



ENVIRONMENTAL HEALTH SERVICES
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July 19, 2016

Mr. Kevin Brown
Holliday Development
1201 Pine Street, Suite 151
Oakland, CA 94607
(Sent via electronic mail to: kb@hollidaydevelopment.com)

Subject: Work Plan Addendum Request; Site Cleanup Program Case No. RO0003194; Global ID #T10000007974, 5th and Magnolia; 5th and Magnolia Streets, Oakland, CA 94607

Dear Mr. Brown:

Alameda County Department of Environmental Health (ACDEH) staff has reviewed the case file including the *Site Investigation Work Plan*, dated April 12, 2016, and the conceptual development plan set entitled *The Union*, dated October 22, 2015. The work plan was submitted on your behalf by West Environmental Services and Technology (West) and the plan set was generated by David Baker Architects. Thank you for submitting them.

As discussed in the November 20, 2015 meeting, the plan set indicates that the ground floor at the proposed mixed-use redevelopment will consist of 38 parking spaces in an open air garage, a service area, an office and lobby, a separate commercial retail building, two sets of stairs, and two side by side elevators. Floors two through six are planned as residential space.

ACDEH has developed a number of questions that require further clarification prior to providing comments on the work plan. It appeared best to incorporate these into a work plan addendum. Additionally, in order to quickly convey the data to ACDEH, and to the general public at required public notifications, ACDEH has developed a set of data and figure tools that are described in detail and are requested below. Based on ACDEH staff review of the case file, we request that you address the following technical comments and send us the reports requested below.

TECHNICAL COMMENTS

1. **Work Plan Addendum** – The request for a work plan addendum is based on the following set of requests:
 - a. **Environmental Screening Level (ESL) Updates** – A majority of ESLs cited in tables contained in the work plan appear to be either dated or mis-cited. There have been three revisions to the ESLs this year, and it is likely some of the confusion derives from the continued updates. ACDEH requests that the tables be updated with the most recent ESL version, currently “Revision 3”. In general, the proposed development appears to include a separation between subsurface contamination and residential portions of the structure; however, preferential pathways such as stairs or elevators are present and any residual concentrations of volatile compounds in proximity to these structures are required to meet residential cleanup goals.
 - b. **Exposure Scenarios** – The work plan states that only commercial or construction worker ESLs apply at the site. For non-volatile compounds, this may largely be correct, except in planned unpaved greenscaped outdoor areas. Residential, including infant, and as well as gardener or maintenance worker exposure is a possibility in these areas unless specific remedial measures have been identified to prevent these exposures. For volatile compounds this may not be correct; especially near potential conduits such as stairs or elevators that allow vertical volatile migration into residential areas of the development. Consequently, ACDEH requests the tables be revised to

manage this important distinction. This requires an evaluation of the adequacy of existing site data to allow an evaluation of this distinction. Additional data collection is requested to be included in the work plan addendum.

- c. Source of Volatile Organic Compound Contaminants** – At this time ACDEH does not regard the source of soil vapor volatile compounds, including but not limited to, tetrachloroethene (PCE), to be resolved. PCE concentrations appear to increase onsite and downgradient from soil vapor location W-2 to W-4, and it appears the source may be onsite in soil and / or groundwater. Additionally, vapor location W-4 with the highest PCE vapor concentration (above residential ESLs) is nearly co-incident with the elevator pit locations which provides a preferential pathway to residential areas of the development. Preferential pathways to residential areas must meet identified residential cleanup objectives, such as ESLs or other site specific goals.

Additionally, soil vapor location W-1 detected low petroleum hydrocarbon vapor concentrations (benzene, toluene, ethylbenzene, xylenes, and trimethylbenzenes); however, grab groundwater did not detect these compounds at the location. Site reports have indicated that upgradient sites are the likely sources for the petroleum hydrocarbon contamination; however, based on the analytical data, groundwater does not appear to have been the source of these contaminants at this location.

It appears appropriate to propose additional data collection locations in order to identify, define, and isolate either onsite or offsite potential sources.

