sulfide (i.e., the form of sulfide most likely to be toxic to benthic macroinvertebrates) cannot be adequately characterized by bulk sediment chemistry measurements. In addition, it was not considered practical, efficient, or ecologically relevant in the ROD to monitor sulfide in pore water, given its high spatial and temporal variability.

REMEDIAL ACTION OBJECTIVES AND MONITORING STUDY DESIGN

EPA identified RAOs for Ward Cove in the ROD. Specifically, the response action was intended to achieve the following RAOs:

- Reduce toxicity of surface sediments
- Enhance recolonization of surface sediments to support healthy marine benthic macroinvertebrate communities with multiple taxonomic groups.

As stated in the ROD, monitoring data were evaluated using a weight-of-evidence approach to determine whether consistent and acceptable progress has been made toward achieving the RAOs, rather than strict triggers for additional actions. The weight-of-evidence approach is recommended by EPA for sediment quality assessments throughout the United States as a part of EPA's national sediment assessment programs, and is consistent with the most current methods of sediment assessment recommended by national experts.

In using a weight-of-evidence approach to evaluate if RAOs have been achieved, EPA considered all information relevant to whether benthic communities at a particular location are recovering as expected. A weight-of-evidence approach is also considered appropriate for this site because determining whether the benthic community is recovering at an acceptable rate is a more sophisticated analysis than would be captured by strict numerical trigger values, such as determining whether a thick cap has been breached.

The LMRP was designed to evaluate progress made in achieving the RAOs following completion of remedial activities in Ward Cove in 2001. The LMRP specified that monitoring would occur every three years in July until RAOs were achieved. The program was designed to evaluate three major indicators of sediment quality: 1) sediment chemistry, 2) sediment toxicity, and 3) benthic macroinvertebrate communities, with the central focus on toxicity and macroinvertebrate communities, which directly relate to the RAOs. Although site-specific sediment quality values were developed for ammonia and 4-methylphenol during the RI/FS to help determine the boundaries of the AOC (Exponent 1999), these values were used in the long-term monitoring effort only to help interpret the related biological results. These site-specific

sediment quality values were not designed for use as RAOs, because ammonia and 4-methylphenol are non-persistent and readily oxidized in the natural environment.

To best represent the varying conditions in the 80-acre AOC, it was divided into seven benthic strata based on water depth and the kind of remedial action taken: natural recovery (four strata) or TLP (three strata). Each stratum had five to seven monitoring stations located within it. At most stations, single samples were collected for sediment toxicity and benthic community evaluations. Seven of the monitoring stations represented locations characterized for the RI/FS. Five replicate laboratory toxicity tests were conducted for four of these seven RI/FS locations to allow temporal comparisons of sediment toxicity responses to be made on a statistical basis. Two reference area strata were designated within the cove, based on water depth and distance from known sources of chemical contamination. Spatial comparisons were made by statistically comparing the mean conditions in each AOC stratum with the conditions found in its respective depth-specific reference area stratum.

The specific components of sediment quality used for the Ward Cove monitoring were as follows:

- **Sediment Chemistry**— Each surface sediment sample (0–10 cm horizon) was analyzed for the two CoCs (i.e., ammonia and 4-methylphenol), to assist in the interpretation of the sediment toxicity and benthic community results. Sediment samples were also analyzed for selected conventional variables (i.e., grain size distribution, organic content, and total solids) to also assist in the interpretation of the biological results.
- **Sediment Toxicity**— The potential toxicity of each surface sediment sample was evaluated using the 10-day amphipod test based on *Eohaustorius estuarius*. This test is commonly used to evaluate sediment toxicity of marine and estuarine sediments, and has standardized and well-established test protocols. In addition, this test is consistent with the test used to characterize sediment toxicity in Ward Cove for the RI/FS (i.e., the 10-day amphipod test based on *Rhepoxynius abronius*). Although *R. abronius* was originally used in the RI/FS, it was necessary to change the test species in 2004 to *E. estuarius*, because of uncertainties involved with obtaining an adequate number of healthy *R. abronius* for testing. Because these amphipods have been documented to be sensitive to chemical toxicity and are directly exposed to sediment contaminants, they provide an environmentally conservative assessment of the changes in sediment toxicity following remediation in Ward Cove.
- **Benthic Communities**— The characteristics of benthic communities in various parts of Ward Cove were directly evaluated by collecting and enumerating the organisms found in surface sediment samples collected from the site. Benthic communities are commonly used to assess sediment quality because these organisms are relatively stationary and live in close association with the bottom sediments (U.S. EPA 1990). Sediments were sieved (>1.0 mm), retained material was transferred to appropriate containers and fixed

with buffered formalin, and organisms were transferred to the laboratory for taxonomic analysis. Sediment samples were sorted with a minimum accuracy of 95 percent and taxonomic identifications were made to the lowest taxonomic level practical by qualified taxonomic experts. Quantitative evaluations of individuals and major taxa included comparisons between the AOC strata (i.e., TLP and natural recovery strata) and reference areas with respect to a variety of benthic metrics based on abundance, richness, and Swartz' dominance index (SDI). Qualitative observations of key benthic macroinvertebrate taxa were also made to determine whether the communities were recolonizing the TLP and natural recovery areas consistent with the classical patterns identified for disturbed benthic habitats.

As described in the LMRP, the long-term monitoring strategy for the Ward Cove AOC implicitly recognized the limited degree of the risk posed by Ward Cove sediments (i.e., absence of bioaccumulative chemicals; absence of risks to humans, fish, and wildlife) and the inherent uncertainties in the rate of natural recovery. The LMRP adopted a flexible, adaptive risk management strategy to interpret the monitoring data and determine appropriate actions. The lines of evidence used to support this approach included the multiple measures of sediment quality, and both qualitative and quantitative interpretation methods.

The long-term monitoring approach used for Ward Cove is consistent with the recommendations of recent EPA guidance for addressing contaminated sediments at hazardous waste sites (U.S. EPA 2005), which was not available when the LMRP was prepared in 2001. The monitoring approach is consistent with the six-step process for developing and implementing a monitoring plan (U.S. EPA 2004; see Highlight 8-3 of U.S. EPA 2005). In addition, the monitoring approach is consistent with the remedy-specific monitoring approaches recommended by U.S. EPA (2005) for both monitored natural recovery and *in situ* capping or TLP. The monitoring data for Ward Cove were evaluated using a combination of physical, chemical, and biological endpoints. U.S. EPA (2005) also emphasizes the use of multiple lines of evidence for assessing natural recovery and achievement of RAOs. Finally, U.S. EPA (2005) suggests that EPA project managers use an adaptive management approach that involves re-evaluating site assumptions as new information is gathered.

MONITORING DATA INTERPRETATION

Monitoring data were evaluated using two types of analyses. Each is intended to address different aspects of progress toward recovery of the benthic macroinvertebrate communities in the Ward Cove AOC:

- **Comparison of TLP and Natural Recovery Areas to Reference Areas**— Allows decisions to be made regarding recovery in TLP and natural recovery areas

- **Evaluation of Temporal Trends in TLP and Natural Recovery Areas**— Allows progress toward recovery to be evaluated.

Based on the results of the 2004 monitoring event (Exponent 2005), EPA determined that monitoring at one of the four natural recovery areas identified in the ROD was no longer necessary. That area was the shallow natural recovery area with thin organic deposits (i.e., Stratum 2c). Additional monitoring of Stratum 2c was not considered necessary because the RAOs had been achieved—sediment toxicity was reduced and benthic recolonization was enhanced such that Stratum 2c now supports healthy benthic communities with multiple taxonomic groups. Stratum 2c is therefore not addressed in this 2007 monitoring report.

