



EDMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

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## State Water Resources Control Board

July 23, 2014

City of Oakland  
Attn: Gopal Nair  
250 Frank H. Ogawa Plaza, Suite 5301  
Oakland, CA 94612

UNDERGROUND STORAGE TANK CLEANUP FUND (FUND), FINAL STAFF  
DECISION TO REJECT CLAIM: CLAIM NO. 020084; FOR SITE ADDRESS: 7101  
EDGERWATER DRIVE, OAKLAND

Based on a review of the claim application and all supporting documentation, Fund Staff determined that your claim is not eligible for participation in the Fund.

The Fund received your claim application on January 16, 2014. On March 11, 2014, a letter was sent requesting additional information needed to determine eligibility. You were given a sixty day time frame. A final request letter was sent on May 20, 2014. To date, the documentation required to determine eligibility has not been submitted. Therefore, your claim is hereby rejected.

### Applicable Authority

H&SC Section 25299.57 states:

(d)...a claim...may be paid if...

(4)(A)...the claimant has complied with the permit requirements of Chapter 6.7 (commencing with Section 25280). A claimant shall obtain a permit required by subdivision (a) of Section 25284 for the underground storage tank that is the subject of the claim when the claimant becomes subject to subdivision (a) of Section 25284 or when the applicable local agency begins issuing permits pursuant to subdivision (a) of Section 25284, whichever occurs later.

H&SC Section 25284 states:

(a)(1) Except as provided in subdivision (c), no person may own or operate an underground storage tank unless a permit for its operation has been issued by the

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FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE OFFICER

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local agency to the owner or operator of the tank, or a unified program facility permit has been issued by the local agency to the owner or operator of the unified program facility on which the tank is located.

Fund Regulations Section 2811 states:

(a) An owner or operator of an underground storage tank or residential tank for which a permit is required under section 25284 of the Health and Safety Code shall be entitled to reimbursement for eligible corrective action, regulatory technical assistance, and third party compensation costs if...

(2)(A) ...the claimant has complied with the permit requirements of Chapter 6.7 (commencing with Section 25280).

Fund Regulations Section 2811.2 states:

A Fund application for reimbursement of corrective action costs shall contain the following:

(n) any other information or supporting documentation reasonably required by the Division to determine the eligibility, reimbursable amount due, or appropriate priority class of the claim.

H&SC Section 25299.41 states:

...every owner of an underground storage tank for which a permit is required pursuant to Section 25284 shall pay a storage fee...for each gallon of petroleum placed in an underground storage tank for which he or she owns. The fee imposed pursuant to this section shall be paid to the State Board of Equalization...

H&SC Section 25299.57 states a claim may be paid if:

(d)(4)(C)(iii) ...the claimant has paid all fees, interest, and penalties imposed pursuant to Article 5 (commencing with Section 29299.40)...for the underground storage tank that is the subject of the claim.

H&SC Section 25299.57 states a claim may be paid if:

(d)(2) The claimant is required to undertake or contract for corrective action pursuant to Section 25296.10, or, as of January 1, 1988, the claimant has initiated corrective action in accordance with Division 7 (commencing with Section 13000) of the Water Code.

Fund Regulations Section 2811 states:

(a) An owner or operator of an underground storage tank or residential tank for which a permit is required under section 25284 of the Health and Safety Code shall be entitled to reimbursement for eligible corrective action, regulatory technical assistance, and third party compensation costs if...

(5) ...Any corrective action performed was performed in accordance with the written or oral directives of the appropriate regulatory agency....

Fund Regulation 2811(a)(3) states:

The claimant has complied with any applicable financial responsibility requirements.

NOTE: The sections cited are found in the Petroleum Underground Storage Tank Cleanup Fund Regulations, Title 23, Division 3, Chapter 18, of the California Code of Regulations, or Petroleum Underground Storage Tank Cleanup Fund Statutes, California Health and Safety Code (H&SC), Division 20, Chapter 6.75.

