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OCT 28 2022

Dept of Ecology
Central Regional Office

October 26, 2022

Valerie Bound
Section Manager, Toxics Cleanup Program
Dept. of Ecology, Central Regional Office
1250 West Alder St.
Union Gap, WA 98903-0009

VIA EMAIL & CERTIFIED MAIL

Re: Early Notice of Preliminary Determination of Liability, Anderson Landfill

Dear Ms. Bound:

DTG Enterprises, Inc. ("DTG") has received and reviewed your September 28, 2022, letter regarding the Department of Ecology's ("Ecology") early notice that it proposes to find DTG potentially liable for releases of hazardous substances at the Anderson Landfill in Yakima County (the "Site").

DTG and East Mountain Investments, Inc., (collectively "DTG") purchased the property comprising the landfill from the previous owner, Ronald E. Anderson and Anderson Rock & Demolition Pits II, LLC in October 2019. Mr. Anderson owned and operated the landfill and controlled all associated activities from the 1980s until DTG's acquisition in 2019. Solely because DTG is the current owner of the property comprising the Anderson Landfill, it accepts status as a potentially liable party ("PLP") for the Site without admitting liability and without waiving any rights provided by the Model Toxics Control Act, RCW 70A.305 ("MTCA") or any other legal or equitable right.

DTG has been meeting and working with representatives of multiple agencies, including Ecology (both its Solid Waste and Toxics Cleanup Programs), the Yakima Health District, and the Yakima Regional Clean Air Agency regarding the Site. DTG has been cooperating with these agencies for months. We understand from those meetings and the agency's September 28 letter that Ecology intends to negotiate a MTCA Agreed Order with DTG to conduct additional analysis of hazardous substances at the Site. DTG looks forward to continuing its cooperation with Ecology regarding the Site, including discussing a MTCA Agreed Order and associated scope of work.

Ecology's early notice is based on information and data developed by DTG and provided to Ecology in *Soil Gas and Ambient Air Sampling Report* (February 25, 2022) and *Yakima Limited Purpose Landfill, Landfill Gas Investigation* (August 2022). The September 28 notice letter is based on data from these reports, both of which were voluntarily conducted by DTG and provided to Ecology and other agencies. The data from these reports that Ecology bases its proposal to find that DTG is potentially liable for the Site concerns air emission sampling data that shows exceedance of MTCA Method B cleanup levels for benzene and naphthalene. DTG agrees that benzene and naphthalene are hazardous substances under MTCA and are associated with petroleum contaminated soils (PCS). We note however, that DTG used MTCA Method B values as a screening tool only. Method B values are for residential uses and the Site is of course not, nor will be, a residential use. Whether there has been a release above applicable MTCA

cleanup levels for the Site is therefore currently not clear.

Part of the Site is a limited purpose landfill (LPL) which accepts treated PCS. Another part of the Site is a permitted PCS treatment area. PCS was stockpiled and treated in the PCS treatment area until concentrations within the soil were below MTCA thresholds. The treated PCS could then be disposed of in the LPL in accordance with WAC 173-350 and the PCS operations plan following approval by the Yakima Health District. The ambient air quality results from the 2022 investigations cited above show the benzene and naphthalene concentrations in landfill gas are contained to within the landfill property boundary.

Consistent with WAC 173-350-400, DTG is committed to engineering design, controls, and mitigation to make sure landfill gas at the LPL is properly managed. We look forward to continuing to work with Ecology, the Yakima Health District, and the Yakima Regional Clean Air Agency to make sure there is no additional risk to human health or the environment consistent with the appropriate regulatory criteria.

We have also reviewed the document titled "Technical Memorandum" dated October 11, 2022, that was provided to DTG ("TM"). Thank you for providing the TM, but its purpose is not clear. The TM contemplates sampling that focuses on "gas" in the vicinity of VP-1. TM, p. 3. This section of the TM appears to indicate a desire to complete "core samples" for "gas." We are not aware that "gas" is a MTCA hazardous substance and the agency's September 28 notice letter does not list "gas" as a hazardous substance. The TM also refers to a potential subsurface fire and conducting a thermal imaging survey. We are also not aware that fire or heat are MTCA hazardous substances, and the agency's September 28 notice letter does not list "heat" or "fire" as hazardous substances. DTG is concerned that Ecology may be considering addressing potential issues at the Site under MTCA that do not appear to be hazardous substances. If there may be landfill gas or "heat" issues, those issues are appropriately addressed pursuant to WAC 173-350-400 and the LPL permit rather than through MTCA. DTG is committed to working with Ecology and other agencies to address all issues via the appropriate regulatory mechanism.

Thus, DTG and Ecology should ensure that the Agreed Order scope of work is within the agency's MTCA authority and focuses on hazardous substances as described in the September 28 notice letter. Other possible issues at the Site, including landfill gas, that may be solid waste regulatory issues should be addressed consistent with WAC 173-350-400. We look forward to further discussing the issues with you and discussing an Agreed Order and scope of work consistent with your September 28 notice letter.

Sincerely,



John R. Martin

Cc: Michael Dunning, Perkins Coie (via email)

Ian Sutton, Parametrix (via email)

Luke LeMond, Department of Ecology (via email)

Shawn Magee, Yakima Health District (via email)

Jonathan Thompson, Attorney General Office (via email)