

Wyco Everett  
Wayhomer West

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KAY D. ANDERSON  
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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR SNOHOMISH COUNTY

STATE OF WASHINGTON, )  
DEPARTMENT OF ECOLOGY, )  
 )  
Plaintiff, )  
 v. )  
 )  
WEYERHAEUSER COMPANY, )  
A WASHINGTON CORPORATION, )  
 )  
Defendant. )

No. 94 2 07559 2

CONSENT DECREE

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I. INTRODUCTION

A. In entering into this Consent Decree (Decree), the mutual objective of the Washington State Department of Ecology (Ecology), and Weyerhaeuser Company (Defendant) is to provide for remedial action at the Weyerhaeuser Everett West Site where there has been a release or threatened release of hazardous substances. This Decree requires Weyerhaeuser to undertake the following remedial actions at the Weyerhaeuser West Site:

Perform the following remedial action.

- (1) Area 11 - Sandblast Fill Area. Excavate soil to the cleanup standard of 500 mg/kg Cr and 10 mg/kg PCB's or surface of groundwater. Chromium and PCB's in soil are contaminants of concern.
- (2) Area 12 - Old Mill C. Excavate soils to a cleanup action level of 1,000 mg/kg Total Petroleum Hydrocarbon (TPH) or surface of groundwater. TPH is the contaminant of concern in soil.
- (3) Area 13 - Powerhouse, Recovery and Causticizing Areas. Excavate soils to a cleanup action level of 1,000 mg/kg TPH or surface of groundwater. TPH in soil is the contaminant of concern.
- (4) Area 14 - Wood Chip Pile. Remove and recycle if possible wood chips above the contaminated soils. Excavate soils to a cleanup action level of 1,000 mg/kg TPH and 1.0 mg/kg mercury or surface of ground water. TPH and mercury in soils are the contaminants of concern.
- (5) Area 15 - Fuel Tank Area. Dismantle and scrap existing 577,000 gallon fuel tank. Remove contaminated foundation located below tank. Excavate contaminated soils to a cleanup action level of

- 1 1,000 mg/kg TPH or the surface of ground water. TPH in soils is  
2 the contaminant of concern.
- 3 (6) Area 16 - Pulp Mill. Excavate soils around the old lube oil  
4 shed to a cleanup action level of 1,000 mg/kg TPH or the surface  
5 of ground water. TPH in soil is the contaminant of concern.
- 6 (7) Fill excavations with clean fill.
- 7 (8) Perform ground water monitoring.
- 8 (9) Deed restrict the contaminated areas on site that remain above  
9 the cleanup levels and prevent withdrawal of water for domestic  
10 purposes from the surface aquifer on the site.

11 Ecology has determined that these actions are necessary to protect public  
12 health and the environment.

13 B. The Complaint in this action is being filed simultaneously with  
14 this Decree. An answer has not been filed, and there has not been a trial  
15 on any issue of fact or law in this case. However, the parties wish to  
16 resolve the issues raised by Ecology's complaint. In addition, the parties  
17 agree that settlement of these matters without litigation is reasonable and  
18 in the public interest and that entry of this Decree is the most appropriate  
19 means of resolving these matters.

20 C. In signing this Decree, Weyerhaeuser agrees to its entry and  
21 agrees to be bound by its terms.

22 D. By entering into this Decree, the parties do not intend to  
23 discharge nonsettling parties from any liability they may have with respect  
24 to matters alleged in the complaint. The parties retain the right to seek  
25 reimbursement, in whole or in part, from any liable persons for sums  
26 expended under this Decree.

1 E. This Decree shall not be construed as proof of liability or  
2 responsibility for any releases of hazardous substances or cost for remedial  
3 action nor an admission of any facts; provided, however, that Weyerhaeuser  
4 shall not challenge the jurisdiction of Ecology in any proceeding to enforce  
5 this Decree.

6 F. The Court is fully advised of the reasons for entry of this  
7 Decree, and good cause having been shown: IT IS HEREBY ORDERED, ADJUDGED,  
8 AND DECREED AS FOLLOWS:

9 II. JURISDICTION

10 A. This Court has jurisdiction over the subject matter and over the  
11 parties pursuant to Chapter 70.105D RCW, the Model Toxics Control Act  
12 (MTCA).

13 B. Authority is conferred upon the Washington State Attorney  
14 General by RCW 70.105D.040(4)(a) to agree to a settlement with any  
15 potentially liable person if, after public notice and hearing, Ecology finds  
16 the proposed settlement would lead to a more expeditious cleanup of  
17 hazardous substances. RCW 70.105D.040(4)(b) requires that such a settlement  
18 be entered as a consent decree issued by a court of competent jurisdiction.

19 C. Ecology has determined that a release or threatened release of  
20 hazardous substances has occurred at the Site which is the subject of this  
21 Decree.

22 D. Ecology has given notice to Weyerhaeuser by a letter dated  
23 August 4, 1994, as set forth in RCW 70.105D.020(8), of Ecology's  
24 determination that Weyerhaeuser is a potentially liable person for the Site  
25 and that there has been a release or threatened release of hazardous  
26 substances at the Site.

1 E. The actions to be taken pursuant to this Decree are necessary to  
2 protect public health, welfare, and the environment.

3 F. Weyerhaeuser has agreed to undertake the actions specified in  
4 this Decree and consents to the entry of this Decree under the MTCA.

5 III. PARTIES BOUND

6 This Decree shall apply to and be binding upon the signatories to this  
7 Decree (parties), their successors and assigns. The undersigned  
8 representative of each party hereby certifies that he or she is fully  
9 authorized to enter into this Decree and to execute and legally bind such  
10 party to comply with the Decree. Weyerhaeuser agrees to undertake all  
11 actions required by the terms and conditions of this Decree and not to  
12 contest state jurisdiction regarding this Decree. No change in ownership or  
13 corporate status shall alter the responsibility of Weyerhaeuser under this  
14 Decree. Weyerhaeuser shall provide a copy of this Decree to all agents,  
15 contractors and subcontractors retained to perform work required by this  
16 Decree and shall ensure that all work undertaken by such contractors and  
17 subcontractors will be in compliance with this Decree.

18 IV. DEFINITIONS

19 Except for as specified herein, all definitions in WAC 173-340-200 apply to  
20 the terms in this Decree.

21 A. Site: The Site, referred to as Weyerhaeuser West Site, is  
22 located 101 Marine View Drive, Everett, Washington. The Site is more  
23 particularly described in Exhibit A to this Decree which is a detailed site  
24 diagram.

25 B. Parties: Refers to the Washington State Department of Ecology  
26 (Ecology) and Weyerhaeuser Company (Weyerhaeuser).

1 C. Defendant or Weyerhaeuser: Refers to Weyerhaeuser Company -  
2 Everett West Site.

3 D. Consent Decree or Decree: Refers to this Consent Decree and  
4 each of the exhibits to the Decree. All exhibits are integral and  
5 enforceable parts of this Consent Decree. The terms "Consent Decree" or  
6 "Decree" shall include all Exhibits to the Consent Decree.

7 E. Day: Refers to calendar days unless specified otherwise.

8 F. TPH: Refers to total petroleum hydrocarbons measured using WTPH-  
9 D method extended to the heavy hydrocarbon range. In areas of visibly  
10 observable biogenic organic content the method will use a acid/silica gel  
11 cleanup method.

12 G. TPH-G: Refers to total petroleum hydrocarbons measured using  
13 WTPH-G method. Gasoline range hydrocarbons.

14 H. TPH-D: Refers to total petroleum hydrocarbons measured using  
15 WTPH-D method. Diesel range hydrocarbons.

16 I. TPH-O: Refers to total petroleum hydrocarbons measured using  
17 the WTPH-D method extended to the heavier hydrocarbon mixtures using a  
18 specific calibration for them. Heavy oil range hydrocarbons such as motor  
19 oil.

20 V. STATEMENT OF FACTS

21 Ecology makes the following finding of facts without any express or  
22 implied admissions by Weyerhaeuser.

23 A. Site Description. The Site is real property which is owned by  
24 Weyerhaeuser and located at 101 East Marine View Drive, Everett, Washington  
25 98201. The site is located northeast of downtown Everett and consists of 35  
26 acres zoned M-2 Heavy Manufacturing, by the city of Everett. The site is

1 the western portion of a larger Weyerhaeuser property and is referred to as  
2 the West Site. The site is relatively flat and is bordered on the north by  
3 the Snohomish River, and on the east, west and south by the Burlington  
4 Northern Railroad (BNRR) tracks.

5 B. Site Geology The site is located on relatively level fill adjacent  
6 to the Snohomish River approximately 0.75 miles upstream from the river  
7 mouth at Port Gardner in Puget Sound. The river is channelized and consists  
8 of a main stream and numerous sloughs separated by marshy islands. The main  
9 channel runs next to the site and is approximately 600 feet wide. This site  
10 is within the low-lying floodplain of the river and is a former estuarine  
11 tide flat. The site was filled with dredged sand from the river bottom  
12 during the early 1900's. The bank of the river has been stabilized along  
13 the length of the site with a bulkhead of timber piling.  
14 The sediment underlying the site consists of man-made dredge fill overlying  
15 natural floodplain deposits. The general stratigraphy of the site is listed  
16 below from youngest to oldest.

17 1) The grade fill and mixed fill unit is continuous across the  
18 site. It is composed of sandy gravel, asphalt, angular pebbles  
19 and cobbles of crushed rock, wood chips, wood bark, and wood  
20 debris. The grade fill ranges in thickness from 1 to 4 feet in  
21 Areas 11, 12, 13, 15, 16, 17 and 18. Area 14 is filled with wood  
22 chips.

23 2) The Upper Sand unit (dredge fill) consists of gray brown to  
24 black, fine to medium sand with trace coarse sand. The unit  
25 ranges in thickness from 2 to 10 feet. The material was dredged  
26



1 from the Snohomish River and deposited on estuarine tidal flats  
2 across most of the West site.

3 3) The Upper Silt unit consists of a stiff, low plasticity to  
4 nonplastic, gray-brown to dark brown silt with abundant organic  
5 matter consisting of wood fragments and rootlets in the upper  
6 portions of the unit. The unit is interbedded with thin lenses  
7 of fine sand and silty sand. The thickness of the unit is  
8 unknown at the site.

9 C. Site Hydrogeology The hydrogeology of the site consists of a  
10 shallow unconfined aquifer in the upper sand unit. Ground water is  
11 encountered at depths ranging from 2 to 6 feet across the site. The  
12 thickness of the saturated zone ranges from 4 to 12 feet, or to the base of  
13 the Upper Sand unit. No pump testing was conducted on the unit to determine  
14 yields.

15 The hydraulic gradient of the shallow ground water is north toward the  
16 Snohomish River. The shallow unconfined aquifer has been studied in the  
17 vicinity of the PUD Delta switching station, formerly the Weyerhaeuser  
18 demolition landfill which was located directly east of the site. Water  
19 levels in the aquifer near the former landfill were monitored to evaluate  
20 the effect of the tidal induced water level changes in the Snohomish River.  
21 The results indicate a minor change in water levels for a large change in  
22 tidal range. This suggests that the river has some effect upon the shallow  
23 aquifer beneath the site but the effect is probably locally isolated from  
24 the river. There is no data on the permeability of the silt unit found  
25 below the Upper Sand Unit. No detailed studies have been completed that  
26 show the actual flow patterns between the river and the West site. Deep

1 alluvial aquifers have been found to be saline (Miller Shingle well on Smith  
2 Island) in the vicinity of the site. There are no beneficial users of  
3 ground water that are reported within 2000 feet of the West Site. The  
4 nearest well to the site is located three quarters of a mile east of the  
5 site and across the Snohomish River which acts as a ground water divide.

