# STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES DIVISION OF MINING, LAND AND WATER



#### **Project Overview:**

The Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Southcentral Regional Office (SCRO) has received a request from Ouzinkie Native Corporation (ONC) to renew an existing lease for 13.44 acres of tideland for 25 years located at Barefoot Beach, Kazakof Bay, Afognak Island, Alaska. The location of the project area is further described as being within the NE1/4 of the NW1/4 of Section 4 of Township 24 South, Range 20 West, Seward Meridian, as depicted on Alaska Tidelands Survey (ATS) 1409. ONC uses this site as a log transfer facility.

#### **History:**

On February 9, 1990, ONC, operating as Koncor Forest Products, applied for a tidelands lease for the construction and operation of a log transfer site (ADL 225156). DNR issued a lease to ONC on March 12, 1993. The site has been in continuous use since lease issuance and is used as a backup facility for the Lookout Cove Log Transfer Site serialized as ADL 222924.

#### **Existing Infrastructure:**

Improvements include filled tidelands, log slide, and an in-water log transfer and storage area.

#### Lease Renewal Authority:

On May 1, 2008, the original lease had been adjudicated pursuant to AS 38.05.035(b)(1) Delegation of the Powers and Duties of the Director; AS 38.05.035(e) Written Findings; AS 38.05.075(c) Leasing Procedures; and AS 38.05.945 Public Notice. Upon lease expiration, subsection AS 38.05.070(e) allows the Director to renew a lease previously issued under section AS 38.05.070 if the lease is in good standing and the lease renewal is determined to be in the best interest of the State.

The authority to execute the Renewal Decision, the Entry Authorization (EA), and the lease has been delegated to the Regional Managers of DMLW.

#### Lease Renewal Qualifications:

In order to qualify for a renewal, a lessee must be in "good standing". Good standing refers to the fact that the lessee's accounts are current, that there are no outstanding compliance issues, and that

the lessee maintains a healthy business relationship with the lessor. A review of the case file has shown that the lessee is in good standing.

#### Lease Renewal Discussion:

On February 9, 1990, ONC, operating as Koncor Forest Products, applied for a tidelands lease for the construction and operation of a log transfer site. ONC selected the site location as it had minimal environmental impact and was subject to less wave and wind action. A survey of the leasehold, ATS 1409, was completed on December 9, 1992 and a 25-year lease was issued on March 12, 1993, expiring March 11, 2018.

The lessee, as owner of land that abuts state tidelands, is entitled by statute to lease the adjacent state-owned tidelands without competitive bidding if the Division determines that the conditions in AS 38.05.075(c)(1)-(3) are satisfied. These conditions have been satisfied per:

- 1. the lease is necessary to facilitate water transportation of resources from the uplands;
- 2. the proposed use of the tidelands is compatible with the site-specific plan and the proposed classification of the land; and
- 3. there are no prior existing rights to the lands within in the proposed lease area.

The useful life of the improvements justifies the issuance of a lease for an additional term of 25 years.

Renewing the lease under AS 38.05.070(e) will allow the lessee and the lessor to reenter into a lease contract with minimal delays or disruptions. This lease renewal is in the best interest of the State as the land under lease will continue to provide ONC a place to conduct log transfer activities and provide the State of Alaska a monetary return on the land. The renewal is consistent with the State's Constitution as the lease provides for the utilization, development, and conservation of the natural resources belonging to the State for the maximum benefit of its people.

### Administrative Record:

Case file ADL 225156 constitutes the administrative record for this case.

### Legal Description:

NE1/4 of the NW1/4 of Section 4, Township 24 South, Range 20 West, Seward Meridian, as depicted on ATS 1409.

### **<u>Title and Third Party Interest:</u>**

A DNR Title Report (RPT-10105) issued on July 19, 2017 from DMLW's Realty Services Section, attests that the State of Alaska holds title to the subject tidelands under the Equal Footing Doctrine and the Tide and Submerged Lands Act of 1953.

The State's interest in tide and submerged lands is perpetual and cannot be alienated or removed. There are no third party interests.

