

ALAMEDA COUNTY  
HEALTH CARE SERVICES  
AGENCY  
DAVID J. KEARS, Agency Director



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

July 9, 2008

Paul Supple (*via electronic mail*)  
Atlantic Richfield Company  
(A BP Affiliated Company)  
P.O. Box 1257  
San Ramon, CA 94583

Douglass S. Reinhart (*via electronic mail*)  
BP America, Inc.  
4101 Winfield Road  
Mail Code 4West  
Warrenville, IL, 60555

Subject: Fuel Leak Case No. RO0000307 and Geotracker Global ID T06019734265,  
ARCO #0402, 1450 Fruitvale Avenue, Oakland, CA 94601

Dear Messrs. Supple and Reinhart:

Alameda County Environmental Health (ACEH) staff has reviewed the document entitled, "Refute Responsible Party Status for 1450 Fruitvale Avenue, Oakland, California 94601," dated June 20, 2008, which was prepared for the subject site. First of all, thank you for identifying a conflicting statement our May 22, 2008 correspondence. Mr. Reinhart correctly identifies the statement "[a]ccording to the Corporation Grant Deed (enclosed) recorded by the County of Alameda Recorder on June 18, 1976, the subject site was sold by Atlantic Richfield Company to Curtis L. Thomas sometime in June 1976, when the station was demolished," in our May 22, 2008 correspondence conflicts with AEI's report that states "[t]he gas station was demolished and the existing warehouse was constructed after 1983." Although the statement appears to conflict with AEI's report, on the bottom of page 2 and continued on page 3 of the *Limited Phase I and Phase II Environmental Site Assessment*, prepared by Glenfos, Inc., it is stated "[i]n 1976, the property was bought by a Mr. Curtis Thomas, who demolished the gasoline station and constructed the existing warehouse/residential building." Therefore, we believe the statement is consistent with documents you have reviewed in our case file and trust that this provides clarification and rationale for our statement in the May 22, 2008 correspondence.

BP America state they do not meet the definition of responsible party because "the underground storage tanks at the site appear to have been operated by at least one other person (Curtis Thomas) after Atlantic Richfield Company and before discontinuation of their use." BP America has enclosed a plumbing inspection form (plumbing permit application) dated November 29, 1976 as evidence that Mr. Curtis Thomas used the building as a gas station. However, from reviewing the enclosed plumbing inspection form it appears that Mr. Thomas applied for a natural gas line to the building supplied by Pacific Gas and Electric (PGE) as circled on the plumbing inspection form. Based on evidence submitted by BP America, it cannot be definitely determined that Mr. Thomas operated a gasoline dispensing facility from June 1976 to 1983, since reports in our case file contain conflicting information from the date of sale of the property until the site was redeveloped and it cannot be determined whether Mr. Thomas operated a gasoline station. Regardless of the plumbing inspection form provided by BP America, ACEH is certain that

Atlantic Richfield Company operated a gasoline station from circa 1950 to 1976. Based on these facts, the most likely conclusion is that an unauthorized release occurred during the time period that Atlantic Richfield operated the service station. Therefore, we maintain our contention that BP America meets the definition of a responsible party because Atlantic Richfield Company was an "owner of property where an unauthorized release of a hazardous substance from an underground storage tank has occurred."<sup>1</sup>

ACEH respectfully request that BP America submit any substantive and convincing documentation BP America may have such as fuel delivery receipts, UST operating or removal permits, etc. that clearly affirms or refutes their responsible party status for the subject site by the date specified below. Should no documentation be found, ACEH request that BP America cooperate with the existing responsible parties and submit the documents requested by the date specified below.

### **TECHNICAL REPORT REQUEST**

Please submit technical reports and work plans to Alameda County Environmental Health (Attention: Paresh Khatri), according to the following schedule:

- **August 8, 2008** – Documentation to affirm or refute RP Status
- **August 25, 2008** – Soil and Water Investigation Work Plan
- **October 30, 2008** – Quarterly Monitoring Report (3<sup>rd</sup> Quarter 2008)
- **January 30, 2009** – Quarterly Monitoring Report (4<sup>th</sup> Quarter 2008)
- **April 30, 2009** – Quarterly Monitoring Report (1<sup>st</sup> Quarter 2009)
- **July 30, 2009** – Quarterly Monitoring Report (2<sup>nd</sup> Quarter 2009)

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."

