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BNY MELLON
WEALTH MANAGEMENT

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Environmental
Cleanup Office

September 2, 2009

United States Environmental Protection
Agency, Region 10
Claire Hong, Remedial Project Manager
Environmental Cleanup Office, ECL-111
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101

Re: Request for Information Pursuant to Section 104(e) of CERCLA for the Lower Duwamish Waterway Superfund Site, Seattle, Washington

Respondent: Representative of Mellon Trust of Washington, now known as BNY Mellon N.A. – Trust for Giuseppe and Assunta Desimone

Site: Lower Duwamish Waterway, Seattle, Washington

Dear Ms. Hong:

This is in response to your letter dated April 23, 2009.

First, by way of background information, Giuseppe and Assunta Desimone were Italian immigrants who came to this country in the early 1900's. Mr. Desimone died on January 4, 1946. Mrs. Desimone died on December 30, 1985. They purchased various parcels of real estate over the years, mainly in South Seattle, for the purpose of farming. They generally would lease the property to others to farm. Mr. Desimone was one of the founders of the Pike Place Market and is an historic figure in Seattle. He is known for having donated a parcel of land to the Boeing Company to encourage it to settle its headquarters on East Marginal Way in South Seattle.

Mr. Desimone left a Will which was probated in King County Superior Court Cause No. 95961. It created a long-term trust for the benefit of his descendants. Initially, his attorney, two of his children, and The National Bank of Commerce of Seattle were Trustees of the Trust. There are detailed provisions in the Will as to successor trustees.

Mrs. Desimone left a Will which was probated in King County Superior Court Cause No. 86-4-00088-4. It also created a long-term trust for the benefit of her descendants. The Trustees are the same as the Trustees under Mr. Desimone's Will.

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The identity of the bank trustee has changed over the years due to change of name or otherwise. Over the years, the bank trustees have successively been the National Bank of Commerce of Seattle, Rainier National Bank, Security Pacific Bank Washington, Seattle-First National Bank, Bank of America, Northwestern Trust and Investors Advisory Company, The Harris Bank, Mellon Trust, and now BNY Mellon N.A.

Mellon Trust and BNY Mellon N.A. have only been involved as a Co-trustee since 2004. The Harris Bank N.A. resigned as Co-trustee and Mellon Trust of Washington, now known as BNY Mellon N.A., was appointed in its place as Successor Co-trustee, confirmed by Court Order entered on June 25, 2004, in King County Superior Court Cause No. 83-2-16748-5 SEA. This response is being given to the best of our knowledge as to the history of the Trust going back to the deaths of Giuseppe and Assunta Desimone, respectively.

As the years have gone by, these parcels of land, originally purchased for farming, have mostly been leased to companies or other entities for commercial or industrial use, under long-term ground leases. As used in these responses, "ground lease" means undeveloped land leased to a tenant. The tenant is responsible for improvements to and on the property.

The Site in question is summarized in Exhibit 1. With respect to the five parcels identified on Exhibit 1, the lease to the Duwamish Marina for the Duwamish Marina property, the leases to the Boeing Company for the East Marginal Way property and the Boeing Parking Lot property, the lease to Fremont Associates for the Fremont property, and the lease to The Sabey Corporation for The Sabey Corporation property, were all long-term ground leases of land which, when the leases were entered into, was rough, unimproved and undeveloped land. The improvements to the properties were all undertaken by the tenants, so the tenants themselves are the ones with the most detailed knowledge as to environmental conditions at the properties.

Respondent asserts certain categories of documents provided are confidential. These include all leases, all environmental reports, insurance documents, and all tax returns. Please note that documents for which the Respondent and the Trusts assert either a confidential business information or personal privacy information claim are marked "CBI/Personal Privacy Information" and included in a separate CD.

1. *Respondent Information*

a. *Provide the full legal name and mailing address of the Respondent.*

BNY Mellon N.A. as Co-trustee under the Last Will and Testament of Giuseppe Desimone, deceased, and as Co-trustee under the Last Will and Testament of Assunta Desimone, deceased.

Mailing address:

1201 Third Avenue, Suite 5010
Seattle, WA 98101

b. *For each person answering these questions on behalf of Respondent, provide:*

i. *full name;*

Elizabeth Parrott Stultz

ii. *title;*

Regional Manager – Trust Real Estate

iii. *business address; and*

BNY Mellon N.A.
1201 Third Avenue, Suite 5010
Seattle, WA 98101

iv. *business telephone number and FAX machine number.*

Phone: (206) 664-8840 (Direct)
Fax: (206) 664-8844

c. *If Respondent wishes to designate an individual for all future correspondence concerning this Site, please indicate here by providing that individual's name, address, telephone number, and fax number.*

Elizabeth Parrott Stultz
Regional Manager – Trust Real Estate
BNY Mellon N.A.
1201 Third Avenue, Suite 5010
Seattle, WA 98101
Phone: (206) 664-8840 (Direct)
Fax: (206) 664-8844

d. State the dates during which Respondent held any property interests at or within one-half mile of the Site.

The dates during which Respondent Trusts held any property interests at or within one-half mile of the Site are: Giuseppe died on January 4, 1946. The Trust under his Will acquired and held property interests at the Site as of the date of his death. Assunta Desimone died on December 30, 1985. The Trust under her Will acquired and held property interests at the Site as of the date of her death. As far as we are aware, the five properties within the Site were all owned in both of their estates.

e. State the dates during which Respondent conducted any business activity at or within one-half mile of the Site.