#### Planning and Classification:

The project area is subject to the Kodiak Area Plan. Although the site is not within a management unit the classification for this site is Resource Management Land (RML). Tidelands and submerged lands not within a tideland parcel or a Tideland Resource Management Zone are designated General Use and classified as RML. Land classified RML is either:

A. Land that might have a number of important resources, but for which a specific resource allocation decision is not possible because of a lack of adequate resource, economic, or other relevant information; or for which a decision is not necessary because the land is presently inaccessible and remote and development is not likely to occur within the next 10 years; or

B. Land that contains one or more resource values, none of which is of sufficiently high value to merit designation as a primary use.

#### Access:

ADL 225156 is accessed by boat and from private uplands.

#### Public Access:

There is no public access to the site.

#### Authorization and Term Length:

Pursuant to AS 38.05.070(e), leases may only be renewed once and for a duration no longer than the original lease term. As such, this renewal lease will be issued for an additional 25-year term.

### Annual Fee:

The annual fee will remain at **\$2,200.00** while ONC completes the required appraisal.

### <u>Appraisal:</u>

In accordance with AS 38.05.840, state-owned land may only be leased if it has been appraised within two years before lease issuance. SCRO has coordinated with DMLW's Appraisal Unit, and ONC will be required to provide an appraisal of the lease site before the proposed lease will be issued. SCRO will issue ONC an EA until the appraisal has been completed. Once the appraisal has been approved by DMLW, the annual lease fee will be set at the fair market value of the proposed lease site. Furthermore, in accordance with AS 38.05.105, the proposed EA and lease will be subject to reappraisal at five-year intervals after the issuance of the proposed authorization.

### Periodic Fee Adjustment:

In accordance with AS 38.05.105, the proposed lease will be subject to re-appraisal at five-year intervals after the issuance of the proposed authorization.

#### **Bonding:**

In accordance with the terms of the original lease, the existing performance bond of \$10,000.00 will be sufficient to satisfy 11 AAC 96.060 for this land lease. This bond will remain in place for the life of the proposed lease. The bond amount is based upon the level of development, amounts of hazardous material/substances on site, and the perceived liability to the State. This bond will be used to ensure the applicant's compliance with the terms and conditions of the lease issued for their project. This bond amount will be subject to periodic adjustments and may be adjusted upon approval of any amendments, assignments, reappraisals, changes in the Development Plan, changes in the activities conducted, or changes in the performance of operations conducted on the authorized premises, and as a result of any violations to one or more of the authorizations associated with this project.

#### **Reclamation Bond:**

SCRO is reserving the right to require a reclamation bond due to noncompliance with lease terms or stipulations during the term of the lease or near the end of the life of the project.

#### Insurance:

In accordance with the terms of the original lease and 11 AAC 96.065, ONC will be required to submit proof of liability insurance to SCRO, with the State of Alaska listed as a "NAMED" insured party. ONC will be responsible for maintaining such insurance throughout the term of the renewed lease.

### Public Trust Doctrine:

Pursuant to AS 38.05.126 all authorizations for this site will be subject to the principals of the Public Trust Doctrine; specifically, the right of the public to use navigable waterways and the land beneath them for: navigation, commerce, fishing, hunting, protection of areas for ecological studies, and other purposes. These rights must be protected to the maximum extent practicable while allowing for the development of this project. As such, SCRO is reserving the right to grant other authorizations to the subject area consistent with the Public Trust Doctrine.

Signature page follows:

#### **Recommendation:**

DMLW has completed a review of the information provided by the applicant, examined the relevant land management documents, and has found the proposed lease is consistent with all applicable statutes and regulations. SCRO considered three criteria to determine if this project provided the best interest to the State and the development of its natural resources. These include direct economic benefit to the State, indirect economic benefit to the State, and encouragement of the development of the State's resources. Collection of the one-time filing fee and any yearly rent and/or fees represents the direct economic benefit realized by the State. The proposed project also presents an indirect economic benefit to the State by facilitating use and public enjoyment of State land. As there are no competing projects which are incompatible with ADL 225156 and, in consideration of the benefits described above, DNR finds granting of the proposed site provides the best interest to the State. I recommend the issuance of a 25-year lease to ONC in support of logging operations on Afognak Island.

For John Cotenas

otenas, Natural Resource Specialist II

#### **Decision:**

The findings presented above have been reviewed and considered. The case file has been found to be complete and the requirements of all applicable statutes and regulations have been satisfied. ONC will continue to pay the annual rent of \$2,200.00 until an approved appraisal is received. ONC will maintain the current \$10,000.00 bond. ONC will be issued a EA until the required appraisal is completed. I find that it is in the best interests of the State to renew this lease as described under the authority of AS 38.05.070(e).

