



ENVIRONMENTAL HEALTH DEPARTMENT
ENVIRONMENTAL PROTECTION
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July 11, 2013

Ms. Julie Treinen
Griffin Capital Investors LLC
2321 Rosecrans, Suite 3290
El Segundo, CA 90245
(sent via electronic mail to jtreinen@griffincapital.com)

Mr. Walt Kaczmarek
Unknown address

Ms. Denise Pingston
TMG Partners
100 Bush St. #2600
San Francisco, CA 94104
(sent via electronic mail to dpingston@tmgpartners.com)

Subject: Additional Information Request; Fuel Leak Case No. RO0000440 and Geotracker Global ID T0600100511, Emery Bay Plaza, 1650 65th Street, Emeryville, CA 94608

Dear Meses. Treinen and Pingston, and Mr. Kaczmarek:

Alameda County Environmental Health (ACEH) has reviewed the recently submitted documents entitled *Site Conceptual Model*, dated May 22, 2013, *Low-Threat Case Closure Evaluation*, dated May 22 2013, and *Intrusive Earthwork Guidance Plan*, dated May 5, 2005. The reports were prepared on your behalf by PES Environmental, Inc (PES).

ACEH has evaluated the data and recommendations presented in the above-mentioned report, in conjunction with the case files, and the State Water Resources Control Board's (SWRCBs) Low Threat Underground Storage Tank Case Closure Policy (LTCP). Based on our review, we have determined that insufficient data has been presented for ACEH to make a final determination on whether the site meets the LTCP General Criteria d (Free Product), the Media-Specific Criteria for Groundwater, the Media-Specific Criteria for Vapor Intrusion to Indoor Air, and the Media-Specific Criteria for Direct Contact and Outdoor Air.

Therefore ACEH would like to schedule a meeting at our office in Alameda with you and your consultant to provide a format for you to present additional details/clarification on the items discussed in the technical comments below, prior to making a final determination on whether the site qualifies for closure under the LTCP. Please call or email us by **July 30, 2013** with proposed dates and times for the meeting.

TECHNICAL COMMENTS

- 1. General Criteria d; Removal of FP to the Maximum Extent Practicable** – Analytical data generated in March 2012 indicates that soil contamination appears to be present up to 13,000 mg/kg Total Petroleum Hydrocarbons [TPH] as gasoline, 1,200 mg/kg TPH as diesel, 1,600 mg/kg TPH as motor oil, 160 mg/kg benzene, 290 mg/kg ethylbenzene, and 1,080 mg/kg total xylenes at or below groundwater, within approximately 20 feet of the source, and within 20 feet of the building at the site. These concentrations are significantly over concentrations that the *Technical Justification for Vapor Intrusion Media-Specific Criteria* (generated in support of the LTCP), suggests is "indirect" evidence of Light Non-Aqueous Phase Liquids (LNAPL; 10 to 50 mg/kg TPH as diesel and 100 to 200 mg/kg TPH as gas). Grab groundwater concentrations were not collected at these bore locations (SB-3 and SB-5), nor was a temporary well placed in the borings to determine if LNAPL was present at that time.

- 2. Vapor Intrusion into Indoor Air Media Specific Criteria** – Sub-slab samples collected at approximately 0.5 ft bgs are below RWQCB ESLs. ACEH notes that a methane mitigation system has been installed at the site that appears to afford a level of protection to building occupants, but may lead to sub-slab samples that are not indicative of actual soil vapor concentrations. ACEH considers use of VI mitigation systems as a temporary measure only and in conjunction with source removal. This is due to a high probability of system downtime due to component failures, and unintended delays in repair (component unavailability, failure timing, etc). ACEH is not aware of regulatory compliance mechanisms to ensure that the system is operating properly. The submittal of documents reporting soil vapor concentrations at a depth of 4 feet bgs, as requested in Item 5 below, may partially address ACEH's concerns regarding soil vapor concentrations. However, ACEH notes that soil data indicates high concentrations of TPH concentrations in the bioattenuation zone as defined by the LTCP up to 1,600 mg/kg that may correlate to high soil vapor concentrations, and would exclude use of the bioattenuation scenario.
- 3. Direct Contact and Outdoor Air Media Specific Criteria** – The site fails the Direct Contact and Outdoor Air Criteria due to the presence of concentrations of benzene up to 160 mg/kg and ethylbenzene up to 290 mg/kg at an approximate depth of 9 feet; these are over the commercial and utility work concentrations in Table 1 of the LTCP. However, the RFC evaluated these concentrations for a Lifetime Excess Cancer Risk (LECR) and found that the LECR was within the 10 E-6 to 10 E-4 values considered protective of human health at commercial sites by the US EPA, and stated the estimates are likely overstated due to the lack of outdoor air receptors in a parking lot (transient receptors). The *Intrusive Earthworks Guidance Plan* was identified as a document available to manage subsurface work at the site; however, ACEH notes that the Level D personal protective equipment recommendation provided in the *Intrusive Earthworks Guidance Plan* (described in Item 4 below) may not be appropriate for the site.
- 4. Groundwater Media Specific Criteria** – Recent documents surmise that recent benzene fluctuations observed in well MW-8 are from an offsite source. ACEH remains concerned about the stability of benzene concentrations in MW-8, as the concentrations continue to fluctuate at levels near the LTCP criteria for benzene (1,000 ug/l), with the highest concentrations occurring in the Fall.
- 5. Intrusive Earthworks Guidance Plan** – Our review of the case files indicates that the *Intrusive Earthwork Guidance Plan* dated May 5, 2005 was prepared by PES to manage subsurface contamination at the site. The document mentions heavy metals (arsenic, cadmium, lead); the pesticide dieldrin; PCBs, vinyl chloride, and the VOCs from the former Waste Oil / Gasoline UST that is the subject of the current subject regulatory case. Except for the VOCs and TPH associated with the Waste Oil / Gasoline UST, ACEH is not familiar with the distribution or concentrations of the other contaminants, the management or investigation of these contaminants, nor the regulatory oversight framework under which the *Intrusive Earthworks Guidance Plan* was generated. Therefore ACEH requests additional details be provided to determine the appropriateness of this guidance document, the regulatory enforcement mechanism for ensuring compliance with the document, and other applicable institutional controls (i.e. deed restrictions, etc.).
- 6. Electronic Submittal of Information (ESI) Compliance** – Our review of the case file indicates that the submittal of all documents or other communications that have been generated relative to the underground storage tank (UST) and other contaminants at the site, including the document identified in ACEH's electronic correspondence of July 9, 2013 (a June 19, 2003 LFR Phase II Soil, Groundwater, and Soil Vapor Report) have not been uploaded to the ACEH website or to Geotracker. It appears that information may exist that will help facilitate our evaluation, including data from undocumented soil vapor samples.

