



ENVIRONMENTAL HEALTH SERVICES
ENVIRONMENTAL PROTECTION
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December 18, 2012

Mr. David R. Lukens (*Sent via E-mail to: DLukens@themichaelsorg.com*)
Red Star-Michaels LLC
Oakland Housing Investors, L.P.
2010 Main Street, Suite 1250
Irvine, CA 92614

Mr. Curtis Eisenberger
1396 Fifth Street LLC
1357 5th Street, Suite B
Oakland, CA 94607

Subject: Case File Review for SLIC Case RO0002896 and GeoTracker Global ID T06019794669, Red Star Yeast/1396 Fifth Street LLC, 1396 5th Street, Oakland, CA 94607

Dear Mr. Lukens and Mr. Eisenberger:

Alameda County Environmental Health (ACEH) staff has reviewed the Spills, Leaks, Investigations, and Cleanups (SLIC) case file for the above referenced site including the reports entitled, "*Soil Closure Report*," dated August 21, 2012 (Excavation Report) and received by ACEH on October 15, 2012 and "*Underground Storage Tank Removal and Closure Report*," dated August 23, 2012 (UST Removal Report) and received by ACEH on November 13, 2012. The Excavation Report presents results from excavation of shallow soil containing elevated concentrations of metals, confirmation sampling, and soil disposal conducted in August 2011. The UST Removal Report presents results from removal or closure in place of three underground storage tanks (USTs). Both reports were prepared on your behalf by Citadel Environmental Services, Inc.

During review of these reports, we have identified several items that require additional information, clarification, or correction. Until the items identified in the technical comments below are addressed, we are unable to adequately evaluate the effectiveness of the soil excavation and UST removals. The case cannot be evaluated for closure unless more complete and accurate information is provided. Therefore, we request that you address the technical comments below and submit a Revised Excavation Report and Revised Tank Removal Report for ACEH review **no later than February 21, 2013**.

TECHNICAL COMMENTS ON EXCAVATION REPORT

1. **Tidal Influence – 4th paragraph, page 1.** The Excavation Report indicates that groundwater at the site is "affected by tidal forces." The nearest surface water body appears to be Oakland Inner Harbor, which is 3,225 feet from the site. We are not aware of sites that are similar distances from a surface water body and are tidally influenced. Please provide some corroboration of this statement regarding tidal influence.

2. **Water Supply Well Survey – last paragraph, page 1 and Appendix B.** In correspondence dated April 20, 2011, ACEH indicated that a data base search by Environmental Data Resources did not meet ACEH requirements for a well survey and requested that a water supply well survey be completed for the site using records from Alameda County Public Works and the California Department of Water Resources. Citadel presented the results of the updated water supply well survey in a “*Revised Remedial Action Plan*,” dated July 7, 2011. The Excavation Report refers to a water supply well survey in Appendix B. However, the water supply well survey presented in Appendix B is the EDR search that does not qualify as a well survey. In the Revised Excavation Report requested below, please present the more recent and complete well survey from the July 7, 2001 Revised Remedial Action Plan.
3. **Water Supply Well – 3rd paragraph, page 3.** Please provide further information regarding the “properly abandoned water supply well,” discussed in the 3rd paragraph on page 3. The location of the properly abandoned water supply well should be referenced and shown on a site map with a discussion and documentation of how and when the well was properly abandoned.
4. **Soil Sampling Results – 3rd paragraph, page 4.** The text in the first paragraph of the Soil Sampling Results section refers to Appendix E for analytical results from soil borings CB-1 through CB-15. However, Appendix E appears to be confirmation soil sampling results. Please correct the documentation and references to the analytical results.
5. **Soil Sampling Results – 2nd paragraph, page 5.** The text in the second paragraph on page 5 refers to Table 1A in Appendix E for pre-excavation analytical results. However, Appendix E appears to be confirmation soil sampling results. Please correct the documentation and references to the analytical results.
6. **Groundwater Sampling Results Sampling – 3rd and 4th paragraphs, page 5.** This section refers to groundwater samples collected on March 5, 2011 from five temporary sampling points. The text refers to a summary of groundwater sampling results in Table 2 of Appendix E; however, no groundwater sampling results are presented in Appendix E. Groundwater samples appear to have been collected on four separate occasions at the site. Each of the groundwater sampling events has some uncertainty, limitation, or deficiencies. We request that you include an expanded discussion of groundwater sampling results that presents and evaluates all groundwater data from previous sampling events in the Revised Excavation Report requested below.
7. **Subsurface Metal Structures – 3rd paragraph, page 6.** Please confirm the status of a possible water supply well at the northeast corner of the site. Was the pipe completely excavated and found to terminate at a depth of 12 feet bgs or was a pipe left in place below the depth of the excavation?
8. **Photo Log – 2nd paragraph, page 8.** The text indicates that several items including a summary of day to day activities are presented in a Photo Log in Appendix G. However, Appendix G appears to be eight photos of test pits. In the Revised Excavation Report requested below, please make corrections by either revising the text or expanding the Photo Log.

