



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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

September 30, 2014

Terra Rudick  
Owens Family Limited Partnership  
P.O. Box 129  
Selah, WA 98942

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

- Site Name: Comet Trailer Corp
- Site Address: 501 S. 1<sup>st</sup> Street, Selah
- Facility/Site ID No.: 503
- Cleanup Site ID No.: 4198

Dear Ms. Rudick:

Under the Model Toxics Control Act (MTCA), chapter 70.105D RCW, which governs the cleanup of contaminated sites in Washington State, the Department of Ecology (Ecology) may identify persons that it finds 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 Owens Family Limited Partnership liable under RCW 70.105D.040 for the release of hazardous substances at the Comet Trailer Corp facility (Site). This proposed finding is based on the following evidence:

1. Owens Family Limited Partnership is the current owner of the property at 501 S. 1<sup>st</sup> Street, Selah, WA 98942.
2. A Site Hazard Assessment conducted by Ecology in 1992 confirmed the presence of halogenated organic compounds, priority pollutant metals, and non-chlorinated solvents in soils. Based on reports prepared by Technico Environmental Services (2004) and Sage Earth Sciences (2006) and received by Ecology, diesel range organics have been released to soil and groundwater at the site.

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3. Halogenated organic compounds, priority pollutant metals, non-chlorinated solvents, and diesel range organics in soil and diesel range organics in groundwater at the site exceed MTCA cleanup levels. This release poses a threat to human health and the environment.

### **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:

Matthew Durkee  
CRO Toxics Cleanup Program  
15 W Yakima Avenue, Suite 200  
Yakima, WA 98902

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 additional persons that they are potentially liable for the release of hazardous substances at the Site:

1. Mr. Bud Owens
2. Burlington Northern Santa Fe Railway

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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**

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 conduct the following actions under MTCA:

1. Initiate negotiations for entering into an Agreed Order that will replace the existing Agreed Order to fully characterize the nature and extent of releases, as well as cleanup of contamination at the Site. The existing Agreed Order was signed by the late Mr. Bud Owens in 2003 and did not include free product diesel contamination that was discovered as part of the previous work under the existing Agreed Order.

For a description of the process for cleaning up a 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 contaminated 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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If you have any questions regarding this letter or if you would like additional information regarding the cleanup of contaminated sites, please call me at 509-454-7835. Thank you for your cooperation.

Sincerely,



Matthew Durkee, LHG  
Site Manager  
CRO Toxics Cleanup Program

Enclosures: 2

By certified mail: 7009 2250 0004 4950 4920

cc: Bruce Sheppard, Burlington Northern Santa Fe Railway