As noted above, Respondent's business activity on all of these properties was leasing land via ground leases. Information about tenants' and subtenants' activities is provided to the extent Respondent has it.

1. Duwamish Marina property.

Not a great deal is known what business Giuseppe Desimone's Trust and Assunta Desimone may have conducted on the Site until 1974, when they entered into a lease with the Duwamish Marina and Industrial Park. The Site has been leased to Duwamish Marina ever since.

Apparently, there was a lease in 1963 to a company called San Juan Concrete Products.

2. East Marginal Way property.

The majority of this property was farm land until 1957, when the Trusts entered into a lease with the Boeing Airplane Company for Parcel A, approximately eleven of the sixteen acres included at this location. Parcel B was leased to Boeing in 1961; Parcel C was leased to Boeing in 1967. The Site has been leased to the Boeing Company ever since. In the lease attached as Tab 2 to Exhibit 3, page numbers DFT 000889 to DFT 000909, it says on page number DFT 000890 that the lease is subject to two tenants which are on a month-to-month tenancy. (*See* Confidential Documents CD.) It is not known what business they conducted, however, they may have been farmers. In the lease attached as Tab 4 to Exhibit 3, page numbers DFT 000919 to DFT000937, it says on page number DFT 000920 that the lease is subject to a certain lease to Liquefied Gas Corporation dated in 1946, so apparently the Liquefied Gas Corporation was a tenant from 1946 to 1962. (*See* Confidential Documents CD.) In the lease attached as Tab 6 to Exhibit 3, page numbers DFT 000942 to DFT 000957, it says on page number DFT 000942 that the lease is subject to a month-to-month tenancy to a Mr. (b) (6) , who Respondent believes farmed

the land. (*See* Confidential Documents CD.) Note, Respondent has a series of copyrighted photographs showing this area was farm land. Because of their copyright protection, Respondent has not included them in this response. However, Respondent will make them available for inspection upon reasonable notice.

3. Boeing Parking Lot property.

Except as provided below, it is not known what business Giuseppe Desimone's Trust and Assunta Desimone may have conducted on the Site until 1956, when a lease was entered into with the Boeing Airplane Company. The Boeing Company has been the tenant at this property ever since. However, it is believed that the area was farm land prior to Boeing leasing it in 1956. An undated photo from before 1956 showing farm land at the site is attached as Exhibit 4, Tab 7.

4. The Fremont property.

It is not known what business Giuseppe Desimone's Trust and Assunta Desimone may have conducted on the site until 1985, when there was a lease to a partnership known as "Fremont Associates." Later leases were entered into, after the Fremont lease expired.

5. The Sabey Corporation property.

The Sabey Corporation property was known as the "Dunn Farm". It was purchased on October 20, 1945. Respondent knows this property was farmed until the mid-1950s, and has been unable to document other uses until 1977, when it was leased to Paccar Inc. It was later leased to The Sabey Corporation in 1987.

f. Describe the nature of Respondent's business activities at the Site or within one-half mile of the Site.

Respondent's business activity at the Site or within one-half mile of the Site has always been lessor of land to various tenants. The tenants' activities are generally described below.

1. Duwamish Marina property.

Since 1974 the Site has been leased to Duwamish Marina and Industrial Park, and principally Duwamish Marina has conducted a marina operation on the property.

Respondent believes there was a 1963 lease to San Juan Concrete Products. Duwamish Marina subleased the upland portion of the property to a company called Global Intermodal Systems, for use as shipping container storage.

2. East Marginal Way property.

The three parcels at this site have been leased to the Boeing Company since 1957, 1961 and 1966. Respondent's access to this property and knowledge about Boeing's activities were limited by contracts between the United States and Boeing under which Boeing was required to control access to the site and to keep its activities secret.

3. Boeing Parking Lot property.

As far as Respondent knows, the business activities of the Trusts have always been that of a lessor, under a long-term ground lease to the Boeing Company.

4. The Fremont property.

As far as Respondent knows, the business activities of the Trusts have always been that of a lessor, first under a long-term ground lease to Fremont Associates, and then to other tenants when that lease expired.

5. The Sabey Corporation property.

As far as Respondent knows, the Respondent's business activities have always been that of a lessor under a long-term ground lease, first to Paccar Inc., and then to The Sabey Corporation.

g. In relation to your answer to the previous question, identify all materials used or created by your activities at the Site, including raw materials, commercial products, building debris, and other wastes.

1. Duwamish Marina property.

As noted above, Respondent's primary activity at this site was as a lessor. Respondent's information about activities on the property comes from a transcript of a rent arbitration proceeding, not from personal observation. It is believed that some cement tailings were deposited on the property prior to 1974, and after 1974 it is believed that the tenant used fill material on the property.

Attached at Tab 4 to Exhibit 2 is a transcript of a 1994 rent arbitration proceeding (the "Arbitration Transcript"). According to the tenant's attorney, (Arbitration Transcript, page number DFT 000102), the property had earlier been leased to the San Juan Concrete Products Company, which left large amounts of cement tailings on the property. The cement tailings had to be removed first and exported from the property. After that occurred, fill was required to make the property suitable for the uses the tenant intended. The Corps of

Engineers issued a permit for dredging in August of 1977 (Arbitration Transcript, page number DFT 000105), and the tenant eventually dredged over 160,000 yards. The dredged material was deposited on the property.

