IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

UNITED STATES OF AMERICA, Plaintiff, vs. AT&T CORP., AT&T OF THE VIRGIN ISLANDS, INC., Defendants.	Civil Action No. _____ Action for Violation of Clean Water Act and Rivers and Harbors Act

CONSENT DECREE

WHEREAS, Plaintiff the UNITED STATES OF AMERICA filed the Complaint herein against Defendants AT&T CORP. ("AT&T"), and AT&T OF THE VIRGIN ISLANDS, INC. ("AT&T VI"), alleging that Defendants violated Section 301(a) of the Clean Water Act ("CWA"), 33 U.S.C. § 1311(a), and Section 10 of the Rivers and Harbors Act ("RHA"), 33 U.S.C. § 403;

WHEREAS, the Complaint alleges that Defendants (1) violated CWA Section 301(a) by discharging pollutants into waters of the United States in Magens Bay, St. Thomas, the U.S. Virgin Islands ("The Site") without a CWA permit; (2) violated RHA Section 10 by modifying and altering an area within the navigable waters of the United States at the Site without authorization from the Secretary of the Army ("the Corps"); and (3) violated the terms and conditions of the Corps' authorization to perform certain work, as provided in the Corps' January 24, 1997 Letter of Permission (No. 1991150067 LP-DD);

WHEREAS, the Complaint seeks (1) to enjoin the discharge of pollutants into waters of the United States in violation of CWA Section 301(a); (2) to enjoin the modification or alteration of areas within the navigable waters of the United States in violation of RHA Section 10; (3) to require Defendants to conduct restoration and mitigation to address damage caused by their alleged unlawful activities; and (4) to require Defendants to pay civil penalties as provided in 33 U.S.C. § 1319(d);

WHEREAS, this Consent Decree is intended to constitute a complete and final settlement of the United States's civil claims under the CWA and RHA set forth in the Complaint;

WHEREAS, the United States and Defendants agree that settlement of this case is in the public interest and that entry of this Consent Decree is the most appropriate means of resolving the United States' claims under the CWA and the RHA against Defendants in this case; and

WHEREAS, the Court finds that this Consent Decree is a reasonable and fair settlement of the United States' civil claims against Defendants in this case, and that this Consent Decree adequately protects the public interest in accordance with the CWA, the RHA and all other applicable federal law.

THEREFORE, before the taking of any testimony upon the pleadings, without further adjudication of any issue of fact or law, and upon consent of the parties hereto by their authorized representatives, it is hereby ORDERED, ADJUDGED and DECREED as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1345 and 1355, Section 12 of the RHA, 33 U.S.C. § 406, and Section 309(b) of the CWA, 33 U.S.C. § 1319(b).

2. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391, 1395, Section 12 of the RHA, 33 U.S.C. § 406, and Section 309(b) of the CWA, 33 U.S.C. § 1319(b), because Defendants' actions and the resulting discharges and damage to the environment alleged in the Complaint occurred within this district in Magens Bay, St. Thomas.

3. The Complaint states claims upon which relief can be granted pursuant to Sections 301, 309 and 404 of the CWA, 33 U.S.C. §§ 1311, 1319 and 1344.

II. APPLICABILITY

4. The obligations of this Consent Decree, as they are described herein, shall apply to and be binding upon Defendants, their officers, directors, agents, employees and servants, and their successors and assigns and any person, firm, association or corporation who is, or will be, acting in concert or participation with any of the Defendants whether or not such person has notice of this Consent Decree. In any action to enforce this Consent Decree against a Defendant, the Defendant shall not raise as a defense the failure of any of its officers, directors, agents, employees, successors or assigns or any person, firm or corporation acting in concert or participation with the Defendant, to take any actions necessary to comply with the provisions hereof.

III. SCOPE OF CONSENT DECREE

5. This Consent Decree shall constitute a complete and final settlement of all civil claims for injunctive relief and civil penalties against the Defendants (including their officers, directors, agents, employees and servants) under CWA Sections 301, 309, and 404, and RHA Section 10 concerning the activities alleged in the Complaint. This Consent Decree does not resolve or in any way affect the right of the United States to bring other claims against the

Defendants including, but not limited to, criminal claims based wholly or in part on the facts or violations alleged in the Complaint, and claims for natural resource damages under any provision of law.

6. Unless otherwise specified, Defendants' obligations under this Consent Decree are joint and several.

7. This Consent Decree is not and shall not be interpreted to be a permit or modification of any existing permit issued pursuant to Sections 402 or 404 of the CWA, 33 U.S.C. §§ 1342 or 1344, or Section 10 of the RHA, 33 U.S.C. § 403, or any other law. Nothing in this Consent Decree shall limit the ability of the United States to issue, modify, suspend, revoke or deny any permit under the CWA, the RHA or any other law.

8. This Consent Decree in no way affects or relieves Defendants of their responsibility to comply with any applicable federal, state, or local law, regulation or permit.

9. Except as set forth in Paragraph 5 (with respect to Defendants' officers, directors, agents, employees and servants), this Consent Decree in no way affects the rights of the United States as against any person not a party to this Consent Decree.

10. The United States reserves any and all legal and equitable remedies available to enforce the provisions of this Consent Decree and applicable law.

11. Nothing in this Consent Decree shall constitute an admission of fact or law by any party.

IV. SPECIFIC PROVISIONS

A. RESTORATION

12. Defendants shall perform restoration at and near the Site under the following terms and conditions, which may be amended with the written consent of the Corps:

(a) Within three (3) months after entry of this Consent Decree, Defendants shall inspect the Site to ensure that all non-indigenous gray rock visible in the intertidal zone of the Site that can be removed by hand or by using hand tools has been removed from the Site. Defendants shall not be required to dig into the sand to search for additional non-indigenous gray rock that may remain buried there, or to remove any non-indigenous rock that is too large to remove by hand or by using hand tools.

(b) If Defendants determine during their inspection under Paragraph 12(a) that any non-indigenous gray rock remains at the Site, Defendants may remove such rock by using an appropriate marine vessel. Before using any such vessel, Defendants must provide notice to the Corps as provided in Paragraph 12(h). Defendants shall not use any such marine vessel unless the Corps approves of its use as provided below in Paragraph 12(h). Defendants' use of any such marine vessel to remove non-indigenous gray rock shall not strike or otherwise damage the rubble reef or live coral reef offshore of the Site.

(c) Any non-indigenous gray rock that Defendants remove from the Site, shall be disposed of by any manner allowed by applicable law. Defendants shall not be required by any part of Paragraph 12 to dig into the sand to search for additional non-indigenous gray rock that may remain buried there, or to remove any non-indigenous rock that is too large to remove by hand or by using hand tools.

(d) After the date of the initial removal described above in Paragraph 12(a),

Defendants shall, within every three (3) months thereafter: (1) inspect the Site for additional non-indigenous gray rock that can be removed by hand or by hand tool, and (2) collect and remove any such rock in accordance with Paragraph 12(c) above.