6/22/18

Clark Cox, Regional Manager Southcentral Region Land Office, Division of Mining, Land and Water

Attachment A: Development Plan

### Appeal:

A person affected by this decision may appeal it, in accordance with 11 AAC 02. Any appeal must be received within 20 calendar days after the date of issuance of this decision, as defined in 11 AAC 02.040(c) and (d), and may be mailed or delivered to the Commissioner, Department of Natural Resources, 550 W. 7<sup>th</sup> Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to (907) 269-8918; or sent by email to <u>dnr.appeals@alaska.gov</u>.

If no appeal is filed by the appeal deadline, this decision goes into effect as a final administrative order and decision of the Department on the 31st day after issuance. An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to Superior Court (11 AAC 02.020(a) and (b)). A copy of 11 AAC 02 may be obtained from any regional office of the Department of Natural Resources.

Keith Coulter Lands Manager Koncor Forest Products PO BOX 230023 Kodiak, AK 99523 afognakkfp@gmail.com

February 27, 2017

State of Alaska DNR Division of Mining, Land and Water Southcentral Regional Office Sharon Tumacder 550 W 7th Ave, Suite 900C Anchorage, AK 99501

# RE: Tideland Lease #ADL225156 Development Plan Narrative

Ms. Tumacder,

Please refer to the included Plat and original Development Plan for location map and site drawings. Below you will find the narrative portion of the Development plan.

Legal Description: T24S, R20W Section 04. Also, see attached development plan drawings and Plat.

**Terrain/ground cover:** Typical maritime transition zone between the land area and marine waterbody with gentle topography and rocky coastline. The terrain is mostly tree covered by Sitka Spruce. No additional changes to the groundcover have been made except what is described in the attached Development plan.

Access: To Afognak Island proper by boat or float plane. Once on the island there is a private road system used mainly by the timber harvesting operators. There is no public access to roads on Afognak Island.

Buildings and other structures: Please refer to the original development plan. There are no future construction phases planned.

Power Source: There is no electrical power source other than small on-site generators.

Waste types, waste sources, and disposal methods: The facility is only a "backup" LTF to the Lookout Cove LTF located farther to the north on Kazakoff Bay. Therefore, there is no waste

Attachment A Development Plan ADL 225156 Page 7 of 20 being produced currently. However, any waste that may be produced is disposed of in off-site incinerators with non-combustible remnants being placed in a permitted solid waste landfill on Afognak island (a separete, permitted location). Waste types would be material waste generated from an operation such as this, which may include material packaging, food packaging, etc... This area is already permitted under Alaska DEC General Permit No. AKRO60000, AKG701000 and SWPPP

Hazardous substances: There will be hydrocarbons of various types that would be used in the LTF machinery (diesel or gasoline fuel and lubricants). This area is already permitted under Alaska DEC MSGP No. AKR060000 and AKG701000 a SWPPP NOI was submitted in early 2017 and we have been issued Permit Number AKR06AE69 to be covered under the APDES General Permit for Storm Water Discharges.

Water Supply: There is no freshwater supply at the site.

Parking areas and storage areas: These places are outside of the footprint of the Tideland Lease Permit.

Number of people using the site: Five to ten contractor employees, plus the Koncor Lands Manager/Supervisor.

Maintenance and Operations: The facility is not currently in use, however if operations were ongoing one would expect to find:

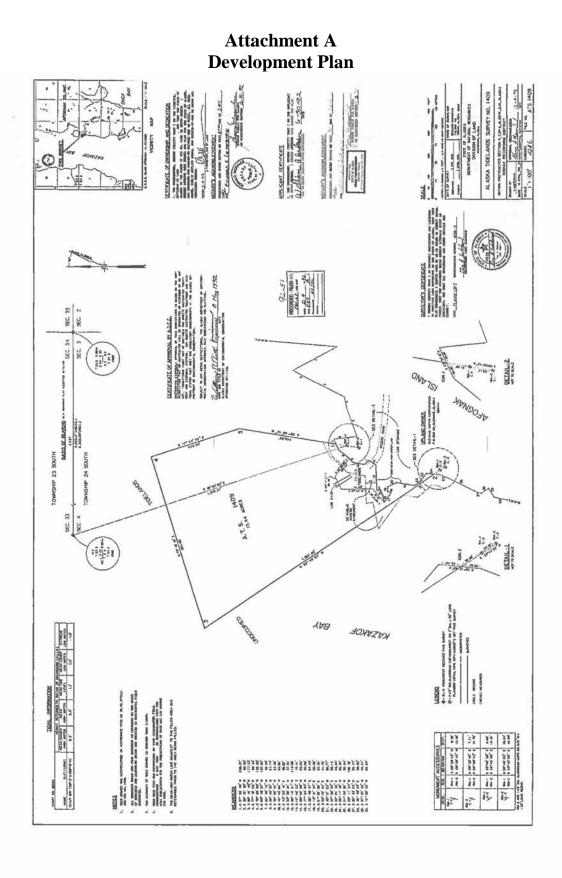
- Machinery used to off-load log trucks and sort/handle logs and bundles
- Support vehicles for transportation, maintenance and fueling of machinery
- Road graders and dump trucks for hauling and placement of rock
- Potentially occasional excavator and dozer operations
- Staffing of log scalers, operators, laborers and management

Please contact me with any questions,

Keith M. Coulter

Lands Manager Koncor Forest Products Office: 907-942-5906 Cell: 907-330-4552 Afognakkfp@gmail.com

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November 22, 1989

Rich Howard U.S. Army Corps of Engineers Regulatory Branch P.O. Box 898 Anchorage, AK 99506-2712 RLH

KFP

Koncor Forest Products Company

3501 Denail, Suite 202 Anchorage, Alaska 99503 (907) 562-3335 FAX (907) 562-0599

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REGULATORY FUNCTIONS BRANCH Alaska District, Corps of Engineers

RE: Requested Changes to Koncor Permit Applications SID AK890901-01A COE No. 2-880823

Dear Rich Howard:

Koncor Forest Products Company is making the requested changes to its above referenced permit applications in response to the concerns raised by the Alaska Department of Fish & Game, the U.S. Fish & Wildlife Service, and the U.S. National Marine Fisheries Service. On November 12, 1989, all involved government agencies met with Koncor personnel to discuss each agency's concerns, and then possible resolutions of the concerns through changes to the permits. An additional meeting between Koncor, the U.S. Fish & Wildlife Service and the U.S. National Marine Fisheries Service on November 17, 1989, further clarified concerns and additional steps to resolve them. This letter, the accompanying drawings and their changes are the result of the discussions and the agreements between Koncor and the involved agencies.

During the meetings, it was noticed that additional explanations of the entire log movement process would be helpful to the involved agencies. Also, Koncor could help by giving measurements of the affected areas. To provide this information, this letter will first point out the changes to the current permit applications, second provide measurements on the affected areas, and third provide a written explanation of how each portion of the facilities will be operated in the log movement process.

The changes to the current permit applications are provided below and in the attached drawings and diagrams. They include:

- 1) Combining the log slide and dock/bulkhead;
- Reconfiguring and reducing the raft storage area;
- 3) Reducing the slope of the log slide to 10%;

