

**JEFFERSON COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**AGENDA REQUEST**

**TO:** Board of Commissioners  
Philip Morley, County Administrator

**FROM:** Eve Dixon (Noxious Weed Control)

**DATE:** August 15<sup>th</sup> 2011

**RE:** Contract with Rayonier Forest Resources to allow access for  
knotweed survey and treatment

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**STATEMENT OF ISSUE:** The Quinault Indian Nation has a grant from the EPA to survey and treat invasive knotweed in the Queets and Clearwater watersheds in the west end of Jefferson County. The Quinaults are contracting with the Jefferson County Weed Board to solicit agreements or contracts with landowners, allowing entry onto their land for knotweed survey and treatment.

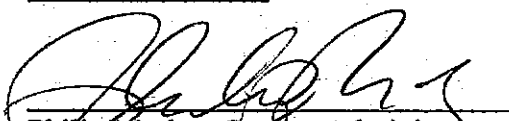
**ANALYSIS:** Knotweed is an extremely invasive plant which is taking over stream and river banks. It displaces native vegetation, disrupts ecological processes and can degrade habitat for threatened salmon species. It can also damage structures and reduce property values. Finding and controlling knotweed benefits the entire community.

**FISCAL IMPACT:** This project will provide employment for at least six people in the west end of Jefferson County.

**RECOMMENDATION:** Approve this contract so that work can proceed.

**DEPARTMENT CONTACT:** Eve Dixon. 360-379-5610 ext 205.  
[edixon@co.jefferson.wa.us](mailto:edixon@co.jefferson.wa.us)

**REVIEWED BY:**

  
Philip Morley, County Administrator

8/11/11  
Date

**SPECIAL USE PERMIT**  
NT-11-00114

This Permit is made this 27<sup>th</sup> day of June, 2011, between RAYONIER FOREST RESOURCES, L.P., a Delaware limited partnership, authorized to do business in the State of Washington with a local business address of 3033 Ingram Street, Hoquiam, Washington 98550 ("RFR") and JEFFERSON COUNTY NOXIOUS WEED CONTROL BOARD, with a local address of 201 West Patison Street, Port Hadlock, Washington 98339 ("PERMITTEE").

In consideration of the payments to be made by PERMITTEE to RFR and the mutual promises and conditions herein, the parties agree as follows:

1. **Purpose.** RFR grants PERMITTEE non-exclusive permission to enter RFR's property shown on Exhibits "A" and "B" in portions of Jefferson and Grays Harbor Counties, Washington which is attached hereto and incorporated herein by reference, for the purpose of survey and spot or spray stem inject to knotweed.
3. **Term.** This Permit shall be effective upon signing by both parties and shall expire December 31, 2013, unless terminated earlier as provided herein.
4. **Special Conditions.**
  - a) PERMITTEE shall remove all garbage, including petroleum products, created as a result of PERMITTEE's operations. Garbage shall not accumulate on site unless it is in a trash barrel, nor shall garbage be buried in slash or in the ground. In addition to the cost of removal, a penalty of \$500 for petroleum products and/or \$250 for other garbage may be assessed for failure to comply.
  - b) RFR requires the use of citizen band radios and headlights at all times on RFR roads. In addition, PERMITTEE's personnel and contractors shall wear highly visible hard hats or clothing when outside of vehicles.
  - c) RFR reserves the right to periodically close roads due to weather conditions, to prevent any adverse environmental impact, or for any other reason in RFR's sole discretion.
  - d) This permit is provided for the sole and exclusive purpose of accommodating PERMITTEE'S request for a special use permit only.
5. **Termination.** RFR reserves all rights not specifically granted herein. In the event PERMITTEE shall fail to keep or perform any of the agreements to be kept or performed hereunder, RFR may terminate this Permit by giving written notice of such default to PERMITTEE and the termination is effective fourteen (14) days after giving such notice if PERMITTEE does not correct the default during the fourteen-day period. In the event RFR sells the lands which are subject to this Permit, this Permit will terminate immediately and be of no further force or effect.
6. **Access.** During the term of this Permit, PERMITTEE, its employees, agents, or contractors shall have a right of access over the real property described in Exhibit A and all roads owned by RFR or to which RFR has rights of use, to the extent permissible under the relevant road agreement, as authorized under and according to the terms set forth in this Permit. RFR makes no guarantee as to the condition of its roads or associated structures and shall not be liable for any failure of any roads or structures therein. Permittee shall suspend use of roads whenever such use, due to weather conditions, will cause excessive damage to said roads.