Additional detail about the property development undertaken by the tenant is included in the Arbitration Transcript. Respondent has no independent knowledge of these activities, and suggests that questions about them be directed to Mr. Mel Hester, whose testimony is included in the Arbitration Transcript.

2. East Marginal Way property.

Since the Trusts' only activities have been that of a lessor under ground leases, and because Boeing's government contracts required it to limit access to the property, Respondent has limited knowledge as to what materials were used or created by activities at the Site. Respondent has limited information about the activities Boeing conducted. See, the two Environmental Reports attached at Tab 7 to Exhibit 3 (*see* Confidential Documents CD).

3. Boeing Parking Lot property.

Since the Trusts' only activities have been that of a lessor under a ground lease, the Respondent does not know what materials were used or created by activities at the Site.

4. The Fremont property.

Since the Trusts' only activities have been that of a lessor under ground leases, the Respondent does not know what materials were used or created by activities at the Site.

5. The Sabey Corporation property.

Paccar Inc. subleased to Atlas Building Wreckers. Respondent Atlas Building Wreckers apparently had all kinds of wrecked building materials, cement, bricks and the like stockpiled on the Site, which was later removed. This is detailed in Exhibit 8.

Since Respondent's only activities have been that of a long-term lessor, the Respondent has no other information about what materials were used or created by activities at the Site.

h. If Respondent, its parent corporation, subsidiaries or other related or associated companies have filed for bankruptcy, provide:

i. the U.S. Bankruptcy Court in which the petition was filed;

ii. the docket numbers of such petition;
iii. the date the bankruptcy petition was filed;
iv. whether the petition is under Chapter 7 (liquidation), Chapter 11 (reorganization), or other provision; and
v. a brief description of the current status of the petition.

Respondent has no parent corporation, subsidiaries or other related or associated companies. Respondent has never filed for bankruptcy.

2. Site Activities and Interests

a. Provide all documents in your possession regarding the ownership or environmental conditions of the Site, including, but not limited to, copies of deeds, sales contracts, leases, blueprints, "as-builts" and photographs. Environmental conditions of 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.

1. Duwamish Marina property.

Assunta Desimone and the Trustees of the Giuseppe Desimone Trust entered into a lease dated October 11, 1974 with Duwamish Marina and Industrial Park. A copy of the lease is attached as Exhibit 2, Tab 1 (*see* Confidential Documents CD). Various other information in connection with the leased property has been copied and is indexed on the cover sheet to Exhibit 2.

The lease runs until November 30, 2022, for a total of forty-eight (48) years. The lease rate to be paid was to be based on the fair market value of the land, estimated at five-year intervals, exclusive of the value of the improvements placed thereon by the tenant. The lease provides that the term "exclusive of the value of the improvements placed thereon by the Lessee" means in the same physical condition and original state that existed as of the commencement of the lease in October 1974, with a written description of the premises as of the date and a photo log of the premises taken in 1977.

There have been various arbitrations in different years to determine the fair market rent, and those arbitrations have to some extent involved information about the physical condition of the site in 1974, and what the tenant had to do in order to eventually operate the marina on the property.

We have attached at Tab 2 of Exhibit 2, a copy of the tenant's arbitration memorandum submitted in order to determine the rent for the five-year term commencing December 1, 2002, page numbers DFT 000061 to DFT 000072. Page numbers DFT 000068, DFT 000069, and DFT 000070 summarize the tenant's position as to work the tenant had to do to develop the Site.

Attached as Tab 3 to Exhibit 2 is a copy of the Arbitrator's Decision in that arbitration, dated January 25, 2007. It summarizes both parties' positions as to the condition of the Site and the work that the tenant did to develop the Site.

There was a rent arbitration in 1994 which discussed the tenant's activities in filling and developing the property in considerable detail. A complete copy of the transcript in connection with that arbitration is attached at Tab 4 to Exhibit 2.

A Phase I Environmental Assessment was commissioned by Mellon Bank, N.A. for the Duwamish Marina property. It is dated December 15, 2004. A complete copy of it is attached at Tab 5 to Exhibit 2 (*see* Confidential Documents CD).

An environmental report was prepared by LSI Adapt with respect to property being subleased to Global Intermodal. Its report is dated November 20, 2001. A complete copy of it is attached at Tab 12 to Exhibit 2 (*see* Confidential Documents CD).

The firm of Hart Crowser was commissioned to prepare a review of the LSI Adapt report. Its memorandum is dated March 29, 2002. A complete copy of it is attached at Tab 13 to Exhibit 2 (*see* Confidential Documents CD).

2. East Marginal Way property.

Assunta Desimone and the Trustees of the Giuseppe Desimone Trust entered into three separate ground leases with the Boeing Airplane Company. One was dated September 18, 1957. One was dated March 8, 1961. The third was dated September 1, 1966. The Boeing Company has built buildings on the property. Assunta Desimone died December 30, 1985. Eleven years prior to her death, for estate planning purposes, she gave her community one-half interest in this East Marginal Way property to an Irrevocable Living Trust which she established (the "Irrevocable Living Trust"). That Irrevocable Living Trust was also a long-term trust. The current Trustees are various family members. BNY Mellon N.A. is not a Co-trustee of that Trust. When those leases would have expired, the parties executed amendments to them,

extending the term. The parties have been negotiating a new long-term lease. Copies of the leases and amendments are attached as Exhibit 3, Tabs 2, 4, and 6. (*See* Confidential Documents CD.) They are indexed on the cover sheet to Exhibit 3.