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Requested Changes to Koncor Permit Applications November 22, 1989 Page 2 3) Reducing the slope of the log slide to 10%; 4) Reducing the time logs will be in-water; 5) Moving the ship mooring system (to accommodate the changed rafting area); 6) Lowering the elevation of the landward side of the log slide (to achieve the 10% slope); 7) Changing the entire log storage area to be in a minimum of -30 foot water depths; 8) Modifying the bark collection system at the end of the log slide with a larger and more operationally efficient device ("Gunderboom"); and, 9) Placing log slide to take advantage of the USF&WS identified non-eelgrass area. The measurements of the changed facilities include: 1) The total footprint of the bulkhead/dock and log slide = 0.7 acres; 2) The total area of eelgrass directly impacted by the bulkhead/dock and log slide = 0.3 acres (Note this in included in #1 above); 3) The area impacted by the "Gunderboom" bark & debris catchment system = 0.18 acres. 4) The average size of a bag boom log raft = 0.35 acres (assuming a 200 thousand board foot raft and a 15% increase in area due to non-perfect alignment of log bundles); 5) Total area encompassed by log booms = 10.8 acres; 6) Total area in log raft storage area = 3.8 acres (note this is included in #5 above); 7) Area in log raft storage area with water depths over -40 feet = 2.0 acres (note this is included in #6 above); 8) Area in log raft storage area with water depths from -30 feet to -39.9 feet = 1.8 acres (note this is included in #6 above); 9) Approximate log volume of bag rafts that can be stored in log raft storage area = 1.5 million board feet; and,
10) Approximate amount of fill (clean shot rock) needed in bulkhead/dock fill = 16,000 cubic yards. The operation of the log transfer facility can be broken down into several steps. Under each step, an explanation of the procedure and associated impact will be provided. Upland Storage Area - The sort yard and storage area will be approximately 10 acres. It will be located as shown on the map and will be where most upland log movement, on the map and will be where most upland log movement, sorting, and storage will occur. The area will be sloped to settling ponds, which will be regularly cleaned out. 2) Preload Area - The size of the preload area will be approximately 2 acres. It will be located immediately inland of the bulkhead/dock and log slide. The area will be used for the storage of logs prior to ship arrival, making possible the reduced time for storage of logs in-

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water. When the ship arrives, log bundles from the preload area will be moved in-water to complete shiploading operations. The area will be banked away from the water to a ditch, which will run into settling ponds in the southern corner. The settling ponds will be regularly cleaned out. Petroleum sorbent booms, cloths and other cleaning material will be stored in a shed at the preload area for a quick response to any type of petroleum leakage or spill.

- and perform leakage or spill.
  3) Log Slide The slide will be a two-runner, steel tube facility used for the delivery of log bundles into the water. Roughly 600 thousand board feet of logs can be placed in water per day over the slide. The slide will be constructed at approximately 10% slope and tested for operational ability. If the log bundles cannot be moved or will not slide due to the relatively flat surface, the slope will be increased from 1% to 3%. The intent is to have a slide which delivers log bundles into the water gently without violent entry. The terminus of the slide will be at -10 foot MLLW, which should eliminate any possible grounding of the log bundles. Bark and debris dislodged along the slide will be regularly cleaned out with a front end loader.
- 4) "Gunderboom" This is a bark containment device for the trapping and cleanout of bark at the terminus of the log slide. The "Gunderboom" will be constructed of a woven fiberglass mat (typar) with floats at the edges and weights at the corners. This will create an underwater basket, located to trap all bark falling off the log bundles as the enter the water, plus most of any floating bark contained in the bag boom log rafts. At the end of each season, or as needed, the edges of the "Gunderboom" can be collected and pulled into shore for collection and cleanout of bark.
- 5) Bag Boom Log Rafts The log bundles will be put immediately into bag rafts as they enter the water. Log boomsticks will surround the log bundles, thereby limiting the dispersal of any bark and associated floating debris. By limiting the size of the bag rafts to contain approximately 200 thousand board feet, the area of nonoverlap of the bag rafts and "Gunderboom" is about 0.17 acres. Even this area will have minimal impact as the bag rafts will be towed out to deep water storage immediately upon completion, roughly every three hours.
- 6) Log Storage Area Defined on the map by the placement of log boom stifflegs, the Log Storage Area is located in deep water and will be used to store logs awaiting shipment. Generally, no individual log bundle or bag raft will be in the storage area for longer than 4 days prior to a ship's arrival. The area will allow for the storage of approximately 1.5 million board feet of logs in-water, most being in the area over -40 feet in water depth. If an average ship carries 3.5 million board

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feet, then an additional 2.0 million board feet of timber will need to be placed in the water from the Preload Area while the ship is in port. Given a longshore crew can load 800-900 thousand board feet per day, it will take approximately 4 days to load a ship. This gives just enough time to move the remaining logs across the log slide and to the ship.

- 7) Rafting Area Defined by the placement of all the log boom stifflegs, the Rafting Area includes the Log Storage Area and the remaining area under the protection of the log boom stifflegs. most of this area will only be impacted by bark as a bag raft is towed over it. This will also be the total area under lease from the State of Alaska and the U.S. Fish & Wildlife Service.
- Alaska and the U.S. Fish & Wildlife Service.
  8) Bulkhead/Dock This will be used for the movement of supplies to Koncor operations and the delivery of utility (non-sawable) logs to barges. A large barge (100' x 500') can take the entire annual production of utility logs. Thus, the Rafting Area must be and is aligned to accommodate the placement and tieup of a larger barge.