The progress toward recovery based on the 2007 monitoring data is summarized in the following table and in the text below:

Summary of Recovery Status for Various Biological Indicators in Ward Cove Based on 2007 Data^a

Indicator	Stratum					
	Thin-Layer Placement			Natural Recovery		
	1	2a	3a	2b	3b	4
Sediment Toxicity	✓	✓	✓	✓	✓	✓
Benthic Community Metrics ^b	100%	100%	100%	33% ^c	100%	100%
Abundance						
Total abundance	✓	✓	✓	--	✓	✓
Taxa abundance						
Molluscs	✓	✓	✓	--	✓	✓
Polychaetes	✓	✓	✓	✓	✓	✓
Arthropods	✓	✓	✓	✓	✓	✓
Richness						
Total richness	✓	✓	✓	--	✓ ^d	✓
Taxa richness						
Molluscs	✓	✓	✓	--	✓ ^d	✓
Polychaetes	✓	✓	✓	--	✓ ^d	✓
Arthropods	✓	✓	✓	✓	✓	✓
SDI	✓	✓	✓	--	✓ ^d	✓

✓ = For sediment toxicity: Survival is greater than the 75 percent screening value specified in the LMRP.
For benthic metrics: Value is not significantly lower ($P>0.05$) than the respective mean reference value.

-- = Significantly lower ($P\leq 0.05$) than the respective mean reference value.

^a Sediment chemistry was analyzed, but not included in this table because it is not applicable to RAOs. Stratum 2c is not included in this table because results of the 2004 monitoring event showed that this area had achieved the RAOs (see above text for further explanation).

^b Percentages indicate the number of benthic metrics that are not significantly lower ($P>0.05$) than their respective mean reference values (note that for Stratum 3b, uncertainty exists for some benthic metrics due to low statistical power).

^c Recovery of benthic communities is progressing in this stratum (see text on p. xvii for explanation).

^d Low statistical power for benthic comparisons.

Overall AOC

Sediment toxicity was not only reduced throughout the AOC in 2007, but exceeded the screening value of 75 percent (as specified in the LMRP) in all AOC strata, indicating that the RAO based on sediment toxicity has been achieved throughout the AOC. In 2004, mean amphipod survival in Stratum 2c also exceeded the screening value of 75 percent, indicating that the RAO based on sediment toxicity had been achieved in that stratum, which, as described previously, was considered recovered after the 2004 monitoring event. In addition, mean survival for all TLP and natural recovery strata was not significantly lower ($P>0.05$) than the reference values. Although statistical comparisons for Stratum 4 were affected by low statistical power, the fact that mean survival for that stratum was greater than the screening value of 75 percent indicates that the RAO based on sediment toxicity has been achieved.

In addition to the above information, specific temporal patterns for the six strata sampled in 2007 for sediment toxicity can be summarized as follows:

- Values of mean amphipod survival for all three TLP areas in 2007 were very high (i.e., 92–95 percent) and comparable to the values found in 2004 (i.e., 93–96 percent). In the natural recovery areas, values of mean amphipod survival in 2007 (i.e., 80–96 percent) generally were considerably higher than the values found in 2004 (i.e., 32–76 percent).
- For individual stations within the strata, amphipod survival exceeded the screening value of 75 percent at all 15 stations sampled in the TLP areas, which was consistent with the 2004 results. In the natural recovery areas, amphipod survival exceeded the minimum acceptable value at 14 of the 17 stations sampled in 2007, compared with only 7 of the 17 stations sampled in 2004.

Remedial efforts have successfully enhanced recolonization of surface sediment to support healthy marine benthic macroinvertebrate communities with multiple taxonomic groups throughout most of the AOC. As discussed above, the RAO for benthic communities was achieved in 2004 for Stratum 2c. Of the six strata sampled in 2007, community metrics were not significantly lower ($P>0.05$) than reference values in the three TLP areas and two natural recovery areas indicating that the RAO for benthic macroinvertebrate communities has been achieved in most parts of the AOC. Benthic metrics at the remaining natural recovery area (i.e., Stratum 2b) were significantly lower ($P\leq 0.05$) than reference values for the following metrics: total abundance, total richness, polychaete richness, mollusc abundance, mollusc richness, and SDI. Stratum 2b is discussed in greater detail below.

In addition to the results described above for community metrics, a number of additional qualitative and quantitative benthic analyses were conducted on the 2007 data, including evaluations of the successional stages of key benthic species, temporal patterns in community characteristics, multivariate analysis of benthic communities, and taxa richness at individual stations. The results of those analyses are summarized below and show that, in general, diverse

communities comprising multiple taxa now inhabit the three TLP areas and two of the three natural recovery areas (i.e., Strata 3b and 4). The results of the additional benthic analyses can be summarized as follows:

- Approximately 6,800 benthic macroinvertebrates from 130 taxa were sampled as part of the 2007 sampling event, compared to the approximately 4,500 individuals from 117 taxa that were sampled in 2004. The 2004 results for Stratum 2c were not included in these comparisons, because that stratum was not evaluated in 2007. These values represent increases of approximately 33 and 10 percent in the total numbers of individuals and taxa over the 3-year period between monitoring events.
- The number of polychaete taxa and the relative abundance of polychaetes declined in 2007 compared to 2004, whereas the number of mollusc taxa and the relative abundance of molluscs increased between the two sampling periods. This pattern continues the trend of an increasing representation of molluscs in the benthic communities that was first identified in 2004.
- The benthic communities in the TLP areas in 2007 continued to be characterized primarily by species commonly found in areas where organic enrichment is declining, as they were in 2004. These species include the polychaete *Prionospio steenstrupi* and the bivalves *Axinopsida serricata* and *Parvilucina tenuisculpta*. Although benthic communities in the three natural recovery areas were characterized primarily by species commonly found in organically enriched areas, the relative abundance of the polychaete *Capitella capitata* declined substantially, as the abundances of the polychaetes *Nephtys cornuta* and *Dorvillea annulata* increased. The decline in the abundances of *C. capitata* is notable, as this species complex is a classic indicator of organic enrichment throughout the world. Coupled with the decline in nematodes (i.e., another classic indicator of organic enrichment) that occurred between 1992 and 2004, the decline in *C. capitata* indicates that conditions in the natural recovery areas have been continually improving over time.
- If *C. capitata* and nematodes are removed from the benthic communities sampled in 1992, 2004, and 2007, mean total abundance in 2004 (95 individuals per station) is nearly identical to the value found in 1992 (100 individuals per station), and the value found in 2007 (250 individuals per station) is two and one-half times the 1992 value. These results indicate that total abundances of benthic communities (exclusive of species characteristic of high levels of organic enrichment) increased substantially between the 2004 and 2007 monitoring events.
- With respect to the number of benthic taxa that accounted for more than 5 percent of total abundance at any station in the AOC, there were only seven such taxa in 1992. In 2004, the number of these taxa increased relatively modestly to 11 taxa, but by 2007, the number increased substantially to 28 taxa. These results indicate that many more species were becoming numerically important at various stations throughout the AOC in 2007, which is an indication that conditions have improved in the AOC since 2004.

