

Introduced by: Mayor
Date: 04/06/21
Hearing: 04/20/21
Action: Enacted as Amended
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2021-14**

**AN ORDINANCE AUTHORIZING A NEGOTIATED LEASE WITH ALASKA
DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES FOR STAGING
AND MATERIAL EXTRACTION AND DISPOSAL ACTIVITIES IN SUPPORT OF
THE STERLING HIGHWAY MP 45-60 CONSTRUCTION PROJECT NEAR COOPER
LANDING**

WHEREAS, the Alaska Department of Transportation and Public Facilities (“DOT&PF”) is actively working on the Sterling Highway MP 45-60 construction project near Cooper Landing (the “project”); and

WHEREAS, the borough owns or manages certain lands along and adjacent to the parts of the project alignment; and

WHEREAS, DOT&PF has identified certain sites that would be useful for project staging and material extraction, as well as earthen material disposal activities to serve the project needs; and

WHEREAS, land management has worked with project officials to develop a Master Land Lease and Development Agreement involving borough lands and resources based on project needs; and

WHEREAS, the Kenai Peninsula Borough Planning Commission at its regularly scheduled meeting of April 12, 2021 recommended approval by unanimous consent;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That the assembly finds that leasing three sites of Kenai Peninsula Borough owned and managed land pursuant to KPB 17.10.100(I) as described in the accompanying Master Land Lease Development Agreement is in the best interest of the borough.

SECTION 2. That the provisions of KPB 17.10.080 -.090 and KPB 17.10.110 -.240 governing classification, disposition, and leasing of borough lands and related natural resources shall not apply to this lease to DOT&PF in cooperation with the Sterling Highway MP 45-60 project.

SECTION 3. Based on the foregoing, the mayor is hereby authorized pursuant to KPB 17.10.100(I) to lease three sites referred to as West #1, West #2 and East #2 Staging and Disposal Sites, located within Sections 26 & 27 T5N, R4W, and Section 30 T 5N, R3W, Seward Meridian Alaska, according to the terms and conditions and substantially in the form of the Master Land Lease Development Agreement accompanying this ordinance. The authorization is for lease solely to the State of Alaska Department of Transportation and Public Facilities (DOT&PF), and it may not assign any rights to negotiate or enter an agreement for lease to any other person or entity.

SECTION 4. The mayor is authorized to execute a Land Lease and Development Agreement substantially similar in form to the accompanying Master Land Lease Development Agreement form approved by the assembly in this ordinance..

SECTION 5. DOT&PF shall have 90 days from the date of enactment of this ordinance to execute the lease document.

SECTION 6. That revenue from the subject Master Land lease Development Agreement shall be deposited in the Land Trust Fund.

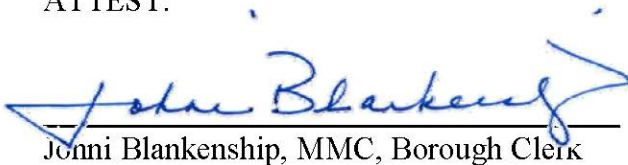
SECTION 7. That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 20TH DAY OF APRIL, 2021.

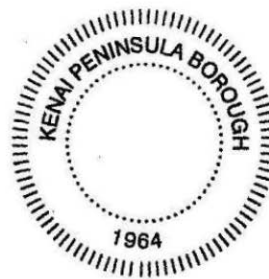


Brent Hibbert, Assembly President

ATTEST:



Jonni Blankenship, MMC, Borough Clerk



Yes: Bjorkman, Carpenter, Chesley, Cox, Derkevorkian, Dunne, Elam, Johnson, Hibbert
No: None
Absent: None

Master Land Lease Development Agreement

KPBL# 21-0501-01

The Kenai Peninsula Borough, an Alaska municipal corporation, whose address is 144 N. Binkley Street, Soldotna, AK 99669 (hereinafter “KPB” or “Lessor”), and the State of Alaska, Department of Transportation and Public Facilities, whose address is 4111 Aviation Avenue, Anchorage, AK 99519 (hereinafter “DOT&PF” or “Lessee”) enter into this Master Land Lease Development Agreement (Master Lease) and agree as follows:

I. Background; Contract Documents; Authorized Contact; Definitions

1. **Background.** The KPB owns or manages certain real property located in the Kenai Peninsula Borough, in the State of Alaska, that is more particularly described and/or depicted in Attachment 3 attached hereto (the “Property”). For good and valuable consideration, the parties agree that the KPB will grant the DOT&PF the right to use the Property for the purposes of staging equipment, personnel and resources, and to dispose, develop, process, explore, excavate, crush, stockpile, remove, and reclaim gravel, soil, and other natural resource materials on the Property. DOT&PF agrees that it will conduct its use and operations according to the terms and conditions contained in this Master Lease for purposes integral to DOT&PF’s Sterling Highway MP45-60 Project near Cooper Landing, Alaska.
2. **Authorized Contact.** All communications about this Master Lease shall be directed as follows, and any reliance on a communication with a person other than the contacts listed below is at the party’s own risk. KPB staff do not have authority to bind the KPB. Any material amendments or changes to the Agreement must be approved by the KPB Assembly and also in writing signed by the KPB Mayor.

KPB

Kenai Peninsula Borough
Attn: Land Management Division
Mailing Address: 144 N. Binkley St.
Soldotna, AK 99669

DOT&PF

DOT&PF Central Region Construction
Attn: Sean Holland
4111 Aviation Avenue
Anchorage, AK 99519-6900

3. **Contract Documents.** As authorized by the Borough Assembly, this Master Lease and incorporated contract agreements together form the entire agreement (“Agreement”). Collectively, the Agreement is the final and complete understanding of the parties. The

following agreements or attachments, are attached to, incorporated herein by reference, and together form the entire Agreement:

- i. Master Lease Agreement
- ii. Attachment 1: Material Extraction and Disposal Terms & Conditions
- iii. Attachment 2: Lease Provisions Required by KPB 17.10
- iv. Attachment 3: Site Survey Drawings
- v. Attachment 4: Staging/Disposal Site Operations Plan

If in conflict, the Master Lease shall control, except that the Material Extraction and Disposal Terms & Conditions shall control with respect to the authorized uses, fees or royalties, and reclamation terms specific to the disposal, processing, exploration, extraction, stockpiling, removal, and reclamation of natural material resources on the Property.

4. **Definitions.**

- 4.1. **Agreement** - the final and complete agreement of the parties and shall encompass the Master Land Lease Development Agreement and Attachments 1, 2, 3 and 4 as described above in paragraph 3, Contract Documents, of this agreement. .
- 4.2. **Environmental Assessment** - An assessment of property, prepared in a manner consistent with generally accepted professional practices, that is supported by reports and tests that determine the environmental condition of property and the presence, type, concentration, and extent of any Contamination in, on, and under the surface of the property.
- 4.3. **Environmental Law** - Any federal, state, or local statute, law, regulation, ordinance, code, Lease, order, decision, or judgment from a governmental entity relating to environmental matters, including littering and dumping. It includes, as applicable, 42 U.S.C. 7401-7671 (Clean Air Act); 33 U.S.C. 1251-1387 (Federal Water Pollution Control Act); 42 U.S.C. 6901-6992 (Resource Conservation and Recovery Act); 42 U.S.C. 9601-9657 (Comprehensive Environmental Response, Compensation, and Liability Act); S.C. 5101-5127 (Hazardous Materials Transportation Act); 15 U.S.C. 2601-2692 (Toxic Substances Control Act); AS 46 (Alaska Water, Air, Energy, and Environmental Conservation Acts); and the provisions of 18 AAC (Environmental Conservation) implementing AS 46.
- 4.4. **Environmental Liability Baseline** - A description, accepted by the Lessor and documented by one or more Environmental Assessments and any other relevant documents, of the existence, location, level, and extent of Contamination in, on, or under the surface of the Property that was neither caused nor Materially Contributed To by the Lessee, nor assumed by the Lessee by reason of assignment.
- 4.5. **Lessee** - State of Alaska, Department of Transportation and Public Facilities or DOT&PF.
- 4.6. **Lessor** - Kenai Peninsula Borough or KPB.

- 4.7. Project - DOT&PF's Sterling Highway MP45-60 Project.
- 4.8. Property –Sites that will be leased by DOT&PF from KPB as part of the Project more particularly described in Section 5 below in this Agreement, and also shown on Attachment 3.
- 4.9. Site Development Materials - Materials used for Site Development. Site Development Materials includes geotextile, fill, gravel, paving, and pavement reinforcement materials.

II. Leased Property Description; Term; Rent

5. **The Property.** The KPB leases to DOT&PF and DOT&PF leases from the KPB, the following described Property in an "as-is" condition. The KPB makes no specific warranties, express or implied, concerning the title, condition, or use of the Property, including survey, soils, wetlands, access, or suitability for any use, including those uses authorized by the Agreement, unless otherwise specified in this Agreement:

West #1 Staging and Disposal Site; 14.0 acres +/-, located within the N1/2 Section 27, T5N, R4W, S.M. AK

West #2 Staging and Disposal Site; 4.6 acres +/-, located within the N1/2 Section 26, T5N, R4W, S.M. AK

East #2 Staging and Disposal Site; 4.7 acres +/-, located within Tract A USS 5105 situated within Section 30, T5N, R3W, S.M. AK

Each Site more particularly described and depicted in Attachment 3- Site Survey Drawings.

6. **Additional Lands.** By mutual written agreement of the parties, the Property may be added to, amended, or otherwise changed to fit the needs of the Project. This provision shall be interpreted to mean that the KPB and DOT&PF may agree to add additional lands owned or managed by the KPB to the Agreement and DOT&PF may agree to lease such additional lands under the same rental & fees basis, terms and conditions set forth in this Agreement.
7. **Term.**
 - 7.1. **Initial Term.** The Initial Term of this Agreement shall be for a period of 5 years commencing on May 1, 2021 and terminating on April 30, 2026.
 - 7.2. **Renewal Term(s).** Unless notice of non-renewal is provided prior to expiration of the Initial Term or the DOT&PF is otherwise in breach of this Master Lease, the Agreement may be automatically renewed by DOT&PF for two additional 1-year Renewal Terms.

8. **Rent.**

8.1. Surface Use Rent (“Rent”). The Rent for the use of the surface area of the Property is shown on the table below, for the first year of the Agreement, payable on the commencement date of the Master Lease and each anniversary thereof. This Rent shall increase annually at 3% per annum.

SITE DESCRIPTION	AREA	INITIAL RENT
West #1 Staging and Disposal Site	14.0 acres +/-	\$8,400/YR
West #2 Staging and Disposal Site	4.6 acres +/-	\$5,520/YR
East #2 Staging and Disposal Site	4.7 acres +/-	\$5,640/YR
TOTAL		\$19,560/YR

8.2. Material Extraction and Disposal. The consideration, fees or royalties associated with material extraction, disposal, and reclamation under the Agreement shall be set forth in Attachment 1 – Materials Extraction and Disposal Terms & Conditions

III. Uses; Reservation of Rights by KPB

9. **Authorized Uses.** The Agreement is entered into for the use of the Property for the following authorized uses:

9.1. Subject to Section 11 below, Rights Reserved by KPB, DOT&PF shall have exclusive surface use and possession of the Property. The surface uses shall be governed by this Master Lease. Surface uses include, but are not limited to, staging of personnel and equipment, material processing operations, temporary facilities, and related uses reasonably necessary to support completing the Project. Authorized uses specifically include those described in Attachment 4- Staging/Disposal Operations Plan.

9.2. Subject to the terms set forth in Attachment 1, Materials Extraction and Disposal Agreement, DOT&PF may use the Property to dispose, develop, process, explore, excavate, crush, stockpile, remove, gravel, soil, and other natural resource materials on the Property. The reclamation obligations set forth in Attachment 1 survive termination of the Agreement.

10. **Prohibited Uses.** Under this Agreement, the following uses on the Property are prohibited:

10.1. Installing permanent structures;

10.2. Storage of bulk fuel. Bulk fuel is defined as storage of 25,000 Gallons or more fuel per site.

11. **Rights Reserved by KPB.**

11.1. The KPB reserves a 60 foot x 60 foot area on the Property (“Reserved Area”), the exact location is subject to mutual agreement of the parties hereto, for the purposes of siting

a communications facility (tower) on the Property. This reservation includes the exclusive right to grant to a third party the right, license or privilege to site, construct, install, and maintain a communications site (tower) or to place commercial communications equipment on the Property and includes ingress and egress rights. This provision is subordinate to the rights and privileges granted under this Agreement and shall not unreasonably interfere with DOT&PF's authorized use of the Property or limit DOT&PF from installing non-commercial communications equipment for the project.

- 11.2. The KPB reserves the right of ingress and egress from the Property, and the right to enter any part of the Property for the purposes of inspection at any reasonable time subject only to the KPB's best efforts, except in the case of an emergency, to coordinate its inspection with the DOT&PF to minimize interference with the DOT&PF's operations and activities on the Property.
- 11.3. Upon KPB entering into a third party agreement for a communication facility on the Property, DOT&PF shall be automatically released from liabilities under this agreement as to the reserved area.

IV. Cancellation, Expiration or Other Termination

12. DOT&PF Default.

- 12.1. If DOT&PF violates a term of the Agreement and the KPB considers that term to be a material obligation of the Agreement, or the violation to be a material deviation from the requirements of the Agreement, the KPB will mail or deliver to DOT&PF a written notice of the violation. The notice must allow DOT&PF not less than sixty (60) days to correct the violation, unless the violation constitutes an imminent threat to public health or safety.
- 12.2. If the DOT&PF does not correct the violation by the time allowed in the notice, the KPB shall:
 - a. grant an extension of time to correct the violation if the DOT&PF shows good cause;
 - b. take enforcement action as provided under this Master Lease or as available by law; or
 - c. cancel this Master Lease.
- 12.3. If the KPB determines that a violation creates an imminent threat to public health or safety, the KPB shall:
 - a. Direct DOT&PF to stop the activity immediately
 - b. Provide DOT&PF less time than otherwise specified in the Agreement to correct the violation; or
 - c. Correct the violation.
- 12.4. Without limitation, the following shall be deemed either violations of material obligations of this Agreement or material deviations from the requirements of the Agreement:

- a. DOT&PF fails to pay when due any rent, charge, or fee or royalty specified in the Agreement, including any increase made under this Master Lease;
- b. DOT&PF blocks or restricts KPB or its Contractor's access to the Property in violation of Section 11 above;
- c. DOT&PF is otherwise found to be in violation of State or Federal law.

13. **Waiver.**

- 13.1. A waiver by the KPB of any default by DOT&PF of any provision of this Agreement will not operate as a waiver of any subsequent default. If the KPB waives a default, the KPB is not required to provide notice to DOT&PF to restore or revive any provision under this Agreement. The waiver by the KPB of any provision in this Agreement cannot be enforced or relied upon unless the waiver is in writing and signed on behalf of the KPB.
- 13.2. The KPB's failure to insist upon the strict performance by DOT&PF of any provision in this Agreement is not a waiver or relinquishment for the future, and the provision will continue in full force.

14. **Disposition of Improvements and Personal Property.** All temporary improvements and personal property of DOT&PF shall be removed by DOT&PF, at its sole expense, within ninety (90) days of cancellation, termination, or expiration of the Agreement.

15. **Disposition of Site Development Materials.** Site Development Materials that DOT&PF completes or places on the Property become part of the KPB-owned or managed realty and property of the KPB upon completion or placement. DOT&PF may not remove the Site Development Materials unless the KPB approves in writing.

16. **Natural Disasters.** If the parties agree in writing that the Property are unusable, not due to the fault or negligence of either party, to the extent that performance of this Master Lease is impossible, this Master Lease may be terminated. If the DOT&PF elects to continue to operate, the KPB is under no obligation to continue to perform. Causes for termination under this provision include, but are not restricted to, acts of God, fires, floods, epidemics, quarantine restrictions, earthquakes, landslides, mudslides, avalanches, tsunami, or volcanic activity.

17. **National Emergency.** If the federal government declares a national emergency, neither party may hold the other liable for any inability to perform any part of this Master Lease as a result of the national emergency.

18. **Survival.**

- 18.1. At the expiration, cancellation, or other termination of this Master Lease, the DOT&PF shall peaceably and quietly vacate the Property and return possession to the KPB.
- 18.2. The DOT&PF's obligations under the following provisions of this Master Lease shall

survive and remain binding on the DOT&PF after the expiration, cancellation, or other termination of the Agreement:

- a. Section 7 – Rent – of the Master Lease;
- b. Section 14 – Disposition of Improvements and Personal Property – of the Master Lease;
- c. Sections 19 through 24 – Environmental Issues – of this Master Lease; and
- d. All terms related to Reclamation of the Property under Attachment 1 – material Extraction and Disposal Terms & Conditions.

V. Environmental Issues

19. Environmental Liability Baseline.

- 19.1. Responsibility for Ascertaining Environmental Condition of Property. The Lessee has the sole responsibility under this Agreement to ascertain the environmental condition and presence of Contamination in, on, and under the surface of the Property, and is conclusively presumed to have caused or to have Materially Contributed To any Contamination of, or originating on, the Property except as identified in an Environmental Liability Baseline. If known Contamination is on the property that has been closed out under alternate cleanup levels approved by ADEC, Lessee is responsible for following all restrictions set by ADEC, including, but not limited to notifying any assignee of this Agreement in writing of ADEC's restrictions.
- 19.2. Financial Responsibility for Contamination on the Property and on any Affected Property. The Lessee assumes financial responsibility to the Lessor for any Contamination in, on, and under the Property, except for Contamination that is identified in an Environmental Liability Baseline. This is without prejudice to the Lessee's right to seek contribution or indemnity from either prior lessees of the Property, or other potentially responsible parties except for the Lessor.
- 19.3. Establishing an Environmental Liability Baseline
 - a. If the Lessee wants to establish an Environmental Liability Baseline for all or any portion of the Property, the Lessee shall provide the Lessor with an Environmental Assessment for that portion of the Property.
 - b. If the Lessee discovers Contamination in, on, or under the surface of the Property, for any portion of the Contamination to be considered for inclusion in the Environmental Liability Baseline, the Lessee must demonstrate by clear and convincing evidence to the satisfaction of the Lessor that the Contamination proposed for inclusion was not caused or Materially Contributed to by the Lessee or the Lessee's operations or activities nor assumed by the Lessee. Contamination caused or Materially Contributed to by activities of the Lessee's sublessees, contractors, and guests on the Property are deemed to be Materially Contributed To by the Lessee.
 - c. Only that portion of Contamination not caused or Materially Contributed to by the Lessee or the Lessee's operations or activities shall be included in the Environmental Liability Baseline.

