Appendix A.

2002 Interim Actions Final Report

Agreed Order

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

In the Matter of Remedial Action by:	)	
	)	
	)	AGREED ORDER
Rayonier, Inc.	)	
Port Angeles Mill Site	)	No. DE 02SWFAPST-4571
700 North Ennis Street	)	
Port Angeles, WA 98362	)	

TO: Mr. Dana Dolloff
Director, Environmental Affairs
Rayonier, Inc.
50 N. Laura Street
Jacksonville, FL 32202-3614

I.

Jurisdiction

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

II.

Findings of Fact

The Department of Ecology ("Ecology") makes the following Findings of Fact, without admission of such facts by Rayonier, Inc. ("Rayonier");

1. The Port Angeles Mill property ("Site") is owned by Rayonier and is located at 700 North Ennis Street, Port Angeles, Washington 98362. Because of Rayonier's ownership

of the site, Rayonier is a Potentially Liable Person (PLP) as defined in RCW 70.105D.020 (16).

2. Rayonier operated a dissolving sulfite pulp mill on the Site from 1930 until early 1997 when Rayonier closed the mill and dismantled the mill buildings.

3. In 1997 and 1998, the U.S. EPA, through their contractor, Ecology and Environment, Inc., conducted an Expanded Site Inspection (ESI) at the Site. This investigation included sampling of upland soils, groundwater, freshwater sediments and marine sediments. A report from this investigation entitled, *Rayonier Pulp Mill Expanded Site Inspection TDD: 97-06-0010*, was completed in October 1998.

4. The U.S. EPA's ESI Report identified areas of marine sediment, soil and groundwater contamination that exceed applicable state criteria for the protection of human health and the environment on and adjacent to the Site.

III.

Ecology Determinations

1. Rayonier is an "owner or operator" as defined at RCW 70.105D.020(12) of a "facility" as defined in RCW 70.105D.020(4).

2. The facility is known as Rayonier Port Angeles Mill Site and is located at 700 North Ennis Street, Port Angeles, WA 98362.

3. The substances found at the facility are "hazardous substances" as defined at RCW 70.105D.020(7).

4. Based on the presence of these hazardous substances at the facility and all factors known to the Department, there is a release or threatened release of hazardous substances from the facility, as defined at RCW 70.105D.020(20).

5. By a letter dated January 23, 2001, Rayonier voluntarily waived its rights to notice and comment and accepted Ecology's determination that Rayonier is a "potentially liable person" under RCW 70.105D.040.

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

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

IV.

Work to be Performed

Based on the foregoing Facts and Determinations, it is hereby ordered that Rayonier 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. Conduct the interim actions described in:

Management Plans for the Remedial Investigation of the Marine Environment, Former Rayonier Pulp Mill, Port Angeles, Washington:

Volume IV Interim Actions Work Plan

Foster Wheeler Environmental Corporation, June 2002

which are incorporated by this reference and are an integral and enforceable part of this Order.

2. The activities identified in 1) above shall be completed in accordance with the schedule contained in the Management Plans.

3. Sampling data shall be submitted as provided in WAC 173-340-840(5).

V.

Terms and Conditions of Order

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

2. Public Notices. WAC 173-340-600(11)(c) requires a 30 day public comment period before this Order becomes effective. 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. Ecology agrees to provide Rayonier with notice and opportunity to comment prior to modification or withdrawal of any provision of this Order. Rayonier reserves the right to withdraw from this Order if it objects to any modification or withdrawal of any provision by Ecology.