9. **Targeted Excavation – 3rd paragraph, page 8.** Confirmation soil samples from targeted excavations in the test pits are generally discussed in the text. In the Revised Excavation Report requested below, please include a reference to a map showing the locations and sample designations and a reference to the specific table for the sampling results.
10. **Confirmation Sampling - 3rd paragraph, page 8 and Figure 4.** The text in the third paragraph of page 8 indicates that a sampling grid of 39 nodes is shown on Figure 4. Figure 4 actually does not show sampling nodes or confirmation sampling results. Please present and accurately reference a site map that shows the confirmation sampling nodes, the lead analytical results, and depths of the final samples collected at each node. Figure 4 also shows a depth of excavation for two areas of the site which differs from the final depths discussed in the text. Please correct this inconsistency to accurately show depths of the excavations and volume of soil removed.
11. **Confirmation Sampling – 5th paragraph, page 8 and Appendix H.** The text indicates that laboratory results from confirmation soil sampling are included in Appendix H. Appendix H includes laboratory reports for ten soil samples, which appears to a subset of the confirmation soil samples. Please include all the laboratory analytical reports.
12. **Soil Pile Sampling – 5th paragraph, page 8 and Appendix I.** The text indicates that two soil samples were collected from material that was brought to the site for use as backfill. Please provide further information on the nature, source, and volume of the backfill. Analytical results for the backfill samples are to be presented in tables and laboratory reports are to be included in an appendix. The text currently refers to Appendix I for results; however, no sampling reports for samples A or B appear in Appendix I.
13. **Soil Pile Sampling – 5th paragraph, page 8.** Please confirm that soils excavated from the west and east side excavations were disposed off-site and not re-used as backfill at the site.
14. **Soil Disposal – 2nd paragraph, page 9.** The text indicates that copies of weight tickets for soil disposal are included in Appendix H; however, Appendix H does not contain weight tickets. Please make corrections in the Revised Excavation Report requested below.

TECHNICAL COMMENTS ON TANK REMOVAL REPORT

15. **Tank Designations.** The tank designations used throughout the Excavation Report appear to be inconsistent. An example is the discussion on page 1 describing sampling of the contents of UST No. 2 although elsewhere in the report, UST No. 2 is described as a standpipe and not a tank. The photo log in Appendix D describes advancing borings adjacent to UST No. 1 although the borings appear to be adjacent to UST No. 4 on Figure 2 in the report. Please review all tank designations in the report for accuracy and consistency
16. **Sampling of UST Contents – page 1.** In the Revised Tank Removal Report requested below, please provide a properly labeled and referenced table that includes sample ID, sampling date, corresponding tank numbers, tank volumes, and analytical results for

sampling of the UST contents. In the text, please describe how the samples were collected from the tanks.

