



ENVIRONMENTAL HEALTH SERVICES  
ENVIRONMENTAL PROTECTION  
1131 Harbor Bay Parkway, Suite 250  
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September 13, 2012

Mr. Mitch Fine  
Armstrong Premier Property LLC  
4574 San Pablo Avenue  
Emeryville, CA 94608

Subject: Well Decommissioning for Fuel Leak Case No. RO0000245 and GeoTracker Global ID T0600102075, Berkeley Farms, 4575 San Pablo Avenue, Emeryville, CA 94608

Dear Mr. Fine:

In correspondence dated March 6, 2012, Alameda County Environmental Health (ACEH) issued a Notice of Violation because two monitoring wells at the site have not been decommissioned. Well decommissioning is required prior to closure of the above fuel leak case. To date, the monitoring wells have not been decommissioned due to lack of access to the site.

We request that you cooperate with the active responsible party, Dean Foods, to allow access to the property and to complete the well decommissioning. As previous property owner and tank operator, Dean Foods is a responsible party. As current property owner, Armstrong Premier Property LLC is also a responsible party. We wish to clarify that ACEH does not designate specific areas of responsibility between responsible parties. For the purposes of regulatory oversight, both responsible parties have joint and several liability and are responsible for implementing the required actions at the site. Please work cooperatively with the active responsible party to expedite well decommissioning for your site.

Thank you for your cooperation. If you have any questions, please call me at (510) 567-6791 or send me an electronic mail message at [jerry.wickham@acgov.org](mailto:jerry.wickham@acgov.org).

Sincerely,

Jerry Wickham, California PG 3766, CEG 1177, and CHG 297  
Senior Hazardous Materials Specialist

Attachment: Responsible Party(ies) Legal Requirements/Obligations

cc: Norman Stone, Dean Foods, 1415 E. 5050 S, Ogden, UT 88403 (*Sent via electronic mail to [Norm.Stone@deanfoods.com](mailto:Norm.Stone@deanfoods.com)*)

Karen Bellini, Harmon Management Co., 199 First Street, Suite 212, Los Altos, CA 94022

Andrew Lojo, Antea Group, 1350 Treat Blvd., Suite 250, Walnut Creek, CA 94597 (*Sent via E-mail to: [Andy.Lojo@anteagroup.com](mailto:Andy.Lojo@anteagroup.com)*)

Donna Drogos, ACEH, (*Sent via electronic mail to [donna.drogos@acgov.org](mailto:donna.drogos@acgov.org)*)  
Jerry Wickham, ACEH, (*Sent via electronic mail to [jerry.wickham@acgov.org](mailto:jerry.wickham@acgov.org)*)  
Geotracker, eFile

## Attachment 1

### Responsible Party(ies) Legal Requirements/Obligations

#### REPORT/DATA REQUESTS

These reports/data are being requested pursuant to Division 7 of the California Water Code (Water Quality), Chapter 6.7 of Division 20 of the California Health and Safety Code (Underground Storage of Hazardous Substances), and Chapter 16 of Division 3 of Title 23 of the California Code of Regulations (Underground Storage Tank Regulations).

#### ELECTRONIC SUBMITTAL OF REPORTS

ACEH's Environmental Cleanup Oversight Programs (Local Oversight Program [LOP] for unauthorized releases from petroleum Underground Storage Tanks [USTs], and Site Cleanup Program [SCP] for unauthorized releases of non-petroleum hazardous substances) require submission of reports in electronic format pursuant to Chapter 3 of Division 7, Sections 13195 and 13197.5 of the California Water Code, and Chapter 30, Articles 1 and 2, Sections 3890 to 3895 of Division 3 of Title 23 of the California Code of Regulations (23 CCR). Instructions for submission of electronic documents to the ACEH FTP site are provided on the attached "Electronic Report Upload Instructions."

Submission of reports to the ACEH FTP site is in addition to requirements for electronic submittal of information (ESI) to the State Water Resources Control Board's (SWRCB) Geotracker website. In April 2001, the SWRCB adopted 23 CCR, Division 3, Chapter 16, Article 12, Sections 2729 and 2729.1 (Electronic Submission of Laboratory Data for UST Reports). Article 12 required electronic submittal of analytical laboratory data submitted in a report to a regulatory agency (effective September 1, 2001), and surveyed locations (latitude, longitude and elevation) of groundwater monitoring wells (effective January 1, 2002) in Electronic Deliverable Format (EDF) to Geotracker. Article 12 was subsequently repealed in 2004 and replaced with Article 30 (Electronic Submittal of Information) which expanded the ESI requirements to include electronic submittal of any report or data required by a regulatory agency from a cleanup site. The expanded ESI submittal requirements for petroleum UST sites subject to the requirements of 23 CCR, Division, 3, Chapter 16, Article 11, became effective December 16, 2004. All other electronic submittals required pursuant to Chapter 30 became effective January 1, 2005. Please visit the SWRCB website for more information on these requirements. ([http://www.waterboards.ca.gov/water\\_issues/programs/ust/electronic\\_submittal/](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, 7835, 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, 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.