

**COOPERATIVE AGREEMENT
BETWEEN
CITY OF NEWARK, COUNTY OF ALAMEDA,
AND
ALAMEDA COUNTY WATER DISTRICT**

THIS COOPERATIVE AGREEMENT is made as of the 8 th day of October, 2009, by and between the **CITY OF NEWARK** ("City"), and the **COUNTY OF ALAMEDA** ("County"), and the **ALAMEDA COUNTY WATER DISTRICT** ("Water District").

This Agreement is entered into in light of the following facts and circumstances:

1. The County's Department of Environmental Health has been certified as a Certified Unified Program Agency ("CUPA") and the CUPA has authority and responsibility under the California Health & Safety Code to regulate the generation, storage, transport, treatment and cleanup of hazardous waste and hazardous materials, including the construction and operation of underground storage tanks ("USTs").

2. The Water District is responsible for supplying water for domestic, industrial, commercial, institutional and agricultural purposes to over 330,000 residents and thousands of businesses in its service area, which includes the cities of Fremont, Newark, and Union City (collectively, the "Tri-Cities"). The Water District overlies the Alameda Creek (Niles Cone) Groundwater Basin, a portion of DWR Basin No. 2-9.01, and obtains approximately thirty to sixty percent of its supply from water stored in this basin, depending upon seasonal and annual demand requirements.

3. The permitting, inspection, and monitoring activities in connection with hazardous waste/hazardous materials regulatory programs have led to the identification of the

release of hazardous waste/hazardous materials from leaking underground fuel tanks (“LUFT” sites) or other unauthorized releases that pollute or threaten to pollute groundwater (Spills, Leaks, Investigation, and Cleanup or “SLIC” sites). Unauthorized releases may include subsurface leaks from pipelines, sumps, etc., and surface spills from chemical handling, transfer and storage as well as from illegal waste disposal.

4. The City, the Water District and the California Regional Water Quality Control Board-San Francisco Bay Region (“Regional Board”) have worked cooperatively since 1988, when the Water District expanded its groundwater protection program to include overseeing the investigation and remediation of LUFT sites and specific SLIC sites which have the potential to pollute groundwater or surface water.

5. The Regional Board requested the Water District to continue its active involvement in groundwater protection and entered into a Cooperative Agreement with the Water District, dated June 27, 1996, memorializing the terms of such continued involvement.

6. The Tri-Cities also requested the Water District to continue its active involvement in groundwater protection and entered into Cooperative Agreements with the Water District, dated March 25, 1997 (City of Fremont), June 26, 1997 (City of Newark), and August 12, 1997 (City of Union City), memorializing the terms of such continued involvement.

7. In 2008, the City of Newark began the decertification process of its CUPA program and, effective February 1, 2009, the responsibility for oversight of the CUPA program was transferred from the City of Newark to the County.

8. With the transfer of responsibility for oversight of the CUPA program from the City of Newark to the County, the prior June 26, 1997 Cooperative Agreement needs to be

updated, and the updated agreement between the Water District, the City, and the County would continue to strengthen the interagency coordination and cost-effective implementation of groundwater protection within the Tri-Cities.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. **CONTINUATION OF GROUNDWATER PROTECTION ACTIVITIES**

City and the CUPA request that Water District continue its oversight of the investigation and remediation of LUFT sites and SLIC sites within the City, and Water District agrees to do so, in accordance with this Cooperative Agreement.

2. **SCOPE OF OVERSIGHT PROGRAM; STANDARDS AND GUIDELINES**

A. **Scope.** The Water District shall oversee the investigation and remediation of the following sites within the boundaries of the City:

- (1) all existing and future sites at which the pollution is attributable to leaks from underground fuel tanks (“LUFT sites”);
- (2) all existing and future sites at which the pollution is attributable to spills or leaks from structures other than underground fuel tanks when the Water District, Regional Board or the CUPA determines that groundwater quality is threatened (“SLIC sites”).

A list of sites in each category within the City at which investigation and/or remediation is currently underway subject to the Water District’s oversight is attached as Attachment One. The City and the CUPA request and authorize the Water District to continue its oversight activities at all sites identified on Attachment One.

The CUPA shall continue to give Water District advance notification of the scheduled removal of USTs and shall notify Water District as soon as practicable when a SLIC site has been identified where the contaminants released threaten to pollute, or have polluted, surface water or groundwater. Water District shall notify City as soon as practicable when the results of a property assessment indicate soil and/or groundwater contamination.