Copies of two Environmental Reports for the East Marginal Way property, prepared by Landau Associates, Inc., are attached at Tab 7 to Exhibit 3 (*see* Confidential Documents CD).

3. Boeing Parking Lot property.

Assunta Desimone and the Trustees under the Giuseppe Desimone Trust entered into a long-term ground lease with Boeing Airplane Company on November 14, 1956. As far as we are aware, when that lease was entered into, the property was in an undeveloped condition. The Boeing Company used the property primarily as a parking lot property, but at one point they built a recreational center on the property. A copy of the lease and all amendments are attached as Exhibit 4, Tabs 1 and 2 (*see* Confidential Documents CD). Copies of other documents relating to the Boeing Parking Lot property are attached as part of Exhibit 4. They are indexed on the cover sheet to Exhibit 4. Although the term of the lease has now expired, the term is on a month-to-month basis, under the existing lease, while the parties negotiate a new lease.

4. The Fremont property.

The Trustees entered into a long-term ground lease with Fremont Associates on May 17, 1985. As far as Respondent is aware, when that lease was entered into, the property was in a rough, undeveloped condition, not being used for anything. Fremont made certain improvements to the property. After that lease expired, leases were entered into with other tenants. Copies of the leases and all amendments are attached as Exhibit 5, Tab 1 (*see* Confidential Documents CD). Copies of other documents relating to the Fremont property are attached as part of Exhibit 5. They are indexed on the cover sheet to Exhibit 5.

Some of the leases that were entered into after the expiration of the Fremont lease were with companies that had been subleasing from Fremont. The tenants are Dick's Towing & Road Service, Inc., Eagle Systems, Inc., and Pacific Northwest Transfer, LLC. New tenants were also located. They are Knight Transportation, Inc., and Nuprecon, LP. Copies of those leases are attached at Tabs 7, 8, 9, 10, and 11 as part of Exhibit 5 (*see* Confidential Documents CD).

The Trustees commissioned a Phase I Environmental Assessment for the Fremont property. A copy of it, dated December 15, 2004, is attached at Tab 12, on Exhibit 5 (*see* Confidential Documents CD).

5. The Sabey Corporation property.

The Trustees entered into a Ground Lease with the Sabey Corporation on June 1, 1987. There was a later Sublease to the U.S. Post Office. Copies of the Lease and all amendments are attached as Exhibit 6, Tabs 1, 2, 10, 11, 16, and 19 (*see* Confidential Documents CD). Earlier, the Trustees entered into a Lease with Paccar Inc., on March 25, 1977, a copy of which is attached as Exhibit 7 (*see* Confidential Documents CD). PACCAR's Kenworth Truck Company Division used a portion of the property to test trucks. Paccar Inc. subleased another portion of the property to a company called Atlas Building Wreckers, Inc. Copies of documents relating to the sublease are attached as Exhibit 8.

A copy of a Hazardous Materials Investigation dated October 26, 1995 conducted for Sabey's lender, is attached at Tab 23 to Exhibit 6 (*see* Confidential Documents CD). A copy of Phase I Environmental Site Assessment is attached at Tab 24 to Exhibit 6 (*see* Confidential Documents CD).

b. Provide information on the condition of the Site when purchased or at the beginning of the relevant time period; describe the source, volume, and content of any fill material used during the construction of the buildings, including waterside structures such as seawalls, wharves, docks, or marine ways. Additionally, described any subsequent improvements, alterations, demolitions, or additions to the physical structures or the Site itself.

1. Duwamish Marina property.

Little is known about the condition of the Site when it was purchased or at the beginning of the relevant time period when Respondent or its predecessor trustees assumed ownership. The various exhibits attached as part of Exhibit 2 summarize the condition of the Site in 1974, and the subsequent improvements and additions made since then. The Arbitration Transcript at Tab 4 to Exhibit 2 describes in detail the fill material that was used by Duwamish Marina in approximately 1977. They had to remove cement tailings that were left there from San Juan Concrete Products, and then they dredged material from the Duwamish River and deposited that on the Site. They brought in additional rocks to surface the property and lined the area next to the water with boulders and installed vertical sheets to protect the bank.

According to the tenant's attorney on page number DFT 000100 of the Arbitration Transcript attached at Tab 4 to Exhibit 2, in 1974, the property had no sewer or water service. Although the property was adjacent to the Duwamish right-of-way, it was not adjacent to the navigable portion of the right-of-way because there were about 100 yards of tide flats between the property and the Duwamish right-of-way. The bank was not improved and had no rip rap, H beams, or improvements on the bank. Further (Arbitration Transcript, page number DFT 000102), the property had earlier been leased to the San Juan Concrete Products Company, which left large amounts of cement tailings on the property. The cement tailings had to be

removed first and exported from the property. After that occurred, there had to be an importation of fill. The fill had to be pre-stressed or pre-loaded.

