

6.4 Environmental Covenant

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199907260455
07/26/1999 11:33 AM Snohomish
P.0006 RECORDED County

RESTRICTIVE COVENANT

The property that is the subject of this Restrictive Covenant has been the subject of remedial action under Chapter 70.105D RCW. The work done to clean up the property (hereafter the "Cleanup Action") is described in the Consent Decree entered in State of Washington Department of Ecology v. Weyerhaeuser Company, Snohomish County Superior Court No. 98-2-08718-6 and in attachments to the Decree and in documents referenced in the Decree. This Restrictive Covenant is required by Ecology under Ecology's rule WAC 173-340-440 (1991 ed.) because the Cleanup Action on the Site resulted in residual soil concentrations of TPH above Ecology's Method A cleanup level, PCP, and CPAH which exceed Ecology's Method B cleanup levels for soils. The restrictive covenant is also required because the arsenic groundwater and soil contamination is addressed in the remedial action only within the containment area on Site.

The undersigned, Weyerhaeuser Company, is the fee owner of real property in the County of Snohomish, State of Washington (legal description attached), hereafter referred to as the "Mill E/Koppers Site". Weyerhaeuser Company makes the following declarations as to limitations, restrictions, and uses to which the Mill E/Koppers Site 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 Mill E/Koppers Site.

Section 1. No groundwater may be taken for domestic purposes from any well at the Mill E/Koppers Site.

Section 2. No residential development may take place on the Site.

Section 3. Any activity on the Mill E/Koppers Site that may interfere with the viability of the containment systems or containment of the hazardous substances on the Site is prohibited. Any activity on the Mill E/Koppers Site that may result in the release of a hazardous substance that was contained as part of the Cleanup or Interim Cleanup Action(s) is prohibited.

Section 4. Any development of the Mill E/Koppers Site shall ensure the containment of the hazardous substances that are exposed or ensure proper management and disposal. Ecology will receive notice of any development that may impact the contained hazardous substances at least 30 days prior to such development.

Section 5. The owner of the Mill E/Koppers Site must give written notice to the Department of Ecology, or to a successor agency, of the owner's intent to convey any interest in the Mill E/Koppers Site. No conveyance of title, easement, lease or other interest in the Mill E/Koppers Site shall be consummated by the owner without adequate and complete provision for the continued operation, maintenance and monitoring of the Cleanup Action.

Section 6. The owner of the Mill E/Koppers Site must notify and obtain approval from the Department of Ecology, or from a successor agency, prior to any use of the Mill E/Koppers

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Site that is inconsistent with the terms of this Restrictive Covenant. The Department of Ecology or its successor agency may approve such a use only after public notice and comment.

Section 7. The owner shall allow authorized representatives of the Department of Ecology, or of a successor agency, the right to enter the Mill E/Koppers Site at reasonable times for the purpose of evaluating compliance with the Cleanup Action Plan and the Consent Decree, to take samples, to inspect Cleanup Actions conducted at the Mill E/Koppers Site, and to inspect records that are related to the Cleanup Action.

Section 8. The owner of the Mill E/Koppers Site and the owner's assigns and successors in interest reserve the right under WAC 173-340-740 and WAC 173-340-440 (1991 ed.) to record an instrument which provides that this Restrictive Covenant shall no longer limit the use of the Mill E/Koppers Site or be of any further force or effect. However, such an instrument may be recorded only with the consent of the Department of Ecology, or successor agency. The Department of Ecology, or a successor agency may consent to the recording of such an instrument only after public notice and comment.

Executed as of the 15th day of July, 1999
Property Order: Weyerhaeuser
By Carl W. Geist, Jr.
Its Vice President, Pulp Business

Attachments:

Exhibit A-Legal Description of Property

STATE OF WASHINGTON

COUNTY OF KING

On this 15th day of JULY, 1999, before me, a Notary Public in and for the State of Washington, personally appeared CARL W. GEIST, JR I personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument, on oath state that he was authorized to execute the instrument, and acknowledged it as the VICE PRESIDENT of Weyerhaeuser to be the free and voluntary act and deed of said corporation for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

Mariel M. Olnon
NOTARY PUBLIC in and for the
State of Washington, residing
at KENT
My appointment expires 6-13-02
Print Name MARIEL M. OLNON

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7/14/99

APN 199907260455

FILED

DEC 1 1998

PAM L. DANIELS
COUNTY CLERK
Snohomish Co. Wash.

