



ENVIRONMENTAL HEALTH DEPARTMENT  
ENVIRONMENTAL PROTECTION  
1131 Harbor Bay Parkway, Suite 250  
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**THIRD NOTICE OF VIOLATION**

February 1, 2012

James and Arleen Russi  
428 Yorkshire Road  
Alameda, CA 94501-6041

Steven and Cecilia Simi  
1208 Saint Charles Street  
Alameda, CA 94501-3924

Subject: Third Notice of Violation for Fuel Leak Case No. RO0000460 and GeoTracker Global ID T0600102196, Russi Commercial Property, 1347 Park Street, Alameda, CA 94501

Dear Responsible Parties:

Alameda County Environmental Health (ACEH) staff has reviewed the case file for the above referenced site. Thank you for claiming your site in the State Water Resource Control Board's (SWRCBs) Geotracker database; however, a review of ACEH's FTP site and the State's Geotracker database indicates that no submittals have been electronically uploaded rendering the site to non-compliance status. Please note that all reports, work plans, correspondences, etc. must be uploaded to ACEH's FTP site (see the enclosed "ACEH Electronic Report Upload (ftp) Instructions") and to Geotracker. Compliance is required by the State and is tied to reimbursement funding by the Underground Storage Tank Cleanup Fund (USTCF). Based on the documented inaction ACEH will recommend that the USTCF remove the subject site from the Fund, and once the site loses eligibility, 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.

We are sending you this Third Notice of Violation because deadlines for site cleanup have been missed repeatedly. In an August 28, 2008 directive letter, ACEH requested a data gap investigation, evaluation of horizontal and vertical extent of contamination, preferential pathways and sensitive receptors, monitoring well MW-1 sampling and analysis, assessment of free product and potential impacts to adjacent properties, and evaluation of the potential volatilization of naphthalene contamination in the vadose zone. On July 24, 2009, a Notice of Violation was issued by ACEH because the site had not been claimed in Geotracker database and the site's only monitoring well, MW-1 had not been sampled since 2000. On July 21, 2011 a Notice to Comply was issued by ACEH staff because the work requested in directive letters issued since August 2008 had still not been completed.

As the Responsible Party (RP), you are required by 23 CCR §2720 through §2728 to characterize the site and implement corrective action. Implementation of site characterization and/or cleanup at this site is crucial to be protective of human health and the environment and to move this case towards closure evaluation. Due to these delays, your site is out of compliance with directives from this agency.

This letter is an additional attempt to preclude further enforcement actions. Failure to submit the requested documents by the due dates specified below may also result in referral to the Office of the District Attorney for possible enforcement action. Please note that civil penalties for non-compliance are assessed from the due date of October 21, 2008 specified in the August 28, 2008 directive letter (1,190 days). 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.

In order to regain compliance, please address the following technical comments, submit the data gap work plan requested below, and electronically upload all documents to GeoTracker and ACEH's FTP server by the date specified below.

### **TECHNICAL COMMENTS**

1. **Monitoring Well Evaluation and Free Product Assessment.** Limited soil and groundwater data has been collected at your site. In September 1998 three soil borings were advanced to a maximum depth of 10 feet below ground surface (bgs), which is above the depth of the original excavation confirmation sampling of 12 feet bgs. Contaminated soil was detected near the former UST at concentrations of up to 4,900 ppm Total Petroleum Hydrocarbons as Diesel (TPHd) and 7.4 ppm naphthalene. Grab groundwater samples collected from soil boring IB-1 detected 730,000 ppb TPHd, which indicates the presence of free phase petroleum hydrocarbon contamination in groundwater. In addition, the most recent groundwater analytical data available for the site, collected in August 2000, detected 1.85 feet of floating free product (TPHd) in well MW-1. To evaluate current groundwater quality conditions beneath your site, ACEH requests that every attempt be made to locate monitoring well MW-1, and if the well is found to be in operable condition, ACEH requests that the well be redeveloped and sampled. Please present your plan to locate, redevelop and sample well MW-1 in the preferential pathway study report requested below. If MW-1 is located but found to be in inoperable condition, please present a plan to properly decommission the well and install a replacement well in the data gap work plan requested below.
2. **Preferential Pathway Study.** As a result of both historic as well as current use of groundwater in the Oakland-Alameda area, ACEH is requesting a preferential pathway study. There are two parts to the study, the location of historic wells and of utility lines. Specifically, the purpose of the preferential pathway study is to locate potential migration pathways and conduits and determine the probability of plume migration along those pathways that might spread contamination. ACEH requests that the study detail the potential migration pathways and potential conduits (wells, utilities, pipelines, etc.) for vertical and lateral migration that may be present in the site and vicinity. Please include the results in the data gap work plan requested below. The results of your study are to contain all information required by California Code of Regulations, Title 23, Division 3, Chapter 16, §2654(b).

