



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Central Region Office

1250 West Alder St., Union Gap, WA 98903-0009 • 509-575-2490

September 28, 2022

East Mountain Investments, Inc.
DTG Enterprises, Inc.
c/o David Black
22745 29th Dr. SE, Suite 200
Bothell, WA 98021

Re: Early notice of release of hazardous substances and preliminary determination of liability for release at the following contaminated site:

- **Site Name:** Anderson Landfill
- **Site Address:** 41 Rocky Top Road, Yakima, Yakima County
- **FSID No.:** 79747294
- **CSID No.:** 11537
- **Parcel No.:** 171310-23003

Dear David Black:

The Department of Ecology (Ecology) has confirmed that a release of hazardous substances has occurred at the Anderson Landfill facility (Site) requiring cleanup under the [Model Toxics Control Act \(MTCA\)](#),¹ [chapter 70A.305 RCW](#).² This determination is based on our review of two submitted reports (*Soil Gas and Ambient Air Sampling Report*, dated February 25, 2022 and *Yakima Limited Purpose Landfill, Landfill Gas Investigation*, dated August 2022).

In August 2022, Ecology performed an Initial Investigation based on a review of this documentation and determined that further investigation is warranted. This site is currently on Ecology's list of confirmed and suspected contaminated sites, however, that listing was based on suspected soil contamination. We have updated our information to reflect the confirmed air contamination from the air emissions documented in reports referenced earlier.

Based on credible evidence, Ecology is proposing to find DTG Enterprises, Inc. and East Mountain Investments, Inc. liable under MTCA for the release of hazardous substances at the Site. Any person whom Ecology finds to be liable, based on credible evidence, is known under MTCA as a "potentially liable person" or "PLP." This letter identifies the basis for Ecology's proposed finding and your

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>

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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 DTG Enterprises, Inc. and East Mountain Investments, Inc. liable under [RCW 70A.305.040](#)³ for the release of hazardous substances at the Site. This proposed finding is based on the following evidence:

- East Mountain Investments, Inc. is the current owner of the property on which the facility is located, as shown in records maintained by the Yakima County assessor. The property was acquired from ARP Properties II LP in October 2019.
- DTG Enterprises, Inc. dba DTG Recycle is the current operator of the facility. Formerly, the facility was operated by Ron Anderson under the name, Anderson Rock and Demolition Pit. DTG Enterprises, Inc. acquired the facility in 2019.
- The results of the air emissions sampling demonstrate an exceedance of the MTCA Method B cleanup levels for benzene and naphthalene in the ambient outdoor air.
- Benzene and naphthalene are defined as hazardous substances under MTCA. These chemicals are sourced from petroleum hydrocarbons which are also classified as a hazardous substance. Concentrations of these chemicals above their respective cleanup levels in environmental media (such as air, soil or groundwater) present a threat to human health or 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:

Luke LeMond, LHG
Solid Waste Management Program, Central Region Office
1250 W. Alder St., Union Gap, WA 98903
luke.lemond@ecy.wa.gov, (509) 379-3961

³ <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.040>

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

Under MTCA, Ecology reserves the right to notify additional PLPs at any time. As resources permit, Ecology will facilitate PLPs' efforts to identify additional PLPs.

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](https://app.leg.wa.gov/RCW/default.aspx?cite=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:

- Initiate discussion with the PLPs to ensure investigations are performed to assess the nature and extent of contamination and to more fully evaluate the potential and actual exposure pathways. These activities will occur under an Agreed Order negotiated with Ecology.
- Ecology has the option to initiate an Enforcement Order if negotiation for an Agreed Order fails.

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.

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

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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 contact me at (509) 901-7107 or valerie.bound@ecy.wa.gov. Thank you for your cooperation.

Sincerely,



Valerie Bound
Section Manager
Toxics Cleanup Program, Central Region Office

Enclosures:

1. Focus Sheet: [Model Toxics Control Act Cleanup Regulation: Process for Cleanup of Hazardous Waste Sites](#)
2. PLP Waiver Form Template

By certified mail: 7007 2560 0001 9534 2513

cc: Shawn Magee, Yakima Health District
Jonathan Thompson, Office of the Attorney General
Ecology site file