

Detterman, Mark, Env. Health

From: Lambert, Ralph@Waterboards [ralph.lambert@waterboards.ca.gov]
Sent: Tuesday, December 09, 2014 1:37 PM
To: WAmiri@actransit.org; bwright@cameron-cole.com
Cc: Labrado, Lisa@Waterboards; Detterman, Mark, Env. Health
Subject: AC Transit, 1177 47th St. Emeryville, case 01-3594
Attachments: 01-3594 - pre-closure tasks 12-9-14.pdf

Please see the attached directive letter.

Ralph Lambert, PG, CHg
Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay St., Suite 1400
Oakland, CA 94612

(510) 622-2382

San Francisco Bay Regional Water Quality Control Board

December 9, 2014
File No: 01-3594 (RAL)

AC Transit
Attn: Mr. Wahid Amiri
1600 Franklin Street
Oakland, CA 94612

Sent via email to: WAmiri@actransit.org

**SUBJECT: AC Transit Facility, 1177 47th Street, Emeryville, Alameda County
Requirements for Case Closure**

Dear Mr: Amiri:

This letter is addressed to AC Transit as the owner and operator of the Site located at 1177 47th Street, Emeryville. This Site is an open Underground Storage Tank (UST) case and Regional Water Board staff determines that this Site qualifies for closure under the State's Low-Threat Underground Storage Tank Case Closure Policy¹ (LTCP). Before this case can be closed, the following three tasks must be completed:

- 1) The LTCP requires notification to "*Municipal and county water districts, water replenishment districts, special act districts with groundwater management authority, agencies with authority to issue building permits for land affected by the petroleum release, owners and occupants of the property impacted by the petroleum release, and the owners and occupants of all parcels adjacent to the impacted property...*". To comply with Health and Safety Code Section 25295.40, AC Transit must submit an address list of owners and occupants of adjacent properties and of parties who may have an interest to comment on the proposed Site closure prior to closure. After Regional Board staff review and approval, we will prepare a notification and send it back to you for distribution to the identified addressees. This notification of intent to issue a no further action letter will open a 60 day commenting period.
- 2) All required information must be loaded to the State's web-based Geotracker system as required by Title 23, Division 3, Chapter 30, Article 2, Sections 3890-3895 of the California Code of Regulations. For example you must upload the borehole logs (defined as Geo_Bore in GeoTracker) included in the 2013 Investigation Workplan. You must upload an updated Geo_Map, and depth to water measurements (defined as Geo_Well in GeoTracker). Information on electronic reporting can be found on the State Water Resources Control

¹ See State Water Board webpage: http://www.swrcb.ca.gov/water_issues/programs/ust/lt_cls_plcy.shtml

Board web page:

http://www.waterboards.ca.gov/water_issues/programs/ust/electronic_submittal

- 3) After the comment period (and assuming no valid objections to case closure), and with our approval, you will need to destroy all monitoring wells under permit with Alameda County and remove and properly dispose of all wastes (soil, water, or debris) associated with the investigation and remediation.

You are required to submit to the Regional Water Board by January 16, 2015, a technical report consisting of the interested parties address list (see item #1 above). You are also required to update GeoTracker (see item #2 above) by January 16, 2015.

This requirement for a report is made pursuant to Water Code Section 13267, which allows the Regional Water Board to require technical or monitoring program reports from any person who has discharged, discharges, proposes to discharge, or is suspected of discharging waste that could affect water quality. The attachment provides additional information about Section 13267 requirements. Any extension in the above deadline must be confirmed in writing by Regional Water Board staff.

To expedite the case closure process, Regional Water Board staff is requesting your submittal of a draft Site Closure Summary (fill out the attached form, in Section V describe how your Site meets the LTCP, and return a Word version of the completed document to Regional Water Board staff). Following the public notification period, we will notify you to destroy the wells and remove wastes from the Site (item #3 above). We will close the case after we receive confirmation that these have been completed.

All correspondence must include the Regional Water Board file number 01-3594.

If you have any questions, please contact Ralph Lambert of my staff at (510) 622-2382 or via e-mail at: RALambert@waterboards.ca.gov.

Sincerely,

Bruce H. Wolfe
Executive Officer

Attachments:

- A) Fact Sheet – Requirements for Submitting Technical Reports Under Section 13267 of the California Water Code
- B) Site Closure Summary Form

Copy via Email with attachment:

State UST Fund Unit

Attn: Ms. Lisa Labrado

Email: LLabrado@waterboards.ca.gov

Alameda County Environmental Health

Attn: Mr. Mark Detterman

Mark.Detterman@acgov.org

Cameron-Cole

Attn: Mr. Brad Wright

Email: BWright@cameron-cole.com

San Francisco Bay Regional Water Quality Control Board

Fact Sheet – Requirements for Submitting Technical Reports Under Section 13267 of the California Water Code

What does it mean when the Regional Water Board requires a technical report?

Section 13267¹ of the California Water Code provides that "...the regional board may require that any person who has discharged, discharges, or who is suspected of having discharged or discharging, or who proposes to discharge waste...that could affect the quality of waters...shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires."

This requirement for a technical report seems to mean that I am guilty of something, or at least responsible for cleaning something up. What if that is not so?

The requirement for a technical report is a tool the Regional Water Board uses to investigate water quality issues or problems. The information provided can be used by the Regional Water Board to clarify whether a given party has responsibility.

Are there limits to what the Regional Water Board can ask for?

Yes. The information required must relate to an actual or suspected or proposed discharge of waste (including discharges of waste where the initial discharge occurred many years ago), and the burden of compliance must bear a reasonable relationship to the need for the report and the benefits obtained. The Regional Water Board is required to explain the reasons for its request.

What if I can provide the information, but not by the date specified?

A time extension may be given for good cause. Your request should be promptly submitted in writing, giving reasons.

Are there penalties if I don't comply?

Depending on the situation, the Regional Water Board can impose a fine of up to \$5,000 per day, and a court can impose fines of up to \$25,000 per day as well as criminal penalties. A person who submits false information or fails to comply with a requirement to submit a technical report may be found guilty of a misdemeanor. For some reports, submission of false information may be a felony.

Do I have to use a consultant or attorney to comply?

There is no legal requirement for this, but as a practical matter, in most cases the specialized nature of the information required makes use of a consultant and/or attorney advisable.

What if I disagree with the 13267 requirements and the Regional Water Board staff will not change the requirement and/or date to comply?

You may ask that the Regional Water Board reconsider the requirement, and/or submit a petition to the State Water Resources Control Board. See California Water Code sections 13320 and 13321 for details. A request for reconsideration to the Regional Water Board does not affect the 30-day deadline within which to file a petition to the State Water Resources Control Board.

If I have more questions, whom do I ask?

Requirements for technical reports include the name, telephone number, and email address of the Regional Water Board staff contact.

Revised January 2014

¹ All code sections referenced herein can be found by going to www.leginfo.ca.gov.