3. Remedial Action Costs. Rayonier shall pay to Ecology costs incurred by Ecology pursuant to this Order after October 1, 2000. 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 and support costs of direct activities as defined

in WAC 173-340-550(2). Rayonier shall pay the required amount within 90 days of receiving from Ecology an itemized statement of costs that includes a general description of the work performed, a summary of costs incurred, an identification of involved staff, and the amount of time spent by involved staff members on the project. Itemized statements shall be prepared quarterly by Ecology. 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:

Mr. William Harris
Southwest Regional Office
P.O. Box 47775
Olympia, WA 98504-47775

The project coordinator for Rayonier is:

Mr. Jack Anderson
P.O. Box 2070
Jesup, GA 31598

The project coordinator(s) shall be responsible for overseeing the implementation of this Order. To the maximum extent possible, communications between Ecology and

Rayonier, 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 Rayonier change project coordinator(s), written notification shall be provided to Ecology or Rayonier 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. Rayonier 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. Rayonier shall provide a copy of this Order to all agents, contractors and subcontractors retained to perform work required by this Order and shall ensure that all work undertaken by such agents, contractors and subcontractors will be in compliance with this Order.

Except where necessary to abate an emergency situation, Rayonier shall not perform any remedial actions at the Site which would foreclose reasonable alternatives for the

cleanup of the Site unless Ecology concurs, in writing, with such additional remedial actions.

6. Access. Ecology or any Ecology authorized representative shall have the authority to enter and freely move about the Site at all reasonable times for the purposes of, inter alia: inspecting records, operation logs, and contracts related to the work being performed pursuant to this Order; reviewing the progress in carrying out the terms of this Order; conducting such tests or collecting samples as Ecology or the project coordinator may deem necessary; using a camera, sound recording, or other documentary type equipment to record work done pursuant to this Order; and verifying the data submitted to Ecology by Rayonier. By signing this Order, Rayonier agrees that this Order constitutes reasonable notice of access, and agrees to allow access to the Site at all reasonable times for purposes of overseeing work performed under this Order. Ecology shall allow split or replicate samples to be taken by Rayonier during an inspection unless doing so interferes with Ecology's sampling. Unless an emergency exists, Ecology shall provide to Rayonier seven (7) days notice before Ecology conducts any sampling activity. Rayonier shall allow split or replicate samples to be taken by Ecology and

shall provide seven (7) days notice before Rayonier conducts any sampling activity pursuant to this Order.

7. Public Participation Ecology shall maintain the responsibility for public participation at the Site as described in Ecology's Public Participation Plan for the Rayonier Port Angeles Mill Site dated June 2000, as amended. Rayonier shall help coordinate and implement Ecology's public participation for the Site in accordance with this plan.

8. Retention of Records. Rayonier 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 prepared pursuant to this Order. Should any portion of the work performed hereunder be undertaken through contractors or agents of Rayonier, then Rayonier agrees to include in its contract with such contractors or agents a record retention requirement meeting the terms of this paragraph.

9. Dispute Resolution. Rayonier may request Ecology to resolve disputes which may arise during the implementation of this Order. Such request shall be in writing and directed to the signatory, or his/her successor(s), to this Order. Ecology resolution of the dispute shall be binding

and final. Rayonier 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. Rayonier and Ecology understand that the dispute resolution process set forth in this paragraph is voluntary and nothing in this provision is intended to waive any rights of Rayonier to exercise all rights of appeal available to it under RCW 70.105D, the Model Toxics Control Act.

10. Reservation of Rights/No Settlement. This Order is not a settlement under ch. 70.105D RCW. Ecology's signature on this Order in no way constitutes a covenant not to sue or a compromise of any Ecology rights or authority. Ecology will not, however, bring an action against Rayonier to recover remedial action costs paid to and received by Ecology under this Order. In addition, Ecology will not take additional enforcement actions against Rayonier to require those remedial actions required by this Order, provided Rayonier complies with this Order.

Ecology reserves the right, however, to require additional remedial actions at the Site should it deem such actions necessary.

Ecology also reserves all rights regarding the injury to, destruction of, or loss of natural resources resulting

from the releases or threatened releases of hazardous substances from the Site.

In the event Ecology determines that conditions at the Site are creating or have the potential to create a danger to the health or welfare of the people on the Site or in the surrounding area or to the environment, Ecology may order Rayonier to stop further implementation of this Order for such period of time as needed to abate the danger. Nothing in this Order shall be construed as an admission of any liability or a waiver of any rights on the part of Rayonier.