- Results of multivariate analyses of the benthic macroinvertebrate data collected in Ward Cove in 2007 showed that three distinct clusters or groups of stations were apparent, with the natural recovery areas clustering with the reference areas and the TLP areas clustering only with themselves. These results indicate that TLP in the cove has resulted in benthic communities that are different from the communities found in the natural recovery and reference areas. Given the other characteristics of these communities described in this report, it can be concluded that TLP in the cove has resulted in modifications of the communities such that they are now enhanced beyond the reference conditions. In addition, although the natural recovery areas have not shown the same degree of enhancement, they are now relatively similar to the reference conditions.

Stratum 2b

Although six benthic community metrics for Stratum 2b were found to be significantly lower ($P \leq 0.05$) than reference values, mean amphipod survival in this stratum in 2007 exceeded the minimum acceptable value of 75 percent specified in the LRMP, indicating that this stratum has fully recovered with respect to the RAO based on sediment toxicity. Additional lines of evidence based on sediment toxicity, sediment chemistry, and benthic community species composition also indicate that overall recovery of the stratum is occurring, including benthic community recovery. These lines of evidence are described in greater detail in the main body of this report, including the conclusions section.

The multiple lines of evidence for Stratum 2b indicate that this stratum has made substantial advances in overall recovery. For example, sediment toxicity conditions in Stratum 2b have fully recovered with respect to the RAO for sediment toxicity, and mean concentrations of both CoCs (i.e., ammonia and 4-methylphenol) and total organic carbon (TOC) declined by 20 to 50 percent between 2004 and 2007. The patterns observed for individual benthic macroinvertebrate taxa support the conclusion that benthic community recovery is progressing. That is, the polychaete *N. cornuta* (a Successional Stage III species) has become a dominant member of the benthic community in Stratum 2b (accounting for 41 percent of individuals in 2007 compared to less than 5 percent in 2004), whereas the relative abundance of the polychaete *C. capitata* (a Successional Stage I species) has declined substantially in that stratum, such that this species accounted for only 6 percent of individuals in 2007, compared to 93 percent of individuals in 2004.

The weight of evidence described above for Stratum 2b indicates that the RAO for sediment toxicity has been achieved, and that consistent and acceptable progress has been made towards achieving the RAO for healthy benthic communities comprising multiple taxa. Because the sediments in Stratum 2b are no longer toxic, benthic community recovery will continue in the future. In addition, the CoC and TOC concentrations in Stratum 2b will likely continue to decline, because the major source of organic loadings to Ward Cove has been removed, further indicating that benthic community recovery will continue in the future. Therefore, based on

the benthic succession patterns described in the general literature as well as the degree of benthic community recovery that has already occurred in other parts of the Ward Cove AOC, there is a weight of evidence that benthic community recovery will continue to proceed in Stratum 2b.

From the standpoint of the overall Ward Cove AOC, Stratum 2b represents a relatively small area (i.e., approximately 12 percent of the AOC). Therefore, it is unlikely that the slower recovery observed in that stratum relative to the remainder of the AOC will have a substantial impact on organisms at higher trophic levels that prey on benthic macroinvertebrates, such as crabs and a number of demersal fish species. As noted in the ROD, a benefit of achieving the RAOs in the Ward Cove AOC is that a healthy benthic macroinvertebrate community will provide a diverse food source for organisms at higher trophic levels.

SUMMARY AND RECOMMENDATIONS

The RAOs have been achieved in Ward Cove. The results of the 2004 and 2007 monitoring events demonstrate that environmental conditions throughout the Ward Cove AOC have improved substantially since the RI/FS was conducted in 1996–1999. In addition, most conditions showed continual improvement between 2004 and 2007. The TLP has been successful in eliminating sediment toxicity and stimulating colonization of benthic macroinvertebrate species such that diverse communities comprising multiple taxa now inhabit most parts of the TLP areas, and exhibit enhanced characteristics beyond those of the reference areas. In addition, recovery is proceeding in the natural recovery areas, such that all four areas surpassed sediment toxicity screening levels and three of the four areas have achieved healthy benthic communities with multiple taxonomic groups. The weight of evidence for the remaining natural recovery area (i.e., Stratum 2b) indicates that, in addition to surpassing sediment toxicity screening levels, substantial and acceptable progress has been made towards achieving a healthy benthic community. There are numerous reasons to predict that diversification of benthic communities in Stratum 2b will continue to proceed, because sediment toxicity in that area has achieved the RAO, concentrations of TOC and the two CoCs declined by 20 to 50 percent between 2004 and 2007, and the major source of CoCs to the AOC has been removed.

Based on the results of both the 2004 and 2007 monitoring events, it is concluded that TLP and natural recovery have been successful remediation tools for the Ward Cove AOC. Sediment toxicity has been reduced and benthic recolonization has been enhanced such that the overall AOC now supports healthy benthic communities with multiple taxonomic groups. The RAOs have been achieved and monitoring is no longer necessary.

Attachment 18

Letter from Karen Keeley (EPA) to Phil Benning (KPC), dated May 7, 2009, regarding: EPA
Approval of 2007 Monitoring Report



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF
ENVIRONMENTAL CLEANUP

May 7, 2009

Phil Benning
Ketchikan Pulp Company
P.O. Box 6600
Ketchikan, AK 99901

Barry Hogarty
TECS-AK
P.O. Box 6193
Ketchikan, AK 99901

Re: EPA Approval of *2007 Monitoring Report for Sediment Remediation in Ward Cove, Alaska (April 2009)*, prepared for Ketchikan Pulp Company by Integral Consulting Marine Operable Unit, Ketchikan Pulp Company (KPC) Site
Consent Decree No. A00-225 CV (JKS)

Dear Mr. Benning and Ms. Hogarty:

With this letter, the U.S. Environmental Protection Agency (EPA) approves the final *2007 Monitoring Report for Sediment Remediation in Ward Cove, Alaska (Integral Consulting 2009)*, submitted to EPA for the Marine Operable Unit at the KPC Site, pursuant to the Long-term Monitoring and Reporting Plan for Sediment Remediation in Ward Cove (LMRP; Exponent 2001). With acceptance of this report, EPA also concurs that the Remedial Action Objectives (RAOs) for the sediment remedy have been achieved and monitoring pursuant to the LMRP is no longer necessary.

As you know, sediment remedial action was performed within the 80-acre Area of Concern (AOC) in Ward Cove between October 2000 and February 2001. The sediment remedy addressed risks to benthic macroinvertebrates from three chemicals of concern (i.e., ammonia, 4-methylphenol, and sulfide). As documented in the Record of Decision (ROD; EPA 2000), EPA had determined that the contaminated sediments were not toxic to human health or to birds and mammals living in the Cove. The sediment remedial action relied largely on monitored natural recovery and enhanced natural recovery. Enhanced natural recovery using thin layer placement (TLP) with 6-12 inches of clean sand was successfully implemented at approximately 27 acres within Ward Cove. Monitored natural recovery was the remedial alternative for the remainder of the AOC. The first long-term monitoring effort occurred in Ward Cove in 2004, and the second monitoring effort occurred in 2007.

EPA identified RAOs for the sediment cleanup in the Record of Decision. Specifically, the response action was intended to achieve the following RAOs:

- Reduce toxicity of surface sediments
- Enhance recolonization of surface sediments to support healthy marine benthic macroinvertebrate communities with multiple taxonomic groups.

As stated in the ROD, monitoring data were evaluated using a weight-of-evidence approach to determine whether consistent and acceptable progress was made toward achieving the RAOs. The weight-of-evidence approach is recommended by EPA for sediment quality assessments as part of EPA's national sediment assessment programs, and is consistent with the most current methods of sediment assessment recommended by national experts.

