

Pacific Wood Treating
#51019

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

In the Matter of Remedial Action by:)
_____))
Port of Ridgefield) **AGREED ORDER**
111 West Division Street) No. DE 96TC-S304
Ridgefield, WA 98642)

TO: Port of Ridgefield

I.
JURISDICTION

This Agreed Order ("Order") is issued pursuant to the authority of RCW 70 105D 050(1).

II
FINDINGS OF FACT

Ecology makes the following Findings of Fact, without admission of such facts by Port of Ridgefield.

- 1 The former Pacific Wood Treating (PWT) facility, approximately 41 acres, is located at 111 West Division in Ridgefield. It is bounded to the east by the Burlington Northern Railroad and to the west by Lake River. North of the facility is the Ridgefield National Wildlife Refuge and Carty Lake. To the south lies the Ridgefield Marina. The City of Ridgefield sewage treatment plant is adjacent to PWT facility boundaries. Figure 1 (attached) shows the facility in relation to its surroundings. Figure 2 (attached) shows a site map of the facility. The site is currently known as the Lake River site, but shall be referred to as the PWT site in this Order for consistency in site file documentation.
- 2 The PWT Corporation used wood preservatives at its facility from 1964 to 1993. PWT pressure-treated specialty wood products with oil-based treatment solutions containing various hazardous constituents such as creosote, pentachlorophenol (PCP), and CCA (a copper, chromium, and arsenic mixture). PWT ceased wood treating operations in 1993, when the company declared bankruptcy.
- 3 Releases of hazardous constituents have occurred at and/or from the PWT facility in the past in various ways including drippage of treatment solutions onto the ground; spills of creosote or treatment solutions onto the ground; spills of granular PCP and stored wastewater onto the ground; and the discharge and/or leakage of wastewater, stormwater runoff, and spilled/leaked materials from the buried drain systems carrying them.
- 4 Past waste disposal methods used on-site at the PWT facility have included an unlined surface impoundment (now covered over); a buried french drainage system routed toward Lake River; and on-site sludge incineration. Stormwater runoff from the surface at the facility was and is currently collected and discharged through four outfalls into Lake River.
- 5 In August 1984, EPA required PWT to submit a complete closure plan for the facility. A closure plan was submitted by PWT to Ecology in November 1984. In June 1985, PWT contracted with Sweet-Edwards to conduct a groundwater study at the PWT facility. The study identified two aquifers beneath the PWT facility; a

shallow water table aquifer in the recent alluvium and Troutdale formation, and a deeper semi-confined aquifer in the Troutdale formation. Groundwater monitoring during that study showed that PCP was present in both aquifers at levels above EPA's Maximum Contaminant Level (MCL), which at that time was 220 ug/L (ppb) (The EPA MCL is now 1 ug/L) Other contaminants detected in the groundwater during the study include benzene, trichloroethylene, tetrachloroethylene, and polycyclic aromatic hydrocarbons. Past data had shown some PCP contamination in the Ridgefield water supply, including the town-owned wells 5 and 6, located less than 250 feet east of the facility. PWT leased wells 5 and 6, and took them off-line.

6. In January 1989, Ecology completed a Class II inspection report of stormwater runoff at PWT. Substantial concentrations of PCP, PAHs, and metals were detected in PWT surface runoff, on-site sediment catch basins, and some near-field sediments. The on-site catch basin sediments were highly contaminated with PAHs

7. A RCRA Preliminary Assessment was conducted by the EPA in 1990. The final report, dated February 1991, identified ten waste management areas as needing further characterization of the extent of contamination. Hart Crowser conducted a Phase II Site Investigation (1991) to investigate contamination in the areas of concern. Some of the findings of the Hart Crowser report were PCP concentrations in soil up to 1900 ppm in the South Pole Yard, and up to 13,000 ppm in the area of the granular PCP spill. It was found that the large creosote storage tank (100,000 gallons) was not resting upon a concrete slab, but had concrete poured around the base of the tank, thereby potentially allowing any creosote leakage into soils underneath the tank. Contamination was confirmed at all ten areas of concern.