(e) If after four (4) sequential quarterly inspections described above in Paragraph (d), Defendants find no non-indigenous gray rock that can be removed by hand or by hand tool at the Site, then Defendants shall only be required to inspect the Site at least once every twelve (12) months starting from the date of the last inspection.

(f) Defendants shall maintain a written log that documents: (1) when each inspection is performed, (2) who performed each inspection, (3) whether any non-indigenous gray rocks were collected and removed and who conducted the collection and removal, (4) how the collection and removal of non-indigenous gray rocks was performed, and (5) where and how any collected non-indigenous gray rocks were disposed of. A copy of this log shall be kept at the St. Thomas cable landing station and within fourteen (14) business days after each inspection is completed Defendants shall provide the Corps with notice and a copy of the log in accordance with Paragraph 39.

(g) If after three (3) years from the date of the initial inspection described in Paragraph 12(a), Defendants find no non-indigenous gray rocks at the Site that can be removed by hand or by hand tool, no further inspections shall be required.

(h) No later than thirty (30) days before the date on which Defendants intend to conduct any inspection of the Site for the purpose of removing non-indigenous gray rock, Defendants shall provide written notice to the Corps of Engineers as provided in Paragraph 39 of this Decree of the date on which Defendants expect to conduct the inspection. Such notice shall

provide: (1) the date and time the inspection is to be performed, (2) the name and contact information for the person who will be in charge of the inspection for Defendants, and (3) whether Defendants intend to use any marine vessel as described above in Subparagraph (b), the type of any such marine vessel that Defendants intend to use, the purpose for which the vessel will be used, and the intended route or course that the vessel will take. Within ten (10) days after receipt of Defendants' notice to the Corps, the Corps shall inform Defendants in writing of: (1) whether a representative from the Corps will be present at the inspection and the name and contact information for that person and (2) whether the Corps approves or disapproves of Defendants' use of a marine vessel for the inspection.

13. Defendants shall allow employees or agents of the United States, at reasonable times with proper identification, to enter onto any property owned or controlled by Defendants for purposes of monitoring and enforcing compliance with the terms and conditions of this Consent Decree.

B. CONSERVATION EASEMENT

14. Within 60 days of entry of this Consent Decree, Defendants shall execute a conservation easement in the form attached at Appendix A, or a substantially similar form on which the parties mutually agree, that protects the strip of land identified below (the "Property") from future development (as defined below in subparagraph (b)) by Defendants, Defendants' agents, successors and assigns, or any subsequent owners. The United States and AT&T shall agree on the identity of the Grantee of the conservation easement within 30 days of entry of this Consent Decree. No later than 30 days after execution by Defendants and the grantee of the conservation easement, Defendants shall record that conservation easement with Recorder of

Deeds for the Government of the Virgin Islands. Within 15 days of recording the conservation easement, Defendants shall provide a copy of that executed and recorded conservation easement to the United States in accordance with Paragraph 39 below.

(a) The Property is the roughly strip-shaped parcel of land currently owned by Defendants or one of their subsidiaries that stretches from (but not including) the cable crossing at the southeast end of that small pocket beach, then running parallel to the shoreline towards the northwest, approximately the length of the former breakwater structure that constituted the violation that was the subject of this Consent Decree. The Property is further identified in attached Appendix A-1, which is a 1964 warranty deed to Transoceanic Communications, Incorporated in which the Property is identified as Parcel 3 on Public Works Drawing No. B 9-91-T63 dated October 31, 1963. The Property is further identified on attached Appendix A-2, which is a map indicating the Property.

(b) For purposes of Paragraph 14, "development" shall mean any excavation, trenching, filling, or other significant disturbance of the land; the construction or installation of any building, paving, retaining wall, or other fixture or structure; or the clearing of vegetation or other substantial alteration of any portion of the Property. For purposes of this Paragraph, "development" shall not include any (1) reasonably necessary repair or replacement of any structures existing on the Property as of the date of the entry of this Consent Decree or (2) restoration activities required by Paragraph 12 of this Consent Decree. In the event that Defendants conduct any reasonably necessary repair or replace any structures existing on the Property, Defendants shall provide written notice to the Grantee of the Conservation Easement no later than five (5) days before the date on which Defendants expect to conduct such repair or

replacement. If such repair or replacement is of an emergent nature such that the 5-day notice cannot be provided, Defendants shall provide the Corps of Engineers with the requisite written notification no later than five (5) days after the work on the repair or replacement has begun.

C. CIVIL PENALTIES

15. Defendants shall pay a civil penalty to the United States in the amount of $450,000 within 30 days of the entry of this Consent Decree. If this entire amount is not paid by the required date, Defendants will pay interest on the unpaid amount in accordance with the statutory judgment rate provided for in 28 U.S.C. § 1961.

16. Defendants shall make the above-referenced payment by FedWire Electronic Funds Transfer ("EFT" or wire transfer) to the U.S. Department of Justice account in accordance with current electronic funds transfer procedures, referencing U.S.A.O. file number 2004V00073 and DOJ case numbers 90-5-1-1-16423. Payment shall be made in accordance with instructions provided to the Defendants by the Financial Litigation Unit of the United States Attorney's Office for the District of the Virgin Islands. Any payments received by the Department of Justice after 4:00 P.M. (Eastern Time) will be credited on the next business day.

17. Upon payment of the civil penalty required by this Consent Decree, Defendants shall provide written notice, at the addresses specified in Paragraph 39 of this Consent Decree, that such payment was made in accordance with Paragraphs 15 and 16.

18. Civil penalty payments pursuant to this Consent Decree are penalties within the meaning of Section 162(f) of the Internal Revenue Code, 26 U.S.C. § 162(f), or of 26 C.F.R. § 1.162-21 and are not tax deductible expenditures for purposes of federal law.

D. INJUNCTION AGAINST FUTURE VIOLATIONS

19. For five (5) years after entry of this Consent Decree, Defendants and Defendants' agents, successors and assigns are enjoined from discharging any dredged material or fill material into waters of the United States within the geographic area under the authority of the Jacksonville District of the United States Army Corps of Engineers, unless such discharge complies with the provisions of the CWA and its implementing regulations.

20. For five (5) years after entry of this Consent Decree, Defendants' and Defendants' agents, successors and assigns are enjoined from modifying and altering an area within the navigable waters of the United States within the geographic area under the authority of the Jacksonville District of the United States Army Corps of Engineers, unless such modification or alteration complies with the provisions of the RHA and its implementing regulations.

21. For five (5) years after entry of this Consent Decree, Defendants and Defendants' agents, successors and assigns are enjoined from discharging any dredged material or fill material into waters of the United States in connection with any project related to the installation or maintenance of undersea cables or related structures anywhere in the United States, unless such discharge complies with the provisions of the CWA and its implementing regulations.

22. For five (5) years after entry of this Consent Decree, Defendants' and Defendants' agents, successors and assigns are enjoined from modifying and altering an area within the navigable waters of the United States in connection with any project related to the installation or maintenance of undersea cables or related structures anywhere in the United States, unless such modification or alteration complies with the provisions of the RHA and its implementing regulations.

