



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

NOTICE TO COMPLY

June 23, 2011

Jeffrey R. Jones (*Sent via E-mail to: jjones@portoakland.com*)
Port of Oakland
530 Water Street
Oakland, CA 94607

Jeffrey L. Rubin (*Sent via E-mail to: jrubin@portoakland.com*)
Port of Oakland
530 Water Street
Oakland, CA 94607

Subject: Feasibility Study Evaluation for Fuel Leak Case No. RO0000010 & RO0000187,
(GeoTracker Global ID T0600101866 & T0600100892), Port of Oakland, 651 Maritime
Street, Oakland, CA 94607

Dear Messrs. Jones and Rubin:

A Feasibility Study/Corrective Action Plan (FS/CAP) was due to ACEH on November 1, 2010. In response to ACEH's concerns, the Port of Oakland submitted an FS/CAP on March 15, 2011 prepared by Malcolm Pirnie, Inc. (Malcolm Pirnie), however, the FS/CAP failed to address the free product present at the site. ACEH responded with comments to the FS/CAP on June 9, 2011 and requested a revised FS/CAP due by August 5, 2011. On June 15, 2011, Malcolm Pirnie sent an e-mail response to ACEH stating similar objectives presented in their March 15, 2011 FS/CAP. Please note that the Responsible Party must submit a perjury statement with all submittals, which must be uploaded to Alameda County's FTP server and the State Board's GeoTracker website. Also note that recommendations in submittals based on proposed adoptions/changes to existing regulations cannot be considered until such legislation is formerly adopted.

Lastly, please note that the FS/CAP is not approved by ACEH and costs associated with the implemented natural attenuation remedial alternative that is apparently underway may not be reimbursed by the UST Cleanup Fund. ACEH cannot approve a remedial alternative that does not consider abating the persistent free product detected at the site. At this time, please prepare and submit an FS/CAP that focuses on remedial alternatives to abate free product by August 5, 2011.

Failure to submit the required FS/CAP by the due date specified below may result in an issuance of a Notice of Violation and possible enforcement action by the District Attorney and/or ineligibility for reimbursement of corrective action costs incurred at the site from the Underground Storage Tank Clean-up Fund. 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. Once removed from the Clean-up Fund, the costs associated with the subsurface investigation work that is required will not be reimbursed. Please note that civil penalties for non-compliance are assessed from the original due date (November 1, 2010).

TECHNICAL REPORT REQUEST

Please submit technical reports to ACEH (Attention: Paresh Khatri), according to the following schedule:

- **August 5, 2011** – Feasibility Study / Corrective Action Plan
- **Due within 30 Days of Sampling** – Semi-annual Monitoring Report (3rd Quarter 2011)
- **Due within 30 Days of Sampling** – Semi-annual Monitoring Report (1st Quarter 2011)

Thank you for your cooperation. Should you have any questions or concerns regarding this correspondence or your case, please call me at (510) 777-2478 or send me an electronic mail message at paresh.khatri@acgov.org.

Sincerely,

Paresh C. Khatri
Sr. Hazardous Materials Specialist

Enclosure: Responsible Party(ies) Legal Requirements/Obligations
ACEH Electronic Report Upload (ftp) Instructions

cc: Ken Mifsud, Alameda County Office of the District Attorney (*Sent via E-mail to:*
ken.mifsud@acgov.org)
Sunil Ramdass, SWRCB UST Cleanup Fund, 1001 I Street, 17th Floor, Sacramento, CA
95814
Jeff Delgado, SWRCB UST Cleanup Fund, 1001 I Street, 17th Floor, Sacramento, CA
95814
Leroy Griffin, Oakland Fire Department, 250 Frank H. Ogawa Plaza, Ste. 3341, Oakland,
CA 94612-2032 (*Sent via E-mail to:* lgriffin@oaklandnet.com)
Donna Drogos, ACEH (*Sent via E-mail to:* donna.drogos@acgov.org)
Paresh Khatri, ACEH (*Sent via E-mail to:* paresh.khatri@acgov.org)
GeoTracker
File

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.swrcb.ca.gov/ust/electronic_submittal/report_rqmts.shtml).

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: July 20, 2010
	ISSUE DATE: July 5, 2005
	PREVIOUS REVISIONS: October 31, 2005; December 16, 2005; March 27, 2009; July 8, 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 dehloptoxic@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.
 - 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 dehloptoxic@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.