

ENDORSED
FILED
SUPERIOR COURT

FS 1088

AUG 18 1997

COWLITZ COUNTY
PEGGY J. BOGDON, Clerk

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF COWLITZ

THE STATE OF WASHINGTON,

Petitioner,

vs.

INTERNATIONAL PAPER COMPANY,

Respondents.

No. **97 2 01088 9**
CONSENT DECREE

TABLE OF CONTENTS

15	I. <u>INTRODUCTION</u>	3
16	II. <u>JURISDICTION</u>	4
17	III. <u>PARTIES BOUND</u>	4
18	IV. <u>DEFINITIONS</u>	5
19	V. <u>STATEMENT OF FACTS</u>	9
20	VI. <u>WORK TO BE PERFORMED</u>	14
21	VII. <u>DESIGNATED PROJECT MANAGERS</u>	15
22	VIII. <u>PERFORMANCE</u>	16
23	IX. <u>ACCESS</u>	16
24	X. <u>SAMPLING, DATA REPORTING, AND AVAILABILITY</u>	17
25	XI. <u>PROGRESS REPORTS</u>	18
26	XII. <u>STIPULATED PENALTIES</u>	18
	XIII. <u>RETENTION OF RECORDS</u>	19

1	XIV. <u>TRANSFER OF INTEREST IN PROPERTY</u>	20
2	XV. <u>RESOLUTION OF DISPUTES</u>	20
3	XVI. <u>AMENDMENT OF CONSENT DECREE</u>	22
4	XVII. <u>EXTENSION OF SCHEDULE</u>	22
5	XVIII. <u>ENDANGERMENT</u>	23
6	XIX. <u>OTHER ACTIONS</u>	25
7	XX. <u>INDEMNIFICATION</u>	26
8	XXI. <u>COMPLIANCE WITH APPLICABLE LAWS</u>	26
9	XXII. <u>REMEDIAL AND INVESTIGATIVE COSTS</u>	27
10	XXIII. <u>IMPLEMENTATION OF REMEDIAL ACTION</u>	28
11	XXIV. <u>FIVE YEAR REVIEW</u>	28
12	XXV. <u>PUBLIC PARTICIPATION</u>	29
13	XXVI. <u>DURATION OF DECREE</u>	30
14	XXVII. <u>COVENANT NOT TO SUE</u>	30
15	XXVII. <u>CLAIMS AGAINST THE STATE</u>	32
16	XXX. <u>FINANCIAL ASSURANCE</u>	32
17	XXVIII. <u>EFFECTIVE DATE</u>	33
18	XXIX. <u>PUBLIC NOTICE AND WITHDRAWAL OF CONSENT</u>	33

19 EXHIBITS

- 20 Exhibit A: Facility Map
- 21 Exhibit B: Cleanup Action Plan — includes IC-RC ?
- 22 Exhibit C: List of Reports and Submittals

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

I. INTRODUCTION

A. In entering into this Consent Decree (Decree), the mutual objective of the Washington State Department of Ecology (Ecology), and the International Paper Company (International Paper) is to provide for remedial action at a facility where there has been a release or threatened release of dangerous constituents including dangerous waste and hazardous substances. This Decree requires International Paper to implement the Ecology-issued Cleanup Action Plan in accordance with its terms and conditions. Ecology has determined that this action is necessary to protect public health and the environment.

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

C. In signing this Decree, the parties agree to its entry and agree to be bound by its terms.

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

E. This Decree shall not be construed as proof of liability or responsibility for any releases of dangerous constituents including dangerous waste and hazardous substances or for the cost of remedial action nor an admission of any facts; however, International Paper agrees not to challenge the jurisdiction of Ecology in any proceeding to enforce this Decree.

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

II. JURISDICTION

1
2 A. This Court has jurisdiction over the subject matter and over the parties pursuant to
3 Chapter 70.105D RCW, the Model Toxics Control Act (MTCA).

4 B. Authority is conferred upon the Washington State Attorney General by RCW
5 70.105D.040(4)(a) to agree to a settlement with any potentially liable person if, after public notice and
6 hearing, Ecology finds the proposed settlement would lead to a more expeditious cleanup of hazardous
7 substances. RCW 70.105D.040(4)(b) requires that such a settlement be entered as a consent decree
8 issued by a court of competent jurisdiction.

9 C. Ecology has determined that a release or threatened release of dangerous constituents
10 including dangerous waste or hazardous substances has occurred at the facility which is the subject of
11 this Decree.

12 D. Ecology has given notice to International Paper, as set forth in RCW 70.105D.020(15),
13 of Ecology's determination that International Paper is a potentially liable person for the facility and that
14 there has been a release or threatened release of dangerous constituents including dangerous waste or
15 hazardous substances at the facility.

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

18 F. International Paper has agreed to undertake the actions specified in this Decree and
19 consents to the entry of this Decree under the MTCA.

III. PARTIES BOUND

21
22 This Decree shall apply to and be binding upon the signatories to this Decree (parties), their
23 successors and assigns. The undersigned representative of each party hereby certifies that he or she is
24 fully authorized to enter into this Decree and to execute and legally bind such party to comply with the
25 Decree. International Paper agrees to undertake all actions required by the terms and conditions of this
26 Decree and not to contest state jurisdiction regarding this Decree. No change in ownership or corporate

1 status shall alter the responsibility of International Paper to insure the completion of this Decree.

2 International Paper shall provide a copy of this Decree to all agents, contractors and subcontractors
3 retained to perform work required by this Decree and shall ensure that all work undertaken by such
4 contractors and subcontractors will be in compliance with this Decree.

5 **IV. DEFINITIONS**

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

8 A. Area of Concern (AOC) means any area of the facility, other than the thirty-four (34)
9 solid waste management units (SWMUs) identified by the U.S. Environmental Protection Agency (EPA)
10 in the 1991 Resource Conservation and Recovery Act (RCRA) Facility Assessment (RFA) report, where
11 a release of dangerous constituents (including dangerous waste and hazardous substances) has occurred,
12 is occurring, is suspected to have occurred, or threatens to occur, or has come to be located.

13 B. Cleanup Action Plan (CAP) means the document issued by Ecology under WAC 173-
14 340-360 which selects facility specific remedial measures and specifies cleanup standards (cleanup
15 levels, points of compliance and other requirements for the remedial measures).

16 C. Cleanup Standards means the standards promulgated under RCW 70.105D.030(2)(d) and
17 include (1) hazardous substance concentrations (cleanup levels) that protect human health and the
18 environment, (2) the location at the facility where those cleanup levels must be attained (points of
19 compliance), and (3) additional regulatory requirements that apply to a cleanup because of the type of
20 action and/or the location of the facility.

21 D. Consent Decree or Decree means this Decree executed pursuant to WAC 173-340-520.
22 The term includes the text of this Decree, all Attachments to this Decree, and all Ecology-approved
23 submittals required pursuant to this Decree. Decree Attachments and Ecology-approved submittals are
24 incorporated into this Decree by this reference and are enforceable parts of this Decree as if fully set
25 forth herein.
26

1 E. Corrective Action means any activities including investigations, studies,
2 characterizations and remedial measures, including actions taken pursuant to Chapter 70.105D RCW and
3 Chapter 173-340 WAC, undertaken in whole or in part to fulfill the requirements of WAC 173-303-646.