19.4. Adding to an Existing Environmental Liability Baseline.

- a. If, after an Environmental Liability Baseline is established for any portion of the Property the Lessee discovers Contamination in, on, or under the surface of that portion of the Property having an Environmental Liability Baseline, which Contamination the Lessee or the Lessee's operations or activities did not cause or Materially Contribute To, and which the Lessee did not assume by reason of assignment, the Lessee may, at its own cost, submit an additional Environmental Assessment reflecting that information to the Lessor for the Lessor's consideration to add to the Environmental Liability Baseline. The Lessee's additional Environmental Assessment must demonstrate by clear and convincing evidence to the satisfaction of the Lessor which portion of the additional Contamination on the Property was not caused or Materially Contributed to by the Lessee or the Lessee's operations or activities.
- b. Only that portion of Contamination not caused or Materially Contributed to by the Lessee or the Lessee's operations or activities may be added to the existing Environmental Liability Baseline.

19.5. Lessor's Acceptance or Rejection of Lessee's Environmental Assessment. When the Lessor receives the Lessee's Environmental Assessment to establish an Environmental Liability Baseline or to add to an existing Environment Liability Baseline, the Lessor, in its sole discretion, will do one of the following:

- a. Accept the findings of the Lessee's Environmental Assessment and any other relevant documents to establish an Environmental Liability Baseline for that portion of the Property being assessed or to add to the existing Environmental Liability Baseline.
- b. Reject the findings of the Lessee's Environmental Assessment for that portion of the Property being assessed and offer the Lessee the opportunity to perform additional environmental testings if the Lessor determines in writing that the findings of the Environmental Assessment are inadequate to establish an Environmental Liability Baseline or to add to an existing Environmental Liability Baseline. The Lessor's written rejection of the Lessee's Environmental Assessment will be based on failure of the Lessee's Environmental Assessment to either:
 - (1) follow generally accepted professional practices in determining the environmental condition of the Property and the presence of Contamination in, on, or under the surface of the Property; or
 - (2) demonstrate the portion of the Contamination that was not caused or Materially Contributed To by the Lessee or the Lessee's operations or activities.
- c. Perform additional environmental testing at the Lessor's expense to verify the environmental condition of that portion of the Property being assessed. If the results of the Lessor's tests conflict with the Lessee's Environmental Assessment, the Lessor and the Lessee will negotiate in good faith an Environmental Liability Baseline or an addition to the existing Environmental Liability Baseline for that portion of the Property being assessed.

19.6. Amending the Environmental Liability Baseline to Delete Contamination Caused, Materially Contributed to, or Assumed by Lessee.

- a. If, after the Environmental Liability Baseline for any portion of the Property is established, it is discovered that the presence of Contamination identified

in the Environmental Liability Baseline was caused or Materially Contributed To by the Lessee or the Lessee's operations or activities, or assumed by the Lessee by reason of assignment, the Environmental Liability Baseline may be amended to delete that portion of the Contamination that was caused or Materially Contributed to by the Lessee or the Lessee's operations or activities.

- b. The Lessor will have the burden of proof in establishing that the Lessee or the Lessee's operations or activities caused or Materially Contributed to this Contamination.
 - c. If it is discovered that Contamination identified in the Environmental Liability Baseline was caused or Materially Contributed To by the Lessee or the Lessee's operations or activities, the parties will agree upon an amendment to the Environmental Liability Baseline within a reasonable time.
20. **Release of Lessee.** The Lessor releases the Lessee from liability to the Lessor for Contamination identified by the Environmental Liability Baseline that was not caused or Materially Contributed to by the Lessee or the Lessee's operations or activities.
21. **Required Remediation.** The Lessor is under no obligation to remediate Contamination identified in an Environmental Assessment, except the Lessor shall remediate, or have responsible parties remediate, the Contamination identified in the Environmental Liability Baseline if an agency with such authority requires the Lessee or Lessor to remediate. In the event of such required remediation, the Lessor will make a reasonable effort to coordinate the remediation with the Lessee to minimize disruption of the Lessee's operations or activities and damage to the Lessee's improvements and property. The Lessee releases and holds the Lessor harmless for all costs associated with any damage to, and relocation, removal, and repair of Lessee's improvements and property that result from remediation performed in compliance with this paragraph with respect to Contamination that existed before construction of affected improvements.
22. **Action Against Potentially Responsible Parties.** This article does not restrict either the Lessor or the Lessee from seeking and obtaining cleanup efforts, costs, or damages from other potentially responsible parties for Contamination identified in the Environmental Liability Baseline.

VI. **Additional Terms and Conditions**

23. **Defense and Indemnification.** To the extent allowed by law and subject to legislative appropriation, the parties shall mutually indemnify, defend, save and hold KPB, its elected and appointed officers, agents and employees, harmless from any and all claims, demands, suits, or liability of any nature, kind or character including costs, expenses, and attorney's fees resulting from either parties' performance or failure to perform in accord with the terms of the Agreement in any way whatsoever. This defense and indemnification shall not mean that a party is responsible for any damages or claims arising from the sole negligence or willful misconduct of the other party, its agents or employees.

24. **Insurance.** It is understood that both parties to the Agreement are self-insured at adequate and acceptable to both parties. However, any contractors or subcontractors that use or perform work at the Property shall maintain the following insurance coverages:
- 24.1. **Commercial General Liability Insurance (CGL).** All Contractors and subcontractors of any tier shall provide and maintain, Commercial General Liability Insurance (CGL). The CGL Policy shall be written on an occurrence basis and with a limit of not less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) each occurrence and aggregate. CGL insurance shall be written on standard ISO occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from Property, operations, broad form property damage, independent contractors, products-completed operations, personal injury and advertising injury, explosion, collapse, underground hazards, and liability assumed under a contract including the tort liability of another assumed in a business contract. If necessary to provide the required limits, the Commercial General Liability policy's limits may be layered with a Commercial Umbrella or Excess Liability policy. This policy shall name the KPB as Additional Insured. To the extent damages are covered by commercial general liability insurance, subrogation shall be waived.
- 24.2. **Worker's Compensation, Employer's Liability Insurance.** Contractor and subcontractor(s) of any tier shall provide and maintain, for all of its employees engaged in work under this Agreement, Workers' Compensation Insurance in accordance with the laws of the State of Alaska. The Contractor shall be responsible for Workers' Compensation Insurance for any subcontractor(s) who directly or indirectly provides services under this Agreement. This coverage must include statutory coverage for states in which employees are engaging in work and employer's liability protection not less than the minimum amounts required by law. Where applicable, coverage for all federal acts (i.e., U.S.L. & H and Jones Act) must also be included.
- 24.3. **Auto Liability.** Contractor and subcontractor(s) of any tier shall provide and maintain, Auto Liability Insurance (ALI). The Auto Liability Policy shall include a Combined Single Limit of not less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00); Underinsured and Uninsured Motorists limit of not less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00); Coverage shall include Non-Owned and Hired Car coverage. This policy shall name the KPB as Additional Insured. To the extent damages are covered by auto liability insurance, subrogation shall be waived.
- 24.4. **Proof of Coverage.** All insurance shall be primary and exclusive of any other insurance held by the KPB. Upon renewal of insurance coverage during the license, certificates of insurance shall be delivered to the KPB. DOT&PF on behalf of its contractors shall deliver, within 30 days, complete insurance coverage policy documents to the KPB upon request.
25. **Assignments.** The Agreement is not assignable.
26. **Subleasing.** DOT&PF may not sublease the Property or any part thereof without written permission of the KBP Mayor when applicable. A sublease shall be in writing and subject to the terms and conditions of this Master Lease.
27. **Waste.** DOT&PF shall not commit waste upon or injury to the lands leased herein.
28. **Fire Protection.** DOT&PF shall take all reasonable precautions to prevent, and take all reasonable actions to suppress destructive and uncontrolled grass, brush, and forest fires on

the Property, and comply with all laws, regulations, and rules promulgated and enforced by the protection agency responsible for forest protection within the area wherein the Property is located.

29. **Safety.** DOT&PF shall be solely responsible for maintaining the Property in a safe and fit condition, including without limitation snow and ice removal from all improvements and areas on the Property as needed for DOT&PF's use of the Property. DOT&PF is responsible for the safety of all persons conducting activities on the Property under the Agreement.
30. **Sanitation.** DOT&PF shall comply with all laws, regulations or ordinances promulgated for the promotion of sanitation. The Property shall be kept in a clean and sanitary condition and every effort shall be made to prevent pollution of the waters and lands. Sanitary facilities shall be in accordance with the State of Alaska, Department of Environmental Conservation regulations.
31. **Compliance with Laws.** DOT&PF shall abide by all applicable federal, state, city, and borough statutes, ordinances, rules, and regulations. DOT&PF is responsible for obtaining all federal, state, and local permits applicable to licensee's activities and shall keep such permits in good standing.
32. **Responsibility of Location.** It shall be the responsibility of DOT&PF to properly locate itself and its improvements on the Property.
33. **Liens and Mortgages.** DOT&PF shall not cause or allow any lien or encumbrance of any kind or nature whatsoever to attach to the Property during the term of the Agreement. In the event that any prohibited lien is placed against the Property, DOT&PF shall immediately cause the lien to be released.
34. **No Warranty, Express or Implied.** The DOT&PF accepts the Property AS-IS, WHERE-IS. The Agreement shall be without warranty whatsoever, whether implied or expressed, as to quality, fitness for purpose or suitability for development, or physical condition (including, without limitation the environmental condition of the property). It is the responsibility of the DOT&PF to satisfy itself prior to executing the lease and/or prior to closing as to the type, condition, and quality of the Property.
35. **Jurisdiction.** Any lawsuits filed in connection with the terms and conditions of the Agreement, and of the rights and duties of the parties, shall be filed and prosecuted at Kenai, Alaska and shall be governed by Alaska law, without regard to conflict of law principles.
36. **Savings Clause.** Should any provision of the Agreement fail or be declared null or void in any respect, or otherwise unenforceable, it shall not affect the validity of any other provision of the Agreement or constitute any cause of action in favor of either party as against the other.
37. **Binding Effect.** It is agreed that all covenants, terms, and conditions of the Agreement shall be binding upon the successors, heirs and assigns of the parties hereto.
38. **Integration and Merger.** The Agreement sets out all the terms, conditions, and agreements of the parties and supersedes any previous understandings or agreements regarding the Property whether oral or written. Unless specifically authorized within a provision, no

modification or amendment of the Agreement is effective unless in writing and signed by both of the parties.

39. **Warranty of Authority.** DOT&PF warrants that the person executing the Agreement is authorized to do so on behalf of DOT&PF.

40. **Counterparts.** The Agreement may be executed in counterpart, each of which when so executed and delivered shall be considered an original and all of which when taken together will constitute one and the same instrument.

41. **Quiet Enjoyment.** During the term of the Agreement, DOT&PF will have quiet enjoyment of the Property subject to the terms and conditions stated in the Agreement.

42. **Interpretation.** Both parties have had an opportunity to review the Agreement, to suggest changes, and to consult with legal counsel before signing. The Agreement will not be interpreted in favor of or against either Party.

LESSOR:

LESSEE:

Kenai Peninsula Borough

**State of Alaska, Department of
Transportation and Public Facilities**

By: Charlie Pierce
Its: Mayor
Date: _____

By: _____
Its: _____
Date: _____

ATTEST:

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

Johni Blankenship, Borough Clerk

Sean Kelley, Deputy Borough Attorney

KPB NOTARY ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this _____ day of _____, 2021, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared Charlie Pierce, known to me to be the Mayor, Kenai Peninsula Borough, and who acknowledged to me that the foregoing instrument was executed freely and voluntarily on behalf of Kenai Peninsula Borough, for the uses and purposes therein set forth and who is authorized to do so.

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

Notary Public in and for Alaska
Commission Expires: _____

DOT&PF NOTARY ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this _____ day of _____, 2021, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared _____, known to me to be the _____, Department of Transportation and Public Facilities, State of Alaska, and who acknowledged to me that the foregoing instrument was executed freely and voluntarily on behalf of the State of Alaska, Department of Transportation and Public Facilities, for the uses and purposes therein set forth and who is authorized by said State of Alaska to do so.

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

Notary Public in and for Alaska
Commission Expires: _____

MATERIAL EXTRACTION AND DISPOSAL TERMS & CONDITIONS

KPB 17.10.210

Attachment 1 to Master Lease Agreement

1. DISPOSAL TERMS AND CONDITIONS:

1.1. DOT shall not dispose of material on KPB property other than material from the Sterling Highway MP 45-60 Project.

1.2. DOT represents and warrants that the Disposal Material to be deposited on the Property satisfies the definition of uncontaminated fill as defined here:

“Uncontaminated fill” means uncontaminated solid material including soil, rock, stone, and grubbings (Stumps, roots, moss, grass, turf, debris, mulch or other organic-laden materials stripped from the land). Uncontaminated fill does not include human waste or refuse, industrial refuse, equipment parts, rubber tires, or any other materials not occurring naturally in the project zone.

1.3. DOT represents and warrants that the Disposal Material does not contain and will not release Hazardous Materials in quantities that would require investigation, monitoring, clean-up, containment, restoration, removal, governmental notification, or other remedial work under any applicable federal, state, or local law or regulation. The term “Hazardous Materials” means any hazardous or toxic substance, material or waste which is regulated by any governmental authority of the State of Alaska or the United States government, including without limitation, any material or substance which (i) is defined or listed as a “hazardous material”, “toxic pollutant”, “hazardous waste”, “hazardous substance” or “hazardous pollutant,” under applicable federal, state or local law or administrative codes promulgated thereunder, (ii) contains hydrocarbons of any kind, nature or description, including, but not limited to, gas, oil, or similar petroleum products, other than reclaimed asphalt pavement, (iii) contains asbestos, (iv) contains PCBs or (v) contains radioactive materials.

1.4. DOT, or its contractor, will establish methods of volumetric measurement and recording such as load records with volume average truck counts, or before and after cross section survey, LiDAR elevation surveys, or implement other tracking procedures sufficient to track the site location, volume, and type of materials deposited.

1.5. DOT will produce auditable project records showing the quantity and type of materials deposited under this agreement which shall be provided in summary form with payments.

a. For the purpose of providing progressive evidence to KPB of the classification of

materials and respective location deposited, DOT will capture low-level high-resolution imagery at least monthly of each disposal area during active periods. Images will be delivered to KPB by the expiration of this agreement. Progress images are to support general-tracking information and may be either orthomosaic or oblique.

- 1.6. KPB reserves the right to reject the placement of any disposal materials which do not fit within the classifications outlined in Section 3 of this agreement.
- 1.7. Fees will be charged for material disposal according to the table in Section 3 of this agreement.
- 1.8. Construction quality materials to be stockpiled for credit require a stockpile design plan and are subject to inspection and acceptance based on conventional material testing standards for the material type.

2. **EXTRACTION TERMS AND CONDITIONS:**

- 2.1 Extraction of material to be transported off-site will require a Conditional Land Use Permit from KPB Planning Dept in accordance with KPB 21.29.
- 2.2 The DOT or its contractor will provide auditable project records showing the quantity and type of materials removed under this agreement, and their origin.
- 2.3 Fees will be charged for extracted materials according to the table in Section 3 of this agreement.

3. **CLASSIFICATION OF MATERIALS and SCHEDULE OF FEES:**

Classification	Description	Unit Disposal Fee	Unit Extraction Fee	Creditable Value
Type C Material	Compactable Mineral Aggregate (see DOT SSHC 2020, 703-2.07)	\$0.40/ cubic yard	n/a	n/a
Grubbed Material and Muck Excavation	Stumps, roots, moss, grass, turf, debris, mulch or other organic-laden material (DOT SSHC 2020, 201-3.03)	\$0.40/ cubic yard	n/a	n/a
Topsoil and Peat	Topsoil and peat, free of muck and large debris	\$0.40/ cubic yard		A volume of up to 8” per unit

				area used as reclamation topdressing materials can be deducted from Fee
Construction quality materials stockpiles	Sorted, stockpiled aggregates meeting KPB road construction specifications, sorted, stockpiled clean topsoil, or sorted, stockpiled topsoil grade peat	n/a	n/a	\$1.50/ cubic yard, credit may not exceed disposal fee total
Pad Area Materials	Compacted aggregate, not underlain with organic material, capped with NFS gravel to form a durable pad or driving surface	n/a	n/a	Volume not subject to fees
Unclassified excavation	Any material extracted from KPB land and transported off-site	n/a	\$3.00/ cubic yard	n/a

4. PAYMENT:

Partial payment shall be due at the end of each calendar year, within the contract term. Full and final payment shall be due at the end of the contract term. Payments shall be accompanied by an auditable record showing the quantity and types of material deposited and extracted from KPB lands, and the respective sites of origin/ disposal. Credits against fees, if any, shall be accounted with appropriate documentation and signed off by both parties prior to final payment becoming due.

5. STABILIZATION:

The parties agree that all fill deposited on KPB land shall be stabilized to safeguard

against slope failures of any kind. Specifically:

- 5.1 All deposited fill shall be layered in maximum 3' lifts and mechanically compacted using vibratory equipment.
- 5.2 No constructed embankment shall exceed a 2:1, or 50%, slope.
- 5.3 Any travel ways, road surfaces, or pads constructed under this agreement shall have a minimum 2% cross-slope gradient, to allow for low-energy surface drainage and to prevent water perching.
- 5.4 No travel way or road surface constructed on KPB land shall exceed 10% gradient.
- 5.5 Any area within the Property used as a foundation for material processing equipment, such as an asphalt plant or a concrete batch plant, shall be structurally sound, constructed only of compactable mineral aggregate, and shall be compacted in lifts of 1' or less.

6. EROSION and SEDIMENT CONTROL:

All activities taking place upon KPB land during the term of this contract and within the scope of the Sterling Highway MP 45-60 project shall adhere to the Best Management Practices, adopted under the project's SWPPP plan, stipulated by the DOT SSHC 2020 - section 641, and enforced by the DOT. Under no circumstances shall any constructed embankments be left for the winter months, without being mulched and seeded, or the equivalent.

7. SAFETY

The DOT shall be responsible for ensuring that all mining and extraction activities adhere to applicable workers protection and mining safety laws and regulations.

8. PERMITS

The DOT shall have in place any necessary municipal, state, or federal permits prior to commencing extraction and material processing activities.

9. CLOSE-OUT and RECLAMATION PLAN:

Prior to breaking ground on the Property, the DOT shall provide to the KPB a reclamation plan which includes an overview of the long-term stabilization measures to be implemented on the pads, berms, and other earthen structures constructed pursuant to this agreement. All roads/ travel ways shall be closed-out at KPB's direction. This may include removing culverts, installing drivable or non-drivable water bars, remedial landscaping, blocking access with "tank traps" or construction barriers, or installation of a simple gate. The reclamation plan shall include contouring the site for positive drainage,

slope stability measures, topsoiling and revegeration, continuation of durable pad areas and construction quality materials stockpile access. The reclamation plan may be revised by agreement of the parties prior to close-out to promote long term site management goals.