6 D. Site History Weyerhaeuser began operations in the Everett area in  
7 1902. The West Site consists of the former Mill C, Mill D, and the Kraft  
8 Pulp Mill. The former Mill C that manufactured wood boards began operations  
9 in 1926 and closed in 1976. It was a sawmill operation. The former Mill D,  
10 another wood board manufacturing facility, began operation in 1963 and  
11 closed in 1971. The Kraft pulp mill facility began operation in 1953 and  
12 closed in 1992. Weyerhaeuser also operated sawmills south of State Route  
13 529 from 1916 to around 1980. The wood waste landfills, waste water  
14 treatment aeration lagoons, and log sorting operations which supported the  
15 West Site operations are located north of the Snohomish River on Smith  
16 Island. Located southeast of the cleanup site is the Everett Asarco  
17 smelter site. In 1992 Weyerhaeuser began Site assessment and field  
18 activities at the Weyerhaeuser West Site. The site assessment activities  
19 included a review of West Site blueprints, reports, aerial photographs, and  
20 agency files. Former and current Weyerhaeuser employees were interviewed.  
21 In addition, the West Site was photographed. The site was divided into  
22 eight study units based on the findings of the initial investigative work.

23 E. Cleanup Areas The Weyerhaeuser West Site is divided for cleanup  
24 proposes into eight separate units designated as Areas 11 through 18 (Site  
25 Map Exhibit A). The area designations have been used in the remedial  
26 investigation reported to Ecology in the report named "Overall Site

1 Assessment Report, Weyerhaeuser Everett West and East Properties, August 4,  
2 1992". The eight areas are summarized below.

3 1) Area 11 Sandblast Fill - Area 11 contains the cement foundations used  
4 to support a hog fuel burner, a former transformer and an abandoned  
5 clarifier associated with Mill C. A fill area is also located along the  
6 eastern half of the area. The fill consists of undivided debris from the  
7 plant, soil, and sandblast grit.

8 2) Area 12 Former Mill C - No buildings currently exist in the area. The  
9 facility which operated in this area was a lumber mill which processed raw  
10 logs into finished lumber. The area contains a structural sand/gravel fill  
11 parking area and adjacent areas of debris/fill (including woodwaste, buried  
12 dock pilings, buried concrete foundations and subdrains).

13 3) Area 13 Powerhouse, Recovery and Causticizing - Area 13 was used for  
14 power generation and chemical recovery of kraft pulp mill liquors. The area  
15 also contained a sandblast shed. The area includes the lime kiln and  
16 associated support structures, the powerhouse, and main exhaust stack base.  
17 A portable compressor area and caustic lime pile were formerly located in  
18 the area. Two recovery boilers and the main stack are located next to the  
19 powerhouse. A sandblast shed is located north of the powerhouse where  
20 sandblasting of equipment was conducted.

21 4) Area 14 Northern Chip Storage - Area 14 was created to store wood  
22 chips for the kraft pulp mill. The area was created by sinking two or more  
23 wooden barges filled with river sediments along the bank of the Snohomish  
24 River. The area behind the barges was filled with sand fill and then used  
25 as wood chip storage. The area still contains several feet of wood chips.  
26

- 1 5) Area 15 Fuel Storage Tanks - Area 15 consists of a bermed yard  
2 containing one 577,500 gallon aboveground Bunker C tank. A former 1,000  
3 gallon above ground diesel tank was also located within the containment  
4 area.
- 5 6) Area 16 Pulp Mill - Area 16 contains the pulping section of the former  
6 kraft pulp mill. The area consists of warehouse, machine room, offices,  
7 maintenance building, chip silos, pulp processing storage tanks, bleach  
8 plant, and a lube oil storage shed. Pulping operations, including storage  
9 of chips and paper products, occurred in this area. The lube oil shed was  
10 used for storage of petroleum products and solvents. Drums of petroleum  
11 products were also stored next to the storage shed.
- 12 7) Area 17 Warehouse and Filter Plant - Area 17 contains a warehouse,  
13 process water filter plant, non-PCB transformers yard, former gasoline  
14 underground storage tank, and a former sandblast shed. The water filter  
15 plant processed incoming river water for use in the pulping process.  
16 Sandblasting was conducted in the sandblast shed.
- 17 8) Area 18 Former White Liquor Storage Area - Area 18 currently contains  
18 no buildings or tanks. In 1975 the Everett Kraft Mill used an innovative  
19 process for cooking wood chips. The process used a sulfurless cooking  
20 liquor to cook wood chips. The liquor was removed from the process and  
21 stored in tanks in Area 18. No other uses of this area have been reported.
- 22 F. Site Investigations Two media, soil and ground water were  
23 examined during the environmental investigations. Locations of ground water  
24 sample points, monitoring wells, soil borings, and soil sample pits are  
25 given in Exhibit A (Site Map). Soil samples were examined using test pits  
26 and soil borings. Ground water was examined using sixteen temporary well

1 points, four piezometers, and eight monitoring wells. The monitoring wells  
2 are located along the northern edge of the property and downgradient from  
3 each of the suspect contaminated areas. Water samples taken from well  
4 points and sample borings are located throughout the site. Three rounds of  
5 ground water monitoring well sampling were conducted during June 1993,  
6 October 1993 and February 1994. Temporary well point and soil boring water  
7 sampling occurred during August 1992, and June of 1993. Ground water and  
8 soil samples were tested for some or all of the following analytes: BTEX,  
9 TPH-G, TPH-D, TPH-O, VOC, PAH, PCB, dissolved metals, total metals and  
10 general chemistry including pH, specific conductance, and turbidity.  
11 1) Water Sampling At the Site temporary well points give a general idea of  
12 water quality. The eight well monitoring system can be used to determine  
13 specific water quality at the site. A description of each monitoring event  
14 and analytical results is given below.  
15 a) June 1993 Monitoring Event - Temporary soil borings, well points, and  
16 monitoring wells.  
17 i) TPH-G - Three samples were taken from well points in the vicinity  
18 of the Area 17 underground storage tank. TPH-G was not detected.  
19 ii) TPH-D and TPH-O - Twenty eight samples were collected from the  
20 monitoring well system and temporary well point system. The TPH-D results  
21 ranged from non-detection to 2.0 mg/kg. Five of the samples contain some  
22 hydrocarbon. TPH-O was detected in two samples at 1.3 and 2.4 mg/l. Six  
23 samples had TPH-O or D levels above the cleanup standard of 1 mg/kg. Of  
24 these six samples only one monitoring well (MW-1302) had TPH-D levels above  
25 the MTCA Method A limit of 1 mg/kg.  
26

1           iii) VOC's - Ten ground water samples were collected near areas where  
2 petroleum products, solvents, or other organic chemicals may have been used.  
3 Only one sample had levels above method detection limits. The sample (SB  
4 1601) contained six VOC compounds at ranges of 2 ug/l to 36 ug/l. The well  
5 point is located next to the oil shack in the pulp mill area 16. No other  
6 monitoring well or well point contained any VOC compounds.           iv) BTEX  
7 - Ten samples sites were analyzed and no BTEX compounds were detected.  
8           v) PAH and Semi Volatile Organic Compounds - Seven ground water  
9 samples were tested for semi-volatile organic compounds. Four of the  
10 samples contained trace amounts of different semi-volatile compounds. Only  
11 one sample contained contaminant levels that measured above the MTCA method  
12 B cleanup level. The compound is bis(2-ethylhexyl)phthalate, a common  
13 plasticizer, at the 7 ug/l level.  
14           vi) PCBs - Thirteen ground water samples were collected and analyzed  
15 for PCBs. No PCBs were detected in any of the samples.  
16           vii) Dissolved Metals (As, Cr, Pb, and Hg) - Twenty one samples were  
17 analyzed for dissolved metals. Arsenic was detected in 23 of 26 samples.  
18 Levels of arsenic range from 3 ug/l to 100 ug/l. Chrome was detected in 4  
19 of 26 samples collected. The chrome values range from 12 to 57 ug/l.  
20 Mercury was detected in 2 of 26 samples at .2 ug/l. Lead was detected in 4  
21 of 26 samples at levels that range from 4 to 52 ug/l. MTCA method A values  
22 for arsenic, lead, and chrome were exceeded in the samples.  
23           viii) Ph, Specific conductance and Turbidity - Twenty one samples  
24 were analyzed for pH. The pH ranged from 5.4 - 9.9. Specific conductance  
25 and turbidity were within normal ranges.           b) October 1993 Monitoring  
26 Event. Eight ground water monitoring wells, no soil bores or temporary we

1 points. Water from monitoring wells was analyzed for TPH-D, TPH-O, PAHs,  
2 dissolved metals, and total metals. The results are given below.

3 i) TPH-D and TPH-O - Eight ground water samples were analyzed for  
4 TPH-D and TPH-O. Samples range from <0.13 mg/l to .98 mg/l TPH-D and <.5  
5 mg/l to .69 mg/l TPH-O. One monitoring well, MW 1302, contained .98 mg/l  
6 TPH-D.

7 ii) PAH and Semi-Volatiles - Six ground water wells were analyzed  
8 for semi-volatiles. Base neutral acid compounds below 10 ug/l were  
9 identified in three samples. Only two PAH compounds were identified above  
10 10 ug/l. Acenaphthene was detected at 32 ug/l in MW-1302 and fluorene was  
11 detected at 13 ug/l in MW-1302.

12 iii) Dissolved Metals (As, Cr, Pb, Hg) - Eight ground water samples  
13 were analyzed for dissolved metals and no Cr, Pb, Hg was found in the  
14 samples. Arsenic was found in 7 of 8 samples ranging from 3 ug/l to 130  
15 ug/l.

16 c) February 1994 Monitoring Event. Eight ground water monitoring wells, no  
17 soil bore holes, or temporary well points. Water from monitoring wells was  
18 analyzed for TPH-D, TPH-O, semi-volatile organics, and dissolved arsenic.  
19 Results are given below:

20 i) TPH-D and TPH-O - Seven ground water samples were analyzed for  
21 TPH-D and TPH-O. Samples range from <.13 mg/l to 1.0 mg/l TPH-D and <.13  
22 mg/l to .55 mg/l TPH-O. Monitoring well, MW-1301, contained 1.0 mg/l TPH-D.

23  
24 ii) Dissolved Arsenic - Water from seven monitoring wells was  
25 analyzed for arsenic. Dissolved arsenic was found in all but one sample  
26 (MW-1701) and ranged from 3 ug/l to 96 ug/l.

1           iii) Semi-volatiles - Water from six monitoring wells was analyzed  
2 for semi-volatile chemicals. Only two compounds, acenaphthene and fluorene,  
3 were found above 10 ug/l. Acenaphthene was detected at 32 ug/l and fluorene  
4 was detected at 13 ug/l, both in monitoring well MW-1302.

5   2) Soil Sampling The soil was examined in each of the eight units. The  
6 following contaminants have been discovered in soil at the Weyerhaeuser West  
7 Site Areas 11-18.

8           a) Area 11 Sandblast Fill. The soil was analyzed for TPH-O, TPH-D,  
9 total metals and leachable metals using the toxicity characteristic leachate  
10 procedure (TCLP). Fourteen samples were taken during two different sampling  
11 events. The following results were reported.

12           i) TPH as diesel and oil were detected in 2 out of 14 samples. One  
13 sample at 710 mg/kg TPH-D and 1000 mg/kg TPH-O and another  
14 sample at 250 mg/kg TPH-O.

15           ii) No elevated TCLP metals were detected.

16           iii) Total metals results include Cr (11.1 to 2930 mg/kg), As (70.2  
17 mg/kg), and Pb (659 mg/kg). No elevated concentrations of the  
18 other total metals were detected.

19           iv) One sample contained PCB Aroclor 1254 at 25 mg/kg level.

