

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

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In re:	:	Chapter 15
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CATALYST PAPER CORP., <u>et al.</u> ,	:	Case No. 12-10221 (PJW)
	:	
Debtors. <sup>1</sup>	:	Jointly Administered
	:	
	X	

**FIFTH DECLARATION OF BRIAN BAARDA**

I, Brian Baarda, hereby declare as follows:

1. I am the Vice President, Finance and Chief Financial Officer of Catalyst Paper Corporation (“CPC”), the authorized foreign representative of the above-captioned debtors (collectively, the “Debtors” and, together with the Debtors’ non-Debtor affiliates, the “Company”). I have held these positions since November 2009. I joined the Company in 1989 and have worked in several locations and held a number of senior accounting and analysis positions until moving to the operations side of the Company in 2001 as the pulp mill manager at the former Elk Falls Division until 2003. From 2003 to 2005, I held the position of Vice President, Supply Chain. From 2005 to April 2008, I was the Vice President of the Powell River Division of CPC. From April 2008 to November 2009, I was the Vice President of Operations.

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<sup>1</sup> These jointly administered cases are those of the following Debtors: 0606890 B.C. Ltd., Catalyst Paper Corporation, Catalyst Paper Energy Holdings Inc., Catalyst Paper General Partnership, Catalyst Pulp and Paper Sales Inc., Catalyst Pulp Operations Ltd., Catalyst Pulp Sales Inc., Elk Falls Pulp and Paper Ltd., and Pacifica Poplars Ltd. (collectively, the “Canadian Debtors”) in addition to Catalyst Paper Holdings Inc., Pacifica Papers U.S. Inc., Pacifica Poplars Inc., Pacifica Papers Sales Inc., Catalyst Paper (USA) Inc., Catalyst Paper (Recycling) Inc., Catalyst Paper (Snowflake) Inc., and The Apache Railway Company (collectively, the “U.S. Debtors”).



2. I am authorized by the Debtors to make this declaration (the “Fifth Declaration”). I submit this Fifth Declaration in support of the Debtors’ contemporaneously-filed Motion of Debtors for Order (I) Authorizing and Approving the Private Sale of Certain Properties Free and Clear of All Liens, Claims, Encumbrances, and Other Interests; (II) Approving the Purchase Agreement; (III) Authorizing Payment of Brokerage Fee In Connection with Sale; and (IV) Granting Other Related Relief (the “Sale Motion”).<sup>2</sup>

3. I have been aware of and consistently informed regarding the marketing and sale of the Properties, in my capacity as Vice President of Operations and subsequently as Vice President, Finance and Chief Financial Officer. Except as otherwise indicated, all facts set forth in this Fifth Declaration in support of the Motion are based upon my personal knowledge, information supplied to me by other members of the Debtors’ management and professionals, or learned from my review of relevant documents or upon my opinion based upon my experience and knowledge of the Debtors’ industry, operations, and financial condition. I am an individual over the age of 18 and, if called upon to testify, I could and would testify competently to the facts set forth herein.

4. Pacifica Poplars Inc. (“Pacifica Poplars”) is a wholly-owned subsidiary of CPC, incorporated in the state of Delaware. Formed as MB Poplar Inc. in 1997 as a subsidiary of MacMillan Bloedel, Pacifica Poplars purchased approximately 1,800 acres of farm land (the “Poplar Lands”) in Washington state, of which the Properties form a part, and planted the area with poplar trees to create a secondary source of fiber for its pulp and paper mills. MB Poplar Inc. changed its name to Pacifica Poplars Inc. in 1998, and became a subsidiary of CPC in 2001.

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<sup>2</sup> Unless otherwise defined herein, capitalized terms used herein shall have the meanings ascribed to them in the Motion.

5. CPC found that cost of poplar fiber harvested from the Poplar Lands too high to be an economically viable source of fiber for CPC's various mills in British Columbia, Canada. The poplar fiber also had low market value in Washington state. Accordingly, CPC came to the decision to forego replanting the Poplar Lands, and instead chose to divest them in an orderly way in order to generate maximum value for CPC's enterprise.