According to the tenant's attorney (Arbitration Transcript, page number DFT 000105), the Corps of Engineers issued a permit for dredging in August 1977, and the tenant eventually dredged over 160,000 yards of material from the Duwamish. The dredged material was deposited on the property. Mel Hester, one of the partners in Duwamish Marina, testified at the hearing (Arbitration Transcript, page number DFT 000132) that before the lease was signed, the property had been used as a dump site and that a tugboat had been dumped on the property. He said it was a bit of a junkyard. Mel Hester testified (Arbitration Transcript, page number DFT 000145), that the Duwamish Marina group did not analyze the cement tailings. After the dredging occurred, rip rap was put up on the bank (Arbitration Transcript, page number DFT 000238). Apparently, after the dredged material was deposited, trucks were brought in for an entire winter on a daily basis with rocks approximately 2 to 6 inches and deposited on the site (Arbitration Transcript, page numbers DFT 000248 and DFT 000249).

A copy of an Affidavit from Charles Genther as to certain work he did on the property is attached at Tab 8 in Exhibit 2. A copy of a letter dated February 3, 1978 from Robert E. Reynolds is attached at Tab 9 in Exhibit 2, saying that the lease with San Juan Concrete Products, Inc. was dated January 31, 1963 and that they abandoned the property in August 1965. Copies of some photos of the property from the 1970's are attached at Tab 10 in Exhibit 2, showing the fill work in progress. Finally, a copy of the photo log taken in 1974 and attached as an exhibit to the Lease is attached at Tab 11 in Exhibit 2. It shows the condition of the property in 1974.

2. East Marginal Way property.

Little is known about the condition of the Site when first leased to the Boeing Airplane Company. Because the lease entered into was a long-term ground lease, the fill material, if any, waterside structures, if any, and any subsequent improvements were all under the control of the Boeing Company. As noted above, Respondent's access to this site was limited by contracts between the United States and Boeing.

3. Boeing Parking Lot property.

Little is known about the condition of the Site when purchased or when the lease was entered into in 1956. Because the lease entered into was a long-term ground lease, the fill material, if any, waterside structures, if any, and any subsequent improvements were under the control of the Boeing Company.

4. The Fremont property.

Little is known about the condition of the Site when purchased or at the beginning of the relevant time period. Because the lease entered into was a long-term ground lease, the fill material, if any, waterside structures, if any, and any subsequent improvements were all under the control of Fremont Associates. See the Environmental Report attached at Tab 12 to Exhibit 5 (*see* Confidential Documents CD). According to an interview with Mr. Scheuman, summarized on page number DFT 001644, Mr. Scheuman stated that the property consisted of vacant land with the exception of the presence of some squatters on the northern portion of the subject property, when they took possession in approximately 1987. He stated that a burned out ferry boat was present in the adjoining Duwamish River and that the owner of the ferry was squatting on the property. He added that fill material including approximately 1.5 feet of gravel was brought onto the subject property to create the existing gravel parking lot.

5. The Sabey Corporation property.

Little is known about the condition of the Site when purchased or at the beginning of the relevant time period. When PACCAR leased the property in 1977, it subleased to Atlas Building Wreckers, Inc. Atlas Building Wreckers, Inc. accumulated a great deal of building materials on the property, which had to be removed. All of this is detailed in copies of documents relating to the sublease attached as Exhibit 8.

After the property was leased to the Sabey Corporation, large buildings were constructed on the property and there was a sublease to the United States Postal Service.

c. *Provide information on past dredging or future planned dredging at this Site.*

1. Duwamish Marina property.

The various exhibits attached as part of Exhibit 2 provide information about past dredging. Respondent has no information about future planned dredging at the Site.

The arbitration transcript at Tab 4 to Exhibit 2 describes dredging that the Duwamish Marina tenant performed.

2. East Marginal Way property.

Respondent has no information on past dredging or future planned dredging with respect to this property.

3. Boeing Parking Lot property.

Respondent has no information on past dredging or future planned dredging with respect to this property.

4. The Fremont property.

Respondent has no information on past dredging or future planned dredging with respect to this property.

5. The Sabey Corporation property.

Respondent has no information on past dredging or future planned dredging with respect to this property.

d. Provide a brief summary of the activities conducted at the Site while under Respondent's ownership or operation. Include process diagrams or flow charts of the industrial activities conducted at the Site.

1. Duwamish Marina property.

Apparently, there was a lease to a San Juan Concrete Products in about 1963 or 1964. After 1974, the property was leased to Duwamish Marina. Duwamish Marina entered into a sublease for the upland portion with Global Intermodal Systems for container storage. They have operated a marina on the lower portion of the property.

2. East Marginal Way property.

The leases with the Boeing Company provided that the lessor had very limited access to the property during the term of the leases because some of the work Boeing performed was secret work for the federal government. See the Environmental Reports prepared by Landau Associates, Inc., attached at Tab 7 to Exhibit 3 (*see* Confidential Documents CD).

3. Boeing Parking Lot property.

Over the years, the Boeing Company used the property primarily as a parking lot.

4. The Fremont property.

Fremont Associates subleased portions of the Site during the term of its lease, and used other portions for its construction business, Constructors—Pamco. To Respondent's knowledge, Knight Transportation stores trucks and trailers on the site. Eagle and Pacific NW Transfer also store trucks and trailers. Dick's Towing parks and stores impounded vehicles. Nuprecon stores trucks loaded with construction debris on the property when it is unable to

transport the material from the construction site to the disposal site on the same day. Their lease prohibits offloading any material at the site.

In the Environmental Report appearing at Tab 12 to Exhibit 5 (*see* Confidential Documents CD) there are pictures of the buildings put on the Site by Fremont Associates and descriptions of the subtenants' businesses.

