



NOTICE TO COMPLY

May 16, 2017

Michael E. Mueller and Stephen P. Nicholls
2400 Union Street
Oakland, CA 94607-2418
(Sent via E-mail to: snicholls@mnbuilt.com)

A.A. Zatopa
141 Jackson Street
Chicago, IL, 60606

Subject: Technical Report Request for Fuel Leak Case No. RO0003203 and GeoTracker Global ID T10000008515, Union Street, 2400 Union Street, Oakland, CA 94601

Dear Ladies and Gentlemen:

A review of the case file for the above-referenced site indicates that your case is currently not in compliance with Alameda County Department of Environmental Health's (ACDEH's) May 24, 2016 Directive Letter. The letter required a work plan submittal by July 25, 2016 as well as claiming the site in Geotracker by June 24, 2016. These actions were due over 10 months ago.

Implementation of site characterization and/or cleanup at this site is crucial to be protective of human health and the environment and to move this case towards closure evaluation. Please note that as Responsible Parties, you are required by California Code of Regulations, Title 23, Division 3, Chapter 16, Article 11, §2720 through §2728 to characterize the site and implement corrective action.

Please also be aware that with an open environmental case, it is unlikely that lending institutions will loan on the property. This will affect your ability to refinance the property or to sell it in a timely basis. The environmental stigma associated with a property will be diminished the longer an environmental case is closed.

In order to regain compliance with local and State requirements, and to move the site towards site closure, please implement these actions by the dates specified below. Failure to implement these actions by the dates specified below will result in an issuance of a Notice of Violation and possible enforcement action by the District Attorney. Pursuant to Chapter 6.7, California Health and Safety code, civil penalties up to \$10,000 for each UST for each day of violation may be imposed. Please note that civil penalties for non-compliance are assessed from the original due date of July 25, 2016 for the Data Gap Investigation Work Plan and Site Conceptual Model.

REVISED TECHNICAL REPORT REQUEST

Please upload technical reports to the ACEH ftp site (Attention: Karel Detterman), and to the State Water Resources Control Board's GeoTracker website according to the following schedule and file-naming convention:

- **June 16, 2017 ~~June 24, 2016~~** – Claim site in Geotracker
- **July 14, 2017 ~~July 25, 2016~~** – Data Gap Investigation Work Plan and Site Conceptual Model
File to be named: RO3203_WP_SCM_R_yyyy-mm-dd

Ladies and Gentlemen
RO0003203
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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/lop/ust.htm>

Thank you for your cooperation. Should you have any questions or concerns regarding your case, please send me an e-mail message at karel.detterman@acgov.org or call me at (510) 567-6708.

Sincerely,

Karel Detterman, P.G.
Hazardous Materials Specialist

Enclosures: Attachment 1 – Responsible Party (ies) Legal Requirements / Obligations
Electronic Report Upload (ftp) Instructions

cc: Tony McElligot, McElligot Consulting (Sent via E-mail to: tonymcelligott.p.e@gmail.com)
Todd Hurley (Sent via E-mail to: hurleyt43@gmail.com)

Dilan Roe, ACDEH, (sent via e-mail to: dilan.roe@acgov.org)
Karel Detterman, ACDEH, (sent via e-mail to: karel.detterman@acgov.org)
Paresh Khatri, ACDEH, (sent via e-mail to: paresh.khatri@acgov.org)
Case 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

Alameda County Department of Environmental Health's (ACDEH) Environmental Cleanup Oversight Programs, Local Oversight Program (LOP) and Site Cleanup Program (SCP) 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 File Transfer Protocol (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 SCP 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 (http://www.waterboards.ca.gov/water_issues/programs/ust/electronic_submittal/) for more information on these requirements.

ACKNOWLEDGEMENT STATEMENT

All work plans, technical reports, or technical documents submitted to ACDEH must be accompanied by a cover letter from the responsible party that states, at a minimum, the following: "I have read and acknowledge the content, recommendations and/or conclusions contained in the attached document or report submitted on my behalf to ACDEH's FTP server and the SWRCB's GeoTracker website." 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 6731, 6735, and 7835) 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 licensed 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 case meet this requirement. Additional information is available on the Board of Professional Engineers, Land Surveyors, and Geologists website at: <http://www.bpelsg.ca.gov/laws/index.shtml>.

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.

Alameda County Environmental Cleanup Oversight Programs (LOP and SCP)	REVISION DATE: December 1, 2016
	ISSUE DATE: July 5, 2005
	PREVIOUS REVISIONS: October 31, 2005; December 16, 2005; March 27, 2009; July 8, 2010, July 25, 2010; May 15, 2014, November 29, 2016
SECTION: Miscellaneous Administrative Topics & Procedures	SUBJECT: Electronic Report Upload (ftp) Instructions

The Alameda County Environmental Cleanup Oversight Programs (LOP 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 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) Open File Explorer using the Windows  key + E keyboard shortcut.
 - i) Note: Netscape, Safari, and Firefox browsers will not open the FTP site as they are NOT being supported at this time.
 - b) On the address bar, type in ftp://alcoftp1.acgov.org.
 - c) Enter your User Name and Password. (Note: Both are Case Sensitive)
 - d) Click Log On.
 - e) Open "My Computer" on your computer and navigate to the file(s) you wish to upload to the ftp site.
 - f) 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.