4 F. Dangerous Constituent means any constituent identified in WAC 173-303-9905 or 40
5 CFR Part 264 Appendix IX, any constituent which caused a waste to be listed or designated as dangerous
6 under the provisions of Chapter 173-303 WAC, and any constituent defined as a hazardous substance at
7 RCW 70.105D.020(7).

8 G. Dangerous Waste means any solid waste designated in WAC 173-303-070 through 173-
9 303-100 as dangerous or extremely hazardous or mixed waste. Dangerous wastes are considered
10 hazardous substances under RCW 70.105D.020(7).

11 H. Dangerous Waste Constituent means any constituent listed in WAC 173-303-9905 and
12 any other constituent that has caused a waste to be a dangerous waste under Chapter 173-303 WAC.

13 I. Dangerous Waste Management Unit (DWMU) is a contiguous area of land on or in
14 which dangerous waste is placed, or the largest area in which there is a significant likelihood of mixing
15 dangerous waste constituents in the same area, as defined in WAC 173-303-040.

16 J. Facility means the Dangerous Waste Management Unit (DWMU) owned and controlled
17 by International Paper located at 10 International Way, all property contiguous to the DWMU also
18 owned and controlled by International Paper, and all property, regardless of ownership or control, where
19 a release or threatened releases of dangerous constituents, including dangerous wastes and hazardous
20 substances, at or from these areas have come to be located. (See Exhibit A for facility map).

21 K. Feasibility Study (FS) and Focused Feasibility Study (FFS) means the investigation and
22 evaluation of potential remedial measures performed in accordance with the Feasibility Study (FS)
23 requirements of WAC 173-340-350 which includes the substantive requirements for a RCRA Corrective
24 Measures Study, and undertaken in whole or in part to fulfill the corrective action requirements of WAC
25 173-303-646.
26

1 L. Parties: Refers to the Washington State Department of Ecology and International Paper.

2 M. RCRA Facility Assessment (RFA) means the EPA-conducted investigation of releases
3 and potential releases at the facility and the information contained in the report entitled "RCRA
4 FACILITY ASSESSMENT, May, 1991" (1991 RFA Report). The 1991 RFA Report is incorporated into
5 this Decree by this reference as if fully set forth herein.

6 N. Release means any intentional or unintentional spilling, leaking, pouring, emitting,
7 emptying, discharging, injecting, pumping, escaping, leaching, dumping, or disposing of dangerous
8 waste or dangerous constituents into the environment. It also includes the abandonment or discarding of
9 barrels, containers, and other receptacles containing dangerous waste pursuant to RCW 70 105D.020(19).

10 O. Remedial Investigation (RI) means a facility wide investigation and characterization
11 performed in accordance with the requirements of Chapter 173-340 WAC which includes the substantive
12 requirements for a RCRA facility investigation, undertaken in whole or in part to fulfill the corrective
13 action requirements of WAC 173-303-646.

14 P. Remedial Measure means any measure or action to investigate, assess, control, prevent,
15 or mitigate releases and/or potential releases of dangerous constituents (including dangerous waste and
16 hazardous substances) reviewed and approved by Ecology for the facility and set forth in a facility
17 specific Cleanup Action Plan (CAP) prepared in compliance with the requirements of Chapter 173-340
18 WAC, including WAC 173-340-360. Remedial measures may include interim actions as defined by
19 Chapter 173-340 WAC. Interim actions will not necessarily be set forth in a facility specific CAP.

20 Q. Solid Waste Management Unit (SWMU) means any discernible location at the
21 dangerous waste management facility where solid wastes have been placed at any time, irrespective of
22 whether the location was intended for the management of solid or dangerous waste. Such locations
23 include any area at the dangerous waste management facility at which solid wastes, including spills, have
24 been routinely and systematically released, and include regulated units as defined by Chapter 173-303
25 WAC.
26

1 R. Treated Wood Products (TWP) Area means the site of the former wood treatment
2 facility at the southwestern corner of the International Paper facility, encompassing the retort building,
3 associated structures (e.g., tanks, sheds, wastewater treatment facilities), and the locations of the former
4 Recovery Ponds 1 and 2. The TWP area includes the following SWMUs previously identified by EPA in
5 the 1991 RFA Report:

<u>SWMU Number</u>	<u>SWMU Name</u>
6	
7 3	Infiltration Ditch
8 5	Boiler Blowdown Water Ditch
9 9	Retort Loadout Area
10 11	Storage Tank Off-load Area
11 12	Cylinder House Sumps and Basement
12 13	Creosote API Separator
13 14	Creosote API Separator
14 15	Recovery Tank
15 16	Recovery Tank
16 17	Penta API Separator
17 18	Nash Separator
18 19	Pipe from API Separator to Pond 1
19 20	Buried Pipe from Pond 1 to Pond 2
20 21	Recovery Pond 1
21 22	Recovery Pond 2
22 27	Storage Tanks
23 28	Work Tank Farm
24 31	Prill Shed
25	
26	

1 For the purposes of implementing the remediation described in this Consent Decree, all
2 contiguous areas associated with the TWP, including all the SWMUs identified above, will constitute
3 one dangerous waste management unit, thereby eliminating the need to comply with RCRA land ban
4 requirements.

5 **V. STATEMENT OF FACTS**

6 Ecology makes the following finding of facts without any express or implied admissions by
7 International Paper.

8 A. International Paper is and has been the owner and operator of the facility since on or
9 about 1956.

10 B. International Paper owned and operated the facility as a dangerous waste management
11 facility on or after November 19, 1980, the date which subjects facilities to RCRA permitting
12 requirements, including interim status requirements pursuant to Section 3005 of RCRA and
13 implementing regulations thereunder, and including authorized state regulations promulgated in Chapter
14 173-303 WAC.

15 C. On October 22, 1980, International Paper notified EPA of its dangerous waste
16 management activities. In the notification, International Paper identified itself as managing the
17 following dangerous wastes at the Longview facility:

- 18 • F001 and F002 (spent halogenated solvents)
- 19 • F003 and F005 (spent non-halogenated solvents)
- 20 • U239 (xylene)
- 21 • K001 (bottom sediment sludges from wastewater treatment for wood preserving processes
22 using creosote and pentachlorophenol)

23
24 D Pursuant to the October 22, 1980 notification, International Paper was issued
25 identification number WAD 010745917 by EPA.

