

Tougeron, Christopher, Env. Health

From: John Ellis <johne@vintnersdist.com>
Sent: Wednesday, October 9, 2013 6:53 AM
To: Tougeron, Christopher, Env. Health
Cc: Sunny
Subject: 1800 Powell, Emermyville
Attachments: 20131009063420784.pdf; 20131009061517301.pdf; 20131009061506572.pdf; 20131008074502435.pdf; 20131008074318387.pdf

Good morning Chris,

I have attached the letter that you requested during our last meeting. I am very close to having all the documents for you.

- Response letter
- Waste profile for disposal
- Bill of lading
- Work orders from Service Station Systems
- Emergency Response Agreement
- Veeder Root Read outs from 9-30 through

I am still working to get you the waste disposal records and the actual inventory reconciliation. It will be coming shortly

Can you let me know if I am missing anything else that you will need?

John Ellis

Maintenance Manager/Au Energy, LLC.

email johne@vintnersdist.com

Direct Number (510) 270-3418

Fax Number (510) 270-3418

Office Number (510) 657-9150 x3418

Cellular Phone Number (510) 600-5434

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P 510 657.9150
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Au Energy, LLC.
41805 Albrae Street
Fremont, Ca. 94538
October 7, 2013

Chris Tougeron
Senior Hazardous Materials Specialist
Alameda County Department of Environmental Health
1131 Harbor Bay Parkway
Alameda, Ca. 94502

RE: Powell Shell, 1800 1/2 Powell Street, Emeryville CA 94608

Dear Chris:

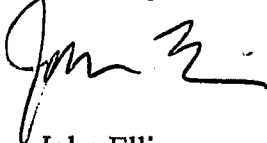
As you are aware, on September 30th, 2013 there was a breach in the diesel product line that resulted in an Unauthorized Release of approximately 550 gallons of diesel fuel into the environment. This breach has been repaired, tested, and the diesel fuel has been put back into service currently. Au Energy is providing this letter as required within 5 days of detecting an unauthorized release.

The following is a summary of the timeline with action taken by Au Energy.

- Au Energy contracted with Bureau Veritas to perform initial soil characterization, related to the future removal and replacement of the Underground Storage Tank System
- September 30th, 2013 Bureau Veritas onsite to conduct permitted work with drilling rig. At approximately 11:30am-12pm, when drilling at the east end of the southernmost fuel dispensing island, drill equipment impacted with fiberglass diesel line. This impact damaged the wall integrity of the pipeline resulting in a release of diesel fuel into the surrounding environment.
- September 30th, 2013 Service Station Systems responds to the site for a PLLD Gross Test Fail and PLLD Shutdown Alarm
- October 1st, 2013 2:30pm Service Station Systems notifies Au Energy LLC of the possible damage to the diesel line. Disables diesel fueling operations.
- October 1st, 2013 2:30pm: Au Energy begins notification to regulators, investigation to reconcile loss of inventory, and dispatching contractor for repair and clean up.

- October 2nd, 2013 9am: Walton Engineering onsite to begin repair work.
- October 2nd, 2013 9:30am: Au Energy completes notification procedures to OES. Responding to calls requesting details from CALEPA-U.S. Coast Guard-California Fish and Wildlife.
- October 2nd, 2013 10am: Au Energy is told of free product that is accumulating in the Underground Storage Tank excavation (verified through the existing access wells also located in the excavation) Au Energy authorizes emergency clean up with Clean harbors, to remove as much free product from the tank excavation as possible. Clean harbors removes 5,000 gallons of oily water from the tank excavations and transports for disposal
- October 2nd, 2013 10am: Au Energy opens existing monitoring wells (used in remediation for previous release at same general location), discovers no free product. Au Energy intends to continue to monitor these wells.
- October 2nd, 2013 3pm: Walton Engineering discovers location of failure, makes
- October 3rd, 2013 Walton Engineering completes repair of diesel line and makes arrangements for follow up inspections with local regulators.
- October 4th, 8:30am: Walton Engineering completes required visual test with permitting agency
- October 4th, 1:30pm-5pm: Walton Engineering completes required precision testing of diesel line, receives approval from Alameda County Environmental Health Services allowing diesel operations to resume.