EXHIBIT A 98 2 08718 6

LEGAL DESCRIPTION

**Weyerhaeuser Mill E/Koppers Site
Everett, Washington**

WHEN RECORDED PLEASE
RETURN TO
WEYERHAEUSER COMPANY
LAND TITLE DEPT
PO BOX 2999
TACOMA, WA 98477-2999

ATN 199907260455

PD TRACT 11-3 LEGAL DESCRIPTION AFTER BOUNDARY LINE ADJUSTMENT

THAT PORTION OF GOVERNMENT LOT 7 AND THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 8, AND THAT PORTION OF GOVERNMENT LOT 9, SECTION 9, TOWNSHIP 29 NORTH, RANGE 5 EAST OF THE WILLAMETTE MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID GOVERNMENT LOT 9; THENCE NORTH 89° 12' 51" EAST, ALONG THE SOUTH LINE OF WILLAMETTE MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE POINT OF INTERSECTION OF THE SOUTH LINE OF SAID GOVERNMENT LOT 9, SECTION 9, WITH THE CENTER LINE OF THE ORIGINAL MAIN TRACK OF THE NORTHERN PACIFIC RAILWAY COMPANY, WHICH POINT BEARS NORTH 89° 12' 51" EAST A DISTANCE OF 67.76 FEET FROM THE SOUTHWEST CORNER OF SAID GOVERNMENT LOT 9, ALL AS SHOWN ON THAT CERTAIN SURVEY RECORDED IN VOLUME 37 OF SURVEYS, PAGES 196 THROUGH 206, INCLUSIVE, RECORDS OF SNOHOMISH COUNTY, WASHINGTON; THENCE NORTH 89° 12' 51" EAST, ALONG THE SOUTH LINE OF SAID GOVERNMENT LOT 9, A DISTANCE OF 21.17 FEET TO A POINT ON THE EAST LINE OF THE NORTHERN PACIFIC RAILWAY COMPANY 100 FOOT WIDE FORMER RIGHT OF WAY AS SHOWN ON SAID SURVEY, WHICH POINT IS THE TRUE POINT OF BEGINNING; THENCE NORTH 13° 57' 15" WEST, ALONG THE EAST LINE OF SAID RIGHT OF WAY, A DISTANCE OF 2364.81 FEET; THENCE ON A CURVE OF THE EAST LINE OF SAID RIGHT OF WAY, TO THE LEFT, HAVING A RADIUS OF 784.49 FEET, THROUGH A CENTRAL ANGLE OF 3° 41' 30", AN ARC DISTANCE OF 50.55 FEET TO A POINT ON THE SOUTH LINE OF THAT CERTAIN TRACT DESIGNATED AS PARCEL NO. 2 IN THAT DEED DATED DECEMBER 1, 1892, FROM EVERETT LAND COMPANY, TO THE FOOT SOUND REDUCTION COMPANY OF CLEVELAND, OHIO, AND RECORDED IN VOLUME 30 OF DEEDS AT PAGE 113 IN THE OFFICE OF THE AUDITOR OF SAID SNOHOMISH COUNTY; THENCE NORTH 56° 25' 52" EAST, ALONG SAID SOUTH LINE OF PARCEL 2, TO THE LEFT BANK OF THE SNOHOMISH RIVER; THENCE IN A SOUTHERLY DIRECTION, ALONG THE LEFT BANK OF THE SNOHOMISH RIVER TO A POINT ON THE SOUTH LINE OF SAID GOVERNMENT LOT 9; THENCE SOUTH 89° 12' 51" WEST, ALONG THE SOUTH LINE OF SAID GOVERNMENT LOT 9, A DISTANCE OF 840.76 FEET TO THE TRUE POINT OF BEGINNING.

