



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

January 9, 2024

Karl Schumacher, Senior Manager, Environmental Services
WestRock CP, LLC
Corporate Environmental Department
1000 Abernathy Road NE
Atlanta, GA 30328

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

- **Site Name:** WestRock Tacoma
- **Site Address:** 801 E Portland Ave Tacoma, WA 98421
- **Cleanup Site ID:** 16842
- **Facility/Site ID:** 39

Dear Karl Schumacher:

On October 10, 2023 the Department of Ecology (Ecology) sent you written notice of our preliminary determination that WestRock CP, LLC (WestRock) is a potentially liable person (PLP) for the release of hazardous substances at the WestRock Tacoma facility (Site) under the Model Toxics Control Act (MTCA). Ecology provided you 30 days to comment on our preliminary determination. On November 9, 2023 WestRock provided initial comments and asked Ecology for additional time to provide comments after having time to review the documents Ecology references in the October 10, 2023 letter. On November 14, 2023, Ecology provided to WestRock the documents Ecology referenced in the October 10, 2023 letter. On November 16, 2023, Ecology agreed to accept your additional written comments no later than December 22, 2023. On December 21, 2023, Ecology received your additional comments.

Your November 9 and December 21, 2023 comment letters deny liability under MTCA for the Site. The two letters appear to present two main arguments: (1) that WestRock is not liable for releases that occurred when they were not the owner or operator of the Site (section B of WestRock's December 21, 2023 letter) and (2) the releases cited in Ecology's October 10, 2023 letter do not pose a threat to human health or the environment, and therefore do not need to be addressed under the MTCA process.

WestRock's argument no.1 listed is based upon an incorrect reading of the RCW. WestRock is the current owner or operator of the Site. The current owner or operator of a site is liable for releases of hazardous substances, whether or not they occurred while the current owner or operator was in possession of the site (see RCW 70A.305.040(1)(a), which is independent from RCW 70A.305.040(1)(b) through (e)).

WestRock's comments express skepticism that historical spills would continue to pose a threat to human health or the environment and therefore do not need to be addressed under MTCA. Ecology maintains that any spill of a hazardous substance to waters of the state or soils are a threat to human health or the environment that must be investigated under the MTCA process. Ecology is unable to release Westrock from liability under MTCA based on the age of historic releases. Remedial investigations under the MTCA process will quantitatively determine the nature and extent of contamination on the Site, which will in turn inform a cleanup action plan.

WestRock's comments also suggest that based on documents related to releases, Ecology felt that corrective actions the owner or operator of the Site took at the time of the release were sufficient. The documentation that WestRock cited in their letters does not constitute a settlement between the owner and operator of the Site and Ecology. The documentation does not relieve WestRock of liability under MTCA.

Ecology acknowledges that WestRock plans to remove wood waste in the vicinity of where their wood waste barge was once located. The removal of the wood waste does not relieve WestRock of liability under MTCA. Wood waste can create decomposition by-products such as sulfides, ammonia, and phenols which can cause or contribute to toxicity. Ecology also acknowledges that WestRock will perform sediment sampling in the vicinity of their outfall as required by their NPDES permit. This data may be used to inform future clean-up actions.

Section C of your December 21, 2023 letter states that, because Ecology has indicated that they are still reviewing site history, that the letter does not represent WestRock's final position on the PLP Notice, and that WestRock reserves the right to supplement their responses. WestRock is able to review Ecology documents and comment on site history. However, at this point of the cleanup process, Ecology's goal is not to gain WestRock's agreement on all releases that have occurred during the site's history. Ecology only needs to identify one release of a hazardous substance to identify PLPs. Once Ecology has identified PLPs, a more formal review of the site's history will occur as part of the cleanup process. Ecology need not issue PLP determinations and determine liability on a release-by-release basis.

Based on available information, Ecology finds that credible evidence exists that WestRock is liable for a release of hazardous substances at the Site. On the basis of this finding, Ecology has determined that WestRock is a PLP with regard to the Site.

The purpose of the Model Toxics Control Act (MTCA) is to identify, investigate, and cleanup facilities where hazardous substances have been released. Liability for environmental

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contamination under MTCA is strict, joint and several (RCW 70A.305.040(2)). Ecology ensures that contaminated sites are investigated and cleaned up to the standards set forth in the MTCA statute and regulations. Ecology has determined that it is in the public interest for remedial actions to take place at this Site. Ecology will contact you regarding the actions necessary for WestRock to bring about the prompt and thorough cleanup of hazardous substances at this Site. Failure to cooperate with Ecology or comply with MTCA in this matter will result in Ecology employing enforcement tools as it deems necessary and appropriate. This includes, but is not limited to, the issuance of an administrative order. Failure to comply with such an order may result in a fine of up to \$25,000 per day and liability for up to three times the costs incurred by the state (RCW 70A.305.050(1)).

Your rights and responsibilities as a PLP are outlined in Chapter 70A.305 RCW, and Chapters 173-340 and 173-204 WAC. Ecology's cleanup project manager for the Site, Emily Toffol, will contact you with information about how Ecology intends to proceed with the cleanup.

Ecology is willing to meet with you to discuss the cleanup process. Please work with Emily Toffol and suggest meeting times that may work for you or your team.

If you have any questions regarding this notice, please contact Emily Toffol at 360-790-8363 or emily.toffol@ecy.wa.gov.

Sincerely,



James DeMay
Industrial Section Manager
Solid Waste Management Program

By certified mail: [9489 0090 0027 6383 8994 80]

cc: Derek Threet, Office of the Attorney General
Ecology Site File, Cleanup