20 Chemicals which require remediation in Area 11 are TPH, PCB's and chromium.

21           b) Area 12. Former Mill C. Sixteen soil samples were collected  
22 from 6 soil borings and 12 test pits on 6/93. All the samples were analyzed  
23 for TPH-D, TPH-O, selected samples were analyzed for total metals  
24 (As,Cr,Pb,Hg), PCBs, VOCs, PAHs, PCP, and pH. Ten soil samples were  
25 collected from one soil boring and nine test pits on 3/94. The samples were  
26 analyzed for TPH-D, TPH-O, selected samples were analyzed for total metals



1 (As,Cr,Pb, Hg), PCB's, and VOC's. The following results were reported for  
2 both sampling events.

- 3 i) TPH-O was detected in 7 samples (280-22,000 mg/kg).
- 4 ii) TPH-D was detected in 5 of the 14 samples (910-4200 mg/kg).
- 5 iii) No elevated concentrations of total metals or PCB's were noted  
6 in the analyses.
- 7 iv) One VOC (methyl ethyl ketone 14 mg/kg) was detected in one  
8 sample. Two other VOC compounds (acetone and carbon disulfide)  
9 at less than 1 mg/kg in two samples. All of the high VOC samples  
10 came from the 6/93 sample event.
- 11 v) PAH's or PCP's were not found in the three samples tested.
- 12 vi) Soil pH was in the normal range (4.0 to 9.0).

13 Chemicals which require remediation in Area 12 are TPH-O and TPH-D.

14 c) Area 13 Powerhouse, Recovery, and Causticizing Areas. In 1991  
15 approximately 30 yards of stained soil was removed from the area around lime  
16 kiln trunion number 4. An undetermined amount of contaminated material was  
17 left in place in 1991. Sampling in Area 13 during 1992, 1993, and 1994  
18 discovered further areas of contamination. During 1992 and 1994 a total of  
19 13 samples were taken adjacent the lime kiln trunions. The samples were  
20 analyzed for TPH-D and TPH-O. The results are given below.

- 21 i) TPH-O was detected in 6 of the 13 samples (210-5100 mg/kg).
- 22 ii) TPH-D was detected in 2 of 13 samples (270&4200 mg/kg).

23 In June of 1993 seven soil borings and two test pits were sampled in Area  
24 13. Soil boring were located near the compressor area and around the  
25 powerhouse. The samples were tested for TPH-D, TPH-O, PCBs, PAHs, total  
26 metals and pH. The results are given below.

- 1           iii)       TPH-D and TPH-O were not detected in any samples.  
2           iv)       PCB's were not detected in the one sample analyzed.  
3           v)       PAH's were not detected in the one sample analyzed.  
4           vi)       No elevated concentrations of total metals were detected.  
5           vii)      Soil pH was within the normal range for all samples.

6   Chemicals which require remediation in Area 13 are TPH-O and TPH-D.

7           d)   Area 14 Northern Chip Storage. During June of 1993 six soil  
8   samples were collected from four test pits and two soil borings. In March  
9   of 1994, eighteen soil samples were taken from 18 test pits. All samples  
10  were tested for TPH-O and TPH-D, selected samples were tested for total  
11  metals (Cr, As, Hg, and Pb), PCB's, and pH. The following results were  
12  reported for both sampling events.

- 13           i)    TPH-O was detected in 6 samples (210-1100 mg/kg). TPH-D was  
14           detected in 1 sample (220 mg/kg).  
15           ii)   No elevated concentrations of PCBs were detected.  
16           iii)  Mercury was detected in 1 sample at 4.0 mg/kg. No elevated  
17           concentrations of the other total metals was detected.  
18           iv)   Soil pH was 9.2 and 12.5 in 2 of 21 samples.

19  Chemicals which require remediation in Area 14 are TPH and mercury.

20           e)   Area 15 Fuel Tank Areas. During April and November 1991,  
21  approximately 300 cubic yards of petroleum hydrocarbon contaminated soil was  
22  excavated from the fuel tank area. In August of 1992, nineteen soil samples  
23  were collected from nineteen test pits within the fuel storage tank  
24  containment area. All samples were analyzed for TPH-D and TPH-O. The  
25  results are reported below.

26

1 i) TPH-O was detected in fourteen samples (380 mg/kg - 5,600  
2 mg/kg).

3 ii) TPH-D was detected in eight samples (230-12,000 mg/kg).

4 In March 1994, four soil samples were taken from four soil borings located  
5 north and outside of the fuel containment. The four samples were analyzed  
6 for TPH-O and TPH-D. No contaminants were detected in the samples.

7 Chemicals which require remediation in Area 15 are TPH.

8 f) Area 16 Pulp Mill. During June 1993 and November 1994 twelve  
9 samples were taken from twelve soil borings. All samples were tested for  
10 TPH-D and TPH-O. Eight samples of the twelve samples were tested for  
11 volatile organic compounds. The following results were reported for both of  
12 the sample events.

13 i) TPH-O was detected in three samples (250-1,400 mg/kg) and TPH-D  
14 was not detected.

15 ii) Two volatile organic compound were found in one sample (xylene  
16 250 mg/kg, ethylbenzene 48 mg/kg).

17 iii) Soil pH was within normal ranges.

18 Chemicals that require remediation in Area 16 are TPH.

19 g) Area 17 Warehouse and Filter Plant. During November of 1991  
20 approximately 22 tons of sandblast grit was excavated from the Filter Plant  
21 area near the former sandblast shed.

22 On September 1992, five soil samples were collected in the vicinity of the  
23 former sandblast shed in Area 17. The samples were analyzed for TCLP  
24 metals.

25 i) No elevated concentrations of TCLP metals were detected.  
26

1 On December 1992 six grab samples were collected from the surface soil in  
2 the vicinity of the former sand blast shed in Area 17. The six samples were  
3 analyzed for total metals (As, Cr, Pb, Hg, Ag, Ba, Cd, and Se).

4 ii) Hg was detected in one sample at 1.4 mg/kg, and Pb was detected  
5 in one sample at 1000 mg/kg. Ag and Cd were not detected. All  
6 other compounds were detected but at levels below background  
7 concentrations.

8 In June of 1993, two soil samples were collected from two soil borings and  
9 three soil samples were collected from three soil test pits. Selected  
10 samples were analyzed for TPH-O, TPH-D, TPH-G, BTEX, PCB's and total Pb.

11 The results are given below:

12 iii) TPH-D, TPH-O, and TPH-G were not detected.

13 iv) BTEX was not detected near the former underground storage tank.

14 v) PCB's were not detected in the three samples tested.

15 vi) Elevated concentrations of lead were not detected.

16 No chemicals were detected in the sampling events that require cleanup in  
17 Area 17.

18 h) Area 18 Former White Liquor Storage. During June of 1993, one  
19 soil sample was collected from one test pit. The sample was analyzed for  
20 TPH-D, TPH-O, and pH. No contaminants were detected. No chemicals were  
21 detected in the Area 18 that require cleanup.

22 G. Cleanup Action Plan On September 2, 1994 Ecology published a draft  
23 Cleanup Action Plan (CAP) for the Weyerhaeuser West Site. In this document  
24 Ecology selected the cleanup remedy to be implemented at the site. The CAP  
25 is attached as Exhibit B.

26

1 VI. WORK TO BE PERFORMED

2 This Decree contains a program designed to protect public health,  
3 welfare and the environment from the known release, or threatened release,  
4 of hazardous substances or contaminants at, on, or from the Site. This  
5 program implements Ecology's CAP and with the remainder of this Consent  
6 Decree and exhibits, implements the Model Toxics Control Act.

7 A. Cleanup Action Plan. Ecology's CAP constitutes an integral  
8 part of this Decree and is attached as Exhibit B.

9 B. Cleanup Standards. The contaminants of concern at the  
10 Weyerhaeuser West Site are TPH in soils and TPH and arsenic in water. The  
11 cleanup standards established for the Weyerhaeuser West Site are MTCA method  
12 A industrial soil standards: 200 mg/kg TPH, 10 mg/kg PCBs, 500 mg/kg  
13 chromium, 1.0 mg/kg mercury, 20 mg/kg total xylenes and 20 mg/kg  
14 ethylbenzene and MTCA method A ground water standards: 5 ug/l As and 1000  
15 ug/l TPH. The cleanup action level for hydrocarbon contaminated soils at  
16 the site is 1,000 mg/kg TPH. In Area 12 and Area 14 the sample preparation  
17 method and cleanup action level for hydrocarbon contaminated soils can be  
18 modified with Ecology on site approval if there is visually observable  
19 organic matter (wood chips and fibre) or if other information indicates the  
20 same conditions. The sample shall then analyzed using a modified TPH-D test  
21 method. The modification shall consist of packing the chromatographic  
22 column with acid treated silica gel or concentrated sulfuric acid/silica gel  
23 cleanup method. When the modified sampling procedure is used the cleanup  
24 action level for the sample area with visually observable organic matter  
25 shall be 2,500 mg/kg TPH.  
26

1 C. Scope of Work. The schedule of work to be performed by Weyerhaeuser  
2 is attached as Exhibit C to this Consent Decree and is herein incorporated  
3 by reference in its entirety. Weyerhaeuser, through its contractor and  
4 subcontractor as necessary, shall accomplish the work, including the  
5 following:

- 6 1. Obtain any and all federal permits required by applicable law  
7 before work on-site can continue.
- 8 2. Prepare Site health and safety plan in accord with most recent  
9 OSHA, WISHA, and their implementing regulations. Off site soil  
10 hauling by truck shall be performed during normal working hours of  
11 7:00 AM through 6:00 PM.
- 12 3. Prepare and submit for Ecology approval a site transportation plan.
- 13 4. Dismantle and scrap the 577,000 gallon fuel tank in Area 15.
- 14 5. Excavate contaminated soils from six separate locations in Areas  
15 11, 12, 13, 14, 15, and 16. The soil cleanup standard for the Site  
16 shall be the MTCA method A industrial standard of 200 mg/kg TPH-O  
17 (other). A cleanup action level of 1,000 mg/kg TPH will be used to  
18 determine excavation limits. If visually observable amounts of  
19 wood chips or wood fibre are encountered in Areas 12 and 14 an  
20 alternative cleanup action level of 2,500 mg/kg TPH can be utilized  
21 after obtaining Ecology approval. Approximately 7.500 cubic yards  
22 of material will be excavated to achieve the 1,000 mg/kg TPH action  
23 level.
- 24 6. Conduct conformational soil sampling in each of the remediated  
25 areas to verify cleanup has met the action level of 1,000 mg/kg TPH  
26 limit or the modified action level of 2,500 TPH in Areas 12

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and 14. Continue to excavate contaminated soil until soil action levels have been attained or until the surface of ground water is reached. All soil and water sampling performed pursuant to this Decree shall be conducted by a laboratory accredited under chapter 173-50 WAC.

7. Transport contaminated soil by rail or tractor-trailer truck to appropriate off-site landfill that has been approved by Ecology for the specific type of waste being disposed. Tractor-trailer trucks shall use only arterial streets when transporting contaminated soil and clean fill.

8. Fill excavations with clean backfill.

9. Prepare and submit ground water compliance monitoring plan that meets the requirements of WAC 173-340-410 and 173-340-720.

Implement monitoring plan after approval of Ecology. Ground water cleanup standards for the site shall be MTCA method A ground water standard of 5.0 ug/l As and 1000 ug/l TPH-D. Ground water shall be monitored quarterly for years one through three and annually for years four and five starting January 1, 1994. Ground water shall be analyzed for TPH, and dissolved As. At the end of the five year period, Ecology and Weyerhaeuser shall exchange proposals to amend this Consent Decree (pursuant to Section XV AMENDMENT OF CONSENT DECREE) with regard to whether continued ground water monitoring is necessary to protect public health or the environment, and if so, what would constitute an appropriate monitoring regime. If the two parties can not agree to amend the ground water monitoring plan, then

1 annual ground water monitoring shall continue as provided in  
2 this Decree.