10. MODIFICATIONS:

The parties may mutually agree to modify these terms and conditions. Modifications shall be incorporated into the Master Lease contract by written amendments.

11. MASTER LEASE AGREEMENT:

The terms and conditions herein apply to disposal and extraction activities on the Property under the Master Lease Agreement. Except as specifically stated herein, the Master Lease Agreement controls.

ATTACHMENT 2
LEASE PROVISIONS REQUIRED BY KPB 17.10

(1) **Accounts Current.** The Lessee shall not be delinquent in the payment of any tax, debt or obligation owed to the KPB prior to execution of the Agreement.

(2) **Assignment.** Lessee may assign the lands upon which Lessee has an agreement only if approved by the mayor or land management officer when applicable. Applications for assignment shall be made in writing on a form provided by the land management division. The assignment shall be approved if it is found that all interests of the borough are fully protected.

(3) **Breach of Agreement.** In the event of a default in the performance or observance of any of the Agreement terms or conditions, and such default continues thirty days after written notice of the default, the borough may cancel Agreement or take any legal action for damages or recovery of the property. No improvements may be removed during the time which the contract is in default.

(4) **Cancellation.** This Agreement may be cancelled at any time upon mutual written agreement of the parties.

(5) **Entry or Re-entry.** In the event the Agreement is terminated, canceled or forfeited, or in the event of abandonment of Leased Premises by Lessee during the Term, the KPB its agents, or representatives, may immediately enter or re-enter and resume possession of the Leased Premise. Entry or re-entry by KPB shall not be deemed an acceptance of surrender of the Agreement.

(6) **Fire Protection.** The Lessee shall take all reasonable precautions to prevent, and take all reasonable actions to suppress destructive and uncontrolled grass, brush, and forest fires on the Property under Agreement, and comply with all laws, regulations and rules promulgated and enforced by the protection agency responsible for forest protection within the area wherein the Property is located.

(7) **Hazardous Waste.** The storage, handling and disposal of hazardous waste shall not be allowed on the Leased Premises.

(8) **Modification.** The Agreement may not be modified orally or in any manner other than by an agreement in writing signed by all parties or their respective successors in interest.

(9) **Notice.** Any notice or demand, which under the terms of the Agreement or under any statute must be given or made by the parties thereto, shall be in writing, and be given or made by registered or certified mail, addressed to the other party at the address shown on the contract. However, either party may designate in writing such other address to which such notice or demand shall thereafter be so given, made or mailed. A notice given hereunder shall be deemed received when deposited in a U.S. general or branch post office by the addressor.

(10) **Notice of Default.** Notice of the default will be in writing as provided in paragraph 9 above.

(11) **Removal or Reversion of Improvements Upon Cancellation of Purchase Agreement or Lease.**

(a) Improvements on Leased Premises owned by Lessee shall, within thirty calendar days after the termination of the agreement, be removed by him; provided, such removal will not cause injury or damage to the land; and further provided, that the mayor or land management officer when applicable may extend the time for removing such improvements in cases where hardship is proven. The Lessee may, with the consent of the mayor or land management officer when applicable, dispose of its improvements to the Sublessee or Assignee, if applicable.

(b) If any improvements and/or chattels having an appraised value in excess of ten thousand dollars, as determined by a qualified appraiser, are not removed within the time allowed, such improvements and/or chattels shall, upon due notice to the Lessee be sold at public sale under the direction of the mayor and in accordance with the provisions of KPB Chapter 5. The proceeds of the sale shall inure to the former Lessee who placed such improvements and/or chattels on the lands, or Lessee's successors in interest, after paying to the borough all moneys due and owing and expenses incurred in making such a sale. In case there are no other bidders at any such sale, the mayor is authorized to bid, in the name of the borough, on such improvements and/or chattels. The bid money shall be taken from the fund to which said lands belong, and the fund shall receive all moneys or other value subsequently derived from the sale of leasing of such improvements and/or chattels. The borough shall acquire all the rights, both legal and equitable, that any other purchaser could acquire by reason of the purchase.

(c) If any improvements and/or chattels having an appraised value of ten thousand dollars or less, as determined by the mayor, are not removed within the time allowed, such improvements and/or chattels shall revert and absolute title shall vest in the borough. Upon request, the Lessee shall convey said improvements and/or chattels by appropriate instrument to the KPB.

(12) **Rental for Improvements or Chattels not Removed.** Any improvements and/or chattels belonging to the Lessee or placed on the Property and remaining upon the premises after the termination of the contract shall entitle the KPB to charge a reasonable rent therefor.

(13) **Re-rent.** In the event that the Agreement should be terminated, canceled, forfeited or abandoned, the KPB may offer said lands for lease or other appropriate disposal pursuant to the provisions of this chapter or other applicable regulations.

(14) **Responsibility for Location.** It shall be the responsibility of the Lessee to properly locate improvements on the Leased Premises.

(15) **Rights of Mortgage or Lienholder.** In the event of cancellation or forfeiture the Agreement for cause, the holder of a properly recorded mortgage, conditional assignment, or collateral assignment will have the option to acquire the lease for the unexpired term thereof, subject to the same terms and conditions as in the Agreement. Any party acquiring the lease agreement must meet the same requirements as the Lessee.

(16) **Sanitation.** The Lessee shall comply with all regulations or ordinances which a proper public authority in its discretion shall promulgate for the promotion of sanitation. The Leased Premises under the Agreement shall be kept in a clean and sanitary condition and every effort shall be made to prevent any pollution of the waters and lands.

(17) **Shore Land Public Access Easement.** As established by AS 38.05, borough lands sold or leased may be subject to a minimum 50 foot public access easement landward from the ordinary high water mark or mean high water mark.

(18) **Subleasing.** No lessee may sublease lands or any part thereof without written permission of the mayor or land management officer when applicable. A sublease shall be in writing and subject to the terms and conditions of the original lease.

(19) **Violation.** Violation of any provision KPBA 17.10 or of the terms of the Agreement of may expose the Lessee to appropriate legal action including forfeiture of purchase interest, termination, or cancellation of its interest in accordance with state law.

(20) **Written Waiver.** The receipt of payment by the borough, regardless of knowledge of any breach of the purchase agreement by the purchaser, lessee or permittee, or of any default on the part of the purchaser, lessee or permittee in observance or performance of any of the conditions or covenants of the agreement, shall not be deemed to be a waiver of any provision of the agreement. Failure of the borough to enforce any covenant or provision therein contained shall not discharge or invalidate such covenants or provision or affect the right of the borough to enforce the same in the event of any subsequent breach or default. The receipt by the borough of any payment of any other sum of money after notice of termination or after the termination of the agreement for any reason, shall not reinstate, continue or extend the agreement, nor shall it destroy or in any manner impair the efficacy of any such notice of termination unless the sole reason for the notice was nonpayment of money due and payment fully satisfies the breach.

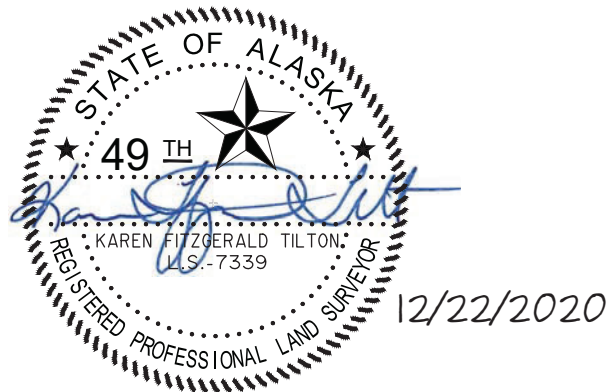
Attachment #%

TO MASTER LEASE

THESE PLATS MAY BE USED FOR THE ESTABLISHMENT OF THE RIGHT-OF-WAY BOUNDARY ONLY, AND SHOULD NOT BE USED AS A BASIS FOR ESTABLISHING ADJOINING PROPERTY LINES AND CORNERS.

NOTE: THE ALIGNMENT OF CHUNKWOOD AND WEST JUNEAU ROADS SHOWN ON THIS EXHIBIT IS APPROXIMATE. STAGING AREA BOUNDARIES DEFINED ON SHEETS 4 & 6 MUST BE LOCATED A MINIMUM OF 35 FEET FROM EXISTING CENTERLINE OF CHUNKWOOD & WEST JUNEAU ROADS AND MAY BE ADJUSTED TO MEET THIS REQUIREMENT.

THIS SEAL IS FOR ALL WORK CONTAINED ON PLATS 2 THROUGH 6 OF 6.



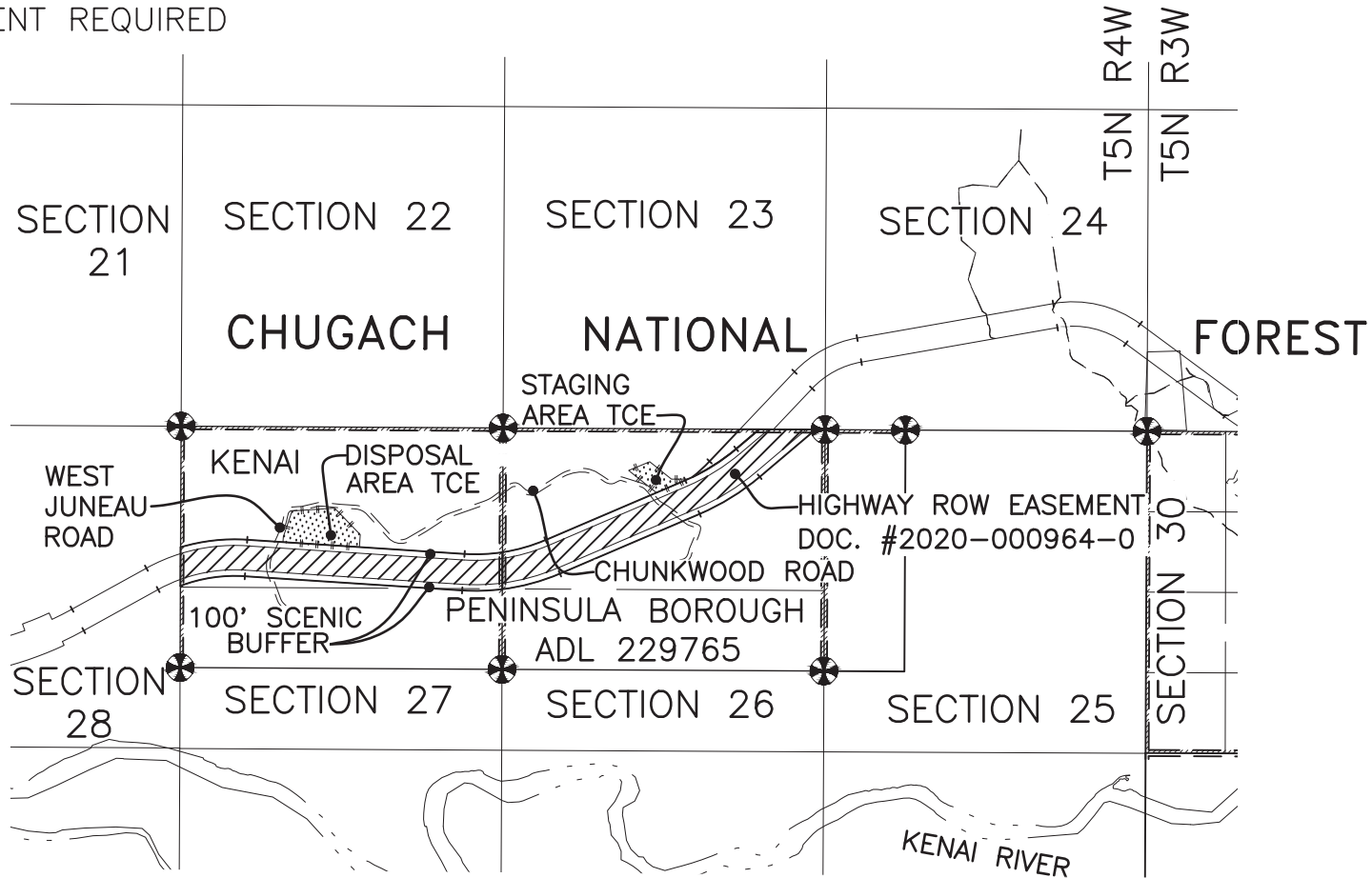
R&M CONSULTANTS, INC.

9101 VANGUARD DRIVE
ANCHORAGE, AK 99507
PHONE (907) 522-1707
AUTH. NO. AECC111

ATTACHED TO _____ PAGE 1 OF 6 DATED _____

PROJECT NO. 0A33029/CFHWY00694 PARCEL NO. KPB 395 DISPOSAL/STAGING AREA TCE

 EXISTING RIGHT-OF-WAY
 TEMPORARY CONSTRUCTION
 EASEMENT REQUIRED



KPB Area 395 Disposal-Staging Areas 12-22-2020 12/22/2020 1:16:43 PM

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

TEMPORARY CONSTRUCTION EASEMENT REQUIRED FOR
STERLING HIGHWAY
MP 44.5 TO 58
 PROJECT NO. 0A33029/CFHWY00694

OWNER'S INITIAL _____
 ATTACHED TO _____
 PAGE ___ OF ___ DATED _____

PLAT 2 OF 6

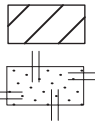
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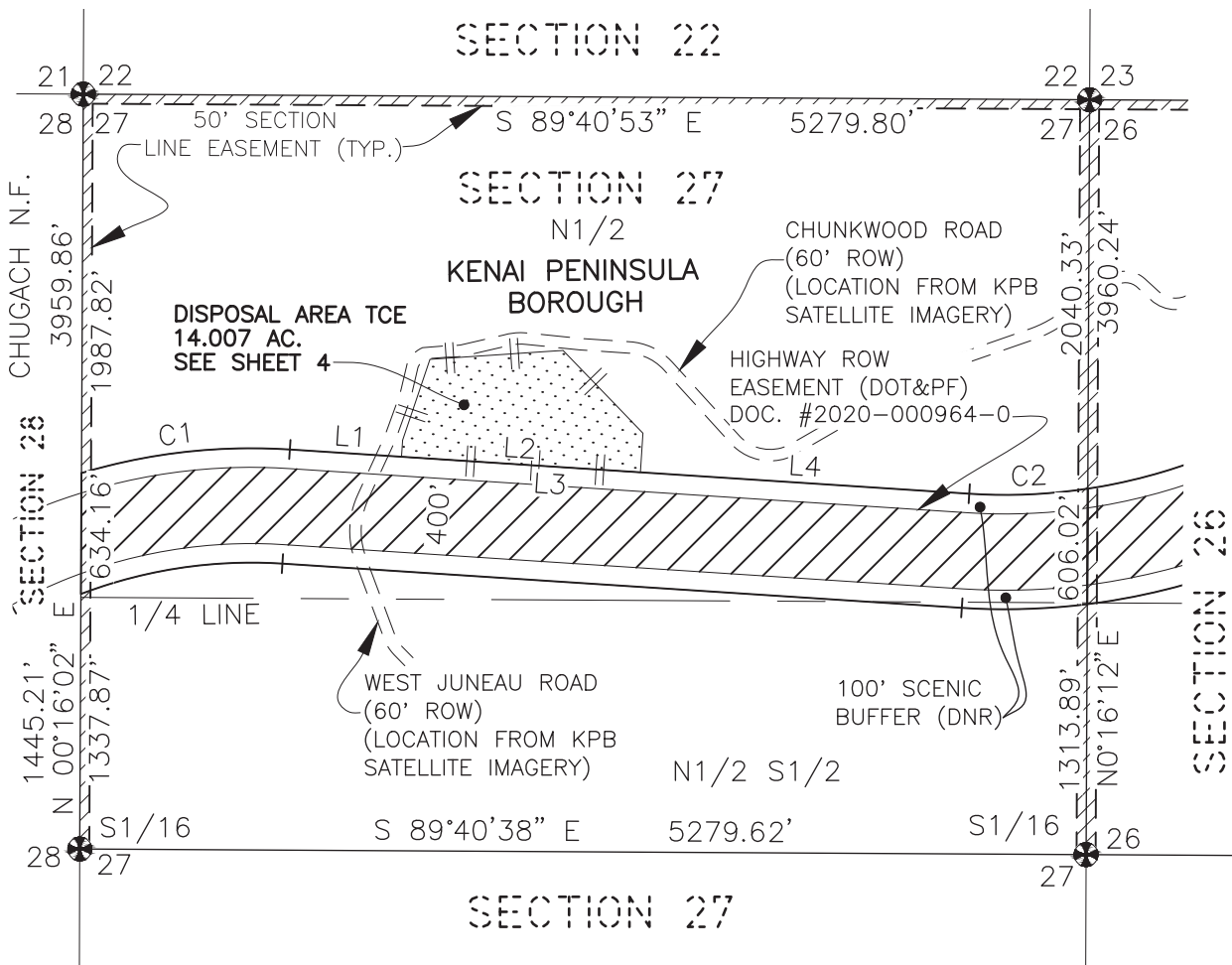
PARCEL NO.
**KPB 395 DISPOSAL/
 STAGING AREAS TCE**

DATE _____ Dec 2020 _____





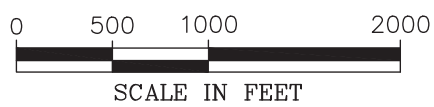
EXISTING RIGHT-OF-WAY ⊗ = RECOVERED PRIMARY MONUMENT [BLM]
 TEMPORARY CONSTRUCTION
 EASEMENT REQUIRED



T5N R4W
 S. M.
 SEC. 27

CURVE #	LENGTH	RADIUS	DELTA
C1	1105.99	3112.56	20°21'32"
C2	623.78	2896.21	12°20'25"

LINE #	LENGTH	DIRECTION
L1	587.17	S 86°16'28" E
L2	1255.79	S 86°16'28" E
L3	3571.72	S 86°16'28" E
L4	1728.76	S 86°16'28" E



STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

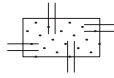
TEMPORARY CONSTRUCTION EASEMENT REQUIRED FOR
STERLING HIGHWAY
MP 44.5 TO 58
 PROJECT NO. 0A33029/CFHWY00694

OWNER'S INITIAL _____
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 PAGE ____ OF ____ DATED _____