8. EPA issued an Administrative Agreed Consent Order (#1091-04-09-7003/106), signed on September 1, 1991. This order directed PWT to complete a thorough site characterization workplan and report of results, conduct interim measures if PWT identifies an immediate threat to human health or the environment during the investigation, conduct an analysis of long-term corrective measures, and implement EPA-approved corrective measures. Hart Crowser was contracted to develop a RCRA Facility Investigation (RFI) Site Characterization Workplan, as per the order. The workplan was executed by Kleinfelder and results of the RFI were presented in a data summary report.

9. PWT and its parent company Niedermeyer-Martin declared bankruptcy in August 1993. The president of PWT, Edward Niedermeyer, also declared bankruptcy.

10. EPA conducted a Site Assessment in June and July 1995 (report from Ecology and Environment, dated March 1996). The investigation confirmed previous reports of contamination. Nineteen boreholes were drilled as part of monitoring well installation. A one-foot layer of free product was found floating on the water table near the tank farm. Groundwater in eleven of twelve wells installed was contaminated by PCP. A preliminary Human Health and Ecological Risk Assessment identified potential risks to human health and the environment through several exposure pathways.

11. A settlement agreement was proposed between EPA, Ecology, and the trustees of the PWT/Niedermeyer-Martin bankruptcy estates. A percentage of the estate's proceeds will go to EPA (or its

agent), Ecology, and to the U.S. Department of the Interior, to be used for conducting cleanup activities and for natural resource damage assessment and restoration. The total estimated recovery for the United States from both debtors' settlements is 1.7 million dollars.

12. Cleanup of the site is being conducted under the Model Toxics Cleanup Act (MTCA) with formal Ecology oversight. The purpose of this Agreed Order is: 1) to conduct interim actions as recommended in previous studies, and 2) to address the most highly contaminated area of the site, the tank farm. Priority remediation of the tank farm area is needed for expansion of the City's sewage treatment plant, which is approaching capacity. The entire site will eventually be assessed and remediated under a consent decree. Any further assessment and remediation will be conducted pursuant to an amendment to this Agreed Order or to a Consent Decree.

III.

ECOLOGY DETERMINATIONS

1. The Port of Ridgefield is an "owner or operator" as defined at RCW 70.105D.020(6) of a "facility" as defined in RCW 70.105D.020(3).

2. The facility is known as the former Pacific Wood Treating (PWT) facility, and is located at 111 West Division in Ridgefield, Washington.

3. The substances found at the facility as described above are "hazardous substances" as defined at RCW 70.105D.020(5).

4. Based on the presence of these hazardous substances at the facility and all factors known to Ecology, there is a release or threatened release of hazardous substances from the facility, as defined at RCW 70.105D.020(10).

5. By a letter dated July 15, 1996, Ecology notified the Port of Ridgefield of its status as a "potentially liable person" under RCW 70.105D.040 after notice and opportunity for comment. By a letter of August 6, 1996 the Port of Ridgefield waived its rights to notice and comment and accepted Ecology's determination that the Port of Ridgefield is a "potentially liable person" under RCW 70.105D.040.

6. Pursuant to RCW 70.105D.030(1) and 70.105D.050, Ecology may require potentially liable persons to investigate or conduct other remedial actions with respect to the release or threatened release of hazardous substances, whenever it believes such action to be in the public interest.

7. Based on the foregoing facts, Ecology believes the remedial action required by this Order is in the public interest.

IV.

WORK TO BE PERFORMED

Based on the foregoing Facts and Determinations, it is hereby ordered that the Port of Ridgefield take the following remedial actions and that these actions be conducted in accordance with Chapter 173-340 WAC unless otherwise specifically provided for herein.

1. **Stormwater Collection and Drainage System** As noted in previous site assessments and inspection

reports, the stormwater collection and drainage system has resulted in releases of contaminants to Lake River. Sediments that have accumulated in the stormwater system must be removed, and the system must be checked and maintained as necessary in the future.