B. Standards/Guidelines. The investigation and remediation of both LUFT sites and SLIC sites shall be conducted in accordance with the following authoritative statements of policy, procedure and standards, as applicable:

1. State Water Resources Control Board, State Underground Storage Tank Regulations, Corrective Action Requirements, codified in Title 23 California Code of Regulations Section 2720-2728. For purposes of this Agreement, the term “regulatory agency” in these regulations shall include the Water District.
2. State Water Resources Control Board, Resolution No. 92-49, Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under Water Code Section 13304, adopted June 18, 1992.
3. Regional Water Quality Control Board, San Francisco Bay Region, Water Quality Control Plan-San Francisco Bay Basin (Region 2), June 21, 1995, particularly “Groundwater Protection and Management” at pages 4-52 through 4-65 and accompanying tables.
4. Regional Water Quality Control Board, San Francisco Bay Region, Tri-Regional Board Staff Recommendations for Preliminary Evaluations and Investigation of Underground Tank Sites, August 10, 1990.

5. Alameda County Water District, Alameda County Department of Environmental Health, and the Cities of Fremont, Newark and Union City, Guidelines for Potential Spills, Leaks, Investigation, and Cleanup (SLIC) Sites, July 21, 2009 (Attachment Two).

The specific procedures to be followed in overseeing investigation/remediation at particular sites are contained in Attachment Three, which is intended to be consistent with each of the five documents referred to above and which is also incorporated into the Agreement between the Regional Board and the Water District. If any of the five referenced documents are subsequently modified or supplemented, the references to them in this Agreement will be deemed to include such modifications or supplements and Attachment Three will be amended as necessary to remain consistent with them.

In addition to the procedures in Attachment Three, the Water District will do the following:

- Before approving the remediation or corrective action plan for any site within the City, Water District shall require the responsible party to consult with the City to determine whether any additional approvals or conditions are required by the City's Fire, Public Works, or Community Development Departments.

- Before recommending a case closure to the Regional Board, or issuing a "no further action" letter for a site, Water District shall consult with the CUPA and the City to determine that the closure or removal of USTs at the site was conducted in compliance with State and local laws, regulations and ordinances. (Consultation will not be required if the CUPA and

the City have already issued a compliance letter to the responsible party and a copy of such letter has been sent to the Water District.)

3. RECORDS AND REPORTS

The Water District shall maintain the list of LUFT and SLIC sites (Attachment One) up to date by adding new sites and indicating which sites have been closed. The Water District shall also maintain a site activity/status tracking system comparable to the tracking system used by the Regional Board.

The Water District shall submit Quarterly Reports to the City summarizing the status of all LUFT and SLIC sites in the City and containing the following information for each site: name; location; lead agency; program; case type; and Water District contact. The Quarterly Report shall be submitted within twenty one (21) days after each calendar quarter (e.g., the report covering January 1 through March 31 shall be submitted by April 21).

The Regional Board files shall serve as the public access library for information on SLIC sites. Therefore, the Water District shall provide the Regional Board, and the City, with copies of all letters, reports and other relevant documents prepared by the Water District regarding SLIC cases in the City. It shall also require the responsible party to submit copies of all letters and reports prepared by or for it relevant to SLIC cases to the Regional Board and the City, and the City will provide a copy of all letters and reports which it issues to the Regional Board and to the Water District.

The Water District files and those of the City shall serve as the public access libraries for information on LUFT cases. Therefore, the Water District and City shall provide each other with copies of all letters, reports and other relevant documents which they issue. The Water

District shall also require the responsible party to submit copies of all letters and reports prepared by it or for it relevant to LUFT cases to the City.

4. CONSULTATION, TRAINING AND TECHNICAL ASSISTANCE

The Water District, the CUPA and City shall, whenever requested by the other party, consult with each other on any procedural or technical questions which may arise in the implementation of this Agreement.

The Water District and City shall make their technical resources (e.g., libraries, scientific and engineering staff) available to each other without charge for purposes of implementing this Agreement, upon request.

The Water District will notify City of training and educational programs conducted by the Regional Board relevant to soil and groundwater investigation and remediation. Specialized technical training sessions shall be provided subject to the availability of Water District staff, upon request.

Requests under this section may be made orally or in writing.

5. TERM

The term of this Agreement will continue until either party terminates it by providing at least ninety (90) days advance written notice to the other party.