During the UST removal, a sanitary sewer line was encountered in the excavation, and free product was observed entering the utility trench backfill. It is likely that underground utilities and backfill material are acting as a conduit for offsite contamination migration. ACEH recommends collecting a soil sample from the utility back fill material, which is adjacent to the former tank pit, to evaluate whether the utility corridor may be acting as a pathway for

offsite contamination migration. In the data gap work plan requested below, please include a scope of work to collect a soil sample from the utility backfill.

- a. **Well Survey** - The well survey is to include a survey of all wells within a ¼ mile radius of the subject site. Please reference both the California Department of Water Resources as well as the Alameda County Public Works Agency because information from these two sources is sufficiently different to warrant inclusion of both in the study.
  - b. **Utility Survey** - An evaluation of all utility lines and trenches (including sewers, storm drains, pipelines, trench backfill, etc.) within and near the site and plume area(s) is required as part of the study. Please include maps (and cross-sections when appropriate) to illustrate the location and depth of utility lines and trenches within and near the site and plume areas(s) as part of your study. Please include utility laterals to the site (or vicinity sites when appropriate). Please also utilize the San Francisco Estuary Institute's *Creek & Watershed Map of Oakland & Berkeley*, available online at the Museum of California website (<http://museumca.org/search/node/watershed+maps>).
3. **Lateral and Vertical Extent of Contamination.** To help understand the site and vicinity, please use an extended site map using an aerial photographic base map to depict both the site and other pertinent facilities in the immediate vicinity. We also request that you compile any available data from nearby UST sites to evaluate if the unauthorized release from your site may be impacting adjacent properties and the public right of way. Furthermore, we request that you identify any additional data gaps and include these in the data gap work plan requested below. Please present the maps, figures, data tables and your evaluation in the data gap work plan requested below.
4. **GeoTracker Reporting.** As noted above, our review of the SWRCB's GeoTracker website indicate that electronic copies reports have not been submitted. Pursuant to California Code of Regulations, Title 23, Division 3, Chapter 16, Article 12, Sections 2729 and 2729.1, beginning September 1, 2001, all analytical data, including monitoring well samples, submitted in a report to a regulatory agency as part of the UST or LUST program, must be transmitted electronically to the SWRCB GeoTracker system via the internet. Also, beginning January 1, 2002, all permanent monitoring points utilized to collect groundwater samples (i.e. monitoring wells) and submitted in a report to a regulatory agency, must be surveyed (top of casing) to mean sea level and latitude and longitude to sub-meter accuracy using NAD 83. A California licensed surveyor may be required to perform this work. Additionally, pursuant to California Code of Regulations, Title 23, Division 3, Chapter 30, Articles 1 and 2, Sections 3893, 3894, and 3895, beginning July 1, 2005, the successful submittal of electronic information (i.e. report in PDF format) shall replace the requirement for the submittal of a paper copy.

#### **UNDERGROUND STORAGE TANK CLEANUP FUND**

Please be aware that site investigation/site cleanup costs may be reimbursable from the California Underground Storage Tank Cleanup Fund. The application and additional information is available at the State Water Resources Control Board's website at [http://www.waterboards.ca.gov/water\\_issues/programs/ustcf](http://www.waterboards.ca.gov/water_issues/programs/ustcf). Reimbursement monies are contingent upon maintaining compliance with directives from ACEH and uploading all appropriate

reports and data to Geotracker. Additional information about the USTCF can be found below in the attachments to this letter.

### **TECHNICAL REPORTS REQUEST**

Please submit technical reports to ACEH (Attention: Karel Detterman), according to the following schedule:

- **March 9, 2012** – ACEH and Geotracker Electronic Reporting Compliance
- **March 16, 2012** – Data Gap Work Plan with Preferential Pathway Study

Thank you for your cooperation. Please provide ACEH with your email address so that we can correspond with you quickly and efficiently regarding your case. Should you have any questions or concerns regarding this correspondence or your case, please call me at (510) 567-6708 or send me an electronic mail message at [karel.detterman@acgov.org](mailto:karel.detterman@acgov.org).

Sincerely,

Karel Detterman, PG  
Hazardous Materials Specialist

Enclosure: Responsible Party(ies) Legal Requirements/Obligations  
ACEH Electronic Report Upload (ftp) Instructions

cc: James Gribi, Gribi Associates, 1090 Adams Street, Suite K, Benecia, CA 94510 (*Sent via E- mail to [JGribi@gribiassociates.com](mailto:JGribi@gribiassociates.com)*)  
Donna Drogos, ACEH (*Sent via E-mail to: [donna.drogos@acgov.org](mailto:donna.drogos@acgov.org)*)  
Karel Detterman, ACEH (*Sent via E-mail to: [karel.detterman@acgov.org](mailto:karel.detterman@acgov.org)*)  
GeoTracker  
File

## **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](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.

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