

In the Matter of Remedial Action by:

AGREED ORDER

No. DE 01TCPIS-1968

I.

This Agreed Order ("Order") is issued pursuant to the authority of RCW 70.105D.050(1).

1

3. Until 1976 a mercury electrolytic process was used in the production of chlorine and caustic which resulted in releases of mercury to the environment.

4. Cell Room No. 1 was demolished and an independent cleanup action was conducted by Weyerhaeuser Company in 1990 and in 1991 to remove mercury-contaminated media. A polymer modified asphalt cap was installed over the No. 1 Cell Room site in 1991 as an interim remedial measure under Agreed Order No. 91-TCI.

5. Based upon the presence of mercury, the Chlor-Alkali Plant is listed on the Department of Ecology's Hazardous Waste Site List.

6. Weyerhaeuser Company performed a remedial investigation (RI) to determine the nature and extent of mercury in soil and groundwater, and reported its findings in the Remedial Investigation Report, Chlor-Alkali Plant, Longview, Washington (CH2M Hill, 1999). Ecology reviewed the Remedial Investigation Report and approved the report under the requirements of the Model Toxics Control Act, Ch. 70.105D RCW.

III.

Ecology Determinations

1. The Weyerhaeuser Company is an "owner or operator" as defined at RCW 70.105D.020(12) of a "facility" as defined in RCW 70.105D.020(4).
2. The facility is known as the Chlor-Alkali Plant Site (or "Site") and is located at 3401 Industrial Way, Longview, Washington 98632-7117. A diagram of the Site is attached as Exhibit A.
3. The substances found at the facility as described above are "hazardous substances" as defined at RCW 70.105D.020(7).
4. Based on the presence of these hazardous substances at the facility and all factors known to the Department, there is a release or threatened release of hazardous substances from the facility, as defined at RCW 70.105D.020(20).
5. By a letter of July 12, 1999, Weyerhaeuser Company voluntarily waived its rights to notice and comment and accepted Ecology's determination that Weyerhaeuser Company is a "potentially liable person" under RCW 70.105D.040.
6. Pursuant to RCW 70.105D.030(1) and 70.105D.050, the Department 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 Weyerhaeuser Company 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. Weyerhaeuser Company shall conduct a feasibility study (FS) and prepare a report in accordance with the Work Plan attached hereto as Exhibit B, and by this reference incorporated herein as an integral and enforceable part of this order.
2. The FS shall be completed, and the report submitted to Ecology for review and approval on or before March 9, 2001; provided that in the event Weyerhaeuser Company determines that additional activities outside those set forth in the Work Plan are necessary or appropriate to conduct the FS, Weyerhaeuser Company shall notify Ecology in writing of the activities and the effect on the schedule.

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.

WAC 173-340-600(10)(c) requires a 30 day public comment period before this agreed order on a state RI/FS becomes effective. Ecology shall be responsible for providing such public notice and reserves the right to withdraw from 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. Weyerhaeuser Company is supporting a Full Time Equivalent (FTE) Staff Position at Ecology. The FTE has been assigned to develop and administer this Order. When the FTE contract expires or the costs exceed the allotted FTE amount, Weyerhaeuser Company agrees to pay costs incurred by Ecology pursuant to this Order. These costs shall include work performed by Ecology or its contractors at the Site under Ch. 70.105 D RCW for investigations, remedial actions, and Order preparation, oversight and administration. Ecology costs shall include costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2). Weyerhaeuser Company 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 statement of work performed will be provided. Itemized statements shall be prepared quarterly. Failure to pay Ecology's costs within 90 days of receipt of the itemized statement of costs will result in interest charges.