1 E. On November 18, 1980, International Paper submitted Part A of the RCRA permit
2 application to EPA. On October 8, 1981, EPA notified International Paper that the facility had qualified
3 for interim status for the following waste types:

- 4 • K001 (bottom sediment sludges from wastewater treatment for wood preserving processes
5 using creosote and pentachlorophenol)
- 6 • F003 (non-halogenated solvents)
- 7 • U051 (creosote)
- 8 • U242 (warfarin)

9 The processes and design capacities were as follows:

<u>Process</u>	<u>Design Capacity</u>
D83 (Surface Impoundment)	300,000 gallons
S01 (Storage)	1,000 gallons

13 F. EPA prepared a RCRA Facility Assessment (RFA) dated May 1991 for the dangerous
14 waste management facility. The purpose of the 1991 RFA Report was to identify SWMUs, characterize
15 wastes managed at the SWMUs, and to assess the potential for releases of dangerous waste constituents.

16 G. Releases and/or potential releases of dangerous constituents including, but not limited to
17 creosote and pentachlorophenol from SWMUs and AOCs at the dangerous waste management facility
18 are documented in the 1991 RFA Report and by the RCRA Part B Post-closure Permit Application dated
19 January 1996.

21 H. Dangerous constituents including dangerous waste and hazardous substances have been
22 and may continue to be released from the dangerous waste management facility into the environment
23 including surface water drainage areas; groundwater beneath and beyond the dangerous waste
24 management facility; air; human work areas; and floral and faunal habitats.

25 I. Ecology issued Agreed Order No. DE 96HS-S437 on March 12, 1997, and required
26 International Paper to:

- 1 • Prepare a focused feasibility study for the treated wood products area;
- 2 • Recover non-aqueous phase liquids from existing wells;
- 3 • Excavate and dispose of contaminated soils from SWMU 9 (Retort Loadout Area), SWMU
- 4 30 (Solvent Tanks), and AOC 23 (Flakeboard Plant Sump);
- 5 • Prepare a Cleanup Action Plan for the treated wood products area and submit it for
- 6 Ecology's approval; and to
- 7 • Conduct a preliminary investigation and prepare a report on SWMU 6 (Site C).

8 J. Pursuant to the 1991 RFA Report and other information, Ecology identified, in Section
 9 III.7 of Agreed Order No. DE 96HS-S347, twenty SWMUs and one AOC at the facility as warranting
 10 further investigation. Those included the following:

11 SWMUs Within the Former TWP Area:

- 12 • SWMU 5 Boiler Blowdown
- 13 • SWMU 11 Storage Tank Off-load Area
- 14 • SWMU 12 Cylinder House Sumps and Basement
- 15 • SWMUs 13, 14, 15, 16, 17, and 18 Wastewater Treatment System
- 16 • SWMUs 21 and 22 Recovery Ponds 1 and 2
- 17 • SWMU 28 Work Tank Farm
- 18 • SWMU 31 Prill Shed

19 SWMUs and AOC Outside the Former TWP Area:

- 20 • SWMU 1 Perimeter Ditch
- 21 • SWMU 6 Site C
- 22 • SWMU 8 Drum Burial Area
- 23 • SWMU 9 Retort Loadout Area
- 24 • SWMU 10 Poleyard

- SWMU 26 Cabinet Factory Cleanup Temporary Storage
- SWMU 27 Storage Tanks
- SWMU 29 Elevated Diesel Fuel Tank
- SWMU 30 Solvent Tanks
- SWMU 32 Plywood Treatment Area
- SWMU 33 Flakeboard Plant
- SWMU 34 Cabinet Factory
- MIBK Tank
- Maintenance Shop

L. Ecology determined that investigation and remediation of the SWMUs within the former TWP area would be addressed most expeditiously by considering the various SWMUs as a dangerous waste management unit. The area containing those SWMUs has been the subject of investigations designed to assess the nature and extent of dangerous constituents in soil and groundwater. Corrective actions for all of the SWMUs within the former TWP area will be implemented through the remedial measures described in the CAP.

M. International Paper investigated the Perimeter Ditch (SWMU 1) in March and April 1996. On the basis of the report submitted by International Paper on that investigation in November 1996, Ecology has determined that remediation of SWMU 1 is necessary and has approved the remedial measures established for the Perimeter Ditch in the CAP.

N. International Paper investigated Site C (SWMU 6) in October 1996. On the basis of the report submitted by International Paper on that investigation in February 1997, Ecology has determined that institutional controls pertaining to the extraction of groundwater according to WAC 173-340-440 (i.e., deed restrictions) are necessary and has approved the deed restrictions established for Site C in the CAP.

VI. WORK TO BE PERFORMED

1 This Decree contains a program designed to protect public health, welfare and the environment
2 from the known release, or threatened release, of dangerous constituents including dangerous waste and
3 hazardous substances at, on, or from the facility.
4

5 A. International Paper shall implement the final Cleanup Action Plan (CAP) issued by
6 Ecology in accordance with the schedule therein, and shall operate, maintain, monitor, and report as
7 provided in the approved performance and compliance monitoring plan contained in the CAP. The CAP
8 includes:

- 9 • Construction of a subsurface low permeability barrier wall to physically limit migration of
10 dangerous constituents;
- 11 • Placement of a new engineered cover within the containment area that will tie into the
12 barrier wall and minimize infiltration of precipitation into the contained area;
- 13 • Removal of the nonaqueous phase liquids to the extent practicable within the containment
14 area;
- 15 • Treatment of dangerous constituents within the containment area by bioventing and air
16 sparging to reduce toxicity and mobility;
- 17 • Establishing institutional controls (i.e., deed restrictions) to limit intrusive activities in areas
18 of impacted soil and groundwater and to protect the containment and treatment systems; and
19
- 20 • Long-term groundwater monitoring to document progress in achieving cleanup goals.

21 B. International Paper shall implement remedial measures in the Perimeter Ditch (SWMU
22 1), according to the Ecology-approved CAP.

23 C. International Paper shall place institutional controls pertaining to the extraction of
24 groundwater according to WAC 173-340-449 (i.e., deed restrictions) on Site C (SWMU 6).

25 D. International Paper agrees not to perform any remedial actions outside the scope of this
26 Decree unless the parties agree to, and amend the scope of work to cover these actions. All work

1 conducted under this Decree shall be done in accordance with Chapter 173-340 WAC and WAC 173-
2 303-646 unless otherwise provided herein.

3 E. Once approved, or modified and approved in writing by Ecology, submittals are
4 incorporated by reference and become enforceable parts of this Decree as if fully set forth herein.

5 F. At that portion of the facility it owns and controls, International Paper shall notify
6 Ecology's project manager in writing of any newly-identified SWMU(s), newly-discovered releases from
7 known SWMU(s), and newly-discovered areas of concern at the facility no later than fifteen (15) days
8 after discovery, and shall investigate and report on these areas as directed by Ecology's project manager.
9 If required, the investigation (assessment) and reporting shall be done in accordance with Chapter 173-
10 340 WAC and WAC 173-303-646.

