

**Staff Response to Written Comments on the January 31, 2012 Version of the Substitute Environmental Document and Policy  
(Written Comments were due March 19, 2012 by 12 noon)**

Comment No.	Agency Organization Interested Party	Representative	Policy Comment ( PC) SED Comment (SED) Groundwater Tech Doc (GW) Vapor Tech Doc (V) Direct Contact Tech Doc (DC)	Comment	Staff Response
1.00	Alameda County Flood Control and Water Conservation District Zone 7	G.F. Duerig	PC	1. Groundwater Future Use: Strongly urges the amendment of General Criteria item "a" to read as follows: "The unauthorized release is located within the service area of a public water system that does not use the local groundwater basin as a supply."	This Policy is protective of existing water supply wells and surface water bodies. New water supply wells are unlikely to be installed in the shallow groundwater near former UST release sites. However, it is difficult to predict, on a statewide basis, where new wells will be installed, particularly in rural areas that are undergoing new development. That is why this Policy is limited to areas with available public water systems to further reduce the likelihood that new wells in developing areas will be inadvertently impacted by residual petroleum in groundwater. Many UST sites across the State are in basins that serve as a source of public supply, yet very few public supply wells have been impacted by UST releases. Public supply wells are usually constructed with competent sanitary seals and intake screens that are in deeper more protected aquifers. Public supply agencies usually have long term strategic plans about projected water use, artificial recharge areas, potential well locations, and other vulnerable areas in their basins. In the unlikely event that a case proposed for closure under the Policy is located in one of these areas planned for use in the future, a water agency may request that the case remain open due to this unique site specific condition. The Policy requires setback distances from all water supply wells and surface water bodies.
1.01			PC	2. The Policy has not defined methods or Criteria for determining if a plume is stable or decreasing. Would like additional guidance for determining plume stability.	Agency professional judgment is required to determine if a plume is stable or decreasing. Many guidance documents are available for determining plume stability. The appropriate method to use is site specific and may vary based upon the length of historic monitoring, impediments to further data collection, hydrogeological setting and other factors.
1.02			PC	3. The commenter asserts that the following paragraph is unclear and incomplete. "It is a fundamental tenet of this low-threat closure Policy that if the closure Criteria described in this Policy are satisfied at a petroleum unauthorized release site, attaining background water quality is not feasible, therefore establishing an alternate level of water quality not to exceed that prescribed in the applicable Basin Plan is appropriate, and that water quality objectives will be attained through natural attenuation within a reasonable time, prior to the expected need for use of any affected groundwater."	<p>Staff have reviewed the paragraph and believe it is clear and complete. This statement in Policy is intended to provide background. Pursuant to State Water Board Resolution 92-49, cleanup should occur in a manner that promotes attainment of either background levels or the best water quality that is reasonable if background cannot be restored. The level of water quality cannot exceed applicable water quality objectives. Thus, Resolution 92-49 provides that the cleanup level of polluted groundwater range between background and the applicable water quality objective. Resolution 92-49 does not require that the requisite level of water quality be met at the time of case closure; there must be a substantial likelihood of achieving compliance with cleanup goals and objectives within a reasonable period of time.</p> <p>Numerous State Water Board precedential decisions explain why achieving background water quality is infeasible, including the need to completely excavate contaminated soil to reach background water quality and the consequential destruction of roads and other structures, the impacts to landfills if total excavation were required at every site, and the lack of adverse impact on existing and anticipated beneficial uses. The same reasons justify setting a level of water quality less stringent than background for sites covered under the proposed Policy.</p> <p>Petroleum UST cases that meet the closure Criteria in the Policy are expected to meet applicable water quality objectives within a reasonable period of time through natural attenuation. Even though reaching water quality objectives could take a significant period of time, the time period is reasonable because compliance with the closure Criteria prevents adverse impacts to existing and anticipated uses of the water and is protects human and safety.</p>
1.03			PC	4. Page 4 of the SED, Section 2, Project Description, The language that describes the five scenarios needs to be consistent between the Policy and the SED. The SED should be changed to as follows. "distance to water supply wells or surface water bodies".	Comment noted. SED was updated with the suggested changes.

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1.04			SED	5. Neither the Policy nor the SED adequately assess cumulative impacts of such case closures or the cost to local water suppliers. The burden of expenses associated with tracking groundwater plumes should remain with the polluter; closing cases prematurely shifts the costs to local water suppliers.	A project's impacts are cumulatively considerable if the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probably future projects. (CEQA Guidelines, § 15064(h)(1).) The commenters incorrectly identify remaining petroleum in the subsurface as project impacts. The existing petroleum is part of the baseline, and only changes over the environmental baseline are project impacts. UST cases that satisfy the closure Criteria in the Policy present a low risk and no further action is required, including monitoring, is required. Cases that meet Criteria established in the proposed Policy are considered low threat to public health, safety, and the environment, and are ready for case closure. Natural attenuation processes will degrade the petroleum and restore water quality objectives over time. The Policy does not make the current site conditions worse. The Policy allows monitoring of site conditions to be stopped at sites that meet Policy Criteria, including having a stable plume. The continued tracking of stable plumes is not necessary, so the cost of tracking and containment is not transferred to the local water supply agency. The commenter assumes that there will be additional impacts to groundwater supplies that could become cumulative because of the Policy. The Policy does not allow for additional impacts to occur so there are no cumulative impacts.
2.00	Alameda County Health Care Services Agency	Ariu Levi, Donna Drogos, and Jerry Wickham	PC	1. Site Characterization - Commenter urges revision of the Policy to be explicit with regard to the need for adequate site characterization	The Policy already explicitly requires that Conceptual Site Model (CSM) be developed. The CSM establishes the source and attributes of the unauthorized release, describes all affected media (including soil, groundwater, and soil vapor as appropriate), describes local geology, hydrogeology and other physical site characteristics that affect contaminant environmental transport and fate, and identifies all confirmed and potential contaminant receptors (including water supply wells, surface water bodies, structures and their inhabitants).
2.01			PC	2. Nuisance Criteria – Commenter asserts that nuisance language is vague and would like a more precise description.	As commenter describes, the cited language is directly from Water Code section 13050. The Policy has been revised to clarify that waste means petroleum releases for purposes of the Policy.
2.02			PC	3. Secondary Source Removal – We believe this section of the Policy can be improved by revising the definition of the secondary source. As currently written, the secondary source is restricted to "soil or groundwater located at or immediately beneath the point of release from the primary source." This can be interpreted as limiting secondary source removal to minor excavation directly beneath a UST during tank removal and not actual remediation of a secondary source. We suggest that the intent of this section be defined.	The wording accurately describes secondary source as being located directly beneath the point of the primary release. Removal of this material is necessary, but not sufficient for case closure. All of the general and media specific Criteria must be met for case closure. At many sites, this will entail more remediation than just secondary source removal.
2.03			PC	4. Presumptive Approach – Revise pre-amble to deemphasize the presumptive notion that UST cases are inherently low-risk and do not require adequate characterization to determine low-risk.	All of the general and media specific requirements must be met, including adequate site characterization and the development of a CSM. Cases that meet these requirements are expected to present a low threat to human health, safety, and the environment. There is an exception when there are unique site conditions. See response 38.03.
2.04			PC	5. Roles and Responsibilities of Environmental Professionals – Expand on the roles of RP and Environmental Professional and articulate the limited role of agencies to characterize and assess sites.	As described in the Policy, the role of the regulatory agency is to review the CSM and determine if the site meets the Criteria in the Policy. The Policy also describes various roles of the regulatory agency in the closure process.
2.05			PC	6. Future Use of Groundwater –. We believe that future use of groundwater must be considered in the Policy.	Future use of groundwater is discussed in the Policy within the Media-Specific Criteria for Groundwater. The Policy considers the future use of water as well as the property affected with the unauthorized release by allowing the Lead Agency to continue investigation or remediation to mitigate any known future uses. If there are anticipated future uses of groundwater at a site that are not adequately protected by the Criteria in the Policy, then a regulatory agency may determine that the site has unique site conditions.
2.06			PC	7. Closing Sites without Evaluation of the Potential for Vapor Intrusion – Revise the Policy section on vapor intrusion. Commenter believes that further lines of evidence should be considered.	There is sufficient scientific evidence to support the Criteria in the Policy as described in the Technical Document on Vapor Intrusion. If a site has preferential pathways or rising groundwater elevations, then the regulatory agency may determine that a site has unique site specific conditions.

