



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

Alameda County

April 29, 2014

MAY 05 2014

Chevron Products Co., Assignee
Attn: Joe Watterson
6101 Bollinger Canyon Road, Bldg. BRX1 #5339
San Ramon, CA 94583

Environmental Health

Dear Mr. Watterson:

UNDERGROUND STORAGE TANK (UST) CLEANUP FUND (FUND), FUND MANAGER
DECISION (FMD) FOR RECONSIDERATION OF INELIGIBLE COSTS:
CLAIM NO. 012265, FOR SITE ADDRESS: 800 CENTER STREET, OAKLAND

By a letter dated June 21, 2007, Rene Boisvert (property owner), requested an FMD on your behalf for reconsideration of a Pre-approval Request received by the Fund on June 29, 2006 (\$964,279) that was denied by Fund Staff on February 15, 2007.

Decision

Following my review of your letter, the claim files, and other supporting documents, I find that I must support the Fund Staff Decision that the Pre-Approval Request will remain denied. The basis for my decision is summarized below.

Applicable Authority

The following sections cited are excerpted from the *Petroleum Underground Storage Tank Cleanup Fund Regulations*, Title 23, Division 3, Chapter 18 *California Code of Regulations* (Fund Regulations).

Section 2812.2(a) of Fund Regulations states, in part:

“The Board may only reimburse from the Fund reasonable and necessary corrective action, regulatory technical assistance, and third party compensation costs that are incurred by or on behalf of a claimant.”

Section 2812.2(e) of Fund Regulations states, in part:

“The following are ineligible corrective action and regulatory technical assistance costs:

(16) the added costs of implementing a corrective action alternative that is not the most cost-effective alternative to achieve cleanup levels identified as necessary by the regulatory agency;

(17) the costs of corrective action incurred to clean up the property beyond cleanup levels identified as necessary by the regulatory agency”

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

Discussion

This appeal request is for the reconsideration of a pre-approval request and not for costs denied in a reimbursement request.

The initial leak was reported in April 1995. Claim No. 12265 was filed with the Fund on March 19, 1997, and a Letter of Commitment was issued in on October 3, 2002. Based on the limited site assessment in the vicinity of the former USTs and dispenser area, contaminated soil was excavated to a depth of 10 to 12 feet below ground surface in November 2002. Approximately 1,584 tons of contaminated soil were removed and the excavation backfilled with clean soil.

A proposal was considered in 1997 to develop the subject site along with two adjacent properties into a residential housing complex. A pre-approval request was submitted to the Fund for \$964,279 to remove residual hydrocarbons beneath the previously-excavated zone. The over excavation would have been to a depth to 17 feet below ground surface in the same area that was previously excavated. The cost of the excavation was reimbursed by the Fund. The proposed second excavation was never performed.

More recently, the consultant for the claimant, Conestoga Rovers Associates (CRA) conducted a Low Flow Air Sparge pilot test in September 2010. Based on the findings of the pilot test, CRA recommended that no active remediation was necessary for the remaining contamination and recommended natural attenuation as the remedial action in the revised corrective action plan (CAP).

Appeal Process

This represents an FMD in this matter. In accordance with Section 2814.1 of the Fund Regulations, if you are not in agreement with this FMD, you may request a Final Division Decision (FDD). The appeal must be received by the Deputy Director of the Division of Financial Assistance within 60 days of the date of this letter. If you do not request an FDD within those 60 days, this decision will become final and conclusive. The request should be sent to:

Mr. John Russell, Acting Deputy Director
USTCF Claim No. 12265
Division of Financial Assistance
State Water Resources Control Board
P.O. Box 944212
Sacramento, CA 94244-2120

The request for an FDD must include, at a minimum: (1) a statement describing how the claimant is damaged by this FMD; (2) a description of the remedy or outcome desired; and;

(3) an explanation and supporting documentation of why the claimant believes the action or this FMD is erroneous, inappropriate, or improper.

If you have any questions concerning this letter, please contact Mr. Sriram Iyer at (916) 341-5498.

Sincerely,



Lisa Babcock, P.G., C.E.G., Fund Manager
Underground Storage Tank Cleanup Fund

cc: Rene Boisvert
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