The multiple lines of evidence used to evaluate sediment quality in the Ward Cove AOC indicate that the RAOs have been achieved. The lines of evidence include quantitative and qualitative evaluations of temporal and spatial trends in toxicity responses (amphipod bioassays) and benthic macroinvertebrate community characteristics (including statistical analyses comparing benthic metrics between remediated and reference areas), as well as supporting measurements of chemicals of concern and conventional variables (sediment chemistry).

In making this decision, EPA has considered the following information: site-specific studies, including the 2004 and 2007 monitoring results from Ward Cove; site-specific decision documents, including the ROD and the LMRP; EPA guidance on long-term monitoring programs, including the Contaminated Sediment Remediation Guidance for Hazardous Waste Sites; and technical support provided by EPA oversight contractors.

In consideration of other similar sites in Alaska, EPA evaluated the long-term monitoring approach and site monitoring data for the Alaska Pulp Corporation (APC) pulp mill site in Sitka, for which the Alaska Department of Environmental Conservation issued a ROD in 1999 (see Technical Memorandum, December 19, 2008). Based on that review, EPA's monitoring plan and decision-making approach is not inconsistent with the State's approach at the APC pulp mill site, and the environmental data set for Ward Cove is more comprehensive than that for the APC site.

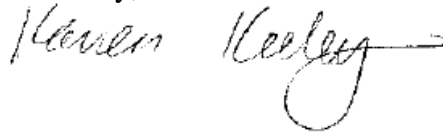
Finally, in consideration of potential consistency issues with other EPA Superfund sediment decisions, I contacted Steve Ells, EPA OSRTI Sediments Team Leader, and performed a search on EPA's ROD database, to identify potential sediment sites that included both a RAO for benthic infauna recovery and a long-term monitoring plan that required collection and statistical analysis of benthic infaunal communities to assess the long-term effectiveness of the remedial action in achieving the RAOs. Based on this work, only two RODs were identified that meet both these criteria – the KPC Marine OU ROD and Region 10's Commencement Bay/Nearshore Tideflats ROD, specifically for St. Paul Waterway. The decision-making approach for these RODs was similar.

As you know, five-year reviews will continue to be performed at the site. Section 121(c) of the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. § 9621, mandates that, no less often than every five years, EPA must review remedial actions where hazardous substances, pollutants or contaminants remain in place to assure that human health and the environment are being protected by the remedial action being implemented. Pursuant to Paragraph 31 of Section VII (Remedy Review) of the Consent Decree, EPA may request that KPC/L-P conduct any studies and investigations necessary in order to permit EPA to conduct reviews of whether the remedial action and the institutional controls plan are protective of human health and the environment.

EPA will post the 2007 monitoring report on the KPC web site, which is available at this link: <http://yosemite.epa.gov/r10/cleanup.nsf/webpage/Alaska+Cleanup+Sites>. A copy of the report (hard copy and CD) will also be placed in the repository at the Ketchikan Library.

We appreciate your efforts in producing a high quality report. If you have any questions, please contact me at or keeley.karen@epa.gov or 206-553-2141.

Sincerely,



Karen Keeley
EPA Project Manager

cc: Ed Carlson, Louisiana Pacific Corporation
Sheila Eckman, Unit Manager, EPA Office of Environmental Cleanup
Bill Janes, Alaska Department of Environmental Conservation
Lucinda Jacobs, Integral Consulting, Inc.

Attachment 19

Environmental Easement, recorded August 6, 2001, between Ketchikan Pulp Company and State of Alaska, Department of Natural Resources

BOOK 0329 PAGE 680

ENVIRONMENTAL EASEMENT

This Easement (hereinafter "Instrument") is made by and between Ketchikan Pulp Company, a Washington corporation (whose address is P.O. Box 6600, Ketchikan, Alaska 99901), as grantor (hereinafter, with its successors and assigns, "Grantor"), and the State of Alaska (whose address is State of Alaska, Department of Natural Resources, Division of Mining, Land and Water, Realty Services Section, 550 W. 7th Avenue, Suite 1050A, Anchorage, Alaska 99501-3579), as grantee (hereinafter, with its assigns, "Grantee"), for good and valuable consideration.

WHEREAS, Grantor is the owner of certain real property subject to this Instrument (hereinafter the "Property") which is more particularly described below:

Lot 2, Tract 3004 of the Dawson Point Subdivision, being a subdivision of U.S. Survey 1993, Lot 2B, Tract B, U.S. Survey 1923 and an Unnamed portion of U.S. Survey 1923, according to that plat of survey recorded as Plat #2000-73 in the Ketchikan Recording District, First Judicial District, State of Alaska.

WHEREAS, the Property received for disposal materials constituting a hazardous substance under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§9601 *et seq.* ("CERCLA"), and 18 AAC 75;

WHEREAS, the Property was subject to a determination under 18 AAC 75.350 that groundwater is not a current or potential future drinking water source;

WHEREAS, in lieu of a more comprehensive cleanup, the Alaska Department of Environmental Conservation has determined, and Grantor has agreed that, the recording of this Instrument is necessary as an institutional control as part of the consent decree dated November 20, 2000, filed in *United States v. Gateway Forest Products, Inc., et al*, No. A00-225 CV (D. Alaska) (the "Consent Decree");

WHEREAS, by resolution of May 23, 2001, documentation of which is provided to the State of Alaska herewith, the Board of Directors of Ketchikan Pulp Company has authorized the execution of this Instrument; and

WHEREAS, the requirements, rights, covenants, conditions, prohibitions and restrictions of this Instrument (hereinafter "Provisions") are intended to protect human health, safety, and welfare and the environment and maintain and enhance water quality.

NOW, THEREFORE, pursuant to the laws of Alaska including AS 34.17.010-AS 34.17.060, Grantor does hereby grant and convey to Grantee forever, with warranties

BOOK 0329 PAGE 681

of title, subject however to easements, rights, reservations, conditions, restrictions, and limitations of the United States, and third parties, if any, of record, a nonexclusive Easement over the Property of the nature and character and to the extent set forth below.

1. Restrictions:

Unless otherwise specifically authorized in writing by the Alaska Department of Environmental Conservation or its successor in administrative function or assigns (hereinafter, "ADEC"), the Property is subject to the following restrictions:

- a. Uses of the Property are limited to commercial or industrial use.
- b. The Property shall not, at any time, be used, in whole or in part, for human habitation, schooling of children, hospital care, child care or any purpose necessitating around-the-clock residence by humans.
- c. Drilling of drinking water wells is prohibited.
- d. Controls specified in the "Management Plan for Arsenic and Rock and Soil," prepared by Exponent for Grantor, dated July 1998, to limit concentrations of arsenic from crushed rock shall be complied with.
- e. No activities shall be allowed on the Property that involve use of ground water, potential exposure of Waste Materials within the Property (other than those activities constituting, or associated with, the already-in-place leachate treatment system), or potential interference with the integrity of the landfill cap. Waste Materials shall mean (i) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14) or AS 46.03.825(5); (ii) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); and (iii) any "solid waste" under Section 1004(27) of the Resource Conservation & Recovery Act ("RCRA"), 42 U.S.C. § 6903(27) or the State of Alaska Solid Waste Management Regulations, 18 AAC 60.

2. Required Activities:

Grantor shall comply with the terms and conditions of any ADEC permit regulating activities on the property.