11 **VII. DESIGNATED PROJECT MANAGERS**

12 The project manager for Ecology is:

13 Name: Howard R. Steeley, PE

14 Address: Washington State Department of Ecology
15 Southwest Regional Office
16 PO Box 47775
Olympia, WA 98504-7775

Street Address:
300 Desmond Drive
Lacey, WA 98503

17 Telephone: (360) 407-6463

18 FAX: (360) 407-6305

E-Mail: hste461@ecy.wa.gov

19 The project manager for International Paper is:

20 Name: RueAnn Thomas

21 Address: International Paper Company
22 6400 Poplar Avenue, Tower II, 05-020
23 Memphis, TN 38197-0198

24 Telephone: (901) 763-6524

FAX: (901) 763-6939

25 E-mail: rueann.thomas@ipaper.com
26

Each project manager shall be responsible for overseeing the implementation of this Decree.

The Ecology project manager will be Ecology's designated representative for the facility. To the maximum extent possible, communications between Ecology and International Paper and all 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 managers. The project managers 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 managers may agree to minor modifications to the work to be performed without formal amendments to this Decree. Minor modifications will be documented in writing by Ecology

Any party may change its respective project manager. Written notification shall be given to the other parties at least ten (10) days prior to the change if possible.

VIII. PERFORMANCE

All work performed by the International Paper pursuant to this Decree shall be under the direction and supervision, as necessary, of a professional engineer or hydrogeologist, or equivalent, with experience and expertise in hazardous waste facility investigation and cleanup. All construction work shall be under the supervision of a professional engineer. International Paper shall notify Ecology in writing as to the identity of such engineer(s) or hydrogeologist(s), or others and of any contractors and subcontractors to be used in carrying out the terms of this Decree, in advance of their involvement at the facility.

International Paper shall provide seven (7) days notice to Ecology's project manager prior to conducting work activities that Ecology identifies on-site.

IX. ACCESS

Ecology or any Ecology-authorized representatives or EPA or EPA-authorized representatives shall have the authority to enter and freely move about that part of the facility that International Paper currently owns and controls at all reasonable times for the purposes of, among other things: inspecting

1 records, operation logs, and contracts with construction contractors related to the work being performed
2 pursuant to this Decree; reviewing International Paper's progress in carrying out the terms of this Decree;
3 conducting such tests or collecting such samples as Ecology may deem necessary; using a camera, sound
4 recording, or other documentary type equipment to record work done pursuant to this Decree; and
5 verifying the data submitted to Ecology by International Paper. All parties with access to the facility
6 pursuant to this paragraph shall comply with an approved health and safety plan.

7 **X. SAMPLING, DATA REPORTING, AND AVAILABILITY**

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

11 In accordance with WAC 173-340-840(5), environmental sampling data shall be submitted in a
12 format approved by Ecology. These submittals shall be provided to Ecology in accordance with Section
13 XI of this Decree.

14 If requested by Ecology, International Paper shall allow split or duplicate samples to be taken by
15 Ecology and/or its authorized representatives of any samples collected by International Paper pursuant to
16 the implementation of this Decree. International Paper shall notify Ecology seven (7) days in advance of
17 any sample collection at the facility. Ecology shall, upon request, allow split or duplicate samples to be
18 taken by International Paper or its authorized representatives of any samples collected by Ecology
19 pursuant to the implementation of this Decree provided it does not interfere with the Department's
20 sampling. Without limitation on Ecology's rights under Section IX, Ecology shall endeavor to notify
21 International Paper prior to any sample collection activity.
22
23
24
25
26

XI. PROGRESS REPORTS

1 International Paper shall submit to Ecology written quarterly progress reports which describe the
2 actions taken during the previous quarter to construct the containment/treatment system for the northern
3 portion of the former TWP area until submittal of the final construction report. The progress report shall
4 include the following:
5

6 A. A list of on-site activities that have taken place during the quarter;

7 B. Brief descriptions of any deviations from required tasks not otherwise documented in
8 project plans or amendment requests;

9 C. Description of all deviations from the schedule during the current quarter and any
10 planned deviations in the upcoming quarter;

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

13 E. A list of deliverables for the upcoming quarter if different from the schedule.

14 International Paper shall report on other actions taken to implement the requirements of this
15 Decree according to the schedule of submittals outlined in the performance and compliance monitoring
16 plan included in the Cleanup Action Plan. Data packages prepared by International Paper will be
17 included as part of draft or final reports. All progress reports shall be submitted by the fifteenth day of
18 the quarter in which they are due after the effective date of this Decree. Unless otherwise specified,
19 progress reports and any other documents submitted pursuant to this Decree shall be sent by certified
20 mail, return receipt requested, to Ecology's project manager.
21

XII. STIPULATED PENALTIES

22
23 A. For each day International Paper fails to comply with any time schedules contained
24 within Section VI of this Consent Decree, or any other time schedules approved or modified in writing
25 by Ecology, International Paper stipulates and agrees that Ecology may, at its discretion, assess a
26 stipulated penalty. The stipulated penalties to be assessed are no more than \$1,000 for the first day and

1 no more than \$2,000 for each additional day of noncompliance. Should a stipulated penalty be assessed
2 under this Part, the penalty shall accrue from the date on which the work was to have been performed, or
3 the submittal was to have been made, and shall cease to accrue on the date when International Paper
4 performs the required work or delivers the required submittal to Ecology. If imposed, all stipulated
5 penalties shall be payable within thirty (30) days of assessment to the Department of Ecology, Cashiering
6 Section, PO Box 5128, Lacey, WA 98503-0210. Stipulated penalties may not be appealed to the
7 Pollution Control Hearings Board. Any disputes arising over Ecology's issuance of a stipulated penalty
8 shall be addressed only under Section XV of this Consent Decree and shall be limited to whether the
9 violation occurred.

10 B. The stipulated penalties provisions of this Consent Decree do not preclude Ecology from
11 pursuing any other remedies or sanctions that may be available to Ecology based on International Paper's
12 failure to comply with provisions of applicable law, except that issuance of stipulated penalties pursuant
13 to this section shall preclude Ecology from issuing civil penalties under Chapter 70.105 RCW, or from
14 requesting a court to impose civil penalties under Chapter 70.105D RCW, based upon the same facts
15 underlying issuance of the stipulated penalty.

16 C. International Paper shall not be liable for payment under this Part if International Paper
17 has submitted to Ecology a timely request for an extension of schedule under Section XVII of this
18 Consent Decree and if Ecology has not denied the request, or if International Paper or Ecology has
19 instituted the dispute resolution procedure under Section XV of this Consent Decree, until the dispute is
20 resolved.
21

22 **XIII. RETENTION OF RECORDS**

23 International Paper shall preserve, during the pendency of this Decree and for ten (10) years
24 from the date of issuance by Ecology of written notification that all requirements of the Decree have
25 been satisfactorily completed, as provided in Section XXVI, all records, reports, documents, and
26 underlying data in its possession relevant to the implementation of this Decree and shall insert in

1 contracts with project contractors and subcontractors a similar record retention requirement. At the
2 conclusion of the project, the contractor or agents will return all relevant records to International Paper,
3 where such records will be retained by International Paper to meet the requirements of this paragraph.
4 Upon request of Ecology, International Paper shall make all non-archived records available to Ecology
5 and allow access for review. All archived records shall be made available to Ecology within a
6 reasonable period of time.

