



ENVIRONMENTAL HEALTH DEPARTMENT
ENVIRONMENTAL PROTECTION
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577
(510) 567-6700
FAX (510) 337-9335

Notice to Comply

May 26, 2016

Dreyer's Grand Ice Cream
5929 College Avenue
Oakland, CA 94618
Attn.: Environmental Compliance Officer

Subject: Notice to Comply, Fuel Leak Case No. RO0000153 and GeoTracker Global ID T0600100466 Dreyer's Grand Ice Cream, 5929 College Avenue, Oakland, CA 94618

Dear Sir or Madam:

A review of the case file for the above-referenced site indicates that your case is currently in not in compliance with Alameda County Environmental Health's (ACEH) letters dated October 3, 2014 and March 13, 2015, which required the submittal of a work plan by December 2, 2014. Over 17 months have lapsed and the work plan has not been received.

Implementation of site characterization and/or cleanup at this site is crucial to be protective of human health and the environment and to move this case towards closure evaluation. Please note that as Responsible Parties, you are required by California Code of Regulations, Title 23, Division 3, Chapter 16, Article 11, §2720 through §2728 to characterize the site and implement corrective action.

Also, a review of California State Water Resources Control Board (SWRCB) GeoTracker website indicates that not all submittals have been electronically uploaded rendering the site to non-compliance status. Please note that in addition to GeoTracker, all reports, work plans, correspondences, etc. must be uploaded to ACEH's FTP site (see the enclosed "ACEH Electronic Report Upload (ftp) Instructions.").

In order to regain compliance, please submit the requested work plan, and electronically upload all documents to GeoTracker and ACEH's FTP server by the dates specified below. Failure to submit the work plan by the due date specified below may result in an issuance of a Notice of Violation and possible enforcement action by the District Attorney and/or ineligibility for reimbursement of corrective action costs incurred at the site from the Underground Storage Tank Clean-up Fund.

Furthermore, ACEH may recommend removal of this site from the Underground Storage Tank Cleanup Fund. Pursuant to Chapter 6.7, California Health and Safety code, civil penalties up to \$10,000 for each UST for each day of violation may be imposed. Once removed from the Clean-up Fund, the costs associated with site characterization/site cleanup work that is required will not

Environmental Compliance Manager
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be reimbursed. Please note that civil penalties for non-compliance are assessed from the original due date (December 2, 2014).

As your electronic mail address is not listed on the first page of this letter, ACEH is requesting your electronic mail address to help expedite communications. Additionally, ACEH requests that you provide your environmental consultant's contact information to ACEH via electronic mail, Attn. Keith Nowell, so that future ACEH correspondences may include your consultant as a cc.

TECHNICAL REPORT REQUEST

Please upload technical reports to the ACEH ftp site (Attention: Keith Nowell), and to the SWRCB Geotracker website, in accordance with the following specified file naming convention by the date specified below:

- **June 28, 2016 - Environmental Consultant Contact** Information (provided by electronic mail Attn. Keith Nowell)
- **June 28, 2016 – Electronic Submittal of Information**
- **July 29, 2016 – Work Plan** (file to be named: RO0000153_WP_R_yyyy-mm-dd)

These reports are being requested pursuant to California Health and Safety Code Section 25296.10. 23 CCR Sections 2652 through 2654, and 2721 through 2728 outline the responsibilities of a responsible party in response to an unauthorized release from a petroleum UST system, and require your compliance with this request.

Thank you for your cooperation. Should you have any questions or concerns regarding this correspondence or your case, please call me at (510) 567-6764 or send me an electronic mail message at keith.nowell@acgov.org.

