UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101

MAR 22 2011

GENERAL NOTICE LETTER
CERTIFIED MAIL – RETURN RECEIPT

Mr. Earl M. King
15247 Griffin Lane
Caldwell, Idaho
83607

Re: General Notice Letter and Information Request for the Gorst – Bremerton Landfill in Port Orchard, Washington

Dear Mr. King:

Under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), commonly known as the federal "Superfund" law, the U.S. Environmental Protection Agency ("EPA") is responsible for responding to the release or threat of release of hazardous substances, pollutants or contaminants into the environment. EPA has documented that such a release has occurred at the Gorst – Bremerton Landfill Site ("the Site") located on or around 4275 State Highway 3 in Port Orchard, Washington, 98367. The Site includes property identified under Kitsap County Property Tax Account No. 012301-4-022-1005, and was formerly referred to as Ames Auto Wrecking, Ames Refuse – Bremerton Auto Wrecking, and Bremerton Auto Wrecking.

EPA has spent, and is continuing to spend public funds to investigate and control releases, or potential releases, of hazardous substances, pollutants, or contaminants at the Site. Based on information currently available, EPA has determined that you may be responsible under CERCLA for the cleanup of the Site or the costs EPA incurs to clean the Site.

Pleased note that you are required to respond to the Information Request enclosed with this General Notice Letter. **Failure to comply with the Information Request may subject you to penalties.**

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Site Background

The Site is located on State Highway 3 approximately 6 miles south-southwest of Bremerton. The unlined landfill operated from the 1960s until 1989 when it was shut down by the Kitsap County Health Department. The landfill was created by filling Gorst Creek Ravine – a feature estimated to be 300 to 400 feet wide at its top, 700 feet long, and 50 to 60 feet deep – with approximately 150,000 cubic yards of waste material consisting primarily of construction and industrial debris. A 24-inch corrugated steel culvert was placed at the bottom of the ravine to allow passage of the seasonal Gorst Creek through the landfill. Based on an Integrated Assessment completed in June 2004, potential contaminants of concern at the Site include chlorinated pesticides, polychlorinated biphenyls, metals, semivolatile organic compounds and volatile organic compounds.

In 1997, after significant rainfall, Gorst Creek backed up behind the culvert entrance and flooded through and across the surface of the landfill. The flooding caused the northwest slope of the landfill to fail and wash into Gorst Creek. The washout carried exposed landfill debris more than half a mile downstream. Following the washout, two rip rap catchment berms with culverts were installed in an attempt to stop future slope failures. However, after heavy rainfall in January 2002, Gorst Creek again backed up and flooded over the landfill, resulting in a second slope failure and the destruction of the upper catchment berm.

The flow of Gorst Creek through the culvert is currently impeded due to damage to the culvert approximately 250 feet downstream from the entrance. During periods of precipitation, the damaged culvert may contribute to landfill instability as water pools at the entrance to the culvert; creating conditions that could lead to flooding, infiltration of water to the landfill, slope failure, and/or the dispersal of waste material, including a threat of release of hazardous substances.

EPA completed an Integrated Assessment Report in June 2004 that assessed environmental conditions and determined that the Site is a source of hazardous substances and that these substances have and will continue to be released to Gorst Creek. The EPA is currently considering additional action at the Site, including the preparation of an Engineering Evaluation and Cost Analysis ("EE/CA"). The purpose of an EE/CA is to provide an analysis of alternatives to address releases of hazardous substances, pollutants, or contaminants. A completed EE/CA is used to select a non-time critical removal action to address threats to environment or human health.

Explanation of Potential Liability

Under CERCLA, specifically Sections 106(a) and 107(a), potentially responsible parties ("PRPs") may be required to perform cleanup actions to protect the public health, welfare, or the environment. PRPs may also be responsible for costs incurred by EPA in cleaning up the Site, unless the PRP can show divisibility or any of the other statutory defenses. PRPs include current and former owners and operators of a Site, as well as persons who arranged for treatment and/or disposal of any hazardous substances found at the site, and persons who accepted hazardous substances for transport and selected the site to which the hazardous substances were delivered.

