

AMENDMENT TO PROSPECTIVE PURCHASER AGREEMENT

DEQ No.02-03

BETWEEN: Oregon Department of Environmental Quality

AND: Pacific Wood Preserving of Oregon

This Amendment to Prospective Purchaser Agreement (Amendment) is entered between the Oregon Department of Environmental Quality (DEQ) and Pacific Wood Preserving of Oregon (PWPO) (collectively, "the Parties") pursuant to Oregon Revised Statutes (ORS) 465.260 and 465.327.

1. RECITALS

A. On February 5, 2002, DEQ and PWPO entered into a Prospective Purchaser Agreement (State PPA) for the former Taylor Lumber & Treating Site, located at 22125 S.W. Rock Creek Rd., Sheridan, Oregon (Property). PWPO entered into a similar agreement with the United States Environmental Protection Agency (EPA) on February 4, 2002. The state and federal agreements are collectively referred to herein as "the 2002 Agreements" and are attached hereto as Exhibits A and B.

B. The State PPA sets forth the Property's history, describes hazardous materials located on the Property and EPA cleanup efforts, describes the "substantial public benefit" to be provided through the agreement, and provides a release from liability by the State of Oregon for any release of hazardous substances at the Property existing as of the date of PWPO's acquisition of its interest in or operation of the Property.

C. The State PPA also requires certain "Use Restrictions" at the Property, which prohibit PWPO from treating wood with solutions containing ACZA (ammoniacal copper zinc arsenate), CCA (copper chromated arsenate), pentachlorophenol, creosote, or any arsenical wood-preserving compounds.

D. In compliance with these Use Restrictions, PWPO began operations in June 2002 using preservatives classified as "General Use," i.e., copper and borate-based treating solutions. PWPO's ability to use these preservatives provided the opportunity for redevelopment of the Property and, according to PWPO, created about 40 jobs with a payroll approaching \$1,000,000 within the first two years of operation. In addition, PWPO's continued operation and maintenance of the on-site groundwater extraction system, part of the remedy instituted by EPA, has relieved EPA and DEQ of significant on-going costs.

E. Pursuant to the State PPA, DEQ determined that PWPO's proposed development activities at the Property would not contribute to or exacerbate existing contamination, increase health risks, or interfere with remedial measures necessary at the Property.

F. Since executing the State PPA, PWPO has continued operations at the Property in compliance with the agreement; however, several changes in conditions at the Property, including changed economic conditions and modifications to elements of the remedy, necessitate this Amendment. These changed conditions, as well as additional work to be performed, are described below. Unless specifically noted below, the provisions of the State PPA continue in full force and effect.

2. CHANGED CONDITIONS

There have been several changes in conditions at the Property that differ from those present at the time the State PPA was signed, necessitating amendments to the State PPA. Each changed condition is discussed below.

A. Excavation, Consolidation and Capping of Contaminated Media. Since EPA determined that it was cost-effective to dispose of excavated contaminated soils from the West Facility and adjacent ditches at an appropriately licensed offsite facility, all excavated contaminated soils were sent offsite, and none were consolidated onsite.

B. Replacement of the Asphalt Cap. The interim asphalt cap installed as part of the early actions at the Property was replaced with a more durable "MatCon" cap, which consists of a 4-inch-thick layer of proprietary low permeability asphalt. Pursuant to the State PPA, inspection and maintenance of the interim cap is the responsibility of PWPO. Now that the interim cap has been replaced, this Amendment formalizes PWPO's obligations with respect to the MatCon cap.

C. Treatment of Extracted Groundwater Via Storm Water Treatment System. The State PPA requires that extracted groundwater will be treated via evaporation at the facility's existing Wastewater Treatment System. In 2005, after modification of its NPDES permit, PWPO began treating extracted groundwater via the on-site Storm Water Treatment System because of the high costs associated with evaporating the extracted water. This Amendment reflects PWPO's modified obligations with respect to groundwater extraction and treatment.