6. NOTICE

Any notice required under this Agreement shall be in writing and shall be given by personal delivery or deposit in the United States mail addressed as follows:

If to the City of Newark:

City of Newark
37101 Newark Boulevard
Newark, CA 94560-3796
Attn: City Manager

If to the Water District:

Alameda County Water District
43885 South Grimmer Boulevard
P.O. Box 5110
Fremont, CA 94537-5110
Attn: General Manager

If to the County:

Alameda County Department of Environmental Health
CUPA Program
1131 Harbor Bay Parkway
Alameda, CA 94502-6577
Attn: Environmental Health Director

7. AGREEMENT NOT A LIMITATION

Nothing in this Agreement is intended to limit the Water District's authority under Water Code Sections 31048 or 31082 or under Section 3, Section 4 (c) and Section 4 (g) of the Replenishment Assessment Act. Nor is anything in this Agreement intended to limit the CUPA authority under Chapter 6.5, 6.7, 6.95 et seq. of the California Health & Safety Code or Titles 23 and 27 of the California Code of Regulations and City's authority under Chapter 6.5 et seq. of the California Health & Safety Code or Title 24, Part 9 of the California Code of Regulations, as amended and adopted by the City.

8. ACTIVITIES ARE DISCRETIONARY

The activities contemplated herein to be taken by the City, the CUPA, and the Water District are discretionary in that they involve the exercise of judgment and discretion, rather than merely ministerial.

9. ATTACHMENTS

Attachments One, Two, and Three are incorporated herein by this reference.

10. AMENDMENTS

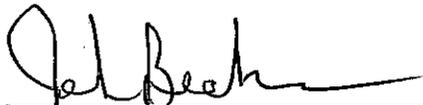
This Agreement may be amended only by a writing signed by the parties.

11. UPDATED AGREEMENT

This Agreement supersedes the June 26, 1997 Cooperative Agreement between the City of Newark and the Alameda County Water District and the June 26, 1997 Cooperative Agreement will no longer be in effect.

IN WITNESS WHEREOF, the parties hereto have executed this Cooperative Agreement as of the day and year first above written by their duly authorized officers.

CITY OF NEWARK

By: 

John Becker
City Manager

Approved by City
Council Resolution
No. 9646,
Dated October 8, 2009

ALAMEDA COUNTY WATER DISTRICT

By: 

Paul Piraino
General Manager

Approved by Board of
Directors Resolution No. 09-047
Dated 9-10-09

**COUNTY OF ALAMEDA
ALAMEDA COUNTY DEPARTMENT OF ENVIRONMENTAL HEALTH**

By: 