5. The Sabey Corporation property.

Pursuant to the 1977 lease with PACCAR, PACCAR's Kenworth Truck Company Division used a portion of the property to test trucks. Another portion was subleased to Atlas Building Wreckers, Inc., for storing material from wrecked buildings. That was all apparently cleaned up by Atlas Building Wreckers, and then a ground lease was entered into with The Sabey Corporation in 1987. Since then, The Sabey Corporation subleased to the U. S. Post Office, and large buildings have been constructed on the property. All of this has been under the control of The Sabey Corporation.

e. Provide all documents pertaining to sale, transfer, delivery, disposal, of any hazardous substances, scrap materials, and/or recyclable materials to this property.

1. Duwamish Marina property.

Copies of documents in Respondent's possession are attached as part of Exhibit 2.

The Environmental Report attached at Tab 5 to Exhibit 2 (*see* Confidential Documents CD) has a discussion of any possible hazardous substances

See also the two environmental reports attached at Tabs 12 and 13 to Exhibit 2 (*see* Confidential Documents CD).

2. East Marginal Way property.

Respondent has no documents pertaining to any hazardous substances, scrap material and/or recyclable materials, except for the two Environmental Reports prepared by Landau Associates, Inc., attached at Tab 7 to Exhibit 3 (*see* Confidential Documents CD). Note that the property owned by Respondent, a portion of the property described in the Landau Associates, Inc. report, was not the location of significant environmental contamination or concern. The environmental reports document only minor housekeeping issues related to the facilities on Respondent's property.

3. Boeing Parking Lot property.

The Respondent has no documents pertaining to the sale, transfer, delivery, disposal of any hazardous substances, scrap materials and/or recyclable materials to this property.

4. The Fremont property.

See Exhibit 5. The Environmental Report appearing at Tab 12 to Exhibit 5 (*see* Confidential Documents CD) makes reference to minimal quantities of chemicals stored on the property for domestic cleaning, maintenance chemicals and paints.

5. The Sabey Corporation property.

Copies of documents pertaining to scrap materials and/or recyclable materials on this property have been attached as part of Exhibit 8. A copy of a Hazardous Materials Investigation has been attached at Tab 23 to Exhibit 6 (*see* Confidential Documents CD).

f. Provide all information on electrical equipment used at the Site, including transformers or other electrical equipment that may have contained polychlorinated biphenyls (PCBs).

1. Duwamish Marina property.

Respondent has no information about electrical equipment used at the Site.

2. East Marginal Way property.

Respondent has no information about electrical equipment used at the Site.

3. Boeing Parking Lot property.

Respondent has no information about electrical equipment used at the Site.

4. The Fremont property.

Respondent has no information about electrical equipment used at the Site, other than what is contained in the Environmental Report at Tab 12 to Exhibit 5 (*see* Confidential Documents CD).

5. The Sabey Corporation property.

Respondent has no information about electrical equipment used at the Site.

g. Provide information on the type(s) of oils or fluids used for lubrication of machinery or other industrial purposes, and any other chemicals or products which are or may contain hazardous substances which are or were used at the Site for facility operations.

1. Duwamish Marina property.

Respondent has no information about the types of oils or fluids used for lubrication of machinery or other industrial purposes, and any other chemicals or products containing hazardous substances which are or were used at the Site for operations, other than as may be contained in the Environmental Report attached at Tab 5 to Exhibit 2 (*see* Confidential Documents CD), and also in the two environmental reports attached at Tabs 12 and 13 to Exhibit 2 (*see* Confidential Documents CD).

2. East Marginal Way property.

Except as may be set forth in the Environmental Reports attached at Tab 7 to Exhibit 3 (*see* Confidential Documents CD), Respondent has no information about the types of oils or fluids used for lubrication of machinery or other industrial purposes, and any other chemicals or products containing hazardous substances which are or were used at the Site for operations.

3. Boeing Parking Lot property.

Respondent has no information about the types of oils or fluids used for lubrication of machinery or other industrial purposes, and any other chemicals or products containing hazardous substances which are or were used at the Site for operations.

4. The Fremont property.

Respondent has no information about the types of oils or fluids used for lubrication of machinery or other industrial purposes, and any other chemicals or products containing hazardous substances which are or were used at the Site for operations, except as may be described in the Environmental Report at Tab 12 to Exhibit 5 (*see* Confidential Documents CD).

5. The Sabey Corporation property.

Respondent has no information about the types of oils or fluids used for lubrication of machinery or other industrial purposes, and any other chemicals or products containing hazardous substances which are or were used at the Site for operations.

h. Provide any site drainage descriptions, plans or maps that include information about storm drainage which includes, but is not limited to, above or below surface piping, ditches, catch basins, manholes, and treatment/detention or related structures including outfalls. If available, also include information about connections to sanitary sewer.

1. Duwamish Marina property.

Respondent has no information about Site drainage descriptions, except as provided in the exhibits making up Exhibit 2.

2. East Marginal Way property.

Respondent has no information about Site drainage descriptions.

3. Boeing Parking Lot property.

Respondent has no information about Site drainage descriptions.

4. The Fremont property.

Respondent has no information about Site drainage descriptions.

5. The Sabey Corporation property.

Respondent has no information about Site drainage descriptions.

i. With respect to past site activities, please provide copies of any stormwater or drainage studies, including data from sampling, conducted at the Site. Also provide copies of any Stormwater Pollution Prevention or Maintenance Plans or Spill Plans that may have been developed for different operations during the Respondent's occupation of the property.

