
San Francisco Bay Regional Water Quality Control Board

December 13, 2012
File No. 01-2355 (JMJ)

Ms. Diana Pagano
6912 Broadway Terrace
Oakland, CA 94611-1924

SUBJECT: Work Plan Approval and Requirement for a Technical Report
Former Quality Tune Up, 14901 East 14th Street, San Leandro, Alameda County

Dear Ms. Pagano and Mr. Lam:

This letter approves your May 21, 2012, “*Work Plan for Groundwater Monitoring Well Installation and Sampling*”, and directs you to submit a technical report documenting the implementation of the work plan.

Background

Several gas stations and tune-up facilities have occupied the site from 1950 to March 2012. Several phases of investigations were conducted over the last fourteen years. These investigations indicated that the primary contaminants of concern are total petroleum hydrocarbons from the historical operation of the former USTs and pump islands. A Remedial Action Plan (RAP) was prepared in 2007 and approved by Alameda County Environmental Health in January 2008. The Final RAP, dated January 10, 2008, proposed removal of soil in four areas of the site, followed by groundwater monitoring. In April 2012, petroleum-impacted source soil was removed from the site. The site will be utilized for future roadway expansion at the three-way intersection of East 14th Street, 150th Avenue, and Hesperian Blvd. Monitoring of the groundwater is now required to assess the effectiveness of the source removal and evaluate the current groundwater conditions at the site.

Work Plan and Requirement for a Technical Report

Your May 21, 2012, work plan proposes the following:

- Installing four monitoring wells and collecting soil and groundwater samples for lab analysis,
- Surveying the top of casing for each monitoring well,
- Storing and then removing investigation-derived waste in 55-gallon steel drums, and
- Preparing a report of findings.

The proposed locations of the monitoring wells are located downgradient of the four excavation areas. We concur with this proposed scope of work.

You are required to submit a technical report that documents the implementation of the work plan by March 15, 2013.

This requirement for a technical 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 deadlines must be confirmed in writing by Regional Water Board staff.

You are required to submit all documents in electronic format to the State Water Resources Control Board's Geotracker database. Guidance for electronic information submittal is available at http://www.waterboards.ca.gov/water_issues/programs/ust/electronic_submittal/. Please note that this requirement includes all analytical data, monitoring well latitudes, longitudes, and elevations, water depths, site maps, boring logs (PDF format), and complete copies of reports and correspondence including the signed transmittal letters and professional certifications (PDF format).

All reports submitted should have the Regional Water Board file number 01-2355 on the first page of the report. Copies of all reports and correspondence should be sent to Mr. Mark Detterman of Alameda County Environmental Health Services. You are responsible for obtaining any necessary approvals or permits from all agencies having jurisdiction over any aspect of the proposed work. These agencies may include the local Building Department, Planning Department, Public Works, and the Alameda County Environmental Health Services department (contact number 510-567-6700).

Please direct all questions and correspondence regarding this matter to John Jang of my staff at (510) 622-2366 (email address jjang@waterboards.ca.gov).

Sincerely,

Bruce H. Wolfe
Executive Officer

Attachment: Fact Sheet – Requirements For Submitting Technical Reports Under Section 13267 of the California Water Code (Revised January 2008)

cc w/ attachment: Mailing List

Mailing List

Cem Atabek, Ninyo & Moore, 1956 Webster Street, Suite 400, Oakland, CA 94612 (email catabek@ninyoandmoore.com)

Karl Busche, City of San Leandro Environmental Service Division, Civic Center, 835 East 14th Street, San Leandro, CA 94577 (email kbusche@ci.san-leandro.ca.us)

Shari Knieriem, Claims Review Unit, Underground Storage Tank Cleanup Fund, PO Box 944212, Sacramento, CA 94244-2120 (email sknieriem@waterboards.ca.gov)

Mark Detterman, Alameda County Environmental Health Services, 1131 Harbor Bay Parkway, Suite 250, Alameda, CA 94502-6577 (email mark.detterman@acgov.org)

Nelson Lam, City of San Leandro - Engineering and Transportation Department, Civic Center, 835 E. 14th Street, San Leandro, CA 94577 (email: NLam@sanleandro.org)

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.