



# State Water Resources Control Board



**Winston H. Hickox**  
Secretary for  
Environmental  
Protection

**Division of Clean Water Programs**  
1001 I Street • Sacramento, California 95814  
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**Gray Davis**  
Governor

*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website at [www.swrcb.ca.gov](http://www.swrcb.ca.gov).*

JUN 25 2002  
Port Of Oakland  
Wendel, Rosen, Black & Dean, Llp  
Carmen King  
1111 Broadway 24th Fl  
Oakland, CA 94607

**UNDERGROUND STORAGE TANK CLEANUP FUND (FUND), REQUEST FOR FURTHER DOCUMENTATION DURING INITIAL REVIEW: CLAIM NUMBER 017243; FOR SITE ADDRESS: 7683 EARHART RD, OAKLAND**

After reviewing your claim application to the Cleanup Fund, we find that the following additional information is needed to determine your eligibility for placement on the Priority List:

### REQUEST FOR PERMIT WAIVER

Claimant has requested the State Water Resources Control Board (SWRCB) to grant a permit waiver in order to access the UST Cleanup Fund. One condition of the permit waiver stipulates that the claimant was unaware of the permit requirement prior to January 1, 1990 and did not intend to avoid the permit requirement or the associated fees. Per my discussion with Alameda County Environmental Health Services (County), I was informed that the County began implementing their UST Program in 1987. In 1988, the County began to notify all known UST owners of UST law and operating permit requirements.

The Port of Oakland (Port) has identified themselves as a UST owner. As a tank owner, it was the Port's responsibility to comply with all applicable permits for the operation of the subject USTs. Based on the information submitted with this claim and other claims submitted by the Port, it is evident that the Port had knowledge of UST law and the requirement to obtain operating permits. The following information appears to support claimant's knowledge of the permitting requirements:

- In 1988, an Interim Permit was issued at the following site: 5110 7<sup>th</sup> Street Terminal, Oakland
- In 1989, an Underground Tank Closure Plan was approved by the County at the following site: 265 Hegenberger Road, Oakland
- In 1989, the County reviewed the Underground Tank Closure at the following site: 801 Maritime Street, Oakland

The Petroleum Underground Storage Tank Cleanup Fund Regulations, Section 2811(B) states for claims filed on or after January 1, 1994, the claimant had and has obtained any permit or permits required of the claimant pursuant to Chapter 6.7, Division 20, of the California Health and Safety Code, or had filed a substantially complete application for such permit or permits not later than January 1, 1990. The SWRCB may waive the provisions of this subparagraph if the SWRCB finds that all conditions have been met. One condition is the claimant was unaware of the permit requirement prior to January 1, 1990. Based on the above actions by the Port, the SWRCB will not grant the Port a Permit Waiver to access the Fund since they were aware of the requirement.

**REQUEST OWNER/OPERATOR PERMIT**

The Port must provide supporting documentation that they were in compliance with the UST permit requirements. The documentation that would support having met the permit compliance would be an interim permit issued by the County or a substantially complete application filed for such permit or permits not later than January 1, 1990.

***Listed below are the additional requirements the claimant must submit prior to the Fund making an eligibility determination.***

**BOARD OF EQUALIZATION FEES**

Claimant is required to provide documentation that all current and prior UST fees due on or after January 1, 1991 imposed by Section 25299.41 of the Health and Safety Code have been paid. If any of the USTs owned or operated had product placed in them on or after January 1, 1991, attach the most recent copy of the UST Fee Return Form filed with the State Board of Equalization (BOE) with proof of payment (copy of canceled check).

**REMOVAL PERMITS**

Please submit a removal permit for all underground storage tanks listed in claim application.

**POWER OF ATTORNEY FOR SIGNATURE AUTHORIZATION**

This is in reference to the Authorized Representative Form. In the past the Cleanup Fund allowed claimants to designate a representative to sign certain Fund documents. However, there is a concern that this procedure is not consistent with section 25299.55 of the Health and Safety Code, which requires a Fund claimant to make a sworn verification of the claim and certification of costs. Therefore, the "Authorized Representative Designation Form" is no longer being used by the Fund and we will not accept any future documents signed by the representative that was designated by such form.

We encourage claimants to sign all Fund documents personally. However, there may be circumstances where a claimant wants a representative to be able to sign Fund documents on the claimant's behalf. In this situation, the claimant must submit a notarized Power of Attorney form designating a specific representative to sign and submit documents to the Fund on the claimant's behalf. The designated representative should not be a consultant or contractor performing work on the project site because it could create a conflict of interest.

Claimants should be aware that they will be personally responsible and bound by any assertions made to the Fund pursuant to a Power of Attorney. (An appropriate Power of Attorney form is available on our website or by request)

**NOTE:** Failure to respond to this request within thirty (30) calendar days from the date of this letter may result in an ineligibility determination of your claim.

If you have any questions, please contact me at (916) 341-5714.

Sincerely,

**ORIGINAL SIGNED BY**

Shari Knieriem  
Claims Review Unit  
Underground Storage Tank Cleanup Fund

Lustis Case #: 01-1198

cc: Mr. Steve Morse  
RWQCB, Region 2  
1515 Clay Street, Ste. 1400  
Oakland, CA 94612

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



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**INNOVATIVE TECHNICAL SOLUTIONS, Inc.**



ENVIRONMENTAL  
PROTECTION

96 SEP -4 AM 8:28

August 30, 1996

Project No. 95-113.14

Mr. Barney Chan  
Alameda County Health Care Services Agency  
Environmental Protection Division  
1131 Harbor Bay Parkway, #250  
Alameda, CA 94502-6577

**Transmittal**

**Figures for MARK Group Phase II Site Investigation Report for Hangar 9  
Metropolitan Oakland International Airport (MOIA), North Field  
Oakland, California**

Dear Mr. Chan:

Attached are two figures for the MARK Group Phase II Site Investigation Report for Hangar 9 inadvertently left out of the copy submitted to you by the Port of Oakland as part of the response to your July 22, 1996 letter.

Please give me a call if you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey D. Hess", written in a cursive style.

Jeffrey D. Hess, R.G.  
Project Director

Attachments

cc: Jeff Rubin