17. **Analyses for Waste Oil or Unknown Contents.** Based on the sampling of the UST contents, it appears that some of the USTs may have been used for waste oil or unknown contents. Please describe why the soil and groundwater samples collected in the areas of the tanks were not analyzed for the Recommended Minimum Verification Analyses for Underground Storage Tanks (*Tri-Regional Board Staff Recommendations for Preliminary Investigation and Evaluation of Underground Storage Tank Sites, April 16, 2004*) for waste oil or unknown contents.
18. **Soil Analytical Results Table.** In the Revised Tank Removal Report requested below, please revise the Soil Analytical Results table to include a table number and title for reference, sample IDs, sampling date, corresponding tank numbers, depth collected, and analytical results. The values should be presented in the same units as the results in the Laboratory Analytical Reports in the appendices without rounding.
19. **Groundwater Analytical Results Table.** The values shown in the Groundwater Analytical Results table are not consistent with the data in Laboratory Analytical Reports in the appendices. As an example, the concentration of TPHmo is shown as 1 mg/L in the table but was 21 mg/L in the Laboratory Analytical Report. In the Revised Tank Removal Report requested below, please revise the Groundwater Analytical Results table to include a table number for reference, sample IDs, sampling date, corresponding tank numbers, and analytical results. The values should be presented in the same units as the results in the Laboratory Analytical Reports in the appendices without rounding.
20. **Soil Confirmation Borings UST No. 4 – 2nd paragraph, page 5.** The text describing the three soil confirmation borings for UST No. 4 is incorrect and misleading. The three soil borings were permitted by the Alameda County Public Works Agency rather than ACEH. ACEH did not participate in the planning, provide approval, or provide regulatory oversight of the soil borings. Mr. Steve Miller is an employee of Alameda County Public Works Agency not ACEH, and does not provide regulatory oversight for SLIC cases. Mr. Miller assures that the soil borings are advanced and destroyed in accordance with the permit. These corrections must be made in the Revised Tank Removal Report requested below.
21. **Analytical Results Table on Page 5.** The Analytical Results table on page 5 is referred to in the text as Table 1 but is the third table in the report. A soil sample table on page 4 is also referred to as Table 1. In the Revised Tank Removal Report requested below, please clearly designate each table with a unique number and title. Please revise the Soil Analytical Results table on page 5 to include sample IDs, sampling date, depth collected, and analytical results. The values should be presented in the same units as the results in the Laboratory Analytical Reports in the appendices without rounding.
22. **Groundwater Sampling – 1st paragraph, page 6.** In the Revised Tank Removal Report requested below, please describe the method for collection of the groundwater samples. In addition, please describe the rationale for analyzing the groundwater samples only for VOCs and not petroleum hydrocarbons given that the tank contents were petroleum hydrocarbons.

23. **Tank and Soil Disposal.** In the Revised Tank Removal Report requested below, please present information and documentation regarding the disposal and destination for the tanks and soil generated during tank removals.
24. **Shallow Soil Samples from Soil Borings Not Analyzed.** Soil samples were collected for laboratory analyses from the bottoms of borings B-1, B-2, and B-3 at depth of 10, 13, and 13 feet bgs, respectively. No soil samples were analyzed for shallower depths within the borings. Groundwater contamination was previously detected in wells that were only 6.5 feet deep. In the Revised Tank Removal Report requested below, please describe the rationale for collecting soil samples only from the bottoms of the soil borings. Boring logs and results of soil screening must be presented to support the rationale.
25. **TK-4 Soil Sample.** Soil sample TK-4 has elevated detection limits for the volatile organic compounds. A note on the laboratory analytical report indicates that the reporting limits are raised due to a significant amount of heavy non-target compounds. In the Revised Tank Removal Report requested below, please discuss how these results were evaluated and what steps were taken to identify the heavy non-target compounds.
26. **Closure by City of Oakland Fire Department.** Please include the closure documentation for the underground storage tanks (USTs) from the City of Oakland Fire Department (OFD) as an appendix to the Revised Tank Removal report requested below. If the USTs have not been closed by OFD, the closure documentation must be provided at a later date. However, closure of the SLIC case will not be considered until the USTs are closed by OFD.

