



ENVIRONMENTAL HEALTH SERVICES  
ENVIRONMENTAL PROTECTION  
1131 Harbor Bay Parkway, Suite 250  
Alameda, CA 94502-6577  
(510) 567-6700  
FAX (510) 337-9335

September 8, 2010

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 14<sup>th</sup> Street  
Oakland, CA 94601

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

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

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

Alameda County Environmental Health (ACEH) staff has reviewed the case file for the above referenced fuel leak case including the most recently submitted document entitled, "*Update Status Report*," dated July 19, 2010. The Status Report, which was prepared on your behalf by Western Geo-Engineers, indicates that pumping of on-site well RS-5 has been suspended and the submersible pump, pump controller, and water totalizing meter removed from the site. Pumping from RS-5 had influenced off-site water levels and may have been effective in reducing off-site impacts. Pumping from RS-5 was suspended without ACEH approval or concurrence and does not appear to be justified. We request that you reinstall the equipment and resume pumping of RS-5 with treatment and discharge to the sanitary sewer no later than November 18, 2010 as shown in the Compliance Schedule below.

Construction of a treatment compound along an underground sewer lateral to allow continued pumping from wells T1 and T2 in the receptor trench beneath Brighton Avenue was proposed in a Work Plan dated February 13, 2006 and approved by ACEH in correspondence dated April 4, 2006. ACEH has provided several deadlines for completion of this work since 2006; however, this work has not been completed. Status reports and quarterly monitoring reports have recommended that this work be completed and have presented planned time frames for completing the work; however, the work was not implemented. The current status report dated July 19, 2010 recommends, "Once financing has been obtained, commence with the permitting and installation of the intercept conveyance piping and construction of the new treatment compound." Continued indefinite delays due to funding to implement construction of the treatment compound are not acceptable. These long-term delays have occurred without approval or schedule extensions by ACEH. Due to the long-term delays in constructing the treatment compound, this fuel leak case is currently out of compliance with directives from this agency. We request that the treatment compound be installed and operated in accordance with the Compliance Schedule below.

Excavation of soils in the source area was proposed in a Work Plan dated February 13, 2006 and approved by ACEH in correspondence dated April 4, 2006. Since 2006, the plans for excavation have been modified in response to alternate proposals from Western Geo-Engineers, ACEH technical comments, and comments from concerned members of the public. However, excavation has not been implemented to date. Most recently, the remedial excavation was scheduled to begin in August 2010 but was postponed apparently because funds were not available. Due to the long-term and repeated delays in proceeding with excavation, this fuel leak case is currently out of compliance with directives from this agency. We request that the proposed excavation be implemented in accordance with the Compliance Schedule below.

### **COMPLIANCE SCHEDULE**

In order for this site to return to compliance, the proposed actions must be implemented according to the following schedule:

- **November 18, 2010** – Resume groundwater extraction from well RS-5
- **November 18, 2010** – Complete permitting process for construction of treatment compound for intercept trench
- **November 30, 2010** – Complete permitting process for excavation and submit a schedule for ACEH review for planning and implementing excavation with excavation start date no later than May 30, 2011
- **December 6, 2010** – Begin construction of treatment compound for intercept trench
- **January 6, 2011** – Treatment compound operational

**If the above previously proposed and approved items are not implemented within the time frames indicated above, a Notice of Violation will be issued. Upon issuance of the Notice of Violation, the case may be referred to the Alameda County District Attorney's office for enforcement action.** Progress and milestones for the above items are to be documented in the reports requested below.

### **TECHNICAL REPORT REQUEST**

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

- **November 30, 2010** – Semi-annual Groundwater Monitoring Report with Status Report on all items in compliance schedule
- **November 30, 2010** – Schedule for planning and implementing excavation with start date no later than May 30, 2011

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- **February 28, 2011** – Status Report on all items in compliance schedule.

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

Sincerely,

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

Attachments: Responsible Party(ies) Legal Requirements/Obligations  
Electronic Mail Message from Robert Gray dated April 13, 2010

Enclosure: ACEH Electronic Report Upload (ftp) Instructions

cc: Leroy Griffin, Oakland Fire Department, 250 Frank H. Ogawa Plaza, Ste. 3341, Oakland, CA 94612-2032 2032 (Sent via E-mail to: [lgriffin@oaklandnet.com](mailto:lgriffin@oaklandnet.com))

George Converse, Western Geo-Engineers, 1386 Beamer Street, Woodland, CA 95776  
(Sent via E-mail to: [wege@cal.net](mailto:wege@cal.net))

Robert Gray, Glenview Neighborhood Association, 1970 Broadway, Suite 1200, Oakland, CA 94612 (Sent via E-mail to: [r\\_gray40@sbcglobal.net](mailto:r_gray40@sbcglobal.net))

Robert Roat, Glenview Neighborhood Association (Sent via E-mail to: [broat@earthlink.net](mailto:broat@earthlink.net))

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

Geotracker, File

Attachment 1  
**Responsible Party(ies) Legal Requirements/Obligations**

**REPORT REQUESTS**

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/electronic\\_submittal/report\\_rqmts.shtml](http://www.swrcb.ca.gov/ust/electronic_submittal/report_rqmts.shtml)).

**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.

<b>Alameda County Environmental Cleanup Oversight Programs (LOP and SLIC)</b>	<b>ISSUE DATE:</b> July 5, 2005
	<b>REVISION DATE:</b> July 8, 2010
	<b>PREVIOUS REVISIONS:</b> December 16, 2005, October 31, 2005
<b>SECTION:</b> Miscellaneous Administrative Topics & Procedures	<b>SUBJECT:</b> Electronic Report Upload (ftp) Instructions

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](mailto:dehloptoxic@acgov.org)  
Or
    - ii) Send a fax on company letterhead to (510) 337-9335, to the attention of Teena Le Khan.
  - 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 Page on upper right side of browser, and then scroll down to Open FTP Site in Windows Explorer.
  - 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](mailto: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 @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) If site is a new case without an RO#, use the street address instead.
  - d) If your document meets the above requirements and you follow the submission instructions, you will receive a notification by email indicating that your document was successfully uploaded to the ftp site.