



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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

May 16, 2018

Dr. Robert Moon and Krista K. Moon  
390 E. 2<sup>nd</sup> Avenue  
Ellensburg, WA 98926-3315

**Re: Preliminary Determination of Liability for Release of Hazardous Substances at the Following Contaminated Site:**

- **Site Name:** Kens Auto Wash II
- **Site Address:** 1013 E. University Way, Ellensburg
- **Cleanup Site ID:** 5208
- **Facility/Site ID:** 3892
- **Kittitas Co. Parcel nos.:** 113734 and 273734

Dear Dr. Moon and Ms. Moon:

Based on credible evidence, the Department of Ecology (Ecology) is proposing to find Dr. Robert Moon and Krista K. Moon liable under the Model Toxics Control Act (MTCA), Chapter 70.105D RCW, for the release of hazardous substances at the Kens Auto Wash II facility (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 Dr. Robert Moon and Krista K. Moon liable under RCW 70.105D.040 for the release of hazardous substances at the Site. This proposed finding is based on the following evidence:

1. Dr. Robert Moon and Krista K. Moon as listed as the current owners of parcel number 273734 as shown by the records at the Kittitas County Assessor.
2. In June 1995, a gasoline release was discovered during a tank tightness test for the underground storage tank system for the service station that then existed at 1013 E. University Way.
3. In February 1997, this service station known to Ecology as Kens Auto Wash II was placed on the Hazardous Sites List with a Site Hazard Ranking of “2”.



4. Subsequent laboratory analyses of soil samples obtained during the excavation of contaminated soils in 2000 showed residual petroleum contamination at levels above the Model Toxics Control Act (MTCA) Method A soil cleanup levels.
5. Additionally, groundwater monitoring data showed that the soil contamination had impacted the groundwater.
6. The investigation documented in the Remedial Investigation and Feasibility Study Report dated November 2006 showed that the contamination extended across two parcels, nos. 113734 and 273734.
7. Soil and groundwater contamination by petroleum hydrocarbons and their associated constituents at levels above the MTCA Method A 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; 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  
CRO Toxics Cleanup Program  
1250 W. Alder St., 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 has notified the following additional persons that they are potentially liable for the release of hazardous substances at the Site:

1. Kenneth D. Peterson (deceased)
2. Secret Assets LLC, University Way Property (c/o Mr. Shane Jump)

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 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:

1. In October 2003, Kenneth D. Peterson entered into an Agreed Order with Ecology to perform investigations sufficient to complete a Remedial Investigation and Feasibility Study.
2. In December 2013, Kenneth D. Peterson entered into an Agreed Order with Ecology to perform an Interim Action to address groundwater contamination.
3. Additional investigation is required to evaluate the vapor intrusion and soil direct contact exposure pathways of this Site. Remedial action may be warranted to address residual soil contamination if it is found to require action as complete pathways for one or more routes of actual or potential exposure. Depending on the type of action implemented, the groundwater may have to be re-evaluated to demonstrate attainment of the cleanup standards following the remedial action.

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.

Dr. Robert Moon and Krista K. Moon

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**Contact Information**

If you have any questions regarding this letter or if you would like additional information regarding the cleanup of contaminated sites, please contact me at (509) 454-7836 or [john.mefford@ecy.wa.gov](mailto:john.mefford@ecy.wa.gov). Thank you for your cooperation.

Sincerely,



John Mefford  
Cleanup Project Manager  
Toxics Cleanup Program, Central Region Office

Enclosures (2)

By certified mail: 7018 0360 0000 1740 8056

ec: Angie Goodwin, Hart Crowser  
Jeff Slothower, Lathrop Winbauer Harrel Slothower & Denison LLP  
Ecology Site File