

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

ORDER WQ 2015-0001 – UST

In the Matter of Underground Storage Tank Case Closure

**Pursuant to Health and Safety Code Section 25299.39.2 and the Low Threat
Underground Storage Tank Case Closure Policy**

BY THE EXECUTIVE DIRECTOR¹:

Pursuant to Health and Safety Code section 25299.39.2, the Manager of the Underground Storage Tank Cleanup Fund (Fund) recommends closure of the underground storage tank (UST) case at the site listed below.² The name of the Fund claimant, the Fund claim number, the site name and the applicable site address are as follows:

**Joseph Francia
Claim No. 1674
San Jose Foundry
525 W. Saint John Street, San Jose**

Santa Clara County Department of Environmental Health

I. STATUTORY AND PROCEDURAL BACKGROUND

Section 25299.39.2 directs the Fund manager to review the case history of claims that have been active for five years or more (five-year review), unless there is an objection from the UST owner or operator. This section further authorizes the Fund Manager to make recommendations to the State Water Resources Control Board (State Water Board) for closure of a five-year-review case if the UST owner or operator approves. In response to a recommendation by the Fund Manager, the State Water Board, or in certain cases the State Water Board Executive Director, may close a case or require the closure of a UST case. 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 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.

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

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

The Fund Manager has completed a five-year 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 (Low-Threat Closure Policy or Policy) are explained in the Case Closure Review Summary Report.

A. Low-Threat Closure Policy

In State Water Board Resolution No. 2012-0016, the State Water Board adopted the Low Threat Closure 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 Low-Threat Closure 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 closure letter may only be issued 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 closure letter or a Letter of Commitment, whichever occurs later, shall not be reimbursed unless specified conditions are satisfied. A Letter of Commitment has already been issued on the claim subject to this order and the respective Fund claimant, so the 365-day timeframe for the submittal of claims for corrective action costs will start upon the issuance of the closure letter.

II. FINDINGS

Based upon the UST Case Closure Review Summary Report prepared for the case 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. 1674
San Jose Foundry

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 Low-Threat Closure 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 Low-Threat Closure 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 Low-Threat Closure 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.

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 Low-Threat Closure Policy, be closed in accordance with the following conditions and after the following actions are complete. Prior to the issuance of a 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.

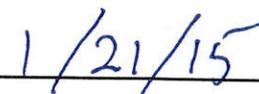
- D. Within 30 days of notification from the regulatory agency that the tasks are complete pursuant to paragraph (C), the Deputy Director of the Division of Financial Assistance shall issue a closure letter consistent with Health and Safety Code section 25296.10, subdivision (g) and upload the closure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

- E. As specified in Health and Safety Code section 25299.39.2, subdivision (a) (2), corrective action costs incurred after a recommendation of closure shall be limited to \$10,000 per year unless the Board or its delegated representative agrees that corrective action in excess of that amount is necessary to meet closure requirements, or additional corrective actions are necessary pursuant to section 25296.10, subdivisions (a) and (b). 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 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.



Executive Director



Date

State Water Resources Control Board

UST CASE CLOSURE REVIEW SUMMARY REPORT

Agency Information

Agency Name: Santa Clara County Department of Environmental Health (County)	Address: 1550 Berger Drive Suite 300, San Jose, CA 95112
Agency Caseworker: Gerald O' Regan	Case No.: 07S1E07Q01f

Case Information

USTCF Claim No.: 1674	GeoTracker Global ID: T0608501177
Site Name: San Jose Foundry	Site Address: 525 W. Saint John Street, San Jose, CA 95113
Responsible Party: Joseph Francia c/o Mr. Mike McGee	Address: P.O. Box 3700, Turlock, CA 95381
USTCF Expenditures to Date: \$209,733	Number of Years Case Open: 26

To view all public documents for this case available on GeoTracker use the following URL.

URL: http://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T0608501177

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.

This case is a vacant building. An unauthorized release was reported in March 1987 following the removal of a 500-gallon gasoline UST. Several dual-phase extractions were conducted at the Site between January and June 2011. That collectively removed approximately 1,637 pounds (262 gallons) of petroleum hydrocarbons. Active remediation has not been conducted at the Site for the past three years. Since 1987 thirteen groundwater monitoring wells have been installed and monitored regularly.