D. Institutional Controls. Institutional controls are required by EPA's September 30, 2005 Record of Decision, but to date have not been set in place.

Institutional controls have been identified by DEQ and EPA as necessary to ensure that:

- The West Facility's use remains industrial;
- The MatCon cap is maintained in place; and
- Groundwater from beneath the site is not used for potable, industrial, or agricultural purposes.

This Amendment requires the implementation of these institutional controls.

E. Market Conditions and Business Needs. According to PWPO, since the time PWPO first purchased the Property and began treating wood products, the market for non-pentachlorophenol-treated wood products has declined, and copper naphthenate ("CuNap") treatment product supply has become unreliable and less available. It is unlikely that CuNap will be available at all in the future. Without CuNap, the treatment plant must either be allowed to treat with other wood treatment products, including pentachlorophenol, or, according to PWPO, be forced to close, with an attendant loss of jobs and other social and economic benefits that accrue from continued operations. This Amendment allows PWPO to now treat with pentachlorophenol.

3. ADDITIONAL WORK TO BE PERFORMED

In consideration of these changed conditions, PWPO agrees to perform the following additional work until January 31, 2022, or for as long as PWPO owns or operates the Property, whichever is later, unless both DEQ and EPA make an earlier determination that such treatment is no longer necessary. Actions listed below shall be

performed in accordance with the Revised Statement of Work, attached to this Amendment as Exhibit C, which is hereby incorporated into this Amendment.

A. MatCon Cap Maintenance. PWPO shall maintain the existing low permeability MatCon asphalt cap in accordance with Section A of the Revised Statement of Work.

B. Groundwater Treatment. PWPO shall collect and treat groundwater from inside the slurry wall in accordance with Sections B and C of the Revised Statement of Work.

C. Best Management Practices. PWPO shall implement an approved plan for enhanced Best Management Practices, which must include, at a minimum, integrity testing of product tanks.

D. Treatment Products. PWPO agrees that, in conducting its wood-treating business, PWPO shall not treat wood with solutions containing ACZA (ammoniacal copper zinc arsenate), CCA (copper chromated arsenate), creosote, or any arsenical wood-preserving compounds.

E. Institutional Controls. Within 60 days of the Effective Date, PWPO shall conduct a professional survey of the Property and shall provide to EPA and DEQ an updated and revised metes and bounds description of the Property and an updated and revised map of the Property showing property tax parcels. Within 30 days of EPA and DEQ acceptance of the professional survey, PWPO shall record an Easement and Equitable Servitude on the Property substantially in the form attached hereto as Exhibit D and incorporating the results of the professional survey.

F. Financial Assurance. PWPO shall provide financial assurance to DEQ for ongoing operation and maintenance of groundwater extraction and treatment systems at the Property, equivalent to one hundred sixty-five thousand dollars (\$165,000.00), paid in five equal payments of \$33,000 annually, as follows:

(1) Within 30 days of the Effective Date, and annually for four years thereafter on or before the anniversary of the Effective Date, PWPO shall pay to DEQ a lump-sum of thirty-three thousand (\$33,000.00) U.S. dollars. Payment shall be made by certified or cashier's check, made payable to "Hazardous Substances Remedial Action Fund," and mailed to: Oregon Department of Environmental Quality, 811 SW Sixth Ave., Portland, Oregon 97204.

(2) Upon receipt of a payment from PWPO, DEQ shall deposit the payment into a site-specific account within the Hazardous Substances Remedial Action Fund (HSRAF), dedicated to use at DEQ's sole discretion to provide financial assurance for operation and maintenance of groundwater extraction and treatment systems at the Property in the event PWPO fails or ceases to do so. DEQ's receipt of payments for this purpose does not create any DEQ obligation to perform such operation and maintenance in lieu of PWPO.

