

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY
DAVID J. KEARS, Agency Director



SENT
09-20-06

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

September 20, 2006

Mr. Fillmore Marks
c/o Eileen Kirk
Marks Management Co.
505 Sansome St. # 1400
San Francisco, CA 94111-3118

Subject: Fuel Leak Case No. RO0002520, Maz Glass, 3800 San Pablo Avenue, Emeryville, CA

Dear Ms. Kirk:

Alameda County Environmental Health Department (ACEH) staff has reviewed the report entitled, "Proposed Work Plan for Preliminary Site Assessment", dated June 4, 2003 and prepared on your behalf by Environ Soil Tech Consultants. It appears that residual petroleum hydrocarbon contamination remains in soil and groundwater at your site. Confirmation soil sampling conducted in connection with the removal of the UST detected petroleum hydrocarbon contamination up to 440 mg/L TPHg. However, no groundwater sampling was conducted to determine the extent of dissolved phase petroleum hydrocarbon contamination. The proposed Work Plan for site assessment describes the installation of five soil borings, with three of the soil borings to be converted into groundwater monitoring wells.

In June 2003 after submission of the Work Plan, and in the interest of moving your site through the regulatory process, ACEH requested that additional soil and groundwater sampling be completed in order to define the extent of petroleum hydrocarbon contamination on site and immediately downgradient of your site. ACEH proposed the use of expedited site assessments techniques to delineate the vertical and horizontal extent of soil and groundwater contamination. Furthermore, ACEH considers the use of expedited site assessments integral to the site characterization process. To date ACEH has not received a response to these recommendations; therefore, ACEH has determined that your site has not been adequately characterized. Consequently, ACEH requests that you provide a Soil and Groundwater Investigation Work Plan to this office within 45 Days of the date of this letter or by October 30, 2006.

Please be advised that this is a formal request for technical reports pursuant to Title 23, CCR, Section 2722(c). Any extensions of the stated deadlines, or modifications of the tasks, must be confirmed in writing by this agency.

Based on ACEH staff review of the case file, we request that you address the following technical comments and prepare a work plan detailing work to be performed, and send us the reports described below. Please provide 72-hour advance written notification to this office (e-mail preferred to steven.plunkett@acgov.org) prior to the start of field activities.

TECHNICAL COMMENTS

1. **Expedited Site Assessment.** During expedited site assessment, soil and groundwater samples can be collected from multiple depths using direct push techniques. The soil borings

should be advanced adjacent to the former UST location and immediately downgradient of the former UST location. The Work Plan requested below is to include plans to characterize petroleum hydrocarbon contamination in soil and groundwater within the shallow soil and water bearing zones and possible deeper water-bearing zones. Please consider the use of depth discrete soil and groundwater samples collected along transects to characterize site conditions prior to installation of monitoring wells. We request that you use detailed hydrogeologic cross sections to appropriately represent the three-dimensional extent of soil and groundwater contamination on site and immediately downgradient of the site. Please include the information requested above in Work Plan requested below.

2. **Hydrogeologic Cross Sections.** The Soil and Groundwater Investigation Report requested below is to include one cross section in the direction of groundwater flow and one cross section approximately perpendicular to the direction of groundwater flow. Each cross section should include the following:
 - a. Surface topography. The cross sections should be extended off-site where necessary to show significant breaks in slope.
 - b. Soil descriptions for all borings and wells along the line of section.
 - c. Screen and filter pack intervals for each monitoring well.
 - d. Sampling locations and results for soil and grab groundwater samples.
 - e. Site features such as the tank pit, dispensers, etc.
 - f. Where appropriate, monitoring well location and soil boring locations will be projected back to the strike of the cross section line.

3. **Soil and Groundwater Sample Analysis.** All soil and groundwater samples to be collected during the investigation are to be analyzed for TPHg and TPHd by EPA Method 8015M or 8260, BTEX, EDB, EDC, MtBE, TAME, ETBE, DIPE, TBA and EtOH by EPA Method 8260 and total lead. Please present the results from the soil and groundwater sampling in the Soil and Groundwater Investigation Report requested below.