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 Rayonier 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 Rayonier may have in the Site or any portions thereof, Rayonier 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, Rayonier shall notify Ecology of the contemplated transfer.

12. Compliance with Other Applicable Laws.

A. All actions carried out by Rayonier pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain necessary permits, except as provided in paragraph B of this section.

B. Pursuant to RCW 70.105D.090(1), the substantive requirements of chapters 70.94, 70.95, 70.105, 75.20, 77.55, 90.48, and 90.58 RCW and of any laws requiring or authorizing local government permits or approvals for the remedial action under this Order that are known to be applicable at the time of issuance of the Order have been included in the attached Exhibit A, "Substantive Requirements For Interim Action, Ennis Creek-Finishing Room Area, Former Rayonier Pulp Mill, Port Angeles, Washington, Ennis Creek, Tributary to Strait of Juan de Fuca, Clallam County" and Appendix B of Volume IV, *Interim Actions Work Plan* and are binding and enforceable requirements of the Order.

Rayonier 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 Order. In the event Rayonier determines that additional permits or approvals addressed in RCW

70.105D.090(1) would otherwise be required for the remedial action under this Order, it shall promptly notify Ecology of this determination. Ecology shall determine whether Ecology or Rayonier shall be responsible to contact the appropriate state and/or local agencies. If Ecology so requires, Rayonier shall promptly consult with the appropriate state and/or local agencies and provide Ecology with written documentation from those agencies of the substantive requirements those agencies believe are applicable to the remedial action. Ecology shall make the final determination on the additional substantive requirements that must be met by Rayonier and on how Rayonier must meet those requirements. Ecology shall inform Rayonier in writing of these requirements. Once established by Ecology, the additional requirements shall be enforceable requirements of this Order. Rayonier shall not begin or continue the remedial action potentially subject to the additional requirements until Ecology makes its final determination.

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

C. Pursuant to RCW 70.105D.090(2), in the event Ecology determines that the exemption from complying with

the procedural requirements of the laws referenced in RCW 70.105D.090(1) would result in the loss of approval from a federal agency which is necessary for the State to administer any federal law, Ecology shall provide written notice of such determination to Rayonier, the exemption shall not apply and Rayonier shall comply with both the procedural and substantive requirements of the laws referenced in RCW 70.105D.090(1), including any requirements to obtain permits.

VI.

Satisfaction of this Order

The provisions of this Order shall be deemed satisfied upon Rayonier's receipt of written notification from Ecology that Rayonier 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 Rayonier refuses, without sufficient cause, to comply with any term of this Order, Rayonier will be liable for:

(1) up to three times the amount of any costs incurred by the state of Washington as a result of its refusal to comply; and

(2) civil penalties of up to $25,000 per day for each day it refuses to comply.

D. This Order is not appealable to the Washington Pollution Control Hearings Board. This Order may be reviewed only as provided under Section 6 of ch. 70.105D RCW.

Effective date of this Order: August 2, 2002

Rayonier, Inc.

By Dana Dolloff

Dana Dolloff

STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

By Laurie G. Davies

Laurie G. Davies

Exhibit A

Substantive Requirements For Interim Action Ennis Creek-Finishing Room Area, Former Rayonier Pulp Mill, Port Angeles, Washington, Ennis Creek, Tributary to Strait of Juan de Fuca, Clallam County

1. Work shall be accomplished per plans and specifications entitled: Rayonier Mill Site, Port Angeles, WA Existing and Proposed Conditions Pages 1 through 3, dated June 13, 2002, and Management Plans for the Remedial Investigation of the Marine Environment Volume IV Interim Actions Work Plan Addendum, and Plan Sheets for Stream Bypass: Endwall Station 0+18, and Headwall Station 2+75, submitted to the Washington Department of Fish and Wildlife, except as modified by these substantive requirements. A copy of these plans shall be available on site during construction.

