

**BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

WEYERHAEUSER COMPANY,

Respondent.

DOCKET NO. PG-040984

NARRATIVE

**I. Preliminary Matters**

1 Pursuant to WAC 480-07-740(2) (a), the Commission Staff ("Staff") and  
Weyerhaeuser Company (collectively, the "Parties") present this Narrative  
Supporting Settlement Agreement ("Narrative"). This Narrative relates to the  
Settlement Agreement ("Agreement") filed by the Parties in the above docket. The  
Agreement is unanimous: Weyerhaeuser and Staff are the only parties to this  
docket.

2 This Narrative summarizes many aspects of the Agreement. It is not  
intended to modify any terms of the Agreement.

3           At this time, the Parties do not intend to file supporting documentation in  
addition to this Narrative, and the pleadings already in the Commission files in this  
matter. The Parties are willing to provide additional supporting documents if the  
Commission deems that necessary or appropriate.

4           The Agreement is the product of settlement discussions between  
Weyerhaeuser and Staff that took place in September and October 2005.

## II. Scope of the underlying dispute

5           The Commission, in its Complaint, alleged nine violations of 49 CFR § 192.  
The conduct that was the subject of the allegations relates to Weyerhaeuser's  
Operator Qualification (OQ) program. Weyerhaeuser, in its answer, disputed the  
alleged violations. Additionally, Weyerhaeuser disputed the imposition of  
monetary penalties, including the amount of monetary penalties recommended by  
Staff, \$250,000.

6           If this case went to hearing, Staff anticipates it would offer evidence that the  
violations alleged in the Complaint occurred, and that a monetary penalty was  
appropriate. Weyerhaeuser would have had the opportunity to contest that  
evidence.

## III. Scope of the Agreement and its principal aspects

7           In the Agreement, Weyerhaeuser generally concurs with Staff's conclusion  
that its OQ Program was deficient prior to Staff's investigation and agrees to correct

all of the alleged violations. Weyerhaeuser agrees to pay a penalty of \$75,000.  
Weyerhaeuser also agrees to a third-party expert follow-up audit of  
Weyerhaeuser's OQ Program for the Longview facility in the fourth quarter of 2006.  
Weyerhaeuser agrees to submit the follow-up audit report to Staff, accompanied by  
Weyerhaeuser's comments and a report on the status of any recommendations

#### **IV. Statement why the proposed Agreement is in the Parties' interest and the public interest**

##### **A. Statement by Staff**

8 Commission Staff believes overall the Agreement is fair and just and in the  
public interest.

9 Staff believes the issues raised in the Complaint illustrate Weyerhaeuser's  
OQ program was significantly out of compliance with the requirements of the Code  
of Federal Regulations and WAC 480-93-010. The Operator Qualification program  
is a significant element of Weyerhaeuser's assurance that this 10-mile long high-  
pressure pipeline that traverses residential and commercial areas can be operated  
safely. As part of this negotiated Agreement, Weyerhaeuser generally concurs that  
its OQ plan at the time of Staff's inspection in 2004 was not in compliance. Further,  
Weyerhaeuser has worked with Staff and consultants to enhance their knowledge  
of these important regulations and bring this OQ plan into accordance with  
applicable regulations. *Settlement Agreement ¶ 29.*

10 The remedies also include a substantial penalty. *Settlement Agreement ¶ 30.*

11           Weyerhaeuser also agrees to a third-party expert audit of their OQ program  
in 2006 with the audit report submitted to Staff. Staff views this element as a  
commitment to continuous program improvement on the part of Weyerhaeuser.  
*Settlement Agreement ¶27.*

12           Accordingly, when viewed as a complete package, Staff believes the  
Agreement represents a proper resolution of the Complaint.

**B. Statement by Weyerhaeuser**

13           Weyerhaeuser believes that the Agreement is fair and just when viewed as a  
whole.

14           Weyerhaeuser appreciates the Commission Staff's important responsibilities  
in auditing and enforcing OQ regulations, and it is committed to continuing its  
efforts to maintain an OQ program that meets the Commission's requirements.  
Weyerhaeuser believes that its employees and contract pipeline operators have, at  
all times relevant to the Complaint, been properly trained and qualified to perform  
their duties. Nevertheless, Weyerhaeuser is continually looking for opportunities to  
improve its OQ program, and it takes any concerns of Staff seriously.

15           Weyerhaeuser believes that the Agreement is in the public interest. It  
represents a compromise that is a reasonable balancing of the parties' positions. An  
important component of this Settlement Agreement is the Parties' willingness to  
avoid litigation by working cooperatively and moving forward immediately to

bring Weyerhaeuser's OQ program into full compliance with the applicable regulations.

16           As detailed in the Agreement, Weyerhaeuser has committed to taking measures to improve its OQ program. Weyerhaeuser has acted promptly to correct all of the alleged violations, none of which represent knowing or intentional conduct by Weyerhaeuser that was gross or malicious. In addition, Weyerhaeuser has worked closely with Staff to ensure that its OQ program complies with legal requirements and meets Staff's expectations.

**V.    Summary of legal points that bear  
      on the proposed Agreement**

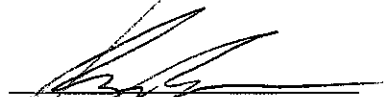
17           The Parties do not believe there is anything significant to discuss under this topic listed in WAC 480-07-740(2) (a).

**VI.   Conclusions**

18           The Parties respectfully request the Commission approve the Agreement between Weyerhaeuser and Commission Staff in this docket.

DATED this 14<sup>th</sup> day of October, 2005.

**For Commission Staff:**  
Christopher Swanson  
Assistant Attorney General



October 14, 2005  
Date Signed

**For Weyerhaeuser Company:**  
Charles K. Douthwaite  
Assistant General Counsel



October 14, 2005  
Date Signed