7 **XIV. TRANSFER OF INTEREST IN PROPERTY**

8 Prior to any voluntary conveyance or relinquishment of title, easement, leasehold, or other
9 interest in any portion of the facility, International Paper shall provide for continued operation and
10 maintenance of any containment system, treatment system, and monitoring system installed or
11 implemented pursuant to this Decree.

12 Prior to transfer of any legal or equitable interest in all or any portion of the property, and during
13 the effective period of this Decree, International Paper shall serve a copy of this Decree upon any
14 prospective purchaser, lessee, transferee, assignee, or other successor in interest of the property. Where
15 possible, International Paper will notify Ecology of any contemplated transfer at least ninety (90) days
16 prior to finalization of such transfer by submission of a revised Part A RCRA permit application and
17 updated ownership map. If the ninety day time period cannot be met, International Paper shall provide
18 notice as early as possible.

19 **XV. RESOLUTION OF DISPUTES**

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

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

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

4 (3) International Paper may then request Ecology management review of the decision. This
5 request shall be submitted in writing to the Hazardous Waste and Toxics Reduction Program Manager
6 (Program Manager) within seven (7) days of receipt of Ecology's project manager's decision.

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

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

16 C. The parties agree to utilize the dispute resolution process only in good faith and agree to
17 expedite, to the extent possible, the dispute resolution process whenever it is used. Where either party
18 utilizes the dispute resolution process in bad faith or for purposes of delay, the other party may seek
19 sanctions.
20

21 Implementation of these dispute resolution procedures shall not provide a basis for delay of any
22 activities required in this Decree, unless Ecology agrees in writing to a schedule extension or the Court
23 so orders.
24
25
26

1
2
3
4
5
6
7
8
9
10
11

XVI. AMENDMENT OF CONSENT DECREE

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

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

12
13
14
15
16
17
18
19
20
21
22

XVII. EXTENSION OF SCHEDULE

A. An extension of schedule shall be granted only when a request for an extension is submitted in a timely fashion, at least five (5) days prior to expiration of the deadline for which the extension is requested, unless otherwise approved by Ecology, and good cause exists for granting the extension. All extensions shall be requested in writing. The request shall specify the reason(s) the extension is needed.

An extension shall be granted only for such period of time as Ecology determines is reasonable under the circumstances. A requested extension shall not be effective until approved by Ecology or the Court. Ecology shall act upon any written request for extension in a timely fashion and shall not unreasonably deny such requests. It shall not be necessary to formally amend this Decree pursuant to Section XVI when a schedule extension is granted.

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

1 (1) Circumstances beyond the reasonable control and despite the due diligence of
2 International Paper including delays caused by unrelated third parties or Ecology, such as (but not
3 limited to) delays by Ecology in reviewing, approving, or modifying documents submitted by
4 International Paper; or

5 (2) Acts of God, including earthquake, fire, flood, blizzard, extreme temperatures, storm or
6 other severe weather conditions, or other unavoidable casualty; or

7 (3) Endangerment as described in Section XVIII.

8 However, neither increased costs of performance of the terms of the Decree nor changed
9 economic circumstances shall be considered circumstances beyond the reasonable control of
10 International Paper.

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

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

14 or

15 (2) Other circumstances deemed necessary, exceptional or extraordinary by Ecology; or

16 (3) Endangerment as described in Section XVIII.

17 In any of the three situations described above, Ecology may extend the schedule for a period
18 Ecology determines is reasonable under the circumstances. Extensions of more than ninety (90) days
19 may not be granted unless the public is given an opportunity to comment on the proposed extension.
20 Ecology shall give International Paper written notification in a timely fashion of any extensions granted
21 pursuant to this Decree.
22

23 XVIII. ENDANGERMENT

24 In the event Ecology determines that activities implementing or in compliance with this Decree,
25 or any other circumstances or activities, are creating or have the potential to create a threat to the health
26 or welfare of the people on the facility or in the surrounding area or to the environment, Ecology may

1 order International Paper to stop further implementation of this Decree for such period of time as needed
2 to abate the threat or may petition the Court for an order as appropriate. During any stoppage of work
3 under this section, the obligations of International Paper with respect to the work under this Decree
4 which is ordered to be stopped shall be suspended and the time periods for performance of that work, as
5 well as the time period for any other work dependent upon the work which is stopped, shall be extended,
6 pursuant to Section XVII of this Decree, for such period of time as Ecology determines is reasonable
7 under the circumstances.

8 In the event International Paper determines that activities undertaken in furtherance of this
9 Decree or any other circumstances or activities are creating a threat to the people on the facility or in the
10 surrounding area or to the environment, International Paper may stop implementation of this Decree for
11 such period of time necessary for Ecology to evaluate the situation and determine whether International
12 Paper should proceed with implementation of the Decree or whether the work stoppage should be
13 continued until the threat is abated. International Paper shall notify Ecology's project manager as soon as
14 possible, but no later than twenty-four (24) hours after such stoppage of work, and thereafter provide
15 Ecology with documentation of the basis for the work stoppage. If Ecology disagrees with the
16 International Paper's determination, it may order International Paper to resume implementation of this
17 Decree. If Ecology concurs with the work stoppage, International Paper's obligations shall be suspended
18 and the time period for performance of that work, as well as the time period for any other work
19 dependent upon the work which was stopped, shall be extended, pursuant to Section XVII of this Decree,
20 for such period of time as Ecology determines is reasonable under the circumstances. Any
21 disagreements pursuant to the clause shall be resolved through the dispute resolution procedures in
22 Section XV
23
24
25
26

XIX. OTHER ACTIONS

1 Ecology reserves its rights to institute remedial action(s) at the facility and subsequently pursue
2 cost recovery, and Ecology reserves its rights to issue orders and/or penalties or take any other
3 enforcement action pursuant to available statutory authority under the following circumstances:
4

5 (1) Where International Paper fails, after notice, to comply with any requirement of this
6 Decree;

7 (2) In the event or upon the discovery of a release or threatened release not previously
8 identified in reports or documentation prepared by the parties to this Decree and/or EPA;

9 (3) Upon Ecology's determination that action beyond the terms of this Decree is necessary to
10 abate an emergency situation which threatens public health or welfare or the environment; or

11 (4) Upon the occurrence or discovery of a release or threatened release beyond the scope of
12 this Decree for which Ecology has authority to perform any remedial action or to issue an order and/or
13 penalty, or to take any other enforcement action to address the situation. This Decree is limited in scope
14 to the geographic facility described in Exhibit A and to those dangerous constituents, including
15 dangerous wastes and hazardous substances as identified in reports and documentation submitted to
16 Ecology and/or EPA on behalf of International Paper.