6. In order to market the Poplar Lands to potential buyers, in 2008 CPC engaged the services of Snohomish Properties to act as a broker in connection with the projected divestiture. Pursuant to the Exclusive Sale and Listing Agreement entered into between Snohomish Properties and Pacifica Poplars, a copy of which is attached hereto as Exhibit A, Pacifica Poplars agreed to pay Snohomish Properties a commission of 5% of the total sales price of the Poplar Lands. A standard commission for sales of vacant rural land ranges between 8% for a seller listing multiple properties, and 10% for raw land listings on isolated single properties.

7. Snohomish Properties assisted CPC in listing the Poplar Lands on the Northwest Multiple Listing Service in mid to late 2008, where the Poplar Lands have remained listed. Several smaller properties have subsequently been sold. Snohomish Properties has consistently represented CPC in connection with the sales of the Poplar Lands since 2008, and has assisted CPC in communicating and negotiating with a number of ultimately unsuccessful interested buyers to date.

8. The property located at 65XX Lowell River Road, Snohomish, WA 98290<sup>3</sup> (the "Snohomish Property") was originally listed for \$2,800,000.00 on August 26, 2008.

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<sup>3</sup> The Snohomish County Tax Parcel Numbers for this address are: #280515-001-002-00, #280-515-003-001-00, #280515-003-002-00, #280515-003-010-00, #280515-003-009-00, and #280514-001-026-00.

The property located at 95XX Lowell-Larimer Road, Everett, WA 98208<sup>4</sup> (the “Everett Property” and, together with the Snohomish Property, the “Properties”) was originally listed for \$2,490,000.00 on December 15, 2008. The Properties were initially listed at a total combined list price of \$5,290,000.00. In late 2011, the list price for the Everett Property was dropped to \$1,800,000.00, bringing the total combined list price down to \$4,600,000.00, which remained the list price at the time the Buyer (as defined below) made its offer for the Properties.

9. The Properties total approximately 899.27 acres in the aggregate, much of which is cleared, tillable land. However, some areas of the Properties still contain standing poplar trees, tree stumps, hog fuel piles, and wood debris. Indeed, these areas of the subject Properties are not usable without disking the land, cleaning it and allowing more time to pass for decomposition of certain wood debris. As a result, certain areas of the Properties are currently unusable for farming and other purposes, and any prospective buyer would need to invest considerable funds in order to clean up the land before it can be used. At least one prospective buyer has ultimately declined to move forward with a purchase of the Snohomish Property after a feasibility study revealed the cost of cleanup.

10. In addition, the Olympic Pipeline Company runs a pipeline corridor along an easement on the west side of the Everett Property. The pipeline is used to transport fuel to the Seattle area. It was supposed to be installed at a depth of six feet, but it has now risen in some places to a depth of three to four feet. The pipeline corridor has discouraged at least one prospective buyer from moving forward with a purchase of the Everett Property.

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The Snohomish County Tax Parcel Numbers for this address are: #280516-001-001-00, #280515-003-003-00, #005854-000-005-00, #280516-002-020-00, #280515-003-005-00, #280515-003-006-00, #280516-004-011-00, #280521-001-002-00, and #280522-002-005-00.

11. Finally, the Properties are subject to various use restrictions and requirements, imposed by both federal and state law. The Properties are classified as “Commercial Agricultural Open Space” under state law for tax purposes, and a change from the current restricted use may increase the tax assessment rate from its present level. The Properties are also located in the FEMA “100 Year Flood Plain” and the FEMA “Density Fringe Flood Plain Designation,” and as a result, there are certain federal use requirements applicable to the Properties. These use requirements further limit the marketability of the Properties.

12. Since the Properties were listed in 2008, four prospective buyers have made offers on the Snohomish Property, while one prospective buyer has made an offer on the Everett Property. In addition to the offers made on the independent properties, an offer was made on the combined Poplar Lands, but the parties were ultimately unable to come to any agreement.

