



State Water Resources Control Board



Matthew Rodriguez
Secretary for
Environmental Protection

Division of Financial Assistance
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Edmund G. Brown Jr.
Governor

September 14, 2011

Willbett Company, Inc.
Sue Rosenberg
109 Hartford Rd
Danville, CA 94526

UNDERGROUND STORAGE TANK CLEANUP FUND (FUND), NOTICE OF ELIGIBILITY DETERMINATION: CLAIM NO. 019338; FOR SITE ADDRESS: 925 STANFORD AVE, OAKLAND

The initial review of your claim is complete. It has been accepted for placement on the Fund's Priority List in Priority Class "B".

The State Water Resources Control Board (Board) is granting the request for a waiver of the permit requirement as a condition for eligibility to the Fund. Based on the information provided, the Fund determined that the Permit Waiver requirements in Section 25299.57 (d)(4)(C) of the Health and Safety Code (H&SC) have been met.

When a claimant fails to apply for or obtain the permits required pursuant to Chapter 6.7, Division 20, of the H&SC, and the 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 otherwise apply to the claim, but in no event less than \$20,000. **In this case, your deductible is \$20,000 because you complied with permitting requirements after December 22, 1998. Therefore, you will be responsible for the first \$20,000 of eligible corrective action costs before the Fund coverage begins.**

Pending approval of your claim budget and a satisfactory compliance review, the next step is to issue a Letter of Commitment (LOC) obligating funds to the project when funding is available. LOCs are issued annually, and are dependent on available funds and the closure of existing claims. You may view the claims on the annual Priority List on the Fund's website at:

http://www.waterboards.ca.gov/water_issues/programs/ustcf/prioritylist.shtml.

California Environmental Protection Agency



NOTE: Effective July 1, 2011, the Fund changed to a "new business model". As a result, the Fund may not have money available for new LOCs this fiscal year. For additional information regarding the Fund's operations, visit the Fund's web page at http://www.waterboards.ca.gov/water_issues/programs/ustcf.

Allocation of Funds: Prior to issuing a LOC, Fund Technical Staff will conduct a review of your claim and information in Geotracker. Based on this review, your claim will be categorized according to the cleanup phase being conducted at the site. A funding cap will be established for your claim, and you will be requested to submit a claim budget.

Claim Budget: All Priority A, B and C claims are required to have an approved scope of work and budget prior to receiving an LOC. These budgets must be updated and approved annually, and will enable the Fund to develop cash flow projections and improve payment processing times. Detailed instructions and necessary forms will be sent to you when the Fund determines funding is available for your claim. Information to assist you with setting up these scopes of work and budgets will be available on the Fund's website.

Compliance Review: When funding is available for your claim, staff will conduct an extensive Compliance Review in coordination with the local regulatory agency or Regional Water Quality Control Board. If the claim is found to be in compliance with regulatory agency directives, an LOC will be issued. If staff determines that you have not complied with regulations governing site cleanup, the claim may be suspended. Your claim will be barred from further participation in the Fund if the claim application contains a material error resulting from fraud or misrepresentation.

Reimbursement: You will be required to submit the following information in order to receive reimbursement of costs: (1) copies of detailed invoices for all corrective action activity performed (including subcontractor invoices), (2) copies of technical documents (bids, narrative work description, reports), and (3) evidence that the claimant paid for the work performed (not paid by another party). It is not necessary to submit these documents until an LOC has been issued. Failure to submit the required documents could impact the amount of reimbursement. ***Do not wait until you receive your LOC to gather this information.***

Record keeping: All cleanup projects are subject to audit at any time. Maintain an accurate record-keeping and financial management system that provides efficient accountability of all funds used to clean up the site. Records must be retained for at least three years after the final reimbursement, unless there is an ongoing audit. If there is an ongoing audit, the retention period shall be extended until the audit is complete.

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, *California Code of Regulations*. Article 11 categorized the corrective action process into **phases**. In addition, Article 11 requires the responsible party to submit an **investigative workplan/Corrective Action Plan** (CAP) to the regulatory agency before performing any work.

Only corrective action costs required by the regulatory agency to protect human health, safety and the environment can be claimed for reimbursement. 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.**

Please remember that you must continue to comply with your existing regulatory directives, regardless of whether the Fund can issue your LOC. The Fund recommends that you speak with your regulator about how to continue corrective action work, at a smaller-scale, or in a phased approach until funding is available.

Electronic Mailing

The Fund encourages all claimants and consultants to sign up for the Fund's electronic mailing list to receive updates as they become available:

http://www.waterboards.ca.gov/resources/email_subscriptions/ust_subscribe.shtml

If you have any questions, please contact me at (916) 341-5765.

Sincerely,

o/s

Lu Anne Rolland
Claims Review Unit
Underground Storage Tank Cleanup Fund

cc: Ms. Donna Drogos
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