



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

January 23, 2015

Tommy Kilburn
615 N. 59th Ave.
West Richland, WA 99353

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

- Site Name: Buena Labor Camp
- Site Address: 761 Buena Road, Buena
- Assessor's Parcel No.: 20112111040
- Facility/Site ID No.: 27377292
- Cleanup Site ID No.: 5800

Dear Mr. Kilburn:

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 Mr. Tommy Kilburn liable under RCW 70.105D.040 for the release of hazardous substances at the Buena Labor Camp facility (Site). This proposed finding is based on the following evidence:

1. Mr. Tommy Kilburn owned the property at 761 Buena Road in Buena, WA 98921 from October 1998 to August 1999. For reference, Mr. John Kilburn also owned the property from May 1983 to October 1998.
2. Based on sampling data collected by Ecology (1997 and 2008) and reports prepared by Chen Northern (1990), PLSA (2000), Sage Earth Sciences, Inc.

(2002), and GeoEngineers (2010), gasoline, diesel, heavy oils, benzene, ethylbenzene, toluene, xylenes, and ethylene dibromide (EDB) have been released to soil and/or groundwater at the Site at concentrations that exceed MTCA cleanup levels.

3. In 2002, contaminated soil was excavated and transported to a nearby parcel (20112111037) for treatment, although Ecology has not received any further documentation regarding the status of this contaminated soil.
4. Contamination concentrations in soil and groundwater that exceed MTCA cleanup levels pose a threat to human health and the environment.
5. A Site Hazard Assessment (SHA) conducted by Ecology in 2013 determined the Site's hazard ranking to be a 2, where 1 represents the highest relative risk and 5 the lowest. The hazard ranking is an estimation of the potential threat to human health and/or the environment relative to all other Washington State sites assessed at this time.

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

1. Chevron Environmental Management Company
2. Richard and Margaret Bergstrom
3. Adan Avila
4. Robert Huerd

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. Encourage the PLPs to quickly engage an environmental consultant to fully investigate the extent of contamination and cleanup the Site through an independent remedial action.
2. Encourage the PLPs to join Ecology's Voluntary Cleanup Program (VCP) to obtain technical assistance. This could include review of independent cleanup actions and determining if the Site warrants no further action. Information about the VCP is available at <http://www.ecy.wa.gov/programs/tcp/vcp/Vcpmain.htm> or you may contact Frosti Smith, CRO VCP Coordinator, at (509) 454-7841.

Tommy Kilburn
January 23, 2015
Page 4

3. If independent cleanup is not viable, discussion for entering into an Agreed Order may be initiated.

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.

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 1608

cc: Cheryl Cameron, Chevron Environmental Management Company
Richard and Margaret Bergstrom
Adan Avila
Robert Huerd

Tommy Kilburn
615 North 59th Avenue
West Richland, WA 99353

Pursuant to WAC 173-340-500 and WAC 173-340-520(1)(b)(i), I _____, a duly authorized representative of _____, 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 _____ as a Potentially Liable Person at the following site:

- Name: Buena Labor Camp
- Address: 761 Buena Road, Buena
- Assessor's Parcel No.: 20112111040
- Facility/Site ID No.: 27377292
- Cleanup Site ID No.: 5800

By waiving this right, _____ makes no admission of liability.

Signature

Date

Relationship to the Site: _____
(i.e., owner or operator)