



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

November 19, 2008

Mr. Aaron Costa  
Chevron Products Company  
6001 Bollinger Canyon Road, K-2256  
San Ramon, CA 94583-2324

Lamorinda Development and Investment  
89 Davis Road, Suite 160  
Orinda, CA 94563

C & H Development Company  
43 Panoramic Way  
Walnut Creek, CA 94595

Subject: Fuel Leak Case No. RO0000439 and Geotracker Global ID T0600100345, Chevron #9-0917, 5280 Hopyard Road, Pleasanton, CA 94566 – Notice to Comply

Dear Mr. Costa:

Alameda County Environmental Health (ACEH) staff has reviewed the fuel leak case file for the above-referenced site including the recently submitted document entitled, "*Work Plan for Soil Vapor Survey*," dated October 24, 2008. In correspondence dated July 9, 2008, ACEH requested that you implement soil vapor sampling at five locations to evaluate the potential for vapor intrusion and present the results in a report by October 24, 2008. The requested work was not implemented and the "*Work Plan for Soil Vapor Survey*," dated October 24, 2008 indicates that only two soil vapor samples will be collected at a future date. The apparent rationale (page 2 of the Work Plan) for not conducting the requested soil vapor sampling is, "Because the site and area surrounding the site is zoned as commercial and future land use is not expected to change and because hydrocarbon concentrations are currently below ESLs, three vapor probes in addition to the two previously proposed source area probes is not warranted." This rationale for not performing the requested work is unacceptable for the following reasons:

1. The proposed two soil vapor sampling locations only provide data to evaluate vapor intrusion for the existing station building. Future commercial redevelopment of the site could result in construction of commercial buildings in other locations within the site. Therefore, other potential sources of contamination such as the first generation tank pit need to be evaluated for potential vapor intrusion to conclude that human health risks for the site have been addressed.
2. The potential for vapor intrusion must be assessed before making decisions regarding acceptable current commercial land use or more conservative future land use.
3. Commercial zoning and the belief that future land use is not expected to change is not a sufficient basis to assume that land use could not change at some date in the future. If the site were adequately characterized by evaluating the potential for vapor intrusion and the evaluation indicated that commercial land use was acceptable but more conservative land use was not acceptable, land use restrictions would be required. The appropriate land use restrictions cannot be defined without the evaluation of potential vapor intrusion.

4. The statement that hydrocarbon concentrations are currently below ESLs does not identify the media for a comparison and is therefore, not useful. We assume this statement regarding ESLs refers to a previous assertion made by Conestoga-Rovers & Associates in a previous document entitled, "*Response to Technical Comments*," dated May 20, 2008. In that document, Conestoga-Rovers & Associates concluded that no soil vapor sampling is required based on updated screening levels in the San Francisco Bay Regional Water Quality Control Board guidance document entitled, "*Screening for Environmental Concerns at Sites with Contaminated Soil and Groundwater (Interim Final - November 2007)*." Screening levels for volatilization from groundwater to indoor air were cited as justification for not evaluating potential vapor intrusion. The "*Response to Technical Comments*," indicated that screening levels for volatilization of constituents from soil were "removed" from the updated ESLs. As we previously discussed in ACEH correspondence dated July 9, 2008, the deletion of soil to indoor air screening levels does not mean that this pathway should no longer be assessed. It indicates that soil vapor data is to be used rather than soil data to evaluate volatilization from soil to indoor air.

This correspondence is our fourth request for an evaluation of potential vapor intrusion to indoor air at this site. The rationale provided in various responses to comments and work plans by Conestoga-Rovers & Associates for not implementing the work has been reviewed and is without merit. Therefore, we request that you comply with our directives to implement soil vapor sampling at the five locations described in previous correspondence. **If the work is not completed by February 25, 2009, a Notice of Violation will be issued.**

#### **TECHNICAL REPORT REQUEST**

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

- **February 25, 2009** – Soil Vapor Investigation Report
- **30 days following the end of each quarter** – Quarterly Monitoring Reports

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

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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 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.

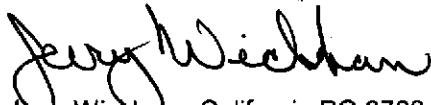
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**AGENCY OVERSIGHT**

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](mailto: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: Cheryl Dizon, QIC 80201, Zone 7 Water Agency, 100 North Canyons Parkway  
Livermore, CA 94551

Danielle Stefani, Livermore-Pleasanton Fire Department, 3560 Nevada Street  
Pleasanton, CA 94566

Ken Mifsud, Alameda County District Attorney's Office, Consumer and Environmental  
Protection Division, 7677 Oakport Street, Suite 650, Oakland, CA 94621

Bill Hurtido, Accor North America, 4001 International Parkway, Carrollton, TX 75007

Charlotte Evans, Conestoga-Rovers & Associates, 5900 Hollis Street, Suite A,  
Emeryville, CA 94608

Donna Drogos, ACEH  
Jerry Wickham, ACEH  
File

<b>Alameda County Environmental Cleanup Oversight Programs (LOP and SLIC)</b>	<b>ISSUE DATE:</b> July 5, 2005
	<b>REVISION DATE:</b> December 16, 2005
	<b>PREVIOUS REVISIONS:</b> October 31, 2005
<b>SECTION:</b> Miscellaneous Administrative Topics & Procedures	<b>SUBJECT:</b> 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](mailto: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](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 at acgov.org. (e.g., [firstname.lastname@acgov.org](mailto: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)