

ALAMEDA COUNTY  
HEALTH CARE SERVICES  
AGENCY

ALEX BRISCOE, Director



ENVIRONMENTAL HEALTH SERVICES  
ENVIRONMENTAL PROTECTION  
1131 Harbor Bay Parkway, Suite 250  
Alameda, CA 94502-6577  
(510) 567-6700  
FAX (510) 337-9335

March 27, 2013

Ms. Julia Kim  
3 Castlebar Place  
Alameda, CA 94502-7746

Mr. Mark Gomez (*Sent via E-mail to: [mmgomez@oaklandnet.com](mailto:mmgomez@oaklandnet.com)*)  
City of Oakland  
250 Frank Ogawa Plaza, Suite 5301  
Oakland, CA 94612-2034

Subject: New SLIC Case No. RO0003110 and GeoTracker Global ID t10000004663, Howard Street Lot, 569 High Street, Oakland, CA 94601

Dear Ms. Kim and Mr. Gomez:

In response to a request regarding clarification on a Covenant and Environmental Restriction, Alameda County Environmental Health (ACEH) staff recently reviewed the case file for 3925 Alameda Avenue in Oakland (ACEH case file RO0000418). The property located at 3925 Alameda Avenue, which is adjacent to your property at 569 High Street, had a fuel leak case that was closed on October 28, 2005. The case closure included a Covenant and Environmental Restriction that limited future use of the site due to residual contamination that remained on the site. Exhibit A, which is the legal description of the property and is an attachment to the Covenant, describes two parcels, "Parcel One" which is 3925 High Street (APN33-2250-9-2), and "Parcel Two" which describes a parking easement on your property at 569 High Street (APN 33-2250-1-4). Our review found that the Covenant and Environmental Restriction was intended to apply only to the 3925 High Street parcel and was not intended to apply to your 569 High Street parcel.

Our review of the case file also found that contamination was discovered on your property in 1987. A report entitled, "Soil and Ground-water Contamination, 569 High Street, Oakland, California," and dated July 24, 1987, describes the results from three soil borings advanced in the western portion of the parcel at 569 High Street. Harding Lawson Associates prepared the July 24, 1987 Report for the City of Oakland Real Estate Division. The July 24, 1987 Report indicates that the area of investigation included "three oil-stained areas," which appeared to be the result of surface spills. A total of four soil samples that were collected from the three soil borings did not contain total petroleum hydrocarbons as diesel (TPHd) at concentrations above the reporting limit of 20 milligrams per kilogram. However, TPHd was detected in groundwater samples collected from each of the three soil borings at concentrations up to 600,000 micrograms per liter ( $\mu\text{g/L}$ ). Benzene was detected in groundwater samples collected from two of the three soil borings at concentrations up to 8,700  $\mu\text{g/L}$ . Xylenes were detected in groundwater samples collected from each of the three soil borings at concentrations up to 420,000  $\mu\text{g/L}$ . The concentrations of TPHd, benzene, and xylenes in the groundwater samples significantly exceed Environmental Screening Levels (San Francisco Bay Regional Water Quality Control Board updated February 2013). Environmental Screening Levels provide a tiered approach to evaluating risk for a site. The presence of petroleum hydrocarbon constituents at concentrations that exceed Environmental Screening Levels does not necessarily indicate that adverse impacts to human health or the environment are occurring. However, further investigation is needed to assess the extent of contamination and whether contamination at 569 High Street could pose a risk to current or future users of the site.

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Correspondence dated November 17, 2004 from the ACEH caseworker at that time, Mr. Barney Chan, to Mr. Leroy Griffin of the Oakland Fire Department included the January 24, 1987 report for 569 High Street as an attachment and requested that the City of Oakland initiate a request for information for the property at 569 High Street as a first step in opening a case. However, there does not appear to have been follow-through in opening the case at that time. Due to the contamination detected at 569 High Street and the need for further investigation, ACEH has now opened a case in our Spills, Leaks, Investigations, and Cleanups (SLIC) Program.