1a. The Port of Ridgefield shall compile site drawings, as-builts, and other available information on the stormwater system components (sumps, catch basins, piping, etc.) and their location. The Port shall review the recommendations of previous PWT site studies to identify specific locations that need remediation.

1b. The Port shall submit a draft workplan to Ecology to address stormwater system cleanout and maintenance. The workplan shall include: removing sediments and sludges from sumps and catch basins; testing and proper disposal of sludges; cleanout and maintenance of any oil/water separators on-site; and follow-up inspections and sampling of the stormwater system to ensure the cleanout was effective. If the Port identifies components of the system that need upgrading or removal, the Port shall inform Ecology. The workplan will include a schedule for implementation. Ecology will review and comment on the workplan, and Ecology's approval is required prior to implementing the workplan.

1c. The draft workplan shall be submitted to Ecology within sixty (60) calendar days of the date of Agreed Order. Ecology will provide comments within 15 calendar days of receipt of the draft workplan. The final workplan shall be submitted within 15 days of receipt of Ecology's comments.

2. Removal/Demolition of Tanks, Retorts, Ancillary Equipment, Chemicals and Hazardous Wastes, and Concrete Containment Wall in Tank Farm Area. This remedial action is necessary to prevent potential releases from tanks containing product. It is also necessary for unimpeded access to the subsurface, which is the most highly contaminated area of the PWT site. The hazardous materials in the tanks were left behind by PWT.

2a. Submit a brief draft workplan within 45 calendar days from the date of this order. The workplan will include an inventory of tanks and quantity of tank contents (gallons) that have been or will be removed by the Port. The workplan will also indicate where and how tanks, equipment, and chemicals were disposed of. The workplan will also include a schedule for implementation.

2b. The Port will notify Ecology in writing prior to pumping or removing chemicals or wastewater. Ecology will provide guidance to the Port on applicable, relevant and/or appropriate regulations (ARARs), including Dangerous Waste regulations (Chapter 173-303 WAC).

3. Site Characterization of Former Tank Farm. The extent of soil and groundwater contamination beneath the former tank farm is not known, because the tanks, piping, and concrete secondary containment prevented access for subsurface exploration. When the tank farm area is cleared of tanks, structures, and equipment, the Port shall conduct an investigation of that area to determine vertical and lateral extent of contamination of the soil and groundwater. The Port shall also determine the extent of free product originating beneath the tank farm.

3a. The Port shall review existing site data to identify any data gaps for adequate characterization of the tank farm area. The Port shall submit a draft workplan for additional characterization of the extent of soil and

groundwater contamination, and free product. The workplan shall contain, but not be limited to, the proposed number of test pits, soil borings, and monitoring wells; depths of test pits, borings and wells; sampling and analysis scheme including a quality assurance/quality control (QA/QC) plan; a health and safety plan (HASp) for field work; and a protocol for characterizing the free product and its extent. The workplan shall include a schedule for implementation. The draft workplan shall be submitted within 75 calendar days of the date of this Agreed Order. Ecology shall review and provide written comments within thirty (30) calendar days of receipt of the workplan. The Port will submit a final workplan within thirty (30) calendar days of receipt of Ecology's comments.

3b. The Port shall submit a draft report of the results of the tank farm investigation. The draft report shall include, but not be limited to, site location maps and physical setting description; soil characterization; surface and subsurface soil sampling results (analytical data as well as field logs); groundwater characterization; description of monitoring well installation; well logs; test pit logs; results of groundwater sampling; hydraulic characterization; recommendations including estimates of volumes and areas of media requiring remediation, summary, and conclusions. The draft investigation report shall be submitted to Ecology for review and comment within sixty (60) calendar days of completion of field work. Ecology shall provide written comments within thirty (30) calendar days of receipt of the draft report. The Port shall complete a final report within thirty (30) calendar days of receipt of Ecology's comments.