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2.07			PC	8. Transferring Risks and Liabilities to Future Owners and Site Users – Policy transfers liability to site owners without a control mechanism and does not provide protection to future property owners.	Sites that meet the Criteria in the Policy are suitable for unrestricted use. Regional Water Quality Control Board and Local agency records as well as the online databases such as GeoTracker, Envirostore and others serve as a readily available source of information for hazardous substance releases. Also, during real estate transactions, sellers are required to disclose hazards materials on properties.
2.08			PC	9. Consideration of Only Four Petroleum Constituents in Table 1 – Revise to consider risk of all petroleum constituents in soil.	Sites that meet the Criteria in the Policy are suitable for unrestricted use. The chemicals listed in the Policy are adequate to asses risk at UST sites. For a thorough discussion of this, please see the Technical Document for Direct Contact. Majority of the risk at UST sites. For a discussion of this, please see the Technical Document for Direct Contact.
2.09			PC	10. Testing for MTBE – The Policy requires testing and reporting of MTBE in accordance with Health and Safety Code section 25296.15; however, MTBE is not a chemical of concern on Table 1. This omission implies that any concentration of MTBE in soil may be acceptable.	Methyl tert-butyl ether (MTBE) was not considered as a chemical of concern for the following reasons: For benzene, the USEPA RSL in soil for residential land use is 1.1 mg/kg, which is approximately 1,650-times lower than its soil saturation concentration. For MTBE, the residential soil RSL is 43 mg/kg, which is about 200-times lower than its soil saturation concentration. Even though the MTBE content of gasoline may be 10- to 15-times that of benzene, potential risks from direct contact with soil will still be driven by benzene, which is about 60-times more toxic than MTBE. Currently, USEPA does not evaluate MTBE as a potential human carcinogen. The State of California has developed a cancer slope factor for MTBE based on a combination of data from two animal studies, one study by the inhalation route and the other study by the oral route. Numerous uncertainties have been identified in the animal studies, including severe mortality and lack of histopathological Criteria. In addition, the mechanism of MTBE carcinogenicity is not known. Given the uncertainties associated with MTBE carcinogenicity, benzene will be the risk-driving chemical of concern associated with fuel-related hydrocarbons, especially considering that benzene is a known human carcinogen with a known mechanism of action.
2.10			PC	11. Urban Shallow Wells - The Policy does not protect the currently exercised water rights of property owners with existing "backyard" residential wells present in older areas of the urban East Bay, and the water rights of urban property owners of the state.	The Policy requires setback distances from all water supply wells, including "backyard" wells. The Policy does not affect any water rights.
3.00	Alameda County Water District	John Weed	PC	1. Provide an exemption for groundwater basins that are actively used as a drinking water supply and are vulnerable to contaminants.	See response 1.00.
3.01			PC	2. Commenter would like the Policy to address the cumulative impact on water quality and groundwater resources from closing numerous cases with elevated concentrations of petroleum hydrocarbons.	See response 1.04.
3.02			PC	3. Transferring Risk - Modify the Policy to ensure that the burden and expense associated with tracking groundwater plumes containing petroleum hydrocarbons remain with the party responsible for contaminating the property and is not placed on local agencies, residents, and businesses.	The Policy does not make the current site conditions worse. The Policy allows monitoring of site conditions to be stopped at sites that meet Policy Criteria, including having a stable plume. For cases that qualify for closure under the Policy, the continued tracking of stable plumes is not necessary, so the cost of tracking and containment is not transferred to the local water supply agencies, residents, and businesses.
4.00	Alameda County Water District	Walter Wadlow	SED	4. Modify the Policy as follows: Sec.4, Environmental Impacts - the SED fails to address cumulative impacts, reasonable alternatives to the project, and mitigation measures to avoid or reduce any significant or potentially significant environmental impacts required under 23 CCR section 3777 and 14 CCR section 15252. (Attachment 2-ACWD Comments for SED)	See response 1.04. The SED was prepared in accordance with the State Water Board's regulations governing exempt regulatory programs. The SED must include an analysis of reasonable alternatives to the project and mitigation measures to avoid or reduce any significant or potentially significant adverse environmental impacts. (Cal. Code Regs., tit. 23, § 3777.) As explained above, only changes over the environmental baseline are project impacts for purposes of the analysis of the significance of the impacts. Based upon the application of the appropriate baseline, the State Water Board has determined that the project will not result in any significant or potentially significant adverse environmental impacts. Accordingly, an analysis of reasonable alternatives, including a no-project alternative, and mitigation measures are neither required nor included in the SED.

