



ENVIRONMENTAL HEALTH SERVICES
ENVIRONMENTAL PROTECTION
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(510) 567-6700
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March 2, 2010

Mr. William Thompson
Desert Petroleum
3781 Telegraph Road
Ventura, CA 93003-3420

Mr. Kin Man Li et al.
P.O. Box 348
Oakland, CA 94604

Mr. Tony Razi
3609 East 14th Street
Oakland, CA 94601

Golpad & Karimabadi
c/o Matt Haley
1633 San Pablo Avenue
Oakland, CA 94608

Subject: Fuel Leak Case No. RO0000429 and Geotracker Global ID T0600100158, Desert Petroleum Site DP793, 4035 Park Boulevard, Oakland, CA 94602 – Comments from Glenview Neighborhood Association

Dear Mr. Thompson, Li, Razi, and Haley:

The Glenview Neighborhood Association has submitted the attached comments dated November 6, 2009 on the planned remedial action at your site. The planned remedial actions, which include the excavation and removal of contaminated soil, were proposed in a series of work plans and revised work plans prepared on your behalf by Western Geo-Engineers, the most recent of which was entitled, *"Revision of the February 6, 2006 Work Plan for Site DP793 Located at 4035 Park Blvd., Oakland, CA,"* dated August 28, 2009. The remedial actions were proposed to begin in September and October 2009 but were delayed due to requests by Alameda County Environmental Health (ACEH) for a minimum time period for notification of nearby residents of the planned action and also by permitting issues. Therefore, the proposed remedial excavation has not been implemented to date.

The attached comments were forwarded to your consultant, Western Geo-Engineers on November 9, 2009 with a request that responses to comments 1 through 9 be prepared and submitted to ACEH for review by November 23, 2009. No responses have been received to date. Preparation of adequate responses to comments 1 through 9 contained in the attached November 6, 2009 correspondence from the Glenview Neighborhood Association is a requirement for this project and must be completed by March 25, 2010. **If we do not receive adequate responses to comments 1 through 9 in the attached November 6, 2009 correspondence by March 25, 2009, your site will be considered out of compliance with directives from this agency and a Notice of Violation may be issued.**

TECHNICAL REPORT REQUEST

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

- **March 25, 2010** – Responses to Comments 1 through 9 in the Attached Correspondence from the Glenview Neighborhood Association dated November 6, 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." 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/cleanup/electronic_reporting).

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 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

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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 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.

If you have any questions, please call me at (510) 567-6791 or send me an electronic mail message at jerry.wickham@acgov.org.

Sincerely,

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

Attachments: Correspondence from Glenview Neighborhood Association dated November 6, 2009

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*)

Robert B. Gray, Law Office of Robert B. Gray, 1970 Broadway, Suite 1200, Oakland, CA 94612 (*Sent via First Class Mail and E-mail to: r_gray@ix.netcom.com*)

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George Converse, Western Geo-Engineers, 1386 Beamer Street, Woodland, CA 95776
(Sent via E-mail to: wege@cal.net)

Michael Gabriel, Glenview Neighborhood Association, 4200 Park Boulevard, Box 111
Oakland, CA 94602

Derrick Williams, 4032 Brighton Avenue, Oakland, CA 94602

Donna Drogos, ACEH (Sent via E-mail to: donna.drogos@acgov.org)
Jerry Wickham, ACEH

Geotracker, File

Alameda County

NOV 10 2009

Environmental Health

LAW OFFICE OF ROBERT B. GRAY

1970 Broadway, Suite 1200

Oakland, California 94612

(510) 444-5895

Fax: (510) 530-6926

November 6, 2009

Mr. Jerry Wickham
Senior Hazardous Materials Manager
Environmental Health Services, Environmental Protection
Alameda County Health Care Services Agency 1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502

re:Fuel Leak Case No RO0000429, Desert Petroleum Site DP793,
4035 Park Boulevard, Oakland, CA 94602 –
Glenview Neighborhood Association Concerns Regarding Proposed Remediation

Dear Mr. Wickham:

The Board of Directors of Glenview Neighborhood Association has reviewed the *Notice of Soil Removal Action* (September 17, 2009) and the *Revision of the February 6, 2006 Work Plan for site DP793 located at 4035 Park Blvd, Oakland, CA* (August 28, 2009) and we have some questions and concerns. The location of the Site is adjacent to a bus stop, a casual carpool pickup, a church, and is several houses up from a preschool. Park Boulevard is a busy thoroughfare, with school children walking to nearby Glenview Elementary and Edna Brewer Middle School, and adults walking to the Glenview shopping district.

We are in favor of the remediation proceeding expeditiously, and our intent with this letter is not to slow down or obstruct the process, but simply to gain clarity on several issues and to make sure that neighborhood health and safety concerns have been addressed in the planning stage and will be addressed during implementation of the work.