1. Duwamish Marina property.

Respondent is not aware of any storm water or drainage studies. There is a reference in the Environmental Report attached at Tab 5 to Exhibit 2 (*see* Confidential

Documents CD) to the fact that the Global Intermodal Systems property is currently permitted for storm water discharges. They operate under a Storm Water Pollution Prevention Plan.

2. East Marginal Way property.

Respondent is not aware of any storm water or drainage studies.

3. Boeing Parking Lot property.

Respondent is not aware of any storm water or drainage studies.

4. The Fremont property.

Respondent is not aware of any storm water or drainage studies.

5. The Sabey Corporation property.

Respondent is not aware of any storm water or drainage studies.

3. Information About Others

a. Describe any business relationships you may have had regarding this property or operations thereon with the following entities:

i. Duwamish Yacht Club.

The Duwamish Yacht Club is run by the tenant at the Duwamish Marina property. The only business relationship is with the tenant itself. There is no relationship between Duwamish Yacht Club and Respondent.

ii. Port of Seattle.

Respondent has had very little to do with the Port of Seattle. Information about an intertidal restoration project just north of the Fremont property on an adjacent parcel appears at Tab 4 in Exhibit 5.

iii. Richard Desimone & Co.

Respondent has no business relationship with Richard Desimone & Co.

iv. *Richard L. Desimone, Jr.*

Richard L. Desimone, Jr. is a grandson of Giuseppe and Assunta Desimone, and is a beneficiary of the Trusts. Richard L. Desimone, Jr. is one of the owners of property just south of the Sabey property and has The Sabey Corporation as a tenant.

v. *The Boeing Company.*

The Boeing Company has been a long-term tenant at the East Marginal Way property and at the Boeing Parking Lot property.

vi. *United States Postal Service.*

The United States Postal Service is a subtenant of The Sabey Corporation at the Sabey Corporation property.

b. Provide the names and last known address of any tenants or lessees, the dates of their tenancy and a brief description of the activities they conducted while operating on the above mentioned Site.

The names and last known addresses of tenants, the dates of their tenancy and a brief description of the activities they conducted while operating on the Site are as follows:

1. Duwamish Marina property.

The tenant at the Duwamish Marina property is the Duwamish Marina and Industrial Park. A copy of the lease is attached as Tab 1 to Exhibit 2 (*see* Confidential Documents CD). The lease provides that notices to the tenant are to be given to the tenant in care of the premises. They have subleased the upland portion for container storage and have conducted a marina on the lower portion of the property.

The last known address of the tenant is:

Mel Hester
Duwamish Marina
c/o Johnson & Shute P.S.
2950 Northup Way, Suite 200
Bellevue, WA 98004
(415) 827-5755

2. East Marginal Way property.

The tenant of the East Marginal Way property is the Boeing Company, which has been leasing the property since 1957.

Contact information for the Boeing Company with respect to this property:

Boeing Corporate Real Estate
Richard Arscott
700 S. Renton Village Place
Renton, WA 98055-3235
(206) 256-9036

3. Boeing Parking Lot property.

Contact information for the Boeing Company with respect to this property:

Boeing Corporate Real Estate
Richard Arscott
700 S. Renton Village Place
Renton, WA 98055-3235
(206) 256-9036

4. The Fremont property.

Contact information for Fremont Associates is:

Fremont Associates
700 North 36th
Seattle, WA 98103
Doug Scheumann
(206) 632-6607

The leases that were entered into after the expiration of the Fremont lease were with the following companies at the following addresses:

a. Dick's Towing & Road Service, Inc.
2012 South 146th
SeaTac, WA 98168

The lease commences May 1, 2007 and terminates April 30, 2010.

b. Eagle Systems, Inc.
230 Grant Road
East Wenatchee, WA 98802

The lease commences May 1, 2007 and terminates April 30, 2010.

c. Pacific Northwest Transfer LLC
10160 West Marginal Place South
Tukwila, WA 98168

The lease commences May 1, 2007 and terminates April 30, 2010.

d. Knight Transportation, Inc.
Attn: Property Management
5601 West Buckey Road
Phoenix, AZ 85043

The lease commences July 15, 2007 and terminates August 31, 2010.

e. Nuprecon, L.P.
35131 SE Center Street
Snoqualmie, WA 98065

The lease commences April 1, 2009 and terminates April 30, 2010.

5. The Sabey Corporation property.

The Sabey Corporation entered into a Ground Lease in June 1987. They have been the tenant ever since. They have subleased a portion of the property to the U. S. Postal Service.

Contact information for The Sabey Corporation:

Mikel Hansen
Sabey Corp.
12201 Tukwila International Blvd.
Seattle, WA 98168
(206) 281-8700

c. If not already provided, identify and provide a last known address or phone number for all persons, including Respondent's current and former employees or agents, other than attorneys, who have knowledge or information about the generation, use, purchase,

storage, disposal, placement or other handling of hazardous materials at, or transportation of hazardous materials to or from, the Site.

Elizabeth Parrott Stultz, the signer of this letter. Also, in cases where there are environmental or hazardous waste reports attached to this letter as exhibits, the individuals who prepared the various reports would have knowledge or information. Their addresses and phone numbers are on the reports.

4. *Financial Information*

a. Provide true and complete copies of all federal income tax documents, including all supporting schedules, for 2003, 2004, 2005, 2006, and 2007. Provide the federal Tax Identification number and, if documentation is not available, explain why in detail.

