



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

November 16, 2012

NOTICE TO COMPLY

Emeryville Redevelopment Agency
c/o Mr. Markus Niebanck
1333 Park Ave.
Emeryville, CA 94608
(sent via electronic mail to
mniebanck@ci.emeryville.ca.us)

Mr. Scott Barde
Owens Mortgage Investment Fund
2221 Olympic Blvd.
Walnut Creek, CA 94595
(sent via electronic mail to
sbarde@owensfinancial.com)

Lloyd Kendall Jr.
(Address unknown)

ELTEX Investments Corporation
c/o Eller Media
200 E Basse
San Antonio, TX 78209

William Owens
Ambassador Partners Limited
2221 Olympic Blvd.
Walnut Creek, CA 94595
(sent via electronic mail to
bowens@owensfinancial.com)

Wilson Associates
(Address unknown)

Title Two Investment Corporation
c/o Bellview Capital Mgmt.
(Address unknown)

Ms. Jessica Sheldon
Resources for Community Development
2730 Telegraph Avenue
Berkeley, CA 94705
(sent via electronic mail to JSheldon@rcdev.org)

Adeline Investments
(Address unknown)

Subject: **Notice to Comply and Request for Site Conceptual Model and Data Gap Work Plan**; Fuel Leak Case No. RO0002973 and Geotracker Global ID T0619717287, Ambassador Laundry, 3623 Adeline St., Emeryville, CA 94608

Dear Ladies and Gentlemen:

Alameda County Environmental Health (ACEH) staff has reviewed the case file including the *Underground Storage Tank Closure Report*, by Golden Gate Tank Removal, Inc. (Golden Gate), and dated July 10, 2012; and the *Environmental Assessment and Remediation Report*, by Adanta, Inc. (Adanta), and dated August 22, 2012. Both reports were submitted on behalf of The Ambassador, LP (site owner) and the Resources for Community Development (site developer). Thank you for submitting the reports. Please also be aware that on February 23, 2011 ACEH issued a directive letter entitled *Approval with Clarifications – Soil and Groundwater Management Plan and Addendum*, that requested a report on remedial excavations by March 30, 2012, which was subject to extension with timely requests. This report has not been received; no extension requests have been received; and the report is now late. Additionally the referenced Adanta report has states that up to 4,000 tons of lead and TPH contaminated soil has been disposed of offsite at Class I and Class II disposal facilities, without any appropriate documentation (provided as only background information). Please also be aware that two recent directive letters (May 30, and June 21, 2012) both requested compliance with state requirements that the Geotracker database be populated with appropriate data. To date very limited data has been submitted and **the site is out of compliance with state regulations and ACEH directives.**

As you are aware an abandoned approximately 150-foot deep, 12-inch diameter steel-casing water production well was recently discovered and properly decommissioned at the site. Free-phase product (FP) was present on

groundwater in that well. The FP was initially reported to be several feet thick; however, measurements were not performed with an oil interface probe at the time. Alameda County Public Works Agency (ACPWA) reported that the well was successfully decommissioned on May 18, 2012; however, ACPWA reported that oil appeared to continue to bleed up well during the decommission process, apparently due to an oil reservoir at some depth. ACEH has also recently observed the removal of an unknown steel riveted underground storage tank (UST) at the site within 5 to 10 feet of the water production well.

The Golden Gate tank removal report documents the removal of that UST and subsequent confirmation soil sampling beneath the approximately 500-gallon riveted UST, and the concurrent collection of sidewall soil samples. The Adanta soil and groundwater investigation report documents the collection of six soil samples at the final excavated grade for the underground parking structure for Total Petroleum Hydrocarbons (TPH) contamination, the overexcavation of contamination around the recently removed UST and the installation of six CPT soil bores (CPT-1 to CPT-6) and one extraction well (EW-2; the later downgradient of the water well and all former known USTs at the site, inclusive of two other USTs and an old sump). The location of the CPT bores and the extraction well were not installed at locations proposed in the previously approved work plan due to the overexcavation of contaminated soil around the UST and the backfilling of the excavation with Controlled Density Fill (CDF). The Adanta report also provided as background information that up to 4,000 tons of lead and TPH contaminated soil had been disposed of offsite at Class I and Class II disposal facilities, without any required and appropriate documentation.

As has been indicated above, the review of these reports has led to a number of compliance concerns and specific questions, and as a consequence and based on ACEH staff review of the case file, we request that you address the following technical comments and send us the reports described below.

