



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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December 27, 2019

Jim Broadlick
City Investors XI L.L.C.
505 5th Ave S #900
Seattle, WA 98104

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

- **Site Name:** TOSCO 25535330857
- **Site Address:** 600 Westlake Avenue North, Seattle, Washington 98109
- **Cleanup Site ID:** 6134
- **Facility/Site ID:** 46445373

Dear Jim Broadlick:

Based on credible evidence, the Department of Ecology (Ecology) is proposing to find City Investors XI L.L.C. liable under the Model Toxics Control Act (MTCA), Chapter 70.105D RCW, for the release of hazardous substances at the **TOSCO 25535330857** 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 City Investors XI L.L.C. 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. City Investors XI L.L.C. is a current owner of the property where contamination has come to be located, as per title search record.
 - The Site is located at Seattle City Block 77 (Block 77), with street address of 600 to 630 Westlake Avenue North in Seattle, Washington. The Site includes the



entire Block 77, and surrounding City of Seattle rights-of-way (ROWs), including Westlake Avenue North, Mercer Street, Valley Street, and Terry Avenue North.

- Block 77 consists of six King County Parcel numbers: 4088803235, 4088803240, 4088803345, 4088803236, 4088803355, and 1987200015 (**Figure 1**). City Investors XI L.L.C. is the current owner of the entire Block 77.
 - City Investors XI L.L.C. is the owner of parcel 4088803236 since September 2000.
 - City Investors XI L.L.C. is the owner of parcels 4088803235, 4088803240, and 4088803345 since March 2002.
 - City Investors XI L.L.C. is the owner of parcels 4088803355 and 1987200015 since December 2014.
2. Based on the *Remedial Investigation/Feasibility Study/Cleanup Action Plan (RI/FS/CAP)*, prepared by ATC Group Services, LLC (ATC), dated February 18, 2018, the following known releases occurred at Block 77:
- In May 1980, a release of approximately 80,000 gallons of leaded gasoline was confirmed at the southwest portion of Block 77.
 - In 1990, petroleum contaminated soil was encountered during removal of five underground storage tanks (USTs) from the northwest portion of Block 77.
 - In 1996 to 1997, multiple complaints were received by Ecology, suggesting that oil may have been discharged or leaked to the soil underneath the building on the northwest portion of Block 77.
 - In May 2001, a gasoline product line was broken during the removal of two adjacent waste oil and heating oil USTs, and an estimated 600 gallons of unleaded gasoline was released at the southwest portion of Block 77.
 - In 2003, heavy oil contaminated soil was encountered at the southwest portion of Block 77 during the hydraulic hoists removal activity.
3. Based on the *RI/FS/CAP*, dated February 18, 2018, and the *Groundwater Monitoring Report*, dated April 2, 2019, both prepared by ATC, petroleum hydrocarbon contaminated soil and ground water is currently present at the Site.
- After multiple remedial soil excavations from 1980 to 2009, petroleum hydrocarbon contaminated soil remains on the southeast portion of Block 77 and surrounding ROWs (**Figure 2**). The petroleum hydrocarbon contaminated soil extends to depths of at least 20 feet below ground surface, with gasoline concentrations up to 5,520 milligrams per kilogram.

- Petroleum hydrocarbon contaminated ground water remains on the southeast portion of Block 77, as of January 3, 2019 (**Figure 2**):
 - *Monitoring well MW-45*: 1,230 micrograms per liter ($\mu\text{g/L}$) of gasoline.
 - *Monitoring well MWR-5*: 43,000 $\mu\text{g/L}$ of gasoline, and 20.9 $\mu\text{g/L}$ of benzene.
- 4. Based on the *Interim Action Completion Report (IA Report)*, prepared by Farallon Consulting, LLC (Farallon), dated April 9, 2018, the ground water at Block 77 is contaminated by halogenated volatile organic compounds (HVOCs), including cis-1,2-dichloroethene (cis-1,2-DCE) and vinyl chloride (VC) (**Figure 3**).
 - *Monitoring well FMW-131*: 39 $\mu\text{g/L}$ of cis-1,2-DCE on March 24, 2017; 0.26 $\mu\text{g/L}$ of VC on June 23, 2017

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:

Jing Song
NWRO Toxics Cleanup Program
3190 160th Avenue Southeast
Bellevue, Washington 98008-5452

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 may be notifying additional persons that they may be potentially liable for the release of hazardous substances at the Site.