Ariu Levi
Environmental Health Director

Dated SEPT 17, 2009

**ATTACHMENT ONE
ALAMEDA COUNTY WATER DISTRICT
CASE LIST REPORT**

SITE #	NAME	ADDRESS	S	E	N	MTBE		STATUS	PROG	LEAD
						INV	CLN			
0480	EDWARDS ENTERPRISES	8455 Cabot Court / Newark 94560	M	X	X			Cond Clos	SLIC	ACWD
0194	INLAND PAPERBOARD & PACKAGING, INC.	37333 Cedar Boulevard / Newark 94560	M					Open	SLIC	ACWD
0600	HULBERT LUMBER	37500 Cedar Boulevard / Newark 94560	H	A	1			Open	LUFT	ACWD
0623	J & M CONCRETE	38288 Cedar Boulevard / Newark 94560	L	X				Open	LUFT	ACWD
0590	FREMONT PAVING	38370 Cedar Boulevard / Newark 94560	M	B	1			Open	LUFT	ACWD
0045	NORTRAX WEST	38600 Cedar Boulevard / Newark 94560	M	X				Open	LUFT	ACWD
0720	MOWRY CLEANERS	39123 Cedar Boulevard / Newark 94560	M	X				Open	SLIC	ACWD
0598	AMERICAN NATIONAL CAN	6590 Central Avenue / Newark 94560	M					Closed	SLIC	ACWD
0907	ALCAN PLASTIC PACKAGING PLANT	6590 Central Avenue / Newark 94560	L	X	X			Closed	SLIC	ACWD
0020	BAY MIRROR	6756 Central Avenue / Newark 94560	L					Closed	SLIC	ACWD
0717	MATHESON TRI-GAS, INC	6775 Central Avenue / Newark 94560	L					Open	SLIC	ACWD
0055	FULLER, H. B. COMPANY	6925 Central Avenue / Newark 94560	M	X				Open	SLIC	RWQCB
0260	REDWOOD LUMBER COMPANY	7091 Central Avenue / Newark 94560	L					Closed	SLIC	ACWD
0070	CARGILL SALT COMPANY	7200 Central Avenue / Newark 94560	L	X				Open	LUFT	ACWD
0461	CARGILL SALT	7200 Central Avenue / Newark 94560	L					Cond Clos	SLIC	ACWD
0108	SUMMERHILL COMMONS	36840 Cherry Street / Newark 94560	L	N				Open	LUFT	ACWD
0310	PABCO GYPSUM	37851 Cherry Street / Newark 94560	L	N				Open	LUFT	ACWD
0854	PACIFIC COAST TRANSPORTATION SERVICES	37853 Cherry Street / Newark 94560	L	D	X			Closed	SLIC	ACWD
0297	INTERNATIONAL PAPER COMPANY	38083 Cherry Street / Newark 94560	M					Open	SLIC	ACWD
0254	TNT INCORPORATED	38201 Cherry Street / Newark 94560	M					Cond Clos	LUFT	ACWD
0258	THORO SYSTEM PRODUCTS	38403 Cherry Street / Newark 94560	M					Closed	LUFT	ACWD
0084	PACCAR/LINCOLN	38505 Cherry Street / Newark 94560	M					Open	SLIC	ACWD
0088	PETERBILT MOTORS COMPANY/PACCAR	38811 Cherry Street / Newark 94560	M	X				Open	SLIC	RWQCB
0294	SUN MICROSYSTEMS	39001 Cherry Street / Newark 94560	M					Closed	SLIC	ACWD
0601	LEWIS PROPERTY	7969 Enterprise Drive / Newark 94560	L					Inactive	SLIC	ACWD
0069	LAFLEUR MACHINERY	8025 Enterprise Drive / Newark 94560	L					Closed	LUFT	ACWD
0257	CONSOLIDATED FREIGHTWAYS CORP.	8130 Enterprise Drive / Newark 94560	M	C	3			Open	SLIC	ACWD
0374	STEFFENSEN PROPERTY-ENTERPRISE DR.	8140 Enterprise Drive / Newark 94560	L					Open	SLIC	ACWD
0366	BARON BLAKESLEE	8333 Enterprise Drive / Newark 94560	M					Open	SLIC	RWQCB
0066	JONES-HAMILTON COMPANY	8400 Enterprise Drive / Newark 94560	L					Open	SLIC	RWQCB
0018	ASHLAND CHEMICAL COMPANY	8610 Enterprise Drive / Newark 94560	L					Open	SLIC	RWQCB
0407	S.P. DUMBARTON BRANCH R.O.W.	8785 Enterprise Drive / Newark 94560	L	X				Open	SLIC	ACWD
0049	FMC CORPORATION	8787 Enterprise Drive / Newark 94560	L					Open	SLIC	RWQCB
0887	MCI WORLDCOM NETWORK SERVICES INC.	39800 Eureka Drive / Newark 94560	L	X	X			Open	SLIC	ACWD
0238 *	SHELL STATION - 6005 JARVIS	6005 Jarvis Avenue / Newark 94560	L	B	2			Open	LUFT	ACWD
0038 *	CHEVRON NO. 8168 (JARVIS)	6104 Jarvis Avenue / Newark 94560	L	C	2			Open	LUFT	ACWD
0550	STEVENSON TIRE	6110 Jarvis Avenue / Newark 94560	L					Closed	LUFT	ACWD
0556	KIM'S CLASSIC CLEANERS	6259 Jarvis Avenue / Newark 94560	L					Open	SLIC	RWQCB
0594	EARL AUTOMOTIVE	6953 Jarvis Avenue / Newark 94560	L					Open	LUFT	ACWD
0286	STATE FARM	5600 John Muir Drive / Newark 94560	L					Closed	LUFT	ACWD
0279 *	UNOCAL 7003	5789 Mowry Avenue / Newark 94560	M	A	2			Open	LUFT	ACWD
0343	FIRESTONE STORE #74	5795 Mowry Avenue / Newark 94560	L					Closed	LUFT	ACWD
0031	CERRO METAL PRODUCTS	6707 Mowry Avenue / Newark 94560	M	X				Open	SLIC	RWQCB
0351	ABLE AUTO WRECKERS	7400 Mowry Avenue / Newark 94560	M					Open	SLIC	ACWD
0894	TOLBERTSON PROPERTY	7580 Mowry Avenue / Newark 94560	L	D	NA			Open	SLIC	ACWD
0530	ELITE CLEANERS	5766 Mowry School Road / Newark 94560	L					Closed	SLIC	RWQCB
0916	COUNTRY CLUB CLEANING	35233 Newark Boulevard / Newark 94560	H	X	X			Open	SLIC	ACWD
0665	GRAND AUTO STORE #4029	35382 Newark Boulevard / Newark 94560	L					Cond Clos	SLIC	ACWD

