



State Water Resources Control Board



Division of Financial Assistance

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NOV 12 2009

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UNDERGROUND STORAGE TANK CLEANUP FUND (FUND), NOTICE OF PERMIT WAIVER AND ELIGIBILITY DETERMINATION: CLAIM NO. 019353 ; FOR SITE 14901 14TH ST E, SAN LEANDRO

Your claim has been accepted for placement on the Priority List in Priority Class "B".

Permit Waiver: Pursuant to Section 25299.57 (d)(4)(C) of the Health and Safety Code (H&SC), the State Water Board has granted your request for a waiver of the permit requirement as a condition for eligibility to the Fund. Based on the information that you have provided, the Fund has determined that the following permit waiver criteria have been met:

- The claimant was unaware of the permit requirement, and upon becoming aware of the permit requirement, the claimant complied with H&SC Section 25284 (UST permitting requirements) or H&SC Section 25298 (UST closure requirements) within a reasonable period, not to exceed one year, from when the claimant became aware of the permit requirement.
- Before submitting the application to the Fund, the claimant has complied with H&SC Section 25299.31 [financial responsibility requirements] and has obtained and paid for all permits currently required.
- Before submitting the application to the Fund, the claimant has paid all UST storage fees, interest, and penalties imposed pursuant to Article 5 (commencing with Section 25299.40) and Part 26 (commencing with Section 50101) of Division 2 of the Revenue and Taxation Code for the UST that is the subject of the claim.

It is important to note that when a claimant failed to apply for or obtain the permits required pursuant to Chapter 6.7, Division 20, of the H&SC, and the State Water Board grants a waiver of the permit requirements, the claimant must pay a higher deductible on the claim, depending upon the date that the claimant complied with the UST permitting or closure requirements. Claimants who comply on or before December 22, 1998, must pay twice the amount of deductible that would otherwise apply to the claim, but in no event less than \$10,000. Claimants who comply after December 22, 1998, must pay a deductible that is four times the amount that would

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otherwise apply to the claim, but in no event less than \$20,000. **In this case, your deductible is \$10,000 because you complied with 1998 December 22, 1998. Therefore, you will be responsible for the first \$10,000 of eligible corrective action costs before the Fund coverage begins.**

We have completed our initial review. The next step in the claim review process is to conduct a compliance review.

Compliance Review: Staff reviews, verifies, and processes claims based on the priority and rank within a priority class. After the Board adopts the Priority List, your claim will remain on the Priority List until your Priority Class and rank are reached. At that time, staff will conduct an extensive Compliance Review at the local regulatory agency or Regional Water Quality Control Board. During this Compliance Review, staff may request additional information needed to verify eligibility. Once the Compliance Review is completed, staff will determine if the claim is valid or must be rejected. If the claim is valid, a Letter of Commitment (LOC) will be issued obligating funds toward the cleanup. If staff determines that you have not complied with regulations governing site cleanup, you have not supplied necessary information or documentation, or your claim application contains a material error, the claim will be rejected. In such event, you will be issued either a Notice of Intended Removal from the Priority List or a Notice of Intent to Suspend Claim from Priority List, informed of the basis for the proposed removal or suspension of your claim, and provided an opportunity to correct the condition that is the basis for the proposed removal or suspension. Your claim will be barred from further participation in the Fund, if the claim application contains a material error resulting from fraud or misrepresentation.

Record keeping: During your cleanup project you should keep complete and well organized records of all corrective action activity and payment transactions. If you are eventually issued a LOC, you will be required to submit: (1) copies of detailed invoices for all corrective action activity performed (including subcontractor invoices), (2) copies of canceled checks used to pay for work shown on the invoices, (3) copies of technical documents (bids, narrative work description, reports), and (4) evidence that the claimant paid for the work performed (not paid by another party). These documents are necessary for reimbursement and failure to submit them could impact the amount of reimbursement made by the Fund. ***Do not wait until you receive your LOC to gather this information. Begin to compile this information now (particularly cancelled checks) so you will be prepared to request reimbursement when your LOC is issued. It is not necessary to submit these documents at this time; however, they will definitely be required prior to reimbursement. All records pertaining to the corrective action claim must be retained for a period of three years after the final payment is made to you.***

Compliance with Corrective Action Requirements: In order to be reimbursed for your eligible costs of cleanup incurred after December 2, 1991, you must have complied with

corrective action requirements of Article 11, Chapter 16, Division 3, Title 23, of the California Code of Regulations. Article 11 categorizes the corrective action process into **phases**. In addition, Article 11 requires the responsible party to submit an **investigative workplan/Corrective Action Plan** (CAP) before performing any work. This phasing process and the workplan/CAP requirements were intended to:

1. Help the responsible party undertake the necessary corrective action in a cost-effective, efficient, and timely manner;
2. Enable the regulatory agency to review and approve the proposed cost-effective corrective action alternative before any corrective action work was performed; and
3. Ensure the Fund will only reimburse the most cost-effective corrective action alternative required by the regulatory agency to achieve the minimum cleanup necessary to protect human health, safety, and the environment.

Three bids: Only corrective action costs required by the regulatory agency to protect human health, safety and the environment can be claimed for reimbursement. You must comply with all regulatory agency time schedules and requirements. You are encouraged to take the necessary steps in obtaining the most reasonable, necessary, and cost effective method for your corrective action. Otherwise, **reimbursement is not assured and costs may be rejected as ineligible.**

If you have any questions, please contact me at (916) 341-5714.

Sincerely,



Shari Knieriem
Claims Review Unit
Underground Storage Tank Cleanup Fund

cc: Ms. Donna Drogos
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Alameda, CA 94502-6577