
San Francisco Bay Regional Water Quality Control Board

February 24, 2016
File No.: 01-0495 (RAL)

R.W.L. Investments
Attn: Bob Lawlor
4919 Tidewater Avenue, Unit B
Oakland, CA 94601
Sent via email: BobLawlor@sbcglobal.net

SUBJECT: Technical Reports Approval and Requirement for Reports, Former DiSalvo Trucking Site, 4919 Tidewater Avenue, Oakland, Alameda County

Dear Mr. Lawlor:

This letter approves your two January 2016 reports: *Semi-Annual Groundwater Monitoring Report* and the *Passive Soil Gas Investigation Report*. As explained below, I approve the reports and require you to submit a Corrective Action Plan (CAP) for the subject Site. This letter is addressed to R.W.L. Investments, the owner of the Site.

Background

In 1989, three diesel underground storage tanks (USTs) and one waste oil UST were removed from the Site. Soil was excavated and treated onsite and several thousand gallons of diesel product were removed from the excavations. However, there is still free product found at onsite wells indicating a remaining unaddressed secondary source. Historic borings indicate high concentrations of diesel in soil and/or groundwater at the Site. This Site is adjacent to the San Francisco Bay which may be in contact with the Site's groundwater contamination.

Reports Review and Approval

Semi-Annual Groundwater Monitoring Report

In October 2015, petroleum free product with a maximum of 10-inches of product in well MW-2 was detected at three monitoring wells. The product was removed from the well using a bailer. Diesel range total petroleum hydrocarbons (TPHd) concentrations were above the solubility limit at two additional monitoring. A standpipe located in the former UST backfill was sampled for the waste oil constituents volatile organic compounds (VOCs), semi-VOCs, and metals. VOCs were not detected at this location in groundwater. Concentrations of naphthalene and fluorene were detected below their respective environmental screening levels (ESLs)¹. Nickel, with a maximum concentration of 130 µg/L, exceeded its saltwater toxicity ESL of 8.2 µg/L. The sampling location was selected based on the proximity to the former waste oil tank.

¹ See Environmental Screening Levels at http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/esl.shtml

Passive Soil Gas Investigation Report

Forty three passive soil vapor samples were collected across the Site. The passive samplers were placed one foot below ground surface for fourteen days. They were designed to report mass (total nanograms collected over the 2 week period) across the Site. The goal was to identify the extent of impacted soil and/or groundwater that may indicate a secondary source area. The soil vapor samples were analyzed for TPHd, naphthalene, and chlorinated VOCs. High TPHd soil vapor mass was detected throughout most of the Site, likely extending under the onsite building. The diesel soil vapor impact may extend offsite to the north east and north west. Reduced concentrations of naphthalene and perchloroethene were detected within the TPHd impacted area.

The *Semi-Annual Groundwater Monitoring Report* and *Passive Soil Gas Investigation Report* satisfy the requirements of the September 21, 2015, Regional Water Board directive letter. I hereby approve them.

Comparison with the LTCP

Regional Water Board staff compared your Site with the criteria outlined in the State Water Resources Control Board *Low-Threat Underground Storage Tank Case Closure Policy* (LTCP) and concludes that this Site does not meet the following low-threat closure criteria.²

General criterion d (free product has been removed to the maximum extent practicable): You must determine if sufficient petroleum free product returned to well MW-2 following bailing activities conducted in October 2015. The periodic removal to the extent practicable of free product is required to meet General Criterion d of the LTCP. Additionally, the California Code of Regulations, Title 23, Division 3, Chapter 16, Section 2655 (page 70) requires removal of “*free product to the maximum extent practicable, as determined by the local agency*” and submit a free product removal report within 45 days. The report requirements are specified in the regulations.

General criterion f (secondary source has been removed to the extent practicable): The extent of free product and remaining high concentrations in groundwater, soil, and soil vapor indicate an unaddressed secondary source.

Media-Specific Criteria – Groundwater: Due to the presence of free product, a plume greater than 250 feet long, and the proximity to San Leandro Bay (approximately 100 feet away), groundwater scenarios 1 – 4 are not met.