* = Operating Gasoline Station

ATTACHMENT ONE
ALAMEDA COUNTY WATER DISTRICT
CASE LIST REPORT

SITE #	NAME	ADDRESS	S	E	N	MTBE		STATUS	PROG	LEAD
						INV	CLN			
0331 *	MOBIL NEW/BP 11113	35425 Newark Boulevard / Newark 94560	L	B	2			Open	LUFT	ACWD
0615	VILLA CLEANERS	36565 Newark Boulevard / Newark 94560	M					Open	SLIC	RWQCB
0301	DESERT PETROLEUM	36589 Newark Boulevard / Newark 94560	M	C	1			Open	LUFT	ACWD
0121	UNOCAL CHEMICALS	6800 Robertson (Redeker) Avenue / Newark 94560	M					Open	SLIC	RWQCB
0412	DODGE PROPERTY	5625 Robertson Avenue / Newark 94560	M					Closed	LUFT	ACWD
0495	USD NEWARK SUBBASIN LOWER RELIEF SEWER	Sewerline along SPRR / Newark 94560	L					Inactive	SLIC	ACWD
0741	OATEY COMPANY	6600 Smith Avenue / Newark 94560	L					Open	SLIC	ACWD
0187	FERMA CORPORATION	6655 Smith Avenue / Newark 94560	L	B	2			Open	LUFT	ACWD
0674	UPS FREIGHT-NEWARK TERMINAL	6700 Smith Avenue / Newark 94560	L	C	2			Open	LUFT	ACWD
0425	GRACE CONSTRUCTION PRODUCTS	6851 Smith Avenue / Newark 94560	L	X				Open	LUFT	ACWD
0474	EVERGREEN OIL INC.	6880 Smith Avenue / Newark 94560	M	X	X			Open	SLIC	DTSC
0497	FREITAS PROPERTY	7721 Sunset Avenue / Newark 94560	L					Closed	LUFT	ACWD
0577	WESTERN PACIFIC HOUSING	Sycamore Street & Carter Ave. / Newark 94560	L					Closed	SLIC	ACWD
0107	A.O.SMITH CORPORATION	37171 Sycamore Street / Newark 94560	L					Open	SLIC	ACWD
0735	CELLCO PARTNERSHIP	37555 Sycamore Street / Newark 94560	L	X				Open	SLIC	ACWD
0119	TWO COUNT COMPANY	37590 Sycamore Street / Newark 94560	L	X				Inactive	LUFT	ACWD
0011	AC TRANSIT - NEWARK FACILITY	37650 Sycamore Street / Newark 94560	L	N				Open	LUFT	ACWD
0584	SUPER K-MART	5401 Thornton Avenue / Newark 94560	H					Closed	LUFT	ACWD
0101 *	SHELL STATION - 5489 THORNTON AVE	5489 Thornton Avenue / Newark 94560	H	A	1			Open	LUFT	ACWD
0571 *	CHEVRON STATION 9-3751	5502 Thornton Avenue / Newark 94560	H	A	1			Open	LUFT	ACWD
0282 *	EXXON NO. 7-7116 (THORNTON AVE)	5835 Thornton Avenue / Newark 94560	H	B	1			Open	LUFT	ACWD
0094 *	USA GAS (REGAL STATION #414)	6788 Thornton Avenue / Newark 94560	H	C	2			Open	LUFT	ACWD
0116 *	A & S ENTERPRISES	7275 Thornton Avenue / Newark 94560	M	B	2			Open	LUFT	ACWD
0586	NEWARK PRINTERS	7679 Thornton Avenue / Newark 94560	L	X				Open	LUFT	ACWD
0283	THORNTON BUSINESS CENTER	8500 Thornton Avenue / Newark 94560	L					Closed	LUFT	ACWD
0001	UNION SANITARY DISTRICT, NEWARK STP	8700 Thornton Avenue / Newark 94560	L					Closed	LUFT	ACWD
0335	EUROPEAN AUTO WRECKING	7324 Wells Avenue / Newark 94560	L					Open	SLIC	ACWD
0321	STEFFENSEN PROPERTY-WELLS AVE.	8040 Wells Avenue / Newark 94560	L	C	3			Open	LUFT	ACWD
0244	SILVEY TRANSPORTATION INC.	8175 Wells Avenue / Newark 94560	L					Closed	LUFT	ACWD
0664	SILVEY-- LIQUID AIR PROPERTY	8175 Wells Avenue / Newark 94560	L					Closed	LUFT	ACWD
0703	DURA ART STONE FACILITY	8175 Wells Avenue / Newark 94560	L	X	X			Closed	SLIC	ACWD
0050	ROMIC CHEMICAL CORP.(FOSTER CHEMICAL)	37445 Willow Street / Newark 94560	L					Open	SLIC	RWQCB
0402	NEWARK SPORTSMAN'S CLUB	37447 Willow Street / Newark 94560	L					Open	SLIC	ACWD
0742	TORIAN HOLDINGS	37555 Willow Street / Newark 94560	L	X				Open	SLIC	ACWD

