



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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

June 5, 2014

City of Yakima  
Attn: Tony O'Rourke, City Manager  
129 North 2nd Street  
Yakima, WA 98901

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

- Name: Tiger Oil 24th Ave & W Nob Hill
- Address: 2312 W. Nob Hill Blvd., Yakima
- Yakima Co Parcel Nos: 181326-42051, 181326-42050, 181326-42049, and 181326-42054
- Facility Site No.: 469

Dear Mr. O'Rourke:

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 City of Yakima (City) liable under RCW 70.105D.040 for the release of hazardous substances at the Tiger Oil 24th Ave & W Nob Hill Site in Pasco, Washington (Exhibit A).

This proposed finding is based on the following evidence:

1. According to our information, the City is an owner of a "facility" as defined in RCW 70.105D.020(8). In February 2014, the City purchased the property located at 2312 W. Nob Hill Blvd. in Yakima, Yakima County, Washington from the Tiger Oil Corporation. This property is part of the Tiger Oil Site (hereinafter the Site).



Ecology received a notice of a release of gasoline from a leaking underground storage tank system at the 2312 W. Nob Hill Blvd. property on or about September 23, 1982 and verified the release during an initial investigation and follow-up site inspections.

2. Credible evidence exists indicating that a "release or threatened release" of a "hazardous substance" has occurred at the site/facility as defined in RCW70.105D.020(13) and (32), which poses a threat to human health or the environment. As a result of a number of site investigations conducted and remedial actions taken at the Site, Ecology has concluded that a release of hazardous substances has occurred at the Site.

Contaminant levels in soil and groundwater at the Site exceed MTCA cleanup standards pose a risk to human health and the environment.

Hazardous Substances detected in soil and groundwater at the Site includes:

- Gasoline-range petroleum hydrocarbons.
- Benzene, toluene, ethylbenzene, and xylene (BTEX)

The detection of the above listed Hazardous Substances is documented in reports, including but not limited to the following:

- State Remedial Investigation and Feasibility Study, Tiger Oil Facility, West Nob Hill Boulevard & South 24<sup>th</sup> Avenue, Yakima, Washington, MTCA Enforcement Order DE 90-C140, Second Amendment, Volume I of IV, Kleinfelder, April 4, 1994; and
  - Final Groundwater Sampling Report, Tiger Oil (24<sup>th</sup> & Nob Hill), Yakima, Washington, Terragraphics Environmental Engineering, June 12, 2013.
3. In June 2002, Ecology filed a complaint in Thurston County Superior Court against following potentially liable parties for the Site: Tiger Oil Corporation, Tiger Oil Company, Federated Service Insurance Company, Mercy Development, and M&E Company. In October 2004, the court entered a Consent Decree between Ecology, Tiger Oil Corporation, and Federated Service Insurance Company, which required the Tiger Oil Corporation to perform remedial actions at the Site outlined in a Cleanup Action Plan. Additional information for this Site can be found at <https://fortress.wa.gov/ecy/gsp/CleanupSiteDocuments.aspx?csid=4919> as this

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website contains links to technical reports. The link includes the Consent Decrees and technical reports for the Site.

As a result of the evidence (information) contained in the above-cited reports, Ecology has identified the City as a potentially liable party in the cleanup of the Tiger Oil 24th Ave & W Nob Hill Site.

**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;
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:

Norman (Norm) D. Peck  
Department of Ecology  
Central Regional Office  
15 W. Yakima Ave., Ste. 200  
Yakima, WA 98902-3452

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 had notified the following persons that they are potentially liable for the release of hazardous substances at the Site:

1. Tiger Oil Corporation
2. Tiger Oil Company
3. Federated Service Insurance Company

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4. Mercy Development, and
5. M&E Company

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.

### **Responsibility and Scope of Potential Liability**

Please note that 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.

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 oversee the following actions under MTCA:

- Amendment of the Consent Decree and Cleanup Action Plan for the Tiger Oil Site;
- Implement the Amended Cleanup Action Plan for the Site.
- Conduct supplemental site investigation(s), an Interim Action Plan, a Supplemental MTCA Feasibility Study (FS), complete a Revised Cleanup Action Plan (CAP) and remedial action(s).

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.

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**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 the site manager Norm Peck, at (509) 454-7837. Thank you for your cooperation.

Sincerely,



Valerie Bound  
Section Manager  
Toxics Cleanup Program  
Central Regional Office

cc: Mark Kunkler, Attorney, City of Yakima  
Todd Reuter, KL Gates  
Mark E. Fickes, Halverson Northwest Law Group  
ecc: John Level, Office of the Attorney General  
Norm Peck, Ecology

Enclosures

By certified mail: 7009 2250 0004 4951 1645