


ACCESS AGREEMENT  
Between the  
Washington State Department of Ecology  
and  
Mr. Patrick Herman

The Washington State Department of Ecology (Ecology) and Patrick Herman, agree to following terms and conditions of this Access Agreement:

1. Ecology is responsible for the investigation and remediation of hazardous waste sites in Washington pursuant to the Model Toxics Control Act (MTCA), Chapter 70.105D RCW and Chapter 173-340 WAC.
2. Upon reasonable notice (unless an emergency prevents such notice), Ecology may exercise the power to enter upon any property to conduct investigations of a release of a hazardous substance, and to conduct remedial actions (including investigations) to remedy releases of hazardous substances. RCW 70.105D.030(1)(a) & (b); WAC 173-340-800.
3. Patrick Herman is the owner/operator of a site on which a release of hazardous substances has occurred. The Site is known as the R&R Automotive Site (Site). The property is located at 24311 56<sup>th</sup> Avenue West in Mountlake Terrace, Washington and is identified by Snohomish County Assessor's Parcel Number 00489300003200.
4. Patrick Herman has been designated as a "potentially liable person" for the Site. RCW 70.105D.020(21), .040.
5. By signing this Access Agreement, Patrick Herman grants access rights to Ecology and/or any authorized representative of Ecology, including a contractor to be selected by TOC Holdings Co. for the purpose of investigating and remediating the release of hazardous substances at the Site, as detailed in the attached work plan for soil and water sampling.
6. Patrick Herman agrees to indemnify, defend, and save and hold harmless the State of Washington, its employees, and agents from any and all claims or causes of action for death or injuries to persons or for loss or damage to property to the extent arising from or on account of acts or omissions of Patrick Herman, his officers, employees, agents, or contractors in entering into this agreement or that may occur in the course of Ecology accessing the property pursuant to this agreement. However, Patrick Herman shall not indemnify the State of Washington, defend, nor save nor hold harmless its employees and agents from any claims or causes of action to the extent arising out of the negligent acts or omissions of the State of Washington, or the employees or agents of the State, in entering into this agreement or accessing the property pursuant to this agreement.
7. Ecology and Patrick Herman may mutually amend this Access Agreement. Any amendments shall not be binding on either party unless such amendments are in writing and signed by an authorized representative of each party.
8. Ecology hereby reserves its right to file an action, if necessary, against Patrick Herman or any other "potentially liable person" to recover the remedial actions costs incurred by

Ecology for any investigative and remedial actions at the Site. RCW 70.105D.050(3); WAC 173-340-550.

9. This Access Agreement between Ecology and Patrick Herman contains all the terms and conditions agreed upon by and between the parties. No other understandings, verbal or otherwise, regarding the subject matter of this agreement shall be enforceable on any of the parties.



Robert W. Warren  
Regional Section Manager  
Toxics Cleanup Program  
Department of Ecology

Dated: 5/6/13



Patrick Herman

Dated: 3-1-13