



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

NOTICE OF VIOLATION

November 7, 2011

Mr. Michael Liu
MLSC Investment LLC
1663 MacArthur Blvd.
Oakland 94602-1661

Ms. Pamela Brown
Address Unknown

Mr. Jeffrey Hammond
Merritt Environmental Corporation
Address Unknown

Subject: Notice of Violation for Fuel Leak Case No. RO0000419 and GeoTracker Global ID T0600102304, Merritt Environmental Corporation, 1044 5th Avenue, Oakland, CA 94606

Dear Mr. Liu, Ms. Brown, and Mr. Hammond:

Alameda County Environmental Health (ACEH) staff has reviewed the fuel leak case file for the above referenced site. In correspondence dated July 18, 2011, ACEH requested that you submit a Work Plan that addresses the technical comments below no later than September 19, 2011. To date, we have not received the requested Work Plan.

This letter is an additional attempt to preclude further enforcement actions. We request that you submit the documents described in the Technical Comments and Technical Report Request below **no later than January 9, 2012**. If we do not receive the requested Work Plan by January 9, 2012, ACEH will recommend that the Underground Storage Tank Cleanup Fund (Fund) remove the subject site from the Fund, and thus eligibility for all investigation and cleanup cost reimbursement. Once removed, the costs associated with all current or future subsurface investigations and/or cleanup work that may be required at your site will not be reimbursed.

Failure to submit the requested Work Plan by the due date specified below may also result in referral and possible enforcement action by the District Attorney. Pursuant to Chapter 6.7, California Health and Safety code, civil penalties up to \$10,000 for each UST for each day of violation may be imposed.

REQUEST FOR INFORMATION

We request that you submit copies of any reports you have documenting additional investigation activities or other work that are relevant to the fuel release or other unauthorized releases and not currently in ACEH case files. This includes Phase I environmental site assessment reports and site investigations conducted for potential real estate transactions. The additional information is to be submitted no later than January 9, 2012. ACEH case files may be reviewed online using the ACEH website (<http://www.acgov.org/aceh>).

TECHNICAL COMMENTS

1. **Land Use.** A two-story building was constructed over a large portion of the site in 2000. Please describe the current use of the building, whether it is commercial, residential, or mixed use. Please identify any projected future land use that would involve a residential or more conservative land use. This information is to be presented in the Work Plan requested below.
2. **Monitoring Well.** One monitoring well was installed at the site in July 1997. This well appears to be located within the footprint of the current building. Please describe how this well was decommissioned prior to construction of the building. Please provide the documentation for well decommissioning including the well destruction permit and well driller's report in the Work Plan.
3. **Potential for Vapor Intrusion.** TPHg and benzene were detected in a grab groundwater sample collected from boring B-3 at concentrations of 60,000 and 1,800 µg/L, respectively. The current two-story building was constructed directly over the residual contamination in the area of boring B-3. The concentration of benzene detected in groundwater at boring B-3 exceeds the Environmental Screening Level for potential vapor intrusion to indoor air under a residential land use scenario (San Francisco Bay Regional Water Quality Control Board May 2008). In the Work Plan requested below, please propose a scope of work to evaluate the potential for vapor intrusion to indoor air.
4. **GeoTracker Requirements.** On July 3, 2008 Alameda County Environmental Health (ACEH) staff issued a letter requesting that the site be claimed in the State Water Resource Control Board's (SWRCBs) Geotracker database. On July 24, 2009, a Notice of Violation was issued by ACEH because the site had not been claimed in the SWRCBs Geotracker database. Review of the GeoTracker database indicates that the site still has not been claimed. Therefore, the site is out of compliance with the GeoTracker requirements. Pursuant to California Code of Regulations, Title 23, Division 3, Chapter 30, Articles 1 and 2, Sections 3893, 3894, and 3895, you are required to claim your site and subsequently transmit electronic reports and other site data to the GeoTracker website.

TECHNICAL REPORT REQUEST

Please submit technical reports to Alameda County Environmental Health (Attention: Jerry Wickham), according to the following schedule:

- **January 9, 2012** – Work Plan

If you have any questions, please call me at (510) 567-6791 or send me an electronic mail message at jerry.wickham@acgov.org. Case files can be reviewed online at the following website: <http://www.acgov.org/aceh/index.htm>.

Sincerely,

Jerry Wickham
Senior Hazardous Materials Specialist

Responsible Parties
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Attachment: Responsible Party(ies) Legal Requirements/Obligations

Enclosure: ACEH Electronic Report Upload (ftp) Instructions

cc: Leroy Griffin, Oakland Fire Department, 250 Frank H. Ogawa Plaza, Ste. 3341, Oakland, CA 94612-2032 (Sent via E-mail to: lgriffin@oaklandnet.com)

Paul King, P & D Environmental, 55 Santa Clara Avenue, Suite 240, Oakland, CA 94610
(Sent via E-mail to PDKing0000@aol.com)

Donna Drogos, ACEH (Sent via E-mail to: donna.drogos@acgov.org)
Jerry Wickham, ACEH (Sent via E-mail to: 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.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 Code, Section 25299.76 authorizes enforcement including administrative action or monetary penalties of up to \$10,000 per day for each day of violation.

Alameda County Environmental Cleanup Oversight Programs (LOP and SLIC)	REVISION DATE: July 20, 2010
	ISSUE DATE: July 5, 2005
	PREVIOUS REVISIONS: October 31, 2005; December 16, 2005; March 27, 2009; July 8, 2010
SECTION: Miscellaneous Administrative Topics & Procedures	SUBJECT: 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 dehloptoxic@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 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 @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.