



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

1250 W Alder St • Union Gap, WA 98903-0009 • (509) 575-2490

December 5, 2019

David Garwood
P.O. Box 96
Bingen, WA 98605

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

- **Site Name:** Unocal Bulk Plant 0046
- **Site Address:** 217 E. Steuben Street, Bingen
- **Facility Site No.:** 61834259
- **Cleanup Site ID No:** 6383

Dear David Garwood:

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 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 David Garwood liable under RCW 70.105D.040 for the release of hazardous substances at the Unocal Bulk Plant 0046 facility (Site), located at 217 E. Steuben Street, Bingen (the Property). This proposed finding is based on the following evidence:

1. A bulk petroleum fuel facility has operated at the Site since 1924.
2. Union Oil Company of California owned the Property from April 1924 to March 1997.
3. R.K. Garwood Company, Inc. purchased the Property in June of 1997. R.K. Garwood Company changed its name to “Garwood Oil Company Inc.” in 2004. Title to the property remains with Garwood Oil.



4. Garwood Oil last filed an annual report with the Washington Secretary of State in 2006. The Secretary of State administratively dissolved Garwood Oil in 2007. Garwood Oil did not timely file for reinstatement of its corporate status.
5. David Garwood continues to carry on business on behalf of Garwood Oil, other than winding up and disposing of the company's properties. Specifically, David Garwood has extended a lease between Garwood Oil and Wilson Oil twice. The current lease extension was signed in October 2016 and runs to September 2021 for a sum of \$2750 per month. Garwood Oil does not maintain a tax account with the Washington Department of Revenue.
6. Wilson Oil, dba Wilcox & Flegel, currently operates the existing facilities on the Property and has leased the Property for that purpose since 2006.
7. Petroleum contamination in subsurface soil was initially identified at the Site in 1989 during the removal of an Underground Storage Tank (UST). Subsequent remedial investigations identified petroleum contamination in subsurface soil at several other locations throughout the Site.
8. Petroleum hydrocarbons in groundwater, present at concentrations in excess of Model Toxics Control Act (MTCA) standards, were confirmed in a sample collected at the Site in 1990.
9. Remedial activities to address petroleum hydrocarbon contamination in soil at the Site were conducted in 1989 and 1995; however, subsurface soil contamination is still present in excess of MTCA standards. Locations of exceedances presently known to Ecology include: adjacent to the south property boundary and adjacent to, and likely underneath, the fuel storage building.
10. Contamination in subsurface soil consists of diesel and heavy oil range total petroleum hydrocarbons (TPH). The extent of soil contamination has not yet been characterized.
11. Concentrations of contaminants in subsurface soil and groundwater above MTCA standards constitutes a threat to human health and the environment and further action is therefore required.

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;

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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:

Jennifer Lind
Toxics Cleanup Program
Central Regional Office
1250 W. Alder Street
Union Gap, WA 98903

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

- Union Oil Co. of California
- Wilson Oil, Inc.
- Phillips 66 Company
- Garwood Oil Company, Inc.

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.

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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:

- Ecology intends to enter negotiation with the cooperative PLPs to enter into an Agreed Order for this Site.

For a description of the process for cleaning up a site under MTCA, please refer to the enclosed focus 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 509-454-7839. Thank you for your cooperation.

Sincerely,



Jennifer Lind
Site Manager
Toxics Cleanup Program
Central Regional Office

Enclosures: 2 1 – MTCA Publication #94-129
 2 – Voluntary Waiver of Right to Comment Form

By certified mail: 7019 0140 0000 9806 3615

cc: Eric Hetrick, Chevron Environmental Management Company
Mike Scott, Wilson Oil, Inc.
Ed Ralston, Phillips 66 Company
Kara Tebeau, Ecology AAG