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May 22, 2020

VIA EMAIL

Tanner Bushnell, P.E.
Cleanup Project Manager, Toxics Cleanup Program
Northwest Regional Office, Washington State Department of
Ecology 3190 160th Avenue SE,
Bellevue, WA 98008

Re: Block 79 East

701, 739, and 753 9th Avenue North, Seattle, WA 98109
Cleanup Site ID: 13006
Primary Facility/Site ID: 84466254
Response to Preliminary Determination of Liability

Dear Mr. Bushnell:

We are writing on behalf of Block 79 LLC in response to the Washington State Department of Ecology's April 22, 2020 preliminary determination of liability regarding Block 79 East, which is generally located at 701, 739, and 753 9th Avenue North in Seattle, Washington (the "Block 79 East Properties").

Ecology has proposed to find Block 79 LLC liable per RCW 70.105D.040 as the current owner and operator of Block 79 East based on the presence of various contaminants in soil, soil vapor, and groundwater. Ecology has further proposed that the remediation of Block 79 East be performed under an agreed order.

Block 79 LLC is the current owner of the Block 79 East Properties. Block 79 LLC is therefore willing to accept its status as a PLP—without admitting liability—for those hazardous substances that are attributable to historic releases at the Block 79 East Properties (please see the enclosed completed and signed PLP Waiver Form). Without limiting the foregoing, to the extent that any of the contaminants at or beneath Block 79 East are attributable to migration from neighboring properties, Block 79 LLC reserves the right to dispute its liability.

Block 79 LLC clarifies, however, that it is not liable for those chlorinated volatile organic compounds ("CVOCs") that have been and are anticipated to be detected in groundwater beneath

Block 79 East.¹ Environmental investigations conducted to date have not identified any historic sources of CVOCs at the Block 79 East Properties. Instead, these hazardous substances, which include tetrachloroethylene, trichloroethylene, isomers of dichloroethene, and vinyl chloride, are attributable to the significant plume of contaminated groundwater emanating from the upgradient property located at 700 Dexter Avenue North (the “BMR-Dexter Property”). That 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 Agreed Order No. DE 14302. The BMR-Dexter CVOC Plume has migrated beneath Block 79 East. Accordingly, responsibility for that plume rests squarely—and exclusively—with BMR-Dexter LLC.² 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.

Additional PLPs

The following party is liable for certain hazardous substances present at Block 79 East:

- BMR-Dexter LLC. As discussed above, BMR-Dexter LLC is the current owner and operator of the BMR-Dexter Property, which is part of the American Linen Supply Co. Dexter Avenue Site. BMR-Dexter LLC is solely responsible for the BMR-Dexter CVOC Plume, which is present beneath Block 79 East.

Block 79 LLC has notified BMR-Dexter LLC of its potential liability for releases of hazardous substances that have migrated to Block 79 East. To the extent that Block 79 LLC identifies additional potentially liable parties, it will notify Ecology.

Next Steps

Block 79 LLC would like the opportunity to discuss the further characterization and future remediation of Block 79 East with Ecology at Ecology’s earliest convenience. In light of the

¹ Ecology has cited to a November 19, 2015 Remedial Investigation and Cleanup Action Plan for the proposition that tetrachloroethylene (“PCE”) has been detected in groundwater at Block 79 East. To clarify, none of the groundwater samples collected as part of that investigation contained PCE above reporting limits. While a figure in that report (Figure 2) depicts PCE above cleanup levels in the intermediate water-bearing zone beneath Block 79 East, that figure is based on projected isoconcentration contours rather than empirical evidence. That said, cis-1,2-dichloroethene and vinyl chloride—two of the three breakdown products associated with PCE—have since been detected in groundwater at Block 79 East. These breakdown products are attributable to the same off-property source that the authors of the November 19, 2015 Remedial Investigation and Cleanup Action Plan used to model PCE isoconcentration contours—specifically, the upgradient BMR-Dexter Property.

² Any legal withdrawal of groundwater conducted by Block 79 LLC during construction will not render Block 79 LLC liable with respect to the BMR-Dexter CVOC Plume. *See* RCW 70.105D.020(22)(b)(iv).

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COVID-19 pandemic, Block 79 LLC would be glad to participate in such a meeting via video conference. We are also prepared to commence negotiations on an agreed order.

We look forward to working with you and Ecology in connection with Block 79 East.

Sincerely,

JOYCE ZIKER PARKINSON, PLLC



Barry G. Ziker

cc: Block 79 LLC
Clifford Schmitt, Farallon Consulting, L.L.C.
Allyson Bazan, Office of the Attorney General
Robert Warren, Department of Ecology

PLP Waiver

Block 79 LLC
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 Block 79 LLC, do hereby waive the right to the thirty day notice and comment period described in WAC 173-340-500(3) and accept status of Block 79 LLC as a Potentially Liable Person with regard to those hazardous substances released at the following contaminated site:

- Site Name: Block 79 East
- Site Address: 701, 739, and 753 9th Avenue North, Seattle, Washington 98109
- Cleanup Site ID: 13006
- Facility/Site ID: 84466254

By waiving this right, Block 79 LLC makes no admission of liability and reserves all defenses. Furthermore, Block 79 LLC specifically disclaims any liability for those hazardous substances that have migrated via groundwater to the Block 79 East 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).

DocuSigned by:

Ada M Healey

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5/20/2020

Signature

Date

Relation to the Site: Owner