

ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY
DAVID J. KEARS, Agency Director



ENVIRONMENTAL HEALTH SERVICES
ENVIRONMENTAL PROTECTION
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577
(510) 567-6700
FAX (510) 337-93

January 15, 2009

Mr. Dan Hall
Wickland Properties
P.O. Box 13648
Sacramento, CA 95853-4648

Mr. Robert Petrina
EBSC c/o Alta Bates Summit Medical Center
350 Hawthorne Avenue, Suite G100
Oakland, CA 94609-3108

Mr. Larry Fusch
The Surgery Center
3875 Telegraph Avenue
Oakland, CA 94609

Subject: Fuel Leak Case No. RO0002875 and Geotracker Global ID T06019716388, Regal #120/East Bay Surgery Center, 3875 Telegraph Avenue, Oakland, CA 94609

Dear Mr. Hall, Mr. Petrina, and Mr. Fusch:

Alameda County Environmental Health (ACEH) staff has reviewed the fuel leak case file for the above-referenced site including the recently submitted correspondence entitled, "*Offsite Investigation Status*," dated November 25, 2008. The November 25, 2008 correspondence, which was prepared on your behalf by West Environmental Services & Technology (West) describes the status of negotiations with BART to conduct site investigation activities within the MacArthur Station BART parking lot. BART and Wickland/West have not reached accord on an access agreement. You are required to continue negotiations with BART to reach agreement. To assist Wickland/West in negotiating access, ACEH will issue a written request for BART to complete negotiations to provide reasonable conditions for access. A copy of the letter will be provided to you and West.

We do not agree with statements made in the last paragraph of the November 25, 2008 correspondence which indicates that the collection of off-site data is not necessary. As we have stated several times previously, the off-site contamination detected in the BART parking lot most likely originates from fuel releases that occurred on-site at the 3875 Telegraph Avenue property. Therefore, the responsible parties for 3875 Telegraph Avenue are also responsible for the investigation and cleanup of the off-site contamination in the BART parking lot. This responsibility is not waived by any outside agreements that may exist between BART and the City of Oakland or possible development plans by outside parties for the BART parking lot. You are required to implement the off-site investigation activities proposed in your August 2007, "*Preliminary Site Assessment/Soil, Soil Gas and Groundwater Investigation Work Plan*," October 29, 2007 "*Addendum to Preliminary Site Assessment/Soil, Soil Gas and Groundwater Investigation Work Plan*," and technical comments in our July 10, 2008 directive letter.

In order to complete off-site access negotiations and the proposed investigation, the schedule for report submittal is extended from November 30, 2008 to May 15, 2009. We request that you address the technical comments below, perform the proposed work, and send us the reports described below.

Mr. Daniel Hall
Mr. Robert Petrina
Mr. Larry Fusch
RO0002875
January 15, 2009
Page 2

TECHNICAL COMMENTS

1. **Quarterly Groundwater Monitoring.** Please implement quarterly groundwater sampling for the four monitoring wells completed at the site. The monitoring well sampling methods and analytes previously described in the August 14, 2007 Work Plan are acceptable. Please present results from quarterly groundwater monitoring in the reports requested below.
2. **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 and reports 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.

TECHNICAL REPORT REQUEST

Please submit technical reports to Alameda County Environmental Health (Attention: Jerry Wickham), according to the following schedule:

- **February 13, 2009** – Fourth Quarter 2008 Groundwater Monitoring Report⁹
- **May 8, 2009** – First Quarter 2009 Groundwater Monitoring Report
- **May 15, 2009** – Off-site Investigation Report (including response to technical comments in July 10, 2008 ACEH correspondence)
- **August 14, 2009** – Second Quarter 2009 Groundwater Monitoring Report

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.

Mr. Daniel Hall
Mr. Robert Petrina
Mr. Larry Fusch
RO0002875
January 15, 2009
Page 3

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.swrcb.ca.gov/ust/cleanup/electronic reporting](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

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.

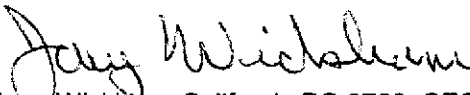
Mr. Daniel Hall
Mr. Robert Petrina
Mr. Larry Fusch
RO0002875
January 15, 2009
Page 4

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.

If you have any questions, please call me at 510-567-6791 or send me an electronic mail message at jerry.wickham@acgov.org.

Sincerely,



Jerry Wickham, California PG 3766, CEG 1177, and CHG 297
Senior Hazardous Materials Specialist

Enclosure: ACEH Electronic Report Upload (ftp) Instructions

cc: Leroy Griffin, Oakland Fire Department, 250 Frank H. Ogawa Plaza, Ste. 3341, Oakland, CA 94612-2032

Peter Morris, West Environmental Services & Technology, 711 Grand Avenue, Suite 220, San Rafael, CA 94901

Lori J. Gualco, Law Offices of David E. Frank, 1517 Lincoln Way, Auburn, CA 95603

Julie Rose, Randick, O'Dea & Tooliatos, LLP, 5000 Hopyard Road, Suite 400, Pleasanton, CA 94588-3348

Gary Jensen, BART, 300 Lakeside Drive, 18th Floor, Oakland, CA 94604-2688

Mark Gomez, City of Oakland, 250 Frank H. Ogawa Plaza, Ste. 5301, Oakland, CA 94612-2034

Donna Drogos, ACEH
Jerry Wickham, ACEH
File

Alameda County Environmental Cleanup Oversight Programs (LOP and SLIC)	ISSUE DATE: July 5, 2005
	REVISION DATE: December 16, 2005
	PREVIOUS REVISIONS: October 31, 2005
SECTION: Miscellaneous Administrative Topics & Procedures	SUBJECT: Electronic Report Upload (ftp) Instructions

Effective **January 31, 2006**, 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

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

Additional Recommendations

- A separate copy of the tables in the document should be submitted by e-mail to your Caseworker in **Excel** format. These are for use by assigned Caseworker only.

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 dehloptoxic@acgov.org
 - or
 - ii) Send a fax on company letterhead to (510) 337-9335, to the attention of Alicia Lam-Finneke.
- 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 and Firefox browsers will not open the FTP site.
- b) Click on File, then on Login As.
- 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 dehloptoxic@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 at 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)