NUMBER OF CASES LISTED: 82

* = Operating Gasoline Station

**ATTACHMENT TWO
GUIDELINES FOR POTENTIAL
SPILLS, LEAKS, INVESTIGATION AND CLEANUP (SLIC) SITES**

**ALAMEDA COUNTY WATER DISTRICT,
ALAMEDA COUNTY DEPARTMENT OF ENVIRONMENTAL HEALTH, AND
THE CITIES OF FREMONT, NEWARK AND UNION CITY**

September 1, 2009

Purpose

The purposes of these guidelines are: 1) to enhance the coordination between the Cities of Fremont, Newark and Union City (Tri-Cities), the Alameda County Department of Environmental Health (ACEH), and the Alameda County Water District (ACWD) in determining whether a spill or leak at a site requires investigation and cleanup; 2) to establish procedures for evaluating potential Spills, Leaks, Investigation and Cleanup (SLIC) sites; and 3) to clarify the roles of the Tri-Cities, ACEH, and ACWD during initial investigation and remediation activities.

Definition of A SLIC Site

“Sites that are managed within the SLIC program include those with pollution from recent or historical surface spills, subsurface releases (e.g., from pipelines, sumps, etc.), complaint investigations, and all other unauthorized discharges that pollute or threaten to pollute surface or groundwater.” (Reference: California Regional Water Quality Control Board - San Francisco Bay Region’s 1995 Water Quality Control Plan)

Identification of A Potential SLIC Case

Typically, potential SLIC cases are identified as a result of one of the following events:

1. Evidence of a spill or leak is noted during a routine site inspection by one of the Tri-Cities or by ACEH.
2. Evidence of a spill or leak is noted during the closure or removal of a hazardous material storage facility other than an underground fuel or waste oil tank.
3. Notification of a spill is made by:
 - A. The responsible party;
 - B. A representative of the responsible party;
 - C. Another agency; or
 - D. A member of the public.
4. The results of soil and groundwater sampling are received from a property assessment study.

Initial response to spill incidents is handled and coordinated by the Tri-Cities. ACWD and other agencies may respond as a result of notification by the Office of Emergency Services, but the Tri-Cities handle incident command and coordination. All initial investigation and remediation activities will be directed by the Tri-Cities with technical assistance provided by ACWD when requested.

Evaluation of a Potential SLIC Case

After the emergency or initial response to the spill or leak, the Tri-Cities or ACEH should consult with ACWD in determining if the spill or leak poses a threat to groundwater beneath the site. In evaluating the spill or leak and the potential threat to groundwater, ACWD will determine if any of the following conditions exist:

1. The site is located within 2 mile of ACWD's recharge area or production wells.
2. Groundwater is encountered in the excavation.
3. Detectable concentrations of any constituents related to the unauthorized discharge are verified in groundwater or in the soil at or below the seasonal high groundwater level during initial response or post-remediation activities.
4. For historical or recent surface spills at a depth of 3 feet or deeper or for subsurface leaks within the first 2 feet of native soil beneath the piping, sump or other hazardous material storage facility:
 - A. The concentration of either total petroleum hydrocarbons or total oil and grease is greater than 100 ppm in soil samples.
 - B. The concentration of total semi-volatile organic compounds (SVOCs), as defined by EPA Method 8270, is greater than 10 ppm in soil samples.
 - C. Any other chemicals of concern are detected.
5. Detectable concentrations of chemicals of concern that do not meet criterion #4, but the native soil in the impacted area is a highly permeable material predominantly comprised of sands and gravels.

Initiation of a SLIC Case

If a spill or leak meets one or more of the conditions described above and both the City and ACWD agree that the site should be considered as a SLIC case, then ACWD will contact the Regional Board for oversight delegation. With the concurrence of the Regional Board, ACWD will issue a letter to the responsible party and begin to oversee investigation and remediation activities at the site as specified in Attachment Three. If the City and ACWD do not agree on whether a site should become a SLIC case, then either the City or ACWD may contact the Regional Board to assist in resolving the issue.

These guidelines do not prevent the Regional Water Quality Control Board - San Francisco Bay Region or the Department of Toxic Substances Control from listing a spill or leak site as a SLIC or hazardous waste case under each of their agencies' authorities.

ATTACHMENT THREE

PROCEDURES FOR OVERSIGHT OF INVESTIGATION AND REMEDIATION OF LEAKING UNDERGROUND FUEL TANK ("LUFT") SITES AND SPILLS, LEAKS, INVESTIGATION, AND CLEANUP ("SLIC") SITES

1. IDENTIFICATION OF RELEASE: RESPONSIBLE PARTIES

The Water District is not required to undertake investigatory activities to identify releases. Rather, the Water District is normally notified of a release by one of the Tri-Cities, the Alameda County Department of Environmental Health, by the Regional Board or by other persons, including Responsible Parties.

