



ENVIRONMENTAL HEALTH SERVICES
ENVIRONMENTAL PROTECTION
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577
(510) 567-6700
FAX (510) 337-93

NOTICE OF VIOLATION

August 11, 2009

Mr. Ted Dang
Tomorrow Development Co., Inc.
1305 Franklin Street, #500
Oakland, CA 94612

Mr. John Thorpe
21790 Hesperian Blvd.
Hayward, CA 94541-7003

Subject: Fuel Leak Case No. RO0000396 and Geotracker Global ID T0600102124, Former Service Station, 2547 East 27th Street, Oakland, CA 94601 – Notice of Violation

Dear Mr. Dang and Mr. Thorpe:

Alameda County Environmental Health (ACEH) staff has reviewed the fuel leak case file for the above-referenced site and find that this site is out of compliance with ACEH directives. Trichloroethene (TCE) was detected in soil vapor sample SV-04 at a concentration of 5.7 micrograms per liter ($\mu\text{g/L}$), which exceeds the Environmental Screening Level (San Francisco Bay Regional Water Quality Control Board November 2007) for TCE in soil vapor for residential land use of 1.2 $\mu\text{g/L}$. Based on the detection of TCE in soil vapor at a concentration exceeding the ESL in a location below a proposed living space, further evaluation is needed to confirm the detection and to define the extent of TCE in soil vapor. In correspondence dated April 10, 2008 and February 18, 2009, ACEH requested that you submit a work plan to evaluate potential vapor intrusion. Due to the lack of response to these requests, ACEH sent a Notice to Comply dated June 2, 2009, requesting that the work plan evaluate potential vapor intrusion be submitted no later than July 17, 2009. No work plan or other submittal to address potential vapor intrusion has been received.

In order for your site to return to compliance, please **submit the previously requested Work Plan within 30 days of the date of this letter (by September 11, 2009)**. Failure to submit the requested Work Plan by the due date specified above may result in referral 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. 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 the subsurface investigation and/or cleanup work that may be required at your site will not be reimbursed. Please note that civil penalties for non-compliance are assessed from the original due date (June 10, 2008).

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TECHNICAL REPORT REQUEST

Please submit technical reports to Alameda County Environmental Health (Attention: Jerry Wickham), according to the following schedule:

- **September 11, 2009** – Work Plan to Evaluate Potential Vapor Intrusion

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.swrcb.ca.gov/ust/cleanup/electronic reporting](http://www.swrcb.ca.gov/ust/cleanup/electronic_reporting)).

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

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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

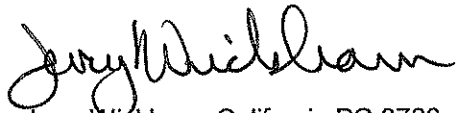
Please note that delays in investigation, later reports, or enforcement actions may result in your becoming ineligible to receive grant money from the state's Underground Storage Tank Cleanup Fund (Senate Bill 2004) to reimburse you for the cost of cleanup.

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.

If you have any questions, please call me at 510-567-6791 or send me an electronic mail message at jerry.wickham@acgov.org.

Sincerely,



Jerry Wickham, California PG 3766, CEG 1177, and CHG 297
Senior Hazardous Materials Specialist

Enclosure: ACEH Electronic Report Upload (ftp) Instructions

cc: Leroy Griffin
Oakland Fire Department
250 Frank H. Ogawa Plaza, Ste. 3341
Oakland, CA 94612-2032

Nick Patz
Ceres Associates
920 First Street, Suite 202
Benicia, CA 94510

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Judy Reid
State Water Resources Control Board
Division of Financial Assistance
P.O. Box 944212
Sacramento, CA 94244-2120

Margot Lederer Prado
City of Oakland Economic Development Division, Brownfields Management
250 Frank H. Ogawa Plaza, Suite 3315
Oakland, CA 94612

Donna Drogos, ACEH
Jerry Wickham, ACEH
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