4. **Geotracker EDF Submittals** - A review of the case file and the State Water Resources Control Board's (SWRCB) Geotracker website indicate that electronic copies of analytical data have not been submitted for your site. Pursuant to CCR Sections 2729 and 2729.1, beginning September 1, 2001, all analytical data, including monitoring well samples, submitted in a report to a regulatory agency as part of the LUFT program, must be transmitted electronically to the SWRCB Geotracker website via the internet. Additionally, beginning January 1, 2002, all permanent monitoring points utilized to collect groundwater samples (i.e. monitoring wells) and submitted in a report to a regulatory agency, must be surveyed (top of casing) to mean sea level and latitude and longitude accurate to within 1-meter accuracy, using NAD 83, and transmitted electronically to the SWRCB Geotracker website. Beginning July 1, 2005, electronic submittal of a complete copy of all reports is required in Geotracker (in PDF format). In order to remain in regulatory compliance, please upload all analytical data (collected on or after September 1, 2001), to the SWRCB's Geotracker database website in accordance with the above-cited regulation. Please perform the electronic submittals for applicable data and submit verification to this Agency by **October 30, 2006.**

TECHNICAL REPORT REQUEST

Please submit technical reports to Alameda County Environmental Health (Attention: Mr. Steven Plunkett), according to the following schedule:

- **October 30, 2006 – Work Plan for Soil and Groundwater Investigation.**
- **90 Days After Completion of Work Plan – Soil and Groundwater Investigation Report**

These reports are being requested pursuant to California Health and Safety Code Section 25296.10, 23 CCR Sections 2852 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

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. Instructions for submission of electronic documents to the Alameda County Environmental Cleanup Oversight Program ftp site are provided on the attached "Electronic Report Upload (ftp) Instructions." Please do not submit reports as attachments to electronic mail.

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. Submission of reports to the Geotracker website does not fulfill the requirement to submit documents to the Alameda County ftp site. In September 2004, the SWRCB adopted regulations that require electronic submittal of information for 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 monitor wells, and other data to the Geotracker database over the Internet. Beginning July 1, 2005, electronic submittal of a complete copy of all necessary reports was 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).

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

Ms. Eileen Kirk
September 19, 2006
Page 4

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

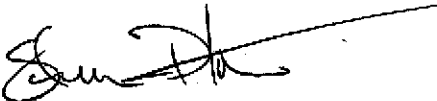
Please note that delays in investigation, later reports, or enforcement actions may result in your becoming ineligible to receive grant money from the state's Underground Storage Tank Cleanup Fund (Senate Bill 2004) to reimburse you for the cost of cleanup.

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.

Should you have any questions, do not hesitate to call me at (510) 383-1767.

Sincerely,



Steven Plunkett
Hazardous Materials Specialist

cc: Frank Hamedl-Fard
131 Tully Road
San Jose, CA 94111

Donna Drogos, ACEH
Steven Plunkett, ACEH
File

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



6-16-03

RO0002520

June 13, 2003

Mr. Fillmore Marks
San Pablo Ave Venture
555 Montgomery Street, Suite 1205
San Francisco, CA 94111

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

RE: 3800 San Pablo Ave, Emeryville, CA

Dear Mr. Marks:

I have completed review of Enviro Soil Tech Consultants' June 4, 2003 *Proposed Work Plan for Preliminary Site Assessment* report prepared for the above referenced site. Five soil borings, of which three will be converted into groundwater monitoring wells, are proposed.

I would like to recommend that direct-push technologies be employed for a rapid site assessment to delineate the horizontal and vertical extent of the contaminant plume. Soil and groundwater samples can be collected at multiple depths with this technology. The boreholes can be advanced in the immediate vicinity of the former tanks and further downgradient (presumed to be west or southwest of the tanks). Soil samples should be collected just above the capillary fringe, and at approximately 3 feet interval and at significant changes in lithology to 10 feet below groundwater elevation. Grab groundwater samples should also be collected at various depths (a maximum of three soil and water samples per borehole). All soil and water samples should be analyzed for TPHg, TPHd, and VOCs (BTEX, MTBE) using EPA Method 8260. Based on data collected from this phase of investigation, an informed decision can be made to sight permanent groundwater monitoring wells, if warranted.