13. The reasons listed above contribute to lack of offers on the Properties. Other contributing factors include a generally low interest level in properties of this type, the large size of the Properties, and the difficulty of securing adequate financing in the current economic climate. Inability to secure financing, among other issues, led to the failure to ultimately close a transaction with two potential buyers of the Snohomish Property.

14. In early March 2012, Golden Eagle Farms L.P. (A Washington Limited Partnership) (the “Buyer”) offered to buy the Properties from Pacifica Poplars for \$3,600,000.00 total consideration (the “Purchase Price”). The Buyer is a subsidiary of the Aquilini Investment Group, which is based in Vancouver and owns substantial real property holdings in British Columbia, Canada. The Buyer is not an insider or affiliate of CPC, any of the Debtors, or any related entity.

15. CPC made a counteroffer of \$3,920,000.00, but the Buyer refused to raise its offer from the Purchase Price. CPC ultimately agreed to accept the Buyer's offer, subject to approval by this Court and the Canadian Court, and engaged in good-faith negotiations with the Buyer on the terms of the sale. The parties' negotiations resulted in the Purchase Agreement attached to the Motion as Exhibit B.

16. The Purchase Agreement is subject to the approval of the Monitor, the Canadian Court, and this Court. The Monitor has confirmed its support of this proposed Sale transaction. The Debtors plan to seek the approval of the Canadian Court in the near future.

17. The Properties are specifically excluded from the collateral securing the 2016 Notes. Although the indenture agreement for the 2014 Notes restricts the Company from selling assets without meeting certain requirements and applying the proceeds in the manner required by the terms of the indenture, the definition of asset sales specifically excludes those sales for which the Company receives less than \$5,000,000.00 in total consideration. Therefore, the holders of 2016 Notes do not hold valid liens on the Properties, and the holders of 2014 Notes cannot validly restrict the transfer of the Properties.

18. The debtor-in-possession financing lenders, represented by JPMorgan Chase Bank, N.A., Toronto Branch as Administrative Agent (the "Agent"), hold a first lien on the Properties. Under the terms of the debtor-in-possession financing credit agreement (the "DIP Credit Agreement"), the Agent has authority to release the first lien on collateral valued up to \$5,000,000.00. The first lien will reattach to the proceeds of any such sale. The Company is in the process of obtaining the consent of the debtor-in-possession financing lender, which has an interest in such Properties.

19. Given the difficulties of finding a buyer who is (a) willing to take the properties on an “as is, where is” basis, and (b) able to secure financing for the transaction, the Debtors believe that the current Sale transaction, on the terms and conditions set forth in the Purchase Agreement, represents the highest and best offer for the Properties. Not only is the Buyer willing to purchase the Properties on an “as is, where is” basis, but the Buyer is also able to close the transaction without obtaining any financing.

20. If the Sale to the Buyer is not closed pursuant to the terms of the Purchase Agreement, it is unlikely that the Company will be able to locate another buyer for the Properties. As a result, CPC believes that the Sale transaction represents the highest and best offer for these Properties, and that consummating the Sale transaction is in the best interests of the Debtors and their constituents.

21. Based on the foregoing, I believe that the relief requested in the Reply and the Recognition Motion is well-justified, necessary to a successful reorganization of the Debtors, and in the best interests of the Debtors and their creditors and should be granted in full.

I declare under penalty of perjury under the laws of the United States of America  
that the foregoing is true and correct to the best of my knowledge, information and belief.

Dated: Richmond, British Columbia, Canada  
March 27, 2012

A handwritten signature in black ink, appearing to read 'Baarda', is written over a horizontal line.