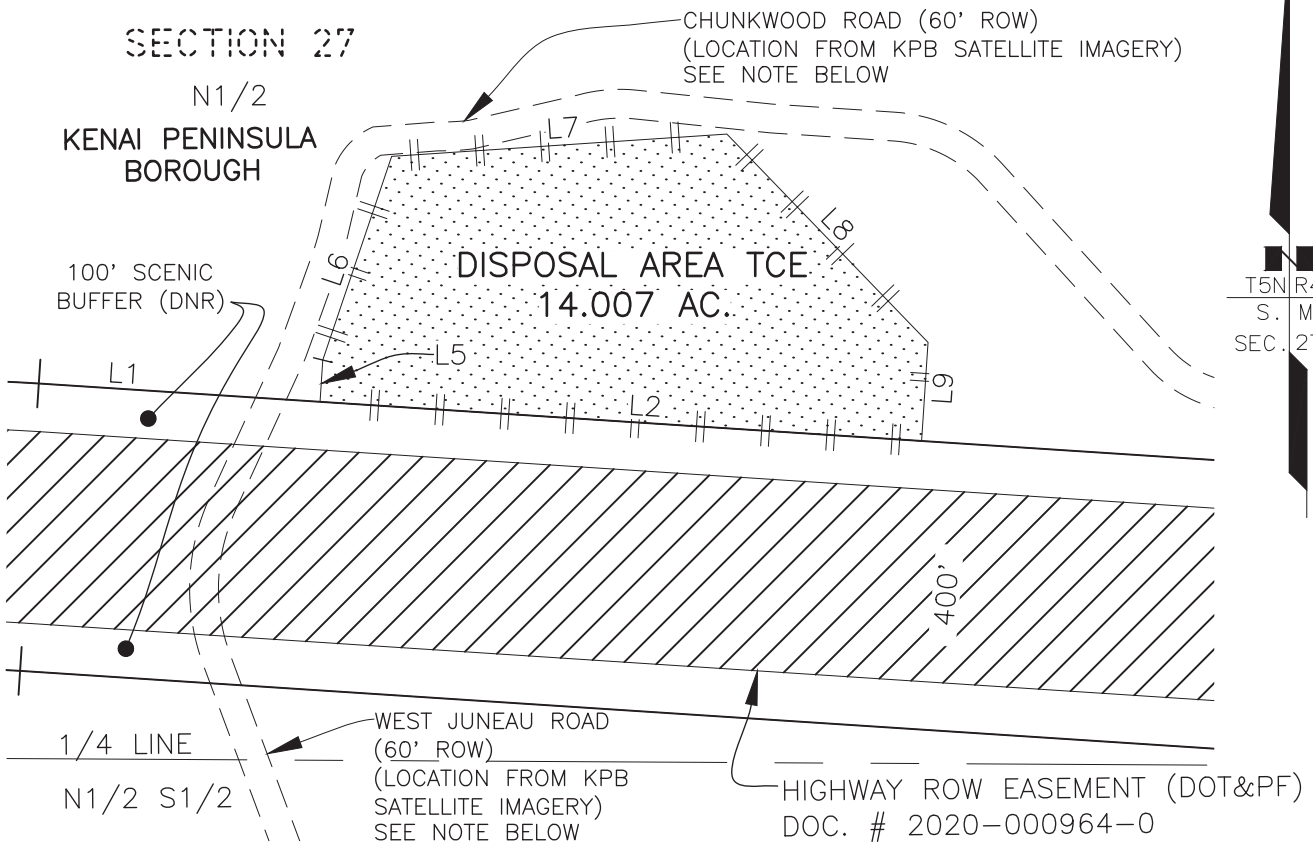
PLAT 3 OF 6 TCE AREA 14.007 AC.
 DRAWN BY KFT **PARCEL NO.**
KPB 395 DISPOSAL/
STAGING AREA TCE
 DATE Dec 2020

KPB Area 395 Disposal-Staging Areas 12-22-2020 12/22/2020 1:16:56 PM

 EXISTING RIGHT-OF-WAY

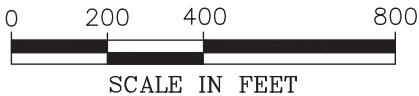


TEMPORARY CONSTRUCTION EASEMENT REQUIRED



LINE TABLE		
LINE #	LENGTH	DIRECTION
L1	587.17	S 86° 16' 28" E
L2	1255.79	S 86° 16' 28" E
L5	87.16	N 03° 43' 32" E
L6	447.83	N 18° 40' 14" E

LINE TABLE		
LINE #	LENGTH	DIRECTION
L7	699.96	N 86° 10' 48" E
L8	603.36	S 43° 59' 37" E
L9	205.83	S 03° 43' 32" W



NOTE: ALIGNMENT OF CHUNKWOOD & WEST JUNEAU ROADS SHOWN IS APPROXIMATE. STAGING AREA BOUNDARY MUST BE LOCATED A MINIMUM OF 35 FEET FROM EXISTING CENTERLINE OF CHUNKWOOD & WEST JUNEAU ROADS & MAY BE ADJUSTED TO MEET THIS REQUIREMENT.

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

TEMPORARY CONSTRUCTION EASEMENT REQUIRED FOR
**STERLING HIGHWAY
MP 44.5 TO 58**
PROJECT NO. 0A33029/CFHWY00694

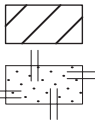
OWNER'S INITIAL _____
ATTACHED TO _____
PAGE ____ OF ____ DATED _____

PLAT 4 OF 6

TCE AREA _____ 14.007 AC.

DRAWN BY _____ KFT
DATE _____ Dec 2020 _____

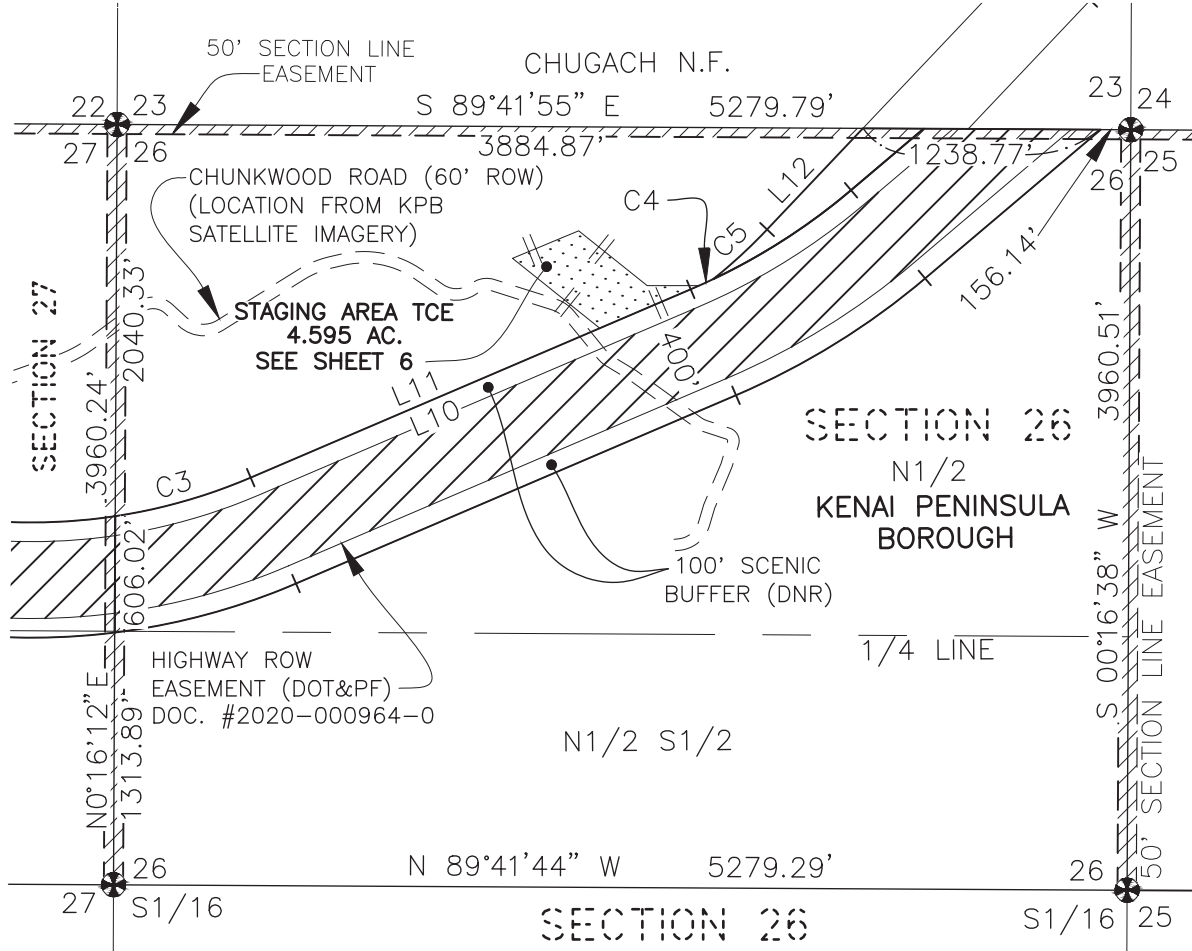
**PARCEL NO.
KPB 395 DISPOSAL/
STAGING AREA TCE**



EXISTING RIGHT-OF-WAY
 TEMPORARY CONSTRUCTION
 EASEMENT REQUIRED

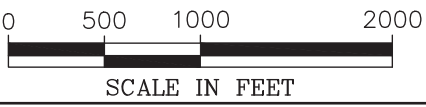
⊗ = RECOVERED PRIMARY MONUMENT [BLM]

SECTION 23



CURVE TABLE			
CURVE #	LENGTH	RADIUS	DELTA
C3	735.59	2896.21	14°33'08"
C4	80.12	3300.41	1°23'27"
C5	382.52	2800.00	7°49'39"

LINE TABLE		
LINE #	LENGTH	DIRECTION
L10	2492.68	N 66°50'00" E
L11	1977.69	N 66°50'00" E
L12	725.74	N 43°27'21" E



STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

TEMPORARY CONSTRUCTION EASEMENT REQUIRED FOR
**STERLING HIGHWAY
 MP 44.5 TO 58**
 PROJECT NO. 0A33029/CFHWY00694

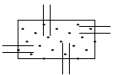
OWNER'S INITIAL _____
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 PAGE ___ OF ___ DATED _____

PLAT 5 OF 6 TCE AREA _____ 4.595 AC
 DRAWN BY _____ KFT
 DATE _____ Dec 2020
**PARCEL NO.
 KPB 395 DISPOSAL/
 STAGING AREA TCE**

KPB Area 395 Disposal - Staging Areas 12-22-2020 12/22/2020 1:17:22 PM



EXISTING RIGHT-OF-WAY



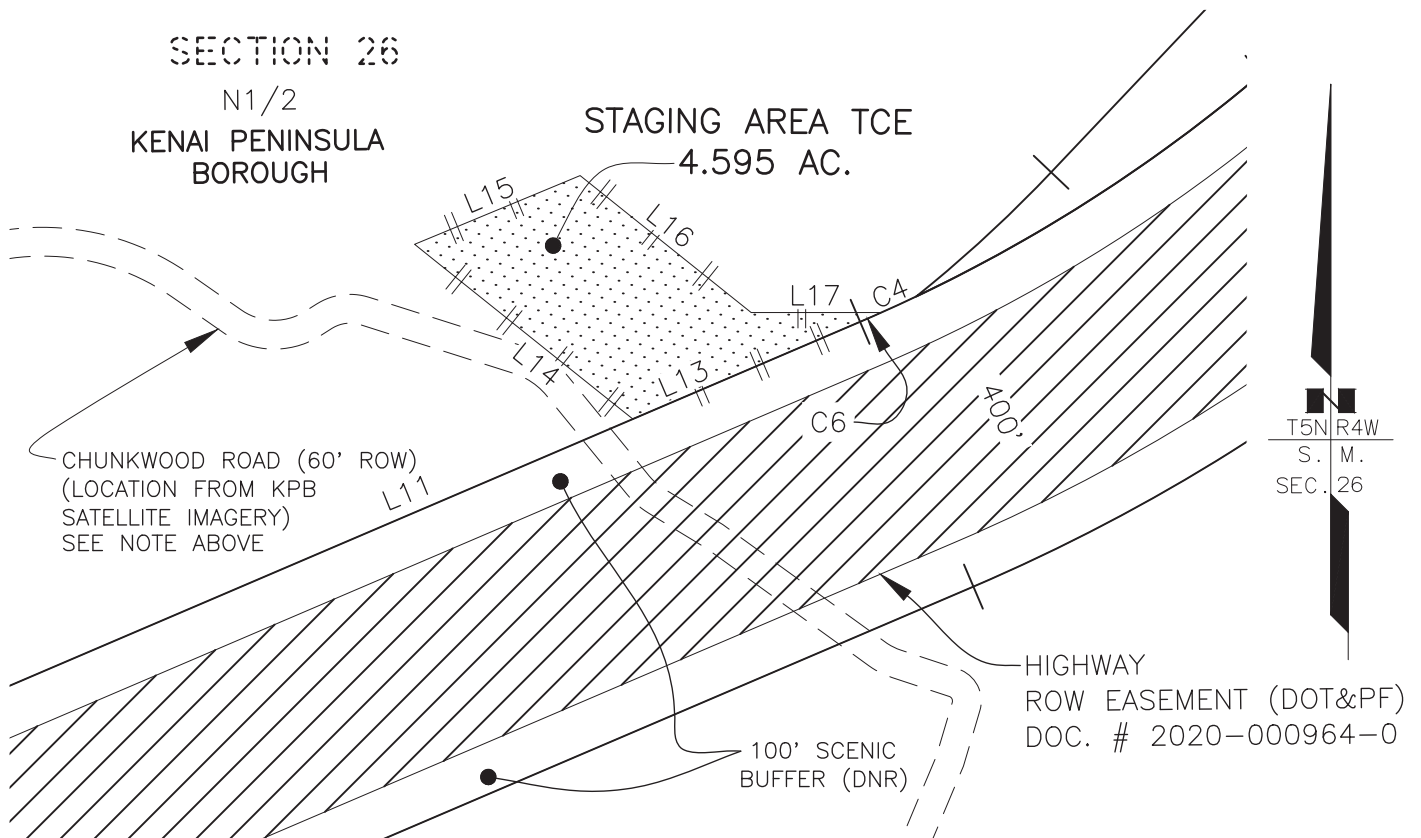
TEMPORARY CONSTRUCTION EASEMENT REQUIRED

NOTE: ALIGNMENT OF CHUNKWOOD ROAD SHOWN IS APPROXIMATE. STAGING AREA BOUNDARY MUST BE LOCATED A MINIMUM OF 35 FEET FROM EXISTING CENTERLINE OF CHUNKWOOD ROAD AND MAY BE ADJUSTED TO MEET THIS REQUIREMENT.

SECTION 26

N1/2
KENAI PENINSULA
BOROUGH

STAGING AREA TCE
4.595 AC.

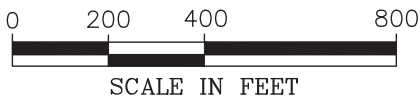


CURVE TABLE

CURVE #	LENGTH	RADIUS	DELTA
C4	80.12	3300.41	1°23'27"
C6	48.01	3300.41	0°50'01"

LINE TABLE

LINE #	LENGTH	DIRECTION
L11	1977.69	N 66°50'00" E
L13	514.99	N 66°50'00" E
L14	582.30	N 51°18'52" W
L15	373.30	N 67°25'48" E
L16	456.66	S 51°18'52" E
L17	270.83	N 90°00'00" E



KPB Area 395 Disposal - Staging Areas 12-22-2020 12/22/2020 1:17:41 PM

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

TEMPORARY CONSTRUCTION EASEMENT REQUIRED FOR
**STERLING HIGHWAY
MP 44.5 TO 58**
PROJECT NO. 0A33029/CFHWY00694

OWNER'S INITIAL _____
ATTACHED TO _____
PAGE ___ OF ___ DATED _____

PLAT 6 OF 6

TCE AREA 4.595 AC.

DRAWN BY KFT

PARCEL NO.
KPB 395 DISPOSAL/
STAGING AREA TCE

DATE Dec 2020

THESE PLATS MAY BE USED FOR THE ESTABLISHMENT OF THE RIGHT-OF-WAY BOUNDARY ONLY, AND SHOULD NOT BE USED AS A BASIS FOR ESTABLISHING ADJOINING PROPERTY LINES AND CORNERS.

THIS SEAL IS FOR ALL WORK CONTAINED ON PLATS 2 THROUGH 4 OF 4.



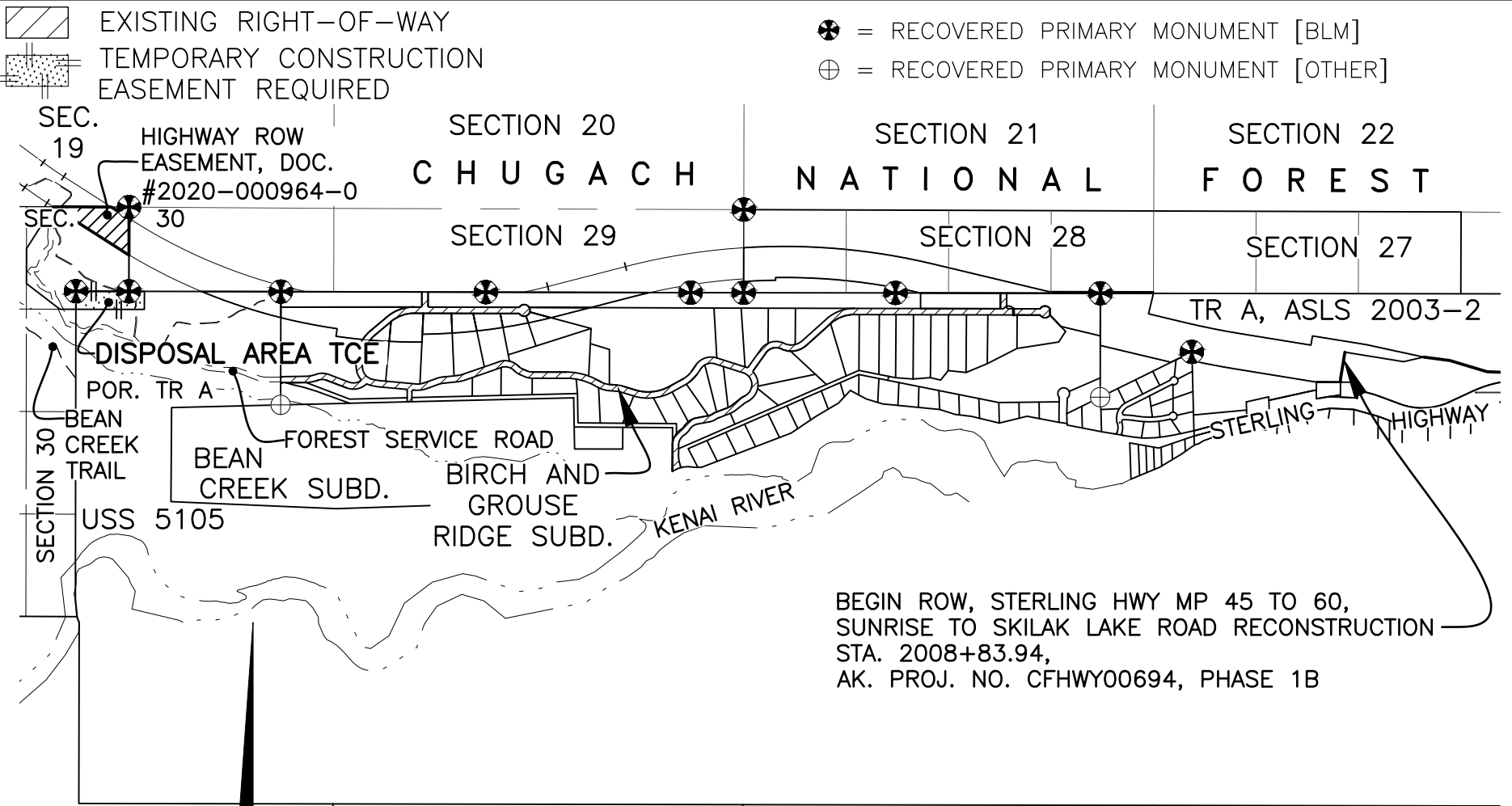
R&M CONSULTANTS, INC.