3. Right of Entry:

During reasonable hours, after reasonable notice and subject to reasonable security requirements, ADEC and its Authorized Representatives shall have the right to enter in, on, upon, over and across any portion of the Property to determine whether the Provisions herein have been or are being complied with. This right of entry shall include a right of access for, but not be limited to, conducting the following activities:

BOOK 0329 PAGE 682

- a. Monitoring the activities Grantor is required to perform under the Consent Decree.
- b. Verifying any data or information submitted to the United States or the State of Alaska.
- c. Conducting investigations relating to contamination at or near the Property.
- d. Obtaining samples.
- e. Assessing the need for, planning, or implementing additional response actions at or near the Property.
- f. Implementing the activities Grantor is required to perform under the Consent Decree pursuant to the conditions set forth in Paragraph (101) of the Consent Decree.
- g. Inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Grantor or its agents consistent with Section XXIV (Access to Information) of the Consent Decree.
- h. Assessing Grantor's compliance with the Consent Decree.
- i. Determining whether the Property is being used in a manner that is prohibited or restricted, or that may need to be prohibited or restricted, by or pursuant to the Consent Decree.

Violation of, or reasonable suspicion of the violation of, any of the Provisions herein shall give ADEC and its Authorized Representatives the right, privilege, and license to enter in, on, upon, over, and across any portion of the Property and to investigate, abate, mitigate or cure such violation, at the expense of Grantor, provided written notice of the violation is given to Grantor, describing what activity is necessary to investigate or correct the violation and Grantor fails to cure the violation within a time specified in such notice. Such activities include but are not limited to the right to store, move, and remove equipment and supplies; construct, operate, maintain, alter, repair and remove devices for the monitoring, containment and treatment of contamination in soil, air and water; investigate and collect samples; excavate and remove waste, pollutants, hazardous substances, contaminated soils, contaminated waste; deposit uncontaminated soil; and the performance of any other activity which may be reasonably necessary and incident to ADEC's investigation and response. Any such entry by ADEC or its Authorized Representatives shall not be deemed a trespass or any other wrongful entry or remaining on the Property, and Grantee shall not be subject to liability to Grantor for such entry or any action taken to investigate, abate, mitigate or cure a violation. ADEC and its Authorized Representatives shall be considered invitees on the property and the Grantor shall make every reasonable effort to inform ADEC and its Authorized Representatives of hazards or hazardous areas to prevent personal injury.

BOOK 0329 PAGE 683

4. Types of Wastes Disposed on Property:

The Property received various types of industrial wastes associated with an adjacent pulping facility, including woodwaste, flyash, recovery boiler ash, woodwaste boiler bottom ash, dredge material, and other miscellaneous solid wastes.

5. Additional Information Concerning the Property:

The ash landfill on the Property, formerly regulated under ADEC Solid Waste Permit No. 9113-BA005, and the woodwaste landfill on the Property, formerly regulated under ADEC Solid Waste Permit No. 9213-BA-001, were closed in 1997. Closure of the two landfills involved regrading the slopes to a maximum 3:1 grade, installing drainage improvements to manage run-on and run-off of stormwater, improving leachate collection and treatment, and covering the landfill with an engineered cap. The engineered cap consists of, from bottom to top, a geotextile cushion, a 60-mil LLDPE geomembrane, a geocomposite drainage net, a drainage rock layer, and a vegetated topsoil surface layer. A landfill gas venting system has also been installed.

Improvements to the leachate collection system include relining the leachate collection trench and replacing the piping that discharges leachate into the aeration basin. The aeration basin is lined with 60-mil LLDPE, and contains three surface aerators in the aeration side of the basin, which is separated from the quiescent basin by baffle curtain. The quiescent basin discharges into a passive treatment system which consists of a constructed wetlands. At the present, the effluent from the passive treatment system discharges to an outfall owned by Gateway Forest Products.

During closure of the two landfills in 1997, a new cell, designed to contain flyash, was constructed on top of the woodwaste landfill. This landfill is regulated under ADEC Solid Waste Permit No. 9713-BA001. The landfill is fully lined and contains a leachate collection system that discharges into the leachate treatment system for the other two landfills. The engineered liner consists of a geotextile cushion, and a 60-mil LLDPE geomembrane liner. This landfill is scheduled to be closed in 2001 after it is filled to capacity with dredged material from Ward Cove.

6. General Provisions:

a. This Instrument is for the benefit of Grantee and conveys the perpetual right to Grantee, acting through ADEC and contractors, employees and authorized representatives acting on ADEC's behalf (herein, "Authorized Representatives"), to enforce and implement the Provisions herein. Nothing herein shall be deemed to create in any third party the right to enforce this Instrument.

BOOK 0329 PAGE 684

b. No right of access or use by the general public to any portion of the Property is conveyed or authorized by this Instrument nor are any such existing rights affected by this Instrument.

c. All real estate, lots, parcels, or portions thereof located within or on the Property, and any lease, conveyance, or transfer covering or describing any part thereof or interest therein, shall be subject to the Provisions herein. By acceptance of such conveyance or transfer, each lessee, transferee or grantee and each of their heirs, successors, transferees or assigns agrees with Grantor and each other to be bound by the Provisions herein.

d. Grantor hereby reserves unto itself, its successors, and assigns, any and all rights and privileges in and to the use of the Property, including the right of access to the Property, which are not contrary to the restrictions, rights and easement granted herein.

e. The Provisions herein shall run with the land in perpetuity and shall be binding upon Grantor.

f. Nothing in this Instrument shall relieve Grantor from liability for injuries occurring on, or resulting from its activities on the Property, for which Grantor would otherwise ordinarily be liable. Grantor shall be liable for and shall indemnify and hold Grantee harmless from liability for injuries and damage which arise because of its status as Grantee. Grantor shall also indemnify Grantee for all costs, including attorneys' fees, which arise from its status as Grantee.

g. Grantor hereby covenants to and with Grantee that Grantor is lawfully seized of the surface estate, in fee simple, of the Property, has good and lawful right and power to sell and convey the same, that the same is free and clear of encumbrances, except as specified herein and as of record, and that Grantor will forever warrant and defend the easement conveyed to Grantee by this Instrument against the claims and demands of all persons.

h. To the maximum extent permitted by law, the Provisions herein shall not be subject to waiver or abandonment due to non-enforcement or violation of this Instrument or any of the Provisions herein on all or any portion of the Property. No waiver of the breach of any of the Provisions herein shall constitute a waiver of a subsequent breach of the same Provision or any other Provision. No right of action shall accrue for or on account of the failure of any person to exercise any right created by this Instrument nor for imposing any Provision which may be unenforceable.

i. This Instrument may be enforced by Grantors or Grantee in a court of law. The interpretation and performance of this Instrument shall be governed by the laws of Alaska.

BOOK 0329 PAGE 685

j. Upon violation of any of the Provisions herein, Grantee may seek any available legal or equitable remedy to enforce this Instrument and shall be entitled to recover damages for violations of the Provisions herein to the public or to the environment protected herein under applicable federal or state law.

k. Any notice, demand, request, consent, approval, or communication that a party desires or is required to give another shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, addressed as follows:

To Grantor:

Ketchikan Pulp Company
c/o Louisiana-Pacific Corporation
Attn: Legal Department
111 S.W. Fifth Avenue
Suite 4200
Portland, Oregon 97204

To Grantee:

Department of Natural Resources
Director, Division of Mining, Land and Water
Realty Services Section
550 W. 7th Avenue, Suite 1050A
Anchorage, Alaska 99501-3579

With a copy to:

Program Manager, Contaminated Sites Program
Alaska Department of Environmental Conservation
Division of Spill Prevention and Response
410 Willoughby Suite 303
Juneau, Alaska 99801-1795

l. The determination that any Provision herein, or its application to any person or circumstance, is invalid shall not affect any other Provision herein or its application and the other Provisions herein shall remain in full force and effect.

m. Any general rule of construction to the contrary notwithstanding, this Instrument shall be construed so as to effect the purpose for which it was granted to Grantee. Any ambiguities shall be resolved in a manner that best accomplishes the purpose of this Instrument.

n. Grantor shall notify ADEC at least ten (10) days before the effective date of any conveyance, grant, gift, or other transfer, in whole or in part, of Grantor's interest in the Property. Grantor shall include in any instrument conveying any interest in any portion of the Property, including but not limited to deeds, leases and mortgages, a notice which is in substantially the following form:

BOOK 0329 PAGE 686

NOTICE: The interest conveyed hereby is subject to an Easement dated _____, 2001, recorded in the public land records on _____, 2001, in book _____, page _____, of the Ketchikan Recording District, First Judicial District, State of Alaska, in favor of, and enforceable by, the State of Alaska.

o. Grantor shall notify ADEC within ten (10) days prior to Grantor's petitioning for or filing of any document initiating a rezoning of the Property under the Ketchikan Gateway Borough zoning code or any successor code.

