STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

ORDER WQ 2015-0158 – UST

In the Matter of Underground Storage Tank Case Closure

Pursuant to Health and Safety Code Section 25296.10 and the Low Threat Underground Storage Tank Case Closure Policy

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BY THE CHIEF DEPUTY DIRECTOR:[1]

By this order, the Chief Deputy Director directs closure of the underground storage tank (UST) case at the site listed below, pursuant to section 25296.10 of the Health and Safety Code[2]. The name of the UST Cleanup Fund (Fund) claimant, the Fund claim number, the site name, the applicable site address, and the lead agency are as follows:

The 1790 Ten Corporation
Fund Claim No. 2338
Spartan Gas Station
498 4th Street, San Jose

Santa Clara County Environmental Health Department
Agency Case Number 07S1E17B03f

I. STATUTORY AND PROCEDURAL BACKGROUND

Upon review of a UST case, the State Water Resources Control Board (State Water Board), or in certain cases the State Water Board Executive Director, or Chief Deputy Director, may close or require closure of a UST case if the State Water Board determines that corrective action at the site is in compliance with the requirements of subdivisions (a) and (b) of section 25296.10. Closure of a UST case is appropriate where the corrective action ensures the protection of human health, safety, and the environment, and where the corrective action is consistent with: 1) Chapter 6.7 of Division 20 of the Health and Safety Code and implementing regulations; 2) Any applicable waste discharge requirements or other orders issued pursuant to

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[1] State Water Board Resolution No. 2012-0061 delegates to the Executive Director the authority to close or require the closure of any UST case if the case meets the criteria found in the State Water Board's Low Threat Underground Storage Tank Case Closure Policy adopted by State Water Board Resolution No. 2012-0016. Pursuant to Resolution No. 2012-0061, the Executive Director has delegated this authority to the Chief Deputy Director.

[2] Unless otherwise noted, all references are to the Health and Safety Code.

Division 7 of the Water Code; 3) All applicable state policies for water quality control; and 4) All applicable water quality control plans.

State Water Board staff has completed a review of the UST case identified above, and recommends that this case be closed. The recommendation is based upon the facts and circumstances of this particular UST case. A UST Case Closure Review Summary Report has been prepared for the case identified above and the bases for determining compliance with the Water Quality Control Policy for Low-Threat Underground Storage Tank Case Closures (Policy) are explained in the Case Closure Review Summary Report.

In State Water Board Resolution No. 2012-0016, the State Water Board adopted the Policy. The Policy became effective on August 17, 2012. The Policy establishes consistent statewide case closure criteria for certain low-threat petroleum UST sites. In the absence of unique attributes or site-specific conditions that demonstrably increase the risk associated with residual petroleum constituents, cases that meet the general and media-specific criteria in the Policy pose a low threat to human health, safety and the environment and are appropriate for closure under Health and Safety Code section 25296.10. The Policy provides that if a regulatory agency determines that a case meets the general and media-specific criteria of the Policy, then the regulatory agency shall notify responsible parties and other specified interested persons that the case is eligible for case closure. Unless the regulatory agency revises its determination based on comments received on the proposed case closure, the Policy provides that the agency shall issue a closure letter as specified in Health and Safety Code section 25296.10. The uniform closure letter may be issued only after the expiration of the 60-day comment period, proper destruction or maintenance of monitoring wells or borings, and removal of waste associated with investigation and remediation of the site.

Health and Safety Code section 25299.57, subdivision (l)(1) provides that claims for reimbursement of corrective action costs that are received by the Fund more than 365 days after the date of a uniform closure letter or a Letter of Commitment, whichever occurs later, shall not be reimbursed unless specified conditions are satisfied.

II. FINDINGS

Based upon the UST Case Closure Review Summary Report prepared for the case and attached hereto, the State Water Board finds that corrective action taken to address the unauthorized release of petroleum at the UST release site identified as:

Claim No. 2338

Spartan Gas Station

ensures protection of human health, safety and the environment and is consistent with Chapter 6.7 of Division 20 of the Health and Safety Code and implementing regulations, the Policy, and other applicable water quality control policies and plans.

The unauthorized release from the UST consisted only of petroleum. This order directs closure for the petroleum UST case at the site.[3]

Pursuant to the Policy, notification has been provided to all entities that are required to receive notice of the proposed case closure, a 60-day comment period has been provided to notified parties, and any comments received have been considered by the Board in determining that the case should be closed.