3 10. Institutionally control by deed restriction areas that contain  
4 contaminate levels above current cleanup standards. The deed  
5 restriction to be recorded by Weyerhaeuser is attached as  
6 Exhibit F.

7 D. Schedule. The following schedule for performance of the work  
8 identified above is given in Exhibit C and is as follows:

9 1. Permits: Apply within 30 days of effective date of the Decree.  
10 2. Health and Safety Plan: Submit within 30 days of effective date  
11 of Decree.  
12 3. Ground Water Monitoring Plan: Submit within 180 days of the  
13 effective date of the Decree. Upon approval of the monitoring  
14 plan, the plan shall become an integral and enforceable part of  
15 this Decree.  
16 4. Excavation and clean soil cover installation: Complete within  
17 360 days of the effective date of this Decree.  
18 5. Ground Water Monitoring: Quarterly for the first three years  
19 and annually for years four and five starting January 1, 1995,  
20 and thereafter determined pursuant to this Decree.  
21 6. Deed Restriction: Filed with the Snohomish County Auditor  
22 within 180 days of the completion of the final soil cover.  
23 7. Project Completion Report: Submit within 180 days of the  
24 effective completion of the final soil cover.  
25 8. Project transportation plan: submit within 30 days of the  
26 effective day of this decree.



1 E. Weyerhaeuser agrees not to perform any remedial actions outside  
2 the scope of this decree unless the parties agree to amend the scope of work  
3 to cover these actions. All work conducted under this decree shall be done  
4 in accordance with ch. 173-340 WAC unless otherwise provided herein.

5 VII. DESIGNATED PROJECT COORDINATORS

6 The project coordinator for Ecology is:

7 Paul Skyllingstad  
8 Industrial Section  
9 Department of Ecology  
10 P. O. Box 47706  
11 Olympia, Washington 98504-7706

12 Phone (206) 407-6940  
13 FAX (206) 407-6902

14 The project coordinator for Weyerhaeuser is:

15 Stuart P. Triolo  
16 Weyerhaeuser Company  
17 West Site  
18 101 East Marine View Drive  
19 Everett, Washington 98201

20 Phone (206) 339-2871  
21 FAX (206) 339-2786

22 Each project coordinator shall be responsible for overseeing the  
23 implementation of this Decree. The Ecology project coordinator will be  
24 Ecology's designated representative at the Site. To the maximum extent  
25 possible, communications between Ecology and the Weyerhaeuser and all  
26 documents, including reports, approvals, and other correspondence concerning  
the activities performed pursuant to the terms and conditions of this  
Decree, shall be directed through the project coordinators. The project  
coordinators may designate, in writing, working level staff contacts for all  
or portions of the implementation of the remedial work required by this  
Decree. The project coordinators may agree to minor modifications to the

1 work to be performed without formal amendments to this Decree. Minor  
2 modifications will be documented in writing by Ecology.

3 Any party may change its respective project coordinator. Written  
4 notification shall be given to the other parties at least ten (10) calendar  
5 days prior to the change.

6 VIII. PERFORMANCE

7 All work performed pursuant to this Decree shall be under the  
8 direction and supervision, as necessary, of a professional engineer or  
9 hydrogeologist, or equivalent, with experience and expertise in hazardous  
10 waste site investigation and cleanup. Excavation work must be under the  
11 supervision of a professional engineer or hydrogeologist, or equivalent,  
12 with experience and expertise in hazardous waste site cleanup. Any  
13 construction work must be under the supervision of a professional engineer.  
14 Weyerhaeuser shall notify Ecology in writing as to the identity of such  
15 engineer(s) or hydrogeologist(s), or others and of any contractors and  
16 subcontractors to be used in carrying out the terms of this Decree, in  
17 advance of their involvement at the Site.

18 IX. ACCESS

19 Ecology or any Ecology authorized representatives shall have the  
20 authority to enter and freely move about all property at the Site at all  
21 reasonable times for the purposes of, inter alia: inspecting records,  
22 operation logs, and contracts related to the work being performed pursuant  
23 to this Decree; reviewing Weyerhaeuser's progress in carrying out the terms  
24 of this Decree; conducting such tests or collecting such samples as Ecology  
25 may deem necessary; using a camera, sound recording, or other documentary  
26 type equipment to record work done pursuant to this Decree; and verifying

1 the data submitted to Ecology by the Weyerhaeuser. All parties with access  
2 to the Site pursuant to this paragraph shall comply with approved health and  
3 safety plans contained in the scope of work.

4 X. SAMPLING, DATA REPORTING, AND AVAILABILITY

5 With respect to the implementation of this Decree, Weyerhaeuser shall  
6 make the results of all sampling, laboratory reports, and/or test results  
7 generated by it, or on its behalf available to Ecology and shall submit  
8 these results in accordance with Section XI of this Decree.

9 In accordance with WAC 173-340-840(5), ground water sampling data  
10 shall be submitted according to Exhibit E: GROUND WATER SAMPLING DATA  
11 SUBMITTAL REQUIREMENTS. These submittals shall be provided to Ecology in  
12 accordance with Section XI of this Decree.

13 If requested by Ecology, Weyerhaeuser shall allow split or duplicate  
14 samples to be taken by Ecology and/or its authorized representatives of any  
15 samples collected by Weyerhaeuser pursuant to the implementation of this  
16 Decree. Weyerhaeuser shall notify Ecology seven (7) days in advance of any  
17 sample collection or work activity at the Site. Ecology shall, upon  
18 request, allow split or duplicate samples to be taken by Weyerhaeuser or its  
19 authorized representatives of any samples collected by Ecology pursuant to  
20 the implementation of this Decree provided it does not interfere with the  
21 Department's sampling. Without limitation on Ecology's rights under Section  
22 IX, Ecology shall endeavor to notify Weyerhaeuser prior to any sample  
23 collection activity.

24 XI. PROGRESS REPORTS

25 Weyerhaeuser shall submit to Ecology written monthly progress reports  
26 which describe the actions taken during the previous month to implement the

1 requirements of this Decree. Monthly progress reports shall be required  
2 until the end of remediation, then annually for four years or the  
3 termination of this decree. The progress shall include the following:

4 A. A list of on-site activities that have taken place during the  
5 month;

6 B. Detailed description of any deviations from required tasks not  
7 otherwise documented in project plans or amendment requests;

8 C. Description of all deviations from the schedule (Exhibit C)  
9 during the current month and any planned deviations in the upcoming month;

10 D. For any deviations in schedule, a plan for recovering lost time  
11 and maintaining compliance with the schedule;

12 E. All raw data (including laboratory analysis) received by the  
13 Weyerhaeuser during the past month and an identification of the source of  
14 the sample;

15 F. A list of deliverables for the upcoming month if different from  
16 the schedule; and

17 All progress reports shall be submitted by the fifteenth day  
18 following the reported month and reporting shall be after the effective date  
19 of this Decree. The annual reports shall be submitted by March 1 following  
20 the reporting year. Unless otherwise specified, progress reports and any  
21 other documents submitted pursuant to this Decree shall be sent by certified  
22 mail, return receipt requested, to Ecology's project coordinator.

23 XII. RETENTION OF RECORDS

24 Weyerhaeuser shall preserve, during the pendency of this Decree and  
25 for ten (10) years from the date this Decree is no longer in effect as  
26 provided in Section XXV, all records, reports, documents, and underlying

1 data in its possession relevant to the implementation of this Decree and  
2 shall insert in contracts with project contractors and subcontractors a  
3 similar record retention requirement. Upon request of Ecology, Weyerhaeuser  
4 shall make all non-archived records available to Ecology and allow access  
5 for review. All archived records shall be made available to Ecology within  
6 a reasonable period of time.

7 XIII. TRANSFER OF INTEREST IN PROPERTY

8 No voluntary or involuntary conveyance or relinquishment of title,  
9 easement, leasehold, or other interest in any portion of the Site shall be  
10 consummated without provision for continued operation and maintenance of any  
11 containment system, treatment system, and monitoring system installed or  
12 implemented pursuant to this Decree.

13 Prior to transfer of any legal or equitable interest in all or any  
14 portion of the property, and during the effective period of this Decree,  
15 Weyerhaeuser shall serve a copy of this Decree upon any prospective  
16 purchaser, lessee, transferee, assignee, or other successor in interest of  
17 the property; and, at least thirty (30) days prior to any transfer,  
18 Weyerhaeuser shall notify Ecology of said contemplated transfer.

19 XIV. RESOLUTION OF DISPUTES

20 A. In the event a dispute arises as to an approval, disapproval,  
21 proposed modification or other decision or action by Ecology's project  
22 coordinator, the parties shall utilize the dispute resolution procedure set  
23 forth below.

24 (1) Upon receipt of the Ecology project coordinator's decision, the  
25 Weyerhaeuser has fourteen (14) days within which to notify Ecology's project  
26 coordinator of its objection to the decision.

1 (2) The parties' project coordinators shall then confer in an effort  
2 to resolve the dispute. If the project coordinators cannot resolve the  
3 dispute within fourteen (14) days, Ecology's project coordinator shall issue  
4 a written decision.

5 (3) Weyerhaeuser may then request Ecology management review of the  
6 decision. This request shall be submitted in writing to the Toxics Cleanup  
7 Program Manager within seven (7) days of receipt of Ecology's project  
8 coordinator's decision.

9 (4) Ecology's Program Manager shall conduct a review of the dispute  
10 and shall issue a written decision regarding the dispute within thirty (30)  
11 days of the Weyerhaeuser's request for review. The Program Manager's  
12 decision shall be Ecology's final decision on the disputed matter.

13 B. If Ecology's final written decision is unacceptable to  
14 Weyerhaeuser, Weyerhaeuser has the right to submit the dispute to the Court  
15 for resolution. The parties agree that one judge should retain jurisdiction  
16 over this case and shall, as necessary, resolve any dispute arising under  
17 this Decree. In the event Weyerhaeuser presents an issue to the Court for  
18 review, the Court shall review the action or decision of Ecology on the  
19 basis of whether such action or decision was arbitrary and capricious and  
20 render a decision based on such standard of review.

21 C. The parties agree to only utilize the dispute resolution process  
22 in good faith and agree to expedite, to the extent possible, the dispute  
23 resolution process whenever it is used. Where either party utilizes the  
24 dispute resolution process in bad faith or for purposes of delay, the other  
25 party may seek sanctions.

26

1 Implementation of these dispute resolution procedures shall not  
2 provide a basis for delay of any activities required in this Decree, unless  
3 Ecology agrees in writing to a schedule extension or the Court so orders.

4 XV. AMENDMENT OF CONSENT DECREE

5 This Decree may only be amended by a written stipulation among the  
6 parties to this Decree that is entered by the Court or by order of the  
7 Court. Such amendment shall become effective upon entry by the Court.  
8 Agreement to amend shall not be unreasonably withheld by any party to the  
9 Decree.

10 Weyerhaeuser shall submit any request for an amendment to Ecology for  
11 approval. Ecology shall indicate its approval or disapproval in a timely  
12 manner after the request for amendment is received. If the amendment to the  
13 Decree is substantial, Ecology will provide public notice and opportunity  
14 for comment. Reasons for the disapproval shall be stated in writing. If  
15 Ecology does not agree to any proposed amendment, the disagreement may be  
16 addressed through the dispute resolution procedures described in Section XIV  
17 of this Decree.

18 XVI. EXTENSION OF SCHEDULE

19 A. An extension of schedule shall be granted only when a request  
20 for an extension is submitted in a timely fashion, generally at least 30  
21 days prior to expiration of the deadline for which the extension is  
22 requested, and good cause exists for granting the extension. All extensions  
23 shall be requested in writing. The request shall specify the reason(s) the  
24 extension is needed.

