

Lora Lake Apartments/SIT 8.2



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Avenue SE • Bellevue, Washington 98008-5452 • (425) 649-7000

February 3, 2009

**CERTIFIED MAIL**

7008 1140 0000 2360 4624

Mr. Paul Agid  
Environmental Program Supervisor  
Aviation Environmental Programs  
Seattle-Tacoma International Airport  
P.O. Box 68727  
Seattle, WA 98168-0727

Dear Mr. Agid:

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

- Name: Lora Lake Apartments Site
- Address: 15001 Des Moines Memorial Drive, Burien, WA 98148
- Facility/Site No.: 6635198

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 the Port of Seattle liable under RCW 70.105D.040 for the release of hazardous substances at the Lora Lake Apartment facility (Site). This proposed finding is based on the following evidence:

1. The Port of Seattle is an "owner or operator" as defined in RCW 70.105D.020(17) of a "facility" as defined in RCW 70.105D.020(5). The Port of Seattle stated its ownership in their letter to Ecology notifying Ecology of soil and ground water contamination at the Site (Port of Seattle to Ecology, February 27, 2008).
2. The Port of Seattle has provided Ecology reports documenting the presence of hazardous substances at the site exceeding MTCA cleanup levels. A list of these reports is enclosed. The reports indicate polycyclic aromatic hydrocarbons,



hydrocarbons (gasoline, diesel, and oil), and dioxins are confirmed soil contaminants and these same contaminants plus tetrachloroethene, trichloroethene, and 1,2 dichloroethene, and arsenic are confirmed groundwater contaminants.

### **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:

David L. South  
NWRO, Toxics Cleanup Program  
3190 160<sup>th</sup> Avenue SE  
Bellevue, WA

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

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 the following actions under MTCA:

1. Ecology intends to require the Port of Seattle to conduct a remedial investigation and feasibility study as described in WAC 173-340-350 in a manner that complies with all requirements of the Model Toxics Control Act Cleanup Regulation, Chapter 173-340 WAC.
2. Ecology invites the Port of Seattle to enter negotiations for an Agreed Order that will govern the conduct of the aforementioned remedial investigation and feasibility study.

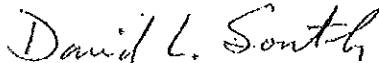
For a description of the process for cleaning up a hazardous waste site under MTCA, please refer to the enclosed fact sheet.

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 me at 425-649-7200 or contact me by email at dsou461@ecy.wa.gov. Thank you for your cooperation.

Sincerely,



David L. South  
Senior Engineer  
NWRO Toxics Cleanup Program

ds/kp

Enclosures: 3

- (1) LIST OF REPORTS DOCUMENTING RELEASE
- (2) FOCUS: MODEL TOXICS CONTROL ACT CLEANUP REGULATION: PROCESS FOR CLEANUP OF HAZARDOUS WASTE SITES (Pub. No. #94-129)
- (3) VOLUNTARY WAIVER OF RIGHT TO COMMENT FORM

## **List of Reports Documenting Release of Hazardous Substances at the Lora Lake Apartments Site**

Supplemental Groundwater Investigation, Lora Lakes Apartments, prepared by ENSR Corporation and dated November 17, 2008.

Soil, Groundwater, and Sub-Slab Air Investigation, Lora Lakes Apartments, prepared by ENSR Corporation and dated June 2008.

Report of Focused Subsurface Investigation at Lora Lake Apartments in Vicinity of Previous Environmental Cleanup in 1987 by Golder Associates, Tax Lot Number 2023049105, Port of Seattle Parcel Number 029R, 15001 Des Moines Memorial Way South, WA, prepared by GeoScience Management, Inc. dated April 7, 2008.

Draft Phase I Environmental Site Assessment Report, Lora Lake Apartment Complex, 15001 Des Moines Memorial Drive, Burien, Washington, prepared by Parametrix, Inc. dated May 26, 1998.

Report, Preliminary Site Assessment, Lora Lake and Holly Ridge Apartment Complexes, 15001 and 15405 Des Moines Way S., Burien, Washington, prepared by Dames & Moore dated June 25, 1991.

Environmental Site Assessment, Lora Lake Apartments, Seattle, Washington, prepared by ENSR Consulting and Engineering, and dated August 1990.

Letter from Washington Department of Ecology to The Muller Group, Re: Lora Lake Apartments – Site Investigation and Cleanup, dated December 10, 1987.

Letter from Golder Associates to The Muller Group, Re: Lora Lakes Cleanup, dated December 9, 1987.

Letter from Golder Associates to The Muller Group, Re: Lora Lakes Cleanup, dated December 9, 1987.

Letter from Earth Consultants Inc. to Seafirst Real Estate Group, Subject: Evaluation of Contamination Cleanup at Lora Lake Apartments Construction Site, 15001 Des Moines Memorial Drive, Seattle, Washington dated April 14, 1987.

Site Investigation and Clean Up, Laura Lake Apartment, prepared by Golder Associates, dated April 6, 1987.

Letter from Golder Associates to The Muller Group, Re: Cleanup Activities, Laura Lake Apartment, dated March 27, 1987.

Geotechnical Site Investigation, Laura Lake Apartment, King County, Washington, prepared by Golder Associates, dated September 19, 1986.

Preliminary Geotechnical Site Investigation, Laura Lake Apartment, King County, Washington, prepared by Golder Associates, dated August 1, 1986.

PLP WAIVER

Mr. Paul Agid  
Environmental Program Supervisor  
Aviation Environmental Programs  
Seattle-Tacoma International Airport  
P.O. Box 68727  
Seattle, WA 98168-0727

Pursuant to WAC 173-340-500 and WAC 173-340-520(1)(b)(i), I, Paul Agid, , a duly authorized representative of the Port of Seattle, do hereby waive the right to the thirty- (30) day notice and comment period described in WAC 173-340-500(3) and accept status of the Port of Seattle as a Potentially Liable Person at the following site:

- Site Name: Lora Lake Apartments Site
- Address: 15001 Des Moines Memorial Drive, Burien, WA 98148
- Facility/Site No.: 6635198

This waiver is solely for purposes of entering into an Agreed Order with the Washington State Department of Ecology. By waiving this right, the Port of Seattle makes no admission of liability.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Relation To The Site: Owner and Operator

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits. <i>TCPIDS</i></li> </ul>	A. Signature <i>X [Signature]</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
1. Article Addressed to:	B. Received by (Printed Name) <i>MIL PRINCE</i>	C. Date of Delivery
<b>MR PAUL AGID</b> <b>ENVIRONMENTAL PROGRAM SUPERVISOR</b> <b>SEATTLE-TACOMA INTERNATIONAL AIRPORT</b> <b>PO BOX 68727</b> <b>SEATTLE WA 98168-0727</b>	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
	Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
2. Article Number (Transfer from service label)	<b>7008 1140 0000 2360 4624</b>	