3c. The Port shall address the free product in the former tank farm area. The Port shall evaluate options for recovery and containment of product, and submit their analysis and recommendations to Ecology for review and comment. The analysis and recommendations shall be submitted to Ecology within thirty (30) calendar days of completion of tank farm field work. Ecology shall provide review and written comments within twenty (20) calendar days.

4. **Granular Pentachlorophenol Spill.** The Port shall implement the recommendation of previous Hart Crowser (1991) and Kleinfelder (1993) reports to cleanup the impacted soil from a historic granular PCP spill. PCP was found at levels up to 13,000 ppm in soil samples with PCP pellets visible at the time of sampling. The Port shall submit a brief draft workplan (several pages in a letter format is adequate) within ninety (90) calendar days of the date of the Agreed Order. The draft workplan shall include a sampling plan, excavation and disposal of contaminated soil, verification sampling, and a schedule for implementation. Ecology shall provide review and written comments to the Port within twenty (20) calendar days of receipt of the plan. The Port shall provide a final workplan within twenty (20) calendar days of receipt of Ecology's comments.

5. **Assess Recommendations From Previous PWT Site Studies.** The Port shall review all recommendations from previous site investigations. The Port will determine the status of the recommendation (i.e., Was the recommendation carried out? If not, is the recommendation still valid or relevant?) The Port shall determine the priority and feasibility of implementing recommendations. The Port shall submit a status report to Ecology within one hundred eighty (180) days of the date of this Order after reviewing and evaluating all previous recommendations. If Ecology determines that a specific recommendation should be carried out, the

Agreed Order will be amended to cover that work

6. Other Site Work Not Included in Work Items 1 Through 5. If the Port wants to conduct additional investigation or remediation at the PWT site not covered by items 1 through 5 above, they may do so under the following conditions:

- a. The additional work is done concurrent with items 1 through 5, and does not cause a delay in conducting work covered by the Order;
- b. The work is done under the MTCA process, with Ecology oversight, review and approval, and with public notice for remedial activities;
- c. Ecology may amend the Agreed Order if the additional work is considered significant.

V.

TERMS AND CONDITIONS OF ORDER

1. Definitions.

Unless otherwise specified, the definitions set forth in ch. 70.105D RCW and ch. 173-340 WAC shall control the meanings of the terms used in this Order.

2. Public Notices

RCW 70.105D.030(2)(a) requires that, at a minimum, this Order be subject to concurrent public notice. Ecology shall be responsible for providing such public notice and reserves the right to modify or withdraw any provisions of this Order should public comment disclose facts or considerations which indicate to Ecology that the Order is inadequate or improper in any respect.

3. Remedial Action Costs

The Port of Ridgefield shall pay to Ecology costs incurred by Ecology pursuant to this Order. These costs shall include work performed by Ecology or its contractors for investigations, remedial actions, and Order preparation, oversight, and administration. Ecology costs shall include costs of direct activities; e.g., employee salary, laboratory costs, travel costs, contractor fees, employee benefit packages, and agency indirect costs of direct activities. The Port of Ridgefield shall pay the required amount within 90 days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, an identification of involved staff, and the amount of time spent by involved staff members on the project. A general description of work performed will be provided upon request. Itemized statements shall be prepared quarterly. Failure to pay Ecology's costs within 90 days of receipt of an itemized statement of costs will result in interest charges.

4. Designated Project Coordinators

The project coordinator for Ecology is:

Daniel Alexanian

Southwest Regional Office

P.O. Box 47600

Olympia, WA 98504-7600

The project coordinator for the Port of Ridgefield is:

Thomas E. Newman

111 West Division

Ridgefield, WA 98642

The project coordinator(s) shall be responsible for overseeing the implementation of this Order. To the maximum extent possible, communications between Ecology and the Port of Ridgefield, and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order, shall be directed through the project coordinator(s). Should Ecology or the Port of Ridgefield change project coordinator(s), written notification shall be provided to Ecology or the Port of Ridgefield at least ten (10) calendar days prior to the change.

5. Performance.

All work performed pursuant to this Order shall be under the direction and supervision, as necessary, of a professional engineer or hydrogeologist, or similar expert, with appropriate training, experience and expertise in hazardous waste site investigation and cleanup. The Port of Ridgefield shall notify Ecology as to the identity of such engineer(s) or hydrogeologist(s), and of any contractors and subcontractors to be used in carrying out the terms of this Order, in advance of their involvement at the site. The Port of Ridgefield shall provide a copy of this Order to all agents, contractors, and subcontractors retained to perform work required by this Order and shall ensure that all work undertaken by such agents, contractors and subcontractors will be in compliance with this Order.

Except where necessary to abate an emergency situation, the Port of Ridgefield shall not perform any remedial actions at the Pacific Wood Treating site outside that required by this Order unless Ecology concurs, in writing, with such additional remedial actions.

WAC 173-340-400(7)(b)(i) requires that "construction" performed on the site must be under the supervision of a professional engineer registered in Washington.

6. Access.

Ecology or any Ecology authorized representative shall have the authority to enter and freely move about the site at all reasonable times for the purposes of, inter alia: inspecting records, operation logs, and contracts related to the work being performed pursuant to this Order; reviewing the progress in carrying out the terms of this Order; conducting such tests or collecting samples as Ecology or the project coordinator may deem necessary; using a camera, sound recording, or other documentary type equipment to record work done pursuant to this Order; and verifying the data submitted to Ecology by the Port of Ridgefield. By signing this Agreed Order, the Port of Ridgefield agrees that this Order constitutes reasonable notice of access, and agrees to allow access to the site at all reasonable times for purposes of overseeing work performed under this Order. Ecology shall allow split or replicate samples to be taken by the Port of Ridgefield during an inspection unless doing so interferes with Ecology's sampling. The Port of Ridgefield shall allow split or replicate samples to be taken by Ecology and shall provide seven (7) days notice before any sampling activity.

7 Public Participation

The Port of Ridgefield shall prepare and/or update a public participation plan for the site. Ecology shall maintain the responsibility for public participation at the site. The Port of Ridgefield shall help coordinate and implement public participation for the site

8. Retention of Records. The Port of Ridgefield shall preserve in a readily retrievable fashion, during the pendency of this Order and for ten (10) years from the date of completion of the work performed pursuant to this Order, all records, reports, documents, and underlying data in its possession relevant to this Order. Should any portion of the work performed hereunder be undertaken through contractors or agents of the Port of Ridgefield, then the Port of Ridgefield agrees to include in their contract with such contractors or agents a record retention requirement meeting the terms of this paragraph.

9. Dispute Resolution

The Port of Ridgefield may request Ecology to resolve disputes which may arise during the implementation of this Order. Such request shall be in writing and directed to the signatory, or his/her successor(s), to this Order. Ecology resolution of the dispute shall be binding and final. The Port of Ridgefield is not relieved of any requirement of this Order during the pendency of the dispute and remains responsible for timely compliance with the terms of the Order unless otherwise provided by Ecology in writing.

10. Reservation of Rights/No Settlement

This Agreed Order is not a settlement under ch. 70.105D RCW. Ecology's signature on this Order in no way constitutes a covenant not to sue or a compromise of any Ecology rights or authority. Ecology will not, however, bring an action against the Port of Ridgefield to recover remedial action costs paid to and received by Ecology under this Agreed Order. In addition, Ecology will not take additional enforcement actions against the Port of Ridgefield to require those remedial actions required by this Agreed Order, provided the Port of Ridgefield complies with this Agreed Order.

Ecology reserves the right, however, to require additional remedial actions at the site should it deem such actions necessary.

Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the releases or threatened releases of hazardous substances from the Pacific Wood Treating site.

In the event Ecology determines that conditions at the site are creating or have the potential to create a danger to the health or welfare of the people on the site or in the surrounding area or to the environment, Ecology may order the Port of Ridgefield to stop further implementation of this Order for such period of time as needed to abate the danger.