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4.01			SED	5. Policy does not improve clean process efficiency. Policy implies that responsible party is freed of liability after low-threat closure.	Unsubstantiated assertion.
4.02			PC	6. Transferring Risk - Policy transfers legal and financial tracking of contaminated properties to local agencies and developers. Both on-site and off-site property owners will have to declare that contamination exist beneath property. This will lower property values.	See response 2.07.
4.03			PC	7. Closing cases with elevated contaminants will have a negative impact on water quality and groundwater resources for decades.	Cases that meet Criteria established in the proposed Policy are considered low threat to human health, safety, and the environment.
4.04			PC	8. Policy will allow groundwater contamination to remain unchecked and threaten public and private water supplies.	Unsubstantiated assertion. Speculative assertion.
4.05			SED	9. Attachment 2 - Baseline Analysis	<p>The baseline by which an agency determines whether an impact is significant is generally "the physical environmental conditions in the vicinity of the project, as they exist . . . at the time the environmental analysis is commenced." (CEQA Guidelines, section 15125.)</p> <p>Existing conditions are determined as of the time that the notice of preparation is published, or if no notice of preparation is published, at the time the environmental analysis is commenced. (CEQA Guidelines, §§ 15125.(a) and 15126.2(a); Communities for a Better Environment v. South Coast Air Quality Mgmt. Dist. (2010) 48 Cal.4th 310, 320 [106 Cal Rptr. 3d 502]; Fat v. County of Sacramento (2002) 97 Cal.App.4th 1270 [119 Cal.Rptr.2d 402].)</p> <p>When an agency's approval will change an existing plan, the agency must compare the impacts of the new plan or use with existing environmental conditions, not with the potential impacts of the existing plan. (Lighthouse Field Beach Rescue v. City of Santa Cruz (2005) 131 Cal.App.4th 1170, [31 Cal.Rptr.3d 901].)</p> <p>When a project consists of the revision of a plan or Policy, the project's impacts are assessed against existing conditions and future conditions under the existing plan are treated as a "No-Project" alternative. CEQA Guidelines, § 15126.6, subd. (e)(3)(A); Woodward Park Homeowners Ass'n v. City of Fresno (2007) 150 Cal.App.4th 683, 707 [58 Cal. Rptr. 3d 102]; Environmental Planning &amp; Info. Council v. County of El Dorado (1982) 131 Cal.App.3d 350 [182 Cal.Rptr. 317].). Commenters provide no authority that supports using the existing regulatory closure Criteria as the baseline. The comment regarding the requirement for a "two-baselines approach" appears to be a reference to CEQA Guidelines, section 15125, subdivision (e), but that provisions applies when a proposed project is compared with an adopted plan, which is not applicable here.</p> <p>The appropriate environmental baseline for the proposed Policy is the existing conditions, which is the existing petroleum UST release cases that existed at the time the environmental analysis for the proposed Policy was commenced.</p>

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4.06			SED	10. Attachment 2 - SWRCB Resolution 92-49	<p>The term "background" in Resolution 92-49 refers to the quality of water in an unimpaired state. The term is not synonymous with the terms "environmental setting" or "baseline" for purposes of CEQA. The "baseline" by which an agency determines whether an impact is significant is generally "the physical environmental conditions in the vicinity of the project, as they exist . . . at the time the environmental analysis is commenced." (CEQA Guidelines, section 15125.) See response to comment regarding baseline.</p> <p>Pursuant to Resolution 92-49, cleanup should occur in a manner that promotes attainment of either background levels or the best water quality that is reasonable if background cannot be restored. The level of water quality cannot exceed applicable water quality objectives. Thus, Resolution 92-49 provides that the cleanup level of polluted groundwater range between background and the applicable water quality objective. Resolution 92-49 does not require that the requisite level of water quality be met at the time of case closure; there must be a substantial likelihood of achieving compliance with cleanup goals and objectives within a reasonable period of time.</p> <p>Numerous State Water Board precedential decisions explain why achieving background water quality is infeasible, including the need to completely excavate contaminated soil to reach background water quality and the consequential destruction of roads and other structures, the impacts to landfills if total excavation were required at every site, and the lack of adverse impact on existing and anticipated beneficial uses. The same reasons justify setting a level of water quality less stringent than background for sites covered under the proposed Policy.</p> <p>Petroleum UST cases that meet the closure Criteria in the Policy are expected to meet applicable water quality objectives within a reasonable period of time through natural attenuation. Even though reaching water quality objectives could take a significant period of time, the time period is reasonable because compliance the closure Criteria prevents adverse impacts to existing and anticipated uses of the water and is protects human and safety. Unlike all substances that are contemplated by Resolution 92-49, petroleum naturally attenuates in the environment through adsorption, dispersion, dilution, volatilization, and biological degradation. Water quality objectives can be reasonably achieved at sites covered by the Policy, unlike other sites with other contaminants and site characteristics that make achieving water quality objectives unreasonable. Those sites may merit consideration of a containment zone.</p>
4.07			SED	11. Attachment 2 - Potential impacts to groundwater	Cases that meet Criteria established in the proposed Policy are considered low threat to human health, safety, and the environment, and are ready for case closure. Natural attenuation processes will degrade the petroleum and restore water quality objectives over time. The Policy does not make the current site conditions worse. The Policy allows monitoring of site conditions to be stopped at sites that meet Policy Criteria, including having a stable plume.
4.08			SED	12. Attachment 2 - Environmental Setting	The SED provides a summary of the general environmental conditions of the regions in the state and petroleum-impacted UST sites. The SED provides information about the bioregions and hydrologic regions and sub regions of the state. The SED has been updated to include the number of open leaking UST cases by region and to highlight that case-specific information is available on the State Water Board's data management system, Geotracker, which is available to the public. Given that the environmental setting for the project is the State of California, a more detailed discussion of the physical environmental conditions at leaking UST sites statewide is unreasonable.
4.09			SED	13. Attachment 2 Specific Comments 1 Section 4 Environmental Impacts	See response 4.05 and 4.07.
4.10			SED	14. Attachment 2 Specific Comments 2 Section 4.6 Geology and Soils	See response 4.05 and 4.07.
4.11			SED	15. Attachment 2 Specific Comments 3 Section 4.8 Hazards and Hazardous Materials	See response 4.05 and 4.07.
4.12			SED	16. Attachment 2 Specific Comments 4 Section 4.9 Hydrology and Water Quality.	See response 4.05 and 4.07.
4.13			SED	17. Attachment 2 Specific Comments 5 Section 4.10 Land Use and Planning.	See response 4.05 and 4.07.