Sincerely,



John Ellis
Maintenance Manager



EMERGENCY RESPONSE AGREEMENT

Customer Name: Powell Street Shell #102 (Customer Contact Person: John Ellis)
Address: 1800 Powell Street Emeryville Ca, 94608
Vintners Distributor ("CUSTOMER") Telephone: 510-657-9150
Job Location (if different): 1800 Powell St Customer Insurance Carrier/Agent: _____

DESCRIPTION OF INCIDENT:

Spill of Diesel in monitoring well

This Emergency Response Agreement ("Agreement") establishes the terms and conditions under which Clean Harbors Environmental Services, Inc. & its Affiliates ("CONTRACTOR") agrees to provide, and CUSTOMER agrees to pay for, emergency response services, as defined herein ("Services"). CUSTOMER is obligated to pay the amount due pursuant to this Agreement shall not be conditioned upon or limited by the types, amounts or availability of insurance coverage. In consideration of the mutual covenants contained herein, and for other good consideration, the receipt and sufficiency of which is hereby acknowledged, the parties have caused this Agreement to be executed by their duly authorized representative as of the day and year first written below.

CUSTOMER hereby assigns to CONTRACTOR all rights to any insurance payments that CUSTOMER may be entitled to receive to pay for the Services provided under this Agreement and hereby authorizes its insurance company or agent to pay CONTRACTOR directly.

STANDARD TERMS AND CONDITIONS

1. The Services may include, but not be limited to, the following:
 - o Containment, recovery, repackaging and removal of waste or other materials;
 - o Site evaluation, decontamination and restoration;
 - o Transportation, storage, treatment or disposal of waste or other materials;
 - o Technical services, including sampling, laboratory analysis, and other related services;
 - o Standby of personnel and equipment in anticipation of imminent activation;
 - o Training and mock spill drill deployments.
2. CONTRACTOR shall provide supervision, labor, materials, tools, equipment and subcontracted items for the performance of the Services.



CONTRACTOR shall take necessary precautions for the safety of its employees, and shall comply with applicable provisions of the Occupational Safety and Health Act. It is understood and agreed, however, that CONTRACTOR shall not be responsible for the elimination or abatement of safety hazards created by or otherwise resulting from work being performed by CUSTOMER's employees, its other contractors or agents. CONTRACTOR represents that it holds the permits and licenses required for the performance of the Services.

3. CUSTOMER shall provide full and complete information regarding its requirements for the Services. CUSTOMER shall provide full and complete information regarding the site, surface and subsurface conditions, utility locations, site ownership, contractor access, hazardous materials or wastes and other substances or hazards likely to be present and any other reports, documentation or information concerning the site or Scope of Work which may reasonably be provided to CONTRACTOR. CUSTOMER represents and warrants to CONTRACTOR that CUSTOMER has the requisite legal right, title, and interest necessary to provide access to the job site. In the event subsurface or latent conditions at the work site materially differ from those indicated in the contract documents or if the latent or subsurface physical conditions are of an unusual nature not ordinarily found to exist in environmental service activities identified in the contract documents, the CONTRACTOR shall be entitled to an equitable adjustment of the Contract price and time.

CUSTOMER shall designate a representative who shall be fully acquainted with the Services to be provided hereunder and who shall be authorized to approve changes in the Services; render decisions promptly; authorize commitments and expenditures on behalf of CUSTOMER; approve CONTRACTOR's daily worksheets and to accept, verify and approve CONTRACTOR's invoices.

CUSTOMER shall be responsible for repairs to all private property, roadways, structures and rights-of-way resulting from CONTRACTOR's reasonable use thereof.

CUSTOMER represents and warrants that it shall provide payment to CONTRACTOR for the services provided by CONTRACTOR as set forth in Article 5, and shall demonstrate to CONTRACTOR's satisfaction prior to the commencement of the Services, and at such other times as CONTRACTOR may require, that sufficient funds are available and committed by CUSTOMER for the entire cost of the Services. Unless such financial assurances are provided by CUSTOMER, CUSTOMER agrees that CONTRACTOR shall not be required to commence or continue any Service and may immediately stop work. The failure of CONTRACTOR to insist upon the provisions of this paragraph at any one time shall not constitute a waiver of CUSTOMER's obligation to make payments pursuant to this Agreement nor shall it constitute a waiver of CONTRACTOR's right to request that evidence of sufficient funds be provided by CUSTOMER at a later date.