2. A temporary bypass to divert flow around the work area shall be in place prior to initiation of other work in the wetted perimeter.

3. A sandbag revetment or similar device shall be installed at the bypass inlet to divert the entire flow through the bypass.

4. A sandbag revetment or similar device shall be installed at the downstream end of the bypass to prevent backwater from entering the work area.

5. The bypass shall be of sufficient size to pass all flows and debris for the duration of the project.

6. Prior to releasing the water flow from the project area, all bank protection or armoring shall be completed.

7. Upon completion of the project, all material used in the temporary bypass shall be removed from the site and the site returned to preproject or improved conditions.

8. All placement of the bank protection material as per the above referenced plans and specifications shall be part of the interim action plan. Bank protection material shall be removed in the future, if the location of the bank protection is in conflict with the future plans for the restoration of Ennis Creek as described in the Cooperative Agreement between the Lower Elwha Klallam Tribe and Rayonier, Inc.

9. Placement of bank protection material waterward of the ordinary high water line shall be restricted to the minimum amount necessary to protect the toe of the bank or for installation of mitigation features approved by the Washington Department of Fish and Wildlife (WDFW).

10. Mitigation features approved by the WDFW include trees with rootwads attached that shall be installed and anchored to provide functional stable fish habitat, and the installation of beach logs which shall be distributed on the upper portion of the six-to-one slope.

11. Any reused rip rap bank protection material shall be free of contaminants.

12. The toe shall be installed to protect the integrity of bank protection material.

13. All waste material such as construction debris, silt, excess dirt or overburden, contaminated sediment or rip rap, and sheet piling, resulting from this project, shall be deposited above the limits of flood water in an approved upland disposal site.

14. Bank protection material shall be installed to withstand 100-year peak flows. Bank protection material shall be angular rock or large woody debris.

15. Bank protection material shall not constrict the flow and cause any appreciable increase (not to exceed 0.2 feet) in backwater elevation (calculated at the 100-year flood) or channel-wide scour, and shall be aligned to cause the least effect on the hydraulics of the stream.

16. The use of equipment below the ordinary high water line shall be limited to that necessary to gain position for work.

17. Equipment used for this project shall be free of external petroleum-based products while working around the stream. Accumulation of soils or debris shall be removed from the drive mechanisms (wheels, tires, tracks, etc.) and undercarriage of equipment prior to its working below the ordinary high water line. Equipment shall be checked daily for leaks and any necessary repairs shall be completed prior to commencing work activities along the stream.

18. Equipment crossings of the stream are not authorized.

19. Every effort shall be taken during all phases of this project to ensure that sediment-laden water is not allowed to enter the stream.

20. If high flow conditions that may cause siltation are encountered during this project, work shall stop until the flow subsides.

21. Extreme care shall be taken to ensure that no petroleum products, hydraulic fluid, sediments, sediment-laden water, chemicals, or any other toxic or deleterious materials are allowed to enter or leach into the stream.

22. Areas of excavated contaminated sediments shall be backfilled with the pit run reject identified on the project site. The project area may be topped with the small gravel reviewed as a sample on-site with Jack Anderson of Rayonier.

23. All disturbed areas shall be protected from erosion using vegetation or other means. The project area above the ordinary high water line shall be revegetated with the native plants provided in the recommendations of the Lower Elwha Fisheries Office. Those recommendation include plantings of Hookers willow (*Salix hookeriana*) along the toe of the slope to provide some root stability and overhanging vegetation. The remainder of the slope shall be seeded with dune wild-rye (*Elmus mollis*), large-headed sedge (*Carex macrocephala*), sand-dune sedge (*C. pansa*), or Lyngby's sedge (*C. lyngbeyi*), and sea-shore lupine (*Lupinus littoralis*). All revegetation plantings shall be maintained as necessary for three years to ensure 80 percent survival.