
San Francisco Bay Regional Water Quality Control Board

November 8, 2013
File No. 01-3599 (BGS)

Mr. Shiv Kumar
General Partner, Kumar Family Limited Partnership
22990 Clawiter Road
Hayward, CA 94545

Mr. Murray Kelsoe
1066 Marina Boulevard
San Leandro, CA 94577

SUBJECT: Requirement for a Work Plan, and Electronic Submittal of Information
A-Paratransit, 829 54th Avenue, Oakland, Alameda County

Dear Mr. Kumar and Mr. Kelsoe:

This letter requires you to submit a work plan to evaluate the environmental condition at the site. This letter also requires you to submit site information electronically (via uploads to the GeoTracker website).

The site has been impacted by leaks from the former underground storage tanks (USTs). The initial environmental investigation at the site was overseen by the Alameda County Environmental Health Department (ACEHD). On March 28, 2012, the ACEHD referred the case to the San Francisco Bay Regional Water Quality Control Board (Regional Water Board) for further oversight. Regional Water Board staff reviewed the case file and identified actions to complete the site investigation and cleanup and move the case toward closure.

Site Description

The site is located in a commercial area, and presently used as a repair facility for taxicabs. Formerly, the site was an automobile service station. The site has been significantly contaminated by petroleum leaks from the former USTs (four fuel USTs and one waste oil UST), which were used prior to 1990. The USTs were removed in February 2003. The UST pit was dewatered during tank removal activities, however, it appears that the tank pit water was not sampled. Heavily contaminated soil was observed beneath the former waste oil UST. Soil samples collected from the base of the UST pit indicated up to 1,600 mg/Kg of TPHg, 290 mg/Kg of TPHd, and 11 mg/Kg of benzene. Approximately 40 cubic yards of contaminated soil was excavated from beneath the former waste oil UST, and stockpiled onsite. The stockpiled soil contained 600 mg/Kg of oil and grease, and 600 mg/Kg of total lead (20 mg/L of STLC lead), therefore, classified as hazardous waste. It appears that this stockpiled soil still remains at the site (in the eastern site corner, based on the satellite site photo). The *Site Investigation Workplan* and the *Addendum to Site Investigation*

JOHN MULLER, CHAIR | BRUCE H. WOLFE, EXECUTIVE OFFICER

Work Plan were prepared in December 2003 and April 2004, respectively, proposing installation of groundwater monitoring wells and borings to delineate extent of contamination at the site. However, it appears that the proposed work has never been completed. The lateral and vertical extent of contamination at the site is undefined and related human health and environmental risks are unknown. Also, the site is not in compliance with regulations requiring electronic reporting of analytical data and site information including technical reports.

Requirement for a Work Plan

The contamination present beneath the site may pose unacceptable risks to human health and the environment. The additional environmental investigation at the site is necessary to evaluate the subsurface conditions at the site and related human health and environmental risks, and to prepare the conceptual site model, prior to evaluating site cleanup options or eligibility for case closure.

Mr. Shiv Kumar is named in this letter as the former property and UST owner, and the general partner of Kumar Family Limited Partnership, which is the current property owner. Mr. Murray Kelsoe is named in this letter as the former property and UST owner.

Shiv Kumar and Murray Kelsoe are required to submit a work plan to evaluate the current subsurface conditions at the site and related human health and environmental risks by January 6, 2014.

This requirement for a report is made pursuant to Water Code Section 13267, which allows the Regional Water Board to require technical or monitoring program reports from any person who has discharged, discharges, proposes to discharge, or is suspected of discharging waste that could affect water quality. The attachment provides additional information about Section 13267 requirements. Any extension in the above deadline must be confirmed in writing by Regional Water Board staff.

As specified in the next section you are required to submit all documents in electronic format to the State Water Resources Control Board's GeoTracker database. All reports submitted should have the Regional Water Board file number 01-3599 on the first page of the report. A copy of any submittal should also be sent to the ACEHD in Alameda.