(3) All moneys in the dedicated account, including interest earned on the account, may be used by DEQ in its sole discretion for operation and maintenance of groundwater extraction and treatment systems at the Property in the event PWPO fails or ceases to do so. Any funds remaining in the account may be used by DEQ in its sole discretion for HSRAF-authorized purposes. Upon a PWPO payment to DEQ pursuant to this Section, sole legal and equitable right, title, and interest in such money and interest

earned on the money irrevocably vests in the State of Oregon, and PWPO waives, discharges, and releases any claim to or recourse against the money; provided, in any DEQ action to recover remedial action costs for operation and maintenance of groundwater extraction and treatment systems at the Property in the event PWPO fails or ceases to do so, PWPO may assert an offset against such costs for amounts paid to DEQ under this subsection.

G. Reporting. PWPO shall submit to DEQ annual reports/environmental audits, which must describe overall compliance with RCRA and NPDES requirements, violations and corrective actions, tank integrity inspections, and spills and spill response of product or waste.

4. OVERSIGHT

DEQ shall continue to provide joint oversight with EPA of PWPO performance of the measures described in the State PPA and this Amendment. DEQ's costs for performing such oversight activities shall be reimbursed by PWPO as follows.

(1) DEQ shall submit to PWPO a monthly invoice of costs actually and reasonably incurred by DEQ on or after the Effective Date in connection with DEQ's oversight of PWPO's implementation of the State PPA and this Amendment. DEQ shall maintain work logs, payroll records, receipts, and other records to document work performed and expenses incurred and, upon request, shall make such records available to PWPO for its inspection during the term of the State PPA and this Amendment and for at least one year thereafter.

(2) DEQ oversight costs payable by PWPO include direct and indirect costs. Direct costs include site-specific expenses, DEQ contractor costs, and DEQ legal costs.

Indirect costs include general management and support costs of DEQ and of the Land Quality Division allocable to DEQ oversight of the State PPA and this Amendment and not charged as direct, site-specific costs. Indirect costs are based on a percentage of direct personal services costs. DEQ costs must be reasonable and "remedial action costs" within the meaning of ORS 465.200(24).

(3) Within 30 days of receipt of a DEQ invoice, PWPO shall pay the amount of costs invoiced, by check made payable to the "State of Oregon, Hazardous Substance Remedial Action Fund." PWPO shall pay simple interest of 9% per annum on the unpaid balance of any oversight costs, which interest shall begin to accrue at the end of the 30-day payment period. Any unpaid amounts become a liquidated debt collectible under ORS 293.250 and other applicable law.

5. RECORDING

At the time PWPO records the Easement and Equitable Servitude in accordance with Section 3.E above, PWPO shall also submit a copy or original of this Amendment (whichever is required by the county) to be recorded in the real property records of Yamhill County, State of Oregon. PWPO shall provide DEQ with written evidence of such recording within seven days of recording.

6. AMENDMENTS

The Revised Statement of Work and approved Best Management Practices Plan may be amended from time to time by written agreement of the Parties.

7. FORCE MAJEURE

PWPO agrees to perform all requirements of this Agreement, including the State PPA and this Amendment, within the time limits approved by DEQ, unless the

performance is delayed by a *force majeure*. For purposes of this Agreement, a *force majeure* is defined as any event arising from causes beyond the control of PWPO, or of any entity controlled by PWPO, including but not limited to its contractors and subcontractors, which delays or prevents performance of any obligation under this Agreement despite PWPO's best efforts to fulfill the obligation. *Force majeure* does not include normal inclement weather, increased cost of performance, or changed business or economic circumstances.

