



ENVIRONMENTAL HEALTH SERVICES
ENVIRONMENTAL PROTECTION
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September 11, 2009

Mr. Ron Silberman
1240 Powell Street LLC
5835 Doyle Street, Suite 101
Emeryville, CA 94608

Sean Absher
1240 Powell St LLC
44 Montgomery St # 4200
San Francisco, CA 94104

Frank Garza
Garza & Associates
Unknown Address

Subject: Request for Work Plan and Subsurface Investigation; Fuel Leak Case No. RO0002869 and Geotracker, Global ID # Geotracker Global ID T06019727624, GARZA & ASSOCIATES, 1240 POWELL ST, EMERYVILLE CA 94608

Dear Mr.'s Silberman, Absher, and Garza:

I am the caseworker recently assigned to your case. Please send all future correspondences or inquiries to my attention. Alameda County Environmental Health (ACEH) staff has reviewed the *Environmental Data Report and Request for a no-further-action (NFA) closure*, dated March 10, 2009, submitted on your behalf by Nozaki & Associates, your letter dated August 24, 2009, notifying ACEH that a formal request for closure was being sought, and other documents in the case file. Thank you for submitting the documents. Based on the review, ACEH staff has determined that limited additional data is needed to complete the evaluation of your site for case closure. ACEH requests that you address the following technical comments, perform the requested work, and send us the documents described below.

This decision to delay closure is subject to appeal to the State Water Resources Control Board (SWRCB), pursuant to Section 25299.39(b) of the Health and Safety Code (Thompson-Richter Underground Storage Tank Reform Act - Senate Bill 562). Please contact Mr. George Lockwood in the SWRCB Underground Storage Tank Program at (916) 341-5752 or GLockwood@waterboards.ca.gov for information regarding the appeal process.

TECHNICAL COMMENTS

1. **Source Area Characterization at Waste Oil UST** – The waste oil underground storage tank (UST) is located in an upgradient position at the site, interior to the existing building. Potential soil and groundwater impacts from use of this UST have not been investigated; however, it appears that vehicular access to this portion of the building is possible. Please install one boring at this UST location and collect and analyze soil and groundwater samples. ACEH requests that a work plan be submitted according to the schedule below.
2. **Potential Improper Well Screen Interval** - Previous reports (*Phase II Subsurface Investigation*, dated February 15, 2002, and *Groundwater Monitoring Well Installation & Initial Monitoring Report*, dated September 5, 2002, both by AEI Consultants) document the investigation of soil and groundwater in the vicinity and downgradient of the former location of fuel USTs at the site. Soil and grab groundwater samples indicate generally non-detectable concentrations of analytes of concern, or some residual fuel hydrocarbons generally below the San Francisco Regional Water Quality Control Board Environmental Screening Levels for Non-Drinking Water. ACEH is concerned that the three wells may be screened improperly based on a review of several lines of evidence. The data includes:
 - a. The 10 to 20 foot below grade surface (bgs) screen interval of the three wells,

- b. Stabilized groundwater levels in wells that range between approximately 6.3 and 8.6 feet bgs,
- c. First encountered groundwater in a number of Geoprobe bores that appears to range as shallow as 5 bgs and,
- d. Cessation of soil color changes (implied to be hydrocarbon staining) or hydrocarbon odors above shallow saturated soils higher in elevation than the well screen interval used.

The data can suggest that groundwater samples collected to date may not be representative of near surface groundwater concentrations. To address this concern please collect a minimum of one additional on-site shallow grab groundwater sample, from no deeper than approximately 10 feet bgs, downgradient of the former UST locations to investigate this concern.

Please also be advised that at present all groundwater in Emeryville is currently classified as 'MUN' (potentially suitable for municipal or domestic water supply). According to the RWQCB *Water Quality Control Plan (Basin Plan)*, dated January 18, 2007, for the San Francisco Bay Basin, "the term 'groundwater' includes all subsurface waters, whether or not these waters meet the classic definition of an aquifer or occur within identified groundwater basins.' It is also stated in the Basin Plan that 'all groundwaters are considered suitable, or potentially suitable, for municipal or domestic water supply (MUN).'" Therefore, the groundwater beneath the subject site must be considered beneficial for these uses unless shown to be non-beneficial using criteria presented in the Basin Plan. Please adjust your evaluation to reflect this in future reports. However, please also be aware that case closure does not necessarily require cleanup to MUN cleanup goals, only that those goals can be met within a reasonable timeframe.

3. **Incomplete Data Submittals** – A review of historic reports has indicated that required site data was not submitted with two reports; consequently ACEH cannot verify the tabulated data as accurate. ACEH requests submittal of the following data:
 - a. Bore log for SB-8 was not submitted (*Phase II Subsurface Investigation*, dated February 15, 2002),
 - b. Analytical data for soil from all soil bores and wells; only chains-of-custody have been submitted (*Phase II Subsurface Investigation and Groundwater Monitoring Well Installation & Initial Monitoring Report*, dated September 5, 2002), and
 - c. Signed perjury statement by the Responsible Party for the report titled *Environmental Data Report and Request for a no-further-action (NFA) closure*, dated March 10, 2009).

TECHNICAL REPORT REQUEST

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

- **December 30, 2009** –Work Plan

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/usti/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.

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Should you have any questions, please contact me at (510) 567-6876 or send me an electronic mail message at mark.detterman@acgov.org.

Sincerely,

Mark E. Detterman, PG, CEG
Hazardous Materials Specialist

Enclosure: ACEH Electronic Report Upload (ftp) Instructions

cc: Norman Nozaki, Nozaki & Associates, 3390 Dwight Way, Berkeley, CA 94704

Donna Drogos, Mark Detterman, File

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.