23. If any injunction in this section of the consent decree is not complied with, the process for paying, disputing and/or resolving the amount of stipulated penalties shall be the same as stated in Section VII, except that the amount of the stipulated penalties for each violation for each day of non-compliance shall be as follows:

A.	For day 1 up to and including day 10 of violation	$5,000.00 per day
B.	For day 11 up to and including day 20 of violation	$8,000 per day
C.	For day 21 up to and including day 30 of violation	$10,000 per day
D.	For day 31 and each day thereafter of violation	$15,000 per day

For the purposes of calculating stipulated penalties under this paragraph, any activities in substantially the same location that occur at substantially the same time will be considered a single violation, even if they violate more than one of the injunctions in this section of the consent decree.

24. The United States, at its sole discretion, may bring an enforcement action based on any activity that is a violation of the injunctions in this section of the consent decree. In such an enforcement action, the United States may seek civil penalties that exceed the stipulated penalties in the previous paragraphs and/or any other relief (such as restoration and mitigation).

E. AT&T PROCEDURE FOR AVOIDING FUTURE VIOLATIONS

25. For five (5) years after entry of this Consent Decree, Defendants shall take the actions provided in Appendix B to this Consent Decree, entitled Internal Operating Procedures,

to establish internal operating procedures to ensure that future projects in and around waters of the United States do not violate the CWA or the RHA.

V. DISPUTE RESOLUTION

26. Any dispute that arises with respect to the meaning or requirements of this Consent Decree shall be, in the first instance, the subject of informal negotiations between the United States and Defendants affected by the dispute to attempt to resolve such dispute. The period for negotiations shall not extend beyond thirty (30) days beginning with the receipt of written notice by one party from the other affected party or parties that a dispute exists, unless agreed to in writing by those parties. If a dispute between the United States and one or more Defendants cannot be resolved by informal negotiations, then the position advanced by the United States shall be considered binding unless, within fourteen (14) days after the end of the informal negotiations period, the Defendant or Defendants file a petition with the Court seeking resolution of the dispute. The petition shall set forth the nature of the dispute and a proposal for its resolution. The United States shall have thirty (30) days to respond to the petition and propose an alternate resolution. In resolving any such dispute, the Defendant or Defendants shall bear the burden of proving by a preponderance of the evidence that the Defendants' position will achieve compliance with the terms and conditions of this Consent Decree and the CWA.

27. The filing of a petition asking the Court to resolve a dispute shall not extend or postpone any obligation of Defendants under this Consent Decree.

VI. FORCE MAJEURE

28. Defendants shall perform the actions required under this Decree within the time limits set forth or approved herein, unless the performance is prevented or delayed solely by

events which constitute a Force Majeure event. A Force Majeure event is defined as any event arising from causes entirely beyond the control of Defendants, including their employees, agents, consultants and contractors, which could not be overcome by due diligence and which delays or prevents the performance of an action required by this Consent Decree within the specified time period. A Force Majeure event does not include, inter alia, increased costs of performance, changed economic circumstances, changed labor relations, normal precipitation or climate events, changed circumstances arising out of the sale, lease or other transfer or conveyance of title or ownership or possession of property, or failure to obtain federal, state or local permits. A hurricane or tropical storm does not constitute a "normal precipitation or climate event."

29. If Defendants believe that a Force Majeure event has affected Defendants' ability to perform any action required under this Consent Decree, Defendants shall notify the United States in writing within seven (7) calendar days of the event at the addresses listed in Paragraph 39. Such notice shall include a discussion of the following:

A. what action has been affected;

B. the specific cause(s) of the delay;

C. the length or estimated duration of the delay; and

D. any measures taken or planned by the Defendants to prevent or minimize the delay and a schedule for the implementation of such measures.

Defendants may also provide to the United States any additional information that they deem appropriate to support their conclusion that a Force Majeure event has affected their ability to perform an action required under this Consent Decree.

30. If the United States determines that the conditions constitute a Force Majeure event, then the deadline for the affected action shall be extended by the amount of time of the delay caused by the Force Majeure event. Defendants shall coordinate with the Corps to determine when to begin or resume the operations that had been affected by any Force Majeure event.

31. If the parties are unable to agree whether the conditions constitute a Force Majeure event, or whether the length of time for fulfilling the provision of the Consent Decree at issue should be extended, any party may seek a resolution of the dispute under the procedures in Section V of this Consent Decree.

32. Defendants shall bear the burden of proving (1) that the noncompliance at issue was caused by circumstances entirely beyond the control of Defendants and any entity controlled by Defendants, including their contractors and consultants; (2) that Defendants or any entity controlled by Defendants could not have foreseen and prevented such noncompliance; and (3) the number of days of noncompliance that were caused by such circumstances.

VII. STIPULATED PENALTIES

33. For five (5) years after the entry of this Consent Decree, if a Defendant fails to timely fulfill any requirement of the Consent Decree, then that Defendant shall pay a stipulated penalty to the United States. For failing to fulfill any requirement of the Consent Decree other than the injunctive provisions in Section IV.D (for which the stipulated penalty amounts are provided in Paragraph 23), and unless reduced by the United States at its discretion or reduced by the Court upon motion as discussed below, the amount of such penalty shall be as follows:

A.	For Day 1 up to and including	$3,000.00 per day

	Day 30 of non-compliance	
B.	For Day 31 up to and including 60 of non-compliance	$6,000.00 per day
C.	For Day 61 of non-compliance and each day of non-compliance thereafter	$9,000.00 per day

Such payments shall be made after written demand by the United States on or before the last day of the month following the month in which the demand is received.

34. Any disputes concerning the amount of stipulated penalties, or the underlying violation that gives rise to the stipulated penalties, that cannot be resolved by the parties pursuant to the Dispute Resolution provisions in Section V and/or the Force Majeure provisions in Section VI shall be resolved upon petition to this Court as provided in Paragraph 26.

35. The filing of a petition by a Defendant requesting that the Court resolve a dispute shall stay that Defendant's obligation to pay any stipulated penalties with respect to the disputed matter pending resolution of the dispute. Notwithstanding the stay of payment, stipulated penalties shall continue to accrue from the first day of any failure or refusal to comply with any term or condition of this Consent Decree until compliance is achieved. In the event that a Defendant does not prevail on the disputed issue, stipulated penalties shall be paid by that Defendant as provided in this Section.

36. To the extent Defendants demonstrate to the Court that a delay or other non-compliance was due to a Force Majeure event (as defined in Section VI above), the Court shall excuse the stipulated penalties for that delay or non-compliance.

37. In the event that a stipulated penalty payment is applicable and not made on time, interest will be charged in accordance with the statutory judgment interest rate provided for in 28 U.S.C. § 1961. The interest shall be computed daily from the time the payment is due until the date the payment is made. The interest shall also be compounded annually.

38. Defendants shall make any payment of a stipulated penalty by FedWire Electronic Funds Transfer ("EFT" or wire transfer) to the U.S. Department of Justice account in accordance with current electronic funds transfer procedures, referencing U.S.A.O. file number 2004V00073 and DOJ case number 90-5-1-1-16423. Payment shall be made in accordance with instructions provided to the Defendants by the Financial Litigation Unit of the United States Attorney's Office for the District of the Virgin Islands. Any payments received by the Department of Justice after 4:00 P.M. (Eastern Time) will be credited on the next business day. Further, upon payment of any stipulated penalties, Defendants shall provide written notice, at the addresses specified in Paragraph 39 of this Decree.