7. Termination:

This Instrument shall be vacated and shall be of no further force and effect upon the recordation in the Ketchikan Recording District, First Judicial District, State of Alaska by ADEC of a Notice of Vacation of Easement. ADEC shall execute and record a Notice of Vacation of Easement at such time as it, in its sole discretion, determines that the prohibited and required activities and other provisions of this Instrument are no longer necessary for the protection of human health, safety, welfare and the environment. The Notice of Vacation of Easement shall be executed by ADEC and state that ADEC has determined that the prohibited and required activities and other provisions of the Easement are no longer necessary for the protection of human health, safety and welfare and the environment and further state that the Easement is hereby vacated. If Grantor requests a termination of this Instrument, any costs incurred by ADEC in reviewing a potential termination shall be paid by Grantor.

IN WITNESS WHEREOF Grantor and Grantee have set their hand on the dates written below. This Instrument is effective on the date of the last acknowledged signature.

[SIGNATURES CONTAINED ON THE FOLLOWING PAGE]

BOOK 0329 PAGE 687

KETCHIKAN PULP COMPANY

By *Chris Paulson*
Chris Paulson
Its: President and General Manager

GRANTOR'S ACKNOWLEDGMENT

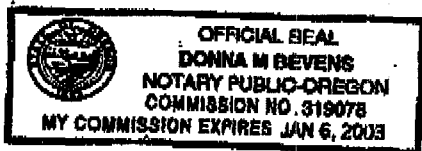
STATE OF OREGON)
) ss.
County of Multnomah)

THIS IS TO CERTIFY that on this 29th day of June, 2001, before me, the undersigned, a Notary Public for the State of Alaska, duly commissioned and sworn as such, personally appeared Chris Paulson, to me known and known to be the President and General Manager, and the person who executed the above and foregoing EASEMENT on behalf of the Ketchikan Pulp Company, and who acknowledged to me that he signed the same as the President and General Manager in the name of and for and on behalf of the Ketchikan Pulp Company, freely and voluntarily and by authority of its Board of Directors for the uses and purposes therein mentioned and on oath stated that he was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first above written.

Donna M. Bevens
(Signature)

DONNA M. BEVENS
(Typed or printed name)



Notary Public for the State of Oregon
residing at
Yakima, Washington
My commission expires: Jan 6, 2003

BOOK 0329 PAGE 688

ACCEPTANCE

Pursuant to AS 38.05.035(a)(12), the State of Alaska hereby accepts this EASEMENT conveying to the State of Alaska, its successors in administrative function and assigns, the interests in the Property described therein as an Institutional Control to be managed and enforced by ADEC pursuant to a Management Right Assignment between ADEC and the Alaska Department of Natural Resources, to protect human health, safety, and welfare, and the environment and to enhance or maintain water quality.

STATE OF ALASKA, DEPARTMENT OF NATURAL RESOURCES

By: Nancy J. White

for Director
Division of Mining, Land and Water

Location Index:

Section 4,
Township 74 S., Range 90 E.,
Copper River Meridian, Alaska

Section 33,
Township 75 S., Range 90 E.,
Copper River Meridian, Alaska

**NO CHARGE- STATE BUSINESS
AFTER RECORDING RETURN TO:**

Steven A. Daugherty
Assistant Attorney General
State of Alaska
Department of Law
Natural Resources Section
P.O. Box 110300
Juneau, Alaska 99811

003649
KETCHIKAN
RECORDING DISTRICT

NY/CC

2001 AUG -6 PM 2:14

REQUESTED BY
*AS/ Dept of Law
attorney general*

Attachment 20

Environmental Easement and Declaration of Restrictive Covenants, recorded October 28, 1999,
between Ketchikan Pulp Company and State of Alaska, Department of Natural Resources

ENVIRONMENTAL PROTECTION EASEMENT
AND
DECLARATION OF RESTRICTIVE COVENANTS

(1) This Environmental Protection Easement and Declaration of Restrictive Covenants ("Easement and Covenant") is made this 28 day of Oct., 1997, by and between Ketchikan Pulp Company ("Grantor"), having an address of P.O. Box 6600, Ketchikan, Alaska, 99901, and the State of Alaska Department of Natural Resources ("Grantee"), having an address of 3601 "C" Street, Suite 960, Anchorage, Alaska 99503, for use by the State of Alaska Department of Environmental Conservation (DEC), as represented by its State of Alaska Department of Law.

WITNESSETH:

(2) WHEREAS, Grantor is the owner of a parcel of land and tide and submerged lands located in the Ketchikan Gateway Borough, State of Alaska, more particularly described on **Exhibit A** attached hereto and made a part hereof ("the Property"); and

(3) WHEREAS, the U.S. Environmental Protection Agency (EPA) and the State of Alaska Department of Environmental Conservation (DEC) intend to select response actions for the Property in Records of Decision pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9601 *et seq.*, AS 46.03.822, and/or pursuant to a consent decree dated September 19, 1995, filed under U.S. v. Ketchikan Pulp Company, No. A92-587-CV (D. Alaska);

- (4) WHEREAS, the parties hereto agree (a) to grant a permanent right of access over the Property to the Grantee for purposes of implementing, facilitating and monitoring the response actions; and (b) to impose on the Property use restrictions as covenants that will run with the land for the purpose of protecting human health and the environment; and
- (5) WHEREAS, Grantor wishes to cooperate fully with the Grantee and EPA in the implementation of all response actions at the Property;

NOW, THEREFORE:

- (6) Grant: Grantor, for good and sufficient consideration received, does hereby covenant and declare that the Property shall be subject to the restrictions on use set forth below, and does give, grant and convey to the Grantee, and its assigns, (a) a right to enforce said use restrictions for the duration of this Easement and Covenant as established in Paragraph (9) below, and (b) an environmental protection easement of the nature and character, and for the purposes hereinafter set forth, with respect to the Property.
- (7) Purpose: It is the purpose of this instrument to convey to the Grantee real property rights, which will run with the land, to facilitate the remediation of past environmental contamination and to protect human health and the environment by reducing the risk of exposure to contaminants.
- (8) Restrictions on use: The following covenants, conditions, and restrictions apply to the use of the Property, run with the land, and are binding on the Grantor:
- (a) Uses of the Property are limited to commercial or industrial use.