4. Designated Project Coordinators. The project coordinator for Ecology is:

Name	Cris Matthews
Address	P.O. Box 47775 Olympia, WA 98504-7775

The project coordinator for Weyerhaeuser Company is:

Name	Calvin R. Palmer
Address	Weyerhaeuser Company

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P.O. Box 9777

Federal Way, WA 98063-9777

The project coordinator(s) shall be responsible for overseeing the implementation of this Order. To the maximum extent possible, communications between Ecology and Weyerhaeuser Company, 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 Weyerhaeuser Company change project coordinator(s), written notification shall be provided to Ecology or Weyerhaeuser Company 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. Weyerhaeuser Company 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. Weyerhaeuser Company 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, Weyerhaeuser Company shall not perform any remedial actions at the Site outside that required by this Order unless Ecology concurs, in writing, with such additional remedial actions; provided, however, that this provision shall not apply to any demolition of the Cell Room No. 2 structure and related facilities.

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 Weyerhaeuser Company. By signing this Agreed Order, Weyerhaeuser Company 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 Weyerhaeuser Company during an inspection unless doing so interferes with Ecology's sampling. Weyerhaeuser Company 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. Weyerhaeuser Company has prepared and/or updated a public participation plan for the Site, which is attached as Exhibit C. Ecology shall maintain the responsibility for public participation at the site.

Weyerhaeuser Company shall help coordinate and implement public participation for the Site.

8. Retention of Records. Weyerhaeuser Company 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 Weyerhaeuser Company, then Weyerhaeuser

Company agrees to include in their contract with such contractors or agents a record retention requirement meeting the terms of this paragraph.

9. Dispute Resolution. Weyerhaeuser Company 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. Weyerhaeuser Company 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 Weyerhaeuser Company 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 Weyerhaeuser Company to require those remedial actions required by this Agreed Order, provided Weyerhaeuser Company 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 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 Weyerhaeuser Company 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 Weyerhaeuser Company without provision for continued implementation of all requirements of this Order.

Prior to transfer of any legal or equitable interest Weyerhaeuser Company may have in the Site or any portions thereof, Weyerhaeuser Company 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, Weyerhaeuser Company shall notify Ecology of the contemplated transfer.

12. Compliance with Other Applicable Laws.

A. All actions carried out by Weyerhaeuser Company 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. Weyerhaeuser Company has a continuing obligation to determine whether permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Order. In the event Weyerhaeuser Company determines that 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 Weyerhaeuser Company shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, Weyerhaeuser Company 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 substantive requirements that must be met by Weyerhaeuser Company and on how Weyerhaeuser Company must meet those requirements. Ecology shall inform Weyerhaeuser Company in writing of these requirements. Once established by Ecology, the requirements shall be enforceable requirements of this Order. Weyerhaeuser Company shall not begin or continue the remedial action potentially subject to the 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 Weyerhaeuser Company 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.

VI.

Satisfaction of this Order

The provisions of this Order shall be deemed satisfied upon Weyerhaeuser Company's receipt of written notification from Ecology that Weyerhaeuser Company 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.

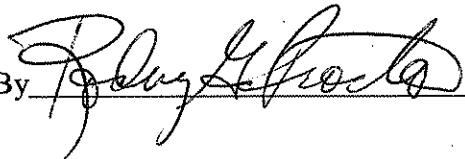
VII.

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 Weyerhaeuser Company refuses, without sufficient cause, to comply with any term of this Order, Weyerhaeuser Company 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: February 7, 2001

WEYERHAEUSER COMPANY

By 

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

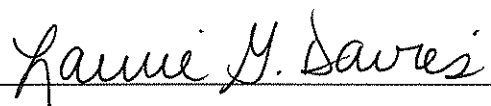
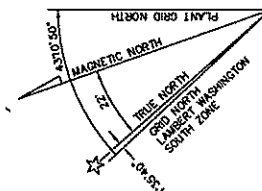
By 

EXHIBIT A
Feasibility Study
Site Map
WEYERHAEUSER CHLOR-ALKALI PLANT
LONGVIEW, WASHINGTON

THINK



0 150 300
SCALE IN FEET

LEGEND

Boundary of FS Study Area

GRAPHIC.DWG