The petroleum release is limited to the soil and shallow groundwater. According to data available in GeoTracker, there are no public supply wells or surface water body within 250 feet of the defined plume boundary. No other water supply wells have been identified within 250 feet of the defined plume boundary in files reviewed. The unauthorized release is located in an area served by a public water service, 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 impacted 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 1. The contaminant plume that exceeds water quality objectives is less than 100 feet in length. There is no free product. The nearest water supply well or surface water body is greater than 250 feet from the defined plume boundary.
- Vapor Intrusion to Indoor Air: The case meets Policy Criterion 2b. A site-specific risk assessment of potential exposure to petroleum constituents as a result of vapor intrusion [Site Assessment Report (Report #4047), December 27, 2013] found that maximum concentrations of petroleum constituents remaining in soil and groundwater will have no significant risk of adversely affecting human health. In addition, the September 15, 2004 Deed Restriction: Residual Soil and Groundwater Contamination states "Results of soil vapor sampling and ambient air sampling conducted in December 2000 indicated that there is no risk to indoor quality from residual hydrocarbons in the subsurface."
- Direct Contact and Outdoor Air Exposure: This case meets Policy Criterion 3b. Although no document titled "Risk Assessment" was found in the files reviewed, a professional assessment of site-specific risk from potential exposure to residual soil contamination was completed by Fund staff. The results of the assessment found that maximum concentrations of petroleum constituents remaining in soil will have no significant risk of adversely affecting human health. The existing September 2004, Deed Restriction, provides ample notification to any future construction activity onsite with respect to worker direct contact or ambient air exposures.

Objections to Closure and Responses

The County presents their objection to UST case closure in a letter dated March 20, 2014.

Comment 1: The groundwater flow Rose Diagram does not include all historical flow information. The data collected between 1991 and 2000 shows the plume may have moved in a different direction than the Rose Diagram submitted in the report dated December 27, 2013.

Response 1: The Rose Diagram presented in the Report contains all relevant groundwater flow direction data available for the case. Some of the older data cannot be recreated/resurveyed because the well(s) have been destroyed.

Comment 2: The groundwater plume map shows that the southern extent of the plume is not defined. Queries are used to depict the southern plume limits. As discussed with the consultant queries are used when the boundary location is not known.

Response 2: The dashed lines are used in the area of former boring WT-2 and WT-3 that were drilled and sampled in 2005. These grab groundwater samples identified non-detect to very low concentrations of benzene thus providing the necessary data to define the upgradient extent of the petroleum hydrocarbon plume.

Comment 3: The County understands that the consultant believes that the shallow groundwater does not meet the definition of beneficial use because wells do not produce more than 200 gallons per day. Information in the file does not allow the County to evaluate this conclusion. The County asked the consultant to produce groundwater production and groundwater pump times so that a flow rate can be calculated. When this data is received, the County will review it along with groundwater well design information.

Response 3: The shallow groundwater (generally less than 30 feet below ground surface (bgs)) in the area contains very limited supply of groundwater. Local examples include: high vacuum extraction systems installed at the Milligan News site, the San Jose Arena Parking Lot 5A site and

the San Jose Foundry which all generated minimal amounts of water during periods of operations. Department of Water Resources requires a minimum 50 foot sanitary seal which would also protect any future supply well development in the area. Additionally, the September 15, 2004 Deed Restriction, Residual Soil and Groundwater Contamination states "The property owner promises not to use, or allow the use of, the shallow groundwater beneath the property for drinking water purposes or industrial/commercial use, until such time it is determined in writing by the Santa Clara Valley Water District (SCVWD) that groundwater is suitable for such use."

Determination

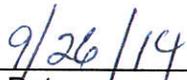
Based on the review performed in accordance with Health & Safety Code Section 25299.39.2 subdivision (a), the Fund Manager has determined that closure of the case is appropriate.

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, P.G. 3939, C.E.G. 1235
Fund Manager



Date

Prepared by: Abdul Karim Yusufzai