



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Ave SE • Bellevue, WA 98008-5452 • 425-649-7000
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October 17, 2018

Shane DeGross
Manager Environmental Remediation
BNSF Railway Company
605 Puyallup Avenue
Tacoma, WA 98421

Re: Preliminary Determination of Liability for Release of Hazardous Substances at the following Contaminated Site:

- **Site Name:** Enterprises NW
- **Site Address:** 3422 1st Avenue South, Seattle, Washington
- **Cleanup Site ID:** 1201
- **Facility/Site ID:** 75996239
- **King County Parcel #'s:** 7666205845; 7666205835; 7666205895

Dear Shane DeGross:

Based on credible evidence, the Department of Ecology (Ecology) is proposing to find the BNSF Railway Company liable under the Model Toxics Control Act (MTCA), Chapter 70.105D RCW, for the release of hazardous substances at the Enterprises NW facility (Site). Any person whom Ecology finds, based on credible evidence, to be liable is known under MTCA as a “potentially liable person” or “PLP.”

This letter identifies the basis for Ecology’s proposed finding and your opportunity to respond to that finding. This letter also describes the scope of your potential liability and next steps in the cleanup process at the Site.

Proposed Finding of Liability

Ecology is proposing to find the BNSF Railway Company liable under RCW 70.105D.040 for the release of hazardous substances at the Site. This proposed finding is based on the following evidence:

1. General Electric Company (GE), operated, as a tenant, an Apparatus Service Shop at 3422 1st Avenue South, Seattle, Washington (ENW property) from 1945 to 1972.



2. GE purchased the ENW Property on June 10, 2011 from Enterprises NW Inc., and owned it until July 19, 2016.
3. The City of Seattle (City) owns the property immediately adjacent the east side of ENW property. The City property is approximately 150' wide, undeveloped, and has always been a public right-of-way. The west side of the property has been provided by the City for a variety of operations, including for past GE operations at ENW and currently for commercial parking, as well as for general operations of the commercial/industrial property owners to the north and south of ENW for storage and easement. The property is shared by BNSF Railway Company (BNSF) operations in the center, which includes two regional line tracks that are fenced-off, with an unimproved street (2nd Avenue South) paralleling east of the tracks.
4. GE entered Ecology's Voluntary Cleanup Program (VCP #NWRO2117) in 2009 to conduct an independent remedial action at the ENW Property.
5. GE submitted an Agency Draft Remedial Investigation Report to Ecology on Feb. 8, 2011. The report documented site assessment activities, including results of soil samples collected from 118 soil borings and groundwater samples collected from as many as 12 monitoring wells during six different groundwater monitoring events. This data collection effort characterized the nature and extent of 21 chemicals of potential concern in soil and groundwater that exceeded MTCA unrestricted land use standards on the Enterprises NW Site, which included the City property and areas where BNSF operated on rail spurs at the ENW property.
6. The Agency Draft Remedial Investigation Report, 2011, identified locations on the City property that exceeded MTCA unrestricted land use standards as part of the Site. Those exceedances included total petroleum hydrocarbons (TPH) in groundwater (MW-12) and polychlorinated biphenyls (PCBs) in soil (SB 18 @ 0-2'; SB 54 @ 1.5-3', 6-11') at locations near the BNSF regional tracks.
7. GE submitted an Agency Draft Feasibility Study and Disproportionate Cost Analysis Report to Ecology on April 23, 2013. The report documented chemicals of concerns and evaluated cleanup alternatives for chemicals that exceeded MTCA standards at the Site.
8. GE submitted an Agency Draft Cleanup Action Plan to Ecology in May 2014 for independent remedial action at the Site. The Site was defined by the extent of contamination caused by the following releases: Gasoline-, diesel-, and oil-range total petroleum hydrocarbons (TPH), volatile organic hydrocarbons (VOC), polychlorinated biphenyls (PCBs), carcinogenetic polyaromatic hydrocarbons (cPAH), and metals into soil; Gasoline-, diesel-, and oil-range total petroleum hydrocarbons (TPH), volatile organic hydrocarbons (VOC), polychlorinated biphenyls (PCBs), carcinogenic polyaromatic hydrocarbons (cPAH), and metals into groundwater.

9. GE conducted independent remedial activities on the Site between May 2015 and January 2016, and provided a Construction Report to Ecology on November 10, 2016 that documented removal of soil and groundwater containing contaminants that exceeded MTCA standards at the Site. A barrier wall was constructed along the east side of the ENW property to protect newly placed clean fill on ENW from potential groundwater migration of residual contaminants. A potential source of groundwater contamination exists from up-gradient property because PCB contaminated soil remains on the City property near the BNSF tracks following these remedial activities.
10. Ecology issued a letter on December 4, 2017 to terminate the VCP Agreement with GE, as the independent remedial actions were not fully effective in cleaning up the Site. In particular, PCBs remain on the Site at concentrations in soil and groundwater that exceed MTCA standards.
11. Ecology made a final determination that GE is a potentially liable person (PLP) on June 13, 2018 for the 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; or
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:

Ronald W. Timm
Washington State Department of Ecology
NWRO Toxics Cleanup Program
3190 160th Avenue SE
Bellevue, WA 98008

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.

Responsibility and Scope of Potential Liability

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.

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. Conduct a site hazard assessment (SHA) and rank the Site for further action.
2. Identify those other persons we find potentially liable for cleanup of the Site.
3. Initiate discussions for an agreed order or consent decree that will govern further action at the Site.

For a description of the process for cleaning up a contaminated 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.

Contact Information

If you have any questions regarding this letter or if you would like additional information regarding the cleanup of contaminated sites, please contact me at (425) 649-7185 or ronald.timm@ecy.wa.gov. Thank you for your cooperation.

Shane DeGross
October 17, 2018
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Sincerely,



Ronald W. Timm
Cleanup Project Manager
Toxics Cleanup Program, NWRO

Enclosures (2)

1. PLP WAIVER FORM
2. MTCA CLEANUP REGULATION: PROCESS FOR CLEANUP OF HAZARDOUS WASTE SITES

By certified mail: 9171 9690 0935 0204 6838 60

PLP Waiver

Shane DeGross
Manager Environmental Remediation
BNSF Railway Company
605 Puyallup Avenue
Tacoma, WA 98421

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

- **Site Name:** Enterprises NW
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By waiving this right, the BNSF Railway Company makes no admission of liability.

Signature

Date

Relation to the Site: Operator