

Detterman, Mark, Env. Health

From: Lambert, Ralph@Waterboards [ralph.lambert@waterboards.ca.gov]
Sent: Thursday, April 30, 2015 11:07 AM
To: Labrado, Lisa@Waterboards
Cc: Detterman, Mark, Env. Health; williambrew@aol.com
Subject: 1101 28th Street, Oakland, case 01-2304
Attachments: 01-2304 - require RI workplan 4-30-15.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

April 28, 2015
File No. 01-2304 (RAL)

Mr. Louis Greer, Trustee
Louis Greer Living Trust
1413 Harmon Street
Berkeley, CA 94702

**SUBJECT: Former Brooks Auto Service, 1101 28th Street, Oakland, Alameda County
Requirement for Investigation Work Plan**

Dear Mr. Greer:

Regional Water Board staff reviewed selected files¹ for this Site and concludes that this case does not meet closure criteria in the State Water Board's Low-Threat Underground Storage Tank Case Closure Policy². This letter requires additional evaluation and work to move the case toward closure. Alameda County Health Care Services Agency referred this case to the Regional Water Board for enforcement based on the lack of response from owners or operators of the Site referenced above. This letter is addressed to you as the current property owner.

Background

Gasoline and waste oil underground storage tanks were removed from the Site in 1996. At the time of the tank removal, soil sampling was conducted and a limited amount of soil removed. The highest concentrations were reported from the dispenser area at 20,000 mg/kg of gasoline hydrocarbons and 13,000 mg/kg diesel range hydrocarbons. The extent of soil impact and any impact to groundwater were not determined. In August 2010, an investigation work plan submitted by Stellar Environmental Solutions, Inc. was conditionally approved by the Alameda County Environmental Health Services. To date, according to our available records the conditionally approved work was not completed and the extent of contamination to soil, soil vapor, and groundwater remains undefined. There is a continuing potential risk to human and environmental health at the Site.

Comparison with the Low Threat Closure Policy (LTCP)

Regional Water Board staff compared your Site with the criteria outlined in the LTCP and concludes that this Site does not meet several of the low-threat closure criteria, as explained below:

¹ See Geotracker webpage: http://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T0600102303

² See the State Water Resources Control Board webpage:
http://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2012/rs2012_0016atta.pdf

General Criteria Criterion e: General Criteria e requires that a conceptual site model (CSM) assessing the nature, extent, and mobility of the release be developed. However, the extent of impact to both soil and groundwater has not been determined.

Media Specific Criterion – Groundwater Criteria: Groundwater water samples have not been collected from the Site despite high concentrations of hydrocarbons in shallow soil. Delineation of groundwater impacts has not been completed to date. Distance of the Site to irrigation, drinking water wells and surface water such as creeks and bays have not been determined. This information is required to compare the Site with the groundwater specific criteria 1 through 4.

Media Specific Criterion Petroleum Vapor Intrusion to Indoor Air: The possibility of soil vapor intrusion to indoor air must be addressed at this Site. The Site is not an active gas station.

Report Required

You are hereby required to submit a data-gap investigation work plan, acceptable to the Executive Officer, by **July 3, 2015**. This work plan must propose investigations that will:

- 1) Identify data gaps including potential exposure and associated risks
- 2) Propose additional investigations to meet LTCP closure requirements

This requirement for a technical 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.

In addition to a hard copy you are also required to submit all documents in electronic format to the State Water Resources Control Board's GeoTracker database. Guidance for electronic information submittal is available at:

http://www.waterboards.ca.gov/water_issues/programs/ust/electronic_submittal/. Please note that this requirement includes all analytical data, monitoring well latitudes, longitudes, and elevations, water depths, Site maps, boring logs (PDF format), and complete copies of reports and correspondence including the signed transmittal letters and professional certifications (PDF format).

All reports submitted shall have the Regional Water Board file number 01-2304 on the first page of the report.

On a related point, this Site has not been listed with the State's Underground Storage Tank (UST) Cleanup Fund for financial assistance with environmental characterization and remedial activities. If you are interested in seeking financial assistance, you would need to complete a claim application, which can be found at:

http://www.waterboards.ca.gov/water_issues/programs/ustcf/.

Please direct all questions and correspondence regarding this matter to Ralph Lambert at (510)-622-2382 or e-mail RALambert@waterboards.ca.gov.

Sincerely,

Bruce H. Wolfe
Executive Officer

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

Copy via Email with attachment:

State Water Resources Control Board
UST Cleanup Fund Unit
Attn.: Ms. Lisa Labrado
E-mail: LLabrado@waterboards.ca.gov

Alameda County Environmental Health
Attn.: Mr. Mark Detterman
Email: Mark.Detterman@acgov.org

JB Enterprises, Inc
Attn: William Brew
Email: Williambrew@aol.com

Paul Carpenter
2735 Chestnut Street
Oakland, CA 94607

Arthur Creggett Trust
Attn: Mr. Stephen J. Kennedy
7750 Pardee Lane, Suite 130
Oakland, CA 94621

W.L. Race Trust
Brooks Auto Service
P.O. Box 3435
Walnut Creek, CA 94598

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.

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

Revised January 2014

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