Requirement for Electronic Submittal of Information

State regulations (California Code of Regulations; Chapter 30, Division 3 of Title 23 and Division 3 of Title 27) require electronic submittal of site information to the State web-based "GeoTracker", a geographic information system, which provides online access to environmental and regulatory data. Information about electronic submittal of information can be found at the following URLs:

http://www.waterboards.ca.gov/water_issues/programs/ust/electronic_submittal
http://www.waterboards.ca.gov/water_issues/programs/ust/electronic_submittal/docs/faq.pdf

As the dischargers, you are required to submit electronically all laboratory data for soil and water generated since September 1, 2001, to GeoTracker. You are also required since January 1, 2005, to submit electronically all reports and correspondence about your site to GeoTracker.

As the dischargers/responsible parties, you have two primary electronic reporting duties:

1. "Claiming" the site before submitting electronic compliance data. **You must claim the site in GeoTracker, even if there is no data to upload.**
2. Authorizing secondary access to allow an authorized RP agent (typically a consultant) to submit compliance data on your behalf.

You are currently in violation of the reporting requirements for your site. We will not pursue enforcement provided you claim the site and submit all required data and reports to GeoTracker **by January 6, 2014**. Any extension to this deadline must be confirmed in writing by Regional Water Board staff. All reports submitted to GeoTracker should have the Regional Board file number on the first page.

Pursuant to Chapter 6.7 of the California Health and Safety Code, failure to comply with the ESI requirements may result in enforcement action, and may also jeopardize your Cleanup Fund reimbursement eligibility.

Please direct all questions and correspondence regarding this matter to Barbara Sieminski at 510-622-2423 or via e-mail at barbara.sieminski@waterboards.ca.gov.

Sincerely,



Digitally signed by Stephen Hill
Date: 2013.11.08 15:39:20
-08'00'

Bruce H. Wolfe
Executive Officer

Attachment: Fact Sheet – Requirements For Submitting Technical Reports Under Section 13267 of the California Water Code

cc w/attach:

Ms. Donna Drogos, ACEHD: donna.drogos@acgov.org

Mr. Mark Detterman, ACEHD: mark.detterman@acgov.org

Mr. Leroy Griffin, Oakland Fire Department: lgriffin@oaklandnet.com

San Francisco Bay Regional Water Quality Control Board

Fact Sheet – Requirements for Submitting Technical Reports Under Section 13267 of the California Water Code

What does it mean when the Regional Water Board requires a technical report?

Section 13267¹ of the California Water Code provides that “...the regional board may require that any person who has discharged, discharges, or who is suspected of having discharged or discharging, or who proposes to discharge waste...that could affect the quality of waters...shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires.”

This requirement for a technical report seems to mean that I am guilty of something, or at least responsible for cleaning something up. What if that is not so?

The requirement for a technical report is a tool the Regional Water Board uses to investigate water quality issues or problems. The information provided can be used by the Regional Water Board to clarify whether a given party has responsibility.

Are there limits to what the Regional Water Board can ask for?

Yes. The information required must relate to an actual or suspected or proposed discharge of waste (including discharges of waste where the initial discharge occurred many years ago), and the burden of compliance must bear a reasonable relationship to the need for the report and the benefits obtained. The Regional Water Board is required to explain the reasons for its request.

What if I can provide the information, but not by the date specified?

A time extension may be given for good cause. Your request should be promptly submitted in writing, giving reasons.

Are there penalties if I don't comply?

Depending on the situation, the Regional Water Board can impose a fine of up to \$5,000 per day, and a court can impose fines of up to \$25,000 per day as well as criminal penalties. A person who submits false information or fails to comply with a requirement to submit a technical report may be found guilty of a misdemeanor. For some reports, submission of false information may be a felony.

Do I have to use a consultant or attorney to comply?

There is no legal requirement for this, but as a practical matter, in most cases the specialized nature of the information required makes use of a consultant and/or attorney advisable.

What if I disagree with the 13267 requirements and the Regional Water Board staff will not change the requirement and/or date to comply?

You may ask that the Regional Water Board reconsider the requirement, and/or submit a petition to the State Water Resources Control Board. See California Water Code sections 13320 and 13321 for details. A request for reconsideration to the Regional Water Board does not affect the 30-day deadline within which to file a petition to the State Water Resources Control Board.

If I have more questions, whom do I ask?

Requirements for technical reports include the name, telephone number, and email address of the Regional Water Board staff contact.

Revised May 2012

¹ All code sections referenced herein can be found by going to www.leginfo.ca.gov.