



ENVIRONMENTAL HEALTH SERVICES  
ENVIRONMENTAL PROTECTION  
1131 Harbor Bay Parkway, Suite 250  
Alameda, CA 94502-6577  
(510) 567-6700  
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### NOTICE TO COMPLY

December 31, 2014

Au Energy LLC  
c/o Sunny Goyal  
Vintners Distributors, Inc.  
41805 Albrae Street, 2<sup>nd</sup> Floor  
Fremont, CA 94538  
(Sent via E-mail to: [sunny@vintnersdist.com](mailto:sunny@vintnersdist.com))

Subject: Notice to Comply for Fuel Leak Case No. RO0000254 and GeoTracker Global ID T0600101231, Shell #13-5266, 1800 Powell Street, Emeryville, CA 94608

Dear Mr. Goyal:

Alameda County Environmental Health (ACEH) staff has reviewed the case file for the above-referenced site. In correspondence dated May 20, 2014, ACEH conditionally approved an interim removal action within the area of a September 2013 diesel piping release that was proposed in the document entitled, "*Interim Cleanup Work Plan at Shell-Branded Gasoline Service Station*," dated May 15, 2014. The Work Plan, which was prepared on behalf of AU Energy LLC by Bureau Veritas North America, proposed excavation within a limited area near the former diesel fuel piping release. ACEH requested that the excavation be expanded beyond the proposed limited area to remove observed contamination wherever feasible. In our May 20, 2014 correspondence, ACEH requested that results of the interim removal action be presented in a report no later than July 20, 2014. Since no report was received, ACEH requested in correspondence dated October 13, 2014, that a report presenting the results of an interim removal action be submitted by November 13, 2014. To date, no report has been received. Therefore, this case is out of compliance with directives from this agency.

This Notice to Comply is directed to AU Energy to submit the results of the interim removal action to address a September 2013 release of diesel fuel from a damaged product line. As discussed in the History of Unauthorized Releases below, AU Energy is the responsible party for the September 2013 release. As a Responsible Party, you are required by California Code of Regulations, Title 23, Division 3, Chapter 16, Article 11, §2720 through §2728 to implement corrective action and provide the results in timely technical reports as requested. In order to regain compliance with directives from this agency, please submit the Interim Removal Action Report **no later than February 19, 2015**. Failure to submit the requested document by the due date specified below may result in 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 Cleanup Fund. Furthermore, ACEH may recommend removal of this site from the Underground Storage Tank Cleanup Fund.

### HISTORY OF UNAUTHORIZED RELEASES FROM SITE

Multiple unauthorized releases have occurred at the site. During or prior to the 1960s, fill material from asphalt plants or other industrial facilities may have been placed at the site (Site Conceptual Model, Cambria, January 10, 2006). During the installation of new dispensers in September 1982, a leak of 3,200

gallons of unleaded gasoline from damaged piping was reported. Shell Oil Company was identified as a responsible party for this release on January 2, 1992.

In October 2004, the fuel dispensers were upgraded and a product line which failed a line test was repaired. Soil samples collected beneath the dispensers and product lines contained up to 3,500 milligrams per kilogram (mg/kg) Total Petroleum Hydrocarbons (TPH) as diesel and 7,900 mg/kg TPH as gasoline. An Unauthorized Release Report was submitted to ACEH by Shell Oil Company on October 15, 2004.

In 2006, cracks were observed in two units of the six-stage carwash clarifier sump. A grab groundwater sample collected from the second stage of the clarifier sump contained 14,000 micrograms per liter ( $\mu\text{g/L}$ ) oil and grease, 5,300  $\mu\text{g/L}$  TPH as motor oil, and 30,000  $\mu\text{g/L}$  TPH as hydraulic oil. As a result of these findings, Shell Oil Products submitted an Unauthorized Release Form to ACEH on March 13, 2006.

AU Energy LLC purchased the property in 2010. As the owner of the property where an unauthorized release has occurred, AU Energy LLC was identified as an additional responsible party for these unauthorized releases in a Notice of Responsibility dated March 29, 2011. Between 2011 and 2013, the site was in verification groundwater monitoring prior to consideration for case closure.

On September 30, 2013, a subsurface diesel product line was damaged during advancement of a soil boring. An estimated 540 gallons of diesel fuel was released from the product line. An Unauthorized Release Report was submitted by AU Energy on October 2, 2013. Following repair of the product line and recovery of approximately 5,000 gallons of water/product mixture from UST backfill observation wells, a "*Work Plan for Subsurface Investigation*," dated October 31, 2013 was submitted by Bureau Veritas on behalf of AU Energy. The Work Plan proposed installation and sampling of a monitoring well in the immediate area of the diesel line release. The proposed monitoring well was not installed.

AU Energy is the sole responsible party for the September 2013 diesel fuel release. For the September 2013 release, Shell Oil Products does not meet any of the definitions of a responsible party under California Code of Regulations Title 23 Section 2720. Therefore, AU energy is responsible for implementing the investigation and cleanup required as a result of the September 2013 release.

### **TECHNICAL REPORT REQUEST**

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

- **February 19, 2015** – Interim Removal Action Report  
File to be named: EXC\_R\_YYYY-MM-DD RO254

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 ST system, and require your compliance with this request.

Responsible Parties  
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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). Online case files are available for review at the following website: <http://www.acgov.org/aceh/index.htm>.

Sincerely,

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

Attachment: Responsible Party(ies) Legal Requirements/Obligations

Enclosure: ACEH Electronic Report Upload (ftp) Instructions

cc: Mark Williams, Bureau Veritas North America, Inc., 2430 Camino Ramon, Suite 122, San Ramon, CA 94583. (*Sent via E-mail to: [mark.williams@us.bureauveritas.com](mailto:mark.williams@us.bureauveritas.com)*)

Perry Pineda, Shell Oil Products US, 20945 S. Wilmington Ave., Carson, CA 90810-1039 (*Sent via E-mail to: [perry.pineda@shell.com](mailto:perry.pineda@shell.com)*)

Peter Schaefer, Conestoga-Rovers & Associates, 5900 Hollis Street, Suite A  
Emeryville, CA 94608 (*Sent via E-mail to: [pschaefer@croworld.com](mailto:pschaefer@croworld.com)*)

Chris Tougeron, ACEH (*Sent via E-mail to: [christopher.tougeron@acgov.org](mailto:christopher.tougeron@acgov.org)*)  
Jerry Wickham, ACEH (*Sent via E-mail to: [jerry.wickham@acgov.org](mailto:jerry.wickham@acgov.org)*)

GeoTracker, e-File

## 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

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.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, 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.

<b>Alameda County Environmental Cleanup Oversight Programs (LOP and SLIC)</b>	<b>REVISION DATE:</b> May 15, 2014
	<b>ISSUE DATE:</b> July 5, 2005
	<b>PREVIOUS REVISIONS:</b> October 31, 2005; December 16, 2005; March 27, 2009; July 8, 2010, July 25, 2010
<b>SECTION:</b> Miscellaneous Administrative Topics & Procedures	<b>SUBJECT:</b> 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 [deh.loptoxic@acgov.org](mailto: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) Using Internet Explorer (IE4+), go to <ftp://alcoftp1.acgov.org>
    - (i) Note: Netscape, Safari, and Firefox browsers will not open the FTP site as they are NOT being supported at this time.
  - 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 [deh.loptoxic@acgov.org](mailto: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.