

Detterman, Mark, Env. Health

From: Lambert, Ralph@Waterboards [ralph.lambert@waterboards.ca.gov]
Sent: Monday, November 25, 2013 3:32 PM
To: wamiri@actransit.org; bwright@cameron-cole.com
Cc: Detterman, Mark, Env. Health; Labrado, Lisa@Waterboards
Subject: 1100 Seminary Ave. Public participation required, case 01-2348
Attachments: 01-2348 - public participation required 11-25-13.pdf

Wahid, please see the attached directive letter concerning public participation. We e-mailed about this on November 8th ago but it has not move forward.

Ralph Lambert, PG, CHg
Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay St., Suite 1400
Oakland, CA 94612

(510) 622-2382

San Francisco Bay Regional Water Quality Control Board

November 25, 2013
File No.: 01-2348 (RAL)

AC Transit
Attn: Wahid Amiri, wamiri@actransit.org
1600 Franklin Street
Oakland, CA 94603

SUBJECT: Requirement for Public Participation - AC Transit Facility
1100 Seminary Avenue, Oakland, Alameda County

Dear Mr. Amiri:

The Water Boards are required to involve the public in site cleanup decisions under state law (including HSC section 25356.1). As part of that effort, we will be notifying nearby landowners and residents/occupants of your proposed remedial activities. This letter requires your assistance in this effort with respect to the above listed site.

Specifically, you are required to submit technical report, acceptable to the Executive Officer, by December 20, 2013.

This technical report shall include a mailing list of the surrounding property owners and resident/occupants within a 200-foot radius of this property (“radius list”). The mailing list should also include any other interested parties or groups, including the Water Board, the County, and any other relevant public agencies and environmental/community groups.

This requirement for a report is made pursuant to Water Code Section 13267, which allows the 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 to the above deadline must be confirmed in writing by Board staff.

You are also requested to provide us with a draft notification for the site by the same date cited above. The draft notifications should contain the following information:

- A brief summary about the release and any site investigation, risk assessment, and interim remedial actions
- description of proposed remedial action and next steps
- simple site location map
- contact information for responsible party/parties and the Water Board
- Where documents can be found

Submit a draft electronic copy of the fact sheet and radius list in an editable form (e.g. MS Word). An example notification/fact sheet is available if requested.

We will use your draft notifications in preparing the final notifications. We will seek your assistance in circulating the final notifications to the mailing list, including the “radius list” noted above. We may use the mailing lists in the future to notify these parties of the availability of any significant reports with respect to the sites, such as the remedial action plans. Such notifications may be in a “fact sheet” format. We will provide a 20- to 30-day public comment period for such reports prior to Board action. Where appropriate, we will use e-mail and Website postings to notify and inform the public about site cleanup activities.

If you have any questions, please contact Ralph Lambert of my staff at (510) 622-2382 or via e-mail at 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

cc w/attachment:

Brad Wright, Cameron-Cole, bwright@cameron-cole.com

Mark Detterman, Alameda County Environmental Health, mark.detterman@acgov.org

Lisa Labrado, UST Fund, llabrado@waterboards.ca.gov

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 May 2012

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