VIII. ADDRESSES

39. All notices and communications required under this Consent Decree shall be made to the parties through each of the following persons and addresses:

A. TO THE UNITED STATES ARMY CORPS OF ENGINEERS:

(1) Noel Acevedo Méndez
Assistant District Counsel
Department of the Army
Jacksonville District Corps of Engineers, Antilles Office
400 Fernandez Juncos Avenue
San Juan, PR 00901-3299

(2) Sindulfo Castillo
Chief, Antilles Regulatory Section

Department of the Army
Jacksonville District Corps of Engineers, Antilles Office
400 Fernandez Juncos Avenue
San Juan, PR 00901-3299

B. TO THE UNITED STATES DEPARTMENT OF JUSTICE

(1) **First Class Mail Only**
Michele L. Walter
Environmental Defense Section
U.S. Department of Justice
P.O. Box 23986
Washington, D.C. 20026-3986
Attn: DOJ No. 90-5-1-1-16423

Overnight Mail Only
Michele L. Walter
Environmental Defense Section
U.S. Department of Justice
601 D. Street, N.W.
Suite 8000
Washington, D.C. 20004
Attn: DOJ No. 90-5-1-1-16423
Phone: (202) 514-3376

(3) Joycelyn Hewlett
Assistant United States Attorney
Ron de Lugo Federal Building
Room 260
5500 Veterans Drive
St. Thomas, Virgin Islands 00802-6424

C. TO AT&T and AT&T VI:

(1) AT&T Corp.
Law & Government Affairs
c/o Paul Shorb
Room 3A135
One AT&T Way
Bedminster, NJ 07921
Phone: (908) 532-1992

IX. COSTS OF SUIT

40. Each party to this Consent Decree shall bear its own costs and attorney's fees in this action. Should Defendants subsequently be determined by the Court to have violated the terms or conditions of this Consent Decree, Defendants shall be liable for any costs or attorney's fees incurred by the United States in any action against Defendants for noncompliance with or enforcement of this Consent Decree.

X. PUBLIC COMMENT

41. The parties acknowledge that after the lodging and before the entry of this Consent Decree, final approval by the United States is subject to the requirements of 28 C.F.R. § 50.7, which provides for public notice and comment. The United States reserves the right to withhold or withdraw its consent to the entry of this Consent Decree if the comments received disclose facts which lead the United States to conclude that this Consent Decree is inappropriate, improper, or inadequate. The Defendants agree to entry of this Consent Decree without further consent.

XI. CONTINUING JURISDICTION OF THE COURT

42. This Court shall retain jurisdiction over this action in order to enforce or modify the Consent Decree consistent with applicable law or to resolve all disputes arising hereunder as may be necessary or appropriate for construction or execution of this Consent Decree. During the pendency of the Consent Decree, any party may apply to the Court for any relief necessary to construe and effectuate the Consent Decree.

XII. MODIFICATION

43. Upon its entry by the Court, this Consent Decree shall have the force and effect of a final judgment. Any modification of this Consent Decree shall be in writing, and shall not take effect unless signed by both the United States and the Defendants and approved by the Court.

XIII. TERMINATION

44. Upon the completion of all actions required under this Consent Decree, any party may move the Court for termination of this Consent Decree.

IT IS SO ORDERED.

Dated and entered this _____ day of _____, 20__.

_____
United States District Judge

FOR THE UNITED STATES:

THOMAS L. SANSONETTI
Assistant Attorney General
Environment and Natural Resources Division

Michele L. Walter

Dated: 12-13-04

MICHELE L. WALTER, Attorney
Environmental Defense Section
U.S. Department of Justice
P.O. Box 23986
Washington, D.C. 20026-3986
Phone: (202) 514-3376

ANTHONY J. JENKINS
Acting United States Attorney
District of the Virgin Islands

Joycelyn Hewlett

Dated: 12-16-04

JOYCELYN HEWLETT
Assistant United States Attorney
Ron de Lugo Federal Building
Room 260
5500 Veterans Drive
St. Thomas, Virgin Islands 00802-6424

FOR DEFENDANTS AT&T and AT&T VI

Paul Shorb

Dated: Dec. 13, 2004

Paul Shorb
AT&T Corp.
Room 3A135
One AT&T Way
Bedminster, NJ 07921
Phone: (908) 532-1992

Appendix A
to Consent Decree
(Draft Conservation Easement)

Appendix A
DRAFT CONSERVATION EASEMENT

This conservation easement is made this ____ day of _____, 2004, between AT&T TRANSOCEANIC COMMUNICATIONS LLC, a Delaware corporation, with an address of One AT&T Way, Bedminster, New Jersey [zip code] ("Grantor"), and [insert name of agreed organization] ("Grantee") having an address of [insert address].

WHEREAS, Grantor is the owner of a parcel of land located in Parcel No. 3 Estate Peterborg, Great Northside Quarter, St. Thomas, U.S. Virgin Islands, that is more particularly described in Appendices 1 (1964 Warranty Deed to Transoceanic Communications, Inc.) and 2 (map of Property) attached hereto ("Property");

WHEREAS, the United States of America ("United States") and AT&T CORP. and AT&T OF THE VIRGIN ISLANDS, INC. ("collectively AT&T") have executed a Consent Decree in the case of United States of America v. AT&T Corp, et al., Civil Action No. ___, which was lodged in the District Court for the Virgin Islands, Division of St. Thomas and St. John, on ___, 2004; and

WHEREAS the United States and AT&T have agreed under the Consent Decree in that case that AT&T will agree to impose on the Property a conservation easement that will run with the land for the purpose of protecting and preserving the Property's natural condition; and

NOW THEREFORE, intending to be legally bound hereby, the Grantor and Grantee for and in valuable consideration of the covenants and conditions set forth herein, do hereby agree and covenant as follows:

1. Restriction on Development. Grantor, for itself and its successors and assigns, in consideration of the terms of the Consent Decree in the case of United States v. AT&T et al., does hereby give, grant, and convey to the Grantee, and its assigned, with general warranties of title a conservation easement of the nature and character as set forth herein with respect to the Property

2. Purpose. This Conversation Easement is granted exclusively for conservation purposes, which will run with the land and forever preserve a relatively natural habitat for plants and wildlife at the Property and preserve open space for the scenic enjoyment of the general public. No access rights are granted by this Conservation Easement.

3. Restrictions on Use. Grantor agrees that it shall not engage in further development at the Property. For purposes of this Conservation Easement, "development" shall mean any excavation, trenching, filling, or other significant disturbance of the land, the construction or installation of any building, paving, retaining wall or other fixture or structure, or the clearing of vegetation or other substantial alteration of any portion of the Property.

