

STATE OF WASHINGTON
PIERCE COUNTY SUPERIOR COURT

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Plaintiff,

v.

MURRAY PACIFIC CORPORATION,
LOUISIANA PACIFIC
CORPORATION, and WASSER &
WINTERS INC.,

Defendants.

NO. 08-2-10610-7

FIRST AMENDMENT TO CONSENT
DECREE WITH MURRAY PACIFIC
CORPORATION

I. INTRODUCTION

The Consent Decree, No. 08-2-10610-7, dated July 24, 2008, (the "Consent Decree" or "2008 Consent Decree"), is hereby amended as set forth below in this First Amendment to the Consent Decree. This First Amendment is made by the State of Washington, Department of Ecology ("Ecology") and Murray Pacific Corporation ("Murray Pacific") pursuant to Section XIV of the Consent Decree. This First Amendment to the Consent Decree extends the term of the Custodial Trust Agreement (the "Custodial Trust") established pursuant to Exhibit G of the Consent Decree so as to achieve a more efficient and effective cleanup and ensure that all trust funds remain exclusively dedicated to remedial action at the site. Nothing in this First

1 Amendment expands, adds to, or alters the liability of Murray Pacific in any respect, despite
2 the extended term of the Custodial Trust. All provisions of the 2008 Consent Decree remain in
3 full force and effect, except as specifically amended by this First Amendment to the Consent
4 Decree.
5

6 II. AMENDMENT

7 This First Amendment effects substantial changes to the 2008 Consent Decree and will
8 be the subject of public notice and comment under WAC 173-340-600.

9 Certain Sections of the 2008 Consent Decree are amended as follows:
10

11 1. Section I. A. (Introduction). Section I. A. is amended as follows: All funds
12 provided under the Custodial Trust Agreement (Exhibit G) will be used exclusively to
13 implement the Cleanup Action Plan at the site. The Custodial Trustee will perform all portions
14 of the Cleanup Action Plan.

15 2. Section V. K. (Statement of Facts). Section V. K. is amended as follows:
16 Ecology will no longer be responsible for implementing portions of the Remedial Action
17 defined in the 2008 FCAP. Utilizing funds from the Custodial Trust under the direction of
18 Ecology's regulatory oversight, the Custodial Trustee will continue to manage the consultants
19 and implement the remedial action through Phase III of the 2008 FCAP until complete or until
20 all funds of the Custodial Trust are exhausted.

21 3. Section VI. (Work to Be Performed): The reference to Exhibit B in Section VI
22 is expanded to provide: "Both the Scope of Work defining the Initial Construction and the
23 Operation, Maintenance, and Monitoring are described in Exhibit B, Scope of Work and
24 Schedule."
25
26

1 4. Section XII. (Retention of Records): All records and documents referred to in
2 Section XII will be preserved by Murray Pacific until ten (10) years from the date that this
3 Decree is no longer in effect pursuant to Section XXV (Effect and Duration of Decree).
4 Records and documents preserved by contractors and consultants responsible for work at the
5 site are also deemed preserved by Murray Pacific.

6 5. Section XIV. (Amendment of Decree): Section XIV is amended to provide that
7 amendments to the Custodial Trust Agreement in accordance with Section 7.1 of the Custodial
8 Trust do not constitute a substantial change to the Consent Decree.

9 6. Section XXII. (Payments to the State and Election to Create Trust): In Section
10 XXII, the first sentence is amended to provide: "Within 30 days after the State has provided
11 notice to Murray Pacific that the Initial Construction Phase of the Work has been satisfactorily
12 completed, Murray Pacific shall pay the Trustee, in trust, under the Custodial Trust Agreement
13 the sum of \$21 million dollars less the MPC Implementation Costs." In Section XXII, the term
14 "MPC Implementation Costs" includes a new subsection, as follows: "(vii) all funds remaining
15 in the Custodial Trust at the time final payment is due under this Section XXII." The provision
16 in Section XXII directing that payments be made to Ecology is no longer applicable.

17 7. Section XXV. (Effect and Duration of Decree): Section XXV is amended to
18 provide that this Consent Decree shall remain in effect until the termination of the Custodial
19 Trust Agreement and until Defendant Murray Pacific has received written notification from
20 Ecology that the requirements of this Decree have been satisfactorily completed, whereupon
21 this decree shall be vacated. After vacation of the Decree, all provisions of Section XVII
22 (Covenant Not to Sue) and of Section XVIII (Contribution Protection) shall survive and
23 continue in full force and effect in perpetuity.

24 8. Exhibit B (Scope of Work) to the Consent Decree is amended as provided by
25 the attached Exhibit 1 (First Amendment to Exhibit B, Scope of Work) and is hereby
26 incorporated into the Consent Decree.

1 9. A new Exhibit "H", Amended and Restated Custodial Trust Agreement, is
2 attached hereto and hereby incorporated into this First Amendment to the Consent Decree, and
3 the Table of Contents of the 2008 Consent Decree is amended to include the following:
4 "Exhibit H: Amended and Restated Trust Agreement."

5 Except as set forth above, all other provisions of the 2008 Consent Decree remain in full force
6 and effect, unchanged by this First Amendment.


7 STATE OF WASHINGTON
8 DEPARTMENT OF ECOLOGY

9 

10 JAMES PENDOWSKI
11 Program Manager
12 Toxics Cleanup Program
(360) 407-7177

13
14 Date: 11/21/13

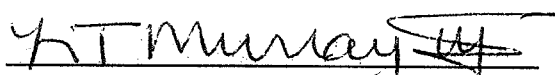
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Date: 12/2/13

15 MURRAY PACIFIC CORPORATION

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17 
18 L.T. (Toby) Murray III, President.
19 (253) 591-9821

20 Date: SEPTEMBER 4, 2013

21 ENTERED this 16th day of December, 2013.

22
23 
24 JUDGE RONALD E. CULPEPPER
25 Pierce County Superior Court
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