If you are in agreement to perform an expedited site assessment, please have your consultant submit an amended work plan with a site plan depicting proposed boring locations. The site plan should include a north arrow. The work plan is due within 30 days of the date of this letter, or by **July 17, 2003**.

Should you have any questions about the content of this letter, please contact me at (510) 567-6762 or by email at echu@co.alameda.ca.us.

eva chu
Hazardous Materials Specialist

c: Donna Drogos
Frank Hamedi, Enviro Soil Tech Consultants, 131 Tully Road, San Jose, CA 95111

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY

DAVID J. KEARS, Agency Director



04-06-03

RO0002520

April 15, 2003

Mr. Fillmore Marks
San Pablo Ave Venture
555 Montgomery Street, Suite 1205
San Francisco, CA 94111

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

RE: 3800 San Pablo Ave, Emeryville, CA

Dear Mr. Marks:

I have completed review of the case file for the above referenced site. When two underground storage tanks (USTs) were removed in May 2002, soil samples collected contained up to 440 parts per million total petroleum hydrocarbons as gasoline (TPHg), 280 ppm TPH as diesel, and low to non-detectable levels of benzene, toluene, ethylbenzene, and xylenes (BTEX). This is confirmation that an unauthorized release of petroleum hydrocarbons resulted from the use of the former USTs.

At this time, addition investigation is required to delineate the extent of soil and possibly groundwater contamination at the site. Such an investigation shall be in the form of a **Preliminary Site Assessment**, or PSA. The information gathered by the PSA will be used to determine an appropriate course of action to remediate the site, if deemed necessary. The PSA must be conducted in accordance with the RWQCB Staff Recommendations for the Initial Evaluation and Investigation of Underground Tanks, and Article 11 of Title 23, California Code of Regulations. The major elements of such an investigation are summarized in the attached Appendix A.

The PSA proposal is due **within 45 days** of the date of this letter **or by June 6, 2003**. Once the proposal is approved, field work should commence within 60 days. A report must be submitted within 45 days after the completion of this phase of work at the site. All reports and proposals must be submitted under seal of a California Registered Geologist, Certified Engineering Geologist, or Registered Civil Engineer.

Please be advised that this is a formal request for technical reports pursuant to Title 23, CCR, Section 2722(c). Any extensions of the stated deadlines, or modifications of the required tasks, must be confirmed in writing by this agency.

Should you have any questions about the content of this letter, please contact me at (510) 567-6762.

eva chu
Hazardous Materials Specialist

attachment

maz-2

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY
DAVID J. KEARS, Agency Director



03-03-03

RO0002520

March 3, 2003

Mr. Fillmore Marks
San Pablo Ave Venture
555 Montgomery St. Suite 1250
San Francisco, CA 94111

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

**SUBJECT: NEW LANDOWNER NOTIFICATION AND PARTICIPATION REQUIREMENTS
FOR 3800 SAN PABLO AVE, EMERYVILLE, CA**

This letter is to inform you of new legislative requirements pertaining to cleanup and closure of sites where an unauthorized release of hazardous substance, including petroleum, has occurred from an underground storage tank (UST). Section 25297.15(a) of Ch. 6.7 of the Health & Safety Code requires the primary or active responsible party to notify all current record owners of fee title to the site of: 1) a site cleanup proposal, 2) a site closure proposal, 3) a local agency intention to make a determination that no further action is required, and 4) a local agency intention to issue a closure letter. Section 25297.15(b) requires the local agency to take all reasonable steps to accommodate responsible landowners' participation in the cleanup or site closure process and to consider their input and recommendations.

For purposes of implementing these sections, you have been identified as the primary or active responsible party. Please provide to this agency, within twenty calendar days of receipt of this notice, a complete mailing list of all current record owners of fee title to the site. You may use the enclosed "list of landowners" form (sample letter 2) to comply with this requirement. If the list of current record owners of fee title to the site changes, you must notify the local agency of the change within 20 calendar days from when you are notified of the change.

If you are the sole landowner, please indicate that on the landowner list form. The following notice requirements do not apply to responsible parties who are the sole landowner for the site.

