

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY
DAVID J. KEARS, Agency Director



ENVIRONMENTAL HEALTH SERVICES
ENVIRONMENTAL PROTECTION
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577
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NOTICE OF VIOLATION

February 1, 2008

Mr. William Thompson
Desert Petroleum
3781 Telegraph Road
Ventura, CA 93003-3420

Mr. Kin Man Li et al.
P.O. Box 348
Oakland, CA 94604

Mr. Tony Razi
3609 East 14th Street
Oakland, CA 94601

Golpad & Karimabadi
c/o Matt Haley
1633 San Pablo Avenue
Oakland, CA 94608

Subject: Fuel Leak Case No. RO0000429 and Geotracker Global ID T0600100158, Desert Petroleum Site DP793, 4035 Park Boulevard, Oakland, CA 94602 - Notice of Violation

Dear Mr. Thompson, Li, Razi, and Haley:

Alameda County Environmental Health (ACEH) staff has reviewed the case file for the above referenced site. We are sending you this Notice of Violation because deadlines for site cleanup have been missed repeatedly. In correspondence dated April 4, 2006, ACEH staff generally concurred with a Work Plan entitled, "Work Plan for 4035 Park Boulevard, Oakland, CA 94602, dated February 13, 2006, provided that the technical comments in the correspondence were addressed during Work Plan implementation. The Work Plan proposed four tasks: 1) further delineation of the extent of contamination west of Brighton Avenue; 2) destruction of on-site wells MW1, RS2, and RS6; 3) excavation of contaminated soil at 4035 Park Boulevard; and 4) the connection of receptor trench wells T1 and T2 to a newly installed treatment compound. In November 2006, the destruction of on-site monitoring wells MW1, RS2, and RS6 was completed and four hand auger borings were advanced in backyards west of Brighton Avenue. The Third Quarter 2007 Groundwater Sampling Report included a copy of a proposal for connecting the interceptor trench to a groundwater treatment compound. Therefore, we assume this work will be completed in the near term or has already been completed. Please include confirmation that the interceptor trench was connected to a groundwater treatment compound in the Quarterly Monitoring and Remediation Status Report for the Fourth Quarter 2007 requested below. However, the contaminated soils at 4035 Park Boulevard have not been excavated and no alternative cleanup has been proposed.

In our April 4, 2006 correspondence, ACEH requested that you submit a report presenting the results from excavation of contaminated soil at 4035 Park Boulevard by August 10, 2006. Based on a request for a schedule extension from Mr. George Converse of Western Geo-Engineers, ACEH extended the schedule for report submittal from August 10, 2006 to November 20, 2006 as described in ACEH correspondence dated September 6, 2006. Further correspondence requesting that the excavation be completed was sent by ACEH on April 12, 2007. The excavation of contaminated soil at 4035 Park Boulevard has not been completed and has now

been delayed more than 17 months. **Due to these delays, your site is out of compliance with directives from this agency.** Until excavation of soils at 4035 Park Boulevard is implemented or an alternative cleanup method is approved by ACEH, your site remains out of compliance.

ACEH recommends that the Underground Storage Tank Cleanup Fund no longer reimburse you for groundwater monitoring at this site until the excavation is completed and the site is brought back into compliance. The repeated delays in implementing site cleanup have resulted in additional costs for quarterly groundwater monitoring during the extended period of these delays. The costs for quarterly groundwater monitoring during these periods when proposed work is not being implemented are not justifiable for reimbursement by the Cleanup Fund.

Please note that we have started the enforcement process on this case by requesting a revocation of your eligibility to receive grant money from the state's Underground Storage Tank Fund (Senate Bill 2004) to reimburse you for the costs of groundwater monitoring. Further delays in investigation, late reports, or enforcement actions may result in referral of 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.