25 An extension shall only be granted for such period of time as Ecology  
26 determines is reasonable under the circumstances. A requested extension

1 shall not be effective until approved by Ecology or the Court. Ecology  
2 shall act upon any written request for extension in a timely fashion. It  
3 shall not be necessary to formally amend this Decree pursuant to Section XV  
4 when a schedule extension is granted.

5 B. The burden shall be on the Weyerhaeuser to demonstrate to the  
6 satisfaction of Ecology that the request for such extension has been  
7 submitted in a timely fashion and that good cause exists for granting the  
8 extension. Good cause includes, but is not limited to, the following.

9 (1) Circumstances beyond the reasonable control and despite the due  
10 diligence of Weyerhaeuser including delays caused by unrelated third parties  
11 or Ecology, such as (but not limited to) delays by Ecology in reviewing,  
12 approving, or modifying documents submitted by Weyerhaeuser; or

13 (2) Acts of God, including fire, flood, blizzard, extreme  
14 temperatures, storm, or other unavoidable casualty; or

15 (3) Endangerment as described in Section XVII.

16 However, neither increased costs of performance of the terms of the  
17 Decree nor changed economic circumstances shall be considered circumstances  
18 beyond the reasonable control of Weyerhaeuser.

19 C. Ecology may extend the schedule for a period not to exceed  
20 ninety (90) days, except where an extension is needed as a result of:

21 (1) Delays in the issuance of a necessary permit which was applied  
22 for in a timely manner; or

23 (2) Other circumstances deemed exceptional or extraordinary by  
24 Ecology; or

25 (3) Endangerment as described in Section XVI.

26



1 Ecology shall give Weyerhaeuser written notification in a timely  
2 fashion of any extensions granted pursuant to this Decree.

3 XVII. ENDANGERMENT

4 In the event Ecology determines that activities implementing or in  
5 noncompliance with this Decree, or any other circumstances or activities,  
6 are creating or have the potential to create a danger to the health or  
7 welfare of the people on the Site or in the surrounding area or to the  
8 environment, Ecology may order Weyerhaeuser to stop further implementation  
9 of this Decree for such period of time as needed to abate the danger or may  
10 petition the Court for an order as appropriate. During any stoppage of work  
11 under this section, the obligations of Weyerhaeuser with respect to the work  
12 under this Decree which is ordered to be stopped shall be suspended and the  
13 time periods for performance of that work, as well as the time period for  
14 any other work dependent upon the work which is stopped, shall be extended,  
15 pursuant to Section XVI of this Decree, for such period of time as Ecology  
16 determines is reasonable under the circumstances.

17 In the event Weyerhaeuser determines that activities undertaken in  
18 furtherance of this Decree or any other circumstances or activities are  
19 creating an endangerment to the people on the Site or in the surrounding  
20 area or to the environment, Weyerhaeuser may stop implementation of this  
21 Decree for such period of time necessary for Ecology to evaluate the  
22 situation and determine whether Weyerhaeuser should proceed with  
23 implementation of the Decree or whether the work stoppage should be  
24 continued until the danger is abated. Weyerhaeuser shall notify Ecology's  
25 project coordinator as soon as possible, but no later than twenty-four (24)  
26 hours after such stoppage of work, and thereafter provide Ecology with

1 documentation of the basis for the work stoppage. If Ecology disagrees with  
2 the Weyerhaeuser's determination, it may order Weyerhaeuser to resume  
3 implementation of this Decree. If Ecology concurs with the work stoppage,  
4 the Weyerhaeuser's obligations shall be suspended and the time period for  
5 performance of that work, as well as the time period for any other work  
6 dependent upon the work which was stopped, shall be extended, pursuant to  
7 Section XVI of this Decree, for such period of time as Ecology determines is  
8 reasonable under the circumstances. Any disagreements pursuant to the  
9 clause shall be resolved through the dispute resolution procedures in  
10 Section XIV.

11 XVIII. OTHER ACTIONS

12 Ecology reserves its rights to institute remedial action(s) at the  
13 Site and subsequently pursue cost recovery, and Ecology reserves its rights  
14 to issue orders and/or penalties or take any other enforcement action  
15 pursuant to available statutory authority under the following circumstances:

- 16 (1) Where Weyerhaeuser fails, after notice, to comply with any  
17 requirement of this Decree;
- 18 (2) In the event or upon the discovery of a release or threatened  
19 release not addressed by this Decree;
- 20 (3) Upon Ecology's determination that action beyond the terms of  
21 this Decree is necessary to abate an emergency situation which threatens  
22 public health or welfare or the environment; or
- 23 (4) Upon the occurrence or discovery of a situation beyond the scope  
24 of this Decree as to which Ecology would be empowered to perform any  
25 remedial action or to issue an order and/or penalty, or to take any other  
26 enforcement action. This Decree is limited in scope to the geographic Site

1 described in Exhibit A and to those contaminants which Ecology knows to be  
2 at the Site when this Decree is entered.

3 Ecology reserves all rights regarding the injury to, destruction of,  
4 or loss of natural resources resulting from the release or threatened  
5 release of hazardous substances from the Weyerhaeuser West Site. Ecology  
6 reserves the right to take any enforcement action whatsoever, including a  
7 cost recovery action, against potentially liable persons not party to this  
8 Decree.

9 XIX. INDEMNIFICATION

10 Weyerhaeuser agrees to indemnify and save and hold the State of  
11 Washington, its employees, and agents harmless from any and all claims or  
12 causes of action for death or injuries to persons or for loss or damage to  
13 property arising from or on account of acts or omissions of Weyerhaeuser,  
14 its officers, employees, agents, or contractors in entering into and  
15 implementing this Decree. However, the Weyerhaeuser shall not indemnify the  
16 State of Washington nor save nor hold its employees and agents harmless from  
17 any claims or causes of action arising out of the negligent acts or  
18 omissions of the State of Washington, or the employees or agents of the  
19 State, in implementing the activities pursuant to this Decree.

20 XX. COMPLIANCE WITH APPLICABLE LAWS

21 All actions carried out by Weyerhaeuser pursuant to this Decree shall  
22 be done in accordance with all applicable federal, state, and local  
23 requirements, including requirements to obtain necessary permits. Pursuant  
24 to ESSB 6339.PL, the known and applicable substantive requirements of  
25 Chapters 70.94, 70.95, 70.105, 75.20, 90.48, and 90.58 RCW, and any laws  
26 requiring or authorizing local government permits or approvals for remedial

1 action, have been included in the CAP and are incorporated by reference here  
2 as binding and enforceable requirements in this Decree. In the event  
3 Ecology determines that additional permits are required for the remedial  
4 action in the CAP, the substantive requirements of those permits will be  
5 identified and Defendant will be required to consult with the appropriate  
6 state or local jurisdictions and provide Ecology with written documentation  
7 from those jurisdictions that Defendant's remedial actions will comply with  
8 those substantive requirements. Ecology shall make the final determination  
9 on the additional substantive requirements that must be met by Defendant and  
10 on how the Defendant must meet those requirements. The additional  
11 requirements shall become enforceable requirements of the work to be  
12 performed under this decree. Ecology shall ensure that public notice and  
13 opportunity for comment is provided.

14 XXI. REMEDIAL AND INVESTIGATIVE COSTS

15 The Weyerhaeuser agrees to pay costs incurred by Ecology pursuant to  
16 this Decree. These costs shall include work performed by Ecology or its  
17 contractors at the Site under Ch. 70.105D RCW both prior to and subsequent  
18 to the issuance of this Decree for investigations, remedial actions, and  
19 Decree preparation, negotiations, oversight and administration. Ecology  
20 costs shall include costs of direct activities; e.g., employee salary,  
21 travel costs, laboratory costs, contractor fees, and employee benefit  
22 packages; and Ecology indirect costs of direct activities. The Weyerhaeuser  
23 agrees to pay the required amount within ninety (90) days of receiving from  
24 Ecology an itemized statement of costs that includes a summary of costs  
25 incurred, an identification of involved staff, and the amount of time spent  
26 by involved staff members on the project. A general statement of work

1 performed will be provided upon request. Itemized statements shall be  
2 prepared quarterly. Failure to pay Ecology's costs within ninety (90) days  
3 of receipt of the itemized statement will result in interest charges.

4 **XXII. IMPLEMENTATION OF REMEDIAL ACTION**

5 If Ecology determines that Weyerhaeuser has failed without good cause  
6 to implement the remedial action, Ecology may, after notice to Weyerhaeuser,  
7 perform any or all portions of the remedial action that remain incomplete.

8 If Ecology performs all or portions of the remedial action because of the  
9 Weyerhaeuser's failure to comply with its obligations under this Decree,  
10 Weyerhaeuser shall reimburse Ecology for the costs of doing such work in  
11 accordance with Section XXI, provided that Weyerhaeuser is not obligated  
12 under this section to reimburse Ecology for costs incurred for work  
13 inconsistent with or beyond the scope of this Decree.

14 **XXIII. FIVE YEAR REVIEW**

15 As remedial action, including ground water monitoring, continues at  
16 the Site, the parties agree to review the progress of remedial action at the  
17 Site, and to review the data accumulated as a result of site monitoring as  
18 often as is necessary and appropriate under the circumstances. At least  
19 every five years the parties shall meet to discuss the status of the Site  
20 and the need, if any, of further remedial action at the Site. Ecology  
21 reserves the right to require further remedial action at the Site under  
22 appropriate circumstances. This provision shall remain in effect for the  
23 duration of the Decree.

1 XXIV. PUBLIC PARTICIPATION

2 Ecology shall maintain the responsibility for public participation at  
3 the Site. However, Weyerhaeuser shall cooperate with Ecology and, if agreed  
4 to by Ecology, shall:

5 A. Prepare drafts of public notices and fact sheets at important  
6 stages of the remedial action, such as the submission of work plans,  
7 Remedial Investigation/Feasibility Study reports and engineering design  
8 reports. Ecology will finalize (including editing if necessary) and  
9 distribute such fact sheets and prepare and distribute public notices of  
10 Ecology's presentations and meetings;

11 B. Notify Ecology's project coordinator prior to the preparation of  
12 all press releases and fact sheets, and before major meetings with the  
13 interested public and local governments. Likewise, Ecology shall notify  
14 Weyerhaeuser prior to the issuance of all press releases and fact sheets,  
15 and before major meetings with the interested public and local governments;

16 C. Participate in public presentations on the progress of the  
17 remedial action at the Site. Participation may be through attendance at  
18 public meetings to assist in answering questions, or as a presenter;

19 D. In cooperation with Ecology, arrange and/or continue information  
20 repositories to be located at Everett Public Library, 2707 Hoyt Avenue,  
21 Everett, Washington 98201 and Ecology's Industrial Section at Ecology  
22 Headquarters Building, 300 Desmond Drive, Lacey, Washington 98504. At a  
23 minimum, copies of all public notices, fact sheets, and press releases; all  
24 quality assured ground water, surface water, soil sediment, and air  
25 monitoring data; remedial actions plans, supplemental remedial planning  
26 documents, and all other similar documents relating to performance of the

1 remedial action required by this Decree shall be promptly placed in these  
2 repositories.

3 XXV. DURATION OF DECREE

4 This Decree shall remain in effect and the remedial program described  
5 in the Decree shall be maintained and continued until the Weyerhaeuser has  
6 received written notification from Ecology that the requirements of this  
7 Decree have been satisfactorily completed.

8 XXVI. COVENANT NOT TO SUE

9 In consideration of Weyerhaeuser's compliance with the terms and  
10 conditions of this Decree, the State of Washington covenants not to  
11 institute legal, equitable or administrative actions against Weyerhaeuser  
12 regarding matters within the scope of this Decree.

13 This covenant is strictly limited in its application to the Site  
14 specifically defined in Exhibit A and to contamination which Ecology knows  
15 to be located at the Site as of the entry of this Decree. This covenant is  
16 not applicable to any other hazardous substances or area and the state  
17 retains all of its authority relative to such substances and areas.