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4.14			SED	18. Specific Comments 6 Section 4.17 Utilities and Service Systems.	See response 4.05 and 4.07.
4.15			SED	19. Attachment 2 Specific Comments 7 Section 4.18 Mandatory Findings of Significance. The Policy needs to recognize that there are numerous open UST sites within the various groundwater basins through the State, and that one has to consider the cumulative impacts from all the combined sites and not look at each site as if it were an isolated case.	Comment noted. SED was updated with the suggested changes.
4.16			SED	20. Attachment 2 Specific Comments 8 Section 5 Alternatives to the project. The SED is inadequate under 23 CCR Sect. 3777. An alternative analysis is required for a SED required. SED fails to address the "no project alternative".	See response 4.00.
4.17			SED	21. Attachment 2 Specific Comments 9 Public Water Systems. The 30-day notice and comment is not enough time to make the proper evaluation in the Policy.	Comment noted. Policy was updated with the suggested changes.
4.18			PC	22. Attachment 3 General Comments 1 Residual Soil Contamination - Commenter identifies that sites will be closed with elevated petroleum hydrocarbons remaining in soil. Commenter requests that the Policy address if a closed site is to be redeveloped in the future which could expose during excavation activities. Additionally, the commenter requests the Policy consider the financial impacts on off-site property owners and utility companies for leaving contamination behind and not managed.	See response 2.05 and 2.07.
4.19			PC	23. Attachment 3 General Comments 2 Impact to Water Quality and Groundwater Resources - Commenter identifies that closing cases with elevated concentrations of petroleum hydrocarbons in groundwater will have a negative impact on water quality and groundwater resources. Commenter requests that Policy evaluate the cumulative effects of reduced storage capacity on groundwater basins in the State.	See response 1.00 and 1.04.
4.20			PC	24. Attachment 3 General Comments 3 Impacts to Land Use and Planning. The proposed Policy does not take into account potential impacts to land use and planning resulting from implementing the proposed Policy. The Policy does not address analysis of future land use decisions and actions resulting from the increase in residual contaminants left at sites closed under the proposed Policy.	See response 1.00.
4.21			PC	25. Attachment 3 General Comments 4 Impacts to Utilities and Service Systems. Policy does not address the potential for existing water supply wells to become contaminated in the future as a direct result of petroleum hydrocarbons remaining in groundwater at closed UST cases reaching a water supply well.	See response to 1.00.
4.22			PC	26. Attachment 3 General Comments 5.0 Cumulative Impacts to Closing Numerous Cases. Policy does not address cumulative water quality and natural resource impacts. There is no method for addressing impacts to groundwater resulting from the closure of numerous UST sites.	See response 1.04.

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4.23			PC 27. Attachment 3, General comments 5.1 Closing the majority of these sites without any further cleanup or groundwater monitoring unjustly shifts the burden of groundwater protection to local water districts and utilities. The Policy needs to take into consideration the financial impacts on off-site property owners and utility companies resulting from leaving contamination behind and not managed		See response 1.00 and 2.05.
4.24			SED 28. Attachment 3 General Comments 6 Public Water Systems Participation in the Implementation of the Policy. 30-day Policy is not enough time make a proper evaluation for closing sites.		Comment noted. Policy was updated with the suggested changes.
4.25			PC GW 29. Attachment 3 Technical Justification Specific Comments 1. Petroleum hydrocarbons in groundwater will have an impact on water quality and groundwater resources for decades to centuries.		See response 4.06.
4.26			PC 30. Attachment 3 Specific Comments 1a. The five classes of sites specified in the groundwater Criteria of the Policy appear to be arbitrary with respect to existing supply wells and concentration		See response 1.00.
4.27			TEC 31. Attachment 3 Specific Comments 1b. Technical justification for buffer distances to receptors is not justified. External peer review requires separation distance from the edge of a stabilized petroleum plume to an existing well that is more protective than DWR well standards.		See response 1.00.
4.28			PC 32. Attachment 3 Specific Comments 1c. Agency would like the Policy to address the cumulative impact on water quality and groundwater resources from closing numerous cases with elevated concentrations of petroleum hydrocarbons.		See response 1.04.
4.29			PC 33. Attachment 3 Specific Comments 2. Commentor identifies that Section (a) (page 3) of the Policy has nothing to do with protecting existing supply wells. Additionally, commenter identifies that shallow groundwater wells are used in their system and in thousand of sites throughout California.		Unsubstantiated assertion. See response 1.00.
4.30			PC 34. Unique Scenario Attachment 3 Specific Comment 3- With regards to "Criteria for Low-Threat Case Closure" (pg 2 of the Policy), commenter requests that additional details are needed to describe the "unique attributes" that are necessary to determine that a site may not be appropriate for closure, including some examples.		Agency professional judgment is required to determine if unique attributes at a site would make closure under this Policy inappropriate.
4.31			PC 35. Attachment 3 Specific Comments 4. - Commenter requests that all constituents are listed rather than the ones identified in the Policy.		Many researchers recognized benzene, MTBE, and total petroleum hydrocarbons as gasoline (TPHg) as key indicator constituents for groundwater plume lengths. Researchers' technical justification for using these three constituents as key indicators relied on the facts that (1) benzene has the greatest toxicity of the soluble petroleum constituents, (2) MTBE typically has the greatest plume lengths, and (3) TPHg represents the additional dissolved hydrocarbons that may be present resulting from a typical petroleum release. The peer-reviewed study of plume lengths at 500 petroleum UST sites in the Los Angeles area is widely accepted as representative of plume lengths at California UST sites (Shih et. al., 2004).

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4.32			PC	36. Attachment 3 Specific Comments 5.- The commenter requests additional rationale for the various buffers listed on page 6 of the Policy and that longer plume lengths necessitate greater buffer distances between the plume boundary and water supply wells.	A total separation distance from the source area to the receptor of about 500 feet should be protective for 90% of plumes from UST sites, and a total separation distance from the source area to the receptor of about 1,000 feet should be protective for virtually all plumes from UST sites. Additionally, low-threat classes require a known maximum stabilized plume length, and meet all of the additional characteristics of one of the five classes of sites. Requiring that a plume must be stable or decreasing reduces uncertainty as to how long the plume might become in the future. The Policy addresses the potential for longer plumes of ethanol-enhanced gasoline by applying separation distance safety factors of 100% to 400%. The use of separation distances is consistent with other State and local practices regarding impacts to groundwater caused by other anthropogenic releases. For example, State and local agencies establish required separation distances or setbacks between water supply wells and septic system leach fields (typically 100 feet), and sanitary sewers (typically 50 feet; [DWR 1981]).
4.33			PC	37. Attachment 3 Specific Comments 6.- Commenter requests that TBA be listed because it is commonly the maximum contaminant detected at the plume boundary.	See response 4.31. The plume boundary includes TBA and all petroleum contaminants.
4.34			PC	38. Attachment 3 Specific Comments 7.- Commenter requests that the eight General Criteria listed should be expanded to include that the vertical and horizontal extent of the soil and groundwater contaminant plume be completely defined.	The Policy already explicitly requires that Conceptual Site Model (CSM) be developed. The CSM establishes the source and attributes of the unauthorized release, describes all affected media (including soil, groundwater, and soil vapor as appropriate), describes local geology, hydrogeology and other physical site characteristics that affect contaminant environmental transport and fate, and identifies all confirmed and potential contaminant receptors (including water supply wells, surface water bodies, structures and their inhabitants).
4.35			PC	39. Attachment 3 Specific Comments 8 - The commenter requests that the Policy requires that UST case closures must be accompanied by a technical report that addresses all of the general and media-specific Criteria listed in the Policy, a comprehensive CSM, and secondary sources are remediated.	The supporting data and analysis used to develop the CSM are not required to be contained in a single report and may be contained in multiple reports submitted to the regulatory agency over a period of time.
4.36			PC	40. Groundwater - Attachment 3 Specific Comments 9 The term "water supply well" should be defined to include public and private drinking water wells, irrigation wells, agricultural wells, industry supply wells, etc...and address current and future potential impacts from dewatering wells.	The Policy requires setback distances from all water supply wells, including irrigation wells, agricultural wells, and industry supply wells.
5.00	ARCADIS U.S. Inc.	Martin Hamann	PC	General Criteria (version 1/31/12): Section b, page 3: "For the purpose of this Policy ... temperature and pressure, which means 60 degrees Fahrenheit..." Metric units should also be included.	To avoid clutter, the metric units as suggested were not added.
5.01			PC	Section f, page 4: " <i>Secondary source</i> is defined as petroleum-impacted soil or groundwater located at or immediately ..." The term "immediately" is incorrect. The term "directly" should be used instead.	The term "immediately" and "directly" has a similar definition. The Policy will not be modified as suggested.
5.02			PC	Section g, page 4: "Soil and groundwater have been tested for MTBE ..." The term "MTBE" should be spelled out.	Comment noted. MTBE will be spelled out in the Policy.
5.03			PC	Media-Specific Criteria: Section 1, page 3: "For the purpose of this Policy ... temperature and pressure, which means 60 degrees..." Metric units should also be included.	See response 5.00.