17 Ecology reserves all rights regarding the injury to, destruction of, or loss of natural resources
18 resulting from the release or threatened release of hazardous substances from International Paper facility.
19 Ecology reserves the right to take any enforcement action whatsoever, including a cost recovery action,
20 against potentially liable persons not party to this Decree.
21

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

XX. INDEMNIFICATION

International Paper agrees to indemnify and save and hold the State of Washington, its employees, and agents harmless from any and all claims or causes of action for death or injuries to persons or for loss or damage to property arising from or on account of acts or omissions of International Paper, its officers, employees, agents, or contractors in entering into and implementing this Decree. However, International Paper shall not indemnify the State of Washington nor save nor hold its employees and agents harmless from any claims or causes of action arising out of the negligent acts or omissions of the State of Washington, or the employees or agents of the State, in implementing the activities pursuant to this Decree.

XXI. COMPLIANCE WITH APPLICABLE LAWS

A. All actions carried out by International Paper pursuant to this Decree 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 Decree that are known to be applicable at the time of entry of the Decree have been included in Exhibit B, the Cleanup Action Plan, and are binding and enforceable requirements of the Decree.

International Paper 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 Decree. In the event either International Paper or Ecology determines that additional permits or approvals addressed in RCW 70.105D.090(1) would otherwise be required for the remedial action under this Decree, it shall promptly notify the other party of this determination. Ecology shall determine whether Ecology or International Paper shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, International Paper shall promptly consult with the appropriate state and/or local

1 agencies and provide Ecology with written documentation from those agencies of the substantive
2 requirements those agencies believe are applicable to the remedial action. Ecology shall make the final
3 determination on the additional substantive requirements that must be met by International Paper and on
4 how International Paper must meet those requirements. Ecology shall inform International Paper in writing
5 of these requirements. Once established by Ecology, the additional requirements shall be enforceable
6 requirements of this Decree. International Paper shall not begin or continue the remedial action potentially
7 subject to the additional requirements until Ecology makes its final determination.

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

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

16 D. Because the facility which is the subject of this Consent Decree is a hazardous waste
17 treatment, storage, or disposal facility, many of the requirements of Chapter 70.105 RCW and Chapter
18 173-303 WAC are legally applicable to the facility. The Department may determine that other
19 provisions of Chapter 70.105 RCW and Chapter 173-303 constitute applicable requirements at the
20 facility in the future.

21 **XXII. REMEDIAL AND INVESTIGATIVE COSTS**

22
23 International Paper agrees to pay costs incurred by Ecology pursuant to this Decree. These costs
24 shall include work performed by Ecology or Ecology's contractors for or on the facility under Chapter
25 70.105D RCW both prior to and subsequent to the issuance of this Decree for investigations, remedial
26 actions, and Decree preparation, negotiations, oversight and administration. Ecology costs shall include

1 costs of direct activities and support costs of direct activities as defined in WAC 173-340-550(2).

2 International Paper agrees to pay the required amount within sixty (60) days of receiving from Ecology
3 an itemized statement of costs that includes a summary of costs incurred, an identification of involved
4 staff, and the amount of time spent by involved staff members on the project. A general statement of
5 work performed will be provided. Ecology will prepare itemized statements on a quarterly basis. Failure
6 to pay Ecology's costs within sixty (60) days of receipt of the itemized statement will result in interest
7 charges. Payments will be sent to the Department of Ecology, Cashiering Section, P.O. Box 5128,
8 Lacey, WA 98509-5128.

9 **XXIII. IMPLEMENTATION OF REMEDIAL ACTION**

10 If Ecology determines that International Paper has failed without good cause to implement the
11 remedial action, Ecology may, after notice to International Paper and after exhaustion of the dispute
12 resolution procedure if it has been instituted, perform any or all portions of the remedial action that
13 remain incomplete. If Ecology performs all or portions of the remedial action because of International
14 Paper's failure to comply with its obligations under this Decree, International Paper shall reimburse
15 Ecology for the costs of doing such work in accordance with Section XXII, provided that International
16 Paper is not obligated under this section to reimburse Ecology for costs incurred for work inconsistent
17 with or beyond the scope of this Decree.

18 **XXIV. FIVE YEAR REVIEW**

19 As remedial action, including ground water monitoring, continues at the facility, the parties
20 agree to review the progress of remedial action at the facility, and to review the data accumulated as a
21 result of facility monitoring as often as is necessary and appropriate under the circumstances. Every five
22 years, the parties shall meet to discuss the status of the facility and the need, if any, of further remedial
23 action at the facility. Ecology reserves the right to require further remedial action at the facility pursuant
24 to WAC 173-240-420. This provision shall remain in effect for the duration of the Decree.
25
26

XXV. PUBLIC PARTICIPATION

Ecology shall maintain the responsibility for public participation at the facility. However, International Paper shall cooperate with Ecology and, if agreed to by Ecology, shall:

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

B. Notify Ecology's project manager prior to the preparation of all press releases and fact sheets, and before major meetings with the interested public and local governments. Likewise, Ecology shall notify International Paper prior to the issuance of all press releases and fact sheets, and before major meetings with the interested public and local governments;

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

D. In cooperation with Ecology, arrange and/or continue information repositories to be located at:

Longview Public Library
1600 Louisiana Street
Longview WA 98632-2993
Telephone: (360) 577-3380

Department of Ecology
Southwest Regional Office
P.O. Box 47775
300 Desmond Drive SE
Olympia, WA 98504-7775
(360) 407-6300 (voice)
(360) 407-6306 (TDD)
e-mail hste461@ecy.wa.gov

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

At a minimum, copies of all public notices, fact sheets, and this Decree and amendments to this Decree shall be promptly placed in these repositories.

XXVI. DURATION OF DECREE

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

XXVII. COVENANT NOT TO SUE

Ecology has determined that the requirements set forth under this Decree are protective of human health and the environment and that compliance with this Decree fully satisfies International Paper's obligations under RCW 70.105D. Therefore, in consideration of International Paper's compliance with the terms and conditions of this Decree, Ecology covenants not to institute legal or administrative actions against International Paper regarding contamination remediated under Ecology oversight pursuant to this Decree or Agreed Order No. DE 96HS-S437 unless confirmational monitoring indicates that additional remedial actions are necessary at the facility to attain MTCA cleanup standards. Until cleanup standards are met at this facility, compliance with this Decree shall satisfy International Paper's cleanup obligations for the release or threatened release of dangerous constituents, including dangerous wastes and hazardous substances, covered by the terms of this Decree. Ecology has determined that the contribution protection afforded under RCW 70.105D.040(4)(d) shall apply to International Paper for only those SWMUs, AOCs, and dangerous constituents (including hazardous waste and hazardous substances), covered by the terms of this Covenant.