11 Transference of Property

No voluntary or involuntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the site shall be consummated by the Port of Ridgefield without provision for continued implementation of all requirements of this Order and implementation of any remedial actions found to be necessary as a result of this Order.

Prior to transfer of any legal or equitable interest the Port of Ridgefield may have in the site or any portions thereof, the Port of Ridgefield shall serve a copy of this Order upon any prospective purchaser, lessee, transferee, assignee, or other successor in such interest. At least thirty (30) days prior to finalization of any transfer, the Port of Ridgefield shall notify Ecology of the contemplated transfer.

12. Compliance with Other Applicable Laws

A. All actions carried out by Port of Ridgefield pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain necessary permits, except as provided in paragraph B of this section.

B. Pursuant to RCW 70.105D.090(1), the substantive requirements of chapters 70.94, 70.95, 70.105, 75.20, 90.48, and 90.58 RCW and of any laws requiring or authorizing local government permits or approvals for the remedial action under this Order that are known to be applicable at the time of issuance of the Order have been included in Section IV, the Work to be Performed, and are binding and enforceable requirements of the Order.

Port of Ridgefield has a continuing obligation to determine whether additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order. In the event Port of Ridgefield determines that additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order, it shall promptly notify Ecology of this determination. Ecology shall determine whether Ecology or Port of Ridgefield shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, Port of Ridgefield shall promptly consult with the appropriate state and/or local agencies and provide Ecology with written documentation from those agencies of the substantive requirements those agencies believe are applicable to the remedial action. Ecology shall make the final determination on the additional substantive requirements that must be met by Port of Ridgefield and on how Port of Ridgefield must meet those requirements. Ecology shall inform Port of Ridgefield in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. Port of Ridgefield shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

Ecology shall ensure that notice and opportunity for comment is provided to the public and appropriate agencies prior to establishing the substantive requirements under this section.

C. Pursuant to RCW 70.105D.090(2), in the event Ecology determines that the exemption from complying with the procedural requirements of the laws referenced in RCW 70.105D.090(1) would result in the loss of approval from a federal agency which is necessary for the State to administer any federal law, the exemption shall not apply and Port of Ridgefield shall comply with both the procedural and substantive requirements of the laws referenced in RCW 70.105D.090(1), including any requirements to obtain permits.

D. Some requirements herein are based on the applicable requirements of Chapter 70.105 RCW and Chapter 173-303 WAC.

All actions carried out by the Port of Ridgefield pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements.

13. Revisions to Scope of Work and/or Schedule. Revisions to scope of work and/or schedule for performance may be necessary request for changes to the scope of work and/or schedule shall be documented by the Port of Ridgefield with written justification for the proposed change and provided to Ecology for approval prior to implementing the change.

VI.

SATISFACTION OF THIS ORDER

The provisions of this Order shall be deemed satisfied upon the Port of Ridgefield's receipt of written notification from Ecology that the Port of Ridgefield has completed the remedial activity required by this Order, as amended by any modifications, and that all other provisions of this Agreed Order have been complied with.

VII.

ENFORCEMENT

1. Pursuant to RCW 70 105D 050, this Order may be enforced as follows:
 - A. The Attorney General may bring an action to enforce this Order in a state or federal court.
 - B. The Attorney General may seek, by filing an action, if necessary, to recover amounts spent by Ecology for investigative and remedial actions and orders related to the site
 - C. In the event the Port of Ridgefield refuses, without sufficient cause, to comply with any term of this Order, the Port of Ridgefield will be liable for:
 - (1) up to three times the amount of any costs incurred by the state of Washington as a result of its refusal to comply; and
 - (2) civil penalties of up to \$25,000 per day for each day it refuses to comply.
 - D. This Order is not appealable to the Washington Pollution Control Hearings Board. This Order may be reviewed only as provided under Section 6 of ch. 70.105D RCW.

Effective date of this Order: 9/23/96

PORT OF RIDGFIELD

By [Signature]
Acting Manager
9-23-96

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

By [Signature]