4. Preserved Rights of Grantor. Notwithstanding the Restrictions on Use in Paragraph 3, Grantor, its successors and assigns shall not be prohibited from engaging in the following activities: (a) reasonably necessary repair or replacement of any structures existing at the Property

on the date hereof or (b) the restoration activities required under Paragraph 12 of the Consent Decree in the case of United States v. AT&T, et al., comprising the inspection of the Property and the collection and removal from the Property of visible non-indigenous gray rock. Such activities shall not be considered development that is prohibited by this Conservation Easement. In the event that such repair or replacement of any existing structure is reasonably necessary, Grantor shall provide written notice to Grantee no later than five (5) days before Grantor intends to conduct such repair or replacement; provided, however, that if the repair or replacement is of an emergency nature, no prior notice shall be required and Grantor shall provide written notice to Grantee no later than five (5) days following the commencement of the repair or replacement work.

4. Fee Title. It is understood and agreed by the parties that the underlying fee title to the Property remains in Grantor, subject to the terms of this Conservation Easement. Except as limited herein, Grantor reserves to itself, its successors and assigns all rights as fee owner of the Property, including the right to deal with and use the Property for purposes not inconsistent with this Conservation Easement.

5. Perpetuity. This Conservation Easement shall run with the land in perpetuity and shall be binding on and shall insure to the benefit of the parties to this agreement, their respective heirs, successors, and assigns.

6. Controlling law. The interpretation and performance of this instrument shall be governed by the laws of the United States or, if there are no applicable federal laws, by the law of the state where the Property is located.

7. Severability. If any provision of this instrument, or the application of it to any person or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.

8. Termination of Rights and Obligations. A party's rights and obligations under this instrument terminate upon transfer of the party's interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

IN WITNESS WHEREOF, Grantor and Grantee have executed this Conservation Easement as of the date set forth above.

WITNESSES: AT&T Transoceanic Communications LLC

_____

_____ By: _____

_____, _____

WITNESSES: [INSERT NAME OF GRANTEE]

_____

By: _____

_____, _____

TERRITORY OF THE VIRGIN ISLANDS)
) SS:
DIVISION OF ST. THOMAS & ST. JOHN)

The foregoing instrument was acknowledged before me this ____ day of _____, 2004, by _____, as _____ of Transoceanic Communications, Incorporated, a Delaware corporation, on behalf of said corporation.

_____
Notary Public

TERRITORY OF THE VIRGIN ISLANDS)
) SS:
DIVISION OF ST. THOMAS & ST. JOHN)

The foregoing instrument was acknowledged before me this ____ day of _____, 2004, by _____, as _____ of the [insert], a _____ of the on behalf of said _____.

_____
Notary Public

Appendix A-1
to Consent Decree
(1964 Warranty Deed)

WARRANTY DEED

THIS INDENTURE made this 17 day of April, 1964, by and between HOMER D. WHEATON and SELMA B. WHEATON, his wife, of St. Thomas, Virgin Islands, hereinafter jointly referred to as the "Grantor", and TRANSOCEANIC COMMUNICATIONS, INCORPORATED, a corporation organized under the laws of the State of Delaware and having an office at 100 West Tenth Street, Wilmington, Delaware, hereinafter referred to as the "Grantee",

WITNESSETH: That the Grantor, for and in consideration of the sum of Ten Dollars ($10.00) and other valuable considerations, the receipt of which is hereby acknowledged, does hereby bargain, sell, grant and release unto the Grantee, its successors and assigns forever, all of his right, title and interest in and to the six (6) following described parcels of real property being portions of Estate Peterborg, Great Northside Quarter, St. Thomas, Virgin Islands, designated and shown as Parcels Nos. 1, 2, 3 and 4 on Public Works Drawing No. B 9-91-T63 dated October 31, 1963, and as Parcels Nos. 5 and 6 on Public Works Drawing No. (9-64-T64 dated March 24, 1964, 1964, copies of which are attached hereto and made a part hereof, said Parcels being hereinafter more particularly described by metes and bounds as

3575
1964

Parcel No. 1

Starting at an iron bound post located a bearing of N 42 degrees 23 minutes W a distance of 183.3 feet from the Northwest corner of Parcel No. 2, the line runs

N 47 degrees 37 minutes E a distance of 212.0 feet along Estate Peterborg to an iron bound post thence

S 42 degrees 23 minutes E a distance of 412.0 feet along Estate Peterborg to an iron bound post thence

S 47 degrees 37 minutes W a distance of 212.0 feet along Estate Peterborg to an iron bound post thence

N 42 degrees 23 minutes W a distance of 95.5 feet along Estate Peterborg to an iron bound post thence continues

N 42 degrees 23 minutes W a distance of 115.3 feet along Estate Peterborg to an iron bound post thence continues

N 42 degrees 23 minutes W a distance of 17.9 feet along Parcel No. 2 to an iron bound post thence continues

N 42 degrees 23 minutes W a distance
Estate Peterborg to point of origin.

The whole comprising an area of 2.0(

Parcel No. 2

Starting at an iron bound post located S 42 degrees 23 minutes E a distance of 183.3 feet from the Western corner of Parcel No. 1, the line runs

S 24 degrees 30 minutes W a distance of 522.1 feet along Estate Peterborg to a point thence continues

S 24 degrees 30 minutes W a distance of 8.0 feet along Parcel No. 3 to an iron bound post thence continues

S 24 degrees 30 minutes W a distance of 11 feet more or less along Parcel No. 3 to a point on edge of Magens Bay shore line thence

Southeasterly a distance of 23 feet more or less along and coincident with the edge of shore line to a point thence

N 24 degrees 30 minutes E a distance of 28 feet more or less along Parcel No. 4 to an iron bound post thence continues

N 24 degrees 30 minutes E a distance of 523.0 feet along Estate Peterborg to an iron bound post thence

N 42 degrees 23 minutes W a distance of 17.9 feet along Parcel No. 1 to point of origin.

The whole comprising an area of 9,010 square feet.

Parcel No. 3

Starting at an iron bound post located on the Western boundary of Parcel No. 2 and 11 feet more or less from a point on edge of shore line, the line runs

N 24 degrees 30 minutes E a distance of 8.0 feet along Parcel No. 2 to a point, thence

N 40 degrees 07 minutes W a distance of 43.8 feet along Estate Peterborg to an iron bound post thence

N 37 degrees 18 minutes W a distance of 58.6 feet along Estate Peterborg to an iron bound post thence

S 52 degrees 42 minutes W a distance of 16.5 feet more or less along Estate Peterborg to a point on edge of shore line thence

Southeasterly a distance of 111 feet more or less along and coincident with the edge of shore line to a point thence

N 24 degrees 30 minutes E a distance of 11 feet more or less along Parcel No. 2 to an iron bound post which is point of origin.

The whole comprising an area of 1,800 square feet, more or less.

Parcel No. 4

Starting at an iron bound post located on the Eastern boundary of Parcel No. 2, the line runs

S 13 degrees 00 minutes E a distance of 63.8 feet along Estate Peterborg to an iron bound post thence

S 40 degrees 37 minutes E a distance of 38.2 feet along Estate Peterborg to an iron bound post thence

S 49 degrees 23 minutes W a distance of 16.5 feet more or less along Estate Peterborg to a point on edge of shore line, thence

Northwesterly a distance of 89 feet more or less along and coincident with the edge of shore line to a point thence

N 24 degrees 30 minutes E a distance of 28 feet more or less along Parcel No. 2 to point of origin.