If you disagree with this Final Staff Decision, you may appeal to the Fund Manager pursuant to Section 2814 of the *Petroleum Underground Storage Tank Cleanup Fund Regulations*. A request to the Fund Manager should be submitted within thirty (30) calendar days from the date of this letter and must include, at a minimum: (1) a statement describing how the claimant is damaged by the prior Staff Decision; (2) a description of the remedy or outcome desired; and (3) an explanation of why the claimant believes the Staff Decision is erroneous, inappropriate or improper.

Should you decide to appeal this Decision, you must also submit the following:

1. A copy of the first permit you obtained to own or operate the USTs issued by the local regulatory agency (air pollution or Air Quality Management District permits are not acceptable).
2. A copy of the latest permit to own/operate the subject tanks prior to removal.
3. Provide a copy of the removal permit for the four USTs removed on May 21, 1997.
4. Submit a copy of the Tank Removal Report.
5. Claimants are required to provide documentation that all UST storage fees (for the tanks that are the subject of this claim) due on or after January 1, 1991, imposed by Section 25299.41 of the Health and Safety Code have been paid. Please submit confirmation that all storage fees have been paid to the State Board of Equalization (BOE) for the time period that you owned the tanks (1991- 1997). Attach copies of the UST Fee Return Forms filed with the BOE with proof of payment (copy of canceled checks) for all applicable time periods or provide a copy of the BOE letter documenting that all fees

have been paid for the specific time period at this site. For more information regarding this storage fee, visit the BOE's website at [www.boe.ca.gov](http://www.boe.ca.gov) or call 1-800-400-7115. When contacting BOE, please provide name, site address, parcel number (APN), county, tank number, and the dates that you paid storage fees for the subject tanks (BOE request form is provided for your convenience).

6. A map drawn to scale that shows all underground storage tank locations, a north arrow and distances relative to the nearest public road. Include locations of all current and former USTs, fuel dispensers, products lines, vapor recovery lines, and other potential sources of contamination including, aboveground storage tanks (ASTs), lifts/hoists, sumps, etc.
7. Claimants are required to have current financial responsibility documents on file with the local regulatory agency. Enclosed is the financial responsibility information for your review. Please submit the original documents to the local regulatory agency and forward a copy to the Fund. If you have questions regarding financial responsibility, call (916) 341-5722.
8. Verification from the local agency that an unauthorized release of petroleum from the UST was discovered on a specified date. Please provide a copy of the Unauthorized Release Form (URF) signed and dated by the regulatory agency.
9. A copy of **the first** letter from the local regulatory agency naming you a responsible party and directing you to clean up the contamination at the subject site.
10. There are several ineligible sources as this sight. Please provide confirmation from the local regulator that the four tanks listed on page 4 of the application are the source of the contamination.
11. Provide evidence Deanna J. Santana has the authority to sign on behalf of the City of Oakland.
12. You contend the release was discovered in June of 1984. If the tanks were the source of a release, why did it take 13 years to remove the tanks?

You may submit your appeal by one of two methods:

1. Upload the appeal, along with all supporting documentation and all information requested above, to the GeoTracker database system. Detailed instructions for uploading documents can be found on our website:

[http://www.waterboards.ca.gov/water\\_issues/programs/ustcf/docs/fund\\_gto/cufdocs.pdf](http://www.waterboards.ca.gov/water_issues/programs/ustcf/docs/fund_gto/cufdocs.pdf)

2. Mail the appeal, along with all supporting documentation and all information requested above to:

Lisa Babcock, P.G., C.E.G., Fund Manager  
Claim No. 020084

City of Oakland  
Claim No. 20084

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Underground Storage Tank Cleanup Fund  
State Water Resources Control Board  
Division of Financial Assistance  
P.O. Box 944212  
Sacramento, CA 94244-2120

If you have any questions, please contact me at (916) 341-5758.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kathy Jundt". The signature is written in black ink and is positioned above the typed name and title.

Kathy Jundt  
Claims Review Unit  
Underground Storage Tank Cleanup Fund

cc: Ms. Donna Drogos  
Alameda County EHD  
1131 Harbor Bay Pkway, 2nd Fl.  
Alameda, CA 94502-6577