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Honorable Barbara J. Rothstein

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

KING COUNTY, a Washington
municipal corporation,

Plaintiff,

v.

TRAVELERS INDEMNITY
COMPANY; et al.,

Defendants.

Case No. 2:14-cv-01957 BJR

**ORDER GRANTING PLAINTIFF’S
MOTION FOR PARTIAL
SUMMARY JUDGMENT RE:
TRIGGER OF COVERAGE**

This matter comes before the Court on a Motion for Partial Summary Judgment Regarding Trigger of Coverage, filed by Plaintiff King County. Plaintiff is suing Defendants, various Insurers, for coverage related to defense and cleanup costs associated with environmental property damage at two Superfund sites in Seattle (the “Underlying Environmental Sites”). In this motion, King County is seeking a declaration on what it characterizes as a “threshold legal question:” that coverage under the policies at issue in this case is “triggered” if King County establishes, as it claims it will at trial, that property damage occurred at the Underlying Environmental Sites during the period covered by such policies.

1 Ultimately, the Defendants do not oppose the substance of King County’s
2 motion. In their Response, however, they seek clarification of what is meant by the
3 word “triggered,” and specifically, urge that the Court not rule on the ultimate issues of
4 Defendants’ liability under the policies. *See* Defs.’ Response at 5 (“The Insurers do not
5 necessarily disagree with the proposition that, under Washington law, property damage
6 during the policy year triggers coverage under the typical occurrence-based policy, so
7 long as it is clearly understood that “trigger” in this context does not equate to a
8 conclusion that coverage exists under the policy.”).

9 The Court does not interpret Plaintiff’s motion as requesting such a ruling.
10 What King County is seeking is a declaration that under applicable Washington law, in
11 the context of continuous and progressive environmental property damage, proof of
12 such property damage having occurred during the policy period will “trigger” potential
13 coverage. Such trigger is a necessary—but not sufficient—element of establishing
14 entitlement to coverage under the policies at issue in this case. To quote directly from
15 King County’s Revised Proposed Order, therefore, the Court rules:

16 1. For purposes of this Order, the term “trigger of coverage” means “what event
17 must occur for potential coverage to commence under the terms of the insurance
18 policy” and “what must take place within the policy’s effective dates for the potential
19 of coverage to be ‘triggered.’” *In Re Feature Realty Litig.*, 468 F. Supp.2d 1287, 1295,
20 n.2 (E.D. Wash. 2006);

21 2. Each of the policies at issue is triggered for each Underlying Environmental
22 Site (as defined in Plaintiff’s Motion) if King County proves that property damage at or
23 in connection with the site took place during the respective periods of the policies;

24 3. Washington applies the “continuous trigger” rule to environmental property
25 damage insurance coverage cases; and