Here are a few of the issues for which we request clarification.

1. Scheduled Start Date: A start date was included in the fact sheet, but that date has passed. It is our understanding that work was to proceed in mid-October, but to date, the only sign of construction has been USA marking on the sidewalk. From the ACEH website, it appears that the City had voiced concerns over mass excavation during the rainy season, but there is no written record of whether the project has been delayed. What is the current schedule for the work?

2. Project Schedule: Neither the fact sheet nor the Work Plan appear to contain a schedule. How long will the various tasks included in the excavation work take?

3. Air monitoring during excavation: benzene is a known carcinogen – how will the responsible parties (RPs) monitor to show that they are not impacting neighbors, bus riders or casual carpoolers. Also, what contingency plan will they have in place to address odor or dust complaints, and to address out of spec monitoring results? PID monitoring, which they propose, addresses total volatile organic compounds (VOCs). How will they demonstrate that the concentrations of benzene are safe at the property line?

4. Impact on neighboring community uses: There is a daycare center on Park 3 to 4 houses below on Brighton – does the RP's air monitoring plan take this into account? Will the bus stop and casual carpool locations be affected by the work? How will they protect health and safety of users of those locations?

5. Stockpiles: How high and large will the stockpiles be? The RPs appear to be planning to create two or three stockpiles: one with 800 cubic yards of soil and two others with a combined total of approximately 900 cubic yards of soil. Where are they planning to put that much soil? How will stockpile covers be maintained? Is there a maximum stockpile height and slope that is allowed?

6. Soil Aeration: According to the fact sheet, the RPs appear to be considering the possibility of soil aeration at the site. We are opposed to the use of aeration at this site due to the proximity of homes, bus stops, casual carpools, a day care center and a church. Do they have a BAAQMD permit for aeration? If soil is not suitable for reuse, it should be loaded and hauled to an appropriate disposal site and is a traffic control plan for the hauling vehicles yet made?.

7. Traffic Control: If the RPs are planning to off haul soil, how do they plan to access the site with trucks, what will be the traffic control requirements, where will waiting trucks be parked, and how long will they be allowed to idle? Will flagging and flagmen be required when they are loading and transporting soil? What route will the trucks travel? Will they load from Hampel or Park? If from Hampel, how will they get the trucks into position (Brighton and Edgewood are small streets, not suitable for end dumps, Park Blvd is a major thoroughfare). Where will the trucks go after they leave the site (580 doesn't allow trucks until Grand Ave). If they are going to turn around and go up to 13, where will they do that? How will the contractor keep soil off the roads when they are hauling away? In other words, is there a traffic control plan and a dust control plan, and, if so, who will be responsible for seeing that they are implemented?

8. Excavation Depth: The original work plan included shoring of the excavation. The August 28, 2009 Revision appears to eliminate the shoring and rely on sloping to provide excavation safety. The Revision also indicates that the RPs plan to excavate to a depth of 32 feet below ground surface within 10 feet of the property line. This appears to be in excess of the normal considered angle of repose for soil. Is there an OSHA or CALOSHA requirement that a registered civil engineer review and approve the shoring or slope design for an excavation deeper than 20 feet below ground surface. Has this happened?

9. Effect on Slope Stability: It appears they are planning on installing a lot of gravel at the bottom of the excavation. Will this cause water to accumulate behind the slope at the northwest corner of the site? Will this affect slope stability – isn't there a pretty steep slope behind the gas station lot toward Brighton?

10. Project Supervision/Oversight: Will the City or ACEH be overseeing this project? How are ACEH and the City coordinating their efforts on this project? What permits will be issued? How will community concerns be addressed in a timely manner during the work?

We look forward to your response.


Sincerely, Robert B. Gray
President, Glenview Neighborhood Association

cc:

Craig Pon, Watershed and Storm Water Program, CEDA, City of Oakland, (510) 238-6544,
cpon@oaklandnet.com

Tim Low, Inspection Services, CEDA, City of Oakland, (510) 238-6315,
tlow@oaklandnet.com

Fred Loeser, Right-of-Way Management, CEDA, City of Oakland, (510) 238-6348,
floiser@oaklandnet.com

Ignacio DeLaFeunte, Oakland City Council Member District 5

idelafuente@oaklandnet.com

John Russo, Oakland City Attorney

jrusso@oaklandcityattorney.org

Alameda County Environmental Cleanup Oversight Programs (LOP and SLIC)	ISSUE DATE: July 5, 2005
	REVISION DATE: March 27, 2009
	PREVIOUS REVISIONS: December 16, 2005, October 31, 2005
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

- 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
 - Or
 - ii) Send a fax on company letterhead to (510) 337-9335, to the attention of My Le Huynh.
 - 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 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.