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5.04			PC Media-Specific Criteria: Section 1, paragraph 2, page 5: "Resolution No. 92-49 does not require that the requisite level of water quality be met at the time of case closure; it specifies compliance with cleanup goals and objectives within a reasonable time frame." The term "reasonable time frame" should be defined (one week, one year, or one million year?.)		A "reasonable time frame" is based on the use of a conceptual site model and a determination that risks to existing and anticipated future beneficial uses of groundwater have been mitigated or are de minimums, including cases that have not affected groundwater. The timeframe may be different at different sites.
5.05			PC Media-Specific Criteria: Section 1(1) a, page 6: "The contaminant plume that exceeds water quality objectives is less than 100 feet in length." Metric units should be included. This Policy should include units in metric or have a metric equivalent (like distance, temperature, etc.)		See response 5.00.
5.06			PC Media-Specific Criteria: Section 1(3)c, page 6: "The plume has been stable or decreasing for a minimum of five years." The basis for five year is unfounded. The term "five years" should be replaced by "three years".		The suggested change is unsubstantiated.
5.07			PC Table 1, page 8: The conditions listed in this table are not clearly defined i.e. Utility Worker.		"Both the 0 to 5 feet bgs concentration limits and the 5 to 10 feet bgs concentration limits for the appropriate site classification (residential or commercial/industrial) shall be satisfied. In addition, if exposure to construction workers or utility trench workers is reasonably anticipated, the concentration limits for the utility worker shall also be satisfied." <i>Technical Justification for Soil Screening Levels for Direct Contact and Outdoor Air Exposure Pathways</i>
6.00	Bleau Fox	Thomas Bleau	SED The SED fails to account for the indirect economic and social changes and the cumulative effects resulting from the recommendation to allow residual contamination above water quality standards to remain on site to naturally attenuate over a long period of time.		Cases that meet Criteria established in the proposed Policy are considered low threat to public health, safety, and the environment, and are ready for case closure. Natural attenuation processes degrade the petroleum and will restore water quality objectives (WQOs) over time. The Policy does not make the current site conditions worse so the property value should not be diminished as a result of the Policy. Therefore, it is unlikely that there is any indirect economic and social change. The cumulative effects as a result of case closure based on the proposed Policy is insignificant. The Policy provided Criteria for case closure under Ch. 6.7 of Health and Safety Code. It does not attempt to resolve financial or responsibility issues between site owners and occupants.
7.00	California Independent Oil Marketers Association	Jay McKeeman	PC Strongly recommend that the Policy be adopted as written in the January 31, 2012 draft.		The commenter supports the proposed Policy.
8.00	ClearWater Group	Olivia Jacobs and Robert Nelson	PC Applicability of using DWR Minimum Horizontal Well Separation Distances. Removal of pathogens relies on filtration, adsorption or adhesion (mechanical separation works on bacteria and viruses), whereas removal of a petroleum contaminant relies on other processes effective at the molecular level, and mechanical separation probably has little effect at the molecular level.		These comments relate to the effectiveness of DWRs Well Standards (bulletin 74-90) and the applicability to petroleum cleanups. The Policy does not use the DWR setback distances. DWR setbacks are measured from the source to the receptor well and vary from 50 feet to 150 feet. The setback distances in the Policy are measured from the edge of the plume boundary to the receptor well and vary from 250 feet to 1000 feet.

Comment No.	Agency Organization Interested Party	Representative	Policy Comment ( PC) SED Comment (SED) Groundwater Tech Doc (GW) Vapor Tech Doc (V) Direct Contact Tech Doc (DC)	Comment	Staff Response
9.00	ClearWater Group	Olivia Jacobs	PC	Specifically, these planned changes neglect a missing piece which is the lack of hazard communication to the public. Mapping of the residual petroleum plumes has not been refined to the point that the general public is aware of the location of contamination or the risk to them of living above a plume or using the groundwater in which desorbed contaminant is present. While there are many outcomes, the hazards to the uninformed public include, but are not limited to, the following: a) Exposure to breathing migrating contaminated soil vapor in residential or work settings, b) Nuisance of construction work stoppage when subsurface contamination is encountered, and c) Private groundwater consumption from wells which are located in a plume.	See response 2.07.
9.01			PC	Section 1. Diagrammed the 'Policy'	The commenter provides a flow chart of the Policy.
9.02			PC	Section 2. Identified the 'grey areas' of the 'Policy';	The commenter identifies issues that have not been directly addressed by the Policy. We agree that not every implementation issue has been addressed by the Policy and that there are areas of the Policy that require professional judgment based upon site specific factors to implement.
9.03			PC	1)Method for Plume evaluations	See response 1.01.
9.04			PC	2)What is a defined plume boundary?	See response 1.01.
9.05			PC	3)Verification of the rate of natural attenuation and definition of what constitutes a "reasonable" time period	See response 2.00.
9.06			PC	4)Public supply wells in a plume replaced	The proposed Policy does not apply to cases with supply wells located within the plume. The Policy requires setback distances from all water supply wells and surface water bodies.
9.07			PC	5)Responsible Party to keep/maintain wells	See response 9.06.
9.08			PC	6)Free product removal to "extent practicable." undefined	Section 280.64 of Title 40 of the Code of Federal Regulations (40 CFR) requires that free product must be removed to the maximum extent practicable. The proposed Policy appropriately specifies specific requirements to meet federal requirements regarding removing free product. As long as free product has been removed to the maximum extent practicable, the site meets general Criteria. The Technical Document for Groundwater contains a discussion of LNAPL removal.
9.09			PC	7)definition of a groundwater plume that fails the trigger test	See response 1.01.
9.10			PC	8) Testing for MTBE and TBA is unclear	See response 2.09, 4.31. MTBE and TBA has been addressed in the three Technical Justification documents that support the proposed Policy.
9.11			SED	9)"Baseline" is undefined	See response 4.05.
9.12			PC	10)Adjacent utility trenches not considered	See response 2.00.
9.13			PC	11)Un-weathered LNAPL is chosen for the Criteria	Unweathered LNAPL is generally understood to mean petroleum product that has not been subjected to significant volatilization or solubilization, and therefore has not lost a significant portion of its volatile or soluble constituents (e.g., comparable to recently dispensed fuel).
9.14			PC	12)Specific fuel constituents represent all fuel compounds	See response 4.31.
9.15			PC	13)Assumes fuel components will degrade	Low-threat classes require a known maximum stabilized plume length, and meet all of the additional characteristics of one of the five classes of sites. Requiring that a plume must be stable or decreasing reduces uncertainty as to how long the plume might become in the future. Natural attenuation processes will degrade the petroleum and restore water quality objectives over time.

