



EDMUND G. BROWN JR.
GOVERNOR

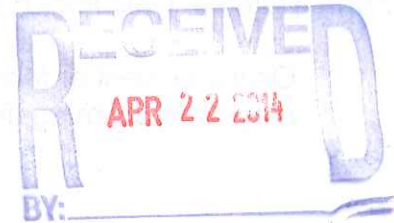


MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

April 21, 2014

Foley Street Investment, LLC, Assignee
c/o: Trailhead Ventures, LLC
Attn: John Buestad
1980 Mountain Blvd, Suite 208
Oakland, CA 94611



Dear Mr. Buestad:

UNDERGROUND STORAGE TANK (UST) CLEANUP FUND (FUND), FUND
MANAGER DECISION (FMD) FOR ELIGIBILITY DETERMINATION: CLAIM NO.
012398 FOR SITE ADDRESS: 1630 PARK ST., ALAMEDA

By a letter dated January 7, 2013, Jeremy Smith of AEI Consultants Environmental and Engineering Services (AEI), requested an FMD on your behalf to amend Claim No. 12398 to include two hidden underground storage tanks (UST) discovered during site redevelopment in 2013.

Decision

After reviewing the request and supporting documents, I have decided the hidden USTs discovered in 2013 cannot be included on Claim No. 12398. The basis of my decision is summarized below:

Applicable Authority

Section 25299.20 of the Health & Safety Code states:

“Operator” means any person in control of, or having responsibility for, the daily operation of an underground storage tank containing petroleum.

Section 25299.21 of the Health & Safety Code states:

“Owner” means the owner of an underground storage tank containing petroleum.

Foley is requesting that the Fund reimburse corrective action costs for cleanup resulting from contamination discovered when the two hidden USTs were removed in 2013. Foley is requesting the Fund add the USTs to Claim No. 12398. The Fund cannot add the two USTs to Claim No. 12398. The eligibility of Claim No. 12398 was based on Good (UST owner/operator) not Foley. Foley was assigned Claim No. 12398. Foley has since submitted a new application for the two newly discovered USTs. Fund Staff is in the process of reviewing this claim, Claim No. 20085. Foley was sent a letter on March 20, 2014, requesting additional information. The eligibility of this claim application will be based on Foley, the de facto tank owner of the two USTs discovered and removed October 2013.

Appeal Process

This is an FMD in this matter. If you do not agree with this FMD, you may request a Final Division Decision (FDD) in accordance with Section 2814.1 of the Fund Regulations. The appeal must be received by the Deputy Director of the Division of Financial Assistance within 60 days of the date of this letter. If you do not request an FDD within those 60 days, this decision will become final and conclusive. The request should be sent to:

Mr. John Russell, Acting Deputy Director
USTCF Claim No. 012398
Division of Financial Assistance
State Water Resources Control Board
P.O. Box 944212
Sacramento, CA 94244-2120

The request for an FDD must include, at a minimum: (1) a statement describing how the claimant is damaged by this FMD; (2) a description of the remedy or outcome desired; and (3) an explanation and supporting documentation of why the claimant believes the action of this FMD is erroneous, inappropriate, or improper.

If you have any questions, please call Kathy Jundt at (916) 341-5758.

Sincerely,



Lisa Babcock, P.G., C.E.G., Fund Manager
Underground Storage Tank Cleanup Fund

Foley Street Investment, LLC, Assignee
Claim No. 012398

bcc: Claim File
Diana Romero, DFA
Judy Reid, DFA
Lisa Labrado, DFA
Claim Review Unit, DFA