



MARTEN LAW

November 12, 2018

Via U.S. Mail and Electronic Mail

Kim Wooten
NWRO Toxics Cleanup Program
Washington Department of Ecology
Northwest Regional Office
3190 160th Ave SE
Bellevue, Washington 98008
Kim.wooten@ecy.wa.gov

Re: Request to Delist – Sears Auto Center HOT
Ecology CSID: 4669 / FSID: 46247836

Dear Ms. Wooten:

I am writing to you on behalf of First & Utah Street Associates LLC (“First & Utah”), the current owner of the property formerly known as the Sears Auto Center in the SoDo neighborhood of Seattle. The property is located at 2759 1st Avenue South, Seattle, Washington, and identified in the public records of King County as Tax Parcel No. 7666207285 (“Property”). By letter dated October 12, 2018, the Washington State Department of Ecology (“Ecology”) notified First & Utah that Ecology would be performing a Site Hazard Assessment (“SHA”) for the Property under the Model Toxics Control Act (“MTCA”). Based on my conversations with you and with Landau Associates, Inc. (“LAI”), my understanding is that the SHA is being performed to support a decision to “delist” the Property from the MTCA Hazardous Sites List (“HSL”). We write in support of that delisting.

It appears Ecology listed the Property on the HSL in 2013 based upon the fact that no groundwater was sampled near the 2,500-gallon underground storage tank’s (“UST”) excavation location during its removal in 1992. Subsequently, in 2016, groundwater was sampled and the results were non-detect for diesel-range TPH. A further explanation is set out below.

The Property.

Historically, a 2,500-gallon UST existed near the southeastern corner of the Property. In January 1992, the UST was discovered and excavated. It was observed to have last contained heavy heating oil. During excavation, two soil samples were collected at each end of the UST, immediately above the soil/groundwater interface. Following excavation, an additional three soil

samples were taken from the walls of the excavation, also at the soil/groundwater interface, and two additional soil samples were taken from the stockpiled soil. All sample results showed that no TPH was present in any of the soil samples at concentrations above detection limits. Earth Consultants, Inc. (“ECI”) oversaw the excavation and documented the UST’s removal in a Heating Oil UST Removal Report dated February 20, 1992.

There was another structure that historical maps indicate may have existed at some point on the Property near the northeast corner of the current building on the Property, but there are no records to confirm what type of structure may (or may not) have existed. ECI reviewed historical records, published its conclusions in a Phase II Evaluation of the Property on April 28, 1994, and concluded that it could not determine whether the area shown on the historical map depicted an underground structure or not.

Investigations Have Not Identified a Release from the Property.

On December 16, 1988, consultant Sweet-Edwards/EMCON prepared a Site Assessment of parcels within a four-block radius that included the Property. Sweet-Edwards advanced two soil borings, one (identified as SB-2) just north of the former building on the Property and the other (identified as SB-1) just west of the Property across the Utah Avenue south right-of-way. SB-1 detected BTEX in concentrations above the laboratory detection levels, but SB-2 did not.

In 1994, ECI advanced one boring, SB-1, north of the Property, and another, SB-2, west of the southwest corner of the Property—near SB-1 that was advanced by Sweet-Edwards in 1988. Groundwater samples were taken from both borings. No contaminants were detected in soil above MTCA Method A cleanup levels. In groundwater, diesel-range TPH was detected, but at concentrations below the MTCA Method A cleanup levels. ECI concluded that because no diesel-range TPH had been detected in previous studies, that the diesel-range TPH detected in groundwater in this study may have been originating from a source unrelated to Blocks 343 and 342. ECI published its opinion in a Preliminary Environmental Evaluation of Blocks 342 and 343 dated October 25, 1994.

Property Listed on Confirmed and Suspected Contaminated Site List.

On March 8, 2007, First & Utah submitted an application for the Property to enter into Washington’s Voluntary Cleanup Program (“VCP”) to Ecology. The VCP Application summarized the previous environmental investigations of the Property and surrounding area and, based on the data, requested a No Further Action letter for the Property. Ecology conducted an initial investigation of the Property and, on March 15, 2007, listed the Property on the Confirmed and Suspected Contaminated Site for a suspected release of diesel to groundwater, since no groundwater sampling had then been conducted and the groundwater condition was unknown.

Listing the Property on the Hazardous Site List.

In 2013, Ecology conducted its first SHA of the Property (“2013 SHA”), ranked the Property a 5, and put the Property on the HSL requiring further action.

In November 2016, LAI conducted sampling of the groundwater. LAI sampled soil and groundwater on the east side of the UST excavation within the Property’s boundary (MW-8), and also on the west side of the Property in the Utah Avenue South right-of-way (MW-7). No samples in MW-7 and MW-8 detected TPH, polycyclic aromatic hydrocarbons, or volatile organic compounds in soil or groundwater at concentrations that exceeded applicable screening levels. LAI concluded that there was no risk to human health and the environment. In November 2017, LAI submitted a Subsurface Investigation Report for Site Closure of the Subject Property to the Pollution Liability Insurance Agency (“PLIA”) under its Petroleum Technical Assistance Program (“PTAP”) with a request for a No Further Action determination at the Property.

On September 10, 2018, based on LAI’s report and discovering “the information submitted does not show a release above the state’s cleanup level has occurred,” PLIA elected to terminate the Property from PTAP.¹ PLIA based its decision on the fact that MTCA’s implementing regulations oversee only releases of hazardous substances that exceed applicable cleanup levels.² PLIA notified First & Utah that it would be forwarding the Property to Ecology for “delisting.”³

Conclusion.

We ask Ecology to determine that there is no evidence of a release of hazardous substance from either the UST or the unconfirmed former underground structure, that the Property requires no further remedial action, and that it be removed from the Confirmed and Suspected Contaminated Sites List and the HSL. WAC 173-340-310(5)(d); WAC 173-340-320(6); WAC 173-340-330(1), (7).

Please contact me with any questions.

Sincerely,



Molly K.D. Barker

cc (via email only): Donna Musa
Kevin Daniels

¹ See L.Ma Ltr to E. Ives (September 10, 2018).

² See L.Ma Ltr to E. Ives (September 10, 2018); *See also* e-mail from L. Ma to E. Ives, August 28, 2018. WAC 173-340-100.

³ *Id.*