Funds for regulatory oversight in the SLIC Program are provided directly by the property owner or other responsible parties. Therefore, we are requesting the submittal of a check made payable to Alameda County Environmental Health in the amount of \$6,000.00 as a deposit for regulatory oversight. Please send your check to the attention of our Finance Department. This deposit may or may not be sufficient to provide all necessary regulatory oversight. Funds received by ACEH for SLIC cases such as yours, are held in a deposit/refund account. The deposit/refund account is charged on an hourly basis as case work is performed. If these funds are insufficient, an additional deposit will be requested. Otherwise, any unused monies will be refunded to you or your designee.

The deposit is authorized in Section 6.92.040L of the Alameda County Ordinance Code. Work on this project is being debited at the Ordinance specified rate, currently \$189.00 per hour. Please write "SLIC" (the type of project), case number "RO0003110", and the site address on your check.

If you have any questions, please call me at (510) 567-6721 or send me an electronic mail message at [donna.drogos@acgov.org](mailto:donna.drogos@acgov.org). Case files can be reviewed online at the following website: <http://www.acgov.org/aceh/index.htm>. If your email address does not appear on the cover page of this notification ACEH is requesting you provide your email address so that we can correspond with you quickly and efficiently regarding your case.

Sincerely,



Donna L. Drogos, P.E.  
Division Chief

Attachment: 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](mailto:lgriffin@oaklandnet.com))

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Carl Paganelli, Fidelity National Law Group, 100 North Wiget Lane, Suite 150, Walnut Creek CA 94598 (counsel for 3925 Alameda Property, LLC and RIF-1 Alameda, LLC) (Sent via E-mail to: [Carl.Paganelli@fnf.com](mailto:Carl.Paganelli@fnf.com))

Richard Wallace, Briscoe Ivester & Bazel LLP, 155 Sansome Street, Seventh Floor, San Francisco, CA 94104 (counsel for Julia Kim) (Sent via E-mail to: [rwallace@briscoelaw.net](mailto:rwallace@briscoelaw.net))

William E. Adams, Hanson Bridgett LLC, 425 Market Street, 26<sup>th</sup> Floor, San Francisco, CA 94105 (counsel for City of Oakland) (Sent via E-mail to: [wadams@hansonbridgett.com](mailto:wadams@hansonbridgett.com))

3925 Alameda Property, LLC, 3925 Alameda Avenue, Oakland, CA 94601-3931 (responsible party for case RO0000418 at 3925 Alameda Avenue)

RIF-1 Alameda, LLC, 11601 Wilshire Blvd., Suite 650, Los Angeles, CA 90025-0379 (responsible party for case RO0000418 at 3925 Alameda Avenue)

Mr. Richard Smooke, Smooke & Sons Investment Company, 865 Figueroa Street, 29<sup>th</sup> Floor, Los Angeles, CA 90013-2219 (responsible party for case RO0000418 at 3925 Alameda Avenue)

Kathleen Pacheco, Alameda County Counsel (Sent via E-mail to: [kathleen.pacheco@acgov.org](mailto:kathleen.pacheco@acgov.org))  
Jerry Wickham, ACEH (Sent via E-mail to: [jerry.wickham@acgov.org](mailto:jerry.wickham@acgov.org))

GeoTracker, eFile

## 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/](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.

<b>Alameda County Environmental Cleanup Oversight Programs (LOP and SCP)</b>	<b>REVISION DATE:</b> July 25, 2012
	<b>ISSUE DATE:</b> July 5, 2005
	<b>PREVIOUS REVISIONS:</b> October 31, 2005; December 16, 2005; March 27, 2009; July 8, 2010
<b>SECTION:</b> Miscellaneous Administrative Topics & Procedures	<b>SUBJECT:</b> 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](mailto:.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](mailto:.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.