



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Avenue SE • Bellevue, Washington 98008-5452 • (425) 649-7000

September 4, 2008

Mr. Chris Isenberg
Everett Mill Manager
Kimberly-Clark Worldwide Inc.
2600 Federal Avenue
Everett, WA 98201

Re: No Further Action Determination under WAC 173-340-515(5) for the following Hazardous Waste Site:

- Name: Riverside Wood Yard
- Address: 3700 Railway Avenue, Everett, WA 98201
- Facility/Site No.: 75811416
- VCP No.: NW1729

Dear Mr. Isenberg:

Thank you for submitting your independent remedial action report for the Riverside Wood Yard facility (Site) for review by the State of Washington Department of Ecology (Ecology) under the Voluntary Cleanup Program (VCP). Ecology appreciates your initiative in pursuing this administrative option for cleaning up hazardous waste sites under the Model Toxics Control Act (MTCA), Chapter 70.105D RCW.

This letter constitutes an advisory opinion regarding whether further remedial action is necessary at the Site to meet the substantive requirements of MTCA and its implementing regulations, Chapter 70.105D RCW and Chapter 173-340 WAC. Ecology is providing this advisory opinion under the specific authority of RCW 70.105D.030(1)(i) and WAC 173-340-515(5).

This opinion does not resolve a person's liability to the state under MTCA or protect a person from contribution claims by third parties for matters addressed by the opinion. The state does not have the authority to settle with any person potentially liable under MTCA except in accordance with RCW 70.105D.040(4). The opinion is advisory only and not binding on Ecology.

Ecology's Toxics Cleanup Program has reviewed the following information regarding the Site:

1. Memorandum, Risk-Based Cleanup Level for Oil-Range TPH in Western Swale Soils, Former Riverside Chip Mill/Storage Areas and Riverside Woodyard Properties, Everett, Washington, prepared by Aspect Consulting dated October 29, 2007.

2. Memorandum, Risk-Based Cleanup Level for Oil-Range TPH at Diesel AST, Riverside Woodyard Properties, Everett, Washington, prepared by Aspect Consulting dated October 29, 2007.
3. Phase 2 Environmental Site Assessment and Cleanup Report, Riverside Woodyard, prepared by Aspect Consulting dated December 2006 Final.
4. Phase I Environmental Site Assessment, Kimberly-Clark Worldwide, Inc., Riverside Woodyard, Everett, Washington, prepared by Delta Environmental Consultants, Inc. dated December 28, 2005.

The documents listed above will be kept in the Central Files of the Northwest Regional Office of Ecology (NWRO) for review by appointment only. Appointments can be made by calling the NWRO resource contact at (425) 649-7190.

The Site is defined by the extent of contamination caused by the following release(s):

- Carcinogenic Polycyclic aromatic hydrocarbons (cPAHs) in soil;
- Oil-range total petroleum hydrocarbon (TPH-O) in soil.

The Site is more particularly described in Enclosure A to this letter, which includes a detailed Site diagram. The description of the Site is based solely on the information contained in the documents listed above.

Based on a review of the documentations listed above, Ecology has determined that the independent remedial action(s) conducted at the Site are sufficient to meet the substantive requirements contained in MTCA and its implementing regulations, Chapter 70.105D RCW and Chapter 173-340 WAC, for characterizing and addressing the contamination at the Site. Therefore, pursuant to WAC 173-340-515(5), Ecology is issuing this opinion that no further remedial action is necessary at the Site under MTCA. However, since cPAHs were detected above the MTCA Method B cleanup level for unrestricted land use in the Creosote Wood Chipping Area, in the surface soils along the existing railroad spur, and a small drainage swale north of the spur, an environmental covenant is required to restrict the Site for industrial use only.

This opinion is based on the continued effectiveness of the institutional control(s) required as part of the cleanup action for the Site under WAC 173-340-440. A copy of the Environmental Covenant(s) filed for any property as part of the cleanup action for the Site is enclosed with this letter as Enclosure B. If any portion of any Environmental Covenant is violated, then this opinion will automatically be rendered null and void and further remedial action may be required at the Site.