Based on the information collected, EPA believes that you may be liable under Section 107(a) of CERCLA with respect to the Gorst-Bremerton Landfill Site, as the owner of the Site from 1973 to 1980, a period when waste was disposed of at the Site.

EPA completed an Integrated Assessment Report in June 2004 that assessed environmental conditions and determined that the Site is a source of hazardous substances and that these substances have and will continue to be released to Gorst Creek. The EPA is currently considering additional action at the Site, including the preparation of an Engineering Evaluation and Cost Analysis ("EE/CA"). The purpose of an EE/CA is to provide an analysis of alternatives to address releases of hazardous substances, pollutants, or contaminants. A completed EE/CA is used to select a non-time critical removal action to address threats to environment or human health.

Request for Information

Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), requires you to respond to the Information Request enclosed with this General Notice Letter. **Failure to provide a complete, truthful response to this Information Request within sixty (60) days of your receipt of this letter, or to adequately justify such failure to respond, may subject you to penalties of up to thirty-seven thousand five hundred dollars ($37,500) for each day of non-compliance.**

Please note that responses which are incomplete, ambiguous, or evasive may be treated as non-compliance with this Information Request. Provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. § 1001.

Your response to this Information Request should be mailed to:

Alexander Fidis, Assistant Regional Counsel
United States Environmental Protection Agency, Region 10
Office of Regional Counsel, ORC-158
1200 Sixth Ave. Suite 900
Seattle, Washington 98101

Resources and Information for Small Businesses

EPA has created a number of helpful resources to assist small businesses. EPA has established the National Compliance Assistance Clearinghouse as well as Compliance Assistance Centers which offer various forms of resources to small businesses. You may inquire about these resources at www.epa.gov. In addition, the EPA Small Business Ombudsman may be contacted at www.epa.gov/sbo. Finally, EPA developed a fact sheet about the Small Business Regulatory Enforcement Fairness Act ("SBREFA"), which is enclosed with this letter.

If you have questions concerning this letter or the Superfund Site, please contact Jeff Rodin (206) 553-6709. Any communication by any attorney on your behalf should be directed to Alexander Fidis, EPA Office of Regional Counsel, at (206) 553-4710.

Thank you for your cooperation in this matter.

Sincerely,

Chris Field, Unit Manager
Emergency Response Unit
Office of Environmental Cleanup

Enclosures:

Information Request (includes Definitions, Instructions, Declaration)
SBREFA Fact Sheet

U.S. EPA

CERCLA SECTION 104(e)

INFORMATION REQUEST

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Current Site Name: Gorst-Bremerton Landfill Site, Port Orchard, Kitsap County, Washington (Site)

Street Address: 4275 State Highway 3 SW
Port Orchard, Washington
98367

Kitsap County Parcel: 012301-4-022-1005

Abbreviated Legal: Portion of NE ¼ of the SE ¼ of Section 1, Township 23N, R1W, Willamette Meridian, Kitsap County, Washington

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This Information Request includes instructions for responding to the request and definitions of words used in the request such as "Respondent," and "identify."

Please Note: The Site only recently became known as the Gorst-Bremerton Landfill Site. Older records or documents may refer to the Site as Ames Auto Wrecking, Ames Refuse – Bremerton Auto Wrecking, or Bremerton Auto Wrecking.

INFORMATION REQUEST QUESTIONS

1. <u>Respondent Information</u>

a. If Respondent wishes to designate an individual for all future correspondence concerning this matter please provide the individual's name, affiliation with Respondent, address, telephone number, and email address in response to this question.

