



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

July 11, 2011

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

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

Subject: Rejection of Natural Attenuation Work Plan for Fuel Leak Case No. RO0000429 and GeoTracker Global ID T0600100158, Desert Petroleum Site DP793, 4035 Park Boulevard, Oakland, CA 94602

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

Alameda County Environmental Health (ACEH) staff has reviewed the case file for the above referenced fuel leak case including the most recently submitted document entitled, "*Work Plan, Natural Attenuation Soil Sampling*," dated June 8, 2011 and received by ACEH on June 23, 2011. The Work Plan, which was prepared on your behalf by Western Geo-Engineers, proposes advancing four soil borings within two feet of soil borings previously advanced in 2004. The Work Plan indicates that the purpose of the soil borings is to verify the degree of natural attenuation.

The document entitled, "*Work Plan Natural Attenuation Soil Sampling*," dated June 8, 2011 and the proposed scope of work was not requested by ACEH. We do not believe this work is justified, particularly given the long history of lack of planning, lack of compliance, and extended delays on implementing remediation for this case. If the natural attenuation sampling is performed, the work will be done without ACEH approval and should not be reimbursed by the UST Cleanup Fund.

Although some natural attenuation can be expected to occur over a seven year period, advancing soil borings in the same locations as borings advanced seven years ago does not appear to provide sufficient information to justify further delaying excavation. This release occurred more than 20 years ago. A review of groundwater monitoring results indicates that groundwater concentrations in several wells have increased between 2004 and 2011. Natural attenuation does not appear to be a viable alternative for this site.

In a Notice to Comply dated September 8, 2010, ACEH notified you that this site is out of compliance with directives from this agency and requested that the proposed excavation be implemented in accordance with a Compliance Schedule provided in the September 8, 2010 correspondence. The Compliance Schedule and the progress made to date are noted below:

COMPLIANCE SCHEDULE

In correspondence dated, September 8, 2010, ACEH provided a list of actions with due dates that must be implemented to return the site to compliance:

- **November 18, 2010** – Resume groundwater extraction from well RS-5
- **November 30, 2010** – Complete permitting process for excavation and submit a schedule for ACEH review for planning and implementing excavation with excavation start date no later than May 30, 2011
- **December 6, 2010** – Begin construction of treatment compound for intercept trench
- **January 6, 2011** – Treatment compound operational

PROGRESS ON COMPLIANCE SCHEDULE

The following is a summary of the progress to date on the actions required in the Compliance Schedule:

1. **Resume Groundwater Extraction from Well RS-5.**
Requested Date: November 18, 2010
Actual Date: April 6, 2011

Without ACEH concurrence or approval, pumping of on-site well RS-5 was suspended and the submersible pump, pump controller, and water totalizing meter removed from the site. Pumping from RS-5 had influenced off-site water levels and may have been effective in reducing off-site impacts. The equipment was reinstalled and pumping from well RS-5 was resumed on April 6, 2011.

2. **Complete Permitting Process for Excavation and Submit a Schedule for ACEH Review for Planning and Implementing Excavation with Excavation Start Date No Later than May 30, 2011**
Requested Date: November 30, 2010
Actual Date: Not completed

Excavation of soils in the source area was proposed in a Work Plan dated February 13, 2006 and approved by ACEH in correspondence dated April 4, 2006. Since 2006, the plans for excavation have been modified in response to alternate proposals from Western Geo-Engineers, ACEH technical comments, and comments from concerned members of the public. However, excavation has not been implemented to date. Most recently, the remedial excavation was scheduled to begin in August 2010 but was postponed apparently because funds were not available. Due to the long-term and repeated delays in proceeding with excavation, this fuel leak case is currently out of compliance with directives from this agency. In order to avoid the repeated delays over the past two years that have occurred in proceeding with excavation, we requested that permitting for the excavation be completed by November 30, 2010 with an excavation start date no later than May 31, 2011. The permitting

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process is not complete and this case is out of compliance. You must complete the permitting process and undertake the proposed excavation as soon as possible.

3. Treatment Compound Operational
Requested Date: January 6, 2011
Actual Date: April 6, 2011

The treatment compound became operational on April 6, 2011.

This site remains out of compliance with directives from this agency. You are required to complete the permitting and undertake the proposed excavation as soon as possible. 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

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 2032 (Sent via E-mail to: lgriffin@oaklandnet.com)

Sunil Ramdass, State Water Resources Control Board, 1001 I Street, Sacramento, CA 94244 (Sent via E-mail to: Sramdass@waterboard.ca.gov)

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

Robert Gray, Glenview Neighborhood Association, 1970 Broadway, Suite 1200, Oakland, CA 94612 (Sent via E-mail to: r_gray40@sbcglobal.net)

Robert Roat, Glenview Neighborhood Association (Sent via E-mail to: broat@earthlink.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 (Sent via E-mail to: jerry.wickham@acgov.org)

GeoTracker, eFile

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.waterboards.ca.gov/water_issues/programs/ust/electronic_submittal/).

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 deh.loptoxic@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 deh.loptoxic@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.