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<sup>1</sup> California Code of Regulations, Division 3, Chapter 16, §2720

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](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

Messrs. Supple and Reinhart  
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Code, Section 25299.76 authorizes enforcement including administrative action or monetary penalties of up to \$10,000 per day for each day of violation.

If you have any questions, please call me at (510) 777-2478 or send me an electronic mail message at [paresh.khatri@acgov.org](mailto:paresh.khatri@acgov.org).

Sincerely,



Paresh G. Khatri  
Hazardous Materials Specialist



Donna L. Drogos, PE  
Supervising Hazardous Materials Specialist

Enclosure: ACEH Electronic Report Upload (ftp) Instructions

cc: Bill Puha, Fruitvale Farnam Associates, LLC, 141 Woodland Way, Piedmont, CA 94611  
Ken Phares, Jay Phares Corporation, 10700 Macarthur Blvd., Oakland, CA 94605  
Curtis & Joyce Thomas, 810 Lisbon Ave., Oakland, CA 94601-1446  
Tom Venus, Broadbent & Associates, Inc., 1324 Mangrove Ave., Ste 212, Chico, CA 95926  
(sent via electronic mail to [tvenus@broadbentinc.com](mailto:tvenus@broadbentinc.com))  
Leroy Griffin, Oakland Fire Department, 250 Frank H. Ogawa Plaza, Ste. 3341, Oakland, CA  
94612-2032 (sent via electronic mail to [lgriffin@oaklandnet.com](mailto:lgriffin@oaklandnet.com))  
Ken Mifsud, Office of the District Attorney (sent via electronic mail to [ken.mifsud@acgov.org](mailto:ken.mifsud@acgov.org))  
Donna Drogos, ACEH (sent via electronic mail to [donna.drogos@acgov.org](mailto:donna.drogos@acgov.org))  
Paresh Khatri, ACEH (sent via electronic mail to [paresh.khatri@acgov.org](mailto:paresh.khatri@acgov.org))  
File

<b>Alameda County Environmental Cleanup Oversight Programs (LOP and SLIC)</b>	<b>ISSUE DATE:</b> July 5, 2005
	<b>REVISION DATE:</b> December 16, 2005
	<b>PREVIOUS REVISIONS:</b> October 31, 2005
<b>SECTION:</b> Miscellaneous Administrative Topics & Procedures	<b>SUBJECT:</b> Electronic Report Upload (ftp) Instructions

Effective **January 31, 2006**, 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

- Entire report including cover letter must be submitted to the ftp site as a **single portable document format (PDF) with no password protection**. (Please do not submit reports as attachments to electronic mail.)
- 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)

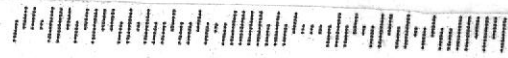
#### Additional Recommendations

- A separate copy of the tables in the document should be submitted by e-mail to your Caseworker in **Excel** format. These are for use by assigned Caseworker only.

#### 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](mailto:dehloptoxic@acgov.org)
    - or
    - ii) Send a fax on company letterhead to (510) 337-9335, to the attention of Alicia Lam-Finneke.
  - 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 and Firefox browsers will not open the FTP site.
  - b) Click on File, then on Login As.
  - 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](mailto: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 at 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)

Alameda Coun  
Environmental  
1131 Harbor Bay Parkway, #250  
Alameda, CA 94502-6577



Alameda County  
JUL 21 2008  
Environmental Health

RETURN TO  
SENDER

Curtis & Joyce Thomas  
810 Lisbon Avenue  
Oakland, CA 94601-1446

NOT AT THIS  
ADDRESS

NIXIE 945 SE 1 30 07/18/08  
RETURN TO SENDER  
ATTEMPTED - NOT KNOWN  
UNABLE TO FORWARD  
BC: 94502654031 \*2605-04817-18-28

945026540

