

ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY
REBECCA GEBHART, Acting Director



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June 21, 2016

Mr. Peterson Vollman
City of Oakland
Bureau of Planning
250 Frank H. Ogawa, Suite 2114
Oakland, CA 94612
(Sent via email to: PVollmann@oaklandnet.com)

Subject: Status of Project Approval; Voluntary Remedial Program; Case No. RO0003175 and Geotracker Global ID T1000007707, 500 Grand Redevelopment, 500 Grand Avenue, Oakland, CA 94611

Dear Mr. Vollman:

Alameda County Department of Environmental Health (ACDEH) is providing regulatory oversight of the proposed redevelopment project located at 500 Grand Avenue in Oakland, California. ACDEH's oversight is limited to evaluation of historic subsurface contamination at the site with respect to the proposed redevelopment project to multifamily residential with ground floor retail, as presented in the 37 page plan set entitled "500 Grand Ave.", dated May 2, 2016, and generated by Kava Massih Architects. The proposed redevelopment project is located on two parcels (Assessor Parcel Numbers 10-780-15-8 and 10-780-15-7) with the respective addresses of 500 Grand Avenue, and 401 to 403 Burk Street. The parcels are currently developed with a surface parking lot and an existing two or three story building. ACDEH understands that the parcels will be combined and a new parcel number will be issued during the redevelopment process.

ACDEH understands that approximately 1,530 cubic yards of soil will be excavated to facilitate the construction of the foundation, and disposed of at an offsite permitted landfill (as per plan sheet A1.4). ACDEH additionally understands that base rock will be imported to the site, but no soil will be imported. Per plan sheet A2.1, the ground floor consists of 2,997 square feet of retail along Grand Avenue, 971 square feet of service area behind the retail space, a 608 square foot Lobby, and a parking garage with Puzzle Lift Parking Spaces. One elevator, one enclosed stair case adjacent to the elevator, an external open air stair case located in the southeast corner of the site, and two stair cases will provide access to upper floors containing residential units.

It is the understanding of ACDEH that the processing of the proposed project at the city is on hold until a determination has been made by ACDEH that historic subsurface contamination at the site does not present a risk to future site occupants of the proposed building. In order to facilitate the city's processing of the project, Mr. Patrick Ellwood, the project proponent, has requested that ACDEH provide a letter to the city of Oakland with information on ACDEH's approval status.

A review of historic data in the case files, and recently collected data and data evaluations presented in the report entitled *2016 Supplemental Investigation Finds and Conclusions*, prepared by the Source Group, Inc, and dated May 17, 2016 indicates that two limited areas of residual petroleum hydrocarbon contamination remain in the southern portion of the site at concentrations above San Francisco Bay Regional Water Quality Control Board Environmental Screening Levels (ESLs). However, results of a site-specific Human Health Risk Assessment (HHRA) contained in the referenced report indicate that the Hazard Index (HI) is below the California Environmental Protection Agency and the US Environmental Protection Agency (USEPA) acceptable HI of 1.0 and the excess cancer risk is equal to the most

stringent end of the USEPA acceptable excess cancer risk range of 1×10^{-6} and is acceptable for hypothetical onsite commercial/industrial receptors. Therefore, based on the HHRA, no direct exposure pathways are available for the proposed future commercial and residential receptors.

As noted above, residual petroleum hydrocarbons exceeding the commercial ESLs applicable for the proposed redevelopment are present in the foundation excavation area on the southern side of the site. The commercial ESL exceedances are limited to one localized area that was delineated vertically and laterally, in the SGI May 2016 *Supplementation Site Investigation Report*. Removal of the residual petroleum hydrocarbon contamination exceeding commercial ESLs (approximately five to six feet below ground surface) in the southern portion of the site will be completed during site grading activities in accordance with a site specific Site Management Plan (SMP) currently under review by ACDEH. Confirmation samples will be collected after the removal of residual petroleum hydrocarbon impacted soil to document that concentrations in these areas are less than commercial ESLs and consistent with those used in the HHRA. Upon completion of the excavation, and confirmation that any residual contamination is at or below the commercial ESLs, the excavated areas will be backfilled with flowable fill material. Upon completion of these activities, a Removal Action Completion Report (RACR) will be prepared and submitted to ACDEH for review and concurrence.

Upon review and approval of the SMP ACDEH anticipates approving the project formally and taking steps necessary to close the site to allow the proposed mixed use commercial and residential redevelopment to proceed. It is anticipated that the County's closure process will be completed by the end of August 2016 provided that the City of Oakland concurs with the process (or an essentially comparable process that meets the needs and requirements of ACDEH) described in the following bullet points:

- ACDEHs closure will be to the current land use until such time as a complete RACR is submitted and approved by ACDEH.
- The City of Oakland will not issue a building foundation permit or other permit for the redevelopment of the site, other than any permits required for predevelopment or site grading activities until the RACR has been submitted to and approved by ACDEH which documents the removal of residual contaminants to less than commercial ESLs.
- ACDEH must be notified if the applicant or the City proposes changes to the site development and first floor building plans including but not limited to the proposed location of the elevator shafts, the internal or external staircases, or inclusion of permeable pavers in the proposed outdoor sidewalk patio. Any changes made to the referenced redevelopment plan set of May 2, 2016, without review by ACDEH may invalidate the conclusions of the protectiveness of the proposed redevelopment of the site with respect to the residual contamination.
- The City's approval to this "phased" permit process be documented in a written letter to ACDEH, in order to include the City's letter in the site closure process.

ACDEH suggests that a conference call be held with all interested parties to discuss any questions or concerns about this proposed process.

Our online case file is available for review at the following website: <http://www.acgov.org/aceh/index.htm>.

If you have any questions, please do not hesitate to call 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

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

cc: Mr. Patrick Ellwood, Ellwood Commercial Real Estate, 1345 Grand Avenue, Piedmont, CA 94610; (Sent via email to: Patrick@ellwoodcommercial.com)

J. Glen Smith, The Source Group, 3478 Buskirk Avenue, Suite 100, Pleasant Hill, CA 94523;
(Sent via E-mail to: glen.smith@apexcos.com)

Bob Robitaille, The Source Group, 3478 Buskirk Avenue, Suite 100, Pleasant Hill, CA 94523;
(Sent via E-mail to: bob.robitaille@apexcos.com)

Jonathan Redding, Esq., Wendel Rosen Black & Dean LLP, 1111 Broadway, 24th floor, Oakland, CA 94607; (Sent via E-mail to: jredding@wendel.com)

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

Mark Detterman, ACDEH, (Sent via electronic mail to: mark.detterman@acgov.org)
Electronic File, GeoTracker

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: May 15, 2014
	ISSUE DATE: July 5, 2005
	PREVIOUS REVISIONS: October 31, 2005; December 16, 2005; March 27, 2009; July 8, 2010, July 25, 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.