Sincerely,

Keith Nowell
Hazardous Materials Specialist

Enclosure: Attachment 1- Responsible Party(ies) Legal Requirements/Obligations
ACEH Electronic Report Upload (ftp) Instructions
Attachment A- Alameda County Environmental Health Correspondence dated
October 3, 2014

cc: Mike Mitchell, Dreyer's Grand Ice Cream, 5929 College Avenue, Oakland, CA 94618

Dilan Roe, ACEH (*Sent via electronic mail to: dilan.roe@acgov.org*)
Keith Nowell, ACEH (*Sent via electronic mail to: keith.nowell@acgov.org*)
GeoTracker / File

Attachment 1

Responsible Party(ies) Legal Requirements / Obligations

REPORT REQUESTS

These reports are being requested pursuant to California Health and Safety Code Section 25296.10. 23 CCR Sections 2652 through 2654, and 2721 through 2728 outline the responsibilities of a responsible party in response to an unauthorized release from a petroleum UST system, and require your compliance with this request.

ELECTRONIC SUBMITTAL OF REPORTS

ACEH's Environmental Cleanup Oversight Programs (LOP and SLIC) require submission of reports in electronic form. The electronic copy replaces paper copies and is expected to be used for all public information requests, regulatory review, and compliance/enforcement activities. Instructions for submission of electronic documents to the Alameda County Environmental Cleanup Oversight Program FTP site are provided on the attached "Electronic Report Upload Instructions." Submission of reports to the Alameda County FTP site is an addition to existing requirements for electronic submittal of information to the State Water Resources Control Board (SWRCB) GeoTracker website. In September 2004, the SWRCB adopted regulations that require electronic submittal of information for all groundwater cleanup programs. For several years, responsible parties for cleanup of leaks from underground storage tanks (USTs) have been required to submit groundwater analytical data, surveyed locations of monitoring wells, and other data to the GeoTracker database over the Internet. Beginning July 1, 2005, these same reporting requirements were added to Spills, Leaks, Investigations, and Cleanup (SLIC) sites. Beginning July 1, 2005, electronic submittal of a complete copy of all reports for all sites is required in GeoTracker (in PDF format). Please visit the SWRCB website for more information on these requirements (http://www.waterboards.ca.gov/water_issues/programs/ust/electronic_submittal/).

PERJURY STATEMENT

All work plans, technical reports, or technical documents submitted to ACEH must be accompanied by a cover letter from the responsible party that states, at a minimum, the following: "I declare, under penalty of perjury, that the information and/or recommendations contained in the attached document or report is true and correct to the best of my knowledge." This letter must be signed by an officer or legally authorized representative of your company. Please include a cover letter satisfying these requirements with all future reports and technical documents submitted for this fuel leak case.

PROFESSIONAL CERTIFICATION & CONCLUSIONS/RECOMMENDATIONS

The California Business and Professions Code (Sections 6735, 6835, and 7835.1) requires that work plans and technical or implementation reports containing geologic or engineering evaluations and/or judgments be performed under the direction of an appropriately registered or certified professional. For your submittal to be considered a valid technical report, you are to present site specific data, data interpretations, and recommendations prepared by an appropriately licensed professional and include the professional registration stamp, signature, and statement of professional certification. Please ensure all that all technical reports submitted for this fuel leak case meet this requirement.

UNDERGROUND STORAGE TANK CLEANUP FUND

Please note that delays in investigation, later reports, or enforcement actions may result in your becoming ineligible to receive grant money from the state's Underground Storage Tank Cleanup Fund (Senate Bill 2004) to reimburse you for the cost of cleanup.

AGENCY OVERSIGHT

If it appears as though significant delays are occurring or reports are not submitted as requested, we will consider referring your case to the Regional Board or other appropriate agency, including the County District Attorney, for possible enforcement actions. California Health and Safety Code, Section 25299.76 authorizes enforcement including administrative action or monetary penalties of up to \$10,000 per day for each day of violation.

