



STATE OF WASHINGTON
ENVIRONMENTAL HEARINGS OFFICE

4224 - 6th Ave. SE, Bldg. 2, Rowe Six
PO Box 40903, Lacey, WA 98504-0903

January 5, 2006

Charles K. Douthwaite
Attorney at Law
Weyerhaeuser Company
PO Box 9777
Federal Way WA 98063-9777

Ronald L. Lavigne
Assistant Attorney General
Department of Ecology
PO Box 40117
Olympia WA 98504-0117

RE: **PCHB NO. 04-158**
WEYERHAEUSER COMPANY (Raymond Lumber Mill) v. ECOLOGY
(Order No. 1745)
PCHB NO. 05-044
WEYERHAEUSER COMPANY (Raymond Lumber Mill) v. ECOLOGY
(Penalty No. 1744)

Dear Parties:

Enclosed is an Order of Dismissal in this matter.

Sincerely yours,

Kay M. Brown
Administrative Appeals Judge, Presiding

KB/jg/P 04-158 ltr
Cc: Marc Pacifico - Ecology
Enc.

CERTIFICATION

On this day, I forwarded a true and accurate copy of the documents to which this certificate is affixed via United States Postal Service postage prepaid to the attorneys of record herein.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED Jan 5, 2006, at Lacey, WA

BEFORE THE POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

WEYERHAEUSER COMPANY (Raymond
Facility),

Appellant,

v.

DEPARTMENT OF ECOLOGY,
Respondent.

PCHB NO. 04-158

PCHB NO. 05-044

ORDER OF DISMISSAL

The Board being having received a settlement that indicates the parties agree to the
dismissal of this appeal, and it appearing that there is no contested case remaining for hearing, IT
IS ORDERED that the case is DISMISSED with prejudice and without fees or costs to either
party.

DATED this 5TH day of January, 2006.

POLLUTION CONTROL HEARINGS BOARD

William H. Lynch
WILLIAM H. LYNCH, Chair

Kathleen D. Mix
KATHLEEN D. MIX, Member

Bill Clarke
BILL CLARKE, Member

Kay M. Brown
Kay M. Brown, Administrative Appeals Judge, Presiding

ORDER OF DISMISSAL
PCHB NO. 04-158, 05-044

RECEIVED
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ENVIRONMENTAL
HEARINGS OFFICE

POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

WEYERHAEUSER COMPANY
(Raymond Facility),

Appellant,

v.

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Respondent.

PCHB No. 04-158

PCHB No. 05-044

STIPULATION AND AGREED
ORDER OF DISMISSAL

COMES NOW appellant, Weyerhaeuser Company ("Weyerhaeuser") by and through its attorney, Charles K. Douthwaite; and respondent, State of Washington, Department of Ecology ("Ecology") by and through its attorneys, Rob McKenna, Attorney General, and Ronald L. Lavigne, Assistant Attorney General, and agree to the entry of this Stipulation and Agreed Order of Dismissal in the form attached.

RECITALS

1. On or about November 17, 2004, Ecology issued Order No. 1745 ("the Order") and Notice of Penalty No. 1744 ("the Penalty") to Weyerhaeuser.
2. On or about December 13, 2004, Weyerhaeuser appealed the Order to the Pollution Control Hearings Board ("PCHB").
3. On or about December 22, 2004, Weyerhaeuser filed an Application for Relief From Penalty with Ecology. On or about February 20, 2005, Ecology Notice of Disposition

1 Upon Application For Relief From Penalty No. 1744, which reduced the Penalty from
2 \$49,078.00 to \$39,000.

3 4. On or about March 16, 2005, Weyerhaeuser appealed the NOD to the PCHB.
4

5 **STIPULATION**

6 The parties stipulate and agree as follows.

7 1. Ecology will modify the Order by inserting the following language into
8 Corrective Action 4, at p. 4: after "meet the permit benchmark values from the date of receipt
9 of this order" the following sentence. "In the event that stormwater discharges from the
10 Weyerhaeuser Company Raymond Lumber Mill exhibit a characteristic that exceeds permit
11 benchmark values, Ecology and Weyerhaeuser shall proceed as required by the permit."

12 2. Within thirty days of the date that the PCHB enters the attached Agreed Order
13 of Dismissal, Weyerhaeuser shall comply with Corrective Action 3 at p. 2 of the Order and
14 desist from averaging pH measurements made over the course of any day for wastewater
15 discharge reporting purposes, and will report on the DMR form only the minimum and
16 maximum pH values obtained.

17 3. Except as specifically modified by this Stipulation, this appeal does not require
18 the Order to be changed from the form issued by Ecology on November 17, 2004.

19 4. The parties stipulate that Weyerhaeuser's appeal of the NOD will be resolved
20 as follows:

21 a. Within thirty days of the date that the PCHB enters the attached Agreed
22 Order of Dismissal, Weyerhaeuser shall pay a \$6,000 penalty to Ecology. The penalty
23 payment shall be made to:

24 Department of Ecology
25 c/o Fiscal Cashier
26 P.O. Box 5128
Lacey, WA 98503-2101

1 b. Within thirty days of the date that the PCHB enters the attached Agreed
2 Order of Dismissal, Weyerhaeuser shall pay \$19,000 to the Willapa Bay Fisheries
3 Enhancement Group to be used for the Middle Creek salmon restoration project that is
4 described in Exhibit A hereto.

5 5. If Weyerhaeuser fails to make any of the payments at the times required in
6 Paragraph 4 of this Stipulation, the entire \$39,000 penalty shall become immediately due and
7 payable. Ecology shall be entitled to recover all of its costs, including attorneys fees, in any
8 action Ecology brings to enforce the terms of this Stipulation.

9 6. The undersigned representatives for Ecology and Weyerhaeuser certify that
10 they are authorized by the party whom they represent to enter into the terms and conditions of
11 this Stipulation and Agreed Order of Dismissal and legally to bind such party thereto.
12 Ecology and Weyerhaeuser consent to the submission of this Stipulation and Agreed Order of
13 Dismissal to the Pollution Control Hearings Board for approval and entry.

14 STATE OF WASHINGTON
15 DEPARTMENT OF ECOLOGY
16 

WEYERHAEUSER COMPANY


17
18 Dated: 12/28/07

By:
Its:
Dated: 12/07/05

19 **Approved as to form and content:**

20 ROB MCKENNA
21 Attorney General

WEYERHAEUSER COMPANY

22
23 RONALD L. LAVIGNE, WSBA #18550
24 Dated: _____


25 CHARLES K. DOUTHWAITE, WSBA # 9246
26 Dated: 11/30/05

AGREED ORDER OF DISMISSAL

