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STATE OF WASHINGTON  
**DEPARTMENT OF ECOLOGY**

Southwest Region Office  
PO Box 47775 • Olympia, WA 98504-7775 • 360-407-6300

August 10, 2023

Sarah Weeks  
Port of Tacoma  
One Sitcum Plaza  
Tacoma, WA 98421  
[sweeks@portoftacoma.com](mailto:sweeks@portoftacoma.com)

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

- **Site Name:** APM Terminals Pacific LTD
- **Site Address:** 1675 Lincoln Ave Tacoma, Pierce County 98421-2902, WA
- **Cleanup Site ID:** 2124
- **Facility/Site ID:** 66987611
- **County Assessor's Parcel Number(s):** 8950000221 and 8950000231

Dear Sarah Weeks:

Based on credible evidence, the Department of Ecology (Ecology) is proposing to find the Port of Tacoma liable under the Model Toxics Control Act (MTCA), Chapter 70.105D RCW, for the release of hazardous substances at the APM Terminals Pacific LTD facility (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 the Port of Tacoma liable under RCW 70.105D.040 for the release of hazardous substances at the Site. This proposed finding is based on the following evidence:

1. The Port of Tacoma is an "owner or operator" as defined in RCW 70.105D.020(22) of a "facility" as defined in RCW 70.105D.020(8).

2. The Port of Tacoma has provided Ecology reports documenting the presence of hazardous substances at the site exceeding MTCA cleanup levels (see references 1). The reports indicate concentrations of TPH-DRO/ORO, TPH-GRO, and Benzene exceed MTCA Method A levels in groundwater and soil. Additionally, Concentrations of ethylbenzene and xylenes were also above MTCA Method A screening levels in soil.

### **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:

Tia Misuraca  
Toxics Cleanup Program, SWRO  
P.O. Box 47775, Olympia, WA 98504-7775

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 70.105D.055 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. Ecology intends to require the Port of Tacoma to conduct a remedial investigation and feasibility study as describes in WAC 173-340-350 in a manner that complies with all requirements if the Model Toxics Control Act Cleanup Regulation, Chapter 179-340 WAC.
2. Ecology invites the Port of Tacoma to enter negotiations for an Agreed Order that will govern the conduct of the aforementioned remedial investigation and feasibility study.

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.

### **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 360-742-2807 or [tmis461@ecy.wa.gov](mailto:tmis461@ecy.wa.gov). Thank you for your cooperation.

Sincerely,



Tia Misuraca  
Cleanup Project Manager  
Toxics Cleanup Program,  
Southwest Region Office

TM/jc

References (1)

1. Soil, Groundwater, and Tier II Vapor Intrusion Assessment Report. Parcel 40. Port of Tacoma. January 27, 2022.

Enclosures (1)

2. PLP WAIVER FORM TEMPLATE

By certified mail: 9489 0090 0027 6339 2996 47

cc: LeeAnne Kane, Office of the Attorney General, [leeanne.kane@atg.wa.gov](mailto:leeanne.kane@atg.wa.gov)  
Rebecca Lawson, Ecology, [rebecca.lawson@ecy.wa.gov](mailto:rebecca.lawson@ecy.wa.gov)  
Ecology Site File

**Early Potentially Liable Person Notice Letter**  
**Thirty-Day Comment Period Waiver Form**

Port of Tacoma  
One Sitcum Plaza  
Toledo, WA 98421

Pursuant to WAC 173-340-500 and WAC 173-340-520(1)(b)(i), I \_\_\_\_\_, a duly authorized representative of Port of Tacoma, do hereby waive the right to the thirty- (30) day notice and comment period described in WAC 173-340-500(3) and accept status of Port of Tacoma as a Potentially Liable Person at the following site:

- Site Name: APM Terminals Pacific LTD
- Site Address: 1675 Lincoln Ave Tacoma, WA 98421-2902
- Cleanup Site ID: 2124
- Facility/Site ID: 66987611
- County Assessor's Parcel Number(s): 8950000221 and 8950000231

This waiver is solely for the purpose of cooperating with Ecology to conduct the additional investigation and remedial action necessary at the site. By waiving this right, Port of Tacoma makes no admission of liability.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date