

Detterman, Mark, Env. Health

From: Lee, Nathan [nlee@craworld.com]
Sent: Friday, November 15, 2013 3:54 PM
To: Detterman, Mark, Env. Health; Roe, Dilan, Env. Health
Cc: Espino Devine, Catalina; Waite, Brian A
Subject: RE: Release Incident Responsibilities; RO464: Chevron 9-1851; 451 Hegenberger Road, Oakland, CA - Closure Request Status

Mark and Dilan,

On behalf of Chevron Environmental Management Company (EMC), Conestoga-Rovers and Associates (CRA) is responding to Alameda County Environmental Health's (ACEH) Release Incident Responsibilities email dated October 18, 2013. If any new release has occurred on site, then a new case number and file should be opened to reflect the new release. Any new site release should have no bearing on ACEH decision on site closure as requested in CRA's *Remedial Excavation Report and Case Closure Request* dated March 28, 2013. As closure was requested over seven months ago CRA and EMC would like to understand the status on this closure formally. Therefore it is requested that that ACEH either accept or deny the site closure in a formal letter.

Thanks,

Nathan Lee, P.G.
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From: Detterman, Mark, Env. Health [<mailto:Mark.Detterman@acgov.org>]
Sent: Friday, October 18, 2013 4:09 PM
To: 'Espino Devine, Catalina'; Lee, Nathan; 'Bob Clark-Riddell'; grewalngns@yahoo.com
Cc: Roe, Dilan, Env. Health
Subject: Release Incident Responsibilities; RO464: Chevron 9-1851; 451 Hegenberger Road, Oakland, CA

All,
Recent questions related to the responsibility for the release of diesel petroleum hydrocarbons at the subject site have been raised by Chevron. This is specifically referenced to the recent removal of the former diesel UST. As required by state regulation, Alameda County Environmental Health (ACEH) names a "Responsible Party," as defined under 23 C.C.R Sec. 2720. Section 2720 defines a responsible party 4 ways. An RP can be:

1. "Any person who owns or operates an underground storage tank used for the storage of any hazardous substance."
2. "In the case of any underground storage tank no longer in use, any person who owned or operated the underground storage tank immediately before the discontinuation of its use."
3. "Any owner of property where an unauthorized release of a hazardous substance from an underground storage tank has occurred."
4. "Any person who had or has control over an underground storage tank at the time of or following an unauthorized release of a hazardous substance."

Prior to the enactment of these specific state definitions, Chevron was named as an RP in 1996 for a release(s) of hydrocarbons at the site and Fuel Leak Case Number RO464 was created. Although a formal Notice of Responsibility

(NOR) has not been issued to Mr. Grewal, ACEH will be issuing one shortly (and is required to do so by the state) prior to case closure. At a minimum Mr. Grewal would fit definition 3 above.

Please be aware that ACEH names all RPs as “Primary”, to indicate an equal responsibility, however, makes a distinction in RPs based on appropriateness (responsibility for actions). The informal terms “Primary Active” and “Primary Inactive” are used to capture this condition; thus the “Primary Active” designation can change in order to designate the RP who ACEH looks to for actions at a site. This also eliminates potentially conflicting actions by multiple RPs at a site. This informal designation is usually a decision agreed upon between the equally responsible RPs.

In regards to the recently removed diesel UST and the recently discovered diesel contamination in groundwater samples collected from well MW-3, there is conflicting evidence as to whether this is a new or older release. Specifically, questions remained as to whether the groundwater concentrations are from a new diesel release related to the removal of the UST, or incidental releases that accumulated in soil while Chevron operated the station and mixed into groundwater at the time of the UST removal. Pangea Environmental, the consultant for Mr. Grewal, has advanced an argument for the latter scenario for the diesel former tank that appears reasonable based on the aged character of the diesel TPH detection noted by the laboratory in a grab groundwater sampled collected at the time of the tank removal, and the lack of detection of BTEX and naphthalene in the tank soil and groundwater compliance samples. However, agreement on the RP responsibility needs to be mutually agreed upon by both parties and a URF filed with ACEH.

Based on ACEH’s review of the data associated with the recent diesel UST tank removal it appears the existing case may still qualify for closure under the LTCP; however, the size and stability of the diesel contamination in groundwater needs to be addressed. ACEH would like to schedule a meeting within the next week or so at our office with all parties to discuss the most efficient path forward to address this last remaining data gap.

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PDF copies of case files can be downloaded at:

<http://www.acgov.org/aceh/lop/ust.htm>