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9.16			PC	14)Cumulative impacts	Cases that meet Criteria established in the proposed Policy are considered low threat to public health, safety, and the environment, and are ready for case closure. Natural attenuation processes degrade the petroleum and will restore water quality objectives (WQOs) over time. The cumulative effects as a result of case closure based on the proposed Policy is insignificant. See response 1.04.
9.17			PC	15)fuel formulation assumed	One of the Criteria in the proposed Policy is that the petroleum plume, regardless of the formulation, is required to be stable or declining and requires setback distances from all water supply wells and surface water bodies.
9.18			PC	16)LNAPL in soil is quantitated for TPH as what amount or based on what physical Criteria?	Agency professional judgment is required to determine if TPH concentrations indicate a presence of LNAPL.
9.19			PC	17)Composites of contaminants - most sites have a wide variety of compounds.	See response 9.17.
9.20			PC	18)Uses human toxicity, not aquatic toxicity	Humans are the risk driver of petroleum cleanup cases. Aquatic life are not likely present in the soil or groundwater for a UST petroleum cleanup case but if they are, a regulatory agency may determine that the site has unique site conditions. The Policy requires setback distances from all water supply wells and surface water bodies.
9.21			PC	19)Period of Impairment	Resolution 92-49 does not require that the requisite level of water quality be met at the time of case closure; there must be a substantial likelihood of achieving compliance with cleanup goals and objectives within a reasonable period of time.  Numerous State Water Board precedential decisions explain why achieving background water quality is infeasible, including the need to completely excavate contaminated soil to reach background water quality and the consequential destruction of roads and other structures, the impacts to landfills if total excavation were required at every site, and the lack of adverse impact on existing and anticipated beneficial uses. The same reasons justify setting a level of water quality less stringent than background for sites covered under the proposed Policy.
9.22			PC	20)Beneficial groundwater use area, define	Basin Plans define beneficial uses for groundwater.
9.23			PC	21)What is Alternative Level of Water Quality?	Resolution 92-49 directs that water affected by an unauthorized release attain either background water quality or the best water quality that is reasonable if background water quality cannot be restored. Any alternative level of water quality less stringent than background must be consistent with the maximum benefit to the people of the state, not unreasonably affect current and anticipated beneficial use of affected water, and not result in water quality less than that prescribed in the water quality control plan for the basin within which the site is located.
9.24			PC	22)Data needs/collection techniques undefined	Regulatory agencies are currently required to determine regulatory requirements that a site must meet. The Policy contains general and media-specific Criteria that will, if met, ensure the protection of human health, safety and the environment. The Policy expressly recognizes that there may be unique circumstances at a site that make closure under the Policy inappropriate, despite the fact that the stated Policy Criteria are met. If the Criteria in the Policy are satisfied, it is reasonable to expect regulatory agencies to identify unique attributes of the case or site-specific conditions that make closure under the Policy inappropriate.
9.25			PC	23)Water Quality Objectives needs to be defined	Basin Plans define Water Quality Objectives.
9.26			PC	24) Does not clarify whether Policy applies to non-UST petroleum sites	While this Policy does not specifically address other petroleum release scenarios such as pipelines or above ground storage tanks, if a particular site with a different petroleum release scenario exhibits attributes similar to those which this Policy addresses, the Criteria for closure evaluation of these non-UST sites should be similar to those in this Policy.
9.27			PC	25)Reasonable time frame	See response 1.02.

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9.28			PC	1)Policy does not significantly unify closure conditions	The purpose of this Policy is to establish consistent statewide case closure Criteria for low threat petroleum UST sites. The Policy is consistent with existing statutes, regulations, State Water Board precedential decisions, policies and resolutions, and is intended to provide clear direction to responsible parties, their service providers, and regulatory agencies. The Policy seeks to increase UST cleanup process efficiency. A benefit of improved efficiency is the preservation of limited resources for mitigation of releases posing a greater threat to human and environmental health.
9.29			PC	2)technical parts did not go through a peer review process	Peer reviews were completed and posted on the State Water Board's website.
9.30			PC	3)Stakeholder Group members must be upgraded	The nine-member UST Low-Threat Closure Policy Stakeholder Group represent two Regional Water Quality Control Boards, a Local Oversight Program agency, a water district, responsible party representatives from the Western States Petroleum Association and California Independent Oil Marketers Association, two participants from non-government organizations, and one UST consultant.
9.31			PC	4) Must develop a contaminant distance standard.	See response 4.34.
9.32			PC	5) Develop this plume separation distance guidance	See response 4.32.
9.33			PC	6)Policy Legality	The State Water Board has broad authority to establish state Policy for water quality control. (Wat. Code, §§ 13140 and 13142.) The State Water Board's authority extends beyond impacts to water quality. The Water Code authorizes Regional Water Quality Control Boards and the State Water Board to control pollution and nuisance, and to require the cleanup and abatement of pollution and nuisance. (Wat. Code, §§ 13263 and 13304.) The Health and Safety Code requires cleanup to ensure protection of human health, safety, and the environment.
9.34			PC	7)Delegated Authority to Agencies	The Policy is a Low-Threat Underground Storage Tank Case Closure Policy and not intended to delegate authority.
9.35			PC	8)an authoritative team whose mission is to efficiently clean and close sites.	Comment noted.
9.36			PC	9)Hazard Communication	See response 2.07.
9.37			PC	10)Future changed conditions are not considered	See response 2.00 and 2.07.
9.38			PC	11)Civil Penalty	Comment noted.
9.39			PC	12)public user manual	The Policy is intended for use without a manual.
9.40			PC	13)nuisance	See response 2.01.
9.41			PC	14)impacts of this Policy	See response 1.04 and 9.16.
9.42			PC	15)Site Conceptual Model	See response 2.00.
9.43			PC	16)rate of attenuation	The rate of attenuation is different from case to case. The low-threat classes require a known maximum stabilized plume length, and meet all of the additional characteristics of one of the five classes of sites. Requiring that a plume must be stable or decreasing reduces uncertainty as to how long the plume might become in the future.
9.44			PC	17)Change in use of property	See response 2.05.
9.45			PC	18)Resource Valuation	The Policy does not apply to cases where the petroleum affected groundwater is being used as a resource.
9.46			PC	19)Concept of Well Head Protection Area/well field capture zone is violated	See response 1.00.
9.47			PC	20)Water rights	The Policy does not affect any water rights.
9.48			PC	21)Natural resource impacts	See response 9.45.
9.49			PC	22)hazard disclosure	See response 2.07.

