



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

NOTICE TO COMPLY

March 5, 2015

Peter H. Sher, Vice President/General Counsel
Toscana Baking Company /
San Francisco French Bread Company
580 Julie Ann Way
Oakland, CA 94621

Scott Atthowe
Scott C. Atthowe Trust
3924 Market Street
Oakland, CA 94608-3828

Kevin Keegan
Specialty Foods Corp.
520 Lake Cook Road, Suite 550
Deerfield, IL 60015

Earthgrains Company
Environmental Compliance Department
8400 Maryland Avenue
St. Louis, MO 63105-3668

Christopher Rants
Metz Baking Company
1014 Nebraska Street
Sioux City, IA 51101

Larry Strain
Andre Boudine Bakeries
132 Hawthorne Street
San Francisco, CA 94107

Subject: Notice to Comply - Fuel Leak Case No. RO0000490 and GeoTracker Global ID T0600101187, San Francisco French Bread, 3924 Market Street, Oakland, CA 94607

Dear Responsible Parties:

A review of the case file for the above-referenced site indicates that your case is currently in not in compliance with Alameda County Environmental Health's (ACEH) October 23, 2014 correspondence (provided as an attachment), which required the submittal of a work plan by December 12, 2014. Over 2 months have lapsed and the work plan has not been received.

The work plan for implementation of site characterization and/or cleanup at this site is crucial to be protective of human health and the environment and to move this case towards closure evaluation. Please note that as Responsible Parties, you are required by California Code of Regulations, Title 23, Division 3, Chapter 16, Article 11, §2720 through §2728 to characterize the site and, if required, to implement corrective action.

Additionally, a review of ACEH's FTP site indicates that the water well at the subject property was destroyed under permit without the approval, or knowledge of, ACEH. Undertaking any work at a regulated site without the knowledge of the regulatory agency is not an acceptable practice.

In order to regain compliance, please submit the work plan, and electronically upload all documents to GeoTracker and ACEH's FTP server by the date specified below. Failure to submit the implement the corrective action by the due date specified below may result in an issuance of a Notice of Violation and possible enforcement action by the District Attorney and/or ineligibility for reimbursement of corrective action costs incurred at the site from the Underground Storage Tank Clean-up Fund. Furthermore, ACEH may recommend removal of this site from eligibility to the Underground Storage Tank Cleanup Fund. Pursuant to Chapter 6.7, California Health and Safety code, civil

Responsible Parties
RO0000490
March 5, 2015

penalties up to \$10,000 for each UST for each day of violation may be imposed. Please note that civil penalties for non-compliance are assessed from the original due date (December 12, 2014).

NOTIFICATION OF FIELDWORK ACTIVITIES

Note that ACEH should be notified with at least three (3) business days notification prior to conducting fieldwork at or for the site.

TECHNICAL REPORT REQUEST

Please upload technical reports to the ACEH ftp site (Attention: Keith Nowell), and to the State Water Resources Control Board's Geotracker website, in accordance with the following specified file naming convention and schedule:

- **April 3, 2015- Work Plan** (file name: RO0000490_WP_R_yyyy-mm-dd)

If your email address does not appear on the cover page of this notification ACEH is requesting you provide your email address so that we can correspond with you quickly and efficiently regarding your case.

Should you have any questions regarding this correspondence or your case, please call me at (510) 567-6764 or send an electronic mail message at keith.nowell@acgov.org.

Sincerely,



Digitally signed by Keith Nowell
DN: cn=Keith Nowell, o=Alameda County,
ou=Department of Environmental Health,
email=keith.nowell@acgov.org, c=US
Date: 2015.03.05 09:42:25 -0800

Keith Nowell PG, CHG
Hazardous Materials Specialist

Enclosures: Responsible Party(ies) Legal Requirements/Obligations
ACEH Electronic Report Upload (ftp) Instructions

Alameda County Environmental Health Directive Letter Dated October 23, 2014

cc: Paul Phillips, Jeffries & Co, 11100 Santa Monica Blvd., 10th Floor, Los Angeles, CA 90025
Mr. Ken Berlin and Mr. Don Frost, Skadden, 1440 New York Avenue, N. W., Washington D. C. 20005

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

James Gribi, Gribi Associates, 1090 Adams Street, Suite K, Benicia, CA 94510
(Sent via E-mail to: JGribi@gribiassociates.com)

Dilan Roe, ACEH (Sent via E-mail to: dilan.roe@acgov.org)
Keith Nowell, ACEH (Sent via E-mail to keith.nowell@acgov.org)

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.waterboards.ca.gov/water_issues/programs/ust/electronic_submittal/).

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.