- d. Petroleum Analytical Samples** – The potential presence of petroleum hydrocarbon contamination at the site, as discussed above, indicates that it is appropriate to additionally include Total Petroleum Hydrocarbons as gasoline (TPHg), as diesel (TPHd), as motor oil (TPHmo), as well as related compounds benzene, toluene, ethylbenzene, total xylenes (BTEX), and methyl tert butyl ether (MTBE) in the soil analytical suite for the site. The former presence of the Cypress Structure also implies that motor vehicle related contamination may be present at the site. To date these contaminants have not been included in the analytical suite, except for TPHg in groundwater analysis.

- e. Proposed Bore Locations** – While the location of proposed bore locations B-1 to B-8 are undefined in the work plan and related figures, the numbering appears to conform to existing bore locations W-1 to W-8. Presuming this summarization is correct, some confusion is generated using this labeling system and it may be reasonable to clarify proposed bore locations or the bore numbering system.

- 2. Redevelopment Communication Tools** – In order to effectively communicate between project proponents, consultants, ACDEH, and eventually the general public, ACDEH requests the use of several communication tools in future submittals, including the requested work plan addendum in order to quickly communicate site data. These were in part discussed in the November 2015 meeting, but are additionally incorporated into this letter as follows:

- a. Phase 1 and Other Reports** – All reports or other communications associated with the site are requested to be submitted, including any Phase 1 or other reports or communications, that have been generated for the site and that contain environmental data. Updated and current development plans are to be included as a submittal.

- b. Redevelopment Cross Sections and Residual Contamination** – In order to clearly depict any, or no, residual contamination proposed to remain at the site, ACDEH requests multiple cross sections through the entire site, depicting the specific proposed structural foundation elevations, stripped of geologic content, with soil, vapor, or other sample analytical data proposed to remain, depth controlled and located appropriately. Contaminated material proposed to be excavated does not need to be depicted in the cross section data, but is requested to be retained in tables (see below). The intent of this request is to allow quick review of site data in a graphic fashion, and to assemble support for the eventual case closure and required communications with the public during a public comment period. This is requested to include detailed cross sections through areas of environmental interest, such as the elevator sumps, other potential exposure routes including greenspaces, and soil, soil vapor, or groundwater data relative to the future foundation and walls.

- c. Data Tables** - All tables are requested to include all historic and all recently collected analytical data, and that all soil that has been removed or is proposed to be removed to accommodate

foundations indicated by shading or strike out (remaining legible). If it is important for the project to distinguish between historic removed and future proposed removal, different shadings may be useful.