- (b) The Property shall not, at any time, be used, in whole or in part, for human habitation, schooling of children, hospital care, child care or any purpose necessitating around-the-clock residence by humans.
 - (c) Drilling of drinking water wells is prohibited.
 - (d) Use of ground water for drinking water is prohibited.
 - (e) Controls specified in the "Management Plan for Arsenic and Rock and Soil," prepared by Exponent for KPC, dated July 1998, to limit concentrations of arsenic from crushed rock shall be complied with.
 - (f) Soils in the nearshore fill area or soils underneath paved areas or structures at the pulp mill site that are exposed in the future, e.g., as the result of excavation or demolition activities, shall be properly characterized and managed in accordance with applicable disposal requirements.
 - (g) Projects or activities that materially damage the cap applied to tide and submerged lands shall be required, at the direction of EPA, to redress such impacts, e.g., a dredging project that may erode or displace large portions of the cap will be required to repair or replace the cap.
- (9) Modification of restrictions: The restrictions for the Property set forth in Paragraphs (8)(a) through (f) above shall exist until 2099, or until concentrations of the contaminants set forth in **Exhibit B** attached hereto no longer exceed site-specific, risk-based, residential cleanup levels, whichever comes first. The restriction set forth in

Paragraph (8)(g) above for tide and submerged lands shall exist until 2020 or until EPA determines that healthy benthic communities exist in the capped tide and submerged lands, whichever comes earlier. The above restrictions may be terminated in whole or in part, in writing, by the Grantee. If requested by the Grantor, such writing will be executed by Grantee in recordable form.

(10) Environmental Protection Easement: Grantor hereby grants to the Grantee an irrevocable and continuing right of access under the terms and conditions of this instrument at all reasonable times to the Property for purposes of implementing the following activities pursuant to CERCLA, AS 46.03.822, or the above-referenced consent decree. Grantee, in its sole discretion, may relinquish this easement for right of access.

Grantee may designate EPA as its authorized representative for the following activities:

- (a) Implementing response actions for the Property selected by EPA and/or DEC in Records of Decision.
- (b) Verifying any data or information submitted to EPA or the Grantee by the Grantor.
- (c) Verifying that no action is being taken on the Property in violation of the terms of this instrument, CERCLA, AS 46.03.822, or the above-referenced consent decree.
- (d) Monitoring response actions on the Property including, without limitation, sampling of air, water, sediments, soils, and specifically, without limitation,

obtaining split or duplicate samples.

- (e) Conducting periodic reviews of any response action(s) selected by EPA and/or DEC, including but not limited to, reviews required by applicable statutes and/or regulations.
- (f) Assessing the need for and implementing additional or new response actions authorized under CERCLA, AS 46.03.822, or the above-referenced consent decree.

(11) Reserve rights of Grantor: Grantor hereby reserves unto itself, its successors, and assigns, all rights and privileges in and to the use of the Property which are not contrary to the restrictions, rights and easements granted herein.

(12) Other Authorities. Nothing in this document shall limit or otherwise affect the State of Alaska's or EPA's rights of entry and access or their authority to take response actions under CERCLA, the National Contingency Plan (NCP), or other federal or state law.

(13) No Public Access and Use: No right of access or use by the general public to any portion of the Property is conveyed or authorized by this instrument nor are any such existing rights affected by this instrument.

(14) Notice requirement: Grantor agrees to include in any instrument conveying any interest in any portion of the Property, including but not limited to deeds, leases and mortgages, a notice which is in substantially the following form:

NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL PROTECTION EASEMENT AND DECLARATION OF RESTRICTIVE COVENANTS, DATED _____, 19 __, RECORDED IN THE KETCHIKAN RECORDING DISTRICT, FIRST JUDICIAL DISTRICT, STATE OF ALASKA, ON _____, 19 __, IN BOOK __, PAGE __ THAT IS IN FAVOR OF, AND ENFORCEABLE BY, THE STATE OF ALASKA.

Within thirty (30) days of the date any such instrument of conveyance is executed, Grantor must provide Grantee with a certified true copy of said instrument and, if it has been recorded in the public land records, its recording reference.

(15) Administrative jurisdiction: The interests conveyed to the State of Alaska by this instrument are to its Department of Natural Resources, for administration by its Department of Environmental Conservation.

(16) Enforcement: The Grantee shall be entitled to enforce the terms of this instrument by resort to specific performance or legal process without regard to the existence or nonexistence of any dominant estate. Grantee or its authorized representative shall be entitled to enforce the rights of access set forth in Paragraph (10) above. All remedies available hereunder shall be in addition to any and all other remedies at law or in equity, including CERCLA and AS 46.03.822. Enforcement of the terms of this instrument shall be at the discretion of the Grantee; any forbearance, delay or omission to exercise its rights under this instrument in the event of a breach of any term of this instrument shall not be deemed to be a waiver by the Grantee of such term or of any subsequent breach of the same or any other term, or of any of the rights of the Grantee under this instrument.

(17) Damages: Grantee shall be entitled to recover damages for violations of the terms of this instrument.

(18) Waiver of certain defenses: Grantor hereby waives any defense of laches, estoppel, or prescription.

(19) Notices: Unless and until changed by Grantor or Grantee, any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, addressed as follows:

To Grantor:

Ketchikan Pulp Company
 Attn: President and General
 Manager
 c/o Louisiana-Pacific Corp.
 111 SW 5th Avenue
 Portland, Oregon 97204

To Grantee:

State of Alaska
 Department of Natural Resources
 Division of Mining, Land and Water
 Realty Services Section
 3601 "C" Street, Suite 960
 Anchorage, Alaska 99503

AND

State of Alaska
 Department of Environmental Conservation
 Spill Prevention & Response
 410 Willoughby Avenue, Suite 105
 Juneau, Alaska 99801-1795

(20) General provisions:

- (a) Controlling law: The interpretation and performance of this instrument shall be governed by the laws of the United States and the State of Alaska.
- (b) Liberal construction: Any general rule of construction to the contrary

notwithstanding, this instrument shall be liberally construed in favor of the Grant of this instrument to effect the purpose of this instrument and policy and purpose of CERCLA, the above-referenced consent decree, and applicable state law. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

- (c) Severability: If any provision of this instrument, or the application of it to any person or circumstance, is found to be invalid, the remainder of the provisions of this instrument, or the application of such provisions to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.
- (d) Entire Agreement: This instrument sets forth the entire agreement of the parties with respect to rights and restrictions created hereby, and supersedes all prior discussions, negotiations, understandings, or agreements relating thereto, all of which are merged herein.
- (e) No Forfeiture: Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.
- (f) Successors: The covenants, terms, conditions, and restrictions of this instrument shall be binding upon, and inure to the benefit of, the parties

hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude held by Grantee in gross without regard to the existence or absence of privity of estate with Grantor or its successors or assigns, and shall run with the Property for the duration of this Easement and Covenant as established in Paragraph (9) above. The term "Grantor", wherever used herein, and any pronouns used in place thereof, shall include the persons and/or entities named at the beginning of this document, identified as "Grantor" and their personal representatives, heirs, successors, and assigns. The term "Grantee", wherever used herein, and any pronouns used in place thereof, shall include the persons and/or entities named at the beginning of this document, identified as "Grantee" and their personal representatives, heirs, successors, and assigns. The rights of the Grantor under this instrument are freely assignable. The rights of the Grantee under this instrument are freely assignable to governmental bodies, subject to the notice provisions hereof. The term "EPA" shall include any successor agencies of EPA.

