



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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

December 4, 2015

Circle K Stores, Inc.
Attn: Rex Abacan
255 East Rincon, Suite 100
Corona, CA 92879

Re: A Reported Release of Hazardous Substances and Potential Liability for the Release at the following site.

Site Name: Sun Mart 21
Site Address: 10173 Highway 12, Naches
Parcel Number(s): 17140441025
Facility/Site No.: 59229114
Cleanup Site No.: 6350

Dear Mr. Abacan:

Under the Model Toxics Control Act (MTCA), chapter 70.105D RCW, which governs the cleanup of hazardous waste sites in Washington State, the Department of Ecology (Ecology) may identify persons that it finds are liable for the release of hazardous substances at a site. Before making such a finding, Ecology must provide persons with notice and an opportunity to comment on the proposed finding. Any person whom Ecology finds, based on credible evidence, to be liable is known as a “potentially liable person” or “PLP”.

A release of a hazardous substance was reported to Ecology in August 1992. Based on that report, Ecology added this site to our database of confirmed and suspected contaminated sites. Further action will be required.

Proposed Finding of Liability

Based on credible evidence, Ecology is proposing to find Circle K Stores, Inc. liable under RCW 70.105D.040 for the release of hazardous substances at the Sun Mart 21 facility (Site). This proposed finding is based on the following evidence:

1. Circle K Stores, Inc. is the current owner of the gasoline station generally located at 10173 Highway 12 in Naches, Washington. In November 2012, Circle K Stores, Inc. purchased the former Sun Mart station from Craig and Marilee Eerkes dba Sun Pacific Energy according to records at the Yakima County assessor’s office.



2. In August 1992, tightness testing was performed which included the underground storage tanks (USTs) and its associated distribution line system. Failure of the line tightness test indicated a leak. A site check performed by Sage Earth Sciences, Inc. (Sage) confirmed a release with groundwater contamination (gasoline @ 4200 ug/L), benzene @ 12,976 ug/L, toluene @ 14,775 ug/L, ethylbenzene @ 8,973 ug/L, xylenes @ 26,211 ug/L and lead @ 40 ug/L. Soil analytical results indicated gasoline and xylenes above MTCA compliance levels. Removal of a limited amount of petroleum contaminated soils was conducted. Sage recommended groundwater characterization.

In February 1994, White Shield, Inc. oversaw the removal and replacement of three underground storage tanks (USTs) and associated distribution lines. During this independent remedial action, approximately 350 cubic yards of soil were excavated and temporarily stockpiled onsite.

3. In 2013, Ecology contacted Blaes Environmental Management concerning the likelihood of groundwater contamination based on previous reports. Consequently, in July 2013, four groundwater monitoring wells were installed.

In 2014 and 2015, groundwater sampling showed concentrations of gasoline, naphthalene, benzene, toluene, ethylbenzene, and xylenes are present at levels exceeding MTCA Method A groundwater cleanup levels at one monitoring point of compliance (MW-3) on the site.

4. Contaminant levels that exceed the Model Toxics Control Act (MTCA) cleanup levels pose a risk 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;
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:

Kyle Parker
Toxics Cleanup Program
Central Regional Office
1250 W. Alder Street
Union Gap, WA 98903-0009

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 may be potentially liable for the release of hazardous substances at the Site:

- Sun Pacific Energy

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

Please note that 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.

Please also note that 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 70.105D.055 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:

- Initiate discussions to pursue cleanup. Different options exist and Ecology is willing to set up a meeting to discuss these options.

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For a description of the process for cleaning up a hazardous waste 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 hazardous waste sites. Please note that your cooperation in planning or conducting remedial actions at the Site is not an admission of guilt or liability.

Contact Information

If you have any questions regarding this letter or if you would like additional information regarding the cleanup of hazardous waste sites, please call me at 509-454-7833. Thank you for your cooperation.

Sincerely,

A handwritten signature in black ink that reads "Kyle Parker". The signature is fluid and cursive, with a long horizontal line extending to the right.

Kyle Parker
Cleanup Project Manager
Toxics Cleanup Program

Enclosures: 2

By Certified Mail [7010 0290 0000 7128 2517]

cc: Dan Blaes, Blaes Environmental Management, Inc.