The terms and application of this Covenant are strictly limited to the SWMUs or AOCs investigated and/or remediated under Ecology oversight pursuant to Agreed Order No DE 96HS-S437 and this Decree. Remedial action at the facility involved work performed by International Paper on an

1 independent basis, under oversight by the United States Environmental Protection Agency (EPA), and
2 under oversight by Ecology. This Covenant Not To Sue applies only to areas in which investigation
3 and/or remediation was performed pursuant to this Decree or Agreed Order No. DE 96HS-S437 under
4 Ecology oversight and only to those dangerous constituents which are identified in Agreed Order No. DE
5 96HS-S437, the CAP, and in the documents referenced in Exhibit C that pertain to areas covered by this
6 covenant. The following areas, which are identified in Section V of this Decree, were investigated
7 and/or remediated under Ecology oversight and thus are covered by this Covenant:

8	SWMU 1	Perimeter Ditch
9	SWMU 6	Site C
10	SWMU 9	Retort Loadout Area
11	SWMU 10	Poleyard
12	SWMU 30	Solvent Tanks
13	AOC 23	Flakeboard Plan Sump

14 The remaining SWMUs or AOCs identified in Section V K. of this Decree were either
15 remediated on an independent basis or through EPA oversight. For these remaining SWMUs or AOCs,
16 Ecology has determined that no further action is required. However, they are not covered by this
17 Covenant Not To Sue.

18 A. Reopeners: Ecology specifically reserves the right to institute legal or administrative
19 action against International Paper seeking to require it to perform additional response actions at the
20 facility, and to pursue appropriate cost recovery in accordance with provisions set out in RCW
21 70.105D.050, under the following circumstances:

22 (1) Upon International Paper's failure to meet the requirements of this Decree, including,
23 but not limited to, failure of the remedial action to meet the cleanup standards identified in the Cleanup
24 Action Plan (Exhibit B), with the exception of the remedial actions required for the Perimeter Ditch
25 (SWMU 1). Once the Perimeter Ditch (SWMU 1) remediation has been performed pursuant to the CAP,
26

1 recontamination of the Perimeter Ditch waters or sediments by a party other than International Paper will
2 not trigger this reopener;

3 (2) Upon Ecology's Determination that action beyond the terms of this Decree is necessary
4 to abate an imminent and substantial endangerment to public health or welfare or the environment;

5 (3) In the event new information becomes available regarding factors previously unknown to
6 Ecology, including the nature or quantity of hazardous substances at the facility, and Ecology
7 determines, in light of this information, that further remedial action is necessary at the facility to protect
8 human health or the environment, and International Paper, after notice, fail to take the necessary action
9 within a reasonable time.

10 B. Applicability: Any Covenant Not to Sue concerning work performed under this Consent
11 Decree shall have no applicability whatsoever to:

12 (1) Criminal liability;

13 (2) Liability for damages to natural resources;

14 (3) Any Ecology action against potentially liable persons not a party to this Decree,
15 including cost recovery.

16 **XXVIII. CLAIMS AGAINST THE STATE**

17 International Paper hereby agrees that it will not seek to recover any costs incurred in
18 implementing the remedial action required by this Decree from the State of Washington or any of its
19 agencies; and further, that International Paper will make no claim against the State Toxics Control
20 Account or any Local Toxics Control Account for any costs incurred in implementing this Decree.
21 Except as provided above, however, International Paper expressly reserves its right to seek to recover
22 any costs incurred in complying with this Decree from any other potentially liable person.
23

24 **XXIX. FINANCIAL ASSURANCE**

25 International Paper shall establish and maintain financial assurance through the establishment
26 and funding of a trust fund or by a financial test, in the amount necessary to implement the Cleanup

1 Action Plan (CAP), as provided in WAC 173-340-440(6) and required by WAC 173-303-646.

2 International Paper shall provide Ecology's Project manager documentation of this financial assurance
3 within sixty (60) days of Ecology's issuance of the final CAP. International Paper shall adjust the
4 financial assurance coverage for changes in cost estimates and/or for inflation within thirty (30) days
5 after each anniversary of the date the preceding costs were first prepared and shall provide
6 documentation of the updated financial assurance to Ecology's project manager.

7 International Paper shall notify Ecology's Project Manager by certified mail of the
8 commencement of a voluntary or involuntary bankruptcy proceeding under Title 11, United States Code,
9 naming International Paper within ten (10) days after commencement of the proceeding. In the event of
10 bankruptcy of the trustee, or a suspension or revocation of the authority of the trustee institution to act as
11 a trustee, International Paper must establish financial assurance (trust fund) with another authorized
12 trustee institution within sixty (60) days after such an event.

13 **XXX. EFFECTIVE DATE**

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

15 **XXXI. PUBLIC NOTICE AND WITHDRAWAL OF CONSENT**

16 This Decree has been the subject of public notice and comment under RCW 70.105D.040(4)(a).

17 As a result of this process, Ecology has found that this Decree will lead to a more expeditious cleanup of
18 hazardous substances at the facility.

19 If the Court withholds or withdraws its consent to this Decree, it shall be null and void at the
20 option of any party and the accompanying Complaint shall be dismissed without costs and without
21 prejudice. In such an event, no party shall be bound by the requirements of this Decree.
22

SIGNED by the parties who also hereby waive further notice of presentation for entry by the

Court.

