



UST Program Update April 2019

\$6 Million Settlement Reached with Los Angeles County Metropolitan Transportation Authority for Underground Storage Tank Violations

The State Water Board has reached a \$6 million settlement with Los Angeles County Metropolitan Transportation Authority (MTA) for alleged UST violations at 16 facilities owned by MTA.

The State Water Board's Office of Enforcement began an investigation in July 2015 under the Government Owned and/or Operated Tanks (GOT) initiative after alleged violations were identified during an inspection at one facility owned and operated by MTA. Concerned that similar violations existed at other MTA facilities, inspections were completed at the fifteen remaining facilities by April 2016. Some of the alleged violations identified include; failure to maintain secondary containment; failure to monitor product piping; tampering with leak detection equipment; operating without a permit; failure to maintain primary containment; failure to maintain spill containment requirements; and failure to maintain UST monitoring systems.

Under the terms of the settlement, MTA will pay \$2 million in civil penalties to the State Water Pollution Cleanup and Abatement Account, \$67,050 for reimbursement of enforcement costs, and \$2 million will be suspended with the condition that MTA completes several enhanced compliance actions. The remaining \$2 million is suspended as long as MTA maintains compliance with the UST requirements specified in the judgment for a period of five years.

This settlement is the sixth enforcement action by the State Water Board's Office of Enforcement against a public entity under the State Water Board's GOT initiative that started in 2010 with the assistance of the U.S. Environmental Protection Agency (U.S. EPA). The purpose of the GOT initiative is to ensure that violations associated with USTs owned by local, state and federal agencies are handled in a similar manner as violations associated with privately owned USTs.

A copy of the settlement agreement can be found on the State Water Board's website at:
http://www.waterboards.ca.gov/water_issues/programs/enforcement/orders_actions.shtml

For more information regarding the MTA settlement please contact Mr. Brian Taylor at (916) 323-0600 or Brian.Taylor@waterboards.ca.gov.

Azad Amiri and Sarbjit S. Kang Conditionally Banned from Owning or Operating Underground Storage Tank Facilities in California

After a multi-year investigation by the State Water Resources Control Board (State Water Board), two El Dorado County businessmen accused of violating multiple Underground Storage Tank (UST) requirements have been conditionally banned from owning or operating gas stations in California.

In a settlement with the Attorney General's office totaling \$4.25 million, Azad Amiri and Sarbjit S. Kang, along with 13 other defendants, paid a combined \$1 million in civil penalties to the State Water Pollution Cleanup and Abatement account. An additional \$3.25 million penalty will be suspended if the defendants comply with UST laws for five years.

The agreement comes following an investigation that began in 2006, involved 11 facilities in six northern California counties, and led to the 2014 civil complaint that listed a litany of egregious violations, among them: Operating facilities without permits; failing to conduct required testing and maintenance; failing to monitor for leaks; and unlawfully abandoning USTs. Further, the defendants were alleged to have engaged in business practices designed to avoid liability, such as creating shell companies and abusing the discovery process.

Amiri and Kang, who will be allowed to own and operate gas stations in the future only if very strict conditions are met, are also required to employ an Environmental Coordinator at each facility covered to oversee compliance. Additionally, the defendants are required to permanently close and remove all USTs and UST systems at one of the covered facilities.

The State Water Board's investigation was a cooperative effort with Contra Costa County Health Services, El Dorado County Environmental Management Department, Placer County Department of Environmental Health and Human Services, Sacramento County Environmental Management Department, San Joaquin County Environmental Health Department, Yolo County Department of Environmental Health, Yolo County District Attorney's Consumer and Environmental Unit, and the Department of Toxic Substance Control's Office of Criminal Investigations.

A copy of the settlement agreement can be found on the State Water Board's website at: http://www.waterboards.ca.gov/water_issues/programs/enforcement/orders_actions.shtml

For more information regarding the Amiri and Kang settlement please contact Mr. Brian Taylor at (916) 323-0600 or Brian.Taylor@waterboards.ca.gov.

Adding Fluid to Hydrostatic Monitored Systems

The State Water Board has received inquiries regarding the activity of adding fluid to hydrostatically monitored components. Hydrostatic monitoring is a release detection method used to monitor the integrity of both the primary and secondary containment by continuously monitoring the liquid level within

the interstitial space. Static fluid level and correct fluid type is essential for hydrostatic monitoring to be effective in monitoring UST components, therefore:

- Adding fluid to hydrostatically monitored components for maintenance or calibration must only be performed by a UST service technician as described in section 2715(f). (California Code of Regulations, tit. 23, div. 3, ch. 16 (UST Regulations), §2638(b).);
- UST service technicians must maintain training by the manufacturer to add fluid, when required (UST Regulations, §2715(f)(2));
- UST service technicians must always add fluid in accordance with the manufacturer's recommendations (UST Regulations, §2638(a)); and
- UST service technicians must insure the correct type of monitoring fluid is used as adding the incorrect fluid type could adversely affect the operation of the monitored component (UST Regulations, §2638(a)).

Adding hydrostatic fluid in response to an alarm condition always requires a UST service technician to determine and document the cause of the alarm. Adding hydrostatic fluid to prevent the release detection system from alarming is considered tampering and subject to a fine of not less than five thousand dollars or more than ten thousand dollars, by imprisonment in the county jail for not more than one year, or both in accordance with Health and Safety Code, chapter 6.7, section 25299(f)(2).

For more information regarding hydrostatic monitoring, please contact Mr. Tom Henderson at (916) 319-9128 or Tom.Henderson@waterboards.ca.gov or Ms. Laura Fisher at (916) 341-5870 or Laura.Fisher@waterboards.ca.gov.

AC'CENT Environmental Services Dri-sump Containment Tightness Test Method

On March 14, 2019, State Water Board staff responded to an inquiry from AC'CENT Environmental Services regarding the use of their Dri-sump Containment Tightness Test (Dri-sump Test) for secondary containment testing. As we understand it, their method introduces a heavy vapor aerosol into the sump and then an air generator "pulls" the soil gases from around the sump into a viewing chamber to determine if the heavy vapor aerosol is present, indicating the sump is not tight. Our response to AC'CENT Environmental Services outlined the requirements regarding methods used for secondary containment testing and explicitly stated that the method may only be used if it meets one of the following, in the following order: 1) the Dri-sump Test method is included in the manufacturer's published guidelines or standards for testing the secondary containment component; 2) there are no manufacturer's published guidelines or standards for testing the secondary containment component and the Dri-sump Test method is specified in industry code or engineering standards; or 3) there are no published manufacturer's guidelines or standards for testing the secondary containment component, there are no applicable industry codes or engineering standards for testing the secondary containment component, and the Dri-sump Test method is approved by a California registered professional engineer for testing the secondary containment component. At this time, the State

Water Board has concluded that the Dri-sump Test does not meet any of California's secondary containment testing requirements.

For more information regarding the Dri-sump Test, please contact Mr. Cory Hootman at (916) 341-5668 or Cory.Hootman@waterboards.ca.gov or Mr. Tom Henderson at (916) 319-9128 or Tom.Henderson@waterboards.ca.gov.

State Water Board UST Leak Prevention Unit Honors CUPA Staff

Every year State Water Board staff are privileged to work with dedicated members of the Certified Unified Program Agency (CUPA) UST community. During the past year, two individuals were exceptional in their time and effort provided to State Water Board projects and were recognized during the 2019 CUPA Conference for their contribution.

Jim Whittle from the Shasta County Environmental Health Division was heavily involved in last year's violation library update. The 2018 violation library was particularly complex because of the changes required by the new UST regulations and the conversion of U.S. EPA performance measures from SOC to TCR. Jim was relentless on perfecting the details and the 2019 UST violation library needed no structural changes that generally occur year to year because of Jim's input. Jim was also instrumental in providing a method to quickly perform the TCR violation count as part of the recent Report 6. The method, affectionately known as the Shasta Method, was provided to dozens of CUPAs, many who praise the method's usefulness.

Greg Breshears from the Santa Clara County Environmental Health Department was involved in reviewing several State Water Board draft projects, such as the new TCR and Report 6, hydrostatic monitoring, and new UST regulations. All projects reviewed by Greg were improved in quality and scope. Greg's additions were instrumental in providing a CUPA's perspective to these projects.

State Water Board staff are very proud to work with these individuals and their contributions reflect well on themselves and their organizations. Jim and Greg can easily be recognized by their new fashionable State Water Board baseball hats.

UST Compliance for the Energy Policy Act Certification

The UST provisions of the Energy Policy Act of 2005 (EPAct) focus on preventing releases. Among other things, they expand eligible uses of the Leaking UST Trust Fund, and include provisions regarding inspection frequency, operator training, delivery prohibition, secondary containment and financial responsibility.

The State Water Board is required by U.S. EPA to certify compliance with the provisions of EPAct annually. U.S. EPA directed the State Water Board to utilize the California Environmental Reporting System (CERS) to the extent possible to verify that Unified Program Agencies (UPAs) are meeting the federal minimum 3-year facility inspection frequency. Where inspection information was not available in CERS, State Water Board

staff requested the information from the UPAs to document compliance. On February 11, 2019 State Water Board staff provided U.S. EPA with a list of all UST systems in operation requiring inspections, and their corresponding inspection dates. The final certification was presented to U.S. EPA early March 2019. State Water Board staff appreciates the UPAs timely responses to requested CERS review and updates, making the EAct certification possible.

For more information regarding the EAct Certification please contact Mr. Tom Henderson at (916) 319-9128 or Tom.Henderson@waterboards.ca.gov.

Duplicate UST Cleanup in CERS

On January 9, 2019 California Environmental Protection Agency (CalEPA) sent instructions to affected UPAs regarding removing duplicate USTs from CERS. On January 29, 2019 CalEPA sent a supplemental report with new potential duplicate UST facilities. Finally, on March 13, 2019, CalEPA provided a report identifying facilities with duplicate UST submittals to be addressed. In all, 72 UPAs were notified there may be one or more duplicate USTs in their jurisdiction. It is important for affected UPAs to address duplicate USTs for a variety of reasons, including:

- Potential for mis-reporting the number of USTs on Report 6; and
- EAct reporting by the State Water Board to U.S. EPA.

If you are an affected UPA, you should plan on completing the instructions for duplicate UST removal as soon as possible. For more information regarding duplicate USTs, please contact Ms. Lisa Jensen at (916) 319-0742 or Lisa.Jensen@waterboards.ca.gov or Mr. Daniel Firth at (916) 341-5711 or Daniel.Firth@waterboards.ca.gov.

Discarding Previously Closed or Removed USTs from Future CERS UST Submittals

When a UST is permanently closed in place or removed a CERS UST submittal is necessary to report the closure or removal. This submittal must include the correct Type of Action, either permanent closure in place or removal, and must include the Date of Closure or Removal.

With the release of CERS 3, any tank which does not have a 'Date of Closure' or 'Removal' will be presented to the facility owner/operator with the first submittal after April 2, 2019. At that time the facility owner/operator will have the opportunity to input the correct closure date.

Once the submittal closing or removing the UST(s) has been accepted it is no longer necessary to include the closed/removed UST(s) on future CERS submittals. A new CERS Frequently Asked Questions (FAQ) has been posted on the UST Program CERS FAQ page to assist in discarding the closed/removed UST(s) from future submittals.

The new FAQ may be found here, under Business User FAQs, for reference:

https://www.waterboards.ca.gov/water_issues/programs/ust/cers/faqs.html

For more information regarding closed or removed USTs, please contact Ms. Lisa Jensen at (916) 319-0742 or Lisa.Jensen@waterboards.ca.gov or Mr. Daniel Firth at (916) 341-5711 or Daniel.Firth@waterboards.ca.gov.

21st CUPA Conference Training Session Presentations

The 21st Annual CUPA Training Conference was held in Anaheim at the end of February. The State Water Board offered a number of training opportunities and participated in collaborative trainings with other state and local agencies.

Evaluations – The Process We Hate to Love

This panel discussion offered insight from four CUPA Program Managers on the hidden benefits found during the UST program evaluation process. Lisa Jensen moderated the panel and noted the excellent ideas brought up during the discussion. The State Water Board would like to thank each of the panelists for their expertise, insight, thoughtful discussion, and dedication to environmental protection:

- Susan Berg, Supervising Hazardous Materials Specialist - Orange County Environmental Health
- Lisa Medina, Manager - Calaveras County Environmental Health
- Kirk Ford, CUPA Manager, Mendocino County Environmental Health
- Jennea Monasterio, Environmental Specialist III - Sacramento County Environmental Management Department

Performance Evaluations: Determining Findings

State Water Board staff participated in a comprehensive training organized by CalEPA on CUPA performance evaluations. Each of the four state agencies performing Unified Program Evaluations presented details on the research that goes into identifying findings during the triennial performance evaluation. The State Water Board portion of the presentation may be found at:

<https://calcupa.org/CMS15/upload-manager/presentations/CUPA-2019/3606-10181-state-water-board-evaluation-training.pdf>

Catching Up with the New UST Requirements

Cory Hootman and Tom Henderson of the State Water Board UST Leak Prevention Unit presented a session focused on the implementation of the UST regulations that became effective October 1, 2018 and makes California's UST regulations at least as stringent as the Federal UST regulations. The session covers new UST regulations regarding, but not limited to; 1) designated UST operators; 2) testing and inspections; 3) monitoring; 4) demonstrating compatibility; 5) new and revised required forms; 6) installations; and 7) upgrades. Attendees became familiar with the most up-to-date UST regulations.

A copy of this presentation can be found on the California CUPA Forum webpage at: https://calcupa.org/CMS15/upload-manager/presentations/CUPA-2019/2033-3401-catching_up_cupa_2019.pdf.

For more information regarding the session Catching Up With the New UST Requirements, please contact Mr. Cory Hootman at (916) 341-5668 or Cory.Hootman@waterboards.ca.gov or Mr. Tom Henderson at (916) 319-9128 or Tom.Henderson@waterboards.ca.gov.

Advanced Data Mining in CERS, Make the Data Work for You

Lisa Jensen of the State Water Board collaborated with Sacramento County Environmental Management Department's (Sacramento County) Jennea Monasterio and Christopher Brozek to provide background on the tools the State Water Board uses to review CERS data and the transition to a semi-automated tool developed by Sacramento County to perform an in-depth review of UST construction and monitoring information. The tool makes short work of identifying potential anomalies in any monitoring and construction information in UST CERS submittals. To obtain the tool developed by Sacramento County, send an email to Jennea Monasterio at MonasterioJ@sacounty.net. The presentations from State Water Board and Sacramento County may be found at:

- State Water Board: https://calcupa.org/CMS15/upload-manager/presentations/CUPA-2019/8002-10181-swb-cers-advanced-use_with-notes-for-cupas.pdf
- Sacramento County: <https://calcupa.org/CMS15/upload-manager/presentations/CUPA-2019/10-9708-presentation-for-conference,-cb-2-27.pdf>

TIUGA-Tanks in Underground Areas

Cory Hootman of the State Water Board, Jennifer Lorenzo of the Office of the State Fire Marshal (OSFM), and Sande Pence of San Diego's Department of Environmental Health provided an overview and update of the Aboveground Petroleum Storage Act (APSA) program as it relates to Tanks in Underground Areas (TIUGAs), including an in-depth discussion on the piping requirements for TIUGAs per the fire code. The presentation included a discussion on the transition of TIUGAs from the UST program to the APSA program.

A fact sheet for TIUGAs can be found on the California CUPA Forum webpage at: <https://calcupa.org/CMS15/upload-manager/presentations/CUPA-2019/5701-2023-tiuga-factsheet.pdf>.

For more information regarding the session TIUGA-Tanks in Underground Areas, please contact Mr. Cory Hootman at (916) 341-5668 or Cory.Hootman@waterboards.ca.gov or Ms. Jennifer Lorenzo of OSFM at (916) 263-1801 or Jennifer.Lorenzo@fire.ca.gov.

International Code Council California Specific Exams Revised

The State Water Board convened a committee of designated UST operators, UST service technicians, UST inspectors, and other stakeholders to revise the California specific International Code Council (ICC) UST exams to reflect changes in UST statute, regulations, and reference materials. Specifically, the California

UST Inspector, California UST Service Technician, and California UST System Operator exams were revised to modify content regarding, but not limited to; issuance of UST operating permits, red tag requirements, and overfill prevention equipment inspection requirements. In addition, the references used to study for these exams have been updated to include the most recent published editions. State Water Board staff will provide notification when the exams become available and post to the webpage with updated content. Although subject to change, we expect the revised exams to be offered beginning in July 2019.

For more information regarding the revised California specific ICC UST exams, please contact Mr. Cory Hootman at (916) 341-5668 or Cory.Hootman@waterboards.ca.gov.