The Water District will attempt to identify a Responsible Party ("RP"), if necessary, by conducting a review of land title records available from the County Recorder to identify the most recent owner of record. Questions of a legal nature as to the identity of a RP will be referred to the Regional Board for decision. In addition, the Water District will report to the Regional Board whenever it determines that a release site falls into one of the following categories: (1) no RP can be identified or located, (2) the apparent RP is insolvent, (3) the apparent RP refuses to take appropriate action to remedy the site, or (4) Water District is a RP or where a conflict of interest may exist for some other reason.

When the Water District is notified of a release, and is able to identify a RP, it will notify the RP of the investigation and remediation requirements.

2. PRELIMINARY SITE ASSESSMENT

The Water District shall oversee a preliminary site assessment conducted by the RP. The purpose of the preliminary site assessment is to determine the extent of existing soil contamination and whether groundwater has been affected. A preliminary site assessment includes initial site investigation, initial abatement actions, and initial site characterization and any interim remedial actions. A preliminary site assessment includes overseeing the following work:

1. Visual inspection of any tank excavation pit or ground surface;
2. Excavation and disposal or on-site treatment of contaminated backfill and contaminated native soil;
3. Removal of any pollutants floating on groundwater discovered during tank removal and soil excavation;
4. Drilling of borings or installation of groundwater monitoring wells as necessary;
5. Development of a sampling protocol which includes sample collection and preservation methods and analyses of soil and groundwater samples for the appropriate constituents.

During preliminary site assessment, the Water District shall follow procedures established by the Regional Board to verify and document information submitted by the RP.

Based on data collected and analyzed during the preliminary site assessment, the Water District, with consultation from the Regional Board as necessary, shall make a determination as to whether:

1. The LUFT or SLIC site requires emergency investigation and/or cleanup actions due to a serious impact to present beneficial uses of waters of the State.
2. The LUFT or SLIC site requires more extensive investigation and/or cleanup action due to an impact or potential impact to beneficial uses of waters of the State.
3. The LUFT or SLIC site poses a minor threat to water quality.
4. The LUFT or SLIC site has been adequately cleaned up by the RP through initial removal or remedial actions carried out during the preliminary site assessment.

Upon making this determination, the Water District shall take one of the following actions:

1. If immediate or interim remediation is warranted, provide the RP with emergency or interim remediation oversight.
2. If additional site investigation and cleanup is indicated, inform the RP and proceed with site remedial investigation and remediation oversight.
3. If pollution is to be left in place, levels of pollutants must be acceptable to the Regional Board, and the Water District shall establish a monitoring schedule.
4. If the pollution at the site has been satisfactorily abated, certify that fact and provide the Regional Board, the RP, and the appropriate City with documentation to that effect.
5. If there is no impact or potential impact to the waters of the State, recommend no further action to the RP and, if appropriate, close the case.

3. **OVERSEE REMEDIAL INVESTIGATION, REVIEW FEASIBILITY STUDY AND APPROVE CORRECTIVE ACTION PLAN**

The Water District shall oversee the remedial investigation of the site to verify the RP's determination of the hydrogeological characteristics of the site; the lateral and vertical extent of soil and/or water pollution; the sensitivity of the site, and potential threat of adverse water quality impacts. The results of the investigation shall provide data and information to adequately

characterize the pollution on and off-site, and to allow the RP to prepare a feasibility study of applicable and appropriate remedial alternatives.

A. Soil and Water Investigation

In cases where groundwater has been impacted, monitoring wells shall be properly installed and used to obtain samples to:

1. Detect any free product;
2. Define the plume of free product and dissolved constituents;
3. Monitor concentrations of pollutants dissolved in water. In cases where groundwater is impacted, the RP should be directed by the Water District to determine:
 - a. Distance to nearest surface water,
 - b. Depth to groundwater,
 - c. Direction and rate of groundwater flow,
 - d. Composition and characteristics of the subsurface soils,
 - e. Current and potential beneficial uses of underlying and contiguous surface and groundwater,
 - f. Historic, current or planned use of domestic, public and private wells and other potential vertical conduits within 1/2 mile of the site.

B. Feasibility Study

The Water District shall oversee the preparation of a feasibility study report which identifies and evaluates feasible alternatives for cleaning up the site. Cleanup options may include but are not limited to the following:

1. Leave soil pollutants in place;
2. Excavation of polluted soils;
3. Enhanced in-situ or ex-situ soil bioremediation;
4. Soil vapor extraction;
5. Air sparging in combination with soil vapor extraction;
6. Free product removal;

7. Passive or active groundwater bioremediation;
8. Groundwater extraction and treatment technologies (e.g., air stripping or granulated activated carbon adsorption).

