



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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

January 23, 2015

Whitley Fuel Company  
c/o Mr. Ben Whitley  
1617 2nd Avenue N.  
Okanogan, WA 98840

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

- Site Name: Pacific Pride Tanker Fire Site
- Address: Highway 2, Milepost 116, Monitor
- Facility/Site ID No.: 357
- Cleanup Site ID No.: 4757
- Hazardous Site List Rank: 3

Dear Mr. Whitley:

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 Whitley Fuel Company liable under RCW 70.105D.040 for the release of hazardous substances at the Pacific Pride Tanker Fire Site (Site). This proposed finding is based on the following evidence:

1. On July 24, 1991, a tanker truck carrying 10,000 gallons of unleaded gasoline crashed and spilled a large volume of fuel, some of which was consumed by fire.
2. The release occurred along the south side of Highway 2, east of the city of Monitor (latitude 47.482494, longitude -120.400956). The areas impacted are the right-of-way near the eastbound lane of the highway and the adjacent forested alluvial floodplain.
3. The fuel tanker that released gasoline to the environment was operated by Whitley Fuel Company.



4. Two different sets of three groundwater monitoring wells have been installed over the last 23 years. Only one of these well still exists.
5. During the last five years, analytical results for groundwater samples collected from this existing well have shown detections of the chemical, benzene, at concentrations above regulatory compliance levels in groundwater.
6. Benzene is a known human carcinogen. Its high solubility allows this chemical to be transported through groundwater over fairly long distances depending on such factors as subsurface conditions.
7. The area impacted by the release is within the five year and ten year time of travel zones of a designated wellhead protection area for drinking water.

#### **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:

John Mefford  
CRO Toxics Cleanup Program  
15 W. Yakima Avenue, 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**

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.

Mr. Ben Whitley  
Whitley Fuel Company  
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### **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 discussions to pursue investigations and cleanup. Different options exist and Ecology is willing to set up a meeting to discuss these options.
2. Alternatively, enter the Voluntary Cleanup Program at this time if you have already retained an environmental consultant who has or is developing a work plan for investigations. Implement that plan of action.

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 509-454-7836. Thank you for your cooperation.

Sincerely,



John Mefford  
CRO Toxics Cleanup Program

Enclosures: 2

By Certified Mail: 7009 2250 0004 4950 1547