Brian Baarda



## **EXHIBIT A**

### **Exclusive Sale and Listing Agreement**

# EXCLUSIVE SALE AND LISTING AGREEMENT

© Copyright 2008  
Northwest Multiple Listing Service  
ALL RIGHTS RESERVED

The undersigned seller ("Seller") hereby grants to Snohomish Properties, ("Broker")  
from the date hereof until midnight of December 31, 2009, the sole and exclusive right to sub-  
mit offers to purchase, and to receipt for deposits in connection therewith, the real property ("the Property") commonly  
known as Pacifica Property 65XX Lowell River Road, County of Snohomish, State of Washington, Zip 98290  
in the City of Snohomish and legally described as: LOT                     , BLOCK                     ,  
to be listed at \$ 2,800,000.00, VOL                     , PAGE                      Tax Parcel #28051500100200,  
DIVISION                     , #228051500300100, #28051500300200, a portion of #28051500300300, #28051500300600, #28051400100300

1. **DEFINITIONS.** For purposes of this Agreement: (a) "MLS" means the Northwest Multiple Listing Service; and  
(b) "sell" includes a contract to sell; an exchange or contract to exchange; an option to purchase; and/or a lease  
with option to purchase.

2. **AGENCY/DUAL AGENCY.** Seller authorizes Broker to appoint Arnold Hansen  
to act as Seller's Listing Agent(s). This Agreement creates an agency relationship with Listing Agent(s) and Broker  
only, not with any other salespersons of Broker; provided, Seller authorizes Broker to appoint other salespersons  
affiliated with Broker as subagents to act on Seller's behalf as and when needed, at Broker's discretion. Any broker  
or salesperson, other than Broker or Listing Agent(s) who procures a prospective buyer for the Property will not be  
representing Seller and may represent the buyer. Accordingly, for the purposes of this Agreement, the term  
"Broker" means Listing Agent(s) including any subagents and Listing Agent's Broker, Designated Broker or Branch  
Manager, unless expressly stated otherwise.  
If the Property is sold to a buyer represented by one of Broker's salespersons other than Listing Agent(s), Seller  
consents to Broker acting as a dual agent. If the Property is sold to a buyer who Listing Agent(s) also represents,  
then Seller consents to Listing Agent(s) and Broker acting as dual agents. Different salespersons affiliated with  
Broker may represent different sellers in competing transactions involving the same buyer and that this shall not be  
considered action by Broker that is adverse or detrimental to the interests of either seller, nor shall it be considered  
a conflict of interest on the part of Broker. Seller has received from Broker the pamphlet entitled "The Law of Real  
Estate Agency."

If Broker acts as a dual agent, then Broker shall be entitled to the entire commission payable under this Agreement  
plus any additional compensation Broker may have negotiated with the Buyer.

3. **COMMISSION.** If (a) Broker procures a buyer on the terms in this Agreement, or on other terms acceptable to  
Seller; or (b) Seller directly or indirectly or through any person or entity other than Broker, during the term hereof,  
sells the Property; Seller will pay Broker a commission of (fill in one and strike the other) 5% %  
of the sales price, or \$                     . From Broker's commission, Broker will offer a cooperating  
member of MLS representing a buyer a commission of (fill in one and strike the other)                      %  
of the sales price, or \$                     . Further, unless Broker terminates this Agreement pursuant  
to paragraph 4 below, if Seller shall, within six months after the expiration of this Agreement, sell the Property to any  
person to whose attention it was brought through the signs, advertising or other action of Broker, or on information  
secured directly or indirectly from or through Broker, during the term of this Agreement, Seller will pay Broker the  
above commission. Provided, that if a commission is paid to a member of MLS or a cooperating MLS in conjunction  
with a sale, the amount of commission payable to Broker shall be limited to the amount of commission which would  
have been payable pursuant to this Agreement less any commission so paid to another member of MLS. Provided  
further, that if Seller cancels this Agreement without legal cause, Seller may be liable for damages incurred by  
Broker as a result of cancellation, regardless of whether Seller pays a commission to another MLS member.

