



Electronic Copy

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

December 22, 2021

Nicole Kimzey
Merrill & Ring
809 E 8th St
Port Angeles, WA 98362
nkimzey@merrillring.com

Re: REVISED Final Determination of Liability for Release of Hazardous Substances at the following Contaminated Site:

- **Site Name:** Terminals 5 6 & 7 Uplands
- **Site Address:** Marine Drive, Port Angeles, Clallam County, WA 98363
- **Cleanup Site ID:** 15440
- **Facility/Site ID:** 97700
- **County Assessor's Parcel Number(s):** 063000190090, 063099190025, 063099190035, 063000505520

Dear Nicole Kimzey:

On July 15, 2021, the Department of Ecology (Ecology) sent you written notice of our preliminary determination that Merrill & Ring is a potentially liable person (PLP) for a release of hazardous substances at the Terminals 5 6 & 7 Uplands facility (Site). On August 18, 2021, the 30-day comment period on our preliminary determination expired; Ecology also received a response letter dated August 18, 2021, from Merrill & Ring. This revised letter replaces Ecology's previous letter *Re: Final Determination of Liability for Release of Hazardous Substances*, dated August 26, 2021. The previous letter failed to acknowledge the response from Merrill & Ring received on August 18, 2021.

Merrill & Ring identifies a parcel located between 1313 and 1608 Marine Drive owned by Port of Port Angeles.

Ecology acknowledges that Levaque Co. Inc. Port Angeles Shingle Site, Cleanup Site ID 11259, was located on a parcel near the intersection of Marine Drive and Hill Street. A 550-gallon diesel tank was removed from this site in July 1991.

After excavation, the sample from the bottom of the excavation initially exceeded Model Toxics Control Act (MTCA) cleanup levels. Additional excavation occurred until the bottom and sidewalls were below cleanup levels. This site received a No Further Action status on August 31, 2021.

The Levaque Co. operated on the property formerly known as 1417 Marine Drive, shown in Figure 2-2 of the *Focused Site Investigation of the Former Merrill & Ring Property* (CH2M Hill, March 1989) report. The report identifies formerly owned Merrill & Ring properties at 1608 and 1313 Marine Drive. Ecology recognizes that addresses and parcel boundaries in this area have changed over time. MTCA defines sites to include everywhere that contamination has come to be located (Washington Administrative Code [WAC] 173-340-200) and site boundaries are not limited by parcel boundaries.

Merrill and Ring's response letter also provides a summary of results from the 2002 Hart Crowser reports and states these investigative reports do not suggest that the Site poses a genuine threat to human health and/or the environment.

The 2002 Hart Crowser reports were focused on the area considered for the location of the former Graving Dock for the construction of concrete pontoons for the SR 520 Bridge. Much of the data in the 2002 Hart Crowser reports is for parcel #063099190045, which is not included in the preliminary site or study area boundaries at this time.

Ecology's determination is based on information from multiple investigations, including the *Merrill and Ring Preliminary Site Evaluation and Focused Pentachlorophenol Explorations* (Hart Crowser 1988) and the *Former Merrill and Ring Property Focused Site Investigation* (CH2M Hill 1989), as well as the 2002 Hart Crowser reports. The 2002 Hart Crowser reports do, however, provide evidence of hazardous substance releases, which pose a threat to human health and/or the environment.

A sample result for mercury in groundwater was 0.26 micrograms per liter ($\mu\text{g/L}$) in monitoring well HC-SW-PA on parcel #063099190045, which is above the preliminary site screening level of 0.025 $\mu\text{g/L}$ based on protection of surface water. Total diesel-range petroleum hydrocarbons in soil were 640 milligrams per kilogram (mg/kg) at location H-4-02 on parcel #063099190035 within the study area, which is above the preliminary screening level of 260 mg/kg based on the MTCA ecological indicator concentration.

Determination and Next Steps

Based on available information, Ecology finds that credible evidence exists that Merrill & Ring is liable for a release of hazardous substances at the Site. On this basis, Ecology has determined that Merrill & Ring is a PLP with regard to the Site.

The purpose of MTCA is to identify, investigate, and cleanup facilities where hazardous substances have been released. Liability for environmental contamination under MTCA is strict, joint and several (RCW 70.105D.040(2)).

Ecology ensures that contaminated sites are investigated and cleaned up to the standards set forth in the MTCA statute and regulations. Ecology has determined that it is in the public interest for remedial actions to take place at this Site.

Ecology plans to work with the Port of Port Angeles to bring about the prompt and thorough cleanup of hazardous substances at this Site. Should you wish to be involved in the cleanup, or should Ecology determine that it is necessary for you to take actions to facilitate the cleanup, please be aware that failure to cooperate with Ecology or comply with MTCA in this matter could result in Ecology employing enforcement tools, as it deems necessary and appropriate. This includes, but is not limited to, the issuance of an administrative order. Failure to comply with such an order may result in a fine of up to \$25,000 per day and liability for up to three times the costs incurred by the state (Revised Code of Washington [RCW] 70.105D.050(1)).

Your rights and responsibilities as a PLP are outlined in chapter 70.105D RCW, and chapters 173-340 and 173-204 WAC.

If you have any questions regarding this notice, please contact Connie Groven at 360-407-6254 or connie.groven@ecy.wa.gov.

Sincerely,



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

By certified mail: 9489 0090 0027 6092 9915 05

cc: James Gibb, Owens Corning

cc by email: Karen F. Goschen, Port of Port Angeles, kareng@portofpa.com
Jesse Waknitz, Port of Port Angeles, jessew@portofpa.com
Allison Geiselbrecht, Floyd | Snider, Allison.Geiselbrecht@floydsnider.com
Jon Thompson, Office of the Attorney General, jonathan.thompson@atg.wa.gov
Connie Groven, Ecology, connie.groven@ecy.wa.gov
Ecology Site File