In accordance with Section 25297.15(a) of Ch. 6.7 of the Health & Safety Code, you must certify to the local agency that all current record owners of fee title to the site have been informed of the proposed action before the local agency may do any of the following:

- 1) consider a cleanup proposal (corrective action plan)
- 2) consider a site closure proposal
- 3) make a determination that no further action is required
- 4) issue a closure letter

You may use the enclosed "notice of proposed action" form (sample letter 3) to comply with this requirement. Before approving a cleanup proposal or site closure proposal, determining that no further action is required, or issuing a closure letter, the local agency will take all reasonable steps necessary to accommodate responsible landowner participation in the cleanup and site closure process and will consider all input and recommendations from any responsible landowner.

Fillmore Marks
RE: 3800 San Pablo, Emeryville
March 3, 2003
Page 2 of 2

If you have any questions, I can be reached at (510) 567-6762.



eva chu
Hazardous Materials Specialist

Attachments

c: Betty Graham, RWQCB

maz-1

SAMPLE LETTER (2): LIST OF LANDOWNERS FORM

Alameda County Environmental Health
1131 Harbor Bay Parkway
Alameda, CA 94502-6577

SUBJECT: CERTIFIED LIST OF RECORD FEE TITLE OWNERS FOR (SITE NAME AND ADDRESS)

Fill out item 1 if there are multiple site landowners. If you are the sole site landowner, skip item 1 and fill out item 2.

1. In accordance with section 25297.15(a) of Chapter 6.7 of the Health & Safety Code, I, name of primary responsible party, certify that the following is a complete list of current record fee title owners and their mailing addresses for the above site:

2. In accordance with section 25297.15(a) of Chapter 6.7 of the Health & Safety Code, I, name of primary responsible party, certify that I am the sole landowner for the above site.

Sincerely,

Signature of primary responsible party

Name of primary responsible party

SAMPLE LETTER 3: NOTICE OF PROPOSED ACTION SUBMITTED TO LOCAL AGENCY

Alameda County Environmental Health
1131 Harbor Bay Parkway
Alameda, CA 94502-6577

SUBJECT: NOTICE OF PROPOSED ACTION SUBMITTED TO LOCAL AGENCY (FOR NAME AND ADDRESS OF SUBJECT SITE)

In accordance with section 25297,15(a) of Chapter 6.7 of the Health & Safety Code, I, (name of primary responsible party), certify that I have notified all responsible landowners of the enclosed proposed action. Check space for applicable proposed action(s):

- cleanup proposal (corrective action plan)
- site closure proposal
- local agency intention to make a determination that no further action is required
- local agency intention to issue a closure letter

Sincerely,

Signature of primary responsible party

Name of primary responsible party

cc: Names and addresses of all record fee title owners

ALAMEDA COUNTY
HEALTH CARE SERVICES

AGENCY
DAVID J. KEARS, Agency Director



R02520

January 31, 1991

DEPARTMENT OF ENVIRONMENTAL HEALTH
Hazardous Materials Program
80 Swan Way, Rm. 200
Oakland, CA 94621
(415) 271-4320

Filmore Macks
44 Montgomery St.
San Francisco, CA 94104

Re: 3800 San Pablo, Oakland, 94608

NOTICE OF VIOLATION

Dear Mr. Macks:

Our records indicate that there are underground tank(s) at your site at the above facility. Attached are Forms A and B for your submission.

In accordance with the California Code of Regulations, Title 23, Chapter 3, Subchapter 16 Underground Tank Regulations you must perform one of the following actions:

1. Submit a tank closure plan to this Department as required by Article 7, 2670, or
2. Apply for a permit as required by Article 10, 2710.

You are directed to notify this Department within 10 days of your intentions and to obtain the necessary instructions and forms.

Please note that section 25299 of the California Health and Safety Code states that any operator or owner of an underground storage tank is liable for a civil penalty of not less than five hundred dollars or more than five thousand dollars per day for failure to obtain a permit, or failing to properly close an underground storage tank, as required by section 25298.

If you have any questions concerning this matter, please contact this office at 271-4320.

Sincerely,

Thomas F. Peacock, Senior HMS
Hazardous Materials Division

TFP:tfp

cc: Gil Jensen, Alameda County District Attorney, Consumer and
Environmental Protection Agency
Lester Feldman, RWQCB