7. Insurance. PERMITTEE shall obtain and maintain during the term of this agreement the following insurance in amounts not less than stated:

Automobile Liability

300,000 per occurrence

PERMITTEE shall provide proof of such insurance, prior to the commencement of operations covered by this agreement. Rayonier Inc. and all of its subsidiaries shall be named as additional insured parties. All policies shall provide that said policy of insurance shall not be canceled, terminated nor materially changed without thirty (30) days written notice to RFR.

8. Indemnification. PERMITTEE assumes all risk incident to the condition and use of the roads or other operations conducted under this Permit. PERMITTEE agrees to, and hereby does, indemnify RFR against and save and hold RFR harmless from any cost, claim, demand, action, damage or liability of every character whatsoever arising from or in any way growing out of injury to any person, including injury resulting in death, injury or damage to or loss of property of RFR and property of any other party, resulting in whole or in part from, caused by, or arising out of PERMITTEE'S use of roads under this Permit. PERMITTEE explicitly agrees to assume liability for actions brought by its own employees against RFR. Nothing herein shall be construed to indemnify RFR against its sole negligence.

9. Dispute Resolution.

- (a) The parties will attempt, in good faith, to resolve any question, dispute, misunderstanding, controversy or claim arising out of or relating to this Contract (the "Dispute") promptly by negotiation between designated executives of the respective parties with authority to agree to a resolution. Either party may invoke the provisions of this dispute resolution section by giving the other party written notice (the "Notice of Dispute"). The executives shall meet at a mutually acceptable time and place within TWENTY (20) DAYS of the date of delivery of the Notice of Dispute, and thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the dispute.
- (b) If the Dispute has not been resolved within THIRTY (30) DAYS of the initial meeting of the executives (which may be extended by mutual written agreement), or if either party will not participate in such procedure, then either party may by written notice (the "Arbitration Notice") require that the Dispute be resolved by binding arbitration. Any matter to be resolved by arbitration shall be resolved by a single arbitrator to be appointed for that purpose as follows:
- (i) Within TEN (10) DAYS after delivery of written notice by either party to the other requesting arbitration (the "Arbitration Notice"), the parties shall agree on an arbitrator.
- (ii) If the parties fail to agree on an arbitrator within the time specified, the arbitrator shall be promptly appointed upon application of either party by the Arbitration Committee of the American Arbitration Association in Seattle Washington. The party making such application to the Arbitration Committee shall give the other party to this Agreement written notice of this application.
- (iii) The arbitrator shall proceed with due dispatch to define the problem, accept evidence, and reach a resolution. The proceedings shall be conducted in accordance with Washington Law and the American Arbitration Association Commercial Arbitration Rules. The arbitration proceedings shall be held in Seattle, Washington or such other place as the parties may agree. The arbitrator, in issuing his award, shall be limited to

accepting the position of either Rayonier or the PERMITTEE only and may not issue any award which may be viewed as a compromise of or settlement between the positions set forth by each of the parties to the arbitration proceedings. The decision of the arbitrator shall be binding, final, and conclusive on the parties to this Agreement. The award shall be in writing and delivered to the parties, and shall be in such form that a petition may be filed to confirm the award in any court or public records wherein a judgment may be sought to be enforced.

- (iv) Each party shall bear its own expenses of arbitration, including attorney fees. Each party shall pay one-half of the costs of the arbitration, including the arbitrator's fee.
  - (v) The arbitrator shall have no power to change any of the provisions of this Contract in any respect (or the power to make an award of reformation), and the arbitrator is not empowered to award damages in excess of actual damage incurred. In no event shall any award include punitive, incidental or consequential damages.
10. Compliance with Laws. PERMITTEE in performing this agreement shall comply at all times and in all respects with RFR's ground rules as posted or verbally communicated and with appropriate Federal, State and local laws, rules, and regulations, including, but not limited to, those pertaining to Social Security, Workmen's Compensation, Unemployment Compensation, Fair Labor Standards Act of 1938, as amended, Equal Opportunity, and requirements for licensing or certification of equipment or operators. PERMITTEE shall be responsible for insuring that all licenses are valid and shall assume all costs incurred.
  11. Assignment. PERMITTEE shall not assign this Permit, by operation of law or otherwise, without the prior written consent of RFR.
  12. Complete Agreement. This constitutes the complete agreement between the parties and there are no other agreements written or oral. No amendment shall be effective unless done in writing and signed by both parties.
  13. Governing Law. This Permit shall be governed by and construed in accordance with the substantive law of the State of Washington.

IN WITNESS WHEREOF, the parties have executed this agreement as of the date first above written.

RAYONIER FOREST RESOURCES, L.P.

PERMITTEE:

By: Rayonier Timberlands Management, LLC  
Its: General Partner

JEFFERSON COUNTY  
NOXIOUS WEED CONTROL BOARD

By:   
Authorized Representative

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Phone #: \_\_\_\_\_