- (g) Termination of Rights and Obligations: Grantor's rights and obligations under this instrument terminate upon transfer of the party's interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

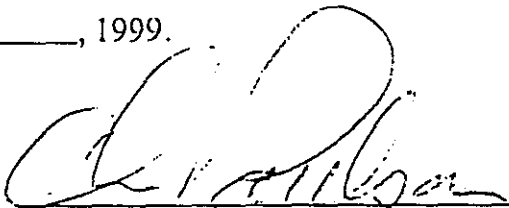
- (h) Captions: The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.
- (i) Counterparts: The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

TO HAVE AND TO HOLD unto the State of Alaska and its assigns

forever.

IN WITNESS WHEREOF, Grantor has caused this Agreement to be signed
in its name.

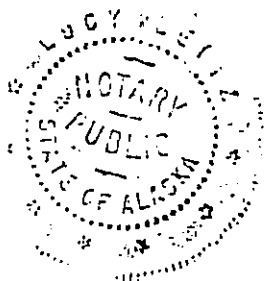
Executed this 28th Day of Oct., 1999.

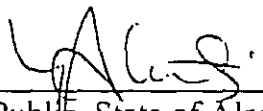
By: 
Chris Paulson
Its: President & General Manager
Ketchikan Pulp Company

STATE OF ALASKA)
 : ss
FIRST JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this 28th day of Oct., 1999, at ~~Juneau~~ ^{Ketchikan}, Alaska, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared Chris Paulson, known to me and known to me to be the person he represents himself to be, and the same identical person who executed the above and foregoing document regarding an Environmental Protection Easement and Declaration of Restrictive Covenants, and who acknowledged to me that he executed the same freely and voluntarily for the purposes and uses herein mentioned.

WITNESS my hand and official seal the day, month and year in this certificate first written above.




Notary Public, State of Alaska
My Commission Expires: 9-19-2002

This easement and declaration is accepted this 27 day of October, 19 99.

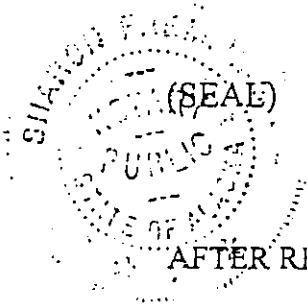
STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES

By: Paul S. [unclear]
SE Regional Manager

STATE OF ALASKA)
:SS
FIRST JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this 27 day of Oct, 1999, before me; the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared [unclear], known to me and to me known to be the [unclear], and he/she acknowledged to me that he/she signed as accepting the foregoing Environmental Protection Easement and Declaration of Restrictive Covenants, granting to the State of Alaska, those lands described therein, and he/she executed the foregoing instrument freely and voluntarily.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first written above.



[Signature]
Notary Public in and for the State of Alaska
My commission expires 5/24/03

AFTER RECORDING PLEASE RETURN ORIGINALS TO:

Carol Shobe, Chief
Realty Services Section
State of Alaska, Department of Natural Resources
Division of Mining, Land and Water
3601 "C" Street, Suite 960
Anchorage Alaska 99503

Location Index:
Sections 33 and 34, T. 74 S., R 90 E., CRM
Sections 3 and 4, T. 75 S., 90 E., CRM

STATE BUSINESS, NO CHARGE

M:\KPCSUPERFUM\FINAL-IC.wpd

EXHIBIT A
To The Environmental Protection Easement
And Declaration of Restrictive Covenants

Description of "the Property"

PARCEL NO. 1:

ALASKA TIDELANDS SURVEY NO. 1 (CR 74S 90E), according to the recorded plat thereof, (mistakenly recorded in the Juneau Recording District as Plat No. 292), Ketchikan Recording District, First Judicial District, State of Alaska;

Excepting therefrom: That portion thereof taken by the State of Alaska, Department of Transportation and Public Facilities by that certain Declaration of Taking (filed under Ketchikan Superior Court Case No. 1KE-87-444 CI) recorded May 28, 1987 in Book 149 at Page 625.

PARCEL NO. 2:

U.S. Survey 1056, accepted by the General Land Office, in Juneau, Alaska on January 24, 1919, and located within the Ketchikan Recording District, First Judicial District, State of Alaska;

Excepting therefrom: Those portions of U.S. Survey 1056 situated upland (North) of the north Right-of-way line of the North Tongass Highway;

Excepting therefrom: That certain portion thereof conveyed to Eugene Wacker and Lillian Wacker, his wife by Warranty Deed recorded January 27, 1950 in Volume "W" of Deeds at Page 614;

Also excepting therefrom: That certain portion conveyed to The United States of America by Right-of-Way Deed recorded April 28, 1949 in Volume "W" of Deeds at Page 397.

PARCEL NO. 13:

Lots 1-7, inclusive, Block 1, Lots 1-6, inclusive, Block 2, Lots 1-4, inclusive, Block 3 and Lots 1-16, inclusive Block

4, and the Unsubdivided Remainder, according to the subdivision plat of U.S. Survey 1754 recorded March 8, 1956 in Volume 1 of Plats at Packet 20, Ketchikan Recording District, First Judicial District, State of Alaska;

Excepting therefrom: Those portions of U.S. Survey 1754 situated upland (North) of the North Tongass Highway.

PARCEL NO. 15:

That portion of U.S. Survey 1862, according to the plat of survey approved by the Department of the Interior, General Land Office in Washington, D.C., on January 20, 1931 and located within the Ketchikan Recording District, First Judicial District, State of Alaska, more particularly described as follows: Beginning at U.S. Location Monument No. 2; thence North 32 degrees 27 minutes West a distance of 155.5 feet to Corner No. 1 of U.S. Survey 1862 and the true point of beginning of the portion herein described; thence North 0 degrees 25 minutes West a distance of 515 feet, more or less, to a point on the South Right of Way line of North Tongass Highway, which point is 50 feet from the center line of said highway and at right angles to Engineers Station 299+50; thence along that portion of a spiral curve to the left whose chord bears South 24 degrees 30 minutes East a distance of 114.65 feet; thence along the arc of a 527.46 foot radius curve the long chord of which bears South 36 degrees 35 minutes East a distance of 126.14 feet; thence along a spiral curve whose chord bears South 51 degrees 21 minutes East a distance of 210.05 feet; thence South 55 degrees 27 minutes East a distance of 316.97 feet; thence South 34 degrees 33 minutes West a distance of 50 feet; thence South 55 degrees 27 minutes East a distance of 137.00 feet; thence South 88 degrees 00 minutes West a distance of 535 feet more or less along Meander Line No. 11 of U.S. survey 1862; thence North 29 degrees 30 minutes West a distance of 155.50 feet along Meander Line No. 12 of U.S. Survey 1862 to Corner No. 1, which is the point of beginning;

ALSO: That portion of U.S. Survey 1862 lying with the North Tongass Highway Right of Way as created by a deed dated April 1, 1949 and recorded in Volume "W" of Deeds at Page 362, Ketchikan Recording District, First Judicial District,

State of Alaska, and as conveyed to Ketchikan Pulp Company by Quitclaim Deed recorded July 27, 1988 in Book 158 at Page 588.

Excepting therefrom: Those portions of U.S. Survey 1862 situated upland (north) of the north Right-of-way line of the North Tongass Highway.

**Exhibit B to Environmental Protection Easement
and Declaration of Restrictive Covenants**

Contaminants of Concern

Arsenic

Dioxin

Lead

Petroleum

Polycyclic aromatic hydrocarbons (benz(a)anthracene, benzo(b)fluoroanthene,
benzo(a)pyrene, and dibenz(a,h)anthracene)

Polychlorinated biphenyls

004531 NC
RECORDING DISTRICT

1999 OCT 28 PM 3:34
REQUESTED BY
ALASKA STATE OF