9101 VANGUARD DRIVE
ANCHORAGE, AK 99507
PHONE (907) 522-1707
AUTH. NO. AECC111

ATTACHED TO _____ PAGE 1 OF 4 DATED _____

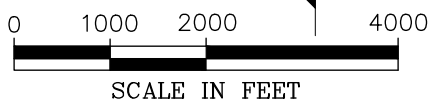
PROJECT NO. 0A33029/CFHWY00694

PARCEL NO.
KPB S5105 DISPOSAL AREA TCE



KPB USS 5105 Disposal Area TCE 1-5-2021

T5N R3W
 S. M.
 SEC. 30



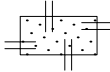
STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES		
TEMPORARY CONSTRUCTION EASEMENT REQUIRED FOR STERLING HIGHWAY MP 44.5 TO 58 PROJECT NO. 0A33029/CFHWY00694		OWNER'S INITIAL _____ ATTACHED TO _____ PAGE ____ OF ____ DATED _____
PLAT 2 OF 4 DRAWN BY _____ KFT DATE _____ Jan 2021	TCE AREA _____ 4.712 AC.	PARCEL NO. KPB S5105 DISPOSAL AREA TCE



EXISTING RIGHT-OF-WAY



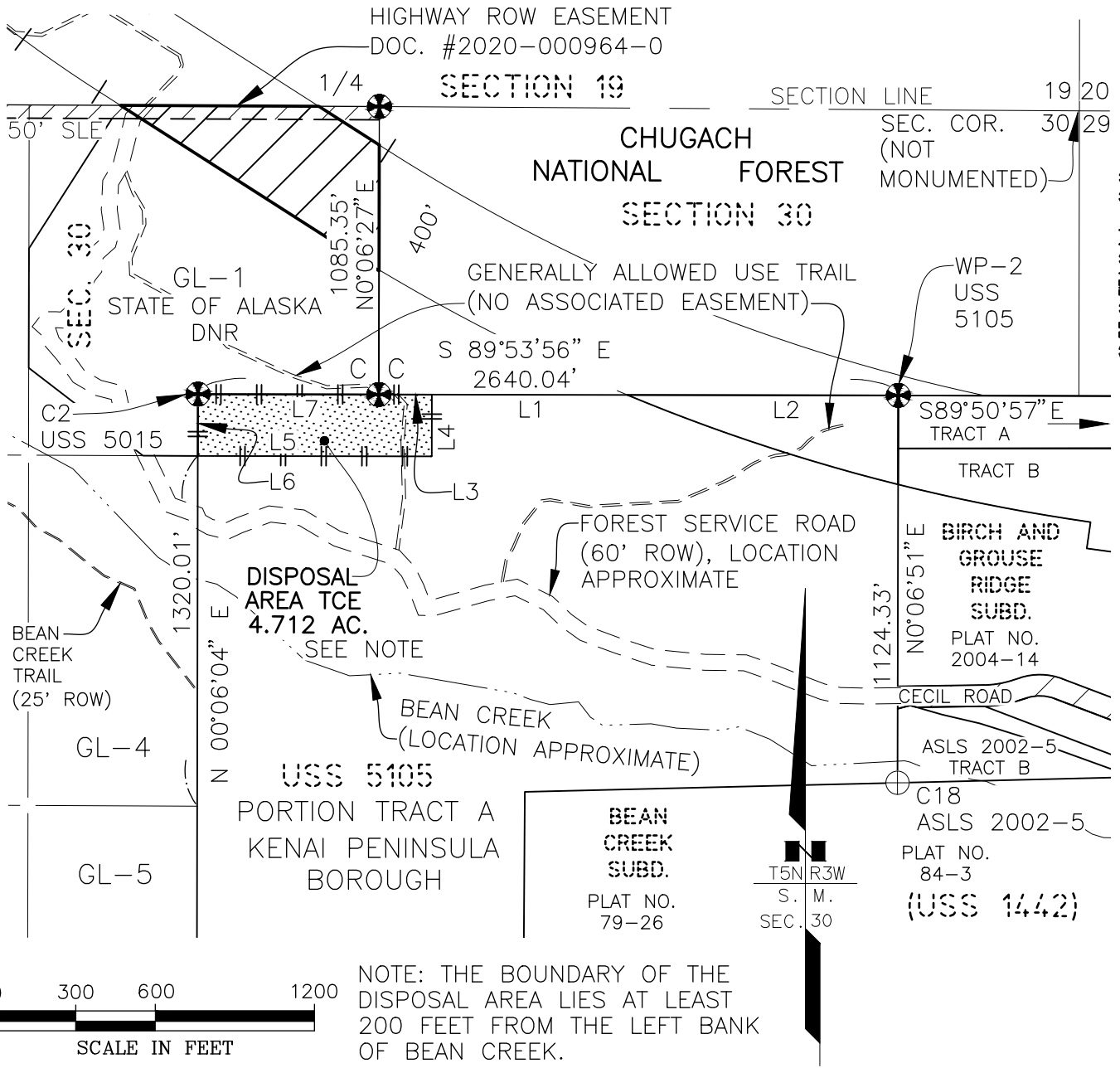
= RECOVERED PRIMARY MONUMENT [BLM]



TEMPORARY CONSTRUCTION
EASEMENT REQUIRED



= RECOVERED PRIMARY MON. [4928-S]



KPB USS 5105 Disposal Area TCE 1-5-2021 1/5/2021 1:14:19 PM

SECTION 29

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

TEMPORARY CONSTRUCTION EASEMENT REQUIRED FOR
**STERLING HIGHWAY
MP 44.5 TO 58**
PROJECT NO. 0A33029/CFHWY00694

OWNER'S INITIAL _____
ATTACHED TO _____
PAGE ____ OF ____ DATED _____

PLAT 3 OF 4 TCE AREA 4.712 AC.
DRAWN BY KFT
DATE Jan 2021
**PARCEL NO. KPB S5105
DISPOSAL AREA TCE**

KPB USS 5105 Disposal Area TCE 1-5-2021 1/5/2021 1:14:26 PM

LINE TABLE		
LINE #	LENGTH	DIRECTION
L1	736.70	S 89°53'56" E
L2	1021.35	S 89°53'56" E
L3	200.00	S 89°53'56" E
L4	232.70	S 00°06'04" W
L5	881.99	N 89°53'56" W
L6	232.70	N 00°06'04" E
L7	681.99	S 89°53'56" E

STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

TEMPORARY CONSTRUCTION EASEMENT REQUIRED FOR
**STERLING HIGHWAY
MP 44.5 TO 58**
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OWNER'S INITIAL _____
ATTACHED TO _____
PAGE ____ OF ____ DATED _____

PLAT 4 OF 4

TCE AREA 4.712 AC.

DRAWN BY KFT

DATE Jan 2021

**PARCEL NO. KPB S5105
DISPOSAL AREA TCE**

Project No.:	CFHWY00753
Date Prepared:	01/28/2021

Sterling Highway MP 45-60 Sunrise to Skilak
Lake Rd Phases 2-5 CM/GC
Staging/Disposal Site Operations Plan

Prepared For:

KPB and ADOT&PF

Prepared By:

Kiewit Infrastructure West Co.
2000 W. International Airport Rd. C-6
Anchorage, AK 99502

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Appendixes

Appendix A – Site location and 3D Model

Table(s)

Table 1 – West #1

Table 2 – West #2

Table 3 – East #2

Acronyms and Abbreviations

ADOT	Alaska Department of Transportation & Public Facilities
BMP	Best Management Practice
DNR	Alaska Department of Natural Resources
HMCP	Hazardous Material Control Plan
KIWC	Kiewit Infrastructure West Co.
KPB	Kenai Peninsula Borough
ROW	Right of Way
SOA	State of Alaska
USACE	United States Army Corps. of Engineers
USFS	United States Forest Service

1 Project Description

The following is KIWC's Operation Plan pertaining to staging and disposal areas within the limits of KPB. Kiewit Infrastructure West Co (KIWC) is the CM/GC contractor for the Sterling Highway Milepost 45-60; Sunrise to Skilak Lake Rd – Phases 2-5. Staging and disposal sites will be developed/ utilized during construction of the project and reclaimed upon completion of the permanent construction according to an approved plan. This work will include three separate locations as identified in the visuals attached.

2 Scope

Identified in this plan are three staging & disposal sites for use during the construction of the Sterling Highway Milepost 45-60 Project. Two of the sites are on the West side (West #1 & #2) and one site is on the East side (East #2) at approximately Station 1500. West #1 is located near USFS Rd. #1 and will primarily be used as a disposal site for slash, peat, topsoil and excess excavation. Eventually, this site will be developed into a staging area for storage and miscellaneous operations. West #2 is located adjacent to USFS Rd #2. West #2 will be home to field offices, permanent materials, maintenance facility, fuel storage and potentially a batch plant. East #2 is located near Station 1500 and will be the designated East side disposal area. Over time it may be developed into an additional area for staging of bridge materials and/or a material crushing and hot plant location for the project.

KIWC is planning on using the requested sites as follows:

2.1 West Site #1

The first location is East of USFS Road #1, near Stations 1314+25 to 1329+00 (Approx. 14 AC). This site will include minimal grubbing to develop an access road into the site. It will be used to dispose of material such as slash, muck excavation, grubbing, and excess excavation material generated by KIWC during construction activities. The slash will be buried at the bottom of the site to reduce further impacts from activities in the site. This site will be broken into quadrants to include specific areas to place materials. For example, the far west section will include a mixture of peat and topsoil that could be used later during the reclamation of the site. The middle section will be material that will be unusable for future aspects of the project such as common excavation with high fines content. The northern section of the site will be used for excess embankment that may later be utilized as a staging area. Clearing will consist of machine clearing, hand clearing, mulching, and decking timber. Grubbing will consist of removal of the top organic layer to develop access into the site and staging area. Reclamation will include covering the site with topsoil and seeding it for permanent stabilization in compliance with the applicable revegetation plan for the project (currently in development).

2.2 West Site #2

The second location is East of USFS Road #2, near Stations 1379+00 to 1387+00 (Approx. 4.6 AC). The use of this parcel will consist of removal and stockpiling the existing organics, creating an earth berm around the perimeter of the site. Clearing will consist of machine clearing, hand clearing, mulching, and decking timber. The top organics layer will be removed in order to access more useable soils. The berm will be track walked for added stability in accordance with Alaska BMP practices. Within the boundaries of the site this area will be transformed into a uniformly flat but free draining area, the site will be capped with aggregate developed on site to provide an all weather running surface. The site will be used

for storage of permeant materials, aggregates, plant operation, field offices, fuel and a maintenance facility. Reclamation will include using the earth berm around the area to cover it with topsoil and follow an applicable revegetation plan.

2.3 East Site #2

On the East side a disposal site will be developed at ~Station 1500. This site will be cleared and built up with the disposal of excess material from the project. Similar to the other sites, the material placed into this site will include grubbing, muck ex, and other material that do not meet the project needs for embankment or are excess. As this site is built up, it will be constructed with side slopes 2:1 (H:V) to allow for proper drainage and surrounded by BMPs to mitigate the risk of storm runoff. The site may also be utilized as a staging area during later phases of the project and will be reclaimed in accordance with an approved revegetation plan at the end of the project.

3 Timeline - Schedule

Notice to Proceed (NTP): Anticipated – May 1, 2021

Final Completion: October 31, 2025

3.1 Order of Precedence for Staging and Disposal Sites

1. Establish staging and disposal areas in relation to the project corridor development.
2. Establish access throughout the project corridor.
3. Construct remaining permanent work for the project alignment.
4. Upon completion of the project reclaim staging and disposal areas used during construction activities to applicable requirements.

4 Operations

4.1 Locations

4.1.1 West #1

This site is ~14 acre parcel located near Juneau Creek Rd. in Parcel 395. As depicted, it is capable of holding approximately 700,000 CY of material. The site will maintain a minimum 1% slope for drainage with slopes anticipated to be 2:1(H:V) around the site. The site will contain grubbing and peat (muck excavation) that could be used later in the project as a topsoil source, in addition to excess or unusable excavation generated from the project. Beyond a disposal site, this is a potential location to place an asphalt hot plant during paving operations. For reclamation, topsoil will be spread across the site in accordance with a revegetation plan for the project. The site will be accessed by Juneau Creek Rd and off the project alignment. A summary of quantities is provided below:

Table 1 – West #1*Disposal and Staging Area*

PROPERTY OWNER	TOTAL (ACRE)
KPB	14.0
Fill Possible	~700,000 CY
Grubbing/Muck Ex	~200,00 CY
Excess Materials	~500,000 CY

4.1.2 West #2

This site is ~4.6 Acres and is intended to be used primarily as a staging area. It will consist primarily of clearing and grubbing along with the balancing of approximately 20,000 cubic yards material within the site. The site will maintain a minimum 1% drainage and 2:1(H:V) slopes around the outside. Once the site is balanced, the site will become a staging area for permanent materials, maintenance facility, fuel storage and a possible location for a batch plant during bridge construction. The grubbing will create a vegetative earth berm around the site as a BMP with temporary seed added for stabilization. During reclamation, the berm will be spread back across the site which will be reclaimed according to an agreed upon plan. The site will be accessed from USFS Road #2 (Juneau Creek Rd) or off the project alignment. A summary of quantities is provided below:

Table 2 – West #2*Staging area*

PROPERTY OWNER	TOTAL (ACRE)
KPB	4.6
Cut	~15,000 CY
Fill	~22,000 CY

4.1.3 East #2 (~Sta. 1500)

The footprint of this site will be ~21 acres and will be contained within the boundaries of the DNR and KPB. Clearing will take place before any material is disposed into this area. Initially this site will be used for material disposal but as the site develops, parts of this area may be utilized as bridge material storage and crushing / production operations. Finish surfaces will be constructed to provide positive drainage with 2:1 (H:V) slopes around the site while avoiding concentrated flows. Final reclamation of this area will follow an approved revegetation plan. A summary of quantities is provided below:

Table 3: East #2*Disposal and Staging Area*

PROPERTY OWNER	FILL (CY)	AREA (ACRE)
DNR	834,000	17.5
KPB	208,000	3.5
TOTAL	1,042,000	21.0

4.2 Timber

Trees to be salvaged shall meet the criteria of the current Firewood plan on the project.

4.3 Final Site Clean Up

During construction the job Storm Water Pollution Prevention Plan (SWPPP) will be followed. Upon Completion of all work any materials that are not to be incorporated into the final project shall be removed and disposed of according to applicable requirements.

4.4 Equipment

- | | |
|---------------------------------------|-----------------------|
| - Feller Bunchers | - Bulldozer |
| - Excavators with mulching attachment | - Pickup Truck |
| - Skidsteers with mulching attachment | - Maintenance vehicle |
| - Wheel loaders | - Excavators |
| - Skidders | - Haul Trucks |
| - Grinders / Mulchers | - Blade (Grader) |

4.5 Safety Protocol

Vehicle and pedestrian access to all trails, KPB roadways, USFS roadways and other recreational resources shall always be maintained for the duration of the project, except for when closures are necessary.

Special Construction signs, in accordance with Subsection 643-2.01, shall be used to advise the public of work in the vicinity of trails. Special Construction signs shall be placed at trailheads at least two weeks before construction begins and be maintained in serviceable condition for the duration of the project. Signs shall state dates and duration of work and dates and duration of road closures.

Use Plastic Safety Fence, in accordance with Subsection 643-2.01, or other means approved by the Engineer to delineate trails through the work site as necessary.

See Appendix A – Special Construction Signs for examples of signage and corresponding locations.

4.6 Hazardous Materials

4.6.1 Personnel, Training & Discharge Prevention Procedure – 40 CFR 112.7(f)

- During handling of hazardous materials operations will follow our Hazardous Material Control Plan (HMCP) that complies with applicable state and federal regulations.
- Maintenance personnel have been trained in the operation and maintenance of equipment to prevent and control discharges; discharge notification; facility operations; and the contents of the SPCC plan.
- Ongoing orientation and training of spill prevention and control is conducted pursuant to the commitments of Kiewit Infrastructure West Co's Sterling Highway MP 45-60 Project and District policies. Discharge prevention training is addressed as necessary during project start-up, regularly scheduled safety meetings, and new-hire orientation.

4.6.2 Tank Truck Loading / Unloading Rack – 40 CFR 112.7(h)

Tank trucks are operated by an independent vendor responsible for ensuring their operations are performed in accordance with applicable state and federal regulations. Spill kits are kept on hand when fuel deliveries are made, and a fueling procedure is followed to minimize the risk of an accidental discharge.

