



lead, and zinc which were measured at levels up to 1,980, 410, 310, and 500 ug/l, respectively. Marine acute ambient water quality criteria for arsenic, copper, lead, and zinc are 69, 3, 220, and 95 ug/l, respectively. The study concluded that the arsenic, copper, lead, and zinc in runoff from the log sort yard were primarily from the slag present on the yard surface (Norton and Johnson, 1985).

4. An Ecology Order was issued on June 30, 1987, under Chapter 90.48 RCW which required a site investigation and was subsequently amended to also require a ground water investigation and feasibility study (FS). The site investigation was conducted by Louisiana-Pacific Corporation's contractor CH2M-Hill in 1987. This study also found elevated levels of arsenic, copper, lead, and zinc in surface water runoff which was measured at concentrations up to 3,850, 1,020, 72, and 1,800 ug/l, respectively. Contaminant concentrations in on-site soil were also measured as part of this study. Arsenic, copper, lead, and zinc concentrations in soil were measured at levels up to 508, 1,020, 505, and 1,160 mg/kg, respectively (CH2M-Hill, 1987).

5. The required ground water investigation was also conducted by Louisiana-Pacific Corporation's contractor CH2M-Hill in 1988. Results from this ground water investigation showed that concentrations of arsenic, copper, lead, and zinc in filtered ground water samples were generally below marine chronic ambient water quality criteria (CH2M-Hill, 1988).

6. The FS, dated April 1989, was prepared by Louisiana-Pacific

Corporation. Several cleanup alternatives for the site were examined in the FS. An addendum to this FS, dated June 21, 1989, was prepared by Ecology. The addendum contained Ecology's response to the FS; it examined an additional cleanup alternative and provided Ecology's preferred cleanup alternative and justification for this selection.

7. On May 30, 1990, Ecology issued Remedial Action Order No. DE 90-S170 to Louisiana-Pacific Corporation pursuant to RCW 70.105D.050(1). This order required Louisiana-Pacific Corporation to evaluate the expected effectiveness of capping as a cleanup technology, to conduct subgrade testing of the site, and to prepare a preliminary cap design. Louisiana-Pacific complied with this order and submitted the required reports in July and October, 1990.

8. A draft Cleanup Action Plan (CAP) was issued in September 1992 by Ecology. The CAP was subject to full public review per WAC 173-340-600. A final CAP is included in this Order (Exhibit A) and includes the selected cleanup action for implementation at the Louisiana-Pacific Site and sets cleanup standards for the site soil and ground water.

### III.

#### Ecology Determinations

1. The Louisiana-Pacific Corporation is an "owner or operator" as defined by RCW 70.105D.020(6) of a "facility" as defined in RCW 70.105D.020(3).

2. The facility is known as the Louisiana-Pacific Tacoma log

sort yard and is located at 3701 Taylor Way, Tacoma, Washington.

3. The substances found at the facility as described above are "hazardous substances" as defined at RCW 70.105D.020(5).

4. Based on the presence of these hazardous substances at the facility and all factors known to the Department, there is a release or threatened release of hazardous substances from the facility, as defined at RCW 70.105D.020(10).

5. By letter dated July 7, 1989, Ecology notified Louisiana-Pacific Corporation of its status as a "potentially liable person" under RCW 70.105D.040 after notice and opportunity for comment.

6. Pursuant to RCW 70.105D.030(1) and 70.105D.050, the Department may require potentially liable persons to investigate or conduct other remedial actions with respect to the release or threatened release of hazardous substances, whenever it believes such action to be in the public interest.

7. The Louisiana-Pacific Tacoma log sort yard is located within the boundaries of the federal Commencement Bay Nearshore/Tideflats (CB/NT) Superfund site, and has been identified as a source of contamination to the CB/NT Superfund site.

8. Based on the foregoing facts, Ecology believes the remedial action required by this Order is in the public interest.

IV.

Work to be Performed

Based on the foregoing Facts and Determinations, it is hereby ordered that Louisiana-Pacific Corporation take the following remedial actions and that these actions be conducted in accordance with Chapter 173-340 WAC unless otherwise specifically provided for herein.

