



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

1250 W Alder St • Union Gap, WA 98903-0009 • (509) 575-2490

August 12, 2021

Donald Anthony
3977 Crater Lake Highway
Medford, OR 97504

RE: Early Notice of Release of Hazardous Substances and Preliminary Determination of Liability for Release at the following Contaminated Site:

- **Site Name:** Jacks Grocery
- **Site Address:** 706 S. Columbus Street, Goldendale
- **Cleanup Site ID:** 6826
- **Facility/Site ID:** 89542539

Dear Donald Anthony:

The Department of Ecology (Ecology) has confirmed that a release of hazardous substances has occurred at the Jacks Grocery Site (Site) requiring cleanup under the Model Toxics Control Act (MTCA),¹ chapter 70A.305 RCW.² This determination is based on a report of a release received by Ecology on August 18, 1992. We have added the Site to its list of confirmed and suspected contaminated sites.

Based on credible evidence, Ecology is proposing to find Donald Anthony and Jo Ann Pico liable under MTCA for the release of hazardous substances at the Site. Any person whom Ecology finds, based on credible evidence, to be liable is known under MTCA as a “potentially liable person” or “PLP.” This letter identifies the basis for Ecology’s proposed finding and your opportunity to respond to that finding. This letter also describes the scope of your potential liability and next steps in the cleanup process at the Site.

Proposed Finding of Liability

Ecology is proposing to find Donald Anthony and Jo Ann Pico liable under RCW 70A.305.040³ for the release of hazardous substances at the Site.

¹ <https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Rules-directing-our-cleanup-work/Model-Toxics-Control-Act>

² <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305>

³ <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.040>



This proposed finding is based on the following evidence:

1. According to real estate documents recorded at the Klickitat County Assessor's office, Anthony Trust and Pico Trust, acquired the property identified as parcel numbers 04-16-2175-0001/00 and 04-16-2175-0002/00. These documents include a Statutory Warranty Deed dated January 6, 2006 and a Bargain and Sale Deed dated September 1, 2015, which show that Anthony Trust and Pico Trust are the current owners of the subject property at 706 South Columbus Street, Goldendale.
2. According to a report titled "*UST Site Assessment*," dated July 27, 1992, hazardous substances identified as gasoline range petroleum hydrocarbons, associated fuel constituents (benzene, toluene, ethylbenzene & xylenes) and lead were found in the soil and groundwater.
3. Gasoline and their associated fuel constituents are hazardous substances. Concentrations of gasoline and associated fuel constituents remain in the soil after an interim action to remove petroleum-contaminated soil. The groundwater at the Site has not been fully assessed according to a letter issued by Ecology dated June 5, 2008. Concentrations above their applicable MTCA Method A Cleanup Levels pose a threat to human health and the environment.

Opportunity to Respond to Proposed Finding of Liability

In response to Ecology's proposed finding of liability, you may either:

1. Accept your status as a PLP without admitting liability and expedite the process through a voluntary waiver of your right to comment. This may be accomplished by signing and returning the enclosed form or by sending a letter containing similar information to Ecology; or
2. Challenge your status as a PLP by submitting written comments to Ecology within thirty (30) calendar days of the date you receive this letter; or
3. Choose not to comment on your status as a PLP.

Please submit your waiver or written comments to the following address:

John Mefford, LHG
Toxics Cleanup Program
Central Region Office
1250 W. Alder Street
Union Gap, WA 98903

After reviewing any comments submitted, or after 30 days if no response has been received, Ecology will make a final determination regarding your status as a PLP and provide you with written notice of that determination.

Identification of Other Potentially Liable Persons

Ecology is notifying the following additional persons that they are potentially liable for the release of hazardous substances at the Site:

1. Chevron U.S.A. Inc.
2. Anthony Trust; Donald Anthony and Jo Ann Pico as trustees.
3. Pico Trust; Jo Ann Pico and Donald Anthony as trustees.
4. Steven Johnston and Joyce Johnston.

If you are aware of any other persons who may be liable for the release of hazardous substances at the Site, Ecology encourages you to provide us with their identities and the reason you believe they are liable. Ecology also suggests you contact these other persons to discuss how you can jointly work together to most efficiently clean up the Site.

Responsibility and Scope of Potential Liability

Ecology may either conduct, or require PLPs to conduct, remedial actions to investigate and clean up the release of hazardous substances at a site. PLPs are encouraged to initiate discussions and negotiations with Ecology and the Office of the Attorney General that may lead to an agreement on the remedial action to be conducted.

Each liable person is strictly liable, jointly and severally, for all remedial action costs and for all natural resource damages resulting from the release of hazardous substances at a site. If Ecology incurs remedial action costs in connection with the investigation or cleanup of real property and those costs are not reimbursed, then Ecology has the authority under RCW 70A.305.060⁴ to file a lien against that real property to recover those costs.

Next Steps in Cleanup Process

In response to the release of hazardous substances at the Site, Ecology intends to conduct the following actions under MTCA:

⁴ <https://app.leg.wa.gov/RCW/default.aspx?cite=70A.305.060>

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1. Initiate discussions to pursue data gaps investigation and other remedial actions to include site cleanup. A number of different options exist, and Ecology is willing to set up a meeting to discuss these options.
2. Fully cooperate with continuing investigations associated with the Columbus Square Site.

For a description of the process for cleaning up a contaminated site under MTCA, please refer to the enclosed fact sheet.

Ecology's policy is to work cooperatively with PLPs to accomplish the prompt and effective cleanup of contaminated sites. Please note that your cooperation in planning or conducting remedial actions at the Site is not an admission of guilt or liability.

Site Listing

Ecology has added the Site to its list of confirmed and suspected contaminated sites. Information about the Site is enclosed. Please review this information for its accuracy and return your comments within thirty (30) days of receipt of this letter.

Contact Information

If you have any questions regarding this letter or if you would like additional information regarding the cleanup of contaminated sites, please call me at (509) 731-9613 or John.Mefford@ecy.wa.gov. Thank you for your cooperation.

Sincerely,



John Mefford
Cleanup Project Manager/Senior Hydrogeologist
Toxics Cleanup Program
Central Region Office

Enclosures (3):

1. Focus Sheet: Model Toxics Control Act Cleanup Regulation: #94-129
2. PLP Waiver Form
3. Site Listing Information

By certified mail: 7020 2450 0002 1392 2111

cc: Allyson Bazan, Office of the Attorney General, Ecology Division