



THE STATE
of ALASKA
GOVERNOR SEAN PARNELL

Department of Environmental
Conservation

OFFICE OF THE COMMISSIONER

Post Office Box: 11800
410 Willoughby Avenue, Suite 303
Juneau, Alaska 99811-1800
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14.086

May 28, 2014

Mim McConnell
Mayor
City and Borough of Sitka
100 Lincoln St.
Sitka, AK 99835

Re: Memorandum of Understanding (MOU) between the State of Alaska and the City and Borough of Sitka - Management Plan for Sawmill Cove Property (Former APC Property)

Dear Mayor McConnell:

In 1999, Department of Environmental Conservation (DEC) Commissioner Michele Brown and Sitka Mayor Stan Filler signed a Memorandum of Understanding between the State of Alaska and the City and Borough of Sitka - Management Plan for Sawmill Cove Industrial Park (Former APC Property), outlining the City and Borough's responsibilities for ongoing management associated with contamination occurring prior to CBS ownership of the property. In concert with the final amended Record of Decision for the cleanup activities, DEC proposes to revise and streamline the MOU to account for the following:

1. As of 2005 the former developed mill site is no longer restricted to commercial/industrial use. At the direction of the City and Borough of Sitka and with DEC approval, the risk assessment was updated in 2005 to determine if the site was safe for unrestricted use. A 14-day public comment period was held on the revised risk assessment report. This land use change was memorialized in an amendment to the Record of Decision and 2 of 4 restrictive covenants were rescinded in 2005. Housing for seasonal seafood plant workers has since been constructed.
2. Petroleum contaminated soil cleanup was completed in 2000. This requirement in the 1999 MOU has therefore been fulfilled and is not included in the revised MOU.
3. Landfill post closure monitoring requirements and other remaining obligations associated with the Herring Cove Landfill and the former APC Industrial Waste Disposal Site have been overseen directly by DEC's Solid Waste Program (Juneau office) since the Record of Decision was issued in 1999. Solid Waste staff will continue to work with CBS to administer landfill management requirements. Landfill requirements are not included in the revised MOU.
4. Ecological recovery in Sawmill Cove is proceeding at a faster rate than predicted. Some of the management requirements have been modified as a result, and the long-term monitoring program has been terminated.
5. Industrial waste water generated by Silver Bay Seafoods is discharged through an outfall to deeper water in Silver Bay, well beyond the Area of Concern boundary. Silver Bay was moved out of the Division of Water's impaired waterbody category in the early 2000s.

Please sign the enclosed MOU and return a copy to:

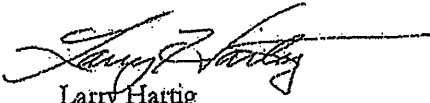
Department of Environmental Conservation
Contaminated Sites Program – Attention Evonne Reese
410 Willoughby Avenue, Suite 303
Juneau, AK 99811-1800

The City and Borough of Sitka will also need to file an amended *Notice of Restricted Area in Sawmill Cove* at the Sitka Recorder's Office, including an updated GIS figure depicting the No Disturbance Zone and "no anchoring" corridor, upon implementation of this revised MOU. The amended Notice (template enclosed) supersedes the Notice filed by Mayor Filler on May 14, 1999. Please furnish a copy to Evonne Reese at the above address once the notarized copy has been filed.

The redevelopment of the former Alaska Pulp Corporation mill site has been a true Alaskan economic success story. DEC looks forward to working closely with you on other projects designed to enhance the community and provide economic opportunities to Sitka's residents.

Please let me know if I can be of further assistance.