TECHNICAL COMMENTS

1. **Groundwater Monitoring.** Although we recommend that the Underground Storage Tank Cleanup Fund no longer reimburse you for groundwater monitoring at this site until excavation at 4035 Park Boulevard is completed and the site is brought back into compliance, continued quarterly groundwater monitoring and operation of the groundwater interceptor trench in Brighton Avenue are to be continued. Please present the results in the Quarterly Groundwater Monitoring and Remediation Status Reports requested below.
2. **Error in Groundwater Monitoring Report Tables.** An error was found during review of the analytical data presented on Table 1 – Groundwater Elevations and Certified Analytical Laboratory Results from Water Samples in the recently submitted reports entitled, "Second Quarter 2007 Groundwater Sampling Report/Update Status, Former Desert Petroleum Site DP793," dated July 27, 2007 and "Third Quarter 2007 Groundwater Sampling Report/Update Status, Former Desert Petroleum Site DP793," dated October 22, 2007. The data presented for 6/21/2006 are the same as the data presented for 3/28/2006 for each of the wells. A review of the laboratory analytical reports for 6/21/2006 indicates that the entries for 6/21/2006 in Table 1 are not correct. Please correct Table 1 in future groundwater monitoring reports.
3. **Electronic Submittal of Reports.** We recently received hard copies of two reports entitled, "Second Quarter 2007 Groundwater Sampling Report/Update Status, Former Desert Petroleum Site DP793," dated July 27, 2007 and "Third Quarter 2007 Groundwater Sampling Report/Update Status, Former Desert Petroleum Site DP793," dated October 22, 2007. Electronic copies of the reports were not received on Alameda County's ftp site. Both reports were prepared on your behalf by Western Geo-Engineers. Please note that ACEH requires submission of all reports after January 31, 2006 in electronic form to the county's ftp site. A

review of the Alameda County website indicates that only one report dated October 13, 2006 has been submitted in electronic form to the County's ftp site. Therefore, please submit electronic copies of all reports prepared after January 31, 2006 to the County's ftp site according to the attached "Electronic Report Upload (ftp) Instructions." In the future, please ensure that electronic copies of all technical reports are submitted to both the Alameda County ftp site and the State Water Resources Control Board (SWRCB) Geotracker website.

TECHNICAL REPORT REQUEST

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

- **February 28, 2008** - Quarterly Monitoring and Remediation Status Report for the Fourth Quarter 2007
- **May 30, 2008** - Quarterly Monitoring and Remediation Status Report for the First Quarter 2008
- **August 29, 2008** - Quarterly Monitoring and Remediation Status Report for the Second Quarter 2008
- **November 26, 2008** - Quarterly Monitoring and Remediation Status Report for the Third Quarter 2008

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

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. Instructions for submission of electronic documents to the Alameda County Environmental Cleanup Oversight Program ftp site are provided on the attached "Electronic Report Upload (ftp) Instructions." Please do not submit reports as attachments to electronic mail.

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. Submission of reports to the Geotracker website does not fulfill the requirement to submit documents to the Alameda County ftp site. In September 2004, the SWRCB adopted regulations that require electronic submittal of information for 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 monitor wells, and other data to the Geotracker database over the Internet. Beginning July 1, 2005, electronic submittal of a complete copy of all necessary reports was

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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).

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

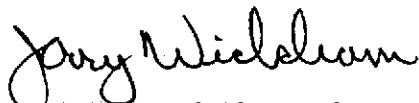
Please note that delays in investigation, later reports, or enforcement actions may result in your becoming ineligible to receive grant money from the state's Underground Storage Tank Cleanup Fund (Senate Bill 2004) to reimburse you for the cost of cleanup.

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.

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

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Enclosure: ACEH Electronic Report Upload (ftp) Instructions

cc: Sunil Ramdass
SWRCB Cleanup Fund
1001 I Street, 17th floor
Sacramento, CA 95814-2828

Shari Knierem
SWRCB Cleanup Fund
1001 I Street, 17th floor
Sacramento, CA 95814-2828

George Converse
Western Geo-Engineers
1386 Beamer Street
Woodland, CA 95776

Michael Gabriel
Glenview Neighborhood Association
4200 Park Boulevard; Box 111
Oakland, CA 94602

Derrick Williams
4032 Brighton Avenue
Oakland, CA 94602

Donna Drogos, ACEH
Jerry Wickham, ACEH
File

Alameda County Environmental Cleanup Oversight Programs (LOP and SLIC)	ISSUE DATE: July 5, 2005
	REVISION DATE: December 16, 2005
	PREVIOUS REVISIONS: October 31, 2005
SECTION: Miscellaneous Administrative Topics & Procedures	SUBJECT: Electronic Report Upload (ftp) Instructions

Effective **January 31, 2006**, 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

- Entire report including cover letter must be submitted to the ftp site as a **single portable document format (PDF) with no password protection**. (Please do not submit reports as attachments to electronic mail.)
- 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)

Additional Recommendations

- A separate copy of the tables in the document should be submitted by e-mail to your Caseworker in **Excel** format. These are for use by assigned Caseworker only.

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 dehloptoxic@acgov.org
or
 - ii) Send a fax on company letterhead to (510) 337-9335, to the attention of Alicia Lam-Finneke.
 - 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 and Firefox browsers will not open the FTP site.
 - b) Click on File, then on Login As.
 - 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 dehloptoxic@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 at 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)