2. <u>Gorst-Bremerton Landfill Site</u>

a. Provide all documents in your possession relating to the ownership and/or operation of the Gorst-Bremerton Landfill Site including, but not limited to, deeds, title documents, purchase/sale contracts, lease agreements, licenses, easements, lease or rental payments, permits, and all other documents that pertain to or describe operations or activities that are or were conducted at the Site.

b. Provide all documents in your possession concerning the disposal of waste, refuse, garbage, or other discarded material at the Site, including any waste manifests and other documents related to transportation of such material to the Site.

c. Provide all documents in your possession relating to environmental conditions at the Gorst-Bremerton Landfill Site. Environmental conditions at the Site includes information related to soil, sediment, water (ground and surface), and air quality, such as, but not limited to:

   i. Any spill, leak, release, or discharge of a hazardous substance, waste, or material at or near the Site;

   ii. Occurrences of violations, citations, deficiencies, and/or accidents concerning the Site;

   iii. Remediation or removal of contaminated soils, sediments, or other media at the Site; and

   iv. Investigations, inspections, sampling, and reports generated by Respondent and/or others regarding the Site and surrounding area.

d. Identify any person(s) that may have owned and/or operated the Site, disposed of waste material at the Site, or transported waste material to the Site. For each person identified in response to the preceding sentence, briefly describe such person's involvement with the Site, and provide all documents in your possession related to such person's ownership, operation, or waste disposal activities at the Site.

e. Identify all persons that currently conduct operations at the Site or that currently hold any lease, easement, license, or assignment of rights to use any portion of the Site. For each identified person briefly describe the nature of the interest held and the activities conducted by such person at the Site.

3. <u>Information about Others</u>

a. If not already provided, identify all persons, including current and former employees or agents, other than attorneys, who have knowledge of or were involved in waste disposal activities at the Site.

4. <u>Compliance with This Request</u>

a. Identify each person that Respondent interviewed or sought information or documents from in order to respond to this request, and include the following information for each identified individual:

i. full name;

ii. current or former title;

iii. relationship to Respondent; and

iv. business address and telephone number.

b. Describe all sources reviewed or consulted in responding to this request and identify the location(s) where all documents reviewed are currently kept.

c. Identify each person that assisted in the preparation of the response to this request and include the current job title or functions of each identified person.

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INSTRUCTIONS

1. Answer Each Question Completely. Provide a separate answer to each question and subpart set forth in this Information Request.

2. Response Format and Copies. Provide the responses to this Information Request and at least one copy of all requested documents either electronically or on paper (hard copy). Your submission, whether electronic or hard copy, must include an index that lists all the responsive documents provided, and that indicates where each document is referenced in the written response, and to which question or questions each document is responsive. If providing your response electronically, it must be submitted on a compact disc in Portable Document Format (PDF) and comply with the following requirements:

    a. The declaration must be provided in hard copy with an original signature.
    b. All documents originally smaller than 11 by 17 inches can be submitted electronically; any documents originally larger than 11 by 17 inches must be submitted in hard copy.
    c. Electronic PDF files cannot be submitted in Adobe Acrobat versions above 6 (or above PDF format version 1.5 if not using Adobe).
    d. Electronic PDF files must be text-searchable.
    e. The document index must clearly identify any single electronic document which has been separated into multiple electronic files (because of size limitation or otherwise) and each component file that comprises the full document.

3. Number Each Answer. Number each answer with the number of the question to which it corresponds.

4. Provide the Best Information Available. Provide responses to the best of Respondent's ability, even if the information sought was never put down in writing or if the written documents are no longer available. Seek out responsive information from current and former employees/agents.

5. Identify Information Sources. For each question, identify all persons and documents relied upon for the answer.

6. Protected Material. The information requested herein must be provided even though the Respondent may contend that it includes protected material or confidential information. The Respondent may assert a confidentiality claim covering part or all of the information requested, pursuant to 42 U.S.C. §§ 9604(e)(7)(E) and (F), and 40 C.F.R. § 2.203(b). All information claimed to be protected or confidential should be contained on separate sheet(s) and should be clearly identified as "protected material" or "confidential." Information covered by a protected material or confidentiality claim will be disclosed by EPA only to the extent, and only by means of the procedures, provided in 40 C.F.R. §§ 2.201-2.311. **If no such claim accompanies the information received by EPA, it may**

be made available to the public by EPA without further notice.

7. Personal Privacy Information. Personnel and medical files, and similar files the disclosure of which to the general public may constitute an invasion of privacy, should be segregated from responses, included on separate sheet(s), and marked as "Personal Privacy Information". Note, however, that unless prohibited by law, EPA may disclose this information to the general public without further notice.