EXCEPT ALL THAT PORTION OF SAID GOVERNMENT LOT 9, SECTION 9, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 9; THENCE NORTH 89° 12' 51" EAST, ALONG THE SOUTH LINE OF SAID SECTION 9, A DISTANCE OF 432.39 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 57° 55' 37" EAST A DISTANCE OF 134.97 FEET; THENCE NORTH 74° 24' 33" EAST A DISTANCE OF 114.14 FEET; THENCE NORTH 81° 31' 30" EAST A DISTANCE OF 104.50 FEET; THENCE NORTH 71° 02' 33" EAST A DISTANCE OF 64.27 FEET; THENCE SOUTH 75° 03' 41" EAST A DISTANCE OF 105.54 FEET TO A POINT ON THE LINE OF MEAN HIGH TIDE OF THE LEFT BANK OF THE SNOHOMISH RIVER, WHICH POINT IS ON THE FACE OF A TIMBER BULKHEAD; THENCE SOUTH 3° 44' 09" EAST, ALONG SAID LINE OF MEAN HIGH TIDE AND SAID TIMBER BULKHEAD A DISTANCE OF 104.83 FEET TO A POINT ON THE SOUTH LINE OF SAID SECTION 9; THENCE SOUTH 89° 12' 51" WEST, ALONG SAID SOUTH LINE OF SECTION 9, A DISTANCE OF 497.30 FEET TO THE TRUE POINT OF BEGINNING.

PD TRACT 11-4 LEGAL DESCRIPTION AFTER BOUNDARY LINE ADJUSTMENT

ALL THAT PORTION OF GOVERNMENT LOT 9, IN SECTION 9, TOWNSHIP 29 NORTH, RANGE 5 EAST OF THE WILLAMETTE MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID GOVERNMENT LOT 9; THENCE NORTH 89° 12' 51" EAST, ALONG THE SOUTH LINE OF SAID SECTION 9, A DISTANCE OF 432.39 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 57° 55' 37" EAST A DISTANCE OF 134.97 FEET; THENCE NORTH 74° 24' 33" EAST A DISTANCE OF 114.14 FEET; THENCE NORTH 81° 31' 30" EAST A DISTANCE OF 104.50 FEET; THENCE SOUTH 75° 03' 41" EAST A DISTANCE OF 105.54 FEET; THENCE SOUTH OF MEAN HIGH TIDE OF THE LEFT BANK OF THE SNOHOMISH RIVER, WHICH POINT IS ON THE FACE OF A TIMBER BULKHEAD; THENCE SOUTH 3° 44' 09" EAST, ALONG SAID LINE OF MEAN HIGH TIDE AND SAID TIMBER BULKHEAD A DISTANCE OF 104.83 FEET TO A POINT ON THE SOUTH LINE OF SAID SECTION 9; THENCE SOUTH 89° 12' 51" WEST, ALONG SAID SOUTH LINE OF SECTION 9, A DISTANCE OF 497.30 FEET TO THE TRUE POINT OF BEGINNING.

TOGETHER WITH THAT PORTION OF GOVERNMENT LOT 2 OF SECTION 16 IN TOWNSHIP 29 NORTH, RANGE 5 EAST OF THE WILLAMETTE MERIDIAN, BEING A PORTION OF LOTS "A", "B", "C" AND "D" OF THE FLAT OF SAID SUBDIVISION OF LOT 2 SEC.16 T.29 N.R.5 E.M.N., ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 5 OF PLATS, PAGE 16, RECORDS OF SNOHOMISH COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 2; THENCE NORTH 89° 12' 51" EAST, ALONG THE NORTH LINE OF SAID SECTION 16, A DISTANCE OF 432.39 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 57° 55' 37" WEST A DISTANCE OF 142.05 FEET; THENCE SOUTH 13° 56' 04" WEST A DISTANCE OF 117.99 FEET; THENCE SOUTH 27° 41' 21" 31' 15" EAST A DISTANCE OF 117.99 FEET; THENCE SOUTH 27° 41' 21" EAST A DISTANCE OF 715.71 FEET TO A POINT ON THE LINE OF MEAN HIGH TIDE OF THE LEFT BANK OF THE SNOHOMISH RIVER, WHICH POINT IS ON THE FACE OF A TIMBER BULKHEAD; THENCE IN A NORTHEASTLY DIRECTION, ALONG SAID LINE OF MEAN HIGH TIDE AND SAID TIMBER BULKHEAD ON THE FOLLOWING COURSES: NORTH 18° 40' 13" EAST 117.89 FEET; NORTH 18° 03' 42" EAST 84.09 FEET; NORTH 13° 48' 59" EAST 90.75 FEET; NORTH 8° 49' 41" EAST 63.37 FEET; NORTH 3° 57' 23" EAST 86.56 FEET; NORTH 3° 28' 47" EAST 85.16 FEET; NORTH 0° 17' 13" EAST 64.72 FEET; NORTH 3° 44' 09" WEST 50.28 FEET TO A POINT ON THE NORTH LINE OF SAID SECTION 16; THENCE SOUTH 89° 12' 51" WEST, ALONG SAID NORTH LINE OF SECTION 16, A DISTANCE OF 497.30 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 8.40 ACRES, MORE OR LESS.