18 A. Reopeners: In the following circumstances, the State of  
19 Washington may exercise its full legal authority to address releases and/or  
20 threatened releases of hazardous substances at the Site notwithstanding the  
21 Covenant Not to Sue set forth above:

22 1. In the event Weyerhaeuser fails to comply with the terms and  
23 conditions of this Consent Decree, including all exhibits, and  
24 Weyerhaeuser, after written notice of noncompliance, fails to  
25 come into compliance;

26

1           2.    In the event new information becomes available regarding factors  
2                    previously unknown to Ecology, including the nature or quantity  
3                    of hazardous substances at the Site, and Ecology determines that  
4                    these factors present a previously unknown threat to human  
5                    health or the environment.

6           3.    In the event that the results of groundwater monitoring in  
7                    monitoring wells MW 1501, MW 1302, MW 1301, MW 1203, MW 1202, MW  
8                    1201, MW 1701 and MW 4 indicate that concentrations of  
9                    contaminants in ground water as measured under this Decree have  
10                   increased by a factor of five or more. The baseline in  
11                   determining the concentrations of contaminants is the highest  
12                   individual arsenic or TPH measurement recorded during the period  
13                   January 1993 through February 1994.

14          4.    Upon Ecology's determination that action beyond the terms of  
15                   this Decree is necessary to abate an emergency situation that  
16                   threatens public health or welfare or the environment.

17    B.    Applicability: The Covenant Not to Sue set forth above shall have no  
18    applicability whatsoever to:

- 19           1.    Criminal liability
- 20           2.    Any Ecology action against any potentially liable person not a  
21                   party to this Decree.
- 22           3.    Liability for damages to natural resources.

23                                   XXVII.   CLAIMS AGAINST THE STATE

24           Weyerhaeuser hereby agrees that it will not seek to recover any costs  
25    accrued in implementing the remedial action required by this Decree from the  
26    State of Washington or any of its agencies; and further, that the



1 Weyerhaeuser will make no claim against the State Toxics Control Account or  
2 any Local Toxics Control Account for any costs incurred in implementing this  
3 Decree. Except as provided above, however, Weyerhaeuser expressly reserves  
4 its right to seek to recover any costs incurred in implementing this Decree  
5 from any other potentially liable person.

6 XXVIII. EFFECTIVE DATE

7 This Decree is effective upon the date it is entered by the Court.


8 XXIX. PUBLIC NOTICE AND WITHDRAWAL OF CONSENT

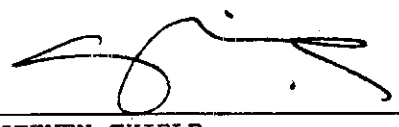
9 This Decree has been the subject of public notice and comment under  
10 RCW 70.105D.040(4)(a). As a result of this process, Ecology has found that  
11 this Decree will lead to a more expeditious cleanup of hazardous substances  
12 at the Site.

13 If the Court withholds or withdraws its consent to this Decree, it  
14 shall be null and void at the option of any party and the accompanying  
15 Complaint shall be dismissed without costs and without prejudice. In such  
16 an event, no party shall be bound by the requirements of this Decree.

18 STATE OF WASHINGTON  
19 DEPARTMENT OF ECOLOGY

STATE OF WASHINGTON  
ATTORNEY GENERAL'S OFFICE

20 By:   
21 CAROL KRAEGE  
22 Acting Program Manager  
23 Toxics Cleanup Program

By:   
STEVEN THIELE  
Assistant Attorney General  
WSBA No. 20275

24 Date: 10/13/94

Date: 10/12/94

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WEYERHAEUSER COMPANY

WEYERHAEUSER COMPANY  
LAW DEPARTMENT

By: *William Miller*  
William Miller  
Vice President

By: *Kimberly A. Hughes*  
Kimberly A. Hughes  
Attorney for Weyerhaeuser Company  
WSBA No. 18069

Date: 10/18/94

Date: 10/21/94

Entered this \_\_\_\_\_ day of October 1994.

SNOHOMISH COUNTY SUPERIOR COURT

\_\_\_\_\_  
JUDGE

Exhibit A  
Full scale map at Ecology  
Industrial Section

*Weyerhaeuser, Everett  
West Site  
Site Plant Sampling*

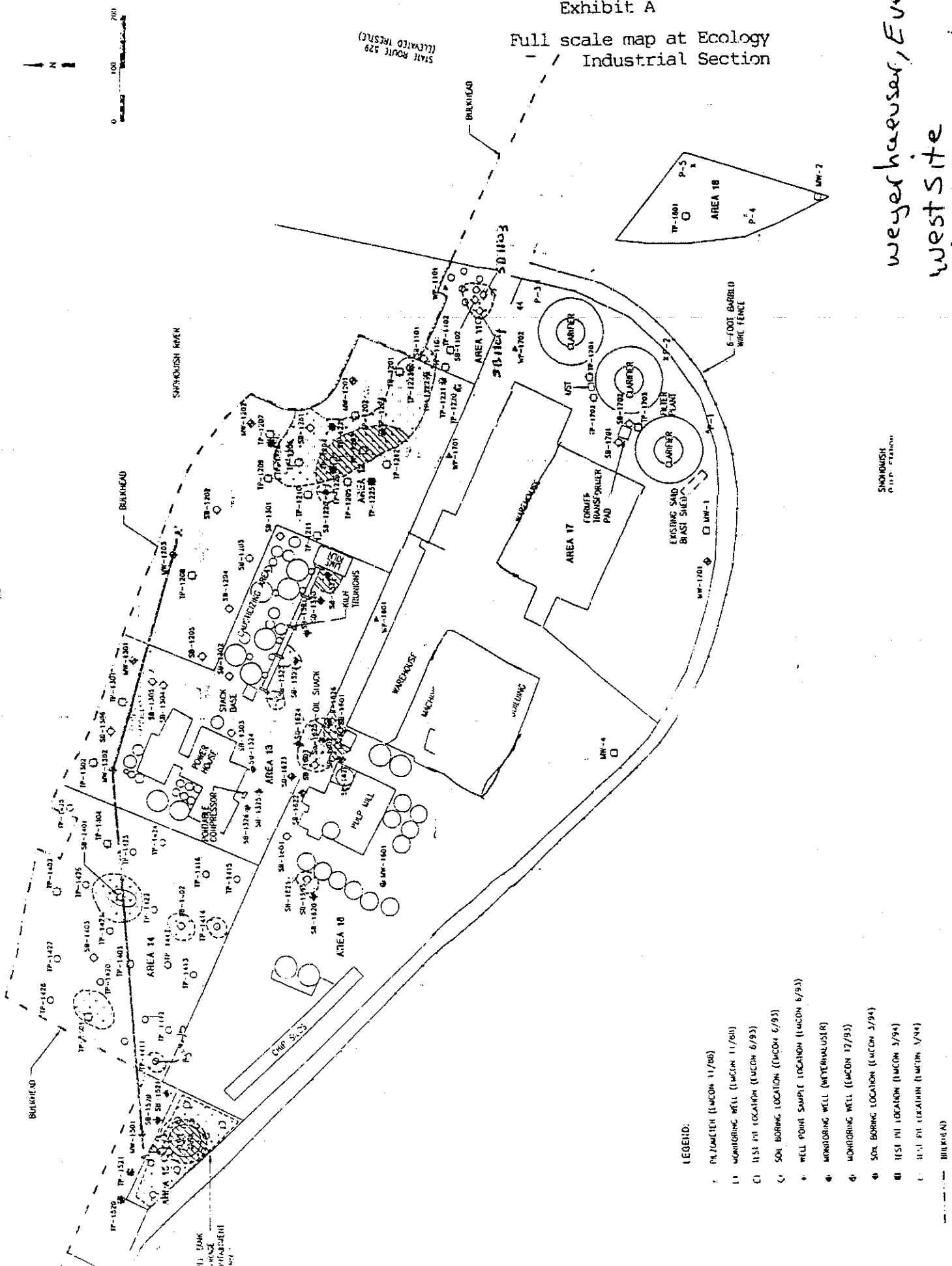




EXHIBIT F -  
RESTRICTIVE COVENANT

The property that is the subject of this Restrictive Covenant has been the subject of remedial action under Chapter 70.105D RCW. The work done to clean up the property (hereafter the "Cleanup Action") is described in the Consent Decree entered in State of Washington Department of Ecology v. Weyerhaeuser Company, Snohomish County Superior Court No. \_\_\_\_\_, and in attachments to the Decree and in documents referenced in the Decree. This Restrictive Covenant is required by Ecology under Ecology's rule WAC 173-340-440 (1991 ed.) because the Cleanup Action on the Site resulted in residual concentrations of petroleum contaminants which exceed Ecology's Method A cleanup levels for soils established under WAC 173-340-745(2) and ground water concentrations of arsenic which exceed Ecology's Method A cleanup levels for ground water established under WAC 173-340-720(2).

The undersigned, Weyerhaeuser Company, is the fee owner of real property in the County of Snohomish, State of Washington (legal description attached), hereafter referred to as the "Weyerhaeuser Everett West Site" (West Site). Weyerhaeuser Company makes the following declaration as to limitations, restrictions, and uses to which the Weyerhaeuser West Site may be put, and specifies that such declarations shall constitute covenants to run with the land, as provided by law, and shall be binding on all parties and all persons claiming under them, including all current and future owners of any portion of or interest in the West Site.

Section 1. No groundwater may be taken for domestic purposes from any well at the West Site. No residential development may take place on the site.

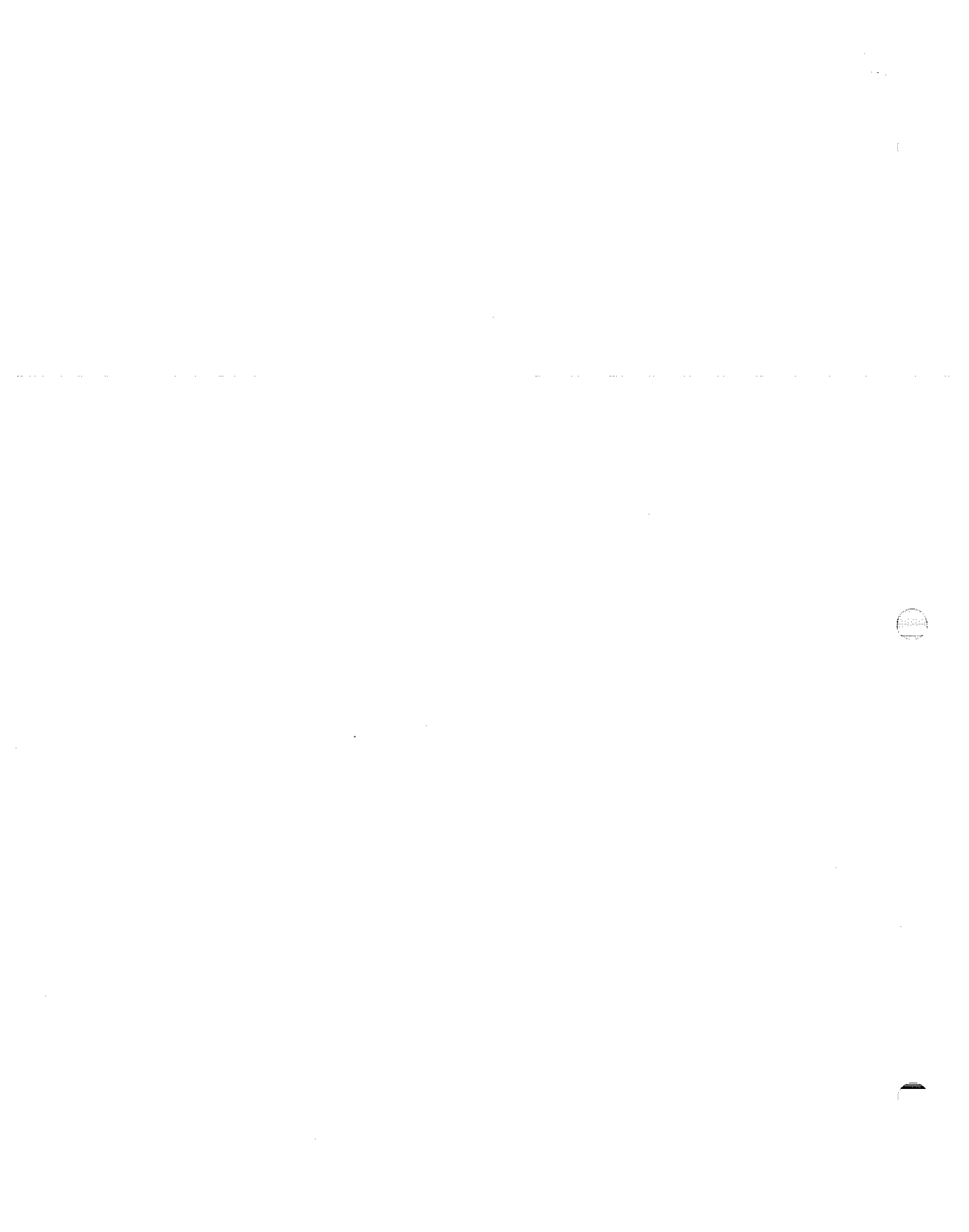
Section 2. Any activity on the West Site that may interfere with the Cleanup Action is prohibited. Any activity on the West Site that may result in the release of a hazardous substance that was contained as part of the Cleanup or Interim Cleanup Action(s) is prohibited; provided, however, if future activity on the West Site disturbs or otherwise releases hazardous substances remaining on-site, such substances shall be either (a) removed from the site and disposed of in accordance with the terms and conditions of the Consent Decree or (b) re-contained on the site in accordance with the terms and conditions of the Consent Decree.