Mr. Isenberg
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Based on this no further action determination, Ecology will update the status of the Site on its site database and remove the Site from the Confirmed and Suspected Contaminated Sites List.


This no further action determination does not apply to any other release(s) or potential release(s) of contaminant(s) that may impact any other portion of any property impacted by this Site, or any other property owned or operated by Kimberly-Clark Worldwide Inc.

Please note that this opinion is based solely on the information contained in the documents listed above. Therefore, if any of the information contained in those documents is materially false or misleading, then this opinion will automatically be rendered null and void and further remedial action may be required at the Site.

The state, Ecology, and its officers and employees make no guarantees or assurances by providing this opinion, and no cause of action against the state, Ecology, its officers or employees may arise from any act or omission in providing this opinion.

Again, Ecology appreciates your initiative in successfully completing cleanup under the Voluntary Cleanup Program (VCP). If you have any questions regarding this opinion, please contact me at (425) 649-4310.

Sincerely,



Jing Liu
NWRO, Toxics Cleanup Program

jl:kp

Enclosures: 2

cc: Ken Weiner, K&L Gates
Steve Germiot, Aspect Consulting
Robert Waddle, Kimberly-Clark Worldwide Inc.
Mark Sadler, City of Everett

Enclosure A

The site is located at 3700 Railway Avenue in Everett. It has been used historically for storage of untreated logs from 1960s through early 1990s. Since the mid-1990s, the primary use of the subject property has been for storage of wood chips and large woody material (hog fuel) used as fuel for boilers at Kimberly-Clark's pulp and paper mill. The property is currently owned by Kimberly-Clark Worldwide Inc. (K-C), and it is zoned for heavy manufacturing industrial use.

The subject property is adjacent to the Former Riverside Chip/Mill Storage Area and Sawmill sites. Ecology issued No Further Action determination letters to the three VCPs associated with the Former Riverside Chip/Mill Storage Area (NW 1846, NW 1847 and NW 1848) in November 2007. The Sawmill site is currently under VCP NW 1731. No cross contamination has been discovered among those sites.

Carcinogenic polycyclic aromatic hydrocarbons (cPAHs) were detected in the Creosote Wood Chipping Area, in the surface soils along an existing railroad spur, and a small drainage swale north of the spur. The cPAHs concentrations calculated using toxicity equivalency factors (TEFs) were above the MTCA Method B cleanup level for unrestricted land use. However, all the cPAHs concentrations were below the MTCA Method C cleanup level for industrial land use for direct contact.

Oil-range petroleum hydrocarbons (TPH-O) were detected in one soil boring in the former diesel release area near the above ground storage tank (AST)/fuel pump, and the concentration exceeded the MTCA Method A cleanup level for unrestricted land use. However, the concentration was below the site specific TPH-O Method B cleanup level for unrestricted land use established through the Extractable Petroleum Hydrocarbon (EPH) analysis. TPH-O was not detected in the soil sample collected at the water table from this boring, and groundwater sampling did not detect TPH-O either.

Soils were contaminated by hydraulic oil in the truck tipper area with concentrations above the MTCA Method A cleanup level for unrestricted land use. Arsenic, chromium and lead were detected in the sample collected in this area, but the concentrations were below their respective MTCA Method A cleanup levels for unrestricted land use. The petroleum contaminated soil at the truck tipper area has been cleaned up by excavation and disposal off site. Soil confirmation samples showed compliance with the MTCA Method A cleanup levels for unrestricted land use.

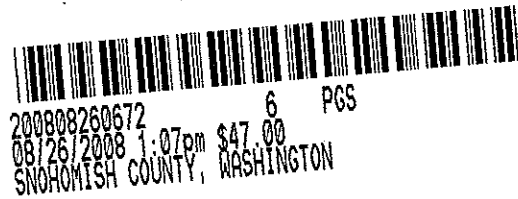
A stormwater drainage swale runs along the western side of the access road next to the subject property and the Former Riverside Chip/Mill Storage Area. The water collected in the swale is pumped directly to the Everett Wastewater Treatment Plant. TPH-O is present exceeding the MTCA Method A cleanup level in surface soils within the swale. However, the TPH-O concentrations are below the site specific Method B cleanup level for unrestricted land use. No petroleum sheen or odor was observed. Petroleum hydrocarbons were not detected in the groundwater sample collected from monitoring wells installed downgradient of the swale.