4.6.3 Emergency Telephone Numbers – 40 CFR 112.7(a3vi)

- Bob Falk, Project Manager
 - Phone: (360)319-3075
- Jim Dennison, Project Environmental Coordinator
 - Phone: (907) 406-9652
- Jim Dilworth, District Environmental Manager
 - Phone: (360) 693-1478
- Pat Harrison, Area Manager
 - Phone: (907) 222-9350
- Alaska Department of Environmental Conservation
 - Anchorage: (907) 269-3063
 - Outside normal business hours: (800) 478-9300
- National Response Center
 - (800) 424-8802
- Emerald Alaska Inc.
 - (888) 506-7220

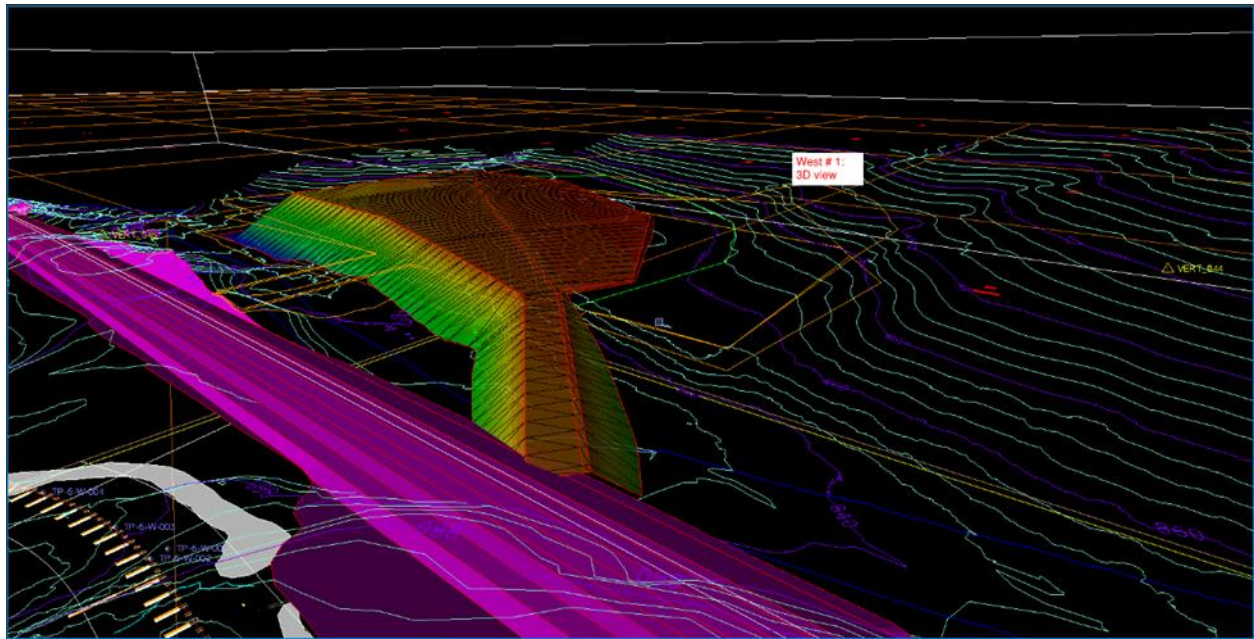
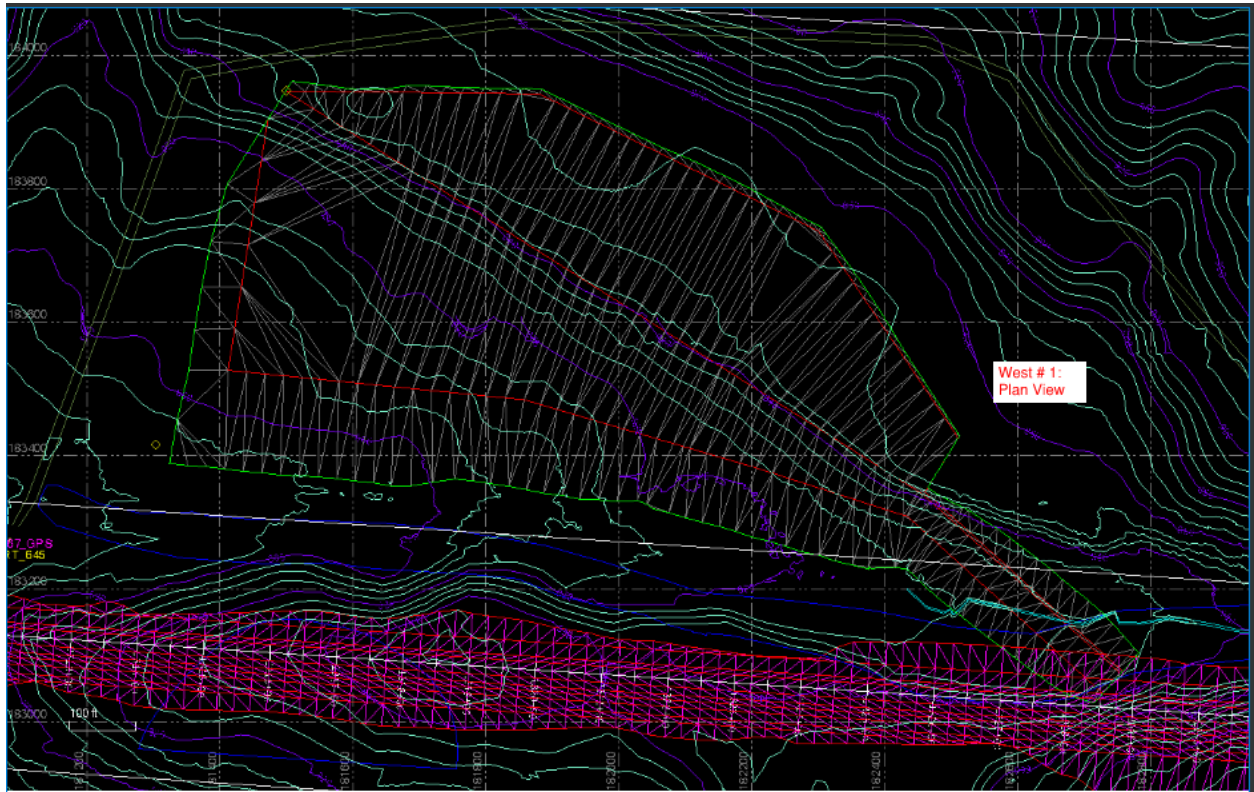
4.7 Contaminated Site Clean Up

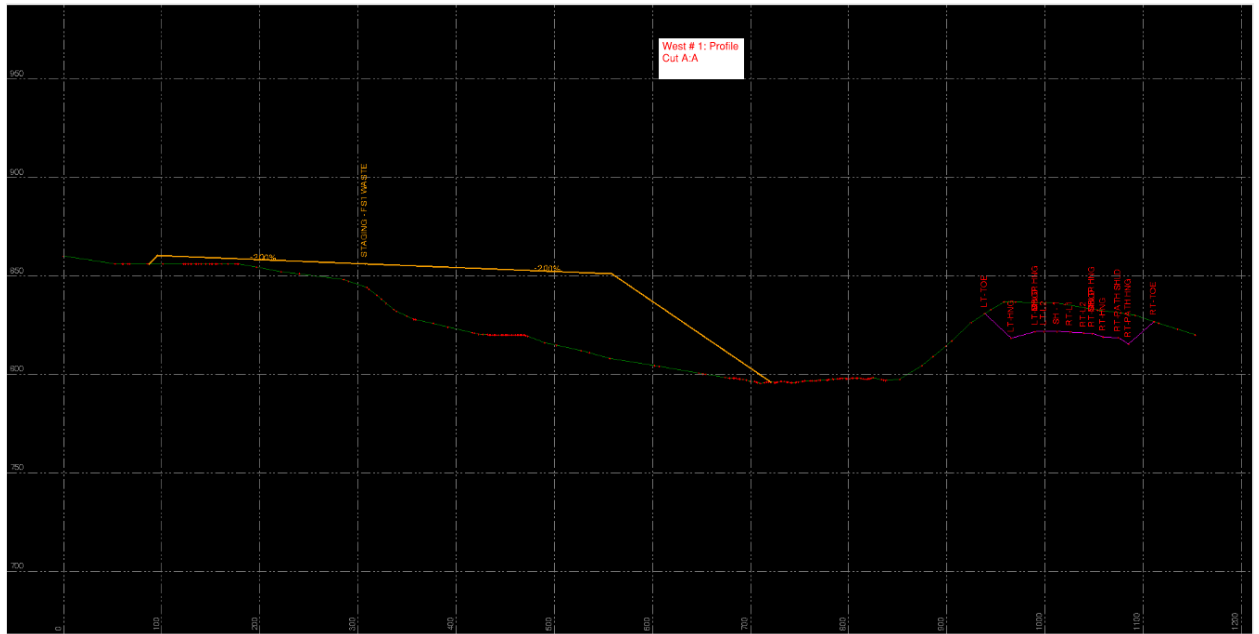
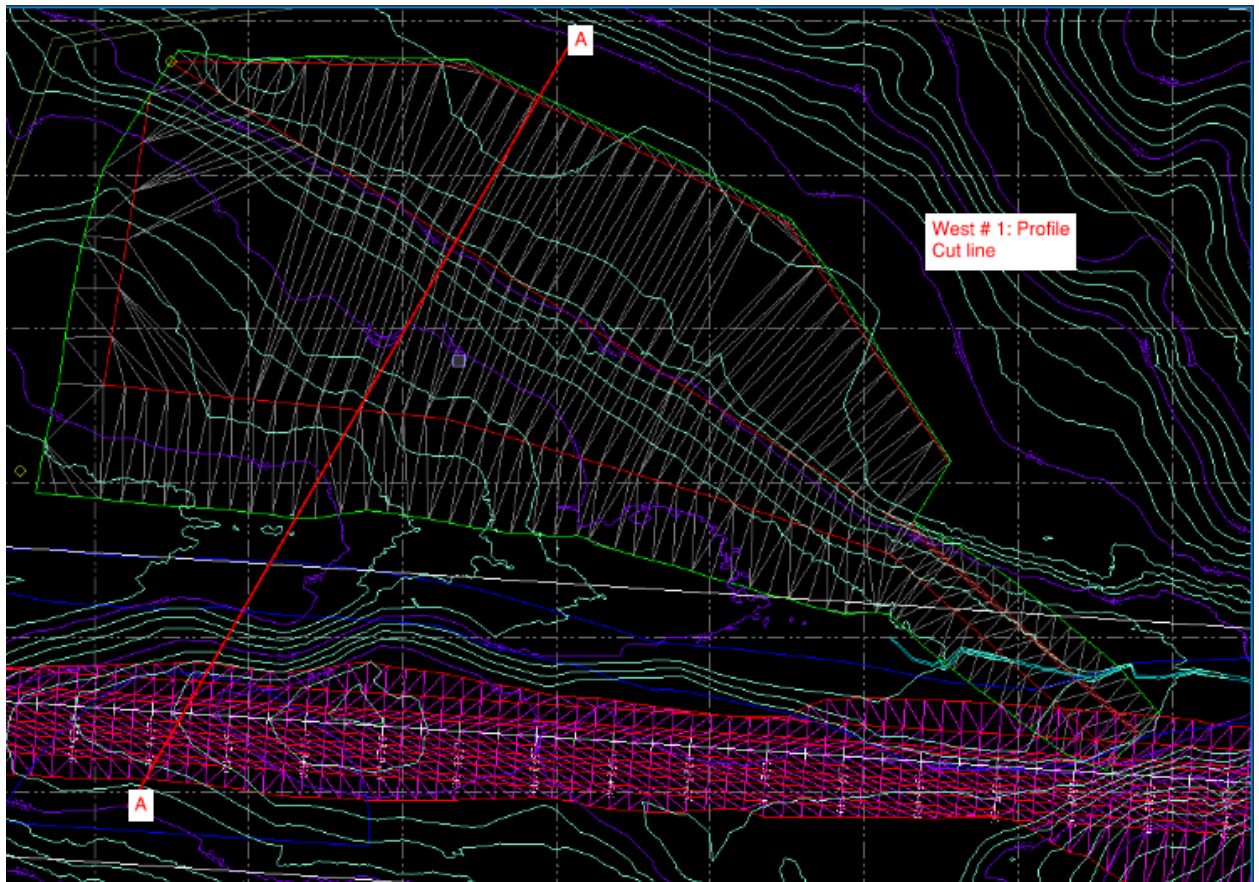
In the event of a spill or release, the initial response actions include the following:

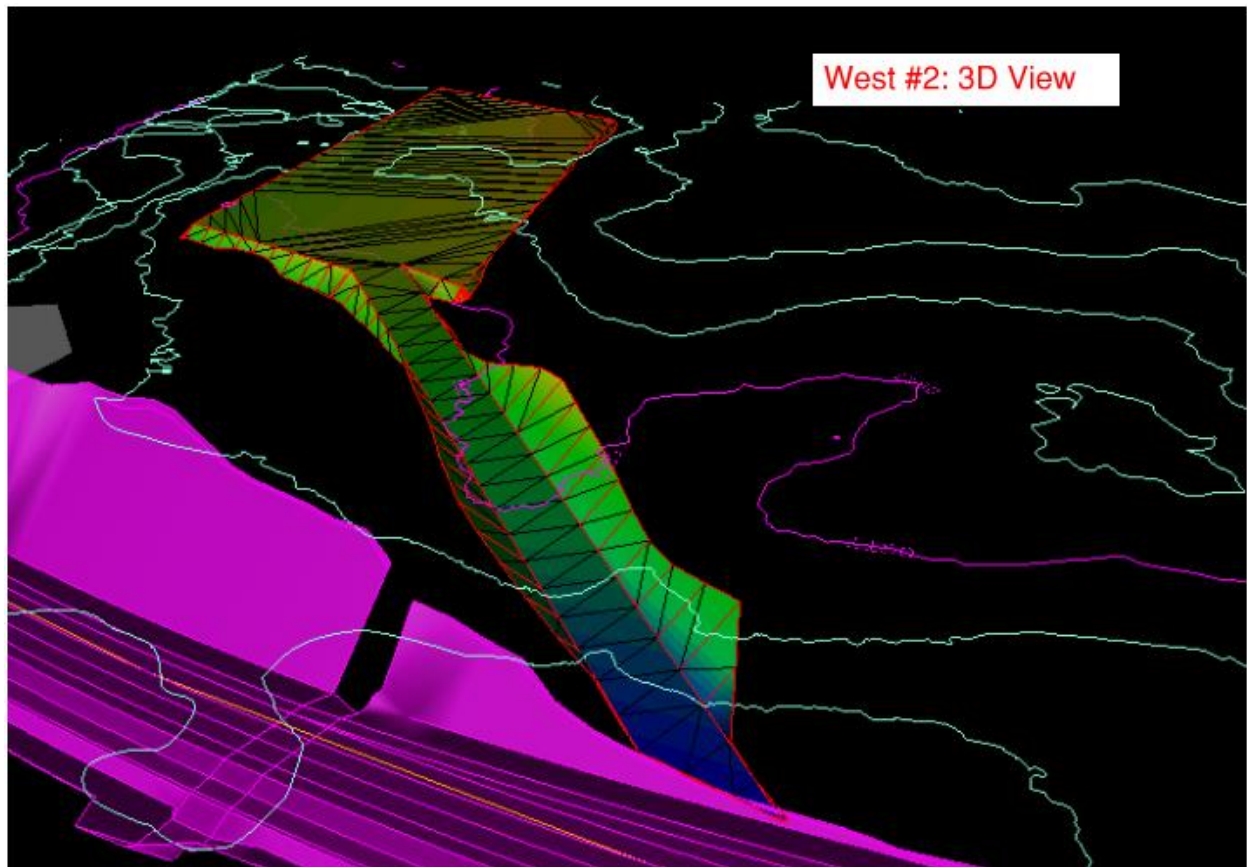
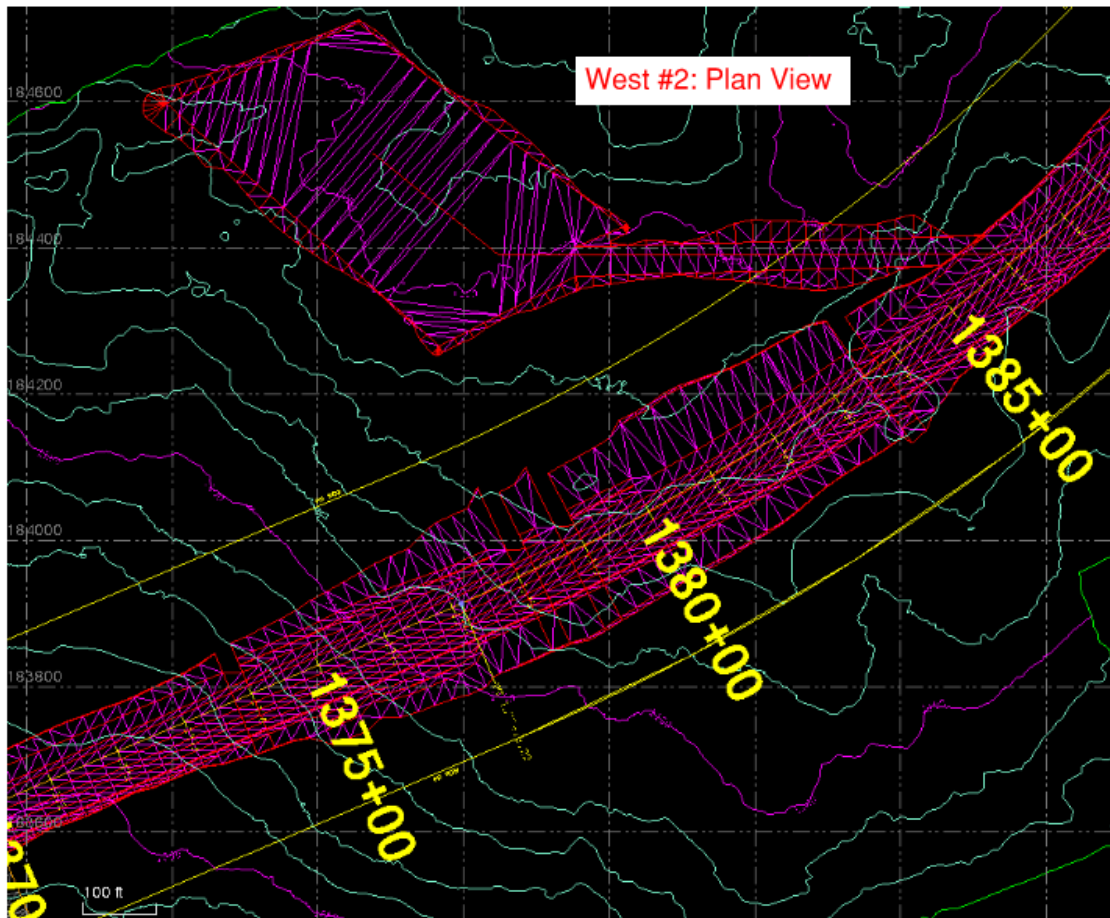
- **Action 1.** Evacuate all non-essential personnel
- **Action 2.** Identify the source of the release
- **Action 3.** Isolate equipment, restrict all sources of ignition, cordon off the area, contain and stop the discharge to the extent possible, close off drainage courses that may lead to a discharge into the waters of the State or other sensitive off-site areas.
 - Note: Only attempt to contain and stop the discharge if you have received the proper training, unless containing or stopping the discharge will involve a simple action such as closing a valve. Avoid direct contact with or the breathing of gases from the spilled product. When responding, use the proper Personal Protection Equipment (PPE) (Consult the Material Safety Data Sheet). Do not hose down or attempt to dilute the spilled material.
- **Action 4.** Provide the Project Environmental Coordinator with the following information:
 - Date and time of the release and/or discovery
 - Type of materials released and estimated quantity
 - Injuries involved, and fire and/or explosion potential
 - Need for additional assistance
 - Immediate actions taken to contain or stop the release
 - Location of the release and direction of flow
 - Probability of offsite migration and/or environmental damages
- **Action 5.** The Project Environmental Coordinator will be responsible for notifying the ADEC and the State of Alaska Department of Transportation (ADOT) and will assign additional personnel and resources to contain or stop the discharge, make the appropriate notification, and begin cleanup activities.

