

SUMMARY OF WATER QUALITY ORDER

ORDER NO.	WQO 2003-0011-UST
DATE ADOPTED	September 16, 2003
PETITION TITLE	In the Matter of the Petitions of Sui Lau and Yut Bing Leung Lau for Review of Denial of Petroleum Underground Storage Tank Site Closure at 3938 State Street, Santa Barbara, California, and Other Actions and Inactions of Santa Barbara County
POPULAR NAME <i>[if applicable]</i>	The Lau Site
LOP AGENCY	Santa Barbara County
FILE NO.	UST Cleanup Fund Number 9769

PRECEDENTIAL DECISION

On September 16, 2003, the State Water Resources Control Board (SWRCB) adopted an order directing closure of petitioners' petroleum underground storage tank (UST) case.

Petitioners requested UST case closure from the Santa Barbara County Fire Department, Protection Services Division (County) on several occasions. The County implements the Local Oversight Program (LOP) pursuant to its contract with the SWRCB.

After the County denied petitioners' request for closure, petitioners sought SWRCB review of closure denial. Petitioners also sought review of other actions and inactions on the part of the County. Specifically, petitioners contended: (1) that the County violated provisions of their LOP contract, (2) that the County geologist assigned to petitioners' case has a conflict of interest, and (3) that the County geologist and his supervisor violated provisions of the Geologists and Geophysicists Act, which would, in turn, amount to a violation of the LOP contract.

Relative to petitioners' request for closure, the adopted order finds that the site presents a low risk to human health, safety, and the environment for the following reasons. First, shallow groundwater beneath petitioners' site meets Basin Plan water quality objectives for all petroleum constituents except 1,2 DCA. Second, the concentration of 1,2 DCA in groundwater downgradient from the source zone is only 0.33 ppb above the maximum contaminant level (0.5 ppb) and is declining by natural attenuation processes. Third, the site will likely meet water quality objectives for all petroleum constituents within several months to years. Fourth, given the significant remedial action already undertaken at the site, including excavation, soil vapor extraction, chemical oxidation, and natural attenuation processes, the cost of further remediation outweighs any benefits of concentration reductions. Finally, it is improbable that nearby identified beneficial uses of water are or will be affected by residual 1,2 DCA from this site.

Relative to contention (1), the order finds that the County violated the LOP contract when it failed to include in their closure-denial letters the appeal language specified in the LOP contract, but that the County violated neither the LOP contract nor applicable regulations when someone other than the equivalent of the Environmental Health Director issued the closure denial.

Relative to contention (2), the order finds that the record does not support a finding of actual bias or an appearance of bias on the part of the County geologist assigned to petitioners' case.

Relative to contention (3), petitioners had separately filed complaints against the two County staff with the Board for Geologists and Geophysicists, which is the appropriate licensing board to review the alleged misconduct. The order directs SWRCB staff to monitor the outcome of the complaints and, depending on decisions made by the Board for Geologists and Geophysicists, directs SWRCB staff to determine whether the LOP contract has been violated and to take appropriate actions.