TECHNICAL COMMENTS

- 1) **Notice to Comply** – As indicated above this site is out of compliance with ACEH directives and state regulations, and appropriate actions are required to bring the site into compliance with existing ACEH directive requests and with state regulations, by the dates identified below, as follows:
 - a. **Electronic Report and Data Upload Compliance** – A review of the case file and the State's Geotracker database indicates that the site is not in compliance with multiple previous directive letters. **Compliance is a State requirement and is a standing request from the previous directive letters.** ACEH is aware that the referenced Adanta report (and associated work plan) has been uploaded to Geotracker. Thank you for those uploads; however, please be aware that this request is not limited to these documents but to all required documents. 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. In September 2004, the SWRCB adopted regulations that require electronic submittal of information for all groundwater cleanup programs, including SLIC programs. **Beginning July 1, 2005, electronic submittal of a complete copy of all reports for all sites was required in GeoTracker. At present missing data and documents include, but may not be limited to, older reports, a number of EDF submittals, GEO_Z vertical well survey data, all GEO_MAPS, all GEO_WELL data, and all bore logs.** Please see Attachment 1 for limited additional details, and the state GeoTracker website for full details. You are required to upload all submittals to GeoTracker as well as to ACEH's ftp website by the date specified below, and documentation of the uploaded reports and data. This is has previously been requested to include the UST closure report for the recently discovered UST.
 - b. **Request to Document Characterization of Surface Soil Contamination and Disposal** – The background section of the referenced Adanta report indicated that up to 4,000 tons of lead and TPH contaminated soil had been disposed of offsite at Class I and Class II disposal facilities, without providing any appropriate verification documentation (sample collection protocols, sample locations, tabulated analytical results, analytical reports, disposal destinations and signed manifests,

conclusions and recommendations, and etc.). Consequently ACEH again requests a report be assembled to document these actions by the date referenced below.

- 2) Request for Report Addendum with Clarifications** – The Adanta report indicates that a number of actions have occurred at the site; however, reports submitted to date are not clear. As a consequence ACEH requests additional clarification on a number of elements in an addendum to the soil and groundwater investigation report, by the date identified below:
- a. Final Garage Grade Soil Samples** – The Adanta report indicates that six soil samples were collected at final excavated grade (undefined depths below original grade in the tabulated data) for the underground parking garage and that soil sample C-6 yielded a concentration of 360 mg/kg TPHd. Review of the laboratory report indicates the concentration was actually 560 mg/kg TPHd. The Adanta report indicates that the area represented by this soil sample was subsequently excavated at the time the recently discovered UST (#4) overexcavation effort was conducted. Because soil samples C-1 to C-6 were not depicted on a single unifying site figure in conjunction with the areas of overexcavation or in conjunction with the parking structure excavation, and because overexcavation confirmation soil sample (UST #2 or #4) locations were not depicted on a figure, ACEH seeks clarification as to the extent of removal of soil contamination associated with soil sample C-6 and associated UST #2. Additionally as depicted on Figure 2 (site aerial photo image) soil sample C6 is not in close proximity to UST #2 or the recently discovered UST #4 and this suggests this contamination may not be associated with either UST. Associated with this request is documentation of soil disposal with signed manifests.
 - b. Extent of Soil Removal for UST #2** – Associated with the previous clarification request, this request seeks information as to the extent of removal of soil contaminated with up to 21,000 mg/kg TPHd that had been allowed to remain in place at the 1995 closure of this UST due to a structural stability concern. The Adanta report indicates that the old pea gravel filled excavation had been recently discovered and overexcavated, but that confirmation soil or groundwater samples had not been collected, only that the petroleum odor had been substantially reduced. This is in direct conflict with the February 23, 2011 approval of the *Soil and Groundwater Management Plan* (and amendment) dated February 8, 2011. Associated with this request is documentation of soil disposal with signed manifests.
 - c. Extent and Location of UST #4 Excavation and Confirmation Soil Samples** – Because the UST removal excavation and subsequent overexcavation confirmation soil samples were not located on a figure, ACEH seeks clarification as to their location in relation to other areas of contamination and overexcavation with use of a single unifying site figure. Associated with this request is documentation of soil disposal with signed manifests; apparently 230 cubic yards of soil were eventually removed from this excavation and disposed of offsite.
 - d. Clarification of Class 3 Disposal of 3,000 Tons of Soil** – Adanta reported that up to 3,000 tons of potentially petroleum impacted soil had been disposed of at a Class 3 facility in Pittsburg, California. ACEH seeks clarification on the source and location for where on the site this material was generated. It appears this total may not be associated with known areas of contamination (various USTs, sumps, auto maintenance, lead impacted areas, and etc.).
 - e. Request for Unifying Site Figure** - To address these requests for clarification, ACEH requests a single unifying site figure be generated that depicts the garage area sub-excavation, all recent soil and groundwater sample locations (with correlation to previous sample locations), and the excavation areas of former USTs and current areas of construction. As such the figure should partly use a standardized frame of reference such as current construction plans to help locate these areas.
 - f. Location of CPT-2 Bore Location** – This bore is not located on site maps and to understand its usefulness requires this effort.
- 3) Request for a Site Conceptual Model and Data Gap Work Plan** – To progress the site forward ACEH requests the generation of a Site Conceptual Model (SCM) and a data gap work plan. A SCM synthesizes all the analytical data and evaluates all potential exposure pathways and potential receptors that may exist at the