ACEH looks forward to discussing these items at the meeting. Please contact us by the due date above with proposed dates and times to meet. Should you have any questions, please contact me at (510) 567-6876 or send me an electronic mail message at mark.detterman@acgov.org.

Mses. Treinen and Pingston, and Mr. Kaczmarek
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Sincerely,

Mark E. Detterman, PG, CEG

Senior Hazardous Materials Specialist

Enclosures: Attachment 1 – Responsible Party (ies) Legal Requirements / Obligations
Electronic Report Upload (ftp) Instructions

cc: Chris Baldassari, PES Environmental, Inc, 1682 Novato Blvd, Suite 100, Novato, CA 94947
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Donna Drogos, ACEH, (sent via electronic mail to donna.drogos@acgov.org)

Dilan Roe, ACEH, (sent via electronic mail to: dilan.roe@acgov.org)

Mark Detterman, ACEH, (sent via electronic mail to mark.detterman@acgov.org)

Geotracker, Case Electronic File

ATTACHMENT 1

**Responsible Party(ies) Legal Requirements/Obligations
& ACEH Electronic Report Upload (ftp) Instructions**

Attachment 1

Responsible Party(ies) Legal Requirements/Obligations

REPORT/DATA REQUESTS

These reports/data are being requested pursuant to Division 7 of the California Water Code (Water Quality), Chapter 6.7 of Division 20 of the California Health and Safety Code (Underground Storage of Hazardous Substances), and Chapter 16 of Division 3 of Title 23 of the California Code of Regulations (Underground Storage Tank Regulations).

ELECTRONIC SUBMITTAL OF REPORTS

ACEH's Environmental Cleanup Oversight Programs (Local Oversight Program [LOP] for unauthorized releases from petroleum Underground Storage Tanks [USTs], and Site Cleanup Program [SCP] for unauthorized releases of non-petroleum hazardous substances) require submission of reports in electronic format pursuant to Chapter 3 of Division 7, Sections 13195 and 13197.5 of the California Water Code, and Chapter 30, Articles 1 and 2, Sections 3890 to 3895 of Division 3 of Title 23 of the California Code of Regulations (23 CCR). Instructions for submission of electronic documents to the ACEH FTP site are provided on the attached "Electronic Report Upload Instructions."

Submission of reports to the ACEH FTP site is in addition to requirements for electronic submittal of information (ESI) to the State Water Resources Control Board's (SWRCB) Geotracker website. In April 2001, the SWRCB adopted 23 CCR, Division 3, Chapter 16, Article 12, Sections 2729 and 2729.1 (Electronic Submission of Laboratory Data for UST Reports). Article 12 required electronic submittal of analytical laboratory data submitted in a report to a regulatory agency (effective September 1, 2001), and surveyed locations (latitude, longitude and elevation) of groundwater monitoring wells (effective January 1, 2002) in Electronic Deliverable Format (EDF) to Geotracker. Article 12 was subsequently repealed in 2004 and replaced with Article 30 (Electronic Submittal of Information) which expanded the ESI requirements to include electronic submittal of any report or data required by a regulatory agency from a cleanup site. The expanded ESI submittal requirements for petroleum UST sites subject to the requirements of 23 CCR, Division, 3, Chapter 16, Article 11, became effective December 16, 2004. All other electronic submittals required pursuant to Chapter 30 became effective January 1, 2005. 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, 7835, 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, late 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 SCP)	REVISION DATE: July 25, 2012
	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 (petroleum UST and SCP) 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 .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 <://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 .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.