Exhibit A

PD TRACT 11-4 LEGAL DESCRIPTION AFTER BOUNDARY LINE ADJUSTMENT

ALL THAT PORTION OF GOVERNMENT LOT 9, IN SECTION 9, TOWNSHIP 29 NORTH, RANGE 5 EAST OF THE WILLAMETTE MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID GOVERNMENT LOT 9, THENCE NORTH 89° 12' 51" EAST, ALONG THE SOUTH LINE OF SAID SECTION 9, A DISTANCE OF 432.39 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 57° 55' 37" EAST A DISTANCE OF 134.97 FEET; THENCE NORTH 74° 24' 33" EAST A DISTANCE OF 114.14 FEET; THENCE NORTH 81° 31' 30" EAST A DISTANCE OF 104.50 FEET; THENCE NORTH 71° 02' 33" EAST A DISTANCE OF 64.77 FEET; THENCE SOUTH 75° 03' 41" EAST A DISTANCE OF 105.54 FEET TO A POINT ON THE LINE OF MEAN HIGH TIDE OF THE LEFT BANK OF THE SNOHOMISH RIVER, WHICH POINT IS ON THE FACE OF A TIMBER BULKHEAD, THENCE SOUTH 09° 09' EAST, ALONG SAID LINE OF MEAN HIGH TIDE AND SAID TIMBER BULKHEAD A DISTANCE OF 104.83 FEET TO A POINT ON THE SOUTH LINE OF SAID SECTION 9; THENCE SOUTH 89° 12' 51" WEST, ALONG SAID SOUTH LINE OF SECTION 9, A DISTANCE OF 497.30 FEET TO THE TRUE POINT OF BEGINNING. TOGETHER WITH THAT PORTION OF GOVERNMENT LOT 2 OF SECTION 16 IN TOWNSHIP 29 NORTH, RANGE 5 EAST OF THE WILLAMETTE MERIDIAN, BEING A PORTION OF LOTS "A", "B", "C" AND "D" OF THE FLAT OF SUBDIVISION OF LOT 2 SEC. 16 T.29 N.R.5 E.W.M., ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 5 OF PLATS, PAGE 16, RECORDS OF SNOHOMISH COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 2; THENCE NORTH 12° 56' 04" EAST, ALONG THE NORTH LINE OF SAID SECTION 16, A DISTANCE OF 432.39 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 57° 55' 37" WEST A DISTANCE OF 142.05 FEET; THENCE SOUTH 31° 15' EAST A DISTANCE OF 117.99 FEET; THENCE SOUTH 15' 12° 56' 04" WEST A DISTANCE OF 142.05 FEET; THENCE SOUTH 15' 31° 15' EAST A DISTANCE OF 117.99 FEET; THENCE SOUTH 27° 44' 21" EAST A DISTANCE OF 715.71 FEET TO A POINT ON THE LINE OF MEAN HIGH TIDE OF THE LEFT BANK OF THE SNOHOMISH RIVER, WHICH POINT IS ON THE FACE OF A TIMBER BULKHEAD, THENCE IN A NORTHERLY DIRECTION, ALONG SAID LINE OF MEAN HIGH TIDE AND SAID TIMBER BULKHEAD ON THE FOLLOWING COURSES: NORTH 18° 49' 16" EAST 417.89 FEET, NORTH 16° 03' 42" EAST 84.09 FEET, NORTH 13° 24' 08" EAST 90.75 FEET, NORTH 8° 49' 41" EAST 63.97 FEET, NORTH 5° 57' 23" EAST 86.56 FEET, NORTH 3° 28' 47" EAST 85.16 FEET, NORTH 0° 17' 19" EAST 64.72 FEET, NORTH 3° 44' 09" WEST 50.28 FEET TO A POINT ON THE NORTH LINE OF SAID SECTION 16; THENCE SOUTH 89° 12' 51" WEST, ALONG SAID SOUTH LINE OF SECTION 16, A DISTANCE OF 497.30 FEET TO THE TRUE POINT OF BEGINNING. CONTAINING 8.40 ACRES, MORE OR LESS.

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PD TRACT 25 LEGAL DESCRIPTION AFTER BOUNDARY LINE ADJUSTMENT

THAT PORTION OF GOVERNMENT LOT 2 OF SECTION 16 IN TOWNSHIP 29 NORTH, RANGE 5 EAST OF THE WILLAMETTE MERIDIAN, DESCRIBED AS FOLLOWS: LOT 2 OF THE SUPPLEMENTAL PLAT OF THE SUBDIVISION OF LOT 2, SECTION 16, TOWNSHIP 29 NORTH, RANGE 5 EAST OF THE WILLAMETTE MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE COMMISSIONER OF PUBLIC LANDS AT OLYMPIA, WASHINGTON, "A", "B", "C", "D" AND "E", FLAT OF SUBDIVISION OF LOT 2 SEC. 16 T.29 N.R.5 E.W.M., ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 5 OF PLATS AT PAGE 16, RECORDS OF SNOHOMISH COUNTY, WASHINGTON, BEING A SUBDIVISION OF SAID GOVERNMENT LOT 2. EXCEPT THEREFROM THAT CERTAIN 100 FOOT WIDE RIGHT OF WAY CONVEYED BY WEYERHAEUSER LUMBER COMPANY TO NORTHERN PACIFIC RAILWAY COMPANY BY DEED DATED MAY 8, 1915, AND RECORDED SEPTEMBER 23, 1915, UNDER AUDITOR'S FILE NUMBER 214488, AND FILED IN VOLUME 167 OF DEEDS AT PAGES 133 AND 134, RECORDS OF SAID COUNTY, ALSO EXCEPT THAT PORTION THEREOF DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 2; THENCE NORTH 89° 12' 51" EAST, ALONG THE NORTH LINE OF SAID SECTION 16 A DISTANCE OF 432.39 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 57° 55' 37" WEST A DISTANCE OF 142.05 FEET; THENCE SOUTH 31° 15' EAST A DISTANCE OF 117.99 FEET; THENCE SOUTH 15' 12° 56' 04" WEST A DISTANCE OF 142.05 FEET; THENCE SOUTH 15' 31° 15' EAST A DISTANCE OF 117.99 FEET; THENCE SOUTH 27° 44' 21" EAST A DISTANCE OF 715.71 FEET TO A POINT ON THE LINE OF MEAN HIGH TIDE OF THE LEFT BANK OF THE SNOHOMISH RIVER, WHICH POINT IS ON THE FACE OF A TIMBER BULKHEAD, THENCE IN A NORTHERLY DIRECTION, ALONG SAID LINE OF MEAN HIGH TIDE AND SAID TIMBER BULKHEAD ON THE FOLLOWING COURSES: NORTH 18° 49' 16" EAST 417.89 FEET, NORTH 16° 03' 42" EAST 84.09 FEET, NORTH 13° 24' 08" EAST 90.75 FEET, NORTH 8° 49' 41" EAST 63.97 FEET, NORTH 5° 57' 23" EAST 86.56 FEET, NORTH 3° 28' 47" EAST 85.16 FEET, NORTH 0° 17' 19" EAST 64.72 FEET, NORTH 3° 44' 09" WEST 50.28 FEET TO A POINT ON THE NORTH LINE OF SAID SECTION 16; THENCE SOUTH 89° 12' 51" WEST, ALONG SAID NORTH LINE OF SECTION 16, A DISTANCE OF 497.30 FEET TO THE TRUE POINT OF BEGINNING. CONTAINING 16.35 ACRES, MORE OR LESS.

Exhibit A

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