For DEPARTMENT OF ECOLOGY

Greg Sorlie 8/14/97
Date

GREG SORLIE
Manager
Hazardous Waste and
Toxics Reduction Program

Thomas C Morrill 8-15-97
Date

TOM MORRILL
Assistant Attorney General

For INTERNATIONAL PAPER COMPANY

Richard D Russell 7/7/97
Date

RICHARD D. RUSSELL
General Manager Pole and Piling

Thomas C Morrill 8-15-97
Date

BETH GINSBERG
Attorney for International Paper

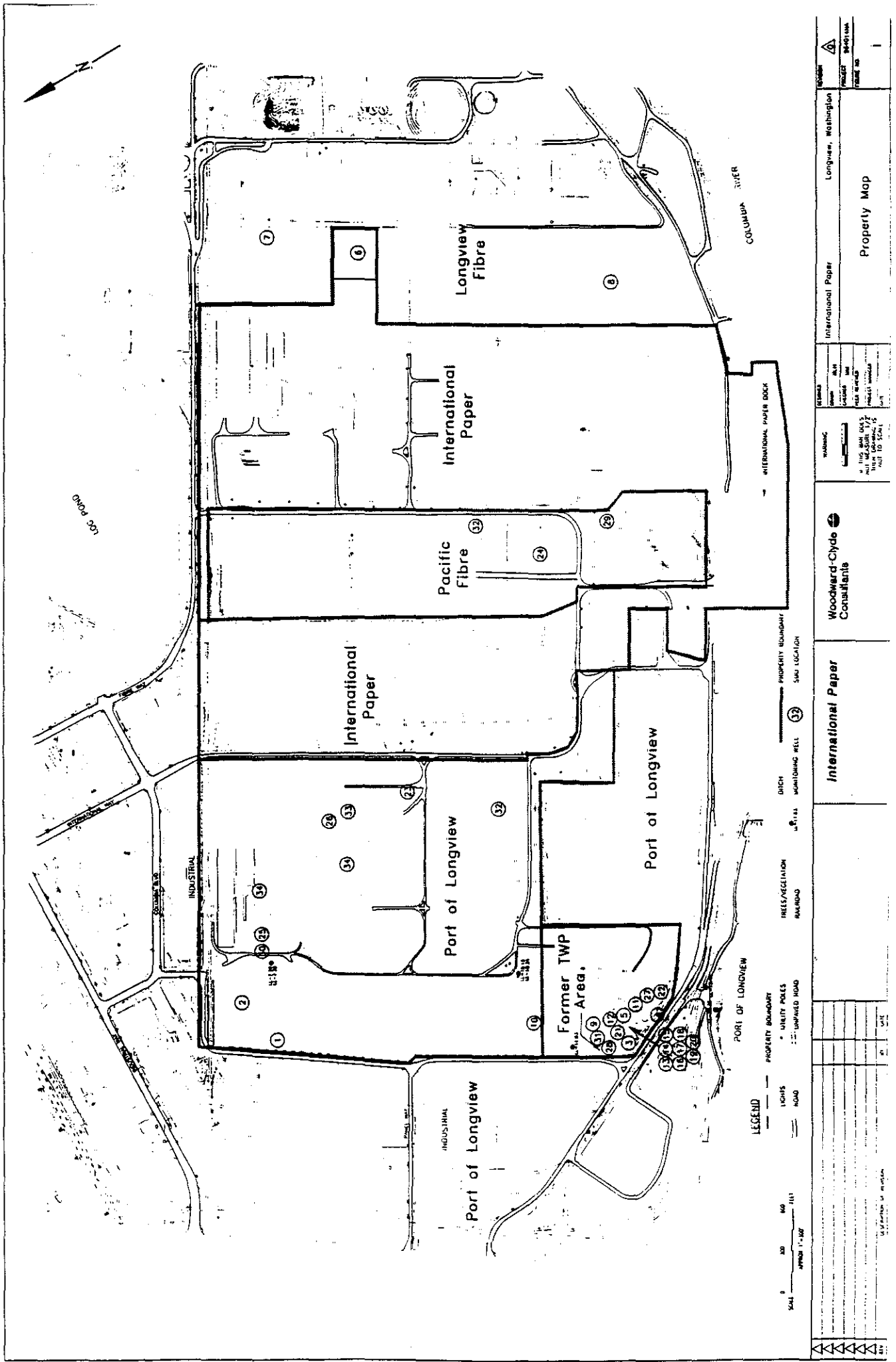
THIS DECREE is approved and IT IS SO ORDERED this _____ day of _____, 1997.

JAMES E. WARME

SUPERIOR COURT JUDGE
Cowlitz County Superior Court

f:\cases\tcm\intpaper\ipcd9c.doc

EXHIBIT A



<p>SCALE: 1" = 100'</p> <p>LEGEND:</p> <ul style="list-style-type: none"> PROPERTY BOUNDARY UTILITY POLES ROAD DITCH RECREATION RAILROAD PROPERTY BOUNDARY SEW LOCATION MONITORING WELL 		<p>INTERNATIONAL PAPER</p> <p>WOODWARD-CLYDE CONSULTANTS</p> <p>INTERNATIONAL PAPER</p>	<p>LONGVIEW, WASHINGTON</p> <p>PROPERTY MAP</p>
<p>DATE: 11/11/82</p> <p>BY: [Signature]</p>		<p>PROJECT NO. 11111</p> <p>DATE: 11/11/82</p>	<p>PROJECT: 11111</p> <p>DATE: 11/11/82</p>

EXHIBIT C

List of Reports and Submittals concerning SWMUs and AOCs:

- **Final Report, "International Paper MIBK Task Closure and Site Assessment Longview, Washington" March 1994.** This was an independent action performed by EMCON for International Paper in 1994.
- **Letter report to International Paper from Woodward-Clyde dated December 12, 1995,** describing the Phase III remedial actions on the 3.5-acre parcel (Maintenance building). The independent remedial action described in this report included removal of contaminated soil, which was disposed of at a non-hazardous waste landfill. **Letter report to Dave Bartus, EPA, regarding investigation and remediation at the elevated diesel fuel tank area (SWMU 29); February 6, 1996.** As documented in this report, contaminated surface soil at SWMU 29 was excavated and disposed of at Envirosafe Services' treatment, storage, and disposal facility in Boise, Idaho.
- **Letter report to Howard Steeley, Ecology, regarding investigations of the drum burial area (SWMU 8); September 6, 1996.** A response to Ecology's comments on this report was submitted by International Paper Company on February 27, 1997.
- **Final Report, "Investigation of the Poleyard (SWMU 10) at the International Paper Company Facility, Longview, Washington;" October 1996.** A response to Ecology's comments on this report was submitted by International Paper Company on April 13, 1997.
- **Final Report, "Investigation of the Perimeter Ditch (SWMU 1) at the International Paper Company Facility, Longview, Washington;" November 1996.** On the basis of information presented in this report, Ecology has determined that remedial measures are required for sediments within the perimeter ditch. International Paper Company is preparing a Cleanup Action Plan for remediation of the perimeter ditch that will be submitted to Ecology for review and approval. International Paper Company intends to implement the approved plan in cooperation with the Port of Longview. A letter including a technical report responding to Ecology's comments on the November 1996 report was submitted by International Paper Company on April 16, 1997.

- **Final Report, "Investigation and Remediation of the Solvent Tank Area (SWMU 30) at the International Paper Company Facility, Longview, Washington;" January 1997.** As documented in this report, contaminated surface soil at SWMU 30 was excavated and disposed of offsite at the Columbia Ridge landfill and recycling facility, a non-hazardous waste landfill in Arlington, Oregon. A letter responding to Ecology's comments on this report was submitted by International Paper Company on April 13, 1997.
- **Final Report, "Investigation and Remediation of Area of Concern (AOC) 23 at the International Paper Company Facility, Longview, Washington;" January 1997** As documented in this report, contaminated soil from within the sump at AOC 23 was excavated and disposed of offsite at the Columbia Ridge landfill and recycling facility, a non-hazardous waste landfill in Arlington, Oregon.
- **Final Report, "Investigation and Remediation of the Retort Loadout Area (SWMU 9) at the International Paper Company Facility, Longview, Washington;" February 1997.** As documented in this report, contaminated surface soil at SWMU 9 was excavated and disposed of offsite at Chem Waste Management Northwest's RCRA-permitted hazardous waste landfill in Arlington, Oregon. A response to Ecology's comments on this report was submitted by International Paper Company on June 6, 1997.
- **Final Report, "Investigation of Site C (SWMU 6) at the International Paper Company Facility, Longview, Washington;" February 1997.** A response to Ecology's comments was submitted by International Paper Company on June 5, 1997.
- **Attachment 3, Areas of Potential Concern, Select International Paper Company Property, Longview, Washington.** Submitted to Ecology by the Port of Longview (prepared by Landau Associates), June 13, 1996.
- **Table describing the status of the SWMUs.** Prepared by PTI and submitted to Ecology by International Paper at a September 13, 1996 meeting.
- **Letter report to Howard Steeley, Ecology, from International Paper dated October 25, 1996, regarding the October 8, 1996 site visit.** A review of the observations and decisions made during the October 8 site visit by Ecology, International Paper, Woodward-Clyde and PTI.