Section 3. The owner of the West Site must give written notice to the Department of Ecology, or to a successor agency, of the owner's intent to convey any interest in the West Site. No conveyance of title, easement, lease or other interest in the West Site shall be consummated by the owner without adequate and complete provision for the continued operation, maintenance and monitoring of the Cleanup Action.

Section 4. The owner must notify and obtain approval from the Department of Ecology, or from a successor agency, prior to any use of the West Site that is inconsistent with the terms of this Restrictive Covenant. The Department of Ecology or its successor agency may approve such a use only after public notice and comment.

Section 5. The owner shall allow authorized representatives of the Department of Ecology, or of a successor agency, the right to enter the West Site at reasonable times for the purpose of evaluation compliance with the Cleanup Action Plan and the Consent Decree, to take samples, to inspect Cleanup Actions conducted at the West Site, and to inspect records that are related to the Cleanup Action.

Section 6. The owner of the West Site and the owner's assigns and successors in interest reserve the right under WAC 173-340-740 and WAC 173-340-



440 (1991 ed.) to record an instrument which provides that this Restrictive Covenant shall no longer limit the use of the West Site or be of any further force or effect. However, such an instrument may be recorded only with the consent of the Department of Ecology, or successor agency. The Department of Ecology, or a successor agency may consent to the recording of such an instrument only after public notice and comment.

Robert C. Lane

Name

Title Vice President  
of Weyerhaeuser Company

October 21, 1994

Date







Law Department  
Tacoma, Washington 98477  
Air Express:  
33663 Weyerhaeuser Way South  
Federal Way, WA 98003

**TRANSMISSION MAY CONTAIN PRIVILEGED AND CONFIDENTIAL INFORMATION**

The information contained in this transmission is intended for the named recipient(s) only and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you are not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, please call us (collect) immediately at (206)924-5374 to arrange for its return at our expense. Any review, dissemination, distribution or copying of this communication by anyone other than the intended recipient(s) is strictly prohibited. Thank you.

July 24, 1995

**TO:**           **NAME:**           Paul Skyllingstad  
                  **FIRM:**            Department of Ecology  
                  **LOCATION:**       Olympia  
                  **FAX NUMBER:**   8-1-360-407-6902  
                  **TEL NUMBER:**   8-1-360-407-6949

**FROM:**       **NAME:**           Kimberly A. Hughes  
                  **MAIL ADDRESS:** Law Department  
  Weyerhaeuser Company - CH 2J28  
  Tacoma, WA 98477  
                  **TEL NUMBER:**   206/924-3440  
                  **FAX NUMBER:**   206/924-3253

For large (10+ pages) or after hours (4:30pm PST) faxes, please use 206/924-2223 (voice number 206/924-2857, 7:30am-7:00pm PST)

Total number of pages sent (including cover): 9  
If there has been a transmission error, please notify the sender immediately.

**MESSAGE:**   Per your request to Stuart Triolo.

*Restraint  
Covenant*



9506010274

FILED FOR RECORD AT THE  
REQUEST OF AND RETURN TO:

WEYERHAEUSER COMPANY  
BOX C  
TACOMA WA 98477

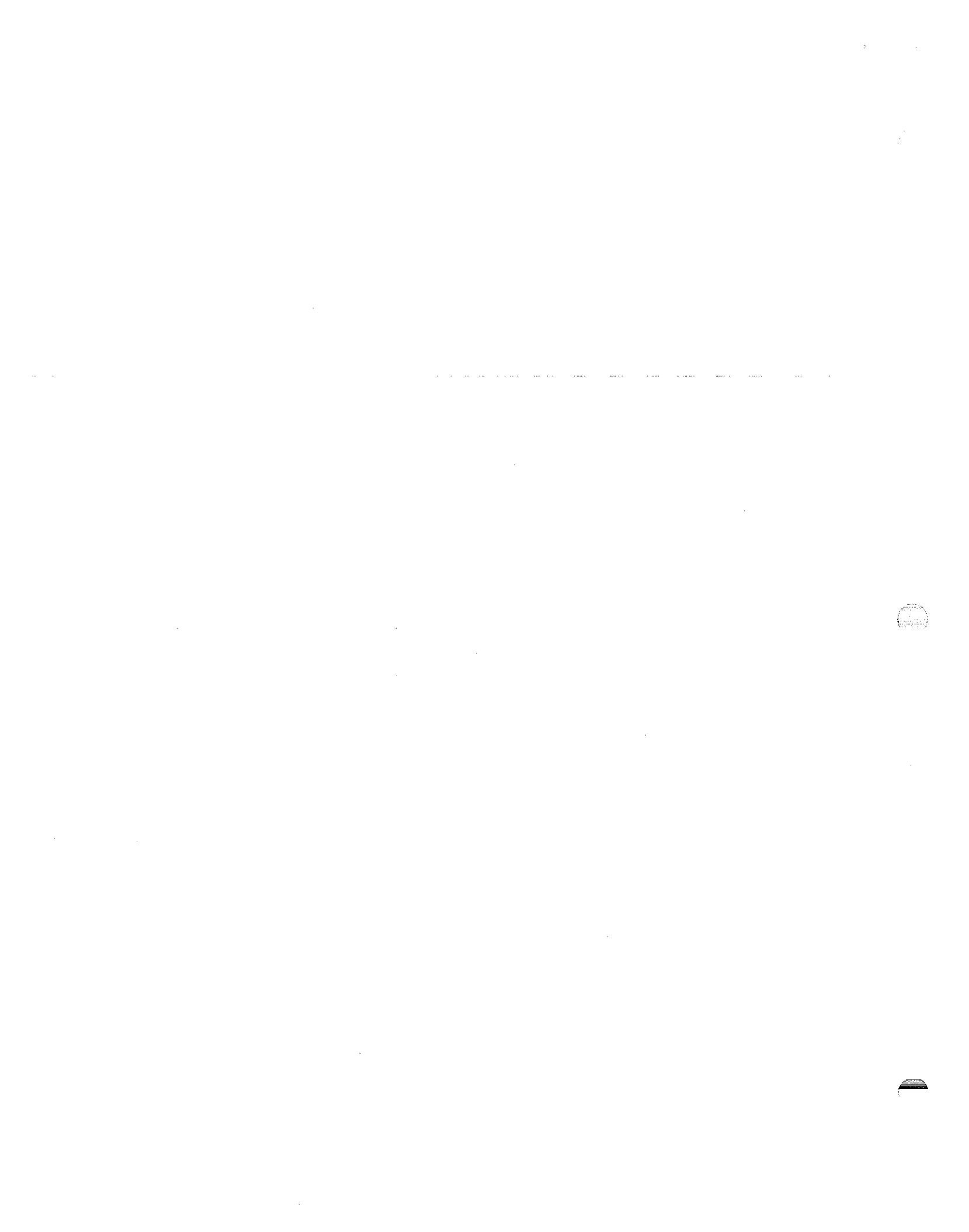
### DECLARATION OF RESTRICTIVE COVENANT

The property that is the subject of this Restrictive Covenant has been the subject of remedial action under Chapter 70.105D RCW. The work done to clean up the property (hereafter the "Cleanup Action") is described in the Consent Decree entered in State of Washington Department of Ecology v. Weyerhaeuser Company, Snohomish County Superior Court No. 94-2-07559-2, and in attachments to the Decree and in documents referenced in the Decree. This Restrictive Covenant is required by Ecology under Ecology's rule WAC 173-340-440 (1991 ed.) because the Cleanup Action on the Site resulted in residual concentrations of petroleum contaminants which exceed Ecology's Method A cleanup levels for soils established under WAC 173-340-745(2) and ground water concentrations of arsenic which exceed Ecology's Method A cleanup levels for ground water established under WAC 173-340-720(2).

The undersigned, Weyerhaeuser Company, is the fee owner of real property in the County of Snohomish, State of Washington (see Exhibit A attached, for legal description), hereafter referred to as the "Weyerhaeuser Everett West Site" (West Site). Weyerhaeuser Company makes the following declaration as to limitations, restrictions, and uses to which the Weyerhaeuser West Site may be put, and specifies that such declarations shall constitute covenants to run with the land, as provided by law, and shall be binding on all parties and all persons claiming under them, including all current and future owners of any portion of or interest in the West Site.

Section 1. No groundwater may be taken for domestic purposes from any well at the West Site. No residential development may take place on the site.

Section 2. Any activity on the West Site that may interfere with the Cleanup Action is prohibited. Any activity on the West Site that may result in the release of a hazardous substance that was contained as part of the Cleanup or Interim Cleanup Action(s) is prohibited; provided, however, if future activity on the West Site disturbs or otherwise releases hazardous substances remaining on-site, such substances shall be either (a) removed from the site and disposed of in accordance with the terms and conditions of the Consent Decree or (b) re-contained on the site in accordance with the terms and conditions of the Consent Decree. In accordance with the terms and conditions of the Consent Decree, a final report titled *Soils Remediation Completion Report For Weyerhaeuser Everett West Site* was prepared, and identified two locations (CS-1513 and CS-1514) that have contained residual concentrations of petroleum substances that exceed cleanup action levels. CS-1513 is located at N 373,867.1 and E 1,306,845.3. CS-1514 is located at N 373,876.5 and E 1,306,829.0.



Section 3. The owner of the West Site must give written notice to the Department of Ecology, or to a successor agency, of the owner's intent to convey any interest in the West Site. No conveyance of Title, easement, lease or other interest in the West Site shall be consummated by the owner without adequate and complete provision for the continued operation, maintenance and monitoring of the Cleanup Action.

Section 4. The owner must notify and obtain approval from the Department of Ecology, or from a successor agency, prior to any use of the West Site that is inconsistent with the terms of this Restrictive Covenant. The Department of Ecology or its successor agency may approve such a use only after public notice and comment.