The whole comprising an area of 1,500 square feet more or less.

Parcel No. 5

Starting at an iron bound post located on the Northwest corner of Parcel No. 1, the line runs

N 42 degrees 23 minutes W a distance of 205.5 feet along Estate Peterborg to an iron bound post thence

N 47 degrees 37 minutes E a distance of 212.0 feet along Estate Peterborg to an iron bound post thence

S 42 degrees 23 minutes E a distance of 205.5 feet along Estate Peterborg to an iron bound post thence

S 47 degrees 37 minutes W a distance of 212.0 feet along Parcel No. 1 to point of origin.

The whole comprising an area of 1.00 U.S. acre.

Parcel No. 6

Starting at an iron bound post located on the Southern corner of Parcel No. 1, the line runs

S 42 degrees 23 minutes E a distance of 205.5 feet along Estate Peterborg to an iron bound post thence

N 47 degrees 37 minutes E a distance of 212.0 feet along Estate Peterborg to an iron bound post thence

N 42 degrees 23 minutes W a distance of 205.5 feet along Estate Peterborg to an iron bound post thence

S 47 degrees 37 minutes W a distance of 212.0 feet along Parcel No. 1 to point of origin.

The whole comprising an area of 1.00 U.S. acre.

RESERVING unto the Grantor, his heirs, [illegible] their successors and assigns, the necessary [illegible] easements upon, across and over said Parcel No. 2, above described, to construct, use and maintain for vehicular traffic or otherwise, such roads, passes, trails and utility lines [illegible] facilities as may be required by them, their respective [illegible] agents, employees, contractors, licensees and invitees, from time to time, for the purpose of developing, developing and/or servicing any and all areas now embraced in the said Estate Peterborg; provided always that all such roads, passes, trails or utility lines shall be constructed, used and maintained in a manner which will not endanger, damage or interfere with the buried cables and conduits of the Grantee, its successors and assigns, or otherwise create any unreasonable interference with the use of said Parcel No. 2 by the Grantee, its successors and assigns.

TOGETHER with all of the appurtenances and all of the estate, right, title and interest of the Grantor, his heirs and assigns, and in and to said premises.

TO HAVE AND TO HOLD the premises herein granted unto the Grantee, its successors and assigns, in fee simple absolute forever.

THE GRANTEE covenants:

FIRST: That a septic tank or other sewage disposal plant adequate to take care of the sewage from the premises herein conveyed will be installed and maintained, and that no sewage from the premises herein conveyed will be emptied or drained into Magens Bay, and

SECOND: That all cables installed between the edge of Magens Bay and Grantee's building in which the cables are terminated will be placed underground, either buried or in conduit.

AND THE Grantor covenants as follows:

FIRST: That the Grantor is seized of said premises in fee simple and has good right to convey same:

SECOND: That the Grantee shall quietly enjoy said premises;

THIRD: That said premises are free from encumbrances;

FOURTH: That the Grantor will execute or procure any further necessary assurances of title to said premises; and

FIFTH: That the Grantor will forever warrant and defend the title to said premises.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal the day and year first above written.

FOR STAMP ACT PURPOSES the value of the above described property is $21,415.00.

WITNESSES:

Homer D. Wheaton (L.S.)
HOMER D. WHEATON

WITNESSES:

Selma B. Wheaton (L.S.)
SELMA B. WHEATON

TERRITORY OF THE VIRGIN ISLANDS)
DIVISION OF ST. THOMAS) ss.:
)

On this 1st day of April, 1964, before me, the undersigned officer, personally came HOMER D. WHEATON, to me known or satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY PUBLIC

COMMONWEALTH OF MASSACHUSETTS)
COUNTY OF WORCESTER)
)

On this 9th day of April, 1964, before me, the undersigned officer, personally came SELMA B. WHEATON, to me known or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that she executed the same for the uses and purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Roger M. Lovell
NOTARY PUBLIC

My commission expires Feb. 27, 1971

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF WORCESTER, SS.
I, JAMES J. JOYCE, Clerk of the Superior Court, which is a Court of Record for the County and Commonwealth aforesaid, do hereby certify that Roger M. Lovell whose name is subscribed to the Proof or Acknowledgment of the annexed instrument in writing, was at the time of taking such proof or acknowledgment a Notary Public in and for said Commonwealth, residing in said County, duly commissioned, sworn and authorized to take the same and also to take the acknowledgment or proof of deeds or conveyances of lands, tenements or hereditaments, or any interest therein, situate, lying and being in said Commonwealth, to be recorded therein, and further, that I am well acquainted with his handwriting and verily believe that the signature to the said proof or acknowledgment is genuine and further, that the annexed instrument is executed and acknowledged according to the law of said Commonwealth. I further certify that an impression of a seal of Notaries Public is not required by law to be filed in my office.
Given under my hand and the seal of said Court, this ninth day of April in the year one thousand nine hundred and sixty-four

James J. Joyce
Clerk.

OTED IN THE PUBLIC SURVEYOR'S RECORD
COUNTRY PROPERTY, BOOK "H"
GE 52 AND THE LAND REGISTER FOR
Northside QUARTER ISLAND OF
T. THOMAS VIRGIN ISLANDS OF
STATES OF A A.

OFFICE OF THE PUBLIC SURVEYOR
ST. THOMAS, V. I. Sept. 22, 1964

Floyd O. George
PUBLIC SURVEYOR

ATTEST:

IT IS HEREBY CERTIFIED THAT THE ABOVE
MENTIONED PROPERTY/S WHICH, ACCORD-
G TO Warranty Deed dated April 9, 1964
ONGS TO Transoceanic Communications, Incorporated.
NOT, ACCORDING TO THE RECORDS
THIS OFFICE, UNDERGONE ANY
CHANGES AS TO BOUNDARIES AND AREA.

OFFICE OF THE PUBLIC SURVEYOR
ST. THOMAS V. I. Sept. 22, 1964

Floyd O. George
PUBLIC SURVEYOR

Office of the Tax Assessor
Charlotte Amalie,
St. Thomas, Virgin Islands
SEPTEMBER 23, 1964

This is to certify that the [illegible] property/properties [illegible] to the Municipality of St. Thomas and St. John, Virgin Islands, for the calendar year 1963.