4. **PROPERTY IS NOT A "DISTRESSED HOME."** Seller warrants that the Property is not a Distressed Home.  
A "Distressed Home" (fully defined in RCW 81.34) is a dwelling occupied by the owner as the owner's primary  
residence in a single, duplex, triplex, or four-unit residential building that is (1) in the process of foreclosure or in  
danger of foreclosure because (a) Seller has defaulted on a mortgage; (b) Seller is at least thirty days delinquent  
on a loan secured by the Property; or (c) Seller believes that Seller is likely to default on such mortgage or loan  
within four months due to a lack of funds; or (2) at risk of loss due to nonpayment of taxes. If the Property  
becomes a Distressed Home during the term of this Agreement, Seller will provide immediate written notice to  
Broker of that fact. If Seller provides such notice to Broker, or Broker otherwise becomes aware that the  
Property is a Distressed Home, Broker may either terminate this Agreement or, at Broker's request, Seller shall  
execute NWMLS Form 1A-DH (Exclusive Sale and Listing Agreement - Distressed Home), containing the same  
listing expiration date and commission amounts as set forth in this Agreement. NWMLS Form 1A-DH is available  
at <http://www.nwrealestate.com/distressed> and incorporated herein by this reference.

Form 1A  
Exclusive Sale  
Rev. 8/08  
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# EXCLUSIVE SALE AND LISTING AGREEMENT

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5. **KEYBOX.** Broker is authorized to install a keybox on the Property. Such keybox may be opened by a master key held by all members of MLS and their salespeople. A master key also may be held by affiliated third parties such as inspectors and appraisers who cannot have access to the Property without Broker's prior approval which will not be given without Broker first making reasonable efforts to obtain Seller's approval.
6. **SELLER'S WARRANTIES AND REPRESENTATIONS.** Seller warrants that Seller has the right to sell the Property on the terms herein and that the Property Information on the attached additional pages to this Agreement is correct. Further, Seller represents that to the best of Seller's knowledge, there are no structures or boundary indicators that either encroach on adjacent property or on the Property. Seller authorizes Broker to provide the information in this Agreement and the attached additional pages to prospective buyers and to other cooperating members of MLS who do not represent the Seller and, in some instances, may represent the buyer. Seller agrees to indemnify and hold Broker and other members of MLS harmless in the event the foregoing warranties and representations are incorrect.
7. **CLOSING COSTS.** Seller agrees to furnish and pay for a buyer's policy of title insurance showing marketable title to the Property. Seller agrees to pay real estate excise tax and one-half of any escrow fees or such portion of escrow fees and any other fees or charges as provided by law in the case of a FHA or VA financed sale. Rent, taxes, interest, reserves, assumed encumbrances, homeowner fees and insurance are to be prorated between Seller and buyer as of the date of closing.
8. **MULTIPLE LISTING.** Broker shall cause this listing to be published by MLS. Broker may refer this listing to any other cooperating multiple listing service at Broker's discretion. Broker shall cooperate with all other members of MLS, or of a multiple listing service to which this listing is referred, in working toward the sale of the Property. Regardless of whether a cooperating MLS member is the agent of the buyer, the Seller, neither or both, the member shall be entitled to receive the selling office's share of the commission. IT IS UNDERSTOOD THAT MLS IS NOT A PARTY TO THIS AGREEMENT AND ITS SOLE FUNCTION IS TO FURNISH THE DESCRIPTIVE INFORMATION ON THE ADDITIONAL PAGES ATTACHED TO THIS AGREEMENT TO ITS MEMBERS, WITHOUT VERIFICATION AND WITHOUT ASSUMING ANY RESPONSIBILITY FOR SUCH INFORMATION OR IN RESPECT TO THIS AGREEMENT.
9. **DISCLAIMER/SELLER'S INSURANCE.** Neither Broker, MLS, nor any members of MLS or of any multiple listing service to which this listing is referred shall be responsible for loss, theft, or damage of any nature or kind whatsoever to the Property and/or to any personal property therein, including entry by the master key to the keybox and/or at open houses. Seller is advised to notify Seller's insurance company that the Property is listed for sale and ascertain that the Seller has adequate insurance coverage. If the Property is to be vacant during all or part of the term of this listing, Seller should request that a "vacancy clause" be added to Seller's Insurance policy.
10. **BROKER'S RIGHT TO MARKET THE PROPERTY.** Seller shall not commit any act which materially impairs Broker's ability to market and sell the Property under the terms of this Agreement. In the event of breach of the foregoing, Seller agrees to pay Broker a commission in the above amount, or at the above rate applied to the listing price herein, whichever is applicable. Broker shall be entitled to show the Property at all reasonable times. Broker need not submit to Seller any offers to lease, rent, execute an option to purchase, or enter into any agreement other than for immediate sale of the Property.
11. **SELLER DISCLOSURE STATEMENT.** Unless Seller is exempt under RCW 64.06, Seller shall provide to Broker as soon as reasonably practicable a completed and signed "Seller Disclosure Statement" (Form 17 (Residential) or Form 17C (Unimproved Residential)). Seller agrees to indemnify, defend and hold Broker harmless from and against any and all claims that the information Seller provides on Form 17 or Form 17C is inaccurate.
12. **DAMAGES IN THE EVENT OF BUYER'S BREACH.** In the event Seller retains earnest money as liquidated damages on buyer's breach, any costs advanced or committed by Broker on Seller's behalf shall be paid therefrom and the balance divided equally between Seller and Broker.
13. **ATTORNEYS' FEES.** In the event either party employs an attorney to enforce any terms of this Agreement and is successful, the other party agrees to pay reasonable attorneys' fees. In the event of trial, the successful party shall be entitled to an award of attorneys' fees and expenses; the amount of the attorneys' fees and expenses shall be fixed by the court. The venue of any suit shall be the county in which the property is located.