If any event occurs that may delay the performance of any obligation under this Agreement, whether or not caused by a *force majeure* event, PWPO shall promptly notify DEQ orally. Within 5 days thereafter, PWPO shall provide to DEQ in writing an explanation and description of the cause of delay or deviation, its anticipated duration, the measures that have been or will be taken to prevent or minimize the delay or deviation, the timetable which PWPO proposes to carry out such measures, and its rationale for attributing such delay to a *force majeure* event if it intends to assert such a claim; and a statement as to whether, in the opinion of PWPO, such event may cause or contribute to an endangerment to public health, welfare, or the environment. Failure to comply with these notice requirements precludes PWPO from asserting *force majeure* for the event and for any additional delay caused by the event.

If DEQ agrees that the delay or anticipated delay is attributable to a *force majeure* event, the time for performance of the obligations under this Agreement that are affected by the *force majeure* event will be extended by DEQ for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the *force majeure* event shall not, of itself, extend the time for performance of any other obligation. If DEQ does not agree that the delay or anticipated delay has been or will be caused by a *force majeure* event, DEQ will notify PWPO in writing of its decision. If DEQ agrees that the delay is attributable to a *force majeure* event, DEQ will notify

PWPO in writing of the length of the extension, if any, for performance of the obligations affected by the *force majeure* event.

8. NOTICE

All reports, notices, and other communications required under or relating to this Agreement and Amendment shall be directed to:

For DEQ:

Norman Read
Oregon DEQ
165 E 7th Avenue, Suite 100
Eugene, Oregon 97401
Tel: 541.687.7348
read.norm@deq.state.or.us

For PWPO:

Elaina Jackson, Chief Operating Office
Pacific Wood Preserving of Oregon
1601 New Stine Road
Suite #250
Bakersfield, CA 93309
661-617-6385

9. EFFECTIVE DATE

This Amendment shall be effective on the date of the last signature below.

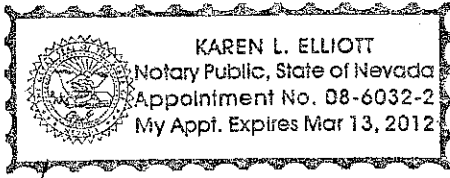
10. SIGNATURES

Elaina Jackson

Elaina Jackson
Chief Operating Officer
Pacific Wood Preserving of Oregon

Date: 6-6-11

SUBSCRIBED AND SWORN TO BEFORE ME this 6th day of June 2011 by Elaina E. Jackson



Karen L. Elliott

Wendy Wiles
Administrator
Land Quality Division
Oregon Department of Environmental Quality

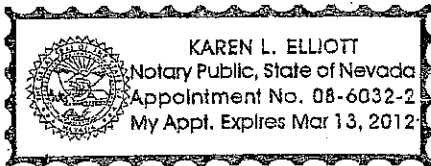
SUBSCRIBED AND SWORN TO BEFORE ME this _____ day of _____, 2011 by Wendy Wiles, in her capacity as Administrator of the Land Quality Division, Oregon Department of Environmental Quality.

county of: Washoe
NOTARY PUBLIC FOR Nevada
My Commission expires: March 13, 2012

Date: 6/6/2011
Date: _____

NOTARY PUBLIC FOR OREGON
My Commission expires:

Date: _____



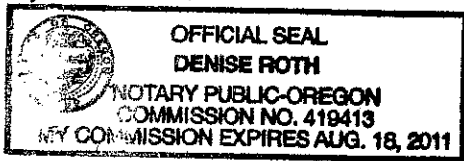
County of: Washoe
NOTARY PUBLIC FOR Nevada
My Commission expires: March 13, 2012

Karen L. Elliott
Wendy Wiles

Date: 6/16/2011
Date: 6.6.11

Wendy Wiles
Administrator
Land Quality Division
Oregon Department of Environmental Quality

SUBSCRIBED AND SWORN TO BEFORE ME this 7th day of June, 2011 by Wendy Wiles, in her capacity as Administrator of the Land Quality Division, Oregon Department of Environmental Quality.



Denise Roth
NOTARY PUBLIC FOR OREGON
My Commission expires:

Date: 8.18.2011