Media-Specific Criteria –Direct Contact and Outdoor Air Exposure: Regional Water Board staff can find no record of naphthalene or other polycyclic aromatic hydrocarbons reported for soil samples. The concentrations of these analytes must be compared against the Table 1 of this media specific criterion. Soil sampling analysis to address this data gap must be proposed during the CAP implementation.

² See State Water Resources Control Board webpage:
http://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2012/rs2012_0016atta.pdf

Petroleum Free Product Removal Report Requirement

R.W.L. Investments is hereby required to submit a petroleum free product removal report in compliance with California Code of Regulations, Title 23, Division 3, Chapter 16, Section 2655, by **March 28, 2016**.

Corrective Action Plan Requirement

R.W.L. Investments is hereby required to submit a CAP by **April 11, 2016**. We expect that the main focus of the CAP will be secondary source removal. The CAP must propose objectives, remedial method(s), their rationale, and schedule. The CAP must address the requirements specified in the California Code of Regulations, Title 23, Division 3, Chapter 16, Section 2725³ (page 108), including but not limited to:

1. An assessment of impacts that includes a detailed description of site geology and hydrogeology
2. A feasibility study to evaluate alternatives for remedying the adverse effects of the petroleum-related contamination beneath the Site and the surrounding area
3. A remedial alternative implementation schedule.

Public Notification Requirement

California State law (including Health and Safety Code section 25356.1) requires that the public be invited to comment on the draft CAP. This letter requires your assistance to appropriately notify the public of the CAP's issuance.

R.W.L. Investments is hereby required to submit a report by **April 18, 2016**, that comprises a mailing list for surrounding property owners and resident/occupants within a 500-foot radius of the Site's boundary ("*radius list*"). The mailing list must also include any other known interested parties or groups, including the Regional Water Board, Alameda County, and any other relevant public agencies and environmental/community groups. The City planning department is often able to help draft the mailing list.

This requirement for technical reports 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.

R.W.L. Investments is also requested to submit to Regional Water Board staff a draft fact sheet by the April 18, 2016, deadline. The draft notification should contain the following information:

- Release summary, site investigation, risk assessment, and prior remedial actions
- Description of proposed remedial action and next steps
- Site location map
- Contact information for responsible party and the Regional Water Board
- Regional Water Board file number (01-0495) and where relevant Site cleanup documents can be accessed

³ See State Water Resources Control Board webpage:
http://www.waterboards.ca.gov/ust/regulatory/docs/ccr_title23div3chapt16.pdf

We request an electronic copy of the draft fact sheet and radius list in an editable form (e.g. MS Word). An example notification/fact sheet is available upon request.

Regional Water Board staff will use your proposed fact sheet to draft the final notification. We will seek your assistance in circulating the final notification to the mailing list, including the “radius list” noted above. We will provide a 30-day public comment period to allow review of the proposed corrective action plan prior to Regional Water Board action.

In addition to a hard copy you are also required to submit all documents in electronic format to the State Water Resources Control Board’s GeoTracker database. Guidance for electronic information submittal is available at:

http://www.waterboards.ca.gov/water_issues/programs/ust/electronic_submittal/. Please note that this requirement includes all analytical data, monitoring well latitudes, longitudes, elevations, water depth, site maps, and boring logs (PDF format).

All reports submitted must have the Regional Water Board file number 01-0495 on the first page of the report. You are responsible for obtaining any necessary approvals or permits from all agencies having jurisdiction over any aspect of the proposed work. These agencies may include the local Public Works Department and the Alameda County Environmental Health Services Department.

Please direct all questions and correspondence regarding this matter to Ralph Lambert at (510)-622-2382 or email RALambert@waterboards.ca.gov.

Sincerely,

Bruce H. Wolfe
Executive Officer

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

Copy via Email with attachment:

State Water Resources Control Board
Underground Storage Tank
Cleanup Fund Unit
Attn.: Mr. Micah Reich
E-mail: Micah.Reich@waterboards.ca.gov

Alameda County Environmental Health
Attn.: Mr. Mark Detterman
E-mail: Mark.Detterman@acgov.org

Almar Environmental
Attn.: Mr. Forrest Cook
E-mail: Cook.Forrest@gmail.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 13267¹ 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 request.

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 January 2014

¹ All code sections referenced herein can be found by going to www.leginfo.ca.gov