
San Francisco Bay Regional Water Quality Control Board

May 16, 2014
File No. 01-0170 (RAL)

Desert Petroleum Inc.
Attn: William Thompson,
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Tony Razi
3609 East 14th Street
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SUBJECT: Former Desert Petroleum UST Site, 4035 Park Blvd., Oakland, Alameda County - Requirement for a Technical Report for Monitoring Well Destruction and Waste Removal

Dear Messers:

This letter requires you to submit a technical report related to investigation and cleanup of pollutant releases at the subject Site.

The Regional Water Board did not receive any comments in response to the March 5, 2014, notification of intent to issue a closure letter for pollutant releases at this UST site. The comment period ended May 8, 2014. Before Regional Board staff can issue that closure letter, you are required to provide documentation that the monitoring wells and extraction trench have been properly destroyed to prevent them from serving as conduits for subsurface pollution. You are also required to document that all waste piles, drums, and other investigation or remediation-derived materials have been properly managed and removed from the site to prevent those materials from causing contamination or nuisance conditions at the site.

You are required to submit a technical report to this office by August 29, 2014, documenting the proper decommissioning of the monitoring wells and extraction trench and that all drums, debris and other investigation or remediation derived materials were properly managed and removed from the Site in accordance with regulatory requirements.

This requirement for a technical report is made pursuant to Water Code Section 13267, which allows the Regional Water Board to require technical or monitoring program reports from any person who has discharged, discharges, proposes to discharge, or is suspected of discharging waste that could affect water quality. The attachment provides additional information about Section 13267 requirements. Any extension in the above deadline must be confirmed in writing by Regional Water Board staff.

In addition to a hard copy you are also required to submit all documents in electronic format to the State Water Resources Control Board's GeoTracker database. Guidance for electronic information submittal is available at http://www.waterboards.ca.gov/water_issues/programs/ust/electronic_submittal/. Please note that this requirement includes all analytical data, monitoring well latitudes, longitudes, elevations, water depth, site maps, and boring logs (PDF format).

All reports submitted should have the Regional Water Board file number 01-0170 on the first page of the report. You are responsible for obtaining any necessary approvals or permits from all agencies having jurisdiction over any aspect of the proposed work. These agencies may include the local Public Works Department and the Alameda County Environmental Health Services Department.

Please direct all questions and correspondence regarding this matter to Ralph Lambert at (510)-622-2382 or email RALambert@waterboards.ca.gov.

Sincerely,

Bruce H. Wolfe
Executive Officer

Attachment: Fact Sheet – Requirements for Submitting Technical Reports Under Section 13267 of the California Water Code

Copy via Email with attachment:

State Water Resources Control Board
UST Cleanup Fund Unit
Attn: Lisa Labrado
LLabrado@waterboards.ca.gov

Attorney for Glenview Neighborhood
Association
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Alameda County Environmental Health
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San Francisco Bay Regional Water Quality Control Board

Fact Sheet – Requirements for Submitting Technical Reports Under Section 13267 of the California Water Code

What does it mean when the Regional Water Board requires a technical report?

Section 13267¹ of the California Water Code provides that "...the regional board may require that any person who has discharged, discharges, or who is suspected of having discharged or discharging, or who proposes to discharge waste...that could affect the quality of waters...shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires."

This requirement for a technical report seems to mean that I am guilty of something, or at least responsible for cleaning something up. What if that is not so?

The requirement for a technical report is a tool the Regional Water Board uses to investigate water quality issues or problems. The information provided can be used by the Regional Water Board to clarify whether a given party has responsibility.

Are there limits to what the Regional Water Board can ask for?

Yes. The information required must relate to an actual or suspected or proposed discharge of waste (including discharges of waste where the initial discharge occurred many years ago), and the burden of compliance must bear a reasonable relationship to the need for the report and the benefits obtained. The Regional Water Board is required to explain the reasons for its request.

What if I can provide the information, but not by the date specified?

A time extension may be given for good cause. Your request should be promptly submitted in writing, giving reasons.

Are there penalties if I don't comply?

Depending on the situation, the Regional Water Board can impose a fine of up to \$5,000 per day, and a court can impose fines of up to \$25,000 per day as well as criminal penalties. A person who submits false information or fails to comply with a requirement to submit a technical report may be found guilty of a misdemeanor. For some reports, submission of false information may be a felony.

Do I have to use a consultant or attorney to comply?

There is no legal requirement for this, but as a practical matter, in most cases the specialized nature of the information required makes use of a consultant and/or attorney advisable.

What if I disagree with the 13267 requirements and the Regional Water Board staff will not change the requirement and/or date to comply?

You may ask that the Regional Water Board reconsider the requirement, and/or submit a petition to the State Water Resources Control Board. See California Water Code sections 13320 and 13321 for details. A request for reconsideration to the Regional Water Board does not affect the 30-day deadline within which to file a petition to the State Water Resources Control Board.

If I have more questions, whom do I ask?

Requirements for technical reports include the name, telephone number, and email address of the Regional Water Board staff contact.

¹ All code sections referenced herein can be found by going to www.leginfo.ca.gov.

Revised January 2014