CUSTOMER shall communicate to CONTRACTOR all special hazards or risks known to the CUSTOMER which are related to the performance of the Services pursuant to this Agreement.

4. The payment terms set forth herein are contingent upon the approval of CONTRACTOR's Credit Department. In the event of a change in CUSTOMER's financial condition, CONTRACTOR reserves the right to alter, change, or modify payment terms, and to immediately stop work. The failure of CONTRACTOR to exercise its rights under this article at any time shall not constitute a waiver of CONTRACTOR's continuing right to do so.

CUSTOMER agrees to pay CONTRACTOR in accordance with CONTRACTOR'S published Rate Schedule for emergency response work ("Rates") for response or standby activities, including



mobilization/demobilization of resources. CUSTOMER's obligation to pay the amount due pursuant to this Agreement shall not be conditioned upon or limited by the types, amounts or availability of insurance coverage.

CONTRACTOR will present its first invoice to CUSTOMER as soon as possible following commencement of the Services provided hereunder, and may issue subsequent invoices every five (5) days thereafter. CUSTOMER agrees to pay the full amount of each invoice amount within five (5) business days of the date of receipt of said invoice by CUSTOMER.

CUSTOMER agrees that interest shall accrue and will be paid to CONTRACTOR on any unpaid balance of any invoice after five (5) calendar days of receipt of invoice by CUSTOMER at the rate of one and one half percent (1.5%) per month or the maximum amount allowed by law.

In the event that legal or other action is required to collect unpaid balances of invoices due CONTRACTOR, CUSTOMER agrees to pay all costs of collection, litigation or settlement incurred by CONTRACTOR, including reasonable attorneys' fees. "Legal or other action" as used above shall include bankruptcy and insolvency proceedings. In the event that work is suspended or terminated for any reason prior to the completion of the services, CUSTOMER agrees to pay for labor, equipment, materials, disposal and other costs incurred by CONTRACTOR at the Rates and for reasonable demobilization costs.

CUSTOMER agrees to pay CONTRACTOR in accordance with the Rates for any litigation support or testimony provided by CONTRACTOR in connection with, or arising out of, the work performed by CONTRACTOR hereunder.

5. CUSTOMER agrees to pay CONTRACTOR at the Rates for any costs incurred or delays resulting from CONTRACTOR's response to any emergency condition which threatens safety of persons or property during the performance of the Services.

If any change occurs during the term of this Agreement with respect to any laws, rules, regulations or ordinances which affects the rights or obligations of CUSTOMER or CONTRACTOR under this Agreement, or the applicability of any taxes or fees, or the cost of handling waste materials, CUSTOMER and CONTRACTOR shall negotiate in good faith to bring this Agreement into conformance with such change or changes. In the event that such agreement cannot be reached, CUSTOMER or CONTRACTOR shall have the right to terminate this Agreement immediately upon written notice to the other party.

6. CONTRACTOR shall keep in effect during the term of this Agreement the following insurance coverages:

COVERAGE	LIMITS
a. Worker's Compensation	Statutory
b. Employer's Liability	\$500,000
c. General Commercial Liability	\$1 million per occurrence \$3 million aggregate
d. Automobile	\$1 million per occurrence \$1 million per annual aggregate
e. Environmental Impairment for Clean Harbors' TSD Facilities	\$3 million per occurrence \$6 million annual aggregate

CONTRACTOR shall provide CUSTOMER with a certificate of insurance upon written request.