8. Objections. The Respondent must provide responsive information notwithstanding objections to certain questions.

9. Privilege. If a privilege is asserted for any document responsive to this Information Request, submit a privilege log that identifies the document and the basis for the privilege being asserted. If a privilege exists for only a portion of a document, provide the portion of the document that is not privileged, identify the portion that is asserted to be privileged, and provide the basis for the privilege being asserted. **Please note that regardless of the assertion of any privilege, any facts contained in the document which are responsive to the Information Request must be disclosed in your response.**

10. Declaration. Complete the enclosed declaration, certifying the accuracy of all statements in your response.

DEFINITIONS

All terms not defined herein shall have their ordinary meaning unless such terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. § 9601, *et seq.*, the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq.*, or 40 C.F.R. Parts 260, 261 and 300, in which case such statutory or regulatory definitions shall apply.

The following definitions shall apply to the following words as they appear in this Enclosure:

1. The term "Respondent" shall mean the S.T. Trust and, any agent, trustee, or other person, corporation, or partnership, acting on its behalf.

2. The terms "document" and "documents" shall mean all methods of recording, storing, or transmitting information. "Document" shall include, but not be limited to:

    a. writings of any kind, including, but not limited to, any of the following:

        i. letters, memoranda, fax transmittals;

        ii. meeting minutes, telephone records, notebooks;

        iii. agreements and contracts;

        iv. reports to management, executive branch, Congress, or other government agencies;

        v. transportation manifests or records;

        vi. copies of any document.

    b. any film, photograph, or sound recording on any type of device;

    c. any blueprints or drawings;

    d. attachments to, or enclosures with, any document.

3. The term "identify" means, with respect to a natural person, to set forth: (a) the person's full name, (b) present or last known business and home addresses and telephone numbers; and (c) present or last known employer (include full name and address) with job title, position, or business.

4. The term "identify" means, with respect to a corporation, partnership, business trust, or other entity, to set forth: (a) its full name; (b) complete street address; (c) legal form (e.g., corporation, partnership, etc.); (d) the state under whose laws the entity was organized;

and (e) a brief description of its business.

5. The term "identify" means, with respect to a document, to provide: (a) its customary business description (e.g., letter, invoice); (b) its date; (c) its number if any (e.g., invoice or purchase order number); (d) the identity of the author, addressee, and/or recipient; and (e) a summary of the substance or the subject matter. **Alternatively,** Respondent may provide a complete copy of the document.

6. The term "describe" shall mean to represent or given an account of in words, or to provide information including that represents any interest in real or personal property whatsoever, including fee interests, leases, licenses, rental, and mineral rights.

7. The term "waste" or "waste material" shall mean any garbage, refuse, by-products, solid waste, hazardous waste, hazardous substances, pollutants, or contaminants.

8. The term "Gorst-Bremerton Landfill Site," or "Site" shall mean all real property, buildings, structures, and waste disposal areas located at or around 4275 State Highway 3 SW Port Orchard, Washington 98367, currently designated as Kitsap County Parcel Number 012301-4-022-1005. To the extent that the boundaries of the real property described in the preceding sentence have been altered or adjusted, this definition shall encompass the full and furthest extent of the real property boundary since 1950. Older records or documents may varyingly refer to the Site as Ames Auto Wrecking, Ames Refuse – Bremerton Auto Wrecking, and Bremerton Auto Wrecking.

DECLARATION

I declare under penalty of perjury that I am authorized to respond on behalf of Respondent and that the foregoing is complete, true, and correct.

Executed on _____, 2011.

_____
Signature

_____
Type or Print Name

_____
Title

Mailing Address:

United States Environmental Protection Agency

Office of Enforcement and Compliance Assurance (2201A)
EPA 300-F-07-003 October 2007

Office of Enforcement and Compliance Assurance

INFORMATION SHEET

U. S. EPA Small Business Resources

If you own a small business, the United States Environmental Protection Agency (EPA) offers a variety of compliance assistance resources such as workshops, training sessions, hotlines, websites, and guides to assist you in complying with federal and state environmental laws. These resources can help you understand your environmental obligations, improve compliance, and find cost-effective ways to comply through the use of pollution prevention and other innovative technologies.