Sincerely,



Larry Hartig
Commissioner

Enclosures:

Revised MOU Between the State of Alaska and City and Borough of Sitka – Management Plan for Sawmill Cove Industrial Park
Revised Notice of Restricted Area in Sawmill Cove

cc: Mark Gorman, City Administrator, City and Borough of Sitka
Sandi Woods, DEC Solid Waste Program

REVISED Memorandum of Understanding
Between the State of Alaska and the City and Borough of Sitka
Management Plan for Sawmill Cove Industrial Park
(Former APC Mill Site)
May 28, 2014

This revised Memorandum of Understanding (MOU) "Management Plan" is made between the State of Alaska (State) and the City and Borough of Sitka (CBS) to set forth measures for implementing recorded institutional controls and other long-term responsibilities for management of the former Alaska Pulp Corporation property located at what is now known as the Sawmill Cove Industrial Park. This revised MOU supersedes the April 28, 1999 MOU signed by Commissioner Michele Brown and Sitka Mayor Stan Filler.

This Management Plan describes how CBS and the State will work together to implement the recorded institutional controls and site management activities for the uplands area and navigation and dredging.

Introduction

From approximately 1995-1999, the State required intensive studies of the environmental conditions of the property and the larger areas affected by the operation of the former APC pulp mill (the Upland and Bay Operable Unit study areas) in consultation with the Sitka Tribe of Alaska, other agencies, and the public. This revised Management Plan specifies the remaining work to be done under a 1999 prospective purchaser agreement between the State and CBS for the former APC pulp mill property. The PPA limits CBS liability for existing contamination associated with the property in exchange for this work.

Uplands – Land Use, Future Construction Activities, and Management of Contaminated Soils or Other Contaminated Media

Restrictive Covenants – Two of the four restrictive covenants recorded by APC in 1997 were rescinded in 2005 to allow for unrestricted land use at the former developed mill site (AK Tidelands Patent No. 20 and U.S. Survey No. 2797). Two covenants remain in effect. Restrictive Covenant Sitka Plat 81-40 comprises 12.522 acres at Herring Cove. Restrictive Covenant U.S. Patent No. 1213671 comprises 143.87 acres adjacent to the former developed mill site. The remaining two restrictive covenants are effective until July 11, 2097, or until dioxins and furans are shown not to be present in concentrations exceeding site-specific, risk-based residential cleanup levels. The restrictive covenants disallow human habitation, schooling of children, hospital care, child care or any purpose necessitating around-the-clock residency by humans. Of its own accord or if requested by CBS, DEC will review information showing that these restrictions may be modified or lifted.

Reporting – If contaminated soils or other media that require special handling are encountered during construction activities, CBS or its tenants or contractors working on the Sawmill Cove Industrial Park property will promptly notify DEC's Contaminated Sites Program, Juneau office, and the CBS Public Works Director. These obligations exist in addition to any other notifications required by law. The Public Works Director or designee, who may be a qualified contractor, shall serve as the project manager for managing the material or taking any remedial actions.

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Site Management – The Public Works Director or designee will require the testing and proper treatment or disposal in accordance with applicable law and DEC regulations and guidance on the management of contaminated soils or other contaminated media. The Public Works Director or designee will promptly report the actions to be taken to DEC as required by applicable law.

DEC Approvals – DEC will process any approvals necessary for addressing existing contamination as part of the implementation of the amended Record of Decision and its institutional controls under applicable regulations and not as enforcement actions.

Sawmill Cove – Future Construction Activities and Vessel Management

Definitions:

1. Area of Concern – The Area of Concern (AOC) is an area in west Sawmill Cove approximately 100 acres in size. The boundary of the AOC begins approximately 2000 lineal feet southwest of outfall 001, extends 500 feet offshore along a southeast line, and follows a rough arc through western Sawmill Cove back to the shoreline approximately 1200 lineal feet north of outfall 001.
2. No Disturbance Zone – A No Disturbance Zone (NDZ) has been established within the AOC. The purposes of the NDZ are to minimize re-suspension of pulp residue and to ensure that no activity occurs that may compromise the ability of the area to achieve the natural recovery ecological management goals within the stated time frame. The NDZ is an area of tidal and submerged lands and overlying seas within the Area of Concern where toxicity is greatest and pulp residue thickest. The area encompasses approximately 6 acres of tidal and submerged lands extending to the southwest immediately offshore of outfall 001. The area is bounded by a perimeter that begins at a shoreward point 50' from the south end of the former pulp dock; extends approximately 425' into Sawmill Cove along a southeast line to the intersection of the – 100 foot contour; turns southwest for approximately 375' to the intersection of the – 120 foot contour; and turns due west for approximately 375' to a point shoreward.
3. Navigational Corridor – The Navigational Corridor is an area of tidal and submerged lands and overlying seas in the AOC bounded by a perimeter that begins at a shoreward point fifty feet (50') from the south end of the former pulp dock; parallels the end of the dock out to the minus sixty foot (–60') contour interval; follows the minus sixty foot (–60') contour to the north end of the Area of Concern boundary, and swings shoreward along the AOC boundary line.

Navigational Dredging - Navigational dredging on the west side of Sawmill Cove in the AOC should be limited to the Navigational Corridor unless extenuating circumstances prevail. Navigational dredging within the AOC does not include blasting of the outcrop of native rocky material in front of the former pulp dock that follows the depth contours to the southeast.

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Dredging actions that occur outside of the Navigation Corridor should be limited in scope and ancillary to in-water construction.

Dock Use and Future Expansion – Existing docks can be used as-is without any further regulatory action, subject only to berthing and dock expansion alternatives identified in the *Decision Framework for Managing Navigation in Sawmill Cove* (Exhibit 7, 1999 MOU). These alternatives are consistent with the remedy (natural recovery) and may be implemented through the normal permit process. Other berthing options are not necessarily precluded, but if proposed, they would have to be evaluated in the future for consistency with the remedy.

In-Water Construction – In-water construction in the AOC is allowed with appropriate precautions and best management practices, incorporated through the permitting process, to minimize disturbance or re-suspension of sediments. In-water construction in the AOC may include pilings, dolphins, docks, bulkheads, moorage and navigation aids, and other structures.

Vessel Management – Vessels are permitted to drop anchor in the AOC, excluding the NDZ and a 100' corridor designed to protect the wastewater discharge pipe that extends beyond the AOC. New single point mooring systems and navigation aids may be established, as needed. The NDZ boundaries and the pipeline corridor are depicted on the CBS Geographic Information System, viewable on-line at <http://www.cityofsitka.com/government/departments/planning/index.html>, and on NOAA charts.

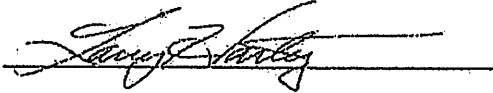
Approaching or departing vessels may traverse the NDZ as long as precautionary measures are taken to minimize disturbance of bottom sediments. To the extent that it is safe and practicable, the following standard operating procedures should be followed by personnel maneuvering approaching or departing vessels in the vicinity of the No Disturbance Zone:

- Approach the dock at as high an angle as possible.
- Minimize the use of the main propulsion system, thrusters, and tugs when over or near the NDZ or buffer zone.
- Use as low a “bell” (such as “dead slow” or the slowest revolutions per minute ordered) when berthing.

Dredging, expansion of moorage, and in-water construction are prohibited in the NDZ, except that CBS may repair, maintain, or remove existing facilities using best management practices to minimize disturbances with approval by DEC prior to the work.

The Sawmill Cove Industrial Park manager will provide each landowner and tenant with a signed copy of the revised Management Plan. The plan must be filed with the Sitka Recorder's Office for each affected parcel. DEC's Institutional Controls Unit, at DEC.ICUNIT@alaska.gov must be notified of each filing and furnished with a copy of the Notice of Restricted Area in Sawmill Cove.

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Larry Hartig, Commissioner
Department of Environmental Conservation

Date May 28, 2014



Mim McConnell, Mayor
City and Borough of Sitka

6/4/14
Date