Pursuant to section 21080.5 of the Public Resources Code, environmental impacts associated with the adoption of this Order were analyzed in the substitute environmental document (SED) the State Water Board approved on May 1, 2012. The SED concludes that all environmental effects of adopting and implementing the Policy are less than significant, and environmental impacts as a result of complying with the Policy are no different from the impacts that are reasonably foreseen as a result of the Policy itself. A Notice of Decision was filed August 17, 2012. No new environmental impacts or any additional reasonably foreseeable impacts beyond those that were not addressed in the SED will result from adopting this Order.

The UST case identified above may be the subject of orders issued by the Regional Water Quality Control Board (Regional Water Board) pursuant to Division 7 of the Water Code. Any orders that have been issued by the Regional Water Board pursuant to Division 7 of the Water Code, or directives issued by a Local Oversight Program agency for this case should be rescinded to the extent they are inconsistent with this Order.

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[3] This order addresses only the petroleum UST case for the site. This order does not affect any order or directive requiring corrective action for non-petroleum contamination, if non-petroleum contamination is present.

III. ORDER

IT IS THEREFORE ORDERED that:

A. The UST case identified in Section II of this Order, meeting the general and media-specific criteria established in the Policy, be closed in accordance with the following conditions and after the following actions are complete. Prior to the issuance of a uniform closure letter, the Fund claimant is ordered to:

1. Properly destroy monitoring wells and borings unless the owner of real property on which the well or boring is located certifies that the wells or borings will be maintained in accordance with local or state requirements;

2. Properly remove from the site and manage all waste piles, drums, debris, and other investigation and remediation derived materials in accordance with local or state requirements; and

3. Within six months of the date of this Order, submit documentation to the regulatory agency overseeing the UST case identified on page 1 of this Order that the tasks in subparagraphs (1) and (2) have been completed.

B. The tasks in subparagraphs (1) and (2) of paragraph (A) are ordered pursuant to Health and Safety Code section 25296.10 and failure to comply with these requirements may result in the imposition of civil penalties pursuant to Health and Safety Code section 25299, subdivision (d)(1). Penalties may be imposed administratively by the State Water Board or Regional Water Board.

C. Within 30 days of receipt of proper documentation from the Fund claimant that requirements in subparagraphs (1) and (2) of paragraph (A) are complete, the regulatory agency that is responsible for oversight of the UST case identified in Section II of this Order shall notify the State Water Board that the tasks have been satisfactorily completed.

D. Within 30 days of notification from the regulatory agency that the tasks are complete pursuant to paragraph (C), the Deputy Director of the Division of Financial Assistance shall issue a closure letter consistent with Health and Safety Code section 25296.10, subdivision (g) and upload the closure letter and UST Case Closure Review Summary Report to GeoTracker.

E. Pursuant to section 25299.57, subdivision (l) (1), and except in specified circumstances, all claims for reimbursement of corrective action costs must be received by the Fund within 365 days of issuance of the uniform closure letter in order for the costs to be considered.

F. Any Regional Water Board or Local Oversight Program Agency directive or order that directs corrective action or other action inconsistent with case closure for the UST case identified in Section II is rescinded, but only to the extent the Regional Water Board order or Local Oversight Program Agency directive is inconsistent with this Order.

Chief Deputy Director

11/16/15
Date

UST CASE CLOSURE REVIEW SUMMARY REPORT

Agency Information

Agency Name: Santa Clara County Environmental Health Department (County)	Address: 1555 Berger Drive, Suite 300 San Jose, CA 95112
Agency Caseworker: Gerald O'Regan	Case No.: 07S1E17B03f

Case Information

USTCF Claim No.: 2338	GeoTracker Global ID: T0608501344
Site Name: Spartan Gas Station	Site Address: 498 4TH Street San Jose, CA 95112
Responsible Party: Lopes Stephen et al. Attn: Stephen Lopes	Address: PO Box 1307 San Jose, CA 95109
USTCF Expenditures to Date: $1,495,000	Number of Years Case Open: 26

To view all public documents for this case available on GeoTracker use the following URL: **http://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T0608501344**

Summary

The Low-Threat Underground Storage Tank (UST) Case Closure Policy (Policy) contains general and media-specific criteria, and cases that meet those criteria are appropriate for closure pursuant to the Policy. This case meets all of the required criteria of the Policy. Highlights of the case follow:

This case is a former commercial petroleum fueling facility. Five USTs (four gasoline, one diesel) removed in June 1998. An unauthorized release was reported in April 1989. Approximately 500 cubic yards of contaminated soil was excavated between June 1998 and June 1999. Between the period of UST removal and 2002 more than 50 gallons of free product were removed. Soil vapor extraction was conducted between September 2003 and June 2007, which reportedly removed 679 pounds of total petroleum hydrocarbons as gasoline (TPHg). Groundwater extraction was conducted between December 2002 and December 2007, which removed approximately 13 million gallons of contaminated groundwater. Active remediation has not been conducted at the Site for the past 10 years. Since 1998, 21 groundwater monitoring and four extraction wells have been installed and monitored. According to groundwater data, water quality objectives have been achieved or nearly achieved for all constituents except benzene.

The petroleum release is limited to the soil and shallow groundwater. According to data available in GeoTracker, there are no public water supply wells or surface water bodies within 1,000 feet of the defined plume boundary. No other water supply wells have been identified within 1,000 feet of the defined plume boundary in files reviewed. The unauthorized release is located within the service area of a public water system, as defined in the Policy. The affected shallow groundwater is not currently being used as a source of drinking water, and it is highly

unlikely that the affected shallow groundwater will be used as a source of drinking water in the foreseeable future. Other designated beneficial uses of the affected shallow groundwater are not threatened, and it is highly unlikely that they will be, considering these factors in the context of the site setting. Remaining petroleum hydrocarbon constituents are limited and stable, and concentrations are decreasing. Corrective actions have been implemented and additional corrective actions are not necessary. Any remaining petroleum hydrocarbon constituents do not pose a significant risk to human health, safety or the environment.

Rationale for Closure under the Policy

- General Criteria: The case meets all eight Policy general criteria.
- Groundwater Specific Criteria: The case meets Policy Criterion 1 by Class 2. The contaminant plume that exceeds water quality objectives is less than 250 feet in length. There is no free product. The nearest water supply well or surface water body is greater than 1,000 feet from the defined plume boundary. The dissolved concentration of benzene is less than 3,000 micrograms per liter (µg/L) and the dissolved concentration of methyl tert-butyl ether (MTBE) is less than 1,000 µg/L.
- Vapor Intrusion to Indoor Air: The case meets Policy Criterion 2a by Scenario 3b. The maximum benzene concentration in groundwater is less than 1,000 µg/L. The minimum depth to groundwater is greater than 10 feet, overlain by soil containing less than 100 milligrams per kilogram (mg/kg) of TPH.
- Direct Contact and Outdoor Air Exposure: The case meets Policy Criterion 3a. Maximum concentrations in soil are less than those in Policy Table 1 for Commercial/Industrial use, and the concentration limits for a Utility Worker are not exceeded. There are no soil sample results in the case record for naphthalene. However, the relative concentration of naphthalene in soil can be conservatively estimated using the published relative concentrations of naphthalene and benzene in gasoline. Taken from Potter and Simmons (1998), gasoline mixtures contain approximately 2 percent benzene and 0.25 percent naphthalene. Therefore, benzene can be used as a surrogate for naphthalene concentrations with a safety factor of eight. Benzene concentrations from the Site are below the naphthalene thresholds in Policy Table 1. Therefore, the estimated naphthalene concentrations meet the thresholds in Table 1 and the Policy criteria for direct contact by a factor of eight. It is highly unlikely that naphthalene concentrations in the soil, if any, exceed the threshold.

Determination

The Fund Manager has determined that corrective action performed at the Site is consistent with the requirements of Health and Safety code section 25296.10, subdivision (a), and that closure of the case is appropriate.

Spartan Gas Station
498 4th Street, San Jose
Claim No: 2338

Recommendation for Closure
Based on available information, residual petroleum hydrocarbons at the Site do not pose a significant risk to human health, safety, or the environment, and the case meets the requirements of the Policy. Accordingly, the Fund Manager recommends that the case be closed. The State Water Board is conducting public notification as required by the Policy. Santa Clara County has the regulatory responsibility to supervise the abandonment of monitoring wells.

Lisa Babcock

Lisa Babcock, P.G. 3939, C.E.G. 1235

6/26/15
Date

Prepared by: Walter Bahm, P.E.