



**MARTIN SELIG**  
MSRE MANAGEMENT, LLC

October 1, 2020

**VIA E-MAIL & REGULAR MAIL**

Tanner Bushnell  
NWRO Toxics Cleanup Program  
3190 – 160<sup>th</sup> Avenue SE  
Bellevue WA 98008

**Re: Site Name:** Barq French Cleaners  
**Cleanup Site ID:** 4045  
**Facility/Site ID:** 22254391

Dear Mr. Bushnell:

I am in-house general counsel for (i) Third & Virginia LLC (“**T&V**”), and (ii) MSRE Management, L.L.C., d/b/a Martin Selig Real Estate (“**MSRE**”). T&V is the owner of those properties in downtown Seattle, Washington commonly known as 1925 Third Avenue and 1931 Third Avenue (collectively, the “**Property**”). MSRE is the Property’s appointed and acting property manager.

I am following-up on DOE’s September 18, 2020 letter to T&V (the “**DOE Letter**”) regarding the Property (copy enclosed). The DOE Letter included a proposed PLP Waiver Form Template (the “**Waiver Form**”) for T&V’s signature. Enclosed (by regular mail) and attached (by e-mail) is an executed Waiver Form. By this letter I hereby confirm that, for purposes of the “Opportunity to Respond to Proposed Finding of Liability” provision on DOE Letter page 2, T&V hereby adopts item 1 described therein as its response to DOE’s proposed finding of liability.

Please contact me directly if you have any questions regarding these matters

Yours very truly,

John Greeley

# PLP Waiver Form Template

Martin Selig  
Third & Virginia LLC  
1000 2<sup>nd</sup> Avenue, Suite 1800  
Seattle, WA 98104-3619

Pursuant to WAC 173-340-500 and WAC 173-340-520(1)(b)(i), I Martin Selig, a duly authorized representative of Third & Virginia LLC, 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 Third & Virginia LLC as a Potentially Liable Person at the following contaminated site:

- **Site Name:** Barg French Cleaners
- **Site Address:** 1929 3<sup>rd</sup> Avenue, Seattle, WA 98101
- **Cleanup Site ID:** 4045
- **Facility/Site ID:** 22254391
- **County Assessor's Parcel Number(s):** 197720-1040, 197720-1045

By waiving this right, Third & Virginia LLC makes no admission of liability.

Signature

Date

Relation to the Site: Owner



Electronic Copy

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

*Northwest Regional Office • 3190 160th Avenue SE • Bellevue, Washington 98008-5452 • (425) 649-7000  
711 for Washington Relay Service • Persons with a speech disability can call (877) 833-6341*

September 18, 2020

Martin Selig  
Third & Virginia LLC  
1000 2<sup>nd</sup> Avenue, Suite 1800  
Seattle, WA 98104-3619  
([mseelig@martinselig.com](mailto:mseelig@martinselig.com))

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

- **Site Name:** Barg French Cleaners
- **Site Address:** 1929 3<sup>rd</sup> Avenue, Seattle, WA 98101
- **Cleanup Site ID:** 4045
- **Facility/Site ID:** 22254391
- **County Assessor's Parcel Number(s):** 197720-1040, 197720-1045

Dear Martin Selig:

Based on credible evidence, the Department of Ecology (Ecology) is proposing to find Third and Virginia LLC liable under the Model Toxics Control Act (MTCA), Chapter 70.105D RCW, for the release of hazardous substances at the Barg French Cleaners 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 Third and Virginia LLC 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. Third and Virginia LLC is the current owner or operator of a facility as defined in RCW 70.105.020(8). Third and Virginia LLC's ownership of the parcels making up

this facility (King County parcels 1977201045 and 1977201040) are established by records of the King County Department of Assessments.

2. Credible evidence exists indicating that a “release or threatened release” of a “hazardous substance” has occurred at the Site as defined in RCW 70.105D.020(13) and (32), which poses a threat to human health or the environment.
3. Ecology has received various reports documenting the presence of tetrachloroethylene (PCE) in soil and groundwater on the referenced parcels, including:
  - Kleinfelder Inc. 1999. Final Report, Environmental Assessment and Phase II Subsurface Soil and Shallow Groundwater Characterization, Havers Trust, The Barg French Dry Cleaning Facility, Seattle, Washington. File ID No. E99-1414-T. Prepared for the Union Bank of California. September 7, 1999.
  - SECOR International Incorporated. 2001. Remedial Action Plan, Barg French Dry Cleaners, 1923 Third Avenue, Seattle, Washington. SECOR PN: 001.01214.001. Prepared for the Union Bank of California. June 1, 2001.
  - Parametrix. 2006. Testing and Environmental Sampling of the Perchloroethylene (PCE) Remediation System, Washington State Department of Ecology Site ID 22254391. Prepared for 1925 Third LLC. May 2006.
  - Parametrix. 2009. Technical Memorandum: Updated Work Plan for 1929 Third Avenue Site, Seattle, Washington. Prepared for 1925 Third LLC. March 31, 2009.

The reports describe the release of PCE from the historical dry cleaning operation formerly located at 1929 Third Avenue into soil and groundwater, efforts to remediate the contamination, and the continued presence of contamination on the referenced parcels.

### **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. In addition, please submit an electronic copy to [tanner.bushnell@ecy.wa.gov](mailto:tanner.bushnell@ecy.wa.gov):

Tanner Bushnell  
NWRO Toxics Cleanup Program  
3190 160<sup>th</sup> Avenue SE  
Bellevue WA 98008

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**

Ecology will be notifying the following additional persons that they may be potentially liable for the release of hazardous substances at the Site:

1. 1925 Third LLC (prior owner of parcel 197720-1045)
2. Minaglia Family LLC (prior owner of parcel 197720-1040)

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.

Martin Selig  
September 18, 2020  
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**Next Steps in Cleanup Process**

In response to the release of hazardous substances at the Site, Ecology and 1925 Third LLC entered in to a Consent Decree in King County Superior Court No. 04-2-01681-9. The Decree requires that PLP to perform remedial actions at the Site in accordance with the Decree's Cleanup Action Plan (Exhibit B to the Decree). Ecology is reviewing data for the Site to determine if additional remedial actions are necessary for contamination at the Site.

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 by phone at (425) 691-0571 or by email at [tanner.bushnell@ecy.wa.gov](mailto:tanner.bushnell@ecy.wa.gov). Thank you for your cooperation.

Sincerely,



Tanner Bushnell  
Cleanup Project Manager  
Toxics Cleanup Program, NWRO

- Enclosures (2):
1. Focus: Model Toxics Control Act Cleanup Regulation, Process for Cleanup of Hazardous Waste Sites; Focus No. 94-129, Revised November 2007.
  2. PLP Waiver Form Template

cc: John Level, Office of the Attorney General, ([john.level@atg.wa.gov](mailto:john.level@atg.wa.gov))  
Ecology Site File