The explanations, measurements and drawings/diagrams should fully give a picture of how these facilities will minimize and avoid any negative impact. Additionally, mitigation measures have been discussed with the Fish & Wildlife Service for areas directly impacted (the bulkhead/dock area and log slide) and areas possibly later impacted by bark. Together, all the guestions, concerns and comments voiced by government agencies should have been addressed and resolved with the changes given hereunder.

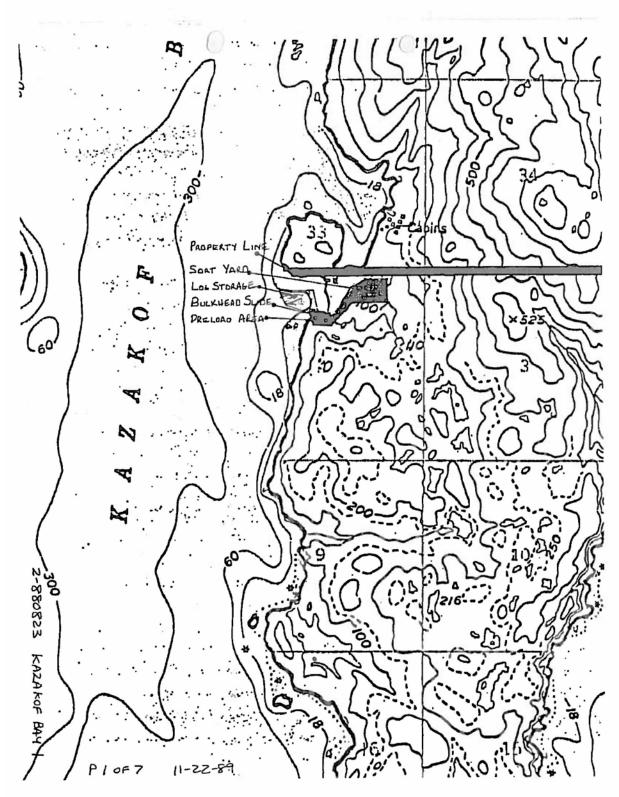
As discussed at the meetings, the enclosed information should start the 15-day review by the State agencies. Additionally, the Army Corps of Engineers will review the information and determine is these changes constitute a modification of the current permit application. If there are any questions on any of the enclosed materials, please give me a call as soon as possible.

Sincerely,

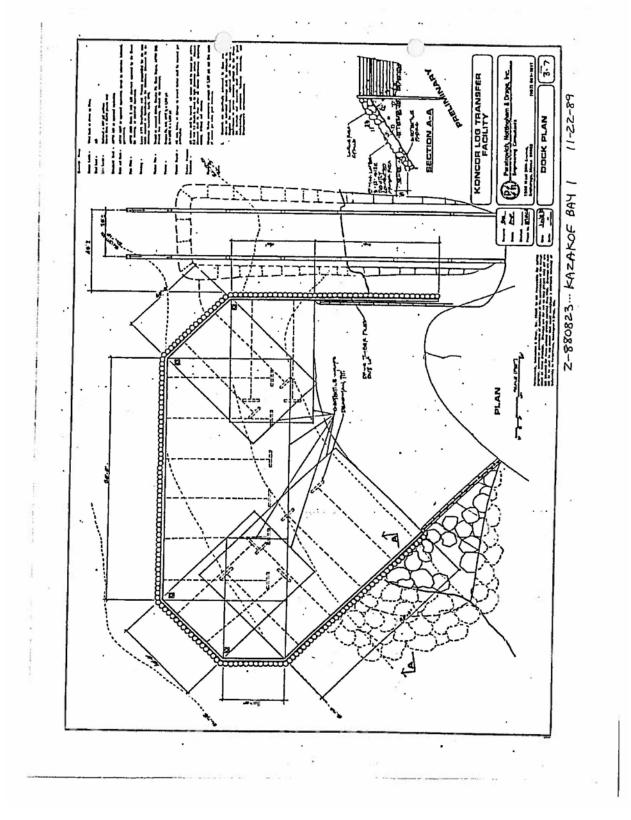
Allan Foutch Vice President Operations

cc: John Sturgeon, President Will Haag, Afognak Forest Manager Patty Bielawski, ADGC Wayne Dolezal, ADFG Henry Friedman, ADEC Leigh Carlson, ADNR Rich Howard, USACOE