- d. **Analytical Detection Limits** – ACDEH requests that all non-detectable analytical data be listed by the individual chemical detection limit (<x), and include highlighting or bolding of detects, or of concentrations (including non-detectable concentrations) over site identified goals (ESLs or other goals).
 - e. **Added Table Column** – ACDEH additionally requests the addition of a “Relative to Future Building Foundation Elevation” column in soil and vapor analytical tables. The intent of this column is to quickly indicate the depth of the sample relative to the proposed future building foundation depth. As noted above, data proposed to be excavated or otherwise removed is requested to be retained in the tables, but lined or shaded out, but in either case kept legible.
 - f. **Appropriate Use of ESLs** – This comment may not be of concern at the site; however, must be communicated. Please be aware that all ESLs use must reflect the future proposed foundation depth. For example, groundwater or a vapor sample at a site may have been 10 feet below grade surface (bgs) when collected, but may now be 2 ft below the foundation upon excavation, and would not meet the 10 foot separation distance groundwater ESLs assume or the 5 foot separation between a receptor and the contaminant that vapor intrusion ESLs assume.
 - g. **Project Schedule** – It is important to communicate to ACDEH where the project is in the entitlement, project planning, CEQA, building and planning department approval process, when construction is hoped to begin and when project proponents may need a letter from ACDEH for financing concerns. Additionally, a realistic time frame for regulatory review (60 days is standard, however, ACDEH will attempt for a faster response if able to).
 - h. **Mitigation Measures** – Should mitigation measures be required at the site, the site will require a RAP and / or a HHRA to evaluate risk with and without mitigation measures (assuming no removal of residual contamination below the future foundation). The RAP must be approved by ACDEH and then incorporated into the building plans, which requires coordination with ACDEH, the building department, and the consultant throughout the final plan approval to ensure changes made during building department or planning review do not conflict with ACDEH approved plans. This is a consistent and continued concern at redevelopment sites. All plan changes will also require a professional signed statement from the registered professional that the changes do not affect the proposed mitigation measures. Please recognize that if mitigation measures are required, closure cannot be provided until a final confirmation sampling report is submitted and reviewed (60 days).
 - i. **Short-Term Site Management Plan** - Generation of a robust Short-Term SMP to deal with known or unexpected contamination found during redevelopment, including the potential for underground storage tanks that would suggest a contact for the ACDEH CUPA program (Oakland CUPA no longer exists). The SMP must include dust management and monitoring for onsite and offsite receptors, calculations to determine dust trigger values, groundwater or stormwater management, step-out contingency soil samples, and etc. As discussed in the meeting, please be aware that a large removal is essentially a Corrective Action, and a 30 day public notification may be required per state requirements (affecting the Gantt chart inputs; see below). Minor cleanup of incidental contamination is not considered a corrective action.
 - j. **Gantt Chart** – In order for all parties to understand project timelines and goals, and what or what may not, possible relative to the timeline, ACDEH requests the generation and submittal of a Gantt Chart that incorporates standard regulatory review time frames. With concurrence, changes can be made to meet certain timelines. This is requested to be submitted as a separate document, concurrent with the requested work plan addendum, in order to allow for modifications to be made.
3. **Land Use Covenant** – The Porter-Cologne Water Quality Act requires that any regulatory agency in California use a deed restriction / land use covenant (LUC) if contamination above goals (ESLs or other) is proposed to remain at a site. As discussed in the meeting, ACDEH understands that a LUC is acceptable to project proponents. As planned residual non-volatile contamination will be left in-place at the site that is above site defined goals (such as ESLs), but which will be isolated from potential receptors. A Long-Term SMP, Institutional Controls (ICs), Activity Use Limitations (AULs) and Codes,

Covenants, and Restrictions (CCRs) will be required to manage the potential for receptors, principally through subsurface incursions, to encounter and properly manage residual contamination that is encountered. Potential receptors will include maintenance, construction, and garden workers, among others that may be identified. A copy of the standard Alameda County LUC will be forwarded under separate cover.

4. **GeoTracker Compliance** – A review of the State Water Resources Control Board's (SWRCB) GeoTracker website indicates the site has not been claimed. Because this is a state requirement, ACDEH requests that the site be claimed in GeoTracker by the date identified below.

Pursuant to California Code of Regulations, Title 23, Division 3, Chapter 16, Article 12, Sections 2729 and 2729.1, beginning September 1, 2001, all analytical data, including monitoring well samples, submitted in a report to a regulatory agency as part of the UST or LUST program, must be transmitted electronically to the SWRCB GeoTracker system via the internet. Also, beginning January 1, 2002, all permanent monitoring points utilized to collect groundwater samples (i.e. monitoring wells) and submitted in a report to a regulatory agency, must be surveyed (top of casing) to mean sea level and latitude and longitude to sub-meter accuracy using NAD 83. A California licensed surveyor may be required to perform this work. In September 2004, the SWRCB adopted regulations that require electronic submittal of information for all groundwater cleanup programs, including SLIC programs. Additionally, pursuant to California Code of Regulations, Title 23, Division 3, Chapter 30, Articles 1 and 2, Sections 3893, 3894, and 3895, beginning July 1, 2005, the successful submittal of electronic information (i.e. report in PDF format) shall replace the requirement for the submittal of a paper copy. Please claim your site and upload all future submittals to GeoTracker by the date specified below. Electronic reporting is described below on the attachments.

Additional information regarding the SWRCB's GeoTracker website may be obtained online at http://www.waterboards.ca.gov/water_issues/programs/ust/electronic_submittal/ and http://www.swrcb.ca.gov/ust/electronic_submittal/report_rqmts.shtml) or by contacting the GeoTracker Help Desk at geotracker@waterboards.ca.gov or (866) 480-1028.