site, including identifying or developing any appropriate site cleanup objectives and goals. At a minimum, the SCM should include the following:

- a. Local and regional plan view maps that illustrate the location of sources (former facilities, piping, tanks, etc.) extent of contamination, direction and rate of groundwater flow, potential preferential pathways, and locations of receptors;
- b. Geologic cross sections and plan maps that illustrate subsurface features, man-made conduits, and lateral and vertical extent of contamination;
- c. Complete summary tables of chemical concentrations in different media (i.e. soil, groundwater, and soil vapor); and
- d. Copies of well logs, boring logs, and well survey maps;
- e. Discussion of likely contaminant fate and transport, and
- f. Identification of any remaining data gaps.

Data gaps noted by ACEH include the following; however, are not limited to the following observations:

- a. **Confirmation of UST Removal** – The location of recently removed UST #4 appears to be to the south of Sump #2 and southwest of UST #3. The November 22, 2005 *Environmental Consulting Services for Sump Closure*, generated by Clayton Group Services, Inc., documents that a deeply buried UST was uncovered beneath and to the west of Sump #2 (located on Figure 2 of that report). As a consequence ACEH requests verification of the status of this UST.
- b. **Request for Shallow Groundwater Monitoring Well** – Extraction well EW-2 appears to have been installed in a submerged condition in order to determine if LNAPL was present in deeper stratigraphic horizons; this has been a concern of ACEH. While this well does not address the entire 140 to 150 foot interval screened by the recently decommissioned water well, lack of LNAPL in EW-2 in conjunction with an upwards hydraulic head may adequately address the vertical extent of this concern. As a consequence ACEH requests the installation of a well screened in the shallow water-bearing zone in close proximity to the former water production well. As described in the Adanta report, this shallow zone appears to begin at an approximate depth of 9 feet below grade surface (bgs). The monitoring of this water-bearing zone is under represented (largely unrepresented) in previously installed wells, which typically were screened beginning at approximately 19 feet bgs. Except the original well, MW-1, the majority of wells at the site have been screened beginning at 19 ft bgs based on previous CPT bore data. This is a direct conflict in data sets generated at the site that requires resolution.

TECHNICAL REPORT REQUEST

Please upload technical reports to the ACEH ftp site (Attention: Mark Detterman), and to the State Water Resources Control Board's Geotracker website, in accordance with the following specified file naming convention and schedule:

- **December 7, 2012 – Late Deliverable** - Geotracker Submittal Notification (with documentation of such)
File to be named: RO2973_CORRES_L_yyyy-mm-dd
- **December 21, 2012** – Remedial Actions Report (Including soils disposal)
File to be named: RO2973_REM_R_yyyy-mm-dd
- **January 7, 2013** – Addendum to Soil and Groundwater Report (Clarifications; can be combined with preceding report)
File to be named: RO2973_ADEND_SWI_R_yyyy-mm-dd
- **February 4, 2013** – SCM and Data Gap Work Plan
File to be named: RO2973_SCM_WP_R_yyyy-mm-dd

- **Sixty Days After SCM and Data Gap Work Plan Approval – Site Investigation Report**
File to be named: RO2973_SWI_R_yyyy-mm-dd

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.

Online case files are available for review at the following website: <http://www.acgov.org/aceh/index.htm>. If your email address does not appear on the cover page of this notification, ACEH is requesting you provide your email address so that we can correspond with you quickly and efficiently regarding your case.

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
Senior Hazardous Materials Specialist

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

cc: Nick Patz, Adanta, Inc, 828 School Street, Napa, CA 94559
(sent via electronic mail to nick.patz@adanta-inc.com)

Donna Drogos, ACEH, (sent via electronic mail to donna.drogos@acgov.org)
Mark Detterman, ACEH, (sent via electronic mail to mark.detterman@acgov.org)
Geotracker, Electronic File

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 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.