TECHNICAL REPORT REQUEST

Please upload technical reports to the ACEH ftp site (Attention: Jerry Wickham), and to the State Water Resources Control Board's GeoTracker website according to the following schedule and file-naming convention:

- **February 21, 2013** – Revised Excavation Report
File to be named: EX_R_YYYY-mm-dd RO2896
- **February 21, 2013** – Revised Tank Removal Report
File to be named: TNK_R_YYYY-mm-dd RO2896

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.

Responsible Parties
RO0002896
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If you have any questions, please call me at (510) 567-6791 or send me an electronic mail message at jerry.wickham@acgov.org. Case files can be reviewed online at the following website: <http://www.acgov.org/aceh/index.htm>.

Sincerely,

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

Attachments: Responsible Party(ies) Legal Requirements/Obligations

Enclosure: ACEH Electronic Report Upload (ftp) Instructions

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

Harvey Fernebok, Red Star-Michaels LLC, 2010 Main Street, Suite 1250, Irvine, CA 92614
(*Sent via E-mail to: HFernebok@themichaelsorg.com*)

Mark Drollinger, Citadel Environmental Services, Inc., 111 North Market Street, Suite 300, San Jose, CA 95113 (*Sent via E-mail to: mdrollinger@CitadelEnvironmental.com*)

Donna Drogos, ACEH (*Sent via E-mail to: donna.drogos@acgov.org*)
Jerry Wickham, ACEH (*Sent via E-mail to: jerry.wickham@acgov.org*)

GeoTracker, e-File

Attachment 1

Responsible Party(ies) Legal Requirements/Obligations

REPORT/DATA REQUESTS

These reports/data are being requested pursuant to Division 7 of the California Water Code (Water Quality), Chapter 6.7 of Division 20 of the California Health and Safety Code (Underground Storage of Hazardous Substances), and Chapter 16 of Division 3 of Title 23 of the California Code of Regulations (Underground Storage Tank Regulations).

ELECTRONIC SUBMITTAL OF REPORTS

ACEH's Environmental Cleanup Oversight Programs (Local Oversight Program [LOP] for unauthorized releases from petroleum Underground Storage Tanks [USTs], and Site Cleanup Program [SCP] for unauthorized releases of non-petroleum hazardous substances) require submission of reports in electronic format pursuant to Chapter 3 of Division 7, Sections 13195 and 13197.5 of the California Water Code, and Chapter 30, Articles 1 and 2, Sections 3890 to 3895 of Division 3 of Title 23 of the California Code of Regulations (23 CCR). Instructions for submission of electronic documents to the ACEH FTP site are provided on the attached "Electronic Report Upload Instructions."

Submission of reports to the ACEH FTP site is in addition to requirements for electronic submittal of information (ESI) to the State Water Resources Control Board's (SWRCB) Geotracker website. In April 2001, the SWRCB adopted 23 CCR, Division 3, Chapter 16, Article 12, Sections 2729 and 2729.1 (Electronic Submission of Laboratory Data for UST Reports). Article 12 required electronic submittal of analytical laboratory data submitted in a report to a regulatory agency (effective September 1, 2001), and surveyed locations (latitude, longitude and elevation) of groundwater monitoring wells (effective January 1, 2002) in Electronic Deliverable Format (EDF) to Geotracker. Article 12 was subsequently repealed in 2004 and replaced with Article 30 (Electronic Submittal of Information) which expanded the ESI requirements to include electronic submittal of any report or data required by a regulatory agency from a cleanup site. The expanded ESI submittal requirements for petroleum UST sites subject to the requirements of 23 CCR, Division, 3, Chapter 16, Article 11, became effective December 16, 2004. All other electronic submittals required pursuant to Chapter 30 became effective January 1, 2005. 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, 7835, 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, late 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 SCP)	REVISION DATE: July 25, 2012
	ISSUE DATE: July 5, 2005
	PREVIOUS REVISIONS: October 31, 2005; December 16, 2005; March 27, 2009; July 8, 2010
SECTION: Miscellaneous Administrative Topics & Procedures	SUBJECT: Electronic Report Upload (ftp) Instructions

The Alameda County Environmental Cleanup Oversight Programs (petroleum UST and SCP) 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 .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 <://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 .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.