



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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September 30, 2016

Gerrity Retail Fund 2, Inc.
Attn: John Waters
c/o Gerrity Group, LLC.
973 Lomas Santa Fe Drive
Solana Beach, CA 92075

Re: Contained-in Determination for Contaminated Soils from the Lake Stevens Marketplace Shopping Center in Lake Stevens, Washington (Ecology Cleanup Site ID #: 13076)

Reference: 1. Letter Report from K. Rankich, PES Environmental, Inc. to B. Maeng, Ecology dated September 16, 2016
2. Email from K. Rankich, PES Environmental, Inc. to B. Maeng, Ecology on September 20, 2016
3. Email from K. Rankich, PES Environmental, Inc. to B. Maeng, Ecology on September 22, 2016

Dear Mr. Waters:

The Washington State Department of Ecology (Ecology) received a contained-in determination request from your environmental consultant, PES Environmental for nine (9) 55-gallon drums of contaminated soils generated during the site investigation activities (drill cuttings from boring locations: SV-1, SV-2, SV-3, MW-5, MW-6, MW-7 and TW-1 through TW-7) at the Lake Stevens Marketplace Shopping Center located at 303 91st Avenue NE in Lake Stevens, Washington (Reference 1).

Analytical data and supplemental information for the nine (9) 55-gallon drums of contaminated soils were submitted to Ecology to determine if these soils contaminated with listed dangerous waste constituents (F002) may be exempt from management as dangerous wastes per the "Contained-In Policy"¹. Ecology understands that these contaminated soils do not designate under federal characteristics (WAC 173-303-090) or State-only criteria (WAC 173-303-100) (References 1, 2 and 3).

Based on the information received and reviewed, Ecology has determined that these soils are contaminated with F002 listed dangerous waste constituents at concentrations that do not warrant

¹ Washington State Department of Ecology Contained-in Policy, dated February 19, 1993



management as dangerous wastes, and Ecology will not require disposal of these soils as listed dangerous wastes at a RCRA permitted dangerous waste treatment, storage and disposal (TSD) facility, provided that all of the following conditions are implemented. This contained-in determination applies only to the contaminated soils, and does not pertain to contaminated water or any mixture of contaminated soils and drilling fluids.

You or your consultant, PES Environmental shall:

- Ensure that no standing water is present within each of the drums/containers holding the contaminated soils. All water must be removed to the maximum extent possible from each of the drums/containers and managed as F002 dangerous wastes or as otherwise allowed under Chapter 173-303 WAC;
- Directly deliver the soils to a solid waste landfill permitted under WAC 173-351 inside Washington State. If the soils are delivered to a landfill outside Washington State, you or your consultant must get an approval for the contaminated soil disposal from the state or local authority where the landfill is located, and submit the written approval to Ecology before the soils are delivered to the landfill outside Washington State. Do not consolidate these contaminated soils with other soils that do not pertain to this contained in determination;
- Dispose of the contaminated soils at the solid waste landfill by October 31, 2016. This contained-in determination letter is no longer valid after October 31, 2016, and the contaminated soils must be managed as dangerous wastes after this date;
- Notify Ecology before disposal of the soils if the amount exceeds the approved amount in this letter. Ecology needs to make sure that the additional soil qualifies for this contained-in determination;
- Provide copies of all signed solid waste landfill receipts and a summary table including disposal dates, tonnages, etc. or a certificate of disposal issued by the receiving landfill for these contaminated soils to Ecology, attention of Byung Maeng, within 15 days of your receipt. This is an important verification step for you and your consultant to follow in order for this Ecology decision to be valid;
- Take measures to prevent unauthorized contact with these soils at all times;
- During transport, take adequate measures to prevent spills and dispersion due to wind erosion;
- Provide instructions to the landfill operator that these soils are not to be used for daily, intermediate, or final cover;
- Provide copies of all soil analytical data to the landfill operator, upon request; and

- Do not send these contaminated soils to any incinerator, thermal desorption unit or recycling facility unless that facility is a RCRA Subtitle C permitted dangerous waste TSD facility.

Ecology issued this determination based on the information provided and reviewed to date. This written decision only applies to the nine (9) 55-gallon drums of soils described above, and does not apply to any other area or other media. Any data used for this contained-in determination is intended for use in determining the proper disposal of the soils according to the Washington State Dangerous Waste Regulations (Chapter 173-303 WAC) and the Ecology Contained-in Policy. This letter is not an Ecology approval for dangerous waste designation or disposal of contaminated soils that may be generated or already excavated from other areas in this property.

This letter is not a No Further Action (NFA) letter and not written approval for any cleanup action plan you may have submitted. Instead, this letter only addresses the procedures for disposal of the contaminated soils according to the Washington State Dangerous Waste Regulations (Chapter 173-303 WAC). Regulatory decisions regarding the cleanup action, applicable soil and groundwater cleanup levels and any other cleanup issues must comply with the requirements under Ecology Model Toxics Control Act (Chapter 173-340 WAC). Local agencies may have the authority to impose additional requirements on this waste stream.

If you fail to comply with the terms of this letter, Ecology may issue an administrative order and/or penalty as provided by the Revised Code of Washington, Sections 70.105.080 and/or .095 (Hazardous Waste Management Act).

If you have any questions concerning this letter, please feel free to contact me at (425) 649-7253 or bmae461@ecy.wa.gov.

Sincerely,



Byung Maeng, PE
Hazardous Waste and Toxics Reduction Program

By certified mail: 9171 9690 0935 0106 9639 54

ecc: Lisa Brown, Ecology-ERO
Greg Caron, Ecology-CRO
Dean Yasuda, Ecology-NWRO
Chuck Hoffman, Ecology-SWRO
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