1. Louisiana-Pacific Corporation is required to perform the remedial actions specified in detail in the Final Cleanup Action Plan (Exhibit A), and the Scope of Work (Exhibit B). These exhibits are incorporated by reference and are integral and enforceable parts of this order. These requirements include:

- A. Installation and maintenance of a cap over the site.
- B. Installation and maintenance of a runoff collection system which is designed to reduce the movement of sediment and oil across the site.
- C. Installation, operation, and maintenance of a sedimentation basin or comparable treatment unit in order to provide treatment of storm water runoff which discharges from the site.
- D. Installation, operation, and maintenance of an oil/water separator or comparable treatment unit in order to provide treatment of storm water runoff which discharges from the site.
- E. Implementation of Best Management Practices (BMPs)

which shall include, at a minimum, regular sweeping of bark and wood waste debris; cleaning and maintenance of the oil/water separator and the sedimentation basin or comparable treatment units; cleaning of sediment accumulation in sumps and in depressions adjacent to sumps; and removal of oil from sumps.

F. Placement of land use restrictions on the property deed to prohibit disturbance of the cap and exposure to contaminated soil/slag under the cap.

2. Louisiana-Pacific Corporation shall provide the deliverables as described in the Scope of Work (Exhibit B) in accordance with the schedule contained therein.

3. Louisiana-Pacific Corporation shall submit monthly progress reports to Ecology by the tenth day of each month. These reports shall detail the work performed pursuant to this order and specify any deviations from the schedule of deliverables outlined in 2. above along with a plan of how the project will be brought back on schedule.

V.

Terms and Conditions of Order

1. Definitions.

Unless otherwise specified, the definitions set forth in Ch. 70.105D RCW and Ch. 173-340 WAC shall control the meanings of the terms used in this Order.

2. Public Notice.

RCW 70.105D.030(2)(a) requires that, at a minimum, this Order be subject to concurrent public notice. Ecology shall be responsible for providing such public notice and reserves the right to modify or withdraw any provisions of this Order should public comment disclose facts or considerations which indicate to Ecology that the Order is inadequate or improper in any respect.

3. Remedial Action Costs.

Louisiana-Pacific Corporation shall pay to Ecology costs incurred by Ecology pursuant to this Order. These costs shall include work performed by Ecology or its contractors for investigations, remedial actions, and Order preparation, oversight and administration. Ecology costs shall include costs of direct activities; e.g., employee salary, laboratory costs, travel costs, contractor fees, and employee benefit packages; and agency indirect costs of direct activities.

Louisiana-Pacific Corporation shall pay the required amount within 90 days of receiving from Ecology an itemized statement of costs that includes a summary of costs incurred, an identification of involved staff, and the amount of time spent by involved staff members on the project. A general description of work performed will be provided upon request. Itemized statements shall be prepared quarterly. Failure to pay Ecology's costs within 90 days of receipt of the itemized statement of costs will result in interest charges.

4. Designated Project Coordinators.

The project coordinator for Ecology is:

Garin Schriever  
7272 Cleanwater Lane  
P.O. Box 47775  
Olympia, WA 98504-7775

The project coordinator for Louisiana-Pacific is:

Bert Krages  
111 SW Fifth Avenue  
Portland, OR 97204

The project coordinator(s) shall be responsible for overseeing the implementation of this Order. To the maximum extent possible, communications between Ecology and Louisiana-Pacific Corporation, and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order, shall be directed through the project coordinator(s). Should Ecology or Louisiana-Pacific Corporation change project coordinator(s), written notification shall be provided to Ecology or Louisiana-Pacific Corporation at least ten (10) calendar days prior to the change.

5. Performance. All work performed pursuant to this Order shall be under the direction and supervision, as necessary, of a professional engineer or hydrogeologist, or similar expert, with appropriate training, experience, and expertise in hazardous waste site investigation and cleanup.

Louisiana-Pacific Corporation shall notify Ecology as to the identity of



such engineer(s) or hydrogeologist(s), and of any contractors and subcontractors to be used in carrying out the terms of this Order, in advance of their involvement at the Site. Louisiana-Pacific Corporation shall provide a copy of this Order to all agents, contractors, and subcontractors retained to perform work required by this Order and shall ensure that all work undertaken by such agents, contractors, and subcontractors will be in compliance with this Order.

Except when necessary to abate an emergency situation, Louisiana-Pacific Corporation shall not perform any remedial actions at the Louisiana-Pacific site outside that required by this Order unless Ecology concurs, in writing, with such additional remedial actions.

WAC 173-340-400(7)(b)(i) requires that "construction" performed on the Site must be under the supervision of a professional engineer registered in Washington.