Compliance Assistance Centers

(www.assistancecenters.net)

In partnership with industry, universities, and other federal and state agencies, EPA has established Compliance Assistance Centers that provide information targeted to industries with many small businesses.

Agriculture
(www.epa.gov/agriculture or 1-888-663-2155)

Automotive Recycling Industry
(www.ecarcenter.org)

Automotive Service and Repair
(www.ccar-greenlink.org or 1-888-GRN-LINK)

Chemical Industry
(www.chemalliance.org)

Construction Industry
(www.cicacenter.org or 1-734-995-4911)

Education
(www.campuserc.org)

Healthcare Industry
(www.hercenter.org or 1-734-995-4911)

Metal Finishing
(www.nmfrc.org or 1-734-995-4911)

Paints and Coatings
(www.paintcenter.org or 1-734-995-4911)

Printed Wiring Board Manufacturing
(www.pwbrc.org or 1-734-995-4911)

Printing
(www.pneac.org or 1-888-USPNEAC)

Transportation Industry
(www.transource.org)

Tribal Governments and Indian Country
(www.epa.gov/tribal/compliance or 202--564-2516)

US Border Environmental Issues
(www.bordercenter.org or 1-734-995-4911)

The Centers also provide State Resource Locators (www.envcap.org/statetools/index.cfm) for a wide range of topics to help you find important environmental compliance information specific to your state.

EPA Websites

EPA has several Internet sites that provide useful compliance assistance information and materials for small businesses. If you don't have access to the Internet at your business, many public libraries provide access to the Internet at minimal or no cost.

EPA's Home Page
www.epa.gov

Small Business Gateway
www.epa.gov/smallbusiness

Compliance Assistance Home Page
www.epa.gov/compliance/assistance

Office of Enforcement and Compliance Assurance
www.epa.gov/compliance

Voluntary Partnership Programs
www.epa.gov/partners

Recycled/Recyclable
Printed with Soy/Canola ink on paper that contains at least 30% post consumer fiber

U.S. EPA SMALL BUSINESS RESOURCES

Hotlines, Helplines & Clearinghouses

(www.epa.gov/epahome/hotline.htm)
EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. A few examples are listed below:

Clean Air Technology Center
(www.epa.gov/ttn/catc or 1-919-541-0800)

Emergency Planning and Community Right-To-Know Act
(www.epa.gov/superfund/resources/infocenter/epcra.htm or 1-800-424-9346)

EPA's Small Business Ombudsman Hotline provides regulatory and technical assistance information.
(www.epa.gov/sbo or 1-800-368-5888)

The National Environmental Compliance Assistance Clearinghouse provides quick access to compliance assistance tools, contacts, and planned activities from the U.S. EPA, states, and other compliance assistance providers
(www.epa.gov/clearinghouse)

National Response Center to report oil and hazardous substance spills.
(www.nrc.uscg.mil or 1-800-424-8802)

Pollution Prevention Information Clearinghouse
(www.epa.gov/opptintr/ppic or 1-202-566-0799)

Safe Drinking Water Hotline
(www.epa.gov/safewater/hotline/index.html or 1-800-426-4791)

Stratospheric Ozone Refrigerants Information
(www.epa.gov/ozone or 1-800-296-1996)

Toxics Assistance Information Service also includes asbestos inquiries.
(1-202-554-1404)

Wetlands Helpline
(www.epa.gov/owow/wetlands/wetline.html or 1-800-832-7828)

State Agencies

Many state agencies have established compliance assistance programs that provide on-site and other types of assistance. Contact your local state environmental agency for more information or the following two resources:

EPA's Small Business Ombudsman
(www.epa.gov/sbo or 1-800-368-5888)

Small Business Environmental Homepage
(www.smallbiz-enviroweb.org or 1-724-452-4722)

Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two policies that potentially apply to small businesses:

The Small Business Compliance Policy
(www.epa.gov/compliance/incentives/smallbusiness)

Audit Policy
(www.epa.gov/compliance/incentives/auditing)

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established an SBA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System (NAICS) designation, number of employees, or annual receipts, defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit comments to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.