- For the cleanup of minor spills, absorbent materials are available on site at the spill kit locations.
- If the spill cannot be contained within the facility area with materials and equipment on hand, facility personnel are instructed to contain the spill as the situation allows and contact the following contractor for assistance: Emerald Alaska Inc. 2020 Viking Drive, Anchorage, AK 99501(888) 506-7220
- In accordance with Title 18 of the Alaska Administrative Code, Chapter 75.300, discharges shall be reported to the Alaska Department of Environmental Conservation:
 - As soon as there is knowledge of a...
 - Discharge or release of a hazardous substance other than oil;
 - Discharge or release of oil to water; or
 - Discharge or release, including a cumulative discharge or release, of oil in excess of 55 gallons solely to land outside an impermeable secondary containment area or structure; and
 - Within 48 hours after there is knowledge of a discharge or release, including a cumulative discharge, of oil solely to land
 - In excess of 10 gallons, but 55 gallons or less; or
 - In excess of 55 gallons, if the discharge or release is the result of the escape or release of oil from its original storage tank, pipeline, or other immediate container into an impermeable secondary containment area or structure.
 - All spills between 1 and 10 gallons will be logged monthly and reported to Alaska Department of Environmental Conservation.
- The District Environmental Manager and Area Manager shall also be notified.
- In accordance with Title 18 of the Alaska Administrative Code, Chapter 75.007, the operator shall maintain for the life of the facility a history of spills over 42 gallons, including the source, cause, amount and corrective action taken.
- All reported spills will be documented as to what action was taken to clean up the material and prevent a similar type of spill from recurring. Photos will be taken of the area and stored with the spill documentation at the project office location.

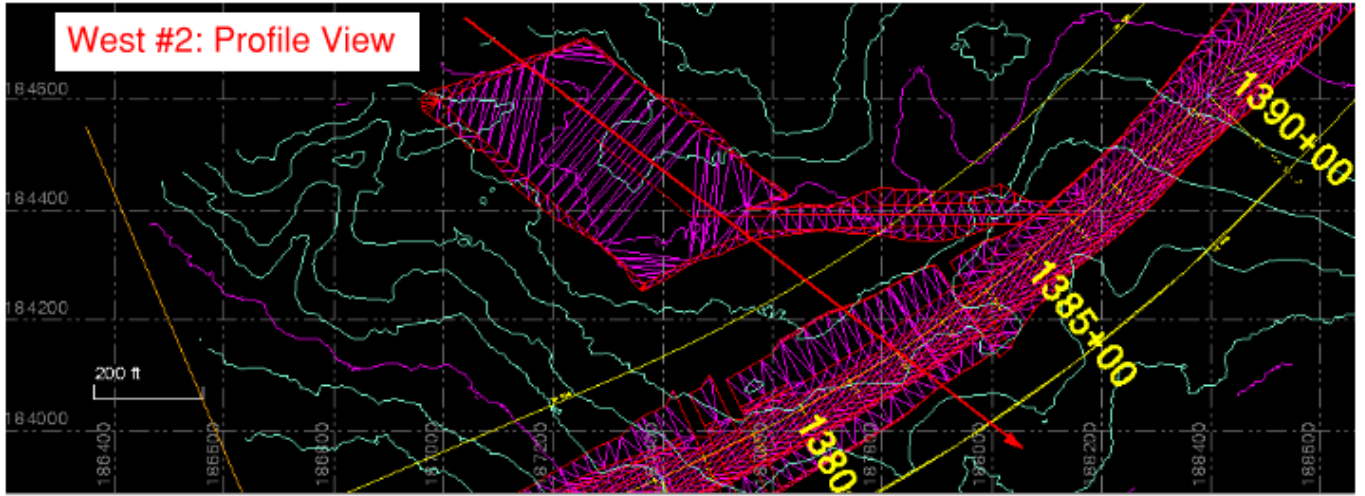
Appendix A – Site location and 3D Model



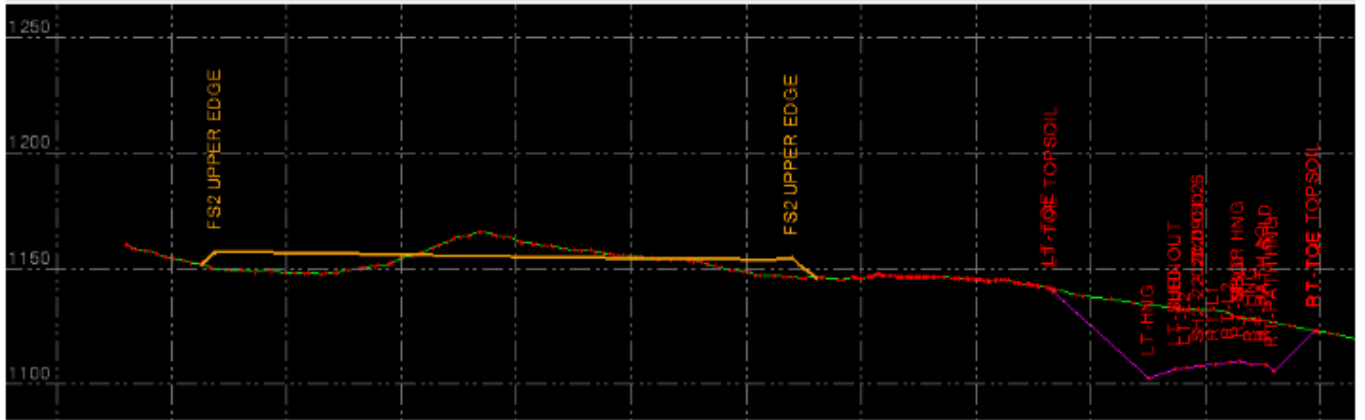


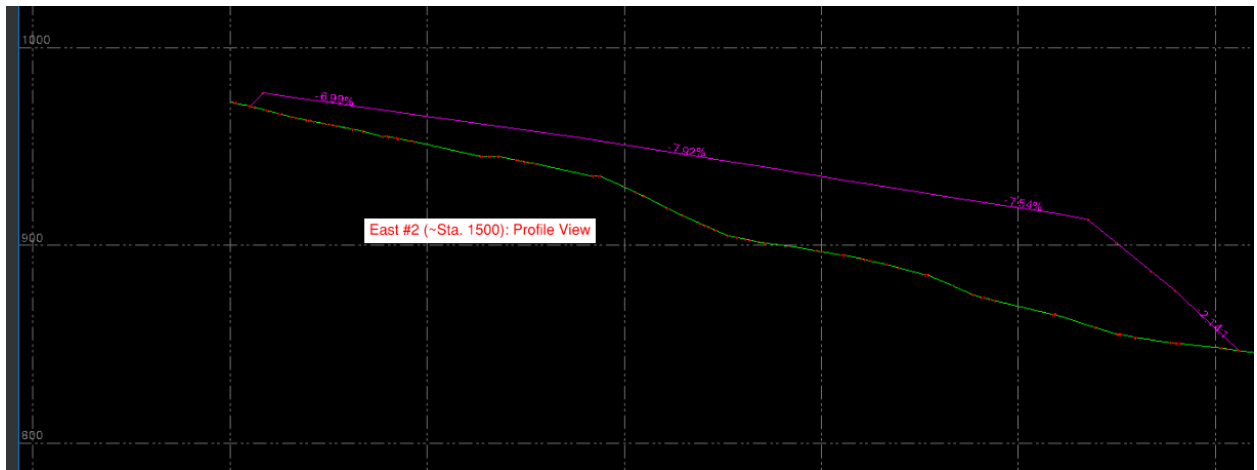
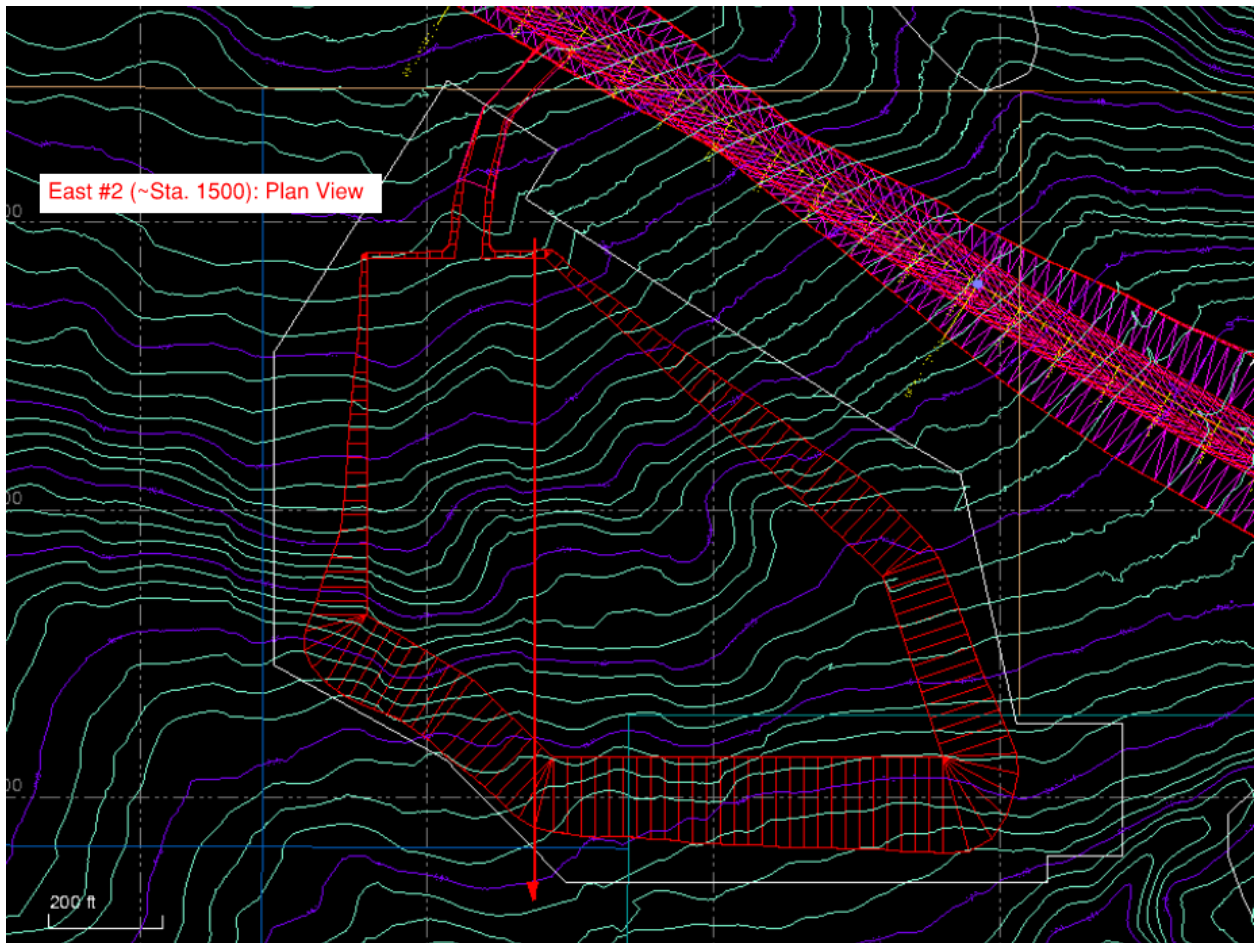


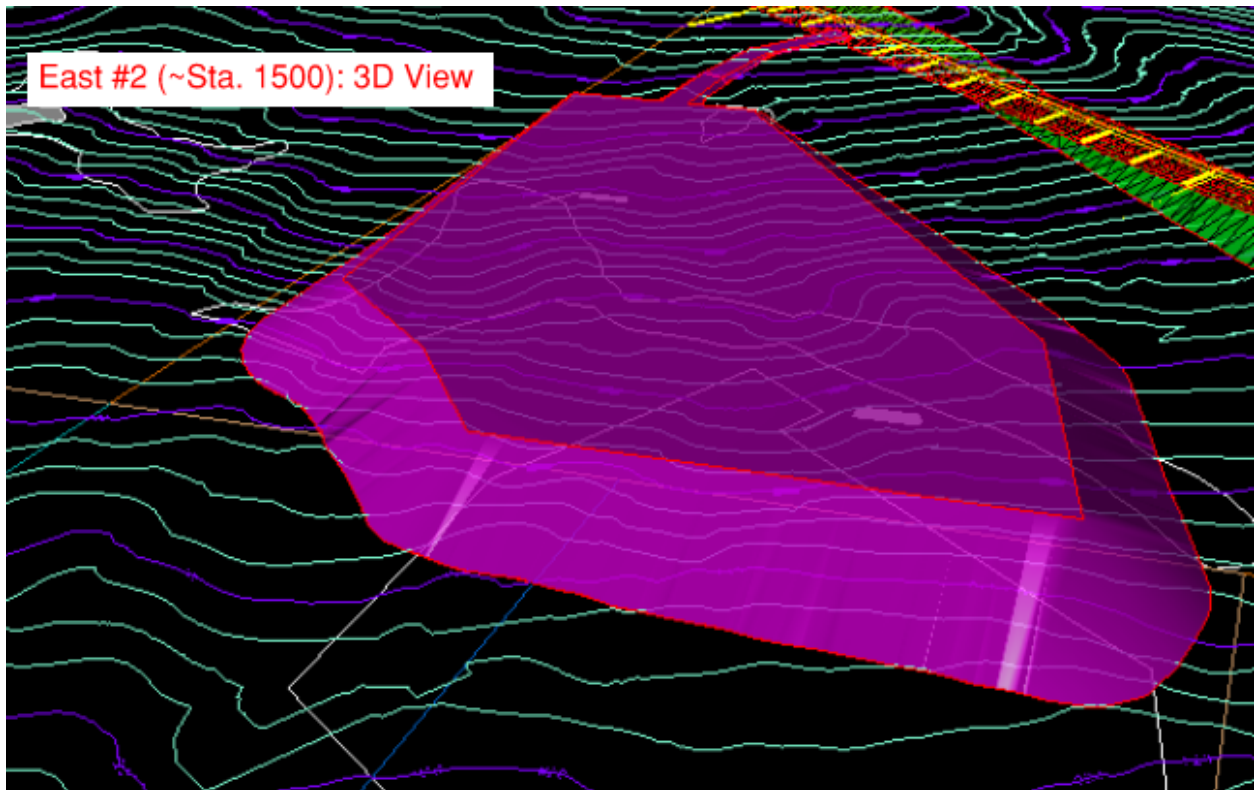
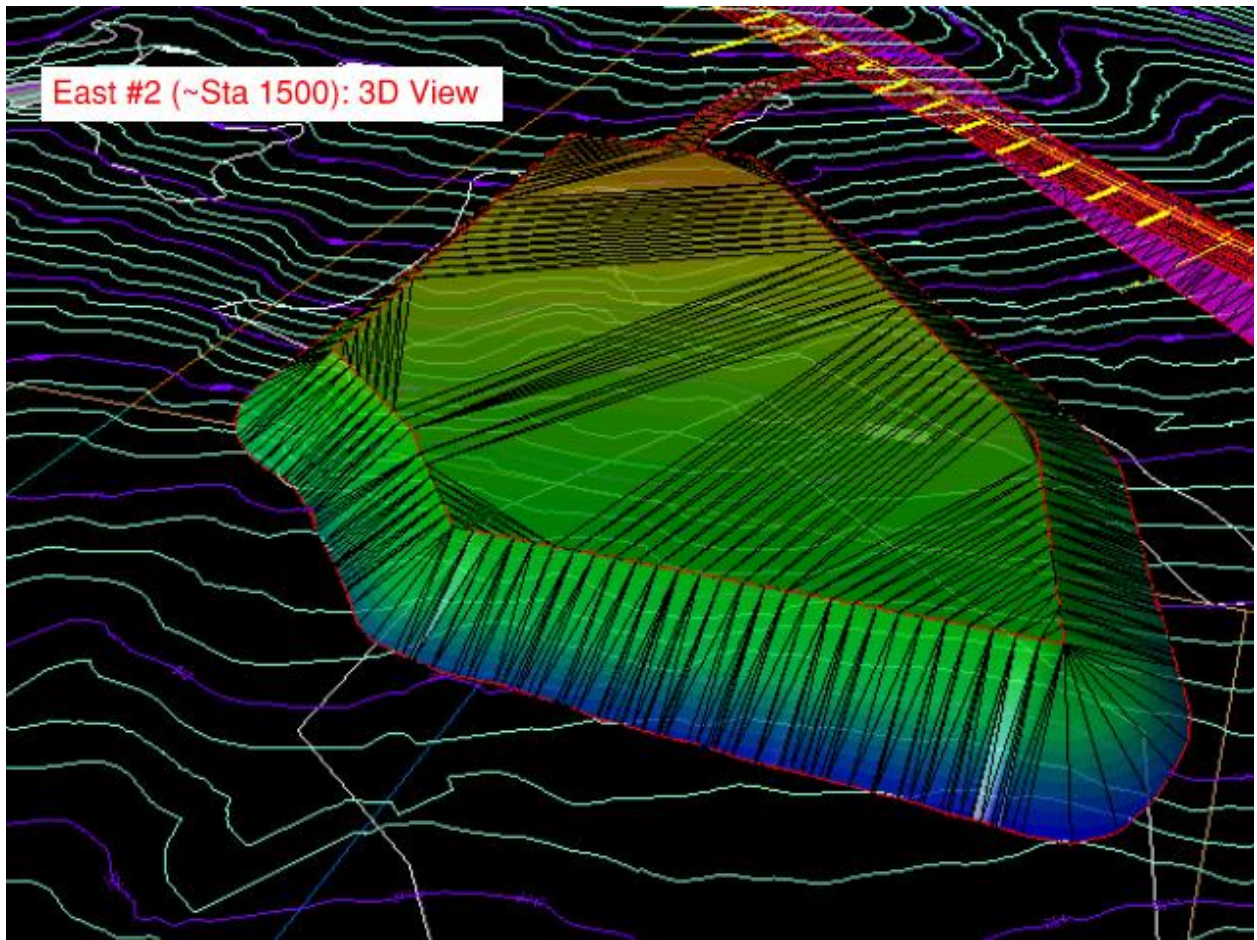
West #2: Profile View