TECHNICAL REPORT REQUEST

Please upload technical reports to the ACEH ftp site (Attention: Mark Detterman), and to the State Water Resources Control Board's Geotracker website, in accordance with Attachment 1 and the following specified file naming convention and schedule:

- **August 12, 2016** – Geotracker Compliance Uploads
Please email your case worker upon completion
- **September 30, 2016** – Work Plan Addendum
File to be named: RO3194_WP_ADEND_R_yyyy-mm-dd

These reports are being requested pursuant to California Health and Safety Code Section 25296.10. 23 CCR Sections 2652 through 2654, and 2721 through 2728 outline the responsibilities of a responsible party in response to an unauthorized release from a petroleum UST system, and require your compliance with this request.

Online case files are available for review at the following website: <http://www.acgov.org/aceh/index.htm>.

If you have any questions, please call me at (510) 567-6876 or send me an electronic mail message at mark.detterman@acgov.org.

Sincerely,

Mr. Kevin Brown
RO0003194
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Enclosures: Attachment 1 – Responsible Party (ies) Legal Requirements and Obligations and Electronic Report Upload (ftp) Instructions

cc: Peter Krasnoff, West Environmental Services & Technology, 711 Grand Avenue, Suite 220, San Rafael, CA 94901; (Sent via electronic mail to: peterk@westenvironmental.com)

Peter Morris, West Environmental Services & Technology, 711 Grand Avenue, Suite 220, San Rafael, CA 94901; (Sent via electronic mail to: peterm@westenvironmental.com)

Tom Graff, GrafCon, P.O. Box 1105, Tiburon, CA 94920
(Sent via electronic mail to: Tom@grafcon.us)

Dilan Roe, ACDEH, (Sent via electronic mail to: dilan.roe@acgov.org)

Mark Detterman, ACDEH, (Sent via electronic mail to: mark.detterman@acgov.org)

Electronic File, GeoTracker

Attachment 1

Responsible Party(ies) Legal Requirements / Obligations

REPORT REQUESTS

These reports are being requested pursuant to California Health and Safety Code Section 25296.10. 23 CCR Sections 2652 through 2654, and 2721 through 2728 outline the responsibilities of a responsible party in response to an unauthorized release from a petroleum UST system, and require your compliance with this request.

ELECTRONIC SUBMITTAL OF REPORTS

ACEH's Environmental Cleanup Oversight Programs (LOP and SLIC) require submission of reports in electronic form. The electronic copy replaces paper copies and is expected to be used for all public information requests, regulatory review, and compliance/enforcement activities. Instructions for submission of electronic documents to the Alameda County Environmental Cleanup Oversight Program FTP site are provided on the attached "Electronic Report Upload Instructions." Submission of reports to the Alameda County FTP site is an addition to existing requirements for electronic submittal of information to the State Water Resources Control Board (SWRCB) GeoTracker website. In September 2004, the SWRCB adopted regulations that require electronic submittal of information for all groundwater cleanup programs. For several years, responsible parties for cleanup of leaks from underground storage tanks (USTs) have been required to submit groundwater analytical data, surveyed locations of monitoring wells, and other data to the GeoTracker database over the Internet. Beginning July 1, 2005, these same reporting requirements were added to Spills, Leaks, Investigations, and Cleanup (SLIC) sites. Beginning July 1, 2005, electronic submittal of a complete copy of all reports for all sites is required in GeoTracker (in PDF format). Please visit the SWRCB website for more information on these requirements (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, 6835, 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, later 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.

Alameda County Environmental Cleanup Oversight Programs (LOP and SLIC)	REVISION DATE: May 15, 2014
	ISSUE DATE: July 5, 2005
	PREVIOUS REVISIONS: October 31, 2005; December 16, 2005; March 27, 2009; July 8, 2010, July 25, 2010
SECTION: Miscellaneous Administrative Topics & Procedures	SUBJECT: Electronic Report Upload (ftp) Instructions

The Alameda County Environmental Cleanup Oversight Programs (LOP and SLIC) 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 deh.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 <ftp://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 deh.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.