True and complete copies of income tax returns for the Giuseppe and Assunta Desimone Trusts for the years 2003, 2004, 2005, 2006, and 2007 are attached as Exhibit 9 and are labeled CBI/Personal Privacy Information (*see* Confidential Documents CD). The federal tax identification number for the Giuseppe Desimone Trust is 91-6020770. The federal tax identification number for the Assunta Desimone Trust is 91-6280199.

b. Provide the Respondent's financial interest in, control of, or that the Respondent is a beneficiary of any assets (in the U.S. or in another country) that have not been identified in your federal tax returns or other financial information to be presented to EPA. If there are such assets, please identify each assets by type of asset, estimated value, and location.

The Respondent has no financial interest in, or control over, any assets that have not been identified in the tax returns.

c. If Respondent is, or was at any time, a subsidiary of, otherwise owned or controlled by, or otherwise affiliated with another corporation or entity, then describe the full nature of each such corporate relationship, including but not limited to:

i. a general statement of the nature of relationship, indicating whether or not the affiliated entity had, or exercised, any degree of control over the daily operations or decision-making of the Respondent's business operations at the Site;

ii. the dates such relationship existed;

iii. the percentage of ownership of Respondent that is held by such other entity(ies);

iv. for each such affiliated entity provide the names and complete addresses of its parent, subsidiary, and other otherwise affiliated entities, as well as the names and addresses of each such affiliated entity's officers, directors, partners, trustees, beneficiaries, and/or shareholders owning more than five percent of that affiliated entity's stock;

v. provide any and all insurance policies of such affiliated entity(ies) which may possibly cover the liabilities of the Respondent at the Site; and

vi. provide any and all corporate financial information of such affiliated entities, including but not limited to total revenue or total sales, net income, depreciation, total assets and total current assets, total liabilities and total current liabilities, net working capital (or net current assets), and net worth.

Respondent is not, and was not at any time, a subsidiary of, or otherwise owned or controlled by or otherwise affiliated with another corporation or entity.

5. Insurance Coverage

a. Provide copies of all property, casualty and/or liability insurance policies, and any other insurance contracts referencing the site or facility and/or Respondent's business operations (including, but not limited to, Comprehensive General Liability, Environmental Impairment Liability, Pollution Legal Liability, Cleanup Cost Cap or Stop Loss Policies). Include, without limitation, all primary, excess, and umbrella policies which could be applicable to costs of environmental investigation and/or cleanup, and include the years such policies were in effect.

Copies of insurance coverage information in the Respondent's possession are labeled CBI/Personal Privacy Information and attached as Exhibit 10 (*see* Confidential Documents CD).

b. If there are any such policies from question "5a" above which existed, but for which copies are not available, identify each such policy by providing as much of the following information as possible:

i. the name and address of each insurer and of the insured;
ii. the type of policy and policy numbers;
iii. the per occurrence policy limits of each policy; and
iv. the effective dates for each policy.

There may be policies going way back to the inception of the Trusts, but the Respondent does not have copies of all of them.

c. Identify all insurance brokers or agents who placed insurance for the Respondent at any time during the period being investigated, as identified at the beginning of this request, and identify the time period during which such broker or agent acted in this regard.

Names of insurance brokers and agents are identified in Exhibit 10 (*see* Confidential Documents CD).

d. Identify all communication and provide all documents that evidence, refer, or relate to claims made by or on behalf of the Respondent under any insurance policy in connection with the site. Include any responses from the insurer with respect to any claims.

Based on the best information available and known to the Respondent, no claims have been made in connection with the Site.

e. Identify any previous settlements with any insurer in connection with the site, or for any claims for environmental liabilities during the time period under investigation. Include any policies surrendered or cancelled by the Respondent or insurer.

Based on the best information available and known to the Respondent, no previous settlements have been made with any insurer in connection with the Site, or for any claims for environmental liabilities during the time period under investigation.

f. Identify any and all insurance, accounts paid or accounting files that identify Respondent's insurance policies.

Insurance, accounts paid, or accounting files are identified in Exhibit 10 (*see* Confidential Documents CD).

g. Identify Respondent's policy with respect to document retention.

Respondent has no set policy with regard to document retention regarding insurance policies.

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

a. Describe all sources reviewed or consulted in responding to this request, including, but not limited to:

i. the name and current job title of all individuals consulted;
ii. the location where all documents reviewed are currently kept;

Most of the documents reviewed or consulted are at the offices of BNY Mellon N.A., 1201 Third Avenue, Suite 5010, Seattle, Washington 98101, under the control of Elizabeth Parrott Stultz, Regional Manager – Trust Real Estate. Older documents have been stored at the offices of Smith & Zuccarini, P.S., at 2155-112th Avenue N.E., Bellevue, Washington, 98004, and the contact person there is David B. Sweeney, attorney.

Sincerely,

BNY MELLON N.A.

Elizabeth Parrott Stultz

Elizabeth Parrott Stultz
Regional Manager – Trust Real Estate

Enclosures

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 9/2, 2009.

Elizabeth Parrott Stultz
Signature

Elizabeth Parrott Stultz
Type or Print Name

Regional Manager - TrustRE
Title

Mailing Address:

Elizabeth Parrott Stultz
Regional Manager – Trust Real Estate
BNY Mellon N.A.
RE: Trust for Giuseppe & Assunta Desimone
1201 3rd Ave., #5010
Seattle, WA 98101