[illegible]
Tax Assessor

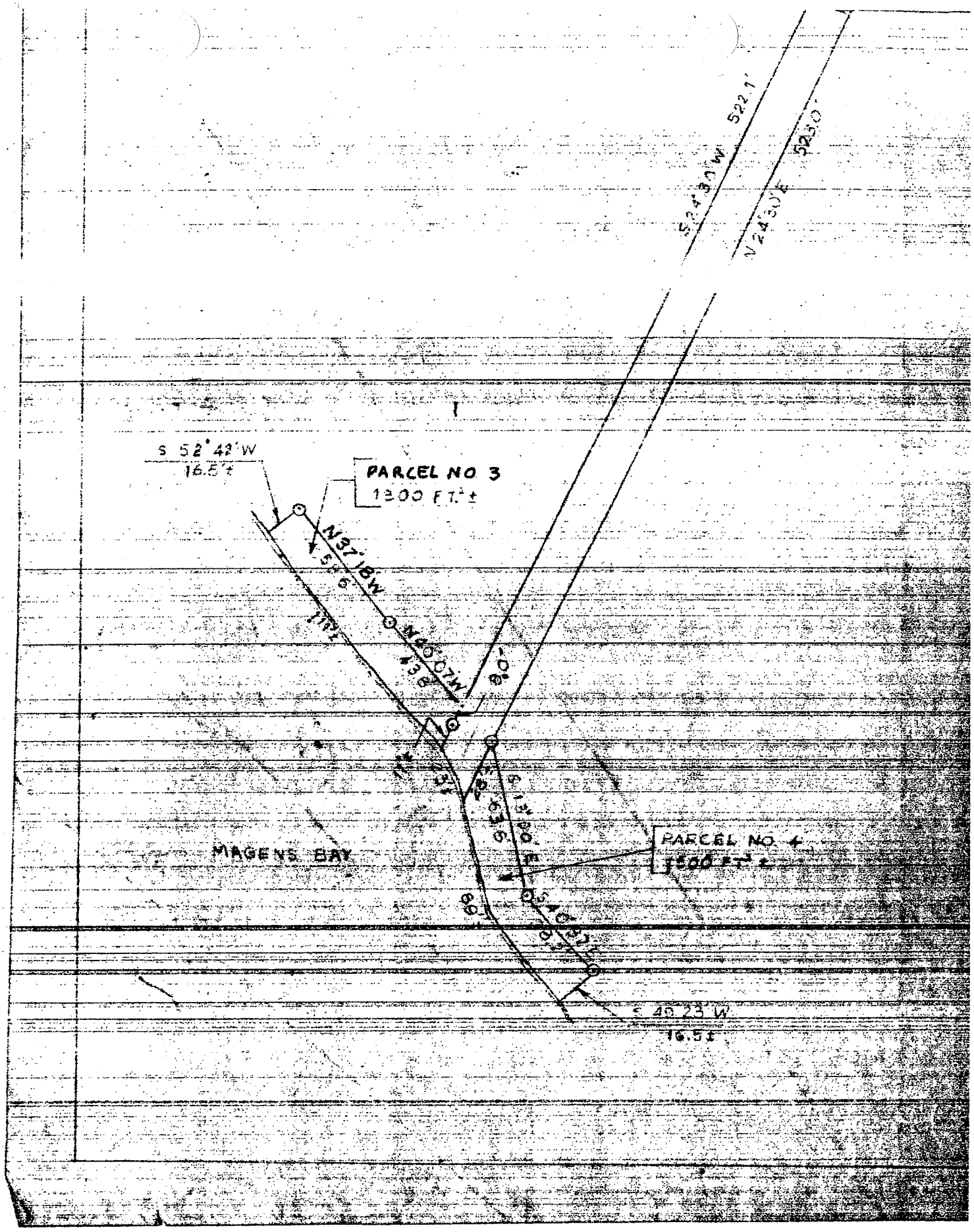
Recorded and entered in the Recorder's Book for the [illegible] of St. Thomas and St. John, Virgin Islands of the U. S. [illegible] Protocol 71, Page 27, Sub No. 2575 and noted in the [illegible] (Personal) Property Register for Country Quarter, No. [illegible], Page 176

THE RECORDER'S OFFICE,
St. Thomas September 24 1964

[illegible]

RECEIVED
1964 SEP 24 AM 10 25
OFFICE OF THE RECORDER OF DEEDS

Appendix A-2
to Consent Decree
(Map Survey of Property)


S 24°30' W 522.1'
N 24°30' E 523.0'
S 52°42' W
16.5'±
PARCEL NO 3
1300 FT.²±
N 37°18' W
N 40°07' W
MAGENS BAY
PARCEL NO 4
1500 FT.²±
S 40°23' W
16.5±

Appendix B
to Consent Decree
(Internal Operating Procedures)

Appendix B to Consent Decree
Internal Operating Procedures

This document defines the actions required by paragraph 25 of the Consent Decree, which requires AT&T to establish internal operating procedures to ensure that future projects in and around waters of the United States do not violate the Clean Water Act ("CWA") or the Rivers and Harbors Act ("RHA"). As detailed below, the main categories of these procedures are:

A. Promoting Awareness
B. Compliance Manager
C. Contracting Procedures
D. Applying Environmental Expertise
E. Project Coordination
F. Documenting Delegation
G. Independent Review of Work in Progress
H. Personal Accountability
I. Internal Reporting
J. Institutional Learning
K. External Reporting

A. Promoting Awareness

1. Within three (2) months after the entry of the Consent Decree, the policies and policies described below shall be formally approved, documented, and disseminated to the relevant audiences within AT&T, including its wholly owned subsidiaries.

2. Within three (3) months after the entry of the Consent Decree, appropriate representatives of AT&T management and legal counsel shall provide a live briefing (in person or via teleconference) to all employees whose job function may require either managing a Cable Project directly or through a contractor or developing the scope of work for a Cable Project contract. Such seminar shall communicate the procedures and policies described below.

3. "Cable Project" means any project (i) involving drilling, trenching, or otherwise installing cable conduit in the ground or through or across streams or wetlands or (ii) involving the installation, maintenance, repair or removal of an undersea cable, up to where that cable enters the beach manhole or other first manhole, or of related structures.

B. Compliance Manager

1. For any Cable Project there must be an AT&T employee designated in writing as directly responsible for the completion of that project in compliance with all applicable laws, including environmental laws. That role is referred to here as the Compliance Manager.

2. In general that should be the employee who has the most knowledge about the planned scope and actual implementation of the Cable Project. For example, that may often be the employee designated as AT&T's Technical Representative in the contract with the prime contractor. In some cases that is an individual with the job title Outside Plant Engineer.

3. Primary responsibility and accountability for ensuring that an appropriate AT&T employee is designated as the Compliance Manager for that Cable Project shall rest with:

    i. in the case of a Cable Project involving the installation, maintenance, repair or removal of an undersea cable, the Director

with supervisory authority over the Manager responsible for implementing that project; and

ii. in the case of a Cable Project involving drilling, trenching, or otherwise installing cable conduit in the ground or through or across streams or wetlands, the relevant Engineering Manager (whether a Manager or a Group Manager) with supervisory authority over the Engineer(s) responsible for implementing that project.

C. Contracting Procedures

1. Any contract for performing part or all of a Cable Project either shall be approved by AT&T's Supplier Management Division or successor organization with similar function ("SMD") or shall be made through an SMD-approved process.

2. Any such contract shall expressly require the contractor to comply with all applicable laws, and shall include sanctions for not doing so that create an incentive for compliance.

