



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

October 29, 2013

Florence H. Mackner Trust
Attn: Jean Kirkham
805 E. Mountain View Avenue
Ellensburg, WA 98926

Re: Notice of Potential Liability under the Model Toxics Control Act for the Release of Hazardous Substances at the following Hazardous Waste Site:

- Name: Mackner's Transport, Inc.
- Address: 400 E. Mountain View Avenue, Ellensburg
- Facility/Site ID No.: 27815219
- Cleanup Site ID No.: 11724

Dear Ms. Kirkham:

Under the Model Toxics Control Act (MTCA), chapter 70.105D RCW, which governs the cleanup of hazardous waste sites in Washington State, the Department of Ecology (Ecology) may identify persons that it finds are liable for the release of hazardous substances at a site. Before making such a finding, Ecology must provide persons with notice and an opportunity to comment on the proposed finding. Any person whom Ecology finds, based on credible evidence, to be liable is known as a "potentially liable person" or "PLP".

Proposed Finding of Liability

Based on credible evidence, Ecology is proposing to find the Florence H. Mackner Trust liable under RCW 70.105D.040 for the release of hazardous substances at the former Mackner's Transport facility (Site). This proposed finding is based on the following evidence:

1. The Florence H. Mackner Trust was the owner of the property from the 1950s until 2012.
2. Sampling of soils and groundwater at the Site during various times from the 1990s until 2012 revealed that a release of petroleum products had taken place before transfer of the property to the current owners.
3. Laboratory analysis of soil and groundwater samples collected from the Site reveal concentrations of petroleum hydrocarbons that exceed MTCA Method A Cleanup Levels for both soils and groundwater at the Site. These concentrations pose a risk to human health and the environment.



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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.

Please also note that 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:

- Ecology intends to have a remedial action conducted at this site in order to mitigate any risk to human health and the environment at this Site. Ecology intends to initiate discussions leading to a Consent Decree with Kittitas County Fire District #2.

For a description of the process for cleaning up a hazardous waste 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 hazardous waste 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 hazardous waste sites, please call me at 509-454-7840. Thank you for your cooperation.

Sincerely,



Mary Monahan
CRO Toxics Cleanup Program

Enclosures: 2