



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

June 6, 2011

Kim Story
Nestle USA
800 North Brand Boulevard
Glendale, CA 91203

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

- Name: Cream Wine
- Address: 111 E Lincoln Ave, Sunnyside
- Parcel No.: 221036-22006
- Facility/Site No.: 46552166

Dear Ms. Story:

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 Nestle USA liable under RCW 70.105D.040 for the release of hazardous substances at the Cream Wine Facility (Site). This proposed finding is based on the following evidence:

1. Carnation Company owned and operated the facility from 1946 through 1986. The Carnation Company was subsequently purchased by Nestle USA.
2. Sound Earth Strategies, Inc. has identified perchloroethylene in the groundwater at the Site. Based on their January 20, 2011 groundwater modeling evaluation memo, the likely source of PCE is in the former truck repair and washing facilities of the Site. The truck repair and washing facilities were present during the Carnation Company ownership and operation of the Site
3. Perchloroethylene groundwater contamination has been shown to be a hazardous material and is a threat to human health and the environment



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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.
3. Choose not to comment on your status as a PLP.

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

Mr. Norman Hepner
CRO Toxics Cleanup Program
15 W. Yakima Avenue, Suite 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

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

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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 encourages the PLP's to clean up the Site independently. This would include joining the Voluntary Cleanup Program (VCP).

Another option is negotiating an Agreed Order with Ecology. This would formally outline the expectations for all parties as we move forward with a cleanup.

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.

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 Norm Hepner at 509-454-7839. Thank you for your cooperation.

Sincerely,



Valerie Bound
SECTION MANAGER
CRO Toxics Cleanup Program

Enclosures: 2

By certified mail: