

**San Francisco Bay Regional Water Quality Control Board**

October 8, 2018  
File No. 01-2437 (JMJ)

Mr. Tien Nguyen  
1340 Mandela Parkway  
Oakland, CA 94607-2055  
Email: [Tien@vatransportationinc.com](mailto:Tien@vatransportationinc.com)

Mandela Trucking  
Attn.: Mr. Clarence Glasper  
P.O. Box 245160  
Sacramento, CA 94824

**SUBJECT: Rejection of Remedial Investigation Report – Mandela Trucking,  
1225 Mandela Parkway, Oakland, Alameda County**

Dear Messrs. Nguyen and Glasper:

This letter responds to your May 8, 2018, [Remedial Investigation Report](#) (Report). As explained below, this Report is deficient and I hereby reject it. This letter is addressed to Mandela Trucking in its capacity as the former owner and operator of the Underground Storage Tank (UST) at the Site when release(s) occurred and Mr. Tien Nguyen as the current property owner of the Site.

**Background**

In a directive [letter](#) dated January 25, 2018, the Regional Water Board approved your December 12, 2017, [Remedial Investigation Workplan Addendum](#) and required submittal of a remedial investigation report by April 25, 2018. The proposed scope of work included:

- Installation of eight soil borings;
- Collection of soil and grab groundwater samples from the soil borings for analysis;
- Installation of five temporary soil vapor probes; and
- Collection of soil and soil vapor samples from the soil vapor probes for analysis.

**Report Summary**

The Report documents the installation, collection, and analysis of eight soil borings and grab groundwater samples from six of the borings. The Report also provides the analytical results of the soil and groundwater analysis, conclusions, and recommendations.

The Report concludes the following:

- Residual petroleum hydrocarbon, tetrachloroethene (PCE), polyaromatic hydrocarbons and lead contamination is present in a limited area of shallow soils near the former waste oil tank (WOT, boring location SB-23);
- These contaminants do not present a significant environmental or direct exposure human health risk since this area is paved with concrete and groundwater samples from the vicinity do not contain detectable concentrations of PCE or lead;
- Dissolved petroleum hydrocarbon concentrations in groundwater remained low and appear to be declining via natural attenuation.

- The subject Site building was demolished, and only the building slab remains. VA Transportation intends to redevelop the Site with a new office building upon case closure.

The Report contains the following recommendations:

- Evaluate the Site for case closure with no further action; and
- Conduct a limited excavation of shallow lead and PCE impacted soils near the former WOT prior to site redevelopment activities.

### **Report Deficiencies**

Regional Water Board staff finds the Report is deficient because it does not include soil vapor sampling results. These results are needed to evaluate the potential for petroleum vapor intrusion at the Site and to assess the Site's readiness for low-threat closure under the [Low-Threat Underground Storage Tank Case Closure Policy](#) (LTCP) and the [Assessment Tool for Closure of Low-Threat Chlorinated Solvent Sites](#).

The proposed temporary soil vapor probes were not installed because of a perched saturated zone across the Site, at about 4.5 to 6 feet bgs. The perched water would have infiltrated the vapor probes. The perched zone is likely to be infiltration from recent rain events. This zone was not encountered during previous subsurface investigations at the Site. Since this zone has not been encountered before and appears to be the result of rain infiltration, installation of the proposed temporary soil vapor probes along with collection of soil vapor samples must be conducted. A soil vapor investigation is needed to define the extent of tetrachloroethene (PCE) and any of its breakdown products because elevated PCE concentrations have been detected in previous soil vapor investigations at the Site.

Additionally, the Report states that the Site is vacant and only used for equipment storage. However, the Report also states that a temporary modular office trailer and shipping containers are currently present on the Site. It is unknown if there are occupants at the modular office trailer and shipping containers and if so, how often are they there and if there is a complete exposure pathway via vapor intrusion from the subsurface. The use and occupancy details of the modular office trailer and shipping containers must be provided so that the appropriate LTCP scenario is applied.

### **Water Board Response**

Regional Water Board staff does not concur with the Report's conclusions and recommendations. It is too early to consider the Site for case closure with no further action until the above cited deficiencies have been adequately addressed. A limited excavation of shallow lead and PCE impacted soils near the former WOT must be conducted prior to case closure and not just prior to Site redevelopment activities. In addition to the area near the former WOT, there is another area with relatively high residual soil pollution – beneath the southern end of the former dispenser area near locations SB-2, SB-7, and MW-1. Concentrations were reported up to 7,100 mg/kg of TPH-g, 13,000 mg/kg of TPH-d, and 2,100 mg/kg of TPH-mo detected in the mid-2000s. We recommend the collection of recent soil samples from this area.

The Report does not comply with the requirements of our January 25, 2018, directive letter for the reasons noted above. I hereby reject the subject Report. I require you to submit a revised report that fully addresses the above-cited deficiencies by **January 15, 2019**.

You are required to submit all documents in electronic format to the State Water Resources Control Board's GeoTracker database, pursuant to the California Code of Regulations (Title 23, Section 3890, et. seq.). Guidance for electronic information submittal is available at: [http://www.waterboards.ca.gov/water\\_issues/programs/ust/electronic\\_submittal/](http://www.waterboards.ca.gov/water_issues/programs/ust/electronic_submittal/). Please note that this requirement includes all analytical data, monitoring well information (latitudes, longitudes, elevations, and water depth), site maps, and boring logs. Water Board staff requests that a copy of any submittal also be sent to the Toxics Management Division, in Berkeley.

This requirement for a report is made pursuant to Water Code Section 13267, which allows the Regional Water Board to require technical or monitoring program reports from any person who has discharged, discharges, proposes to discharge, or is suspected of discharging waste that could affect water quality. The attachment provides additional information about Section 13267 requirements. Any extension in the above deadline must be confirmed in writing by Regional Water Board staff.

If you have any questions, please contact Mr. John Jang of my staff at (510) 622-2366 or [John.Jang@waterboards.ca.gov](mailto:John.Jang@waterboards.ca.gov).

Sincerely,



Digitally signed by Stephen Hill  
Date: 2018.10.08 09:05:11  
-07'00'

Bruce H. Wolfe  
Executive Officer

**Attachment:** Fact Sheet – Requirements for Submitting Technical Reports Under Section 13267 of the California Water Code

**Copy sent via email with Attachment:**

Alameda County  
Environmental Health Services  
Attn.: Mr. Keith Nowell  
1131 Harbor Bay Parkway  
Suite 250, Alameda, CA 94502-6577  
Email: [Keith.Nowell@acgov.org](mailto:Keith.Nowell@acgov.org)

State Water Resources Control Board  
Division of Water Quality  
Attn: Mr. Matthew Cohen  
Email:  
[Matthew.Cohen@waterboards.ca.gov](mailto:Matthew.Cohen@waterboards.ca.gov)

AllWest Environmental  
Attn.: Mr. Leonard Niles  
530 Howard St., Suite 300  
San Francisco, CA 94105  
Email: [Leonard@allwest1.com](mailto:Leonard@allwest1.com)

Mr. Thomas Gillis  
1153 Copper Verde Lane  
Modesto, CA 95355  
Email: [TomGillis@att.net](mailto:TomGillis@att.net)

VA Transportation Inc.  
Attn.: Mr. Dang Pham  
1340 Mandela Parkway  
Oakland, CA 94607  
Email: [Dang@vatransportationinc.com](mailto:Dang@vatransportationinc.com)

## San Francisco Bay Regional Water Quality Control Board

# Fact Sheet – Requirements for Submitting Technical Reports Under Section 13267 of the California Water Code

### **What does it mean when the Regional Water Board requires a technical report?**

Section 13267<sup>1</sup> of the California Water Code provides that "...the regional board may require that any person who has discharged, discharges, or who is suspected of having discharged or discharging, or who proposes to discharge waste...that could affect the quality of waters...shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires."

### **This requirement for a technical report seems to mean that I am guilty of something, or at least responsible for cleaning something up. What if that is not so?**

The requirement for a technical report is a tool the Regional Water Board uses to investigate water quality issues or problems. The information provided can be used by the Regional Water Board to clarify whether a given party has responsibility.

### **Are there limits to what the Regional Water Board can ask for?**

Yes. The information required must relate to an actual or suspected or proposed discharge of waste (including discharges of waste where the initial discharge occurred many years ago), and the burden of compliance must bear a reasonable relationship to the need for the report and the benefits obtained. The Regional Water Board is required to explain the reasons for its requirement.

### **What if I can provide the information, but not by the date specified?**

A time extension may be given for good cause. Your request should be promptly submitted in writing, giving reasons.

### **Are there penalties if I don't comply?**

Depending on the situation, the Regional Water Board can impose a fine of up to \$5,000 per day, and a court can impose fines of up to \$25,000 per day as well as criminal penalties. A person who submits false information or fails to comply with a requirement to submit a technical report may be found guilty of a misdemeanor. For some reports, submission of false information may be a felony.

### **Do I have to use a consultant or attorney to comply?**

There is no legal requirement for this, but as a practical matter, in most cases the specialized nature of the information required makes use of a consultant and/or attorney advisable.

### **What if I disagree with the 13267 requirements and the Regional Water Board staff will not change the requirement and/or date to comply?**

You may ask that the Regional Water Board reconsider the requirement, and/or submit a petition to the State Water Resources Control Board. See California Water Code sections 13320 and 13321 for details. A request for reconsideration to the Regional Water Board does not affect the 30-day deadline within which to file a petition to the State Water Resources Control Board.

### **If I have more questions, whom do I ask?**

Requirements for technical reports include the name, telephone number, and email address of the Regional Water Board staff contact.

*Revised March 2014*

<sup>1</sup> All code sections referenced herein can be found by going to [www.leginfo.ca.gov](http://www.leginfo.ca.gov)