Alameda County Environmental Cleanup Oversight Programs (LOP and SLIC)	REVISION DATE: May 15, 2014
	ISSUE DATE: July 5, 2005
	PREVIOUS REVISIONS: October 31, 2005; December 16, 2005; March 27, 2009; July 8, 2010, July 25, 2010
SECTION: Miscellaneous Administrative Topics & Procedures	SUBJECT: 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

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

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 deh.loptoxic@acgov.org
 - 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, Safari, and Firefox browsers will not open the FTP site as they are NOT being supported at this time.
 - b) Click on Page located on the Command bar on upper right side of window, 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 deh.loptoxic@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.



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October 23, 2014

Peter H. Sher, Vice President/General Counsel
Toscana Baking Company /
San Francisco French Bread Company
580 Julie Ann Way
Oakland, CA 94621

Scott Atthowe
Scott C. Atthowe Trust
3924 Market Street
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Kevin Keegan
Specialty Foods Corp.
520 Lake Cook Road, Suite 550
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Earthgrains Company
Environmental Compliance Department
8400 Maryland Avenue
St. Louis, MO 63105-3668

Christopher Rants
Metz Baking Company
1014 Nebraska Street
Sioux City, IA 51101

Larry Strain
Andre Boudine Bakeries
132 Hawthorne Street
San Francisco, CA 94107

Subject: Fuel Leak Case No. RO0000490 and GeoTracker Global ID T0600101187, San Francisco French Bread, 3924 Market Street, Oakland, CA 94607

Dear Responsible Parties:

Alameda County Environmental Health (ACEH) staff has reviewed the case file including the *Report of Soil and Groundwater Investigation (SWI)* dated December 30, 2013 prepared by Gribi Associates (Gribi) for the subject site. The review was performed against the State Water Resources Control Board's (SWRCBs) Low Threat Underground Storage Tank Case Closure Policy (LTCP).

The SWI was executed to define the extent of contamination resulting from fuel release(s) at the site. Based on its findings, the SWI proposes advancing four additional borings for recovery of soil and groundwater samples, collection of two soil gas samples, and decommissioning the on-site water supply well.

Work Previously Requested

In its Directive letter dated October 10, 2013, ACEH stated it had reviewed the case file including the *Work Plan to Conduct Soil Boring Investigation (Work Plan)* dated March 26, 2012. ACEH evaluated recommendations presented in the Work Plan, in conjunction with the LTCP criteria and determined that the site fails to meet the LTCP General Criteria e (Site Conceptual Model), and the Media-Specific Criteria for Groundwater and for Vapor Intrusion to Indoor Air. ACEH addressed the criteria not meeting the LTCP in the technical comments section of the letter and stated that a revised Work Plan was not required unless an alternate scope of work outside that described in the Work Plan and technical comments is proposed. However, numerous elements of the ACEH letter were not incorporated in the scope of work. The October 10, 2013 Directive letter is included as an attachment.

- ACEH requested (Directive Section 4) the following figures be provided in the requested Site Conceptual Model (SCM): an extended site map utilizing an aerial photographic base showing the facility in relation to its' immediate surrounding properties and a site map utilizing an aerial photographic base showing the showing on-site and off-site utilities in the immediate vicinity of the site, in relation to all boring and well locations, and the estimated areal extent of free product. An aerial photographic base for figures aid in the identification of receptors and landmarks.

The former figure was not provided and the latter figure was provided without utilizing an aerial photographic base.

- ACEH's noted that insufficient data has been collected in the 0 to 5 and 5 to 10 foot below ground surface intervals to support closure under the LTCP. ACEH requested (Directive Section 5) that on-site soil samples from each boring be recovered from two depths- within the upper five-feet and at least one sample from the interval of five- to 10 feet, as measured from below the ground surface (bgs).

The shallowest on-site soil sample was collected at 7 feet bgs.

- ACEH's noted that soil has not been tested for MTBE. Section 6a of the Directive referenced Health and Safety Code section 25296.15 which prohibits closing a UST case unless the soil, groundwater or both have been tested for MTBE. ACEH requested that MTBE be added to the scope of analysis for the soil samples. ACEH requested the analysis for benzene, toluene, ethylbenzene, and xylenes (BTEX) and MTBE be performed using and EPA test method 8260. Citing the SWRCB Leaking Underground Storage Fuel Tank Guidance (LUFT) Manual, dated September 2012, referencing sites with Bunker C releases, ACEH requested the 16 priority pollutant polycyclic aromatic hydrocarbons (PAHs) (naphthalene, acenaphthene, acenaphthylene, anthracene, phenanthrene, fluorene, chrysene, fluoranthene, pyrene, benzo(b)fluoranthene, benzo(a)pyrene, benzo(k)fluoranthene, benzo(a)anthracene, indeno(1,2,3-c,d)pyrene, dibenz(a,h)anthracene, and benzo(g,h,i)perylene be added to the scope of analysis at the site by using EPA test method 8270 SIM. Concentrations for these chemicals would be used to evaluate the site against the LTCP Direct Contact and Outdoor Air Exposure criteria for depths within the upper five feet and the interval of five- to 10 feet, bgs.