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9.50			PC	4) 1)Projected the implications of the Policy; Legitimize recent decisions	See response 9.33.
9.51			PC	2)Establish Directive-Based Closures	See response 9.33.
9.52			PC	3)Reverse Prior Standard Operating Procedures	Unsubstantiated assertion.
9.53			PC	4)Set Precedence for Non-UST Releases and Non-Petroleum Releases	See response 9.26.
9.54			PC	5)Legitimize Control	See response 9.33.
9.55			PC	6)Legitimize Failure to Enforce Laws	Unsubstantiated assertion.
9.56			PC	7)Failure to Address Closure Conflicts	Closure conflicts are likely to continue regardless of a Policy.
9.57			SED	8) Development of Policy and stepping through the CEQA process without inadequate input.	The CEQA Guidelines provide for the use of a "substitute document" by state agencies with certified programs (§ 15252). Accordingly, the State Water Board has prepared this draft SED for the adoption of this state Policy for water quality control. The State Water Board solicited comments from interested persons and governmental agencies regarding the scope and content of the environmental information to be included in the draft SED, 1-31-12. On September 21, 2011, the State Water Board submitted a Notice of Availability of Scoping Document and Notice of Public Scoping Meetings. A scoping document, which included an Environmental Checklist based on appendix G of the CEQA Guidelines, was made available to interested parties on the State Water Board's website. The Notice was circulated to members of the public, government agencies, and other interested persons.
9.58			PC	9)Lack of Specific Technical Guidelines	Several technical guidance documents are available.
9.59			PC	5) Identified Policy Players; Local Agencies, Environmental Industry Businesses, Real Property Owners/Stakeholders, Financial Institutions and the Real Estate industry, Responsible Parties, Sensitive Receptors, State Agency – First Responsibility, and State Agency – Second Responsibility	Comment noted.
9.60			PC	6) Considered core failures of the USTCF and some solutions to same; several core failures of the USTCF program which either lead directly to financial failure or are contributory: USTCF financial rules or crises, Low cost rates provide for poor advice, Add financial and project management experts, Best practices, Caliber of USTCF reviewers, Professional certification of work, Pay for performance, and Mediated budget making group	Comment noted.
9.61			PC	7) Website for Transparent Venue for a Public Discussion	Comment noted.
10.00	County of Santa Clara, Department of Environmental Health	Dennis Kalson	PC	1. Agency is concerned that elevated concentrations of contaminants do not adequately protect Human Health and the Environment. Agency feels the Policy closure Criteria should be contained in LUFT Manual.	All of the general and media specific Criteria requirements must be met, including adequate site characterization and the development of a CSM. Cases that meet these requirements are expected to present a low threat to human health, safety, and the environment. There is an exception when there are unique site conditions.
10.01			PC	2. Concerned that Policy will cause further harm to the groundwater basins.	See response 1.00.
10.02			PC	3. Policy assumes impacted groundwater within a prescribed distance will not be used, which disregards the possibly of new production wells being installed.	See response 1.00.

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10.03			PC	4. Land owners, developers, tenants, and lenders were not represented on the stake holder group chosen by the SWRCB. Conclusion - Redraft Policy, include all stake holders in discussion group, and shift guidelines to LUFT manual.	The nine-member UST Low-Threat Closure Policy Stakeholder Group (consisting of two Regional Water Quality Control Boards, a Local Oversight Program agency, a water district, responsible party representatives from the Western States Petroleum Association and California Independent Oil Marketers Association, two participants from non-government organizations, and one UST consultant), adequately represented those interests of developers, tenants, and lenders. Additionally, workshops and hearings were conducted for public comment.
11.00	County of Santa Cruz	Tim Fillmore	PC	1. The draft Policy has not been scientifically validated. We also noticed that the official peer review group does not appear to have expertise in the technical aspects of the justifications for Direct Contact.	The scientific review process is managed through an Interagency Agreement with Cal/EPA and the University of California. The approved reviewers are identified below. No reviewer was aware of the identity of the others, except for Professors Mark Widdowson and John Little, who co-authored a review. 1. Professor Pedro J.J. Alvarez, Ph.D., Chair Department of Civil and Environmental Engineering Rice University 2. Professor Elizabeth Edwards, Ph.D. Department of Chemical Engineering and Applied Chemistry University of Toronto 3. Professor John Little, Ph.D., P.E. Coordinator, Environmental and Water Resources Engineering Program Department of Civil and Environmental Engineering Virginia Polytechnic Institute and State University 4. Professor Robert C. Spear, Ph.D. School of Public Health University of California 5. Professor Mark A. Widdowson, Ph.D., P.E. Department of Civil and Environmental Engineering Virginia Polytechnic Institute and State University
11.01			PC	2. Previous comments to draft versions appear to have been ignored by the current authors.	State Water Board staff revised the proposed Policy in response to comments provided by the peer reviewers, or provided written responses that explained the basis for not incorporating other proposed changes. State Water Board staff has responded to significant written comments and made revisions to the proposed Policy and the Draft Substitute Environmental Document as appropriate.
11.02			PC	3. The nuisance definition may exclude many scenarios for UST cases where the typical unacceptable nuisance condition is often limited to one or two properties near the release source area.	The cited language is directly from Water Code section 13050. Policy has been revised to clarify that waste means petroleum releases for purposes of the Policy. The purpose behind this is to exclude altogether sites that may be injurious to health ect.
11.03			PC	4. Older wells are often not identified during sensitive receptor surveys and could easily act as a conduit for the impacted water to flow to deeper groundwater zones. Policy would leave chemically impacted plumes in place for extended periods and would be problematic for local basins and new well construction.	The Policy already explicitly requires that CSM be developed. The CSM establishes the source and attributes of the unauthorized release, describes all affected media (including soil, groundwater, and soil vapor as appropriate), describes local geology, hydrogeology and other physical site characteristics that affect contaminant environmental transport and fate, and identifies all confirmed and potential contaminant receptors (including water supply wells, surface water bodies, structures and their inhabitants).
11.04			PC	5. Policy would affect the owners of adjacent properties within the area of the chemically impacted groundwater plume if they wish to construct a new well. We understand the intent of earlier versions of the Draft Policy was to provide case closure for sites under the unrestricted land use scenario; however, the intent of the current Draft Policy on this issue is unclear to us.	See response 2.07 and 11.03.