Enclosure B

After Recording Return to:

Department of Ecology
Northwest Regional Office
3190 160th Ave. SE
Bellevue, WA 98008-5452



Environmental Covenant

Grantor: Kimberly-Clark Worldwide Inc.
Grantee: State of Washington, Department of Ecology
Legal: A portion of the west half of Section 21, Township 29, Range 5 East of the Willamette Meridian, Snohomish County, Washington. Referred to as "Riverside Woodyard," 3700 Railway Avenue, Everett, Washington 98201
Tax Parcel Nos.: 29052100201000 and 00480100200800
Cross Reference: None.

Grantor, Kimberly-Clark Worldwide Inc. ("K-C"), hereby binds Grantor, its successors and assigns to the land use restrictions identified herein and grants such other rights under this environmental covenant (hereafter "Covenant") in favor of the State of Washington Department of Ecology (Ecology). Ecology shall have full right of enforcement of the rights conveyed under this Covenant pursuant to the Model Toxics Control Act, RCW 70.105D.030(1)(g), and the Uniform Environmental Covenants Act, 2007 Wash. Laws ch. 104, sec. 12.

This Declaration of Covenant is made pursuant to RCW 70.105D.030(1)(f) and (g) and WAC 173-340-440 by K-C, its successors and assigns, and the State of Washington Department of Ecology, its successors and assigns (hereafter "Ecology").

A remedial action (hereafter "Remedial Action") occurred at the property that is the subject of this Covenant ("Property"). The Remedial Action conducted at the Property is described in the following document[s]:

1. Notification Letter of No Further Action Determination for Independent Remedial Action at Riverside Wood Yard, Department of Ecology, dated November 6, 2007.

2. Memorandum, Risk-Based Cleanup Level for Oil-Range TPH in Western Swale Soils, Former Riverside Chip Mill/Storage Areas and Riverside Woodyard Properties, Everett, Washington, prepared by Aspect Consulting, dated October 29, 2007.
3. Memorandum, Risk-Based Cleanup Level for Oil-Range TPH at Diesel AST, Riverside Woodyard, Everett, Washington, prepared by Aspect Consulting, dated October 29, 2007.
4. Phase 2 Environmental Site Assessment and Cleanup Report, Riverside Woodyard, prepared by Aspect Consulting, dated December 2006.
5. Phase I Environmental Site Assessment, Kimberly-Clark Worldwide, Inc., Riverside Woodyard, Everett, Washington, prepared by Delta Environmental Consultants, Inc., dated 28 December 2005.

These documents are on file at Ecology's Northwest Regional Office. As described in the above-referenced documents, a Remedial Action for unrestricted land use was conducted at the Property except as described below.

This Covenant is required because the Remedial Action resulted in residual concentrations on the Property of carcinogenic polycyclic aromatic hydrocarbons (cPAHs) in soil which exceed the Model Toxics Control Act Method B Soil Cleanup Level(s) for unrestricted land use established under WAC 173-340-740 as described below. As described in the Riverside Woodyard Phase 2 Environmental Site Assessment and Cleanup Report and Ecology No Further Action letter, cPAHs were detected at concentrations above MTCA Method B soil cleanup levels for unrestricted use, but below MTCA Method C soil cleanup levels for industrial use, in surface soils within the former creosote wood chipping area, along an existing railroad spur, and a small drainage swale north of the spur.

If, in the future, cleanup standards for unrestricted use are met throughout the Property by additional remediation of the cPAH concentrations above MTCA Method B unrestricted soil cleanup levels described above, then this Covenant may be removed in accordance with RCW 64.70.100 if Ecology, after public notice and comment, concurs with the removal.

The undersigned, Kimberly-Clark Worldwide Inc., is the fee owner of the Property that is subject to this Covenant. The Property is located in the Snohomish County, Washington, and is legally described in Attachment A of this Covenant, which is made a part hereof by reference.

