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January 28, 2015

VIA EMAIL AND UPS

Karel Detterman, P.G.
Hazardous Materials Specialist
Alameda County Health Care Services Agency
Environmental Health Department
Environmental Protection
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577

Re: Response to Notice to Comply Letter for Fuel Leak Case No. RO0003115 and GeoTracker Global ID T10000004796, Stop N Go Gas Station, 7701 Bancroft Avenue, Oakland, CA 94605 (the "Site")

Dear Ms. Detterman:

We are writing on behalf of CST Brands, Inc. ("CST"), in response to the Notice to Comply dated January 5, 2016, for the property described above. We are aware of Alameda County Environmental Health's ("ACEH") request that the Responsible Parties work collectively to achieve compliance with ACEH's Directive Letters, in part through the submittal of a Site Conceptual Model and Data Gap Work Plan. CST does not, however, qualify as a "Responsible Party," as defined by the State of California's Underground Storage Tank Regulations. Neither CST nor a corporate affiliate of CST, owned or operated, or had control over the Site, at the time of or following the fuel leak referred to above (the "Fuel Leak"). For this reason, we respectfully request that CST no longer be classified as a Responsible Party and that CST be relieved from any duties and liabilities that may accrue to a Responsible Party, including, without limitation, submittal of a Site Conceptual Model and Data Gap Work Plan.

Based upon our information and belief, National Convenience Stores, Inc. ("NCS") owned and operated a Stop N Go Gas Station on the Site from 1974 through the mid-1980s. NCS was subsequently acquired by Valero Energy Corporation, which maintained NCS as a subsidiary, while also creating CST as a subsidiary. The Fuel Leak that precipitated the Site's inclusion on the state's Leaking Underground Storage Tank list was reported on November 13, 2012.

The Underground Storage Tank Regulations define "Responsible Party" as one or more of the following:

MIA 185096583v2

- (1) Any person who owns or operates an underground storage tank used for the storage of any hazardous substance;
- (2) In the case of any underground storage tank no longer in use, any person who owned or operated the underground storage tank immediately before the discontinuation of its use;
- (3) Any owner of property where an unauthorized release of a hazardous substance from an underground storage tank has occurred; and,
- (4) Any person who had or has control over an underground storage tank at the time of or following an unauthorized release of a hazardous substance.¹

Neither CST, nor a corporate affiliate of CST, qualifies as a Responsible Party under any of the four prongs of the State's definition. Neither CST, nor a corporate affiliate of CST, is the current owner of the property; did not own and operate the underground storage tank immediately before its use was discontinued; and had no control over the underground storage tank at the time of, or at any point subsequent to, the Fuel Leak.

In light of the fact that neither CST, nor a corporate affiliate of CST, owned or operated or had control over the Site, at the time of or following the Fuel Leak, we assert that CST cannot be characterized as a Responsible Party under the relevant regulations. We respectfully request that CST's designation as a Responsible Party be changed accordingly, relieving CST from any duties and liabilities that may accrue to a Responsible Party at this Site.

Please contact me if I can be of further assistance.

Very truly yours,



Kerri L. Barsh

cc: Daniel A. Robinson, Esq.
Tyler Andrews, Esq.

¹ California Code of Regulations, Title 23, Chap. 16, Art. 11, Section 2720.