



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

November 9, 2023

Aaron Bishop, SVP & COO, Midstream
Altagas Ltd.
1700, 355 4th Ave SW
Calgary AB T2P 0J1

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

- **Site Name:** Intalco Aluminum LLC
- **Site Address:** 4050 Mountain View Rd, Ferndale, WA 98248
- **Cleanup Site ID:** 2280
- **Facility/Site ID:** 16

Dear Aaron Bishop:

Based on credible evidence, the Department of Ecology (Ecology) is proposing to find Petrogas Pacific LLC liable under the Model Toxics Control Act (MTCA), Chapter 70A.305 RCW, for the release of hazardous substances at the Intalco Aluminum LLC 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 Petrogas Pacific LLC 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. Petrogas Pacific LLC is the owner and operator of the pier at the Site as documented by the Whatcom County Assessor website (accessed October 10, 2023), Petrogas Pacific LLC was the “Grantee” in a Bargain & Sale Deed on September 27, 2016 for the pier. Petrogas Inc. is the U.S. parent company of all Petrogas entities and Altagas Ltd. is the parent company of Petrogas Inc.

2. From September 14 through 17, 2015, and on October 15, 2015, consultants for Intalco Aluminum LLC conducted sediment sampling activities at the Site as part of Intalco Aluminum LLC's National Pollutant Discharge Elimination System (NPDES) permit number WA0002950. In a report titled "Revised NPDES Sediment Data Report" dated May 2020, the report showed six stations with Sediment Quality Standards (SQS) or sediment impact zone maximum (SIZmax) criteria exceedances. Sampling stations 10, 12, 15, and 20 had SQS criteria exceedances, while stations 8 and 11 exceeded SIZmax criteria. In total, 16 different chemicals exceeded the SQS or SIZmax criteria. Table 1 shows the study locations, the chemicals that exceeded the SQS or SIZmax criteria, the sample results in parts per million (ppm), and the SQS and SIZmax criteria.

Table 1 SQS and SIZmax Criteria Exceedances at the Site

Study Location	Chemical Name	Chemical Concentration (ppm)	SQS Criteria (ppm)	SIZmax Criteria (ppm)
8	Acenaphthene	150	16	57
8	Anthracene	330	220	1,200
8	Benz(a)anthracene	2,000	110	270
8	Benzo(a)pyrene	2,200	99	210
8	Benzo(g,h,i)perylene	1,200	31	78
8	Chrysene	2,200	110	460
8	Dibenzo(a,h)anthracene	320	12	33
8	Fluoranthene	3,000	160	1,200
8	Fluorene	82	23	79
8	High-molecular-weight Polycyclic Aromatic Hydrocarbon (HPAH)	19,000	960	5,300
8	Indeno(1,2,3-c,d)pyrene	1,000	34	88
8	Low-molecular-weight Polycyclic Aromatic Hydrocarbon (LPAH)	1,600	370	780
8	Phenanthrene	1,000	100	480
8	Pyrene	3,900	1,000	1,400
8	Total Benzofluoranthenes	3,600	230	450
8	Total Polychlorinated Biphenyl (PCBs)	46	12	65
10	Total PCBs	25	12	65
11	Acenaphthene	65	16	57
11	Benz(a)anthracene	1,200	110	270
11	Benzo(a)pyrene	1,600	99	210
11	Benzo(g,h,i)perylene	1,000	31	78
11	Chrysene	1,200	110	460
11	Dibenzo(a,h)anthracene	260	12	33



Study Location	Chemical Name	Chemical Concentration (ppm)	SQS Criteria (ppm)	SIZmax Criteria (ppm)
11	Fluoranthene	1,700	160	1,200
11	Fluorene	41	23	79
11	HPAH	12,000	960	5,300
11	Indeno(1,2,3-c,d)pyrene	870	34	88
11	LPAH	840	370	780
11	Phenanthrene	550	100	480
11	Pyrene	1,600	1,000	1,400
11	Total Benzofluoranthenes	2,400	230	450
11	Total PCBs	53	12	65
12	Benzo(g,h,i)perylene	36	31	78
12	Total PCBs	21	12	65
15	Total PCBs	14	12	65
20	Total PCBs	13	12	65

3. Benz(a)anthracene, benzo(a)pyrene, chrysene, dibenzo(a,h)anthracene, fluoranthene, indeno(1,2,3-c,d)pyrene, and PCBs are hazardous substances and are listed in the Dangerous Waste Regulations on the dangerous waste constituents list in WAC 173-303-9905¹.
4. The SIZmax criteria from Table 1 come from Ecology's report called "Evaluation of Candidate CSL, MCUL, and SIZmax Values" (Publication No. 90-09-909², April 1990). This report summarizes the evaluation of candidate cleanup screening levels (CSL), minimum cleanup levels (MCUL), and maximum allowable sediment impact zone concentrations (also called the SIZmax). As shown in Table 1, sample results for benz(a)anthracene, benzo(a)pyrene, chrysene, dibenzo(a,h)anthracene, fluoranthene, and indeno(1,2,3-c,d)pyrene exceed the SIZmax criteria at Study Locations 8 and 11. In addition, benz(a)anthracene, benzo(a)pyrene, chrysene, dibenzo(a,h)anthracene, fluoranthene, indeno(1,2,3-c,d)pyrene, and PCBs for those study locations listed all exceed the SQS Criteria.

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

¹ <https://app.leg.wa.gov/WAC/default.aspx?cite=173-303-9905>

² <https://apps.ecology.wa.gov/publications/UIPages/SummaryPages/9009909.html>



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:

Gregory Gould, P.E.
Industrial Section, Solid Waste Management Program
Department of Ecology
PO Box 47600
Olympia, WA 98504

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:

1. Ecology intends to require Intalco Aluminum LLC and Petrogas Pacific LLC to conduct a remedial investigation and feasibility study (RI/FS) as described in WAC 173-340-350 in a manner that complies with all requirements of the Model Toxics Control Act Cleanup Regulation, Chapter 173-340 WAC. The RI/FS is intended to determine the nature and extent of contamination associated with the Site and evaluate remedial actions as determined necessary. More information about the RI/FS will be forthcoming following the final PLP determination.



2. Ecology invites Petrogas Pacific LLC to enter negotiation 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) 819-6426 or greg.gould@ecy.wa.gov.

Thank you for your cooperation.

Sincerely,



Gregory Gould, P.E.
Cleanup Project Manager
Solid Waste Management Program, Industrial Section

Enclosures (2)

By Registered Mail: RE 042 765 985 US

cc: Lucas Donnelly, Altagas Ltd.
Nicole Finnamore, Altagas Ltd.
Victoria Banks, Office of the Attorney General