7. CUSTOMER shall indemnify, defend and hold harmless CONTRACTOR, its parent and affiliated companies and their respective directors, officers, employees and agents from and against any and all costs, liabilities, claims, demands and causes of action including, without limitation, any bodily injury to or death of any person or destruction of or damage to property which CONTRACTOR may suffer, incur, or pay out, to the extent such are caused by the negligence or willful misconduct of CUSTOMER, its employees or agents or the failure of CUSTOMER to comply with any laws, regulations or other lawful authority or the failure of CUSTOMER to comply with its duties or obligations under this Agreement; except to the extent such liabilities, claims, demands and causes of action result from CONTRACTOR's failure to comply with any laws, regulations or lawful authority, or CONTRACTOR's failure to comply with its obligations under this Agreement or result from the negligence or willful misconduct of CONTRACTOR, its employees or agents.

Notwithstanding the foregoing, CUSTOMER shall indemnify, defend and hold harmless CONTRACTOR, its parent and affiliated companies and their respective directors, officers, employees, agents and subcontractors from and against any and all costs, liabilities, claims, demands and causes of action for pollution damages; contamination or adverse effects on the environment; destruction of, damage to, or loss of, whether actual or alleged, any property or natural resources, including the cost of assessing the damage; injury to or economic losses resulting from destruction of real or personal property; damages for loss of subsistence use of

natural resources, damages equal to the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property or natural resources; damages for net costs of providing increased or additional public services; removal costs; and any other costs assessable under the Oil Pollution Act of 1990, the Comprehensive Environmental Response, Compensation and Liability Act or other local, state or Federal law or lawful authority applicable to discharges or releases of oil or hazardous substances which CONTRACTOR, individually or collectively, may suffer, incur, or pay out in connection with, or arising out of the release of oil or hazardous substances by CUSTOMER; provided, however, that the foregoing indemnity shall not apply to any claims, liabilities or causes of action caused by the transportation or disposal of waste materials by CONTRACTOR.

CUSTOMER agrees that CONTRACTOR shall not be responsible for pre-existing contamination at the job location, natural resource damage, or for indirect, incidental, consequential or special damages, including loss of use or lost profits, resulting from or arising out of the performance of the Scope of Work by CONTRACTOR, its employees, agents and/or subcontractors.

8. The performance of this Agreement, except for the payment of money for Services already rendered, may be suspended by either party in the event performance of this Agreement is prevented by a cause or causes beyond the reasonable control of such party. Such causes shall include but not be limited to: acts of God, acts of war, riot, fire, explosion, accidents, inclement weather, or sabotage; lack of adequate fuel, power, raw materials, labor or transportation facilities; changes in government laws, regulations, orders, or defense requirements; restraining orders, labor disputes, strike, lock-out or injunction (provided that neither party shall be required to settle a labor dispute against its own best judgement). The party which is prevented from performing by a cause beyond its reasonable control shall use its best efforts to eliminate such cause or event.
9. This Agreement may be terminated by either party upon forty-eight (48) hours prior notice to the other party.



10. Any notice to be given under this Agreement shall be in writing and delivered to the address listed below:

Customer: Alt Energy LLC
41805 Allonae Street
Fremont CA 94538

Contractor: Clean Harbors Environmental Services, Inc.
42 Longwater Drive,
P.O. Box 9149
Norwell, MA 02061-9149
Attn: General Counsel (Urgent Contract Matter)

11. Waiver - Any waiver by either party of any provision or condition of this Agreement shall not be construed or deemed to be a waiver of any other provision or condition of this Agreement, nor a waiver of a subsequent breach of the same provision or condition.

Severability - If any section, subsection, sentence or clause of this Agreement shall be deemed to be illegal, invalid or unenforceable for any reason, such illegality, invalidity or unenforceability shall not affect the legality, validity or enforceability of this Agreement or other sections of this Agreement.

Entire Agreement - This Agreement and Exhibits to this Agreement represent the entire understanding and agreement between CUSTOMER and CONTRACTOR and supersedes any and all prior agreements, whether written or oral, that may exist between the parties regarding same. Modifications to this Agreement shall be effective only if in writing and signed by the CUSTOMER and CONTRACTOR. Additional, conflicting or different terms on any Purchase Order or other preprinted document issued by CUSTOMER shall be void and are hereby expressly rejected by CONTRACTOR.

Survival - The provisions contained in Article 2, 3, 4, 7 and 11 shall survive and remain in effect following the termination of this Agreement.