MTBE analysis was not performed for the soil samples. Additionally, BTEX analysis was performed by EPA test method 8021B.

Analysis for the 16 priority pollutant PAHs was not performed for the soil samples.

- ACEH's noted that the one groundwater monitoring event for which ACEH has MTBE data has elevated laboratory reporting limits of no less than 2,500 micrograms per liter (ug/L). These reporting limits exceed regulatory guidelines on which ACEH evaluates its cases. Section 6b of the Directive requested that MTBE and the 16 priority pollutant PAHs be added to the scope of analysis for the grab groundwater samples. ACEH requested the MTBE analysis be performed using and EPA test method 8260 and PAH analysis by EPA test method 8270.

MTBE analysis was not performed for the grab groundwater samples. Additionally, BTEX analysis was performed by EPA test method 8021B.

Analysis for the 16 priority pollutant PAHs was not performed for the grab groundwater samples.

- ACEH requested (Directive Section 7) the status of the on-site water well be determined, and if the well has not been decommissioned, to recover a water sample from the well and analyze for the chemicals identified in Section 6(b). If there are no future plans to use the well, ACEH requested the well be decommissioned.

The SWI does not address status of the well, nor was the well sampled or decommissioned. However, the SWI recommends the well be decommissioned.

- ACEH requested (Directive Section 8) clarification of the laboratory data reported for product samples collected from monitoring wells MW-1 and MW-3.

The SWI did not address this request.

- ACEH provided a sample Site Conceptual Model (SCM) in table format as an attachment to its Directive letter. The SCM included the requisite elements to be addressed in the SCM. ACEH requested the results of the field investigation be incorporated into a Focused SCM and the SCM be presented in a tabular format that highlights the major SCM elements and associated data gaps, which need to be addressed to progress the site to case closure under the LTCP.

Not all requisite elements were addressed in the SWI and the tabular format not followed.

Technical Comments

Based on its findings, the SWI proposes the following scope of work:

- Soil Borings- Advance four additional soil borings- two on-site and two off. ACEH concurs with the proposed four additional soil borings and their locations as depicted on Figure 7 of the SWI. ACEH requests the two on-site soil borings incorporate the sampling depths and analysis scope addressed in the comments above.
- On-site Water Supply Well- ACEH concurs with the proposed decommissioning of the on-site water supply well if the well is no longer in service. However, the well should be tagged and sampled prior to decommissioning. The scope of analysis should incorporate the analytical suite addressed in the comments above.
- Soil Gas Investigation- Advance two probes for the recovery of soil gas samples. Though there appears to be a lack of volatiles in soil and groundwater beneath the site, ACEH does believe a soil gas study is warranted at this time. Soil gas samples should be analyzed for total petroleum hydrocarbons as gasoline (TPHg), total petroleum hydrocarbons as diesel (TPHd), BTEX and naphthalene by test method TO-17, and the biogenic gases oxygen, carbon dioxide and methane, using test method ASTM-1946, to evaluate the biodegradation of the LNAPL plume. Additionally the soil gas samples should be analyzed for the tracer gas used for leak detection.

Additionally ACEH requests the following items be included in the work plan:

- Product Characterization- In order to assess the efficacy of free product removal, please present a plan to recover a sample of the free product from at least two monitoring wells for physical properties testing. Please present in your work plan requested below the physical properties (e.g. density and viscosity) needed to demonstrate free product removal is not practical.

Responsible Parties
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October 23, 2014, Page 4

- Well Search- Include in your work plan a proposal to identify beneficial use wells in the vicinity of the property.

Technical Report Request

Please upload technical reports to the ACEH ftp site (Attention: Keith Nowell), and to the State Water Resources Control Board's Geotracker website, in accordance with the following specified file naming convention and schedule:

- **December 12, 2014- Work Plan** (file name: RO0000490_WP_R_yyyy-mm-dd)

If your email address does not appear on the cover page of this notification ACEH is requesting you provide your email address so that we can correspond with you quickly and efficiently regarding your case.

Thank you for your cooperation. Should you have any questions regarding this correspondence or your case, please call me at (510) 567-6764 or send an electronic mail message at keith.nowell@acgov.org.

Sincerely,

Keith Nowell PG, CHG
Hazardous Materials Specialist

- Attachment 1 Responsible Party(ies) Legal Requirements/Obligations ACEH Electronic Report Upload (ftp) Instructions
Attachment 2 ACEH Directive letter dated October 17, 2013

cc: Paul Phillips, Jeffries & Co, 11100 Santa Monica Blvd., 10th Floor, Los Angeles, CA 90025
Mr. Ken Berlin and Mr. Don Frost, Skadden, 1440 New York Avenue, N. W., Washington D. C. 20005

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

James Gribi, Gribi Associates, 1090 Adams Street, Suite K, Benicia, CA 94510
(Sent via E-mail to: JGribi@gribiassociates.com)

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GeoTracker, File