



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

May 19, 2011

Mr. Bruce Sheppard
Burlington Northern Santa Fe Railway
2454 Occidental Ave. S.
Seattle, WA 98134-1451

Re: Notice of Potential Liability under the Model Toxics Control Act for the Release of Hazardous Substances at the following Hazardous Waste Site:

- Name: Big B Mini Mart
- Address: 1611 Canyon Road, Ellensburg
- Assessor's Parcel No.: 17465
- Facility/Site ID No.: 386

Dear Mr. Sheppard:

Under the Model Toxics Control Act (MTCA), chapter 70.105D RCW, which governs the cleanup of hazardous waste sites in Washington State, the Department of Ecology (Ecology) may identify persons that it finds are liable for the release of hazardous substances at a site. Before making such a finding, Ecology must provide persons with notice and an opportunity to comment on the proposed finding. Any person whom Ecology finds, based on credible evidence, to be liable is known as a "potentially liable person" or "PLP".

Proposed Finding of Liability

Based on credible evidence, Ecology is proposing to find Burlington Northern Santa Fe Railway liable under RCW 70.105D.040 for the release of hazardous substances at the Big B Mini Mart facility (Site). This proposed finding is based on the following evidence:

1. Burlington Northern Santa Fe Railway is identified as the current owner of Kittitas County Tax Parcel 17465 on file with Kittitas County Assessor's Office.
2. Historic and current tests of groundwater at the site show that contamination with petroleum hydrocarbons exceed MTCA cleanup standards, and in some cases are present in excess of soil saturation levels, both exceedances of MTCA cleanup standards.



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3. The MTCA Cleanup Standards for soil and groundwater are promulgated to provide protection of human health and the environment. Contaminant levels in soil and groundwater that exceed MTCA cleanup standards pose a risk to human health and the environment.

Opportunity to Respond to Proposed Finding of Liability

In response to Ecology's proposed finding of liability, you may either:

1. Accept your status as a PLP without admitting liability and expedite the process through a voluntary waiver of your right to comment. This may be accomplished by signing and returning the enclosed form or by sending a letter containing similar information to Ecology.
2. Challenge your status as a PLP by submitting written comments to Ecology within thirty (30) calendar days of the date you receive this letter; or
3. Choose not to comment on your status as a PLP.

Please submit your waiver or written comments to the following address:

Norman D. (Norm) Peck
CRO Toxics Cleanup Program
15 W. Yakima Ave., Ste. 200
Yakima, WA 98902-3452

After reviewing any comments submitted or after 30 days if no response has been received, Ecology will make a final determination regarding your status as a PLP and provide you with written notice of that determination.

Identification of Other Potentially Liable Persons

Ecology will be notifying the following additional persons that they may be potentially liable for the release of hazardous substances at the Site:

1. Short Stop LLC
2. Gurmit Singh Kaila

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If you are aware of any other persons who may be liable for the release of hazardous substances at the Site, Ecology encourages you to provide us with their identities and the reason you believe they are liable. Ecology also suggests you contact these other persons to discuss how you can jointly work together to most efficiently clean up the Site.

Responsibility and Scope of Potential Liability

Please note that Ecology may either conduct or require PLPs to conduct remedial actions to investigate and clean up the release of hazardous substances at a site. PLPs are encouraged to initiate discussions and negotiations with Ecology and the Office of the Attorney General that may lead to an agreement on the remedial action to be conducted.

Please also note that each liable person is strictly liable, jointly and severally, for all remedial action costs and for all natural resource damages resulting from the release of hazardous substances at a site. If Ecology incurs remedial action costs in connection with the investigation or cleanup of real property and those costs are not reimbursed, then Ecology has the authority under RCW 70.105D.055 to file a lien against that real property to recover those costs.

Next Steps in Cleanup Process

In response to the release of hazardous substances at the Site, Ecology intends to conduct or require PLP(s) to conduct the following actions under MTCA:

1. Obtain current monitoring data from all existing monitoring wells at the site (including any off-property monitoring wells), report initial results to Ecology, and continue monitoring existing wells on a quarterly basis to establish the nature and extent of contamination, and ongoing groundwater gradient conditions at the site.
2. Actively and continuously recover any free-phase petroleum product present in or above groundwater at the site until approved to discontinue by Ecology.

For a description of the process for cleaning up a hazardous waste site under MTCA, please refer to the enclosed fact sheet.

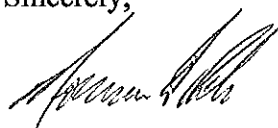
Ecology's policy is to work cooperatively with PLPs to accomplish the prompt and effective cleanup of hazardous waste sites. Please note that your cooperation in planning or conducting remedial actions at the Site is not an admission of guilt or liability.

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Contact Information

If you have any questions regarding this letter or if you would like additional information regarding the cleanup of hazardous waste sites, please call me at 509-454-7837. Thank you for your cooperation.

Sincerely,



Norman D. (Norm) Peck
CRO Toxics Cleanup Program

Enclosures: 2

By certified mail: 7009 2250 0004 4951 8866

cc: Mr. Nabin Joshi, Short Stop, LLC
Mr. Gurmit Singh Kaila