3. Any such contract shall be reviewed by AT&T legal counsel, who shall confirm that it satisfies paragraph C.1 before AT&T binds itself to such contract.

4. Primary responsibility and accountability for complying with this item 3 rests with the Compliance Manager and with:

   i. in the case of a Cable Project involving the installation, maintenance, repair or removal of an undersea cable, the Director with supervisory authority over the Manager(s) responsible for implementing that project; and

   ii. in the case of a Cable Project involving drilling, trenching, or otherwise installing cable conduit in the ground or through or across streams or wetlands, the relevant Engineering Manager (whether a Manager or a Group Manager) with supervisory authority over the Engineer(s) responsible for implementing that project.

D. Applying Environmental Expertise

1. The Compliance Manager is not expected to be expert in all aspects of environmental permitting or other compliance requirements, but does have the primary responsibility for ensuring that such expertise is brought to bear upon the Cable Project as necessary.

2. Compliance Managers should note that even if an engineering firm is retained to help write the specifications for and/or monitor the implementation of a Cable Project, that firm might not necessarily have sufficient environmental permitting and compliance expertise.

3. The Compliance Manager therefore should consider, for example, getting help from another AT&T employee with appropriate expertise (such as a subject-matter expert in the AT&T Environmental, Health and Safety organization) or from a consultant with appropriate expertise (such as an appropriate environmental consulting firm) to ensure that all permits required for the Cable Project are identified and obtained, and are timely modified or supplemented if necessary in light of changed project plans.

4. that end, the Compliance Manager can consult with a subj atter expert in the AT&T Environmental, Health and Safety organization for help in identifying what type of consultant expertise may be required, and can look to the list of SMD-approved environmental consultants.

5. The Compliance Manager, upon becoming responsible for a particular Cable Project, shall also promptly provide notice of the planned Cable Project to an AT&T attorney with general responsibility for providing legal advice regarding environmental compliance.

6. One such attorney shall be associated with each Cable Project. That attorney is referred to herein as "the AT&T Attorney." There may be different AT&T Attorneys for different Cable Projects.

E. Project Coordination

1. The Compliance Manager is responsible for making sure that project permitting and project implementation remain consistent with each other throughout the course of implementing the Cable Project.

2. That means, in part, that the Compliance Manager is primarily responsible for communicating the relevant facts about the planned work to (a) whoever will be determining what permits if any are required and obtaining such permits and (b) the AT&T Attorney.

3. That also means that the Compliance Manager is primarily responsible for ensuring that any permit obtained by AT&T rather than a contractor is provided to (a) the AT&T contractor that must comply with such permit and (b) the AT&T Attorney.

4. If and when the planned scope of the work changes, the Compliance Manager is also primarily responsible for determining whether that change is allowed under the applicable permits and other compliance requirements (if necessary, through communicating the relevant facts to someone else with expertise appropriate to make that determination). The Compliance Manager should consult with the AT&T Attorney in making that determination.

F. Documenting Delegation

1. To the extent the Compliance Manager wishes to pass on to another person or firm the primary responsibility for one of the responsibilities discussed herein, such as for identifying what permits are required, the scope and acceptance of that delegation must be in writing, with a copy provided simultaneously to the AT&T Attorney, and that writing must be preserved.

2. For example, the Compliance Manager shall keep a record of the agreement by another AT&T employee or a consultant to accept delegation of the responsibility to determine what environmental permits may be necessary. (E-mail communications are considered a written record, but the Compliance Manager should employ back-up or alternate-storage procedures as necessary to make sure that electronic information is not lost.)

3. Similarly, the Compliance Manager shall keep a written record of what plans, construction drawings, or other facts are provided for such expert to rely on.

G. Independent Review of Work in Progress

1. Cable Project work by contractors (or by AT&T employees directly) that has the

ential to create discharges requiring a permit under CWA s n 404 or the RHA shall be inspected at appropriate intervals by someone independent of those doing the work, with expertise and knowledge of the project appropriate to determine that no such discharges are occurring or that the necessary permits have been obtained and are being complied with.

2. This criterion of independence is satisfied for example if the excavation work of the general contractor or its subcontractors is inspected by an AT&T employee with appropriate expertise, or by an environmental consultant retained by AT&T who is independent of the general contractor.

3. Such independent inspection need not necessarily involve continuous monitoring of all work (although in some cases that may be appropriate), but it should be scheduled (including the possibility, made known to the contractor, of surprise inspections) in a way reasonably calculated to (1) encourage contractors to remain in compliance at all times and (2) minimize the time that violations, if any, continue.

4. Primary responsibility and accountability for complying with this paragraph G rests with the Compliance Manager. The Compliance Manager should consult with the AT&T Attorney regarding how to implement this paragraph G.

H. Personal Accountability

1. Within three (3) months after the entry of the Consent Decree, AT&T shall document and publicize, to all employees who may have responsibilities under these policies, a policy addressing the possibility of personal sanctions for deviations from these procedures.

2. Such policy shall be reasonably calculated to create appropriate personal incentives to learn and comply with such procedures, including a range of potential sanctions ranging from days off without pay to loss of some or all annual bonus, depending on the degree of negligence, and noting that intentional malfeasance (e.g., knowingly violating applicable law) is grounds for dismissal.

I. Internal Reporting

1. Within three (3) months after the entry of the Consent Decree, AT&T shall provide a written reminder to all employees of their ongoing obligation, under AT&T's existing corporate Environmental, Health & Safety Policy, to help the company comply with applicable environmental, health & safety requirements.

2. The notice shall remind employees of alternative avenues by which they can report any concerns about potential noncompliance.

3. The notice shall state that the first choice an employee should consider is speaking with one's supervisor about such concerns, and that AT&T policy prohibits retaliation against the employee for doing so.

4. However, employees shall also be advised that alternative means of expressing such concerns are available to them, including doing so anonymously, (such as by calling AT&T's internal EH&S hotline (at 1-800-KNOW-EHS) or by calling AT&T Corporate Security).

J. Institutional Learning

1. Within three (3) months after the entry of the Consent Decree, AT&T shall formally establish a team of knowledgeable managers that will review ongoing

perience on Cable Projects. An AT&T attorney with gener ponsibility for providing legal advice regarding environmental compliance shall be part of the team.

2. The team shall meet in person or via teleconference at least once every three months, to evaluate how such projects have fared in terms of compliance with law and compliance with the policies identified above, and to identify and recommend any changes to AT&T internal policies that the team deems appropriate to further reduce the potential to violate the prohibitions of the Consent Decree.

K. External Reporting

1. With regard to each action required here to be performed within three (3) months after the entry of the Consent Decree, AT&T shall submit a written report to the United Stated Department of Justice and the Corps as provided in Paragraph 39 of the Consent Decree within five (5) months after the entry of the Consent Decree.

2. The report shall provide a summary description of AT&T's performance of those actions, including dates performed and attaching relevant documents used. Neither this Section K, nor Section J or any other aspect of this Appendix B, is intended to require AT&T to disclose communications protected by the attorney-client privilege or the attorney work-product doctrine, or to waive rights to confidentiality that otherwise would exist under that privilege or doctrine.