



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600, Olympia, WA 98504-7600 • 360-407-6000

November 15, 2022

Jeffrey Pustizzi, Authorized Representative
3812 Everett Partners, LLC
414 S. 16th Street, Suite 100
Philadelphia, PA 19146

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

- **Site Name:** Buse Timber & Sales
- **Site Address:** 3812 28th Place NE, Everett
- **Cleanup Site ID:** 4340
- **Facility/Site ID:** 2786
- **Snohomish County Assessor's Parcel Number(s):** 29050400300600 and 29050900201500

Dear Jeffrey Pustizzi:

Based on credible evidence, the Department of Ecology (Ecology) is proposing to find 3812 Everett Partners, LLC (Everett Partners) potentially liable under Model Toxics Control Act (MTCA), Chapter 70A.305 RCW, for the release of hazardous substances at the Buse Timber & Sales facility (Site). Any person whom Ecology finds, based on credible evidence, to be potentially 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 Everett Partners 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. Everett Partners is the legal owner of both land parcels on which the Buse Timber & Sales Site is located, and on which Buse Timber operated since the early 1940s.

Activities at the facility that potentially resulted in detrimental environmental effects include the operation of the sawmill, operation of a machine shop, hog fuel mixing, current and former dip tanks, fire pond, as well as other environmental conditions identified in the Limited Site Investigation prepared by Terracon Consultants, Inc (Terracon 2018) and the Buse Mill Phase II Environmental Site Investigation prepared by Apex Companies, LLC (Apex 2021).

2. Credible evidence exists indicating that a “release or threatened release” of a “hazardous substance” has occurred at the Site as defined in RCW 70A.305.020(13) and (32), which poses a threat to human health or the environment. Confirmed exceedances of cleanup levels from previous sampling at the Site include (<https://apps.ecology.wa.gov/cleanupsearch/site/14770#site-documents>):
Soil: arsenic, non-halogenated organics (petroleum – diesel), and non-halogenated organics (petroleum – other); and
Groundwater: arsenic, halogenated organics, non-halogenated organics (petroleum – diesel), and non-halogenated organics (petroleum – other); and
Sediment: dioxins/furans, mercury.

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:

Kevin Heffern
Department of Ecology
Toxics Cleanup Program
Headquarters Region
PO Box 47600
Olympia, WA 98504-7600

Jeffrey Pustizzi, Authorized Representative
3812 Everett Partners, LLC
November 15, 2022
Page 3

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 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:

Enter into an Agreed Order with Everett Partners, which will require Everett Partners to:

- a. Conduct a Remedial Investigation and Feasibility Study (RI/FS) (*see* WAC 173-340-350) for the Site, and
- b. Develop a Cleanup Action Plan (CAP) (*see* WAC 173-340-380(1)) for the Site.

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

Jeffrey Pustizzi, Authorized Representative
3812 Everett Partners, LLC
November 15, 2022
Page 4

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

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 360-628-1977 or nack461@ecy.wa.gov. Thank you for your cooperation.

Sincerely,



Nicholas Acklam
Section Manager
Toxics Cleanup Program
Headquarters Region

Enclosures (4): 1 - Terracon 2018. Limited Site Investigation
 2 - Apex 2021. Phase 2 Environmental Site Investigation
 3 - Focus: Model Toxics Control Act Cleanup Regulation: Process for Cleanup
 of Hazardous Waste Sites (#94-129)
 4 - PLP Waiver Form

By certified mail: 7014 3490 0001 5526 6858

cc: Kathryn Wyatt, Office of the Attorney General
 Barry Ziker, Joyce Ziker Partners
 Leo Addimando, Alterra Property Group, LLC
 Matt Otto, Apex Companies, LLC
 Barry Rogowski, Ecology
 Amy Hargrove, Ecology
 John Evered, Ecology
 Kevin Heffern, Ecology
 Ryan Hardwick, Ecology