Surface Slicer ✕

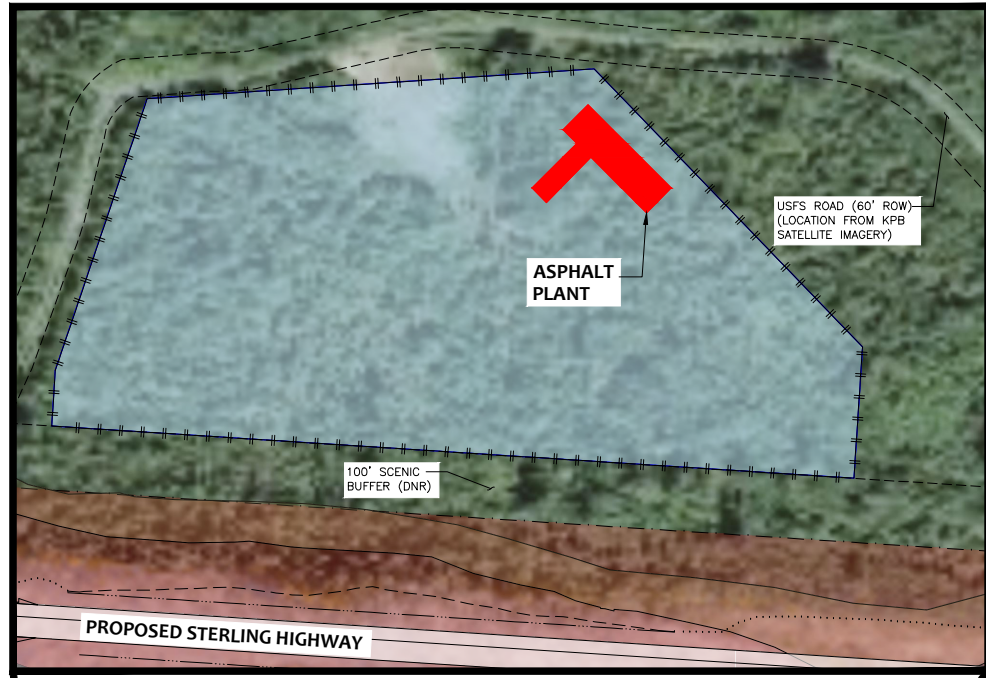






"WEST #1"

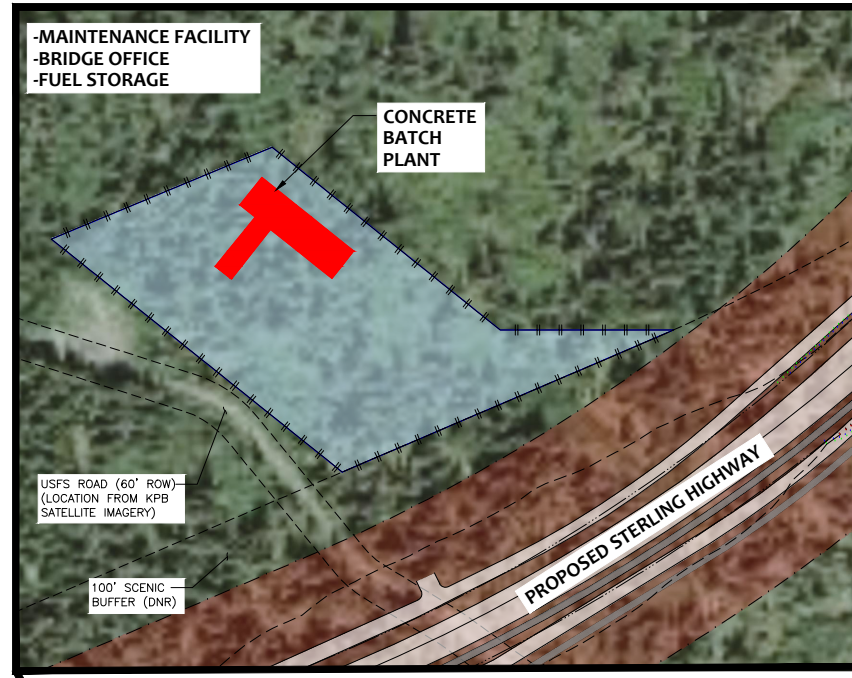
**14.0 ACRE
STAGING AND DISPOSAL SITE
(19.9 Identified in EIS)**



1

"WEST #2"

**ALTERNATE 4.6 ACRE
STAGING SITE
(NOT Identified in EIS)**



WEST #1 AND #2 STAGING AND DISPOSAL SITES

LEGEND

STAGING/
DISPOSAL

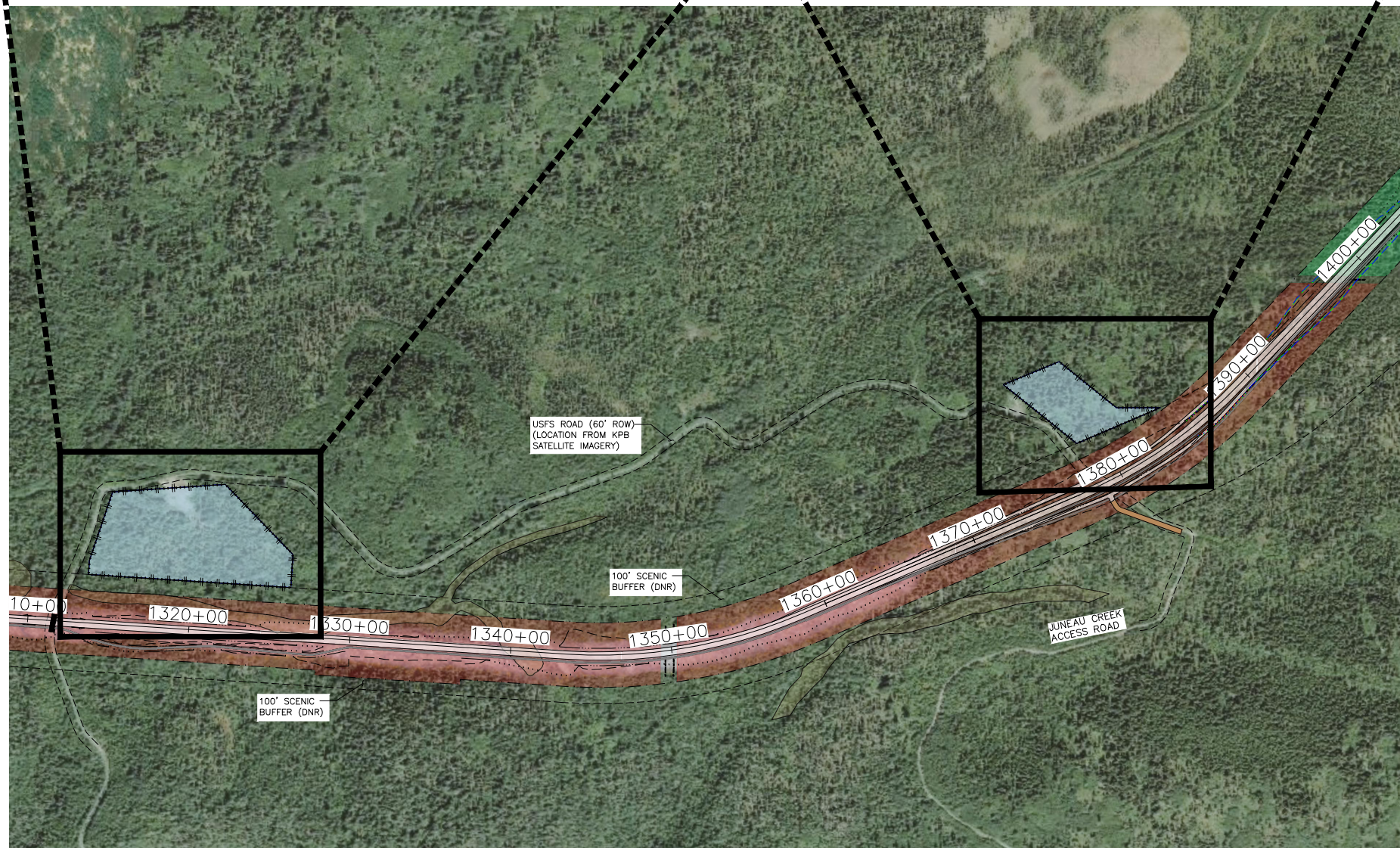
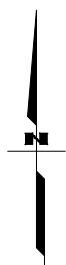
WETLANDS

ROW
(PROPOSED)

LAND OWNERSHIP

USFS

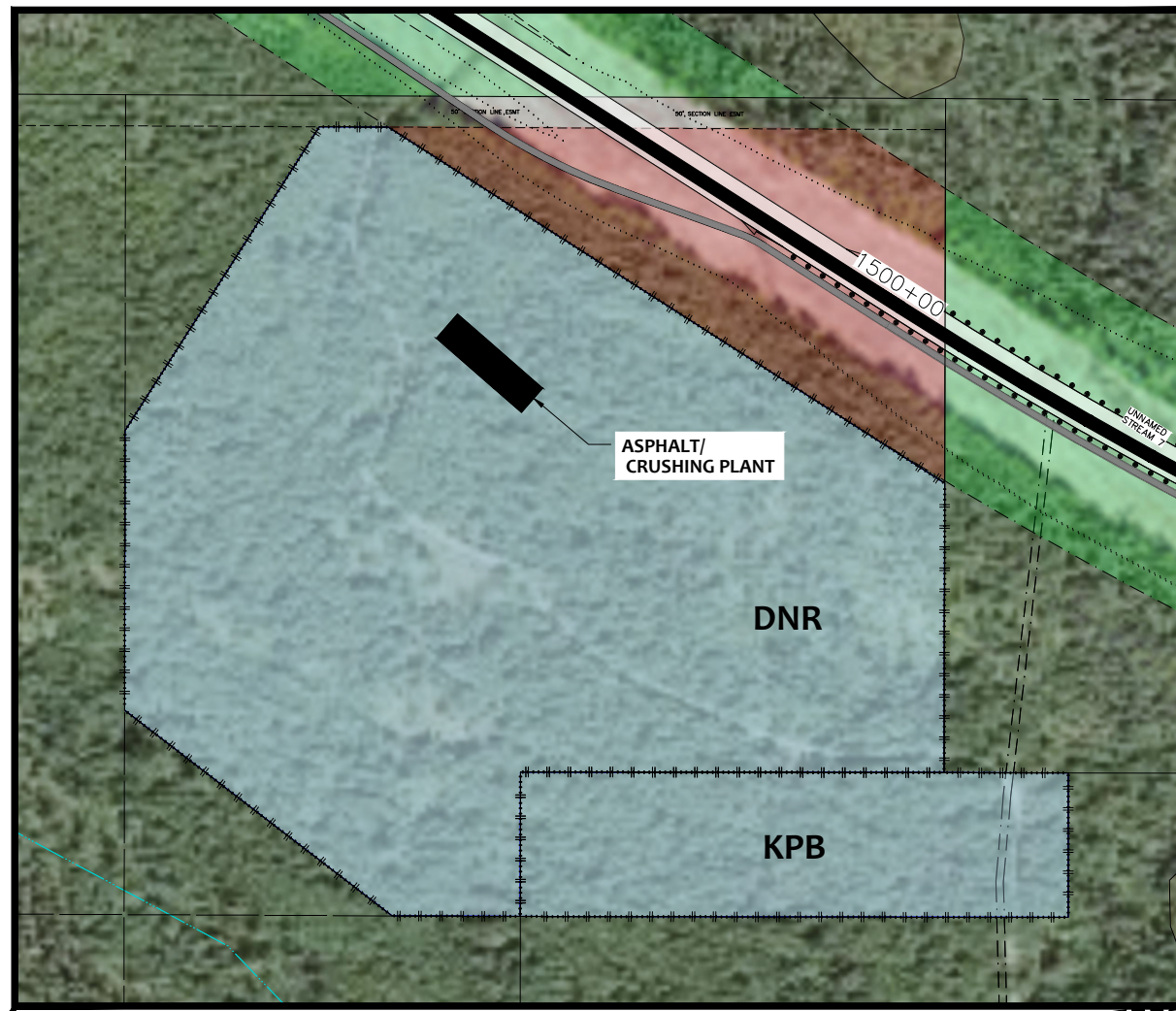
STATE



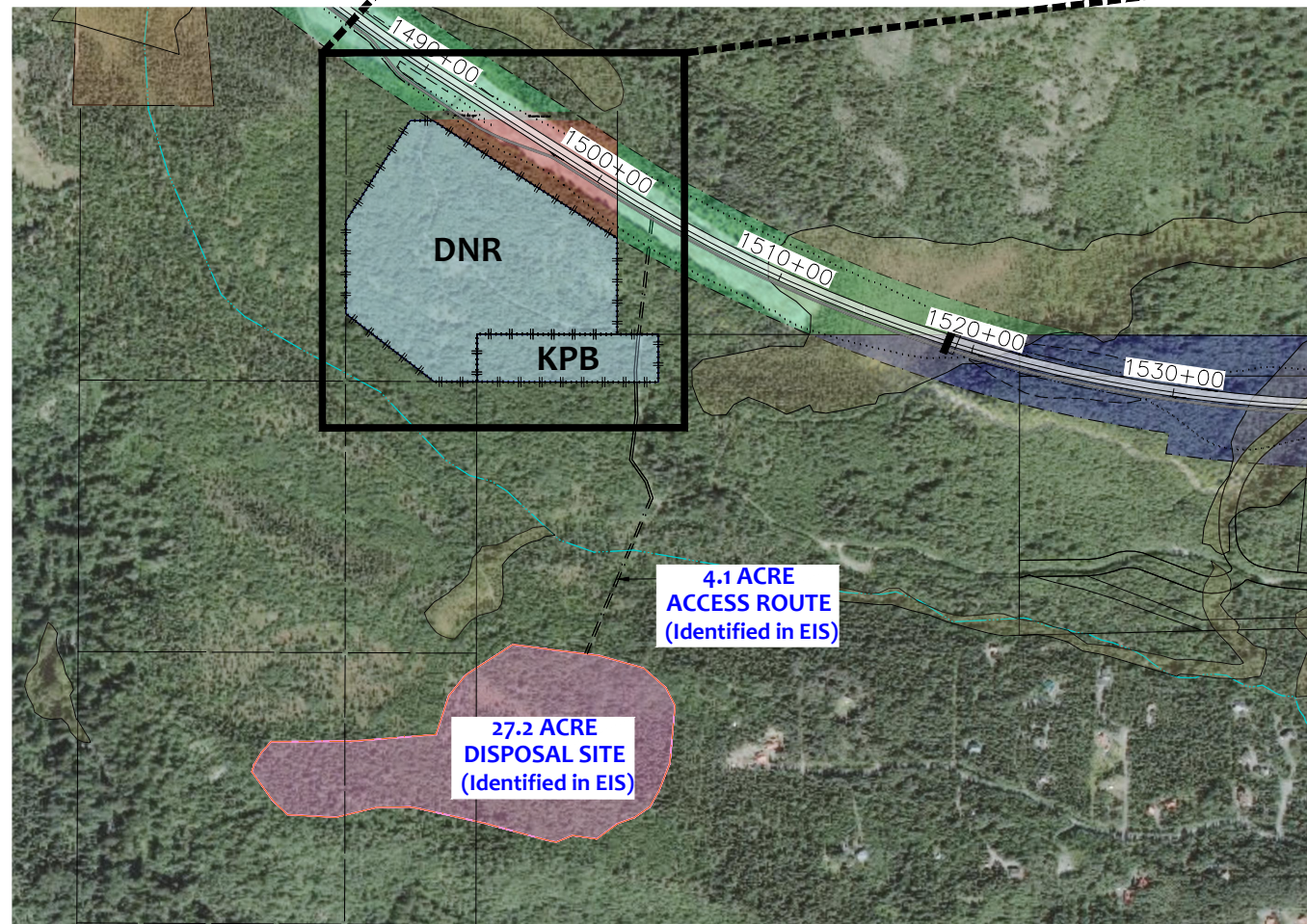
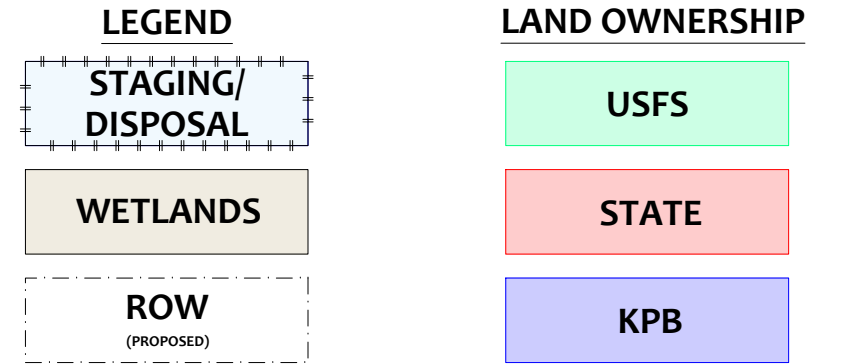
SITE	EIS		PROPOSED	
	DISPOSAL (ACRES)	STAGING (ACRES)	DISPOSAL (ACRES)	STAGING (ACRES)
WEST #1	19.9	NA	9.0	5.0
WEST #2	NA	NA	NA	4.6
TOTAL IMPACTED AREA				
	19.9 ACRES		18.6 ACRES	

January 12, 2021

"EAST #2"
 ALTERNATE 30.3 ACRE
 STAGING AND DISPOSAL SITE
 (NOT Identified in EIS)



EAST #2 STAGING AND DISPOSAL SITE



SITE	EIS		PROPOSED	
	DISPOSAL /ACCESS (ACRES)	STAGING (ACRES)	DISPOSAL (ACRES)	STAGING/ ACCESS (ACRES)
EAST #2	31.3	NA	20.4 (DNR)	4.7 (KPB) 5.2 (DNR)
TOTAL IMPACTED AREA				
	31.3 ACRES		30.3 ACRES	

January 12, 2021