



Barry G. Ziker
Direct Dial: 206.957.5952
Email: bziker@jzplaw.com

January 23, 2020

**VIA E-MAIL AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Jing Song
Cleanup Project Manager
Toxics Cleanup Program, Northwest Regional Office
3190 160th Avenue Southeast
Bellevue, WA 98008-5452
jing.song@ecy.wa.gov

**Re: TOSCO 25535330857
Cleanup Site: ID 6134
Facility/Site ID: 46445373
Response to Preliminary Determination of Liability**

Dear Mr. Song:

We are writing on behalf of City Investors XI L.L.C. (“City Investors XI”) in response to the Washington State Department of Ecology’s (“Ecology”) December 27, 2019 preliminary determination of liability regarding the TOSCO 25535330857 site (the “Site”). As discussed in your letter, Ecology proposes to find City Investors XI liable as a potentially liable person (“PLP”) for the release of hazardous substances at the Site under RCW 70.105D.040 based on City Investors XI’s ownership of the properties located at 600 – 630 Westlake Avenue North (King County Parcel Nos. 1987200015, 4088803235, 4088803236, 4088803240, 4088803345, and 4088803355) (collectively, “Block 37”),¹ which comprise a portion of the Site. Ecology is further proposing that the Site be remediated pursuant to an agreed order.

¹ We understand that historical reports have identified the property that is included within the Site as “Seattle City Block 77” or “Block 77.” Based upon the designation of properties within the South Lake Union area by City Investors XI and its affiliates, the subject property is commonly referred to as “Block 37.” Accordingly, we respectfully request that Ecology and other PLPs refer to the subject property as Block 37, or some other agreed upon designation, to avoid confusion with respect to real property located at 707 and 721 Westlake Avenue and referred to by affiliates of City Investors XI as “Block 77.”

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City Investors XI is the current owner of Block 37 and does not contest that petroleum hydrocarbon contamination is present at Block 37, although the releases causing such contamination occurred prior to its ownership of the subject property. Accordingly, City Investors XI is willing to accept its status as a PLP with regard to the petroleum hydrocarbon contamination at the Site without admitting liability, as reflected in the enclosed PLP Waiver form.

Ecology has also based its preliminary determination of liability on the existence of chlorinated volatile organic compounds (“CVOCs”) in groundwater beneath Block 37. City Investors XI expressly disclaims any liability for this contamination. The solvent contamination that has been detected in groundwater beneath Block 37 is attributable to a plume of contaminated groundwater emanating from the property located at 700 Dexter Avenue North (the “BMR-Dexter Property”). This plume (the “BMR-Dexter CVOC Plume”) is part of the American Linen Supply Co. Dexter Avenue Site (Ecology Facility/Site ID #3573), which is being remediated by BMR-Dexter LLC pursuant to a separate agreed order, Agreed Order No. DE 14302. Based upon investigations conducted by City Investors XI and others, there is no credible evidence that the presence of CVOCs found in deeper groundwater beneath Block 37 is a result of releases at Block 37.

Accordingly, responsibility for the BMR-Dexter CVOC plume rests squarely and exclusively with BMR-Dexter LLC. Indeed, preventing the further migration of the BMR-Dexter CVOC Plume and managing contaminated groundwater during construction dewatering in the vicinity of the BMR-Dexter Property have been specifically identified by Ecology as remedial action objectives for the American Linen Supply Co. Dexter Avenue Site. City Investors XI respectfully submits that because BMR-Dexter is already a party to Agreed Order No. DE14302, which addresses remediation of the BMR-Dexter CVOC Plume, BMR-Dexter need not be named as a party to an agreed order entered into with Ecology regarding Block 37.

Additional PLPs

In the event that City Investors XI identifies additional PLPs, it will notify Ecology.

Next Steps

City Investors XI would be glad to meet with Ecology to discuss the results of the environmental investigations performed to date at and around Block 37 and the steps necessary to remediate the remaining petroleum hydrocarbon contamination at the Site. We have been working with Phillips 66 Company and believe it would be beneficial to meet with them and other PLPs as Ecology sees fit. City Investors XI shares Ecology’s goal of remediating the Site cooperatively and promptly. If Ecology would like to schedule a meeting, please do not hesitate to contact me.

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Sincerely,

JOYCE ZIKER PARKINSON, PLLC

A handwritten signature in blue ink that reads "Barry G. Ziker". The signature is fluid and cursive, with "Barry" on top and "G. Ziker" below it.

Barry G. Ziker

Enclosure

cc: City Investors XI L.L.C.
Clifford Schmitt, Farallon Consulting, L.L.C.
Ed Ralston, Phillips 66 Company
Allyson Bazan, Office of the Attorney General

PLP Waiver

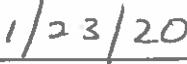
City Investors XI L.L.C.
505 5th Ave S #900
Seattle, WA 98104

Pursuant to WAC 173-340-500 and WAC 173-340-520(1)(b)(i), I, Ada M. Healey, a duly authorized representative of City Investors XI L.L.C., do hereby waive the right to the thirty day notice and comment period described in WAC 173-340-500(3) and accept status of City Investors XI L.L.C. as a Potentially Liable Person with regard to petroleum hydrocarbons contamination at the following contaminated site:

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

By waiving this right, City Investors XI L.L.C. makes no admission of liability and reserves all defenses. Furthermore, City Investors XI L.L.C. specifically disclaims any liability for those hazardous substances that have migrated via groundwater to the TOSCO 25535330857 site, including any chlorinated volatile organic compounds emanating from the property located at 700 Dexter Avenue North, which is part of the separate American Linen Supply Co. Dexter Avenue Site (Ecology Facility/Site ID #3573).


Signature


Date

Relation to the Site: Owner