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STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY  
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August 18, 2021

Jerry Mahan  
Green Cove Park LLC  
429 29<sup>th</sup> Street NE, Suite A  
Puyallup, WA 98372

**Re: Preliminary Determination of Liability for Release of Hazardous Substances at the following Contaminated Site:**

- **Site Name:** Sundberg Gravel Pit
- **Site Address:** 2200 Cooper Point Road NW, Olympia, Thurston County, WA 98502
- **Cleanup Site ID:** 10635
- **Facility/Site ID:** 82016954
- **County Assessor's Parcel Number(s):** 81700000000, 74202900000, 74202500200, 74202500100, 50400100100, 50400200100, 50400300100, 50400400100, 50400402000, 50400402100, 50400402300, 50400402500

Dear Jerry Mahan:

Under the [Model Toxics Control Act \(MTCA\)](#),<sup>1</sup> [chapter 70A.305](#)<sup>2</sup> Revised Code of Washington (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**

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Based on credible evidence, Ecology is proposing to find Green Cove liable under RCW 70A.305.040 for the release of hazardous substances at the Site. This proposed finding is based on the following evidence:

1. Green Cove is the current owner or operator of a facility, and the owner or operator at the time of the release of disposal of hazardous substances, as defined under

<sup>1</sup> <https://apps.ecology.wa.gov/publications/SummaryPages/9406.html>

<sup>2</sup> <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305>

MTCA. Specifically, Green Cove owns properties where the Sundberg Gravel Pit formerly operated and released hazardous substances that have become a source of contamination to the Site. Green Cove purchased these properties from Westbrook Investments LLC on October 1, 2014. Westbrook is now dissolved but before dissolution had the same address and service agent as Green Cove. Additional releases of hazardous substances occurred since Green Cove purchased the properties.

2. Several investigations between 1993, to present provide evidence that releases or suspected releases of hazardous substances have occurred at the Site.

A 1993 site assessment by Stemen Environmental, Inc. (Appendix E, *Phase 1 Environmental Site Assessment*, AMEC, April 2, 2004) noted that contaminated soils excavated following removal of a 12,000-gallon diesel underground storage tank located northeast of the on-site mobile home be properly stored on the site until a treatment or disposal method was decided upon. The treatment or disposal of this soil is not documented.

The *Soils Investigation Preliminary* (Pacific Rim Soils & Water Inc., November 2, 2007) noted strong diesel or oil smells in two test pits. This study did not include analytical sampling. *Sundberg Estates Subsurface Investigation Phase II Environmental Assessment* (Robinson Noble, March 4, 2008) completed additional test pits and included NTPH-HCID and NWTPH-DX analysis. One result showed 370 mg/kg diesel-range petroleum hydrocarbons. This result was below the MTCA Method A cleanup level, but confirmed a release occurred. Additional analyses required under MTCA Cleanup Regulation (173-340 WAC) Table 830-1 were not completed in this or any other sample. Diesel-range, oil-range and waste oil petroleum hydrocarbon releases are often associated with volatile petroleum compounds, such as benzene, and fuel additives, such as 1-2 dibromoethane (EDB), 1-2 dichloroethane (EDC), methyl tertiary-butyl ether (MTBE), and lead.

*Technical Memorandum Green Cove Records Review, Data Gaps Analysis and Recommendations* (Robinson, Noble and Saltbrush, June 5, 2019), and *Phase 1 Environmental Site Assessment* (Ages Environmental, January 1, 2015) indicate potential soil and groundwater contamination from various fill materials placed on the site and from chemical drums, buckets and an aboveground storage tank without secondary containment. Stained soil noted on garage floor and truck parking area has not been sampled.

*Phase I Environmental Site Assessment* (Ages Environmental, January 1, 2015), and historical areal photos show the subject property was used for log storage. The presence of logs and buried wood debris were also identified in multiple records. Reports from concerned citizens suggest some of the logs were treated pilings. Treated pilings can be a source of polynuclear aromatic hydrocarbon (PAH) contamination to the Site. There is a potential for methane gas generation from the breakdown of organic materials buried as fill on the site.

Observations of improper storage of hazardous materials, reports of illegal dumping, and photographs provide additional evidence of potential releases. ERTS reports #654104, #654938 #687561 and #696417 provide complaints, observations and photos of potential releases at the site. These reports included observations of treated wood storage, improper storage of 55-gallon barrels, fill from unknown sources, illegal dumping, lack of stormwater controls and potentially contaminated stormwater runoff into wetlands.

The investigation reports listed above confirm release of hazardous substances, including diesel-range petroleum hydrocarbons have occurred at the Site. Releases of related petroleum compounds, fuel additives, PAHs and metals are suspected at the Site.

3. The investigative reports listed above identified releases or suspected releases of hazardous substances to soil and groundwater at unknown concentrations suspected to be sufficiently toxic or in a sufficient quantity to affect, have the potential to affect, or have had adverse effects on human health or the environment. Reports also identified hazardous substances at low concentrations, but due to limited and insufficient sampling these hazardous substances are suspected to exceed cleanup standards. Based on studies performed at the Site to date, this Site poses a threat to human health and/or the environment.

### **Opportunity to Respond to Proposed Finding of Liability**

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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; or
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:

Connie Groven, P.E.  
SWRO Toxics Cleanup Program  
PO Box 47775  
Olympia, WA 98504-7775  
[Connie.Groven@ecy.wa.gov](mailto:Connie.Groven@ecy.wa.gov)

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**

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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**

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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.

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 70A.305.060 to file a lien against that real property to recover those costs.

## **Next Steps in Cleanup Process**

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In response to the release of hazardous substances at the Site, Ecology intends to conduct the following actions under MTCA:

1. Oversee completion of a remedial investigation/feasibility study pursuant to an Agreed Order with Green Cove.
2. Oversee completion of any needed remediation of the Site.

For a description of the process for cleaning up a contaminated 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 contaminated 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

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If you have any questions regarding this letter or if you would like additional information regarding the cleanup of contaminated sites, please contact me at 360-407-6241 or [rebecca.lawson@ecy.wa.gov](mailto:rebecca.lawson@ecy.wa.gov). Thank you for your cooperation.

Sincerely,



Rebecca S. Lawson, P.E., LHG  
Section Manager  
Toxics Cleanup Program  
Southwest Region Office

Enclosures (2) A – Focus Sheet: Model Toxics Control Act Cleanup Regulation, Process for  
Cleanup of Hazardous Waste Sites (Pub. No. #94-129)  
B – Voluntary Waiver of Right to Comment Form

Certified mail: 9489 0090 0027 6093 5056 64

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Ecology Site File