6. Access.

Ecology or any Ecology authorized representative shall have the authority to enter and freely move about all property at the Site at all reasonable times for the purposes of, inter alia: inspecting records, operation logs, and contracts related to the work being performed pursuant to this Order; reviewing the progress in carrying out the terms of this Order; conducting such tests or collecting samples as Ecology or the project coordinator may deem necessary; using a camera, sound recording, or other documentary type equipment to record work done pursuant to this Order; and verifying the data submitted to Ecology by

Louisiana-Pacific Corporation. When entering the Site under Ch. 70.105D RCW, Ecology shall provide reasonable notice prior to entering the Site unless an emergency prevents notice. Ecology shall allow split or replicate samples to be taken by Louisiana-Pacific Corporation during an inspection unless doing so would interfere with Ecology's sampling. Louisiana-Pacific Corporation shall allow split or replicate samples to be taken by Ecology and shall provide Ecology seven (7) days notice before any sampling activity.

7. Public Participation.

Louisiana-Pacific Corporation shall prepare and/or update a public participation plan for the Site. Ecology shall maintain the responsibility for public participation at the Site.

Louisiana-Pacific Corporation shall help coordinate and implement public participation for the Site.

8. Retention of Records.

Louisiana-Pacific Corporation shall preserve in a readily retrievable fashion, during the pendency of this Order and for ten (10) years from the date of completion of the work performed pursuant to this Order, all records, reports, documents, and underlying data in its possession relevant to this Order. Should any portion of the work performed hereunder be undertaken through contractors or agents of Louisiana-Pacific Corporation, a record retention requirement meeting the terms of this paragraph shall be required of such contractors and/or agents.

9. Dispute Resolution.

Louisiana-Pacific Corporation may request Ecology to resolve factual or technical disputes which may arise during the implementation of this Order. Such request shall be in writing and directed to the signatory, or his/her successor(s), of this Order. Ecology resolution of the dispute shall be binding and final. Louisiana-Pacific Corporation is not relieved of any requirement of this Order during the pendency of the dispute and remains responsible for timely compliance with the terms of the Order unless otherwise provided by Ecology in writing.

10. Reservation of Rights.

Ecology reserves all rights to issue additional orders or take any action authorized by law in the event or upon the discovery of a release or threatened release of hazardous substances not addressed by this Order, upon discovery of any factors not known at the time of issuance of this Order, in order to abate an emergency, or under any other circumstances deemed appropriate by Ecology.

Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting from the release or threatened release of hazardous substances from the Louisiana-Pacific site.

In the event Ecology determines that conditions at the Site are creating or have the potential to create a danger to the health or welfare of the people on the Site or in the surrounding area or to the environment, Ecology may Order Louisiana-Pacific Corporation to stop

further implementation of this Order for such period of time as needed to abate the danger.

11. Transference of Property.

No voluntary or involuntary conveyance or relinquishment of title, easement, leasehold, or other interest in any portion of the Site shall be consummated by Louisiana-Pacific Corporation without provision for continued implementation of all requirements of this Order and implementation of any remedial actions found to be necessary as a result of this Order.

Prior to transfer of any legal or equitable interest Louisiana-Pacific Corporation may have in the Site or any portions thereof, Louisiana-Pacific Corporation shall serve a copy of this Order upon any prospective purchaser, lessee, transferee, assignee, or other successor in such interest. At least thirty (30) days prior to finalization of any transfer, Louisiana-Pacific Corporation shall notify Ecology of the contemplated transfer.

12. Compliance With Other Applicable Laws.

All actions carried out by Louisiana-Pacific Corporation pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements.

VI.

Satisfaction of this Order

The provisions of this Order shall be deemed satisfied upon

Louisiana-Pacific Corporation's receipt of written notification from Ecology that Louisiana-Pacific Corporation has completed the remedial activity required by this Order, as amended by any modifications, and that all other provisions of this Order have been complied with.

VII.

Enforcement

1. Pursuant to RCW 70.105D.050, this Order may be enforced as follows:
  - A. The Attorney General may bring an action to enforce this Order in a state or federal court.
  - B. The Attorney General may seek, by filing an action, if necessary, to recover amounts spent by Ecology for investigative and remedial actions and orders related to the Site.
  - C. In the event Louisiana-Pacific Corporation refuses, without sufficient cause, to comply with any term of this Order, Louisiana-Pacific Corporation will be liable for:
    - (1) up to three times the amount of any costs incurred by the state of Washington as a result of its refusal to comply; and
    - (2) civil penalties of up to \$25,000 per day for each day it refuses to comply.
  - D. This Order is not appealable to the Washington Pollution Control Hearings Board. This Order may be reviewed only as provided under RCW 70.105D.060.

Effective date of this Order: 12/21/93

Megan White  
Megan White, P.E.  
Southwest Region Supervisor  
Toxics Cleanup Program