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|---|---|
| Alameda County Environmental Cleanup Oversight Programs (LOP and SLIC) | REVISION DATE: May 15, 2014 |
| | ISSUE DATE: July 5, 2005 |
| | PREVIOUS REVISIONS: October 31, 2005; December 16, 2005; March 27, 2009; July 8, 2010, July 25, 2010 |
| SECTION: Miscellaneous Administrative Topics & Procedures | SUBJECT: Electronic Report Upload (ftp) Instructions |

The Alameda County Environmental Cleanup Oversight Programs (LOP and SLIC) require submission of all reports in electronic form to the county's ftp site. Paper copies of reports will no longer be accepted. The electronic copy replaces the paper copy and will be used for all public information requests, regulatory review, and compliance/enforcement activities.

REQUIREMENTS

- **Please do not submit reports as attachments to electronic mail.**
- Entire report including cover letter must be submitted to the ftp site as **a single portable document format (PDF) with no password protection.**
- It is **preferable** that reports be converted to PDF format from their original format, (e.g., Microsoft Word) rather than scanned.
- **Signature pages and perjury statements must be included and have either original or electronic signature.**
- **Do not password protect the document.** Once indexed and inserted into the correct electronic case file, the document will be secured in compliance with the County's current security standards and a password. **Documents with password protection will not be accepted.**
- Each page in the PDF document should be rotated in the direction that will make it easiest to read on a computer monitor.
- Reports must be named and saved using the following naming convention:

RO#_Report Name_Year-Month-Date (e.g., RO#5555_WorkPlan_2005-06-14)

Submission Instructions

- 1) Obtain User Name and Password
 - a) Contact the Alameda County Environmental Health Department to obtain a User Name and Password to upload files to the ftp site.
 - i) Send an e-mail to deh.loptoxic@acgov.org
 - b) In the subject line of your request, be sure to include "**ftp PASSWORD REQUEST**" and in the body of your request, include the **Contact Information, Site Addresses**, and the **Case Numbers (RO# available in Geotracker) you will be posting for.**
- 2) Upload Files to the ftp Site
 - a) Using Internet Explorer (IE4+), go to <ftp://alcoftp1.acgov.org>
 - (i) Note: Netscape, Safari, and Firefox browsers will not open the FTP site as they are NOT being supported at this time.
 - b) Click on Page located on the Command bar on upper right side of window, and then scroll down to Open FTP Site in Windows Explorer.
 - c) Enter your User Name and Password. (Note: Both are Case Sensitive.)
 - d) Open "My Computer" on your computer and navigate to the file(s) you wish to upload to the ftp site.
 - e) With both "My Computer" and the ftp site open in separate windows, drag and drop the file(s) from "My Computer" to the ftp window.
- 3) Send E-mail Notifications to the Environmental Cleanup Oversight Programs
 - a) Send email to deh.loptoxic@acgov.org notify us that you have placed a report on our ftp site.
 - b) Copy your Caseworker on the e-mail. Your Caseworker's e-mail address is the entire first name then a period and entire last name @acgov.org. (e.g., firstname.lastname@acgov.org)
 - c) The subject line of the e-mail must start with the RO# followed by **Report Upload**. (e.g., Subject: RO1234 Report Upload) If site is a new case without an RO#, use the street address instead.
 - d) If your document meets the above requirements and you follow the submission instructions, you will receive a notification by email indicating that your document was successfully uploaded to the ftp site.

ATTACHMENT A

Nowell, Keith, Env. Health

From: Nowell, Keith, Env. Health
Sent: Friday, October 03, 2014 4:00 PM
To: Luster, Sean, OAKLAND, Facilities Management
Cc: Roe, Dilan, Env. Health
Subject: Fuel Leak Case RO153 - Dryers Grand Ice Cream, 5929 College Ave., Oakland - Request for Work

Dear Mr. Luster:

Thank you for meeting with me, the Alameda County Environmental Health (ACEH) case worker for the subject fuel leak case, on September 17, 2014. As expressed in our meeting, no work has been performed at the site since the State Water Resources Control Board (SWRCB) implemented its Low Threat Underground Storage Tank Case Closure Policy (LTCP). The purpose of the meeting was to discuss the status of the subject fuel leak case and how best to move the case toward closure in light of the LTCP.