DATED THIS 27th DAY OF August, 2008 Are the undersigned the sole owner(s)? ☒ YES ☐ NO

BROKER (COMPANY) Snohomish Properties SELLER [Signature]

BY [Signature] SELLER [Signature]



**Miscellaneous:**12-10221-PJW Catalyst Paper Corporation

Type: bk

Chapter: 15 v

Office: 1 (Delaware)

Assets: y

Judge: PJW

Case Flag: CLAIMS, MEGA,  
LEAD**U.S. Bankruptcy Court****District of Delaware**

## Notice of Electronic Filing

The following transaction was received from Van C. Durrer entered on 3/27/2012 at 7:36 PM EDT and filed on 3/27/2012

**Case Name:** Catalyst Paper Corporation**Case Number:** 12-10221-PJW**Document Number:** 97**Docket Text:**

Declaration (*Fifth*) of Brian Baarda (related document(s)[96]) Filed by Catalyst Paper Corporation. (Attachments: # (1) Exhibit A) (Durrer, Van)

The following document(s) are associated with this transaction:

**Document description:**Main Document**Original filename:**H:\temp\convert\X - FIFTH BAARDA DEC - EXECUTED.pdf**Electronic document Stamp:**

[STAMP bkecfStamp\_ID=983460418 [Date=3/27/2012] [FileNumber=10664205-0]  
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f69a62052035c4095de0c9135b42b7d8cb1e1287a5ec76ec24893459aa665]]

**Document description:**Exhibit A**Original filename:**X - FIFTH BAARDA DEC - EX A.pdf**Electronic document Stamp:**

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91ae2678abb3e9421a21412e1d81530e4b672986aa8a81e969c568ab460ab]]

**12-10221-PJW Notice will be electronically mailed to:**

Timothy P. Cairns on behalf of Interested Party Certain Holders of 2014 Notes  
tcairns@pszjlaw.com

Mark L. Desgrosseilliers on behalf of Interested Party Andritz Inc., Andritz Ltd., and Andritz Iggesund  
Tools Canada, Inc.  
mdesgrosseilliers@wcsr.com, pgroff@wcsr.com;klytle@wcsr.com;hsasso@wcsr.com

Van C. Durrer on behalf of Debtor 0606890 B.C. Ltd.  
debank@skadden.com;christopher.heaney@skadden.com;wendy.lamanna@skadden.com;annie.li@skadden.com