In addition to the above cleanup options, the feasibility and necessity of the following actions should be addressed at an early stage:

1. Wellhead treatment or treatment at individual water supply hookup;
2. Replacement of water supply.

C. Corrective Action Plan

The Water District shall oversee the preparation of and approval of a correction action plan that identifies the selected remedial action alternative and establishes an implementation schedule with the details for implementation. The Water District will approve the corrective action plan after determining that implementation of the proposed cleanup will adequately contain or clean up pollutants and after consultation with the Regional Board staff, if necessary.

4. CORRECTIVE ACTION PLAN IMPLEMENTATION

The Water District shall oversee implementation of the corrective action plan. The Water District shall establish or approve a schedule for the RP to monitor, evaluate, and report the results of implementing the cleanup and ensure that copies are sent to the Regional Board and/or appropriate city. Water District will provide information to RP on securing necessary building permits from the appropriate city and discharge permits from the Regional Board or the Union Sanitary District.

5. VERIFICATION MONITORING

The Water District shall oversee periodic groundwater, post cleanup verification, or other monitoring of the site, as necessary, following remedial action (e.g., dissolved product left in place). The Water District shall conduct periodic site inspections and document all observations on the implementation of the investigation and cleanup.

6. PUBLIC PARTICIPATION

Water District will inform the public of the proposed activities in a Corrective Action Plan, and upon completion of the corrective action, as required by 23 CCR Section 2728.

7. CASE CLOSURE

A. "No Confirmed Release" Sites

For UST sites which have completed preliminary investigations during UST removal and where no evidence has been found that leakage has ever occurred (soil and/or groundwater samples are all below appropriate detection limits; no visual signs of pollution, etc.), the Water District may issue a "no further action" letter for these sites provided:

1. the USTs have been properly closed/removed as determined by the appropriate city;
2. the preliminary investigation has been completed in accordance with the Tri-Regional Board Staff Recommendations; and
3. there is no evidence that releases from USTs, associated piping and dispensers had ever occurred.

The no further action letter should state that tank closure activities have been completed, that the available information indicates no release has occurred and that no further action related to the UST is required. Copies of these letters should not be submitted to the Regional Board and the sites should not be included in the Water District's Quarterly Reports since there was no evidence of leakage at these sites and the sites will not be listed on the State's database.

B. Contaminated Soils Sites

When evaluating a closure request from the RP for LUFT and SLIC sites with confirmed release(s), the Water District may issue case closure letters where appropriate for the following situations:

1. Sites where residential or farm heating oil tanks have been properly closed and groundwater has not been impaired; or
2. Sites which fit the "Case #2 - No Further Action Required" conditions outlined in the Tri-Regional Board Staff Recommendations; or
3. Sites with limited soil contamination only and where groundwater has not been impacted (i.e., non-detectable concentrations in the groundwater).

The case closure letter will state that site investigation and soil remediation has been completed and that no further action related to the UST(s) or spill is required. A copy of this letter will be submitted to the Regional Board along with a case closure summary.

C. Contaminated Groundwater Sites

For all other LUFT and SLIC sites with confirmed groundwater pollution (i.e., a site where the groundwater has been impacted by the release), when the Water District has determined that a case closure is appropriate, the Water District shall provide a case closure recommendation letter to the Regional Board. A brief summary of the following information shall be included in the recommendation letter.

1. Site Information
2. Background History
3. Investigative Methods

4. Extent of Soil and Groundwater Contamination
5. Hydrogeology
6. Beneficial Uses
7. Remediation Activities and Effectiveness
8. Conclusions and Recommendations

The Regional Board shall determine if case closure is appropriate. If the Water District's recommendation is accepted, the Regional Board shall issue a closure letter to the RP with a copy to the Water District and the appropriate city stating that no further action is required at the site. If the site has been approved by the State Water Resources Control Board's Cleanup Fund Program for cost reimbursement, a copy of the closure letter should be sent to the Cleanup Fund Program Manager.

8. ENFORCEMENT

The Water District may, at any time it deems appropriate, submit a recommendation to the Regional Board that a cleanup and abatement order be issued pursuant to Water Code Section 13304, or other appropriate enforcement action be taken by the Regional Board. Such recommendations shall include a chronology of actions at the site, the Water District's evaluation of the site and other relevant information. The Regional Board will promptly and carefully consider the Water District recommendation and will take appropriate actions.

The Water District may also refer cases to the Alameda County District Attorney for enforcement. A copy of any such referral letters shall be sent to the Regional Board.