Therefore, at this juncture, please address the following technical comments and provide ACEH a work plan for the tasks identified below by the date specified below.

TECHNICAL COMMENTS

- Well Redevelopment and Sampling - As discussed in the meeting, the first step in making a determination on how to proceed with the path to closure is by resampling the existing monitoring well network. As the wells were last sampled on June 4, 1999, please redevelop the wells prior to sampling.
- Analysis Scope - Based on the former presence of gasoline, diesel, and waste oil underground storage tanks (USTs), groundwater samples recovered from the monitoring wells should be analyzed for total petroleum hydrocarbons (TPH) as gasoline (TPHg), TPH as diesel (TPHd), TPH as motor oil (TPHmo), benzene, toluene, ethylbenzene, and xylenes (BTEX), the fuel oxygenates methyl tertiary butyl ether (MTBE), diisopropyl ether (DIPE), ethyl tertiary butyl ether (ETBE), tertiary amyl methyl ether (TAME), and tertiary butyl alcohol (TBA), the lead scavengers 1,2-dibromroethane (EDB), and 1,2-dichloroethane (EDC), and naphthalene.
- Report Preparation – Provide to ACEH a groundwater monitoring report documenting field activities and presenting findings and recommendations for future work, if any. Include in the report summary tables of previous groundwater monitoring events with columns for concentration data reported for TPH and BTEX compounds. A second table should be provided summarizing the fuel oxygenates, lead scavengers, and naphthalene concentration data. Each summary table should include columns for well identification (including well screen interval) and depth to water information.

The groundwater monitoring report should include the laboratory analysis report and well sampling forms as attachments.

The report should include figures showing site location, a site map using a photographic base showing the site and nearby features that includes a rose diagram depicting groundwater flow direction and well and boring locations, and a groundwater contour map depicting the groundwater flow direction for this specific event.

- Geotracker Compliance – A review of the case file indicates that the SWRCB GeoTracker database is not complete, thus rendering the site to a non-compliant status pursuant to California Code of Regulations Electronic Reporting Regulations (Chapter 30, Division 3 of Title 23 & Division 3 of Title 27, CCR) which require electronic submission of any report or data required by a regulatory agency from a cleanup site. Submission dates are set by a Regional Water Board or by a regulatory agency. Please upload to GeoTracker any and all environmental documents pertaining to the site, including investigation, remediation, and monitoring reports (e.g. GEO_REPORT and GEO_BORE files).

The work requested in this directive letter will generate a GEO_REPORT, GEO_WELL, GEO_MAP and EDF files for upload.

Currently, ACEH does not recommend the re-survey of the wells to create GEO_XY and GEO_Z for upload. Should additional groundwater monitoring events be deemed necessary by ACEH based on the findings of this study, ACEH may request the wells be surveyed using applicable benchmarks (e.g. surveyed to NGVD88 for elevation and sub-meter accuracy for latitude and longitude relative to NAD83) for creation and upload of GEO_XY and GEO_Z files.

TECHNICAL REPORT REQUEST

Please upload technical reports to the ACEH ftp site (Attention: Keith Nowell), and to the State Water Resources Control Board's Geotracker website, in accordance with the following specified file naming convention by the date specified below:

- **December 2, 2014 –Work Plan** (file name: RO0000155_WP_R_yyyy-mm-dd)

Thank you for your cooperation. Should you have any questions or concerns regarding this correspondence or your case, please call me at (510) 567-6764 or send me an electronic mail message at keith.nowell@acgov.org.

Regards,
Keith Nowell

Keith Nowell PG, CHG
Hazardous Materials Specialist
Alameda County Environmental Health
1131 Harbor Bay Parkway
Alameda , CA 94502-6540
phone: 510 / 567 - 6764
fax: 510 / 337 - 9335
email: keith.nowell@acgov.org

PDF copies of case files can be reviewed/downloaded at:

<http://www.acgov.org/aceh/lop/ust.htm>