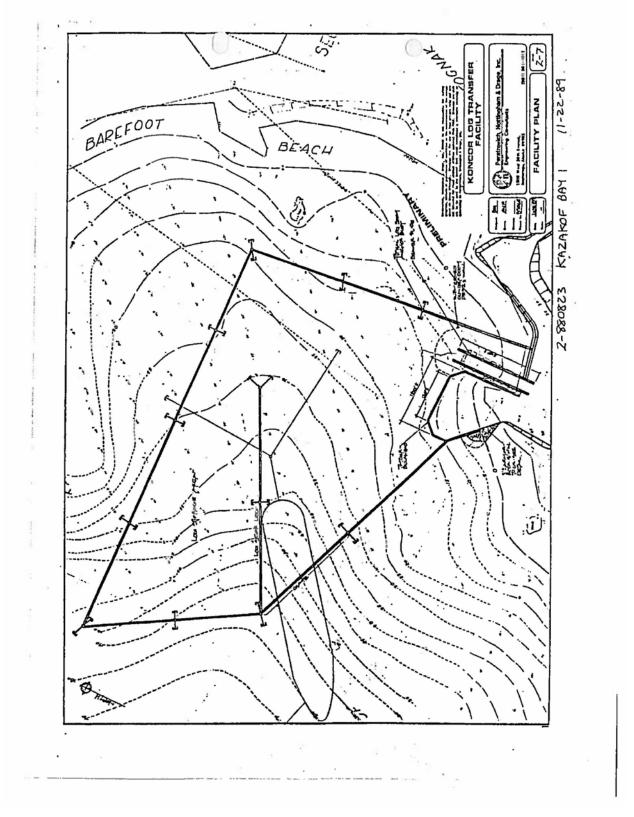
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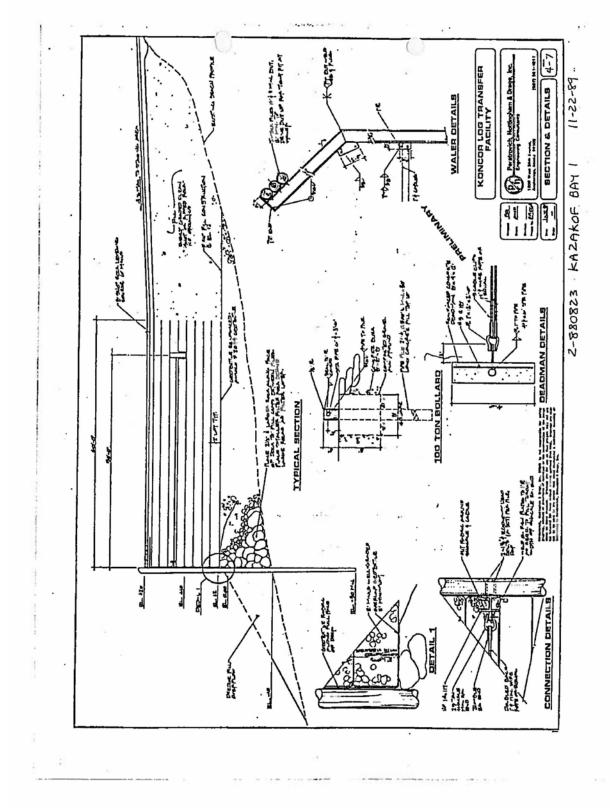
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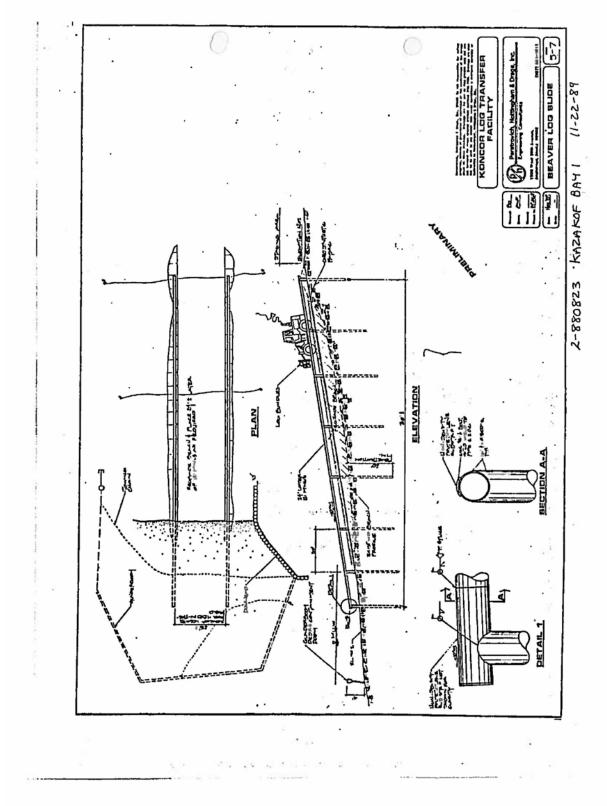
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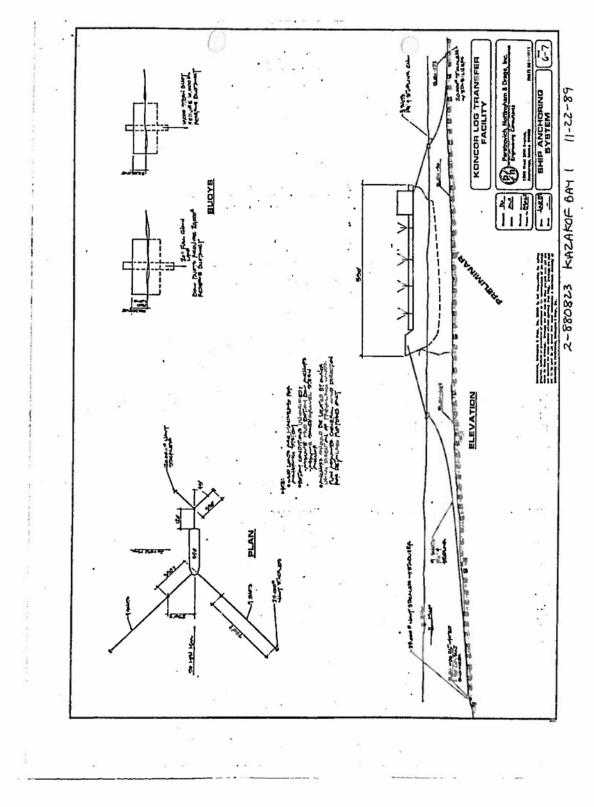