Based on the Site use history, the additional persons may include:

1. Phillips 66 Company (Phillips 66).

- Phillips 66, and its corporate predecessors, is the past owner and/or operator of the two parcels 4088803355 and 1987200015, located on the southern portion of Block 77. Phillips 66 and its corporate predecessors owned or operated on these two parcels from 1965 to 2014.
- Phillips 66's corporate predecessor, Union Oil Company of California (Unocal), is the past operator of the three parcels 4088803235, 4088803240, and 4088803345, located on the northern portion of Block 77. Unocal operated a gasoline service station on these parcels from at least 1948 to 1968.
- Phillips 66 is the current Voluntary Cleanup Program (VCP) customer for TOSCO 25535330857 cleanup site (FSID 46445373 and CSID 6134).

2. City of Seattle.

- City of Seattle is the past owner and operator of the three parcels 4088803235, 4088803240, and 4088803345, located on the northern portion of Block 77. City of Seattle owned these three parcels from 1971 to 2002.
- These three parcels (4088803235, 4088803240, and 4088803345) are defined as Auto Service Company cleanup site (FSID 24436664 and CSID 5749). This cleanup site was listed in the Confirmed and Suspected Contaminated Sites List in June 1998; the current site status is "Cleanup Started". This cleanup site was also listed in the Hazardous Sites List in August 2004; the current risk ranking is 5.
- City of Seattle is the current owner of the ROWs surrounding Block 77, including Westlake Avenue North, Mercer Street, Valley Street, and Terry Avenue North.

3. PLPs for American Linen Supply Co Dexter Ave cleanup site.

- American Linen Supply Co Dexter Ave cleanup site (FSID 3573 and CSID 12004) is generally located at 700 Dexter Avenue North, Seattle, which is approximately 700 feet west of Block 77.
- Based on the *IA Report*, dated April 9, 2018, prepared by Farallon, the HVOC contaminated ground water sourced from the American Linen Supply Co Dexter Ave cleanup site has impacted the ground water beneath Block 77.
- The PLPs for the American Linen Supply Co Dexter Ave cleanup site were identified as American Linen Supply Co, 700 Dexter LLC, and BMR-Dexter LLC. Some of them may be identified as PLPs for this Site.

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, independent environmental investigations and interim cleanup actions have been conducted since 1980. These investigations and interim actions were conducted under two separate cleanup sites: TOSCO 25535330857 (FSID 46445373 and CSID 6134), and Auto Service Company (FSID 24436664 and CSID 5749).

To continue the cleanup process, Ecology intends to conduct the following actions under MTCA:

1. Combine the two cleanup sites (TOSCO 25535330857 and Auto Service Company) and assign a new site name.
2. Update a Site Hazard Assessment.
3. Ecology will invite other parties that have contributed to the contamination at the Site as PLPs to negotiate an Agreed Order that will:
 - (1) Finalize a formal Remedial Investigation and Feasibility Study;
 - (2) Provide a draft Cleanup Action Plan for remediating the Site;
 - (3) Provide for additional interim actions.

For a description of the process for cleaning up a contaminated site under MTCA, please refer to the enclosed fact sheet.

Jim Broadlick
December 27, 2019
Page 6

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 425-649-7109 or jing.song@ecy.wa.gov. Thank you for your cooperation.

Sincerely,



Jing Song
Cleanup Project Manager
Toxics Cleanup Program, NWRO

Enclosures (6)

1. FOCUS: MODEL TOXICS CONTROL ACT CLEANUP REGULATION: PROCESS FOR CLEANUP OF HAZARDOUS WASTE SITES (#94-129)
2. Voluntary Waiver of Right to Comment Form
3. Title Search Records
4. Figure 1 – Property Vicinity Map
5. Figure 2 – Post Excavation Soil Conditions Map
6. Figure 3 – Monitoring wells for Chlorinated Solvent Sampling

By certified mail: 9171 9690 0935 0214 2542 34

cc: Ed Ralston, Phillips 66
Allyson Bazan, Office of the Attorney General
Ecology Site File