Section 5. The owner shall allow authorized representatives of the Department of Ecology, or of a successor agency, the right to enter the West Site at reasonable times for the purpose of evaluation compliance with the Cleanup Action Plan and the Consent Decree, to take samples, to inspect Cleanup Actions conducted at the West Site, and to inspect records that are related to the Cleanup Action.

Section 6. The owner of the West Site and the owner's assigns and successors in interest reserve the right under WAC 173-340-740 and WAC 173-340-440 (1991 ed.) to record an instrument which provides that this Restrictive Covenant shall no longer limit the use of the West Site or be of any further force or effect. However, such an instrument may be recorded only with the consent of the Department of Ecology, or successor agency. The Department of Ecology, or a successor agency may consent to the recording of such an instrument only after public notice and comment.

Dated this 4 day of APRIL, 1995.

WEYERHAEUSER COMPANY

By: William F. Miller  
Its: Vice President

Attest: Kathy E. Bernstein  
Its: Assistant Secretary



STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

Personally appeared before me, the undersigned authority in and for said county and state, on this 4 day of APRIL, 1995, within my jurisdiction, the within named WILLIAM P MILLER and KATHY E. BERNSTEIN, who acknowledged that they are Vice President and Assistant Secretary of WEYERHAEUSER COMPANY, a Washington corporation, and that for and on behalf of the said corporation, and as its act and deed they executed the above and foregoing instrument, after first having been duly authorized by said corporation so to do.

David A Young

Notary Public  
My appointment expires: April 1, 1997

DAVID A. YOUNG  
STATE OF WASHINGTON  
NOTARY --- PUBLIC  
My Commission Expires 4-1-97





**THE LAND REFERRED TO HEREIN IS SITUATED IN THE STATE OF WASHINGTON, COUNTY OF SNOHOMISH AND IS DESCRIBED AS FOLLOWS:**

**TRACT 26-1:**

Beginning at the point of intersection of the Westerly property line of the Great Northern Railway Company 100 foot wide right of way, which right of way is 50 feet wide on each side of the main track center line as constructed along the Easterly side of Government Lot 6, Section 8, Township 29 North, Range 5 East of the Willamette Meridian, with the Northerly property line of the Northern Pacific Railway Company right of way, which point is referred to hereinafter as POINT "A"; thence North 10° 02' 20" East, along the Westerly property line of said Great Northern Railway Company right of way, a distance of 477.79 feet to the Government Pier Head Line; thence North 59° 12' 12" West, along said Government Pier Head Line, a distance of 30.96 feet; thence North 69° 42' 12" West, along said Government Pier Head Line, a distance of 1526.78 feet to the Easterly property line of the Northern Pacific Railway Company Log Dump Tract; thence South 23° 50' 38" West, along the Easterly line of said Northern Pacific Railway Company Log Dump Tract, a distance of 373.28 feet to the Northerly property line of the Northern Pacific Railway Company right of way; thence South 66° 09' 22" East, along said Northerly property line of the Northern Pacific Railway Company right of way, a distance of 1668.60 feet to the True Point of Beginning. Containing 15.64 acres, more or less.

**TRACT 26-2:**

That portion of Government Lots 5 and 6, and that portion of the Northwest Quarter of the Southeast Quarter of Section 8, Township 29 North, Range 5 East of the Willamette Meridian, described as follows: Commencing at the point of intersection of the Westerly property line of the Great Northern Railway Company 100 foot wide right of way, which right of way is 50 feet wide on each side of the main track center line as constructed along the Easterly side of said Government Lot 6 with the Northerly property line of the Northern Pacific Railway Company right of way, which point is referred to herein as POINT "A"; thence South 10° 02' 20" West, along the Westerly property line of said Great Northern Railway Company right of way, a distance of 73.36 feet; thence, on a curve to the right, having a radius of 409.28 feet, through a central angle of 4° 06' 48", an arc distance of 29.38 feet, to the intersection of the Southerly property line of said Northern Pacific Railway Company right of way with the Westerly property line of said Great Northern Railway Company right of way, which point is the True Point of Beginning; thence continuing on the same curve of said Great Northern Railway Company right of way, to the

EXHIBIT A  
PAGE 1 OF 5



right, having a radius of 409.28 feet, through a central angle of  $76^{\circ} 56' 30''$ , an arc distance of 549.62 feet; thence North  $88^{\circ} 54' 22''$  West along said Great Northern Railway Company right of way, a distance of 42.08 feet; thence, on a curve of said Great Northern Railway Company right of way, to the right, having a radius of 666.78 feet, through a central angle of  $44^{\circ} 43' 00''$ , an arc distance of 520.39 feet; thence North  $44^{\circ} 11' 22''$  West, along said Great Northern Railway Company right of way, a distance of 1134.16 feet; thence continuing North  $44^{\circ} 11' 22''$  West, along said right of way a distance of 14.94 feet to the point of curve, as described in that Deed from Everett Improvement Company to Seattle and Montana Railroad Company, dated March 26, 1902, and recorded May 1, 1902, under Auditor's File No. 71398, records of Snohomish County, Washington; thence along said curve of the Great Northern Railway Company right of way, to the left, having a radius of 1482.68 feet, through a central angle of  $4^{\circ} 06' 48''$ , an arc distance of 106.44 feet to the point of intersection with said Southerly property line of the Northern Pacific Railway Company right of way; thence South  $66^{\circ} 09' 22''$  East, along the Southerly property line of said Northern Pacific Railway Company right of way, a distance of 1956.99 feet to the True Point of Beginning. Containing 14.35 acres.

TRACT 30:

A strip of land 60 feet wide in Government Lots 5 and 6 of Section 8, Township 29 North, Range 5 East of the Willamette Meridian, and the shore lands in front of said Lot 5, said strip of land being described as follows: Beginning at a point distant 50 feet Westerly, measured at right angles, from the center line of the main track of the Great Northern Railway Company Main Line as constructed, and 20 feet Southwesterly, measured at right angles, from the center line of the Northern Pacific Railway Company switching lead track (formerly the main track of its Everett Branch) as constructed; thence Southerly parallel with the center line of the Great Northern Railway Company most Westerly track as constructed to a point distant 80 feet Southwesterly, measured at right angles, from said switching lead track center line; thence Northwesterly along the Southwesterly boundary of the Northern Pacific Railway Company right of way, parallel with said switching lead track center line, to an intersection with a line drawn at right angles to said switching lead track center line from a point therein distant 2109 feet Northwesterly, measured along said switching lead track center line, from said center line of the Great Northern Railway Company main track; thence Northeasterly along said right-angle line 60 feet; thence Southeasterly parallel with said switching lead track center line to the point of beginning. Containing 2.85 acres.

EXHIBIT A  
PAGE 2 OF 5



**TRACT 60:**

All that portion of Burlington Northern Railroad Company 40 foot wide Everett Branch Line right-of-way (formerly Northern Pacific Railway Company), now discontinued, being 20 feet wide on each side of the main track centerline as originally located and constructed over, upon and across Government Lots 5 and 6 of Section 8, Township 29 North, Range 5 East of the Willamette Meridian, Snohomish County, Washington, lying between the Westerly line of the Great Northern Railway Company (now Burlington Northern Railroad Company) 100 foot wide right-of-way being 50 feet wide on each side of the main track centerline as now constructed along the Easterly side of said Lot 6, and a line drawn perpendicular to said Northern Pacific main track center line approximately 2109 feet Northwesterly from the center line of said Great Northern Railway Company main track as measured along the said Northern Pacific Railway main track center line: the herein described parcel lies North of, parallel with, and adjacent to that particular 60 foot wide strip of land conveyed to the Weyerhaeuser Timber Company by the Northern Pacific Railway Company by Warranty Deed dated November 27, 1951. Containing 1.89 acres.

**TRACT 38:**

That portion of PD Tract No. 38, as shown on survey recorded in Volume 37 of Surveys, Pages 196 to 206, records of Snohomish County, Washington, being in Section 8, Township 29 North, Range 5 East of the Willamette Meridian, described as follows: Commencing at the true point of beginning of those tracts of land as conveyed by American Smelting and Refining Company to Weyerhaeuser Timber Company by deeds dated November 19, 1924, and recorded February 10, 1925, under Auditor's File Nos. 350972 and 350973, records of Snohomish County, Washington, which point is the most Easterly corner of Lot 39, MOUNT BAKER VIEW ADDITION, according to the plat thereof recorded in Volume 12 of Plats, page 25, records of said County: thence North 21° 57' 50" West, along the Northeasterly line of Lots 39, 40 and 41, in the first said plat, a distance of 168.11 feet to the angle point on the Northeasterly line of said Lot 41; thence continuing North 21° 57' 50" West a distance of 4.17 feet to the first angle point of said tract described in said deed recorded under Auditor's File No. 350972; thence North 36° 51' 50" West a distance of 263.99 feet to a point on the center line of that certain City of Everett street known as Marine View Drive, which center line coincides with the "E" line, as shown on Sheet 1 of 1 Sheets, Primary State Highway No. 1, City of Everet, Walnut Street Interchange, bearing

EXHIBIT A  
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date of approval March 25, 1952, now on record and on file in the office of the Secretary of Transportation, at Olympia, Washington, which point bears North 43° 03' 40" West, along said center line, a distance of 274.59 feet from State Highway Engineer's Station "E" 21+79.8 P.T. (Point of Tangency), as shown on said plan; thence continuing North 36° 51' 50" West a distance of 214.35 feet; thence North 37° 24' 30" West a distance of 69.65 feet to a point on the North margin of said Marine View Drive, which North margin is 30.00 feet Northerly of said center line, as measured at right angles thereto, and which point is the TRUE POINT OF BEGINNING of this description; thence North 37° 24' 30" West a distance of 342.52 feet; thence North 38° 54' 10" West a distance of 219.56 feet; thence North 42° 28' 10" West a distance of 219.20 feet; thence North 44° 21' 40" West a distance of 1055.80 feet; thence North 48° 07' 30" West a distance of 95.09 feet; thence North 59° 16' 00" West a distance of 136.87 feet; thence North 30° 43' 00" East a distance of 20.00 feet; thence South 59° 16' 00" East a distance of 138.83 feet; thence South 48° 07' 30" East a distance of 97.71 feet; thence South 44° 21' 40" East a distance of 1056.80 feet; thence South 42° 28' 10" East a distance of 220.15 feet; thence South 38° 54' 10" East a distance of 31.25 feet; thence South 44° 11' 22" East, along the Southerly property line of the Great Northern Railway Company right of way, a distance of 287.03 feet; thence, on a curve to the left, having a radius of 766.78 feet, through a central angle of 26° 33' 08", along said Southerly property line of the Great Northern Railway Company right of way, an arc distance of 355.34 feet to a point on the Westerly property line of that certain tract of land conveyed by the State of Washington to Weyerhaeuser Company, a Washington corporation, by Quit Claim Deed, recorded November 5, 1965, under Auditor's File No. 1822443, records of Snohomish County, Washington at which point the tangent to said curve bears South 70° 44' 30" East; thence South 40° 43' 20" West, along said Westerly property line, a distance of 161.60 feet to the Northerly Margin of Marine View Drive; thence North 43° 03' 40" West, along said Northerly Margin of Marine View Drive, a distance of 117.76 feet to the True Point of Beginning. Containing 1.70 acres, more or less.

**TRACT 43:**

All that portion of Government Lot 7, Section 8, Township 29 North, Range 5 East of the Willamette Meridian, Snohomish County, Washington, lying Southerly of right of way of Chicago, Milwaukee and St. Paul Railway Company and Northerly of Great Northern Railway Company right of way, except Primary State Highway No. 1. That part of Northwest Quarter of Southeast Quarter of Section 8, Township 29 North, Range 5 East of the Willamette Meridian, Snohomish

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County, Washington, lying Easterly of Great Northern Railway Company right of way and South of the right of way of Chicago, Milwaukee and St. Paul Railway Company. Containing 0.91 acres, more or less.

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