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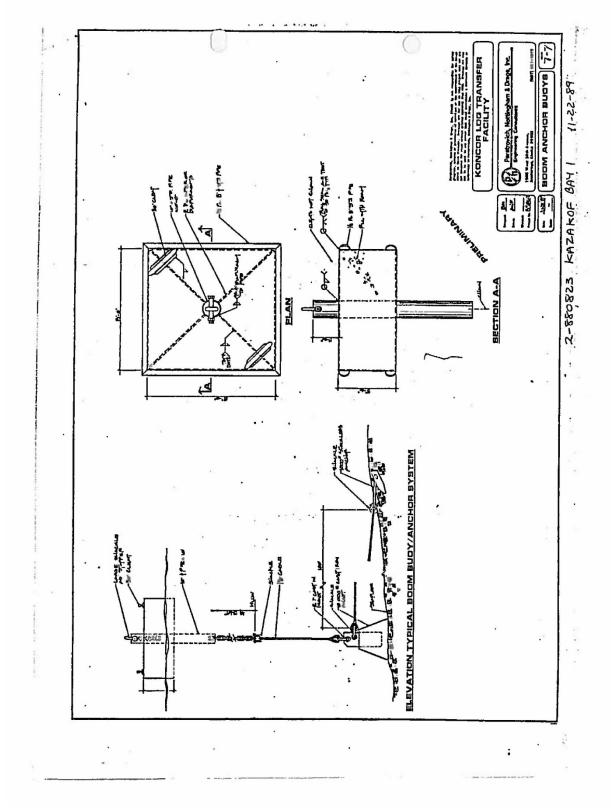


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Attachment A Development Plan



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