STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
1250 W Alder St • Union Gap, WA 98903-0009 • (509) 575-2490

April 1, 2022

Daniel Osterhage
Forterra Roslyn LLC
PO Box 4189
Seattle, WA 98194

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

- **Site Name:** Roslyn 4 Mine Site
- **Site Address:** 205 East Dakota Avenue, Roslyn
- **Cleanup Site ID:** 15545
- **Facility/Site ID:** 66921
- **County Assessor's Parcel Number:** 456234

Dear Daniel Osterhage,

The Department of Ecology (Ecology) has confirmed that a release of hazardous substances has occurred at the Roslyn #4 Mine Site facility (Site) requiring cleanup under the Model Toxics Control Act (MTCA),[1] chapter 70A.305 RCW.[2] This determination is based on an Initial Investigation conducted on March 15, 2022. We have added the Site to its list of confirmed and suspected contaminated sites.

Based on credible evidence, Ecology is proposing to find Forterra Roslyn LLC liable under MTCA for the release of hazardous substances at the Site. Any person whom Ecology finds, based on credible evidence, to be liable is known under MTCA as a "potentially liable person" or "PLP." This letter identifies the basis for Ecology's proposed finding and your opportunity to respond to that finding. This letter also describes the scope of your potential liability and next steps in the cleanup process at the Site.

**Proposed Finding of Liability**

Ecology is proposing to find Forterra Roslyn LLC liable under RCW 70A.305.040[3] for the release of hazardous substances at the Site.

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[1] https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Rules-directing-our-cleanup-work/Model-Toxics-Control-Act
[2] https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305
[3] https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.040

This proposed finding is based on the following evidence:

1. According to the Kittitas County Assessor, the tax parcel #456234 located at 205 East Dakota Avenue in Roslyn, WA is currently owned by Forterra Roslyn LLC

2. Documents provided to Ecology in March 2022 reveal the presence of contaminants of concern in soils that exceed Model Toxic Control Act (MTCA) Cleanup Levels for Unrestricted Land Use. The potential exists for these contaminants to be present in Site groundwater.

3. Contaminants of concern analyzed during site investigation events exceed MTCA cleanup levels and pose a threat 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; 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:

Mary Monahan
Toxics Cleanup Program
Central Regional Office
1250 West Alder Street
Union Gap, WA 98903-0009

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**

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[4] 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. Remedial investigation/feasibility study at the Site, including a review of all site investigations historically conducted at the Site.

2. MTCA cleanup action at 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.

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[4] https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.060

**Site Listing**

Ecology has added the Site to its list of confirmed and suspected contaminated sites. Information about the Site is enclosed. Please review this information for its accuracy and return your comments within thirty (30) days of receipt of this letter.

**Contact Information**

If you have any questions regarding this letter or if you would like additional information regarding the cleanup of contaminated sites, please call me at 509-571-6661 or Mary.Monahan@ecy.wa.gov. Thank you for your cooperation.

Sincerely,

Mary Monahan
Cleanup Project Manager
Toxics Cleanup Program
Central Regional Office

Enclosures (3):
1. Focus: Model Toxics Control Act Cleanup Regulation #94-129
2. PLP Waiver Form
3. Site Listing Information

By certified mail: 7014 3490 0001 5526 6735

cc: Office of the Attorney General, Ecology Division