K-C makes the following declaration as to limitations, restrictions, and uses to which the Property 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 Property (hereafter "Owner").

Section 1. The Property shall be used only for traditional industrial uses, as described in RCW 70.105D.020(23) and defined in and allowed under the City of Everett's zoning regulations codified in the City of Everett Municipal Code as of the date of this Covenant.

Section 2. Any activity on the Property that may interfere with the integrity of the Remedial Action and continued protection of human health and the environment is prohibited.

Section 3. Any activity on the Property that may result in a new release or exposure, or the exacerbation of an existing release or exposure, to the environment of a hazardous substance that remains on the Property as part of the Remedial Action, or create a new exposure pathway, is prohibited without prior written approval from Ecology. Industrial development of the property that results in the release or exposure to the environment of cPAHs in soil below applicable cleanup levels is not considered a prohibited activity, provided that: (1) the terms of this Covenant are met; and (2) best management practices are implemented to ensure the prevention of off-Property migration of the contamination. Such best management practices include, but are not limited to, as applicable measures to protect workers during construction, and dust suppression measures.

Section 4. The Owner of the Property must give thirty (30) day advance written notice to Ecology of the Owner's intent to convey any interest in the Property. No

conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate and complete provision for any required continued monitoring, operation, and maintenance of the Remedial Action.

Section 5. The Owner must restrict leases to uses and activities consistent with the Covenant and notify all lessees of the restrictions on the use of the Property.

Section 6. The Owner must notify and obtain approval from Ecology prior to any use of the Property that is inconsistent with the terms of this Covenant. Ecology may approve any inconsistent use only after public notice and comment.

Section 7. The Owner shall allow authorized representatives of Ecology the right to enter the Property at reasonable times for the purpose of evaluating the Remedial Action; to take samples, to inspect remedial actions conducted at the Property, to determine compliance with this Covenant, and to inspect records that are related to the Remedial Action.

Section 8. The Owner of the Property reserves the right under WAC 173-340-440 to record an instrument that provides that this Covenant shall no longer limit use of the Property or be of any further force or effect. However, such an instrument may be recorded only if Ecology, after public notice and opportunity for comment, concurs.

Kimberly-Clark Worldwide Inc.

Kenneth A. Strassner
Name and Title: Vice President

Dated: 8-11-08



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Robert W. Warren

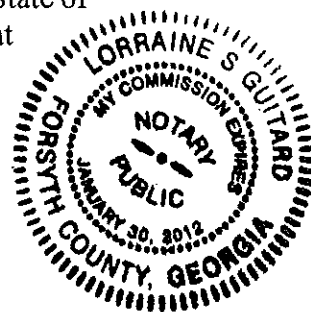
Robert W. Warren
Section Manager, NWRO Toxics Cleanup Program

Dated: 8-22-08

STATE OF Georgia
COUNTY OF Forsyth

On this 11 day of August, 2008, I certify that Kenneth A. Shassner personally appeared before me, acknowledged that he/she is the Vice President of the corporation that executed the within and foregoing instrument, and signed said instrument by free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument for said corporation.

Lorraine S. Guitard
Notary Public in and for the State of
Georgia, residing at
Forsyth County
My appointment
expires 1/30/2012.



STATE OF WASHINGTON
COUNTY OF _____

On this _____ day of _____, 2008, I certify that _____ personally appeared before me, acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute this instrument, and acknowledged it as the _____ [type of authority] of _____ [name of party being represented] to be the free and voluntary act and deed of such party for the uses and purposes mentioned in the instrument.

Notary Public in and for the State of
Washington, residing at

My appointment expires
_____.

Exhibit A

Legal Description

Lot 3 of Boundary Line Adjustment No. 05-0515, recorded December 23, 2005, under Snohomish County Auditor's File Number 20051223817.

together with

Lot 5 of Lot 3 of Boundary Line Adjustment No. 05-0515, recorded December 23, 2005, under Snohomish County Auditor's File Number 200512230817.