

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

ORDER WQ 2016-0036 – UST

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**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:<sup>1</sup>**

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<sup>2</sup>. 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:

**Equilon Enterprises, LLC (Fund Claimant)**  
**Charles Edelstein (Responsible Party)**  
**Fund Claim No. 16957**  
**Shell #118969**  
**299 South California Ave., Palo Alto**

**Santa Clara County Environmental Health Department**  
**Agency Case Number 0653W12F02F**

**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

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<sup>1</sup> 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.

<sup>2</sup> Unless otherwise noted, all references are to the Health and Safety Code.

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.

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. 16957**

**Shell #118969**

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.<sup>3</sup>

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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<sup>3</sup> 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.

  
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Chief Deputy Director

2/25/16  
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Date



State Water Resources Control Board

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: Aaron Costa	Case No.: 06S3W12F02f

Case Information

USTCF Claim No.: 16957	GeoTracker Global ID: T0608502062
Site Name: Shell #118969	Site Address: 299 South California Ave Palo Alto, CA 94301
Responsible Party: Shell Oil Attn: Andrea Wing	Address: 20945 South Wilmington Ave. Carson, CA 90810
Responsible Party: Mortgage Investors IV, LLC	Address: 3105 Woodside Avenue Woodside, CA 94062
Responsible Party: Charles Edelstein	Address: Private Address
USTCF Expenditures to Date: \$0	Number of Years Case Open: 16

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=T0608502062](http://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T0608502062)

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 hydrocarbon fueling facility that is currently developed as a three-story office building with a basement. In 1973 four USTs (one heating oil and three gasoline) were removed. An unknown volume of impacted soil was excavated to a depth of 20 feet below ground surface (bgs) during the building construction.. An unauthorized release was reported in April 1998 following an environmental investigation. No active remediation has been conducted at the Site. Since 1999, five groundwater monitoring wells have been installed and monitored. According to groundwater data, water quality objectives have not been achieved; however, remaining contaminant plume is limited in extent and does not pose a significant risk.

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 projected plume boundary. No other water supply wells have been identified within 1,000 feet of the projected 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.



Shell #118969  
299 South California Avenue, Palo Alto  
Claim No: 16957

### **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 5. Though the dissolved concentration of benzene is greater than 3,000 micrograms per liter ( $\mu\text{g/L}$ ) in MW-4, the benzene trend is steadily declining through natural attenuation. Otherwise, the case meets Policy Criterion 1 by Class 2. The contaminant plume that exceeds water quality objectives is projected to be less than 250 feet in length. The nearest water supply well or surface water body is greater than 1,000 feet from the projected plume boundary. A succinct argument for closure was developed by CRA in the July 31, 2014 *Updated Site Conceptual Model and Closure Request*:

“The probability for drinking water wells to be installed within the benzene plume area is extremely unlikely. Furthermore, any potential drinking water wells would have to be screened within the upper aquifer zone of the Santa Clara Valley Sub Basin (100 feet bgs or less) in order to expose receptors to the risk of ingestion. The installation of a drinking water well within the upper aquifer zone is highly unlikely as SCVWD Z [the County] has indicated that shallow groundwater is not used for drinking water due to its poor water quality. Thus, under current and reasonably anticipated near-term groundwater exposure scenarios, site specific conditions show that there is a very low threat to human health and safety and to the environment.

CRA estimated the time it will take benzene concentrations in MW-4 to reach the dissolved concentration criteria for class 2 (3,000  $\mu\text{g/L}$ ) and non-drinking water ESL (27  $\mu\text{g/L}$ ) using a first-order decay trend from historical groundwater data (Appendix G):

“The projections show that benzene will achieve Class 2 criteria within 3.6 years and the non-drinking water ESL in 59.7 years. Benzene will reach WQOs in a reasonable time frame, thus fulfilling this condition of the Class 5 groundwater criteria.”

- Vapor Intrusion to Indoor Air: The case meets Policy Criterion 2a by Scenario 4 with no bioattenuation zone. The maximum benzene, ethylbenzene, and naphthalene concentrations in soil gas are less than, respectively, 280 micrograms per cubic meter ( $\mu\text{g/m}^3$ ), 3,600  $\mu\text{g/m}^3$ , and 310  $\mu\text{g/m}^3$  beneath the building's basement floor. These levels meet the Residential soil gas criteria. Soil vapor samples from sub-slab soil vapor probes SVP-1 and SVP-2 were collected quarterly during 2013. These sub-slab soil vapor samples indicated no detectable concentrations of benzene, ethylbenzene, or naphthalene, therefore meeting the residential and commercial criteria using direct vapor measurement with no bioattenuation zone.
- 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.

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**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.

**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. Los Angeles County has the regulatory responsibility to supervise the abandonment of monitoring wells.

*Lisa Babcock*

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

*7/6/15*

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Date

Prepared by: Caryl Sheehan, P.G. 6620