Applicable Law - This Agreement shall be interpreted and enforced according to the Laws of the Commonwealth of Massachusetts and the parties agree to submit to the jurisdiction of the courts of the Commonwealth of Massachusetts for any disputes arising under this Agreement.

CUSTOMER'S AUTHORIZED REPRESENTATIVE OR AGENT



CLEAN HARBORS ENVIRONMENTAL SERVICES, INC. (CONTRACTOR)

[Signature]
Signature
Sunny Gayer
Print Name
10/2/13
Date

Signature

Print Name

Date

	Seaport Environmental	700 Seaport Blvd. Redwood City, CA 94063 Epa Id# CA 000013572	650.364.1024 Phone 650.364.1021 Fax	
	Home Treatment Processes Remediation with Ozone Acceptance Procedure Directions Contact Jobs			

Non-Hazardous Waste Water Characterization Form

Address of Responsible Party

Name: VINTNERS DISTRIBUTION
 Authorized Rep: SUNNY GOYAL
 Street: 4180.5 Alhambra ST
 City: FREEMONT State: CA
 Phone: 510-657-9150

Site Address (if different)

Name: POWELL STREET SHELL #102
 Contact: JOHN ELLIS
 Street: 1800 POWELL STREET
 City: EMERYVILLE State: CA
 Phone: 910-270-3418

Activity or Process Producing Wastewater (check all that apply):

Monitoring well sampling
 Monitoring well development/auger
 rinsate
 Excavation and Dewatering
 Pump test

Other (describe):

Suspected Source of Contaminants:

Does (or did) the site contain one or more underground storage tanks (UST's) for fuel? Yes No
 Is a UST the suspected source of contamination? Yes No
 Are you aware of any other possible sources or causes of waste water contamination at the site? If Yes, please describe: Yes No

Wastewater Characterization:

Please provide copies of the results of any analytical work carried out on the wastewater.

Is the pH less than 2 or greater than 12.5? Yes No
 Is the flashpoint less than 140 F (60 C)? Yes No
 Is there any reason to suspect the presence of reactive cyanides or sulfides? Yes No
 Is there any reason to suspect that the waste water would prove toxic in a fish bio-assay test? Yes No
 Is there separate-phase liquid present in the waste water? Yes No

Can you detect any hydrocarbon odor from the wastewater?

Yes No

Was the wastewater tested for hydrocarbons?

Yes No

Is there any reason to suspect the presence of chlorinated hydrocarbons such as trichloroethylene?

Yes No

Was the wastewater tested for chlorinated hydrocarbons ?

Yes No

Is there any reason to suspect the presence of heavy metals, such as lead?

Yes No

Was the wastewater tested for heavy metals? If "Yes", please describe tests and attach copies of the test results.

Yes No

Was the wastewater tested for anything other than the above contaminants? If "Yes", please describe tests and attach copies of the test results.

Yes No

Is there any other analytical test data (eg soil samples) for this site?

Yes No

Is there any soil vapor monitoring data for this site?

Yes No

Please describe the appearance of the waste water.

Color _____

Estimated amount of sediment (% wt) _____

Is there evidence of an emulsion?

Yes No

Estimated Volume of waste water (USG) _____

Generator's Certification that Wastewater is Non-Hazardous

DESCRIPTION OF WATER: CERTIFY THAT THE ABOVE NAMED MATERIAL IS A LIQUID EXEMPT FROM RCRA PER 40 CFR 261.4(b)(10) AND DOES NOT MEET THE CRITERIA OF HAZARDOUS WASTE AS DESCRIBED IN 22 CCR ARTICLE 11 OR ANY OTHER APPLICABLE STATE LAW, HAS BEEN PROPERLY DESCRIBED, CLASSIFIED AND PACKAGED AND IS IN PROPER CONDITION FOR TRANSPORTATION ACCORDING TO APPLICABLE REGULATIONS.

The information and representations presented above are true and correct to the best of my knowledge.

Sunny Goyd
Generator/Authorised Agent

[Signature] 10/2/13
Signature & Date Approval #

Approval#

