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EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

NOV 05 2015

Terradev Jefferson, LLC
Attn: Sara May
580 Second Street
Oakland, CA 94607

Dear Ms. May:

UNDERGROUND STORAGE TANK CLEANUP FUND (FUND) REVISED FINAL STAFF DECISION TO ACCEPT CLAIM: CLAIM NUMBER 19748 FOR SITE ADDRESS 645 4th STREET, OAKLAND

By a letter dated March 28, 2014, you requested reconsideration of the Final Staff Decision (FSD) dated May 24, 2011. The FSD denied the claim because the application was incomplete. After reviewing the request and supporting documents, I have decided to revise the Staff Decision because the application is now complete. Your claim has been reviewed and accepted with limited eligibility. A maximum of 50 percent of corrective action costs associated with this claim will be eligible for reimbursement.

Discussion

The eligible underground storage tank (UST) system for this claim is a 1,000-gallon UST which was reportedly operated by an unknown business before 1950. There is evidence from the September 21, 2006 UST tank closure report and other technical documents available in GeoTracker that a release may have occurred from the subject 1,000-gallon UST at the site.

According to GeoTracker, there are other UST releases upgradient and in the vicinity of the subject site. Thus, there is a single occurrence from the subject 1,000 gallon UST, with a corrective action eligibility date of September 2006, which is the date the 1,000-gallon UST was abandoned in place and evidence of a release was confirmed by tank pit soil samples. Costs incurred for corrective action due to the release from the subject UST are eligible. Costs for corrective action for releases from the other USTs are not eligible.

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Data indicate that the newer release that occurred from an upgradient source has commingled with the release from the subject UST. MTBE was found at the subject site, which was in use in the mid-1990s and early 2000s, as well as elevated TPH-g and benzene concentrations detected in SB-7 and SB-8 upgradient of the site. It is clear that nearby petroleum hydrocarbon sources have contributed and commingled with the subject UST release. Due to the commingling of plumes, the Fund has determined that a reasonable and equitable 50 percent of corrective action costs associated with this claim will be eligible for reimbursement.

If other ineligible contaminants, ineligible sources, or any pertinent site information are discovered throughout the life of the claim, a subsequent eligibility evaluation will be made with possible new corrective action reimbursement terms. As a reminder, all technical reports and LOP directives must be uploaded to GeoTracker before any reimbursement requests are processed.

If you disagree with this Revised Staff Decision, you may appeal to the Fund Manager pursuant to Section 2814 of the Petroleum Underground Storage Tank Cleanup Fund Regulations. The request for a Fund Manager Decision (FMD) including any additional documentation should be submitted as an upload to GeoTracker through the CUF Documents portal. Information on how to upload these requests can be found in the CUF Documents User Guide on the Fund GeoTracker Online (GTO) webpage at: http://waterboards.ca.gov/water_issues/programs/ustcf/gto.

If you are unable to submit the request for an FMD electronically, you may mail the request to:

Lisa Babcock, P.G., C.E.G., Fund Manager
Claim #19748
Underground Storage Tank Cleanup Fund
State Water Resources Control Board
Division of Financial Assistance
P.O. Box 944212
Sacramento, CA 94244-2120

Your claim is accepted for placement on the Priority List in Priority Class "B" with a deductible of \$5,000. 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. Enclosed is the UST Cleanup Fund Eligibility Fact Sheet that provides important information and guidance for newly activated claims.

If you have any questions, please notify me by electronic mail at
lrolland@waterboards.ca.gov

Sincerely,



Micah Reich
Staff Services Manager I
Claims Review Unit
Underground Storage Tank Cleanup Fund

Enclosure

cc: Jerry Wickham
Alameda County LOP
1131 Harbor Bay Parkway, 2nd Fl.
Alameda, CA 94502-6540
jerry.wickham@acgov.org

UST CLEANUP FUND CLAIM ELIGIBILITY FACT SHEET

Your claim is accepted for placement on the UST Cleanup Fund (Fund) Priority List. 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.

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. The issuance of LOCs is dependent on available funds and the closure of existing claims.

Allocation of Funds: Prior to issuing an 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.

Claim Budget: All active Priority Class A, B and C claims must have an annual site budget prior to receiving an LOC. The budget is based on the site-specific needs of the claim, the Fund's projected annual revenue, local regulatory priorities, and direction from the State Water Resources Control Board. Information regarding site budgets is 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.



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Fraud, Waste & Abuse Prevention Update: SB 445 SIGNED INTO LAW New Safeguards in Place to Fight Fraud

On September 25, 2014, the Governor signed into law SB 445 (Hill) Underground storage tanks (UST): hazardous substances: petroleum: groundwater and surface water contamination. This new law provides valuable tools that will assist with investigating and combating fraud against the Cleanup Fund (Fund).

How the New Law Protects the Fund Against Fraud:

- ✓ Authorizes the State Water Board to impose administrative civil liability penalties of up to \$500,000 per violation on those who make fraudulent claims and misrepresentations to the Fund.
- ✓ Bars claimants and consultants convicted of fraud against the Fund from further participation in the Fund.
- ✓ Authorizes the State Water Board to recover the costs associated with investigating and prosecuting fraud cases against the Fund from persons who were proven to have engaged in fraud.
- ✓ Grants administrative authority to prosecute cases.

For questions regarding the Fraud, Waste, and Abuse Prevention unit, contact Ms. Kim Sellards, PG, CFE at (916) 341-5869 or Kim.Sellards@waterboards.ca.gov.

To report fraud: Call our toll-free message line at 1-800-813-FUND (3863) or email ReportFraud@waterboards.ca.gov.

Highlights of the New Law that affect the Fund and UST Program can be found at: http://www.waterboards.ca.gov/water_issues/programs/ustcf/docs/fund_gto/fund_update_sb445.pdf

To read the entire chaptered bill, see: http://leginfo.ca.gov/pub/13-14/bill/sen/sb_0401-0450/sb_445_bill_20140925_chaptered.pdf

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