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11.05			PC	6. Agency suggests that the Policy be revised by adding land use covenants to impacted parcels. Leaving groundwater plumes with significant chemical concentrations in place under properties not owned by the Responsible Party. Vapor intrusion Policy is based on material and data not formally peer-reviewed. Not all constituents with a potential to affect human health are included in Policy.	See response 2.08 and 11.04.
11.06			PC	7. Vapor intrusion Policy is based on material and data not formally peer-reviewed. Not all constituents with a potential to affect human health are included in Policy.	There is sufficient scientific evidence to support the Criteria in the Policy as described in the Technical Justification for Vapor Intrusion Media-Specific Criteria. If a site has preferential pathways or rising groundwater elevations, then the regulatory agency may determine that a site has unique site specific conditions.
11.07			PC	8. Policy does not address future risks associated with changes in property use. Policy is inconsistent with other state guidance and has significant differences in screening Criteria from previous State and Federal guidance.	See response 2.07.
11.08			PC	9. (1) confining units are not present across much of the county, so shallow groundwater is widely able to replenish deeper groundwater zones (2) where confining units are present, they are typically leaky so that shallow groundwater is able to migrate to deeper groundwater zones (3) sloping geologic bedding, fractured bedrock, and other geologic conditions allow water infiltrated at the surface to reach and supplement recharge to deeper groundwater zones.	See response 11.03.
11.09			PC	10. Low-Threat UST Case Closure Policy concludes exposures to petroleum vapors associated with historical fuel system releases are comparatively insignificant therefore, satisfaction of the media-specific Criteria for petroleum vapor intrusion to indoor air is not required at active commercial petroleum fueling facilities and future risks and the potential need for a Land Use Covenant are not addressed. The significantly different screening Criteria and approach of the Draft Policy from previous Federal and State guidance suggests to us that the Draft Policy should receive thorough scientific review prior to adoption.	See response 1.00 and 11.00. Peer reviews were completed and posted on the State Water Board's website.
12.00	Department of Toxic Substances Control	Greg Holmes	PC	Suggested text change to General Criteria a. The unauthorized release is located within the service area of a public water system and not under DTSC jurisdiction, including RCRA, corrective action, enforcement order, voluntary cleanup agreement.	The proposed Policy is limited to case closure under Chapter 6.7 of the Health and Safety Code, which is not implemented by DTSC.
13.00	EnviroTech	Fred Ousey	PC	The Policy appears to serve the primary function of saving money within the UST Fund Program while omitting the application of sound hydro geologic science.	The primary goal of the Policy is to establish closure Criteria that will ensure the protection of human health, safety, and the environment.
13.01			PC	The Policy ignores how vapor intrusion created by a migrating plume will be dealt with and it circumvents the serious issues surrounding the outcome of how property transaction will occur once a site is closed and petroleum product left in place.	The Policy requires that a plume be stable or declining. See response 2.06 and 2.07.

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13.02			PC	This Policy undermines the health and safety of Californian by leaving in place a series of migrating petroleum groundwater plumes scattered all over the State.	Unsubstantiated assertion. The Policy requires that a plume be stable or declining.
13.03			PC	This Policy violates CEQA since it proposes to leave in place residual petroleum at levels exceeding CEQA allowances.	See response 4.05 and 9.52.
13.04			PC	By the action of ignoring Groundwater Resources Association (GRA) comments, it becomes clear that the Water Board intends to pass this Policy regardless of all peer review commentary, both written and by way of public hearing.	Unsubstantiated assertion.
13.05			PC	The Regional Water Quality Control Boards (Regional Water Board) have been told to stand down on making peer review comments pertaining to this Policy. This would explain why to date only two Regional Water Boards have been submitted comments.	Unsubstantiated assertion.
14.00	EquoLogic	Erin Garner	PC	The Policy references HSC 2596.10 as a basis for Low-Risk closure. HSC 2596.10 requires compliance with HSC 25299.3. 1.RP to complete a CAP before case closure because a CSM does not constitute a CAP. Title 23 Chapt.16 clearly prescribes a completed CAP prior to closure.	Title 23 chart 16 states in Section - 2722 Scope of Corrective Action that Corrective action includes one or more of the following phases: PSA, SWI, CAP, and VM. It does not require that all phase be completed. California Code of Regulations, Title 23, Division 3, Chapter 16, Article 11 governs the entire corrective action process at leaking UST sites. The proposed Policy governs closure of leaking UST cases. The regulations are not currently interpreted nor should they be interpreted to require compliance with all provisions if it is determined that the case can be closed under applicable authority, including the State Water Board's state policies for water quality control.
14.01			PC	3. Not sure if CARB was included in VI portion of the Policy.	See response 11.06
14.02			PC	4. Standardized institutional control for residual contamination.	See response 2.07.
14.03			PC	5. Establish a reserve USTCF account for Low- Risk Closures.	Long-term impacts are not expected at cases closed under this Policy.
14.04			SED	1. The Board should require mitigation funding to fund the study and mitigation of potential impacts of the Policy.	Comment noted.
14.05			SED	Item 8(b) has not been documented through an analysis of available facts, and should require mitigation to at least study the and impacts of the Policy.	See response 4.00, 4.11, 4.12, and 4.13.
14.06			SED	Items 9(b) and 10 (b) are currently undocumented and will require funding.	See response 4.00 and 4.11.
15.00	Frey Environmental, Inc.	Ed Rands	PC	The Policy allows for relatively high levels of benzene and MTBE to remain in soil and groundwater under certain conditions. The threat that these and other chemicals pose to groundwater and the public can increase substantially if there are changes in property use, installation of additional production wells near the property, or there is an increase in the pumping of beneficial groundwater from a public water system in which the affected property is located.	See response 1.00.
15.01			SED PC	The risk to public health, and/or the reduction of useable water has not been adequately discussed in the Policy.	See response 4.05.



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15.02			PC	The Policy does not account for the diminished value of the property with respect to relatively high concentration of contaminant left in place. It is likely that though the property will be closed by a regulatory agency under this Policy, a deed restriction will most likely be imposed on the property limiting its use and reducing its value.	It is only under certain Criteria [Groundwater-Specific Criteria 3 (a)] that the Policy requires a deed restriction or land use restriction and only if the property owner is willing to accept a land use restriction and only if the regulatory agency requires a land use restriction as a condition of closure.
15.03			PC	A discussion and guidance for evaluation and threat reduction of TBA should be included. There is a wide variation in opinions within the regulatory community on the human health risks associated with TBA.	TBA has been addressed in the three Technical Justification documents that support the proposed Policy.
16.00	Frey Environmental, Inc.	Joe Frey	PC	Policy should not be adopted as written. References a Groundwater Resources Association letter dated 8 November 2011. This Policy conflicts with current Policy, violates laws and statutes, ignores current groundwater uses, conflicts with DTSC regulations and guidelines, and ignores chemicals of concern. The Policy is spawned by Major Oil to avoid remediation. Assumed liability for land owners having contamination moved onto their property in the sub surface. Unpredictable future property and groundwater usage at risk. Groundwater is sacrificed to solve financial issues.	The Policy is based on existing statutes, regulations and State Water Board resolutions. The Policy is intended for low threat UST cases. Cases that meet Criteria established in the proposed Policy are considered low threat to human health, safety, and the environment, and are ready for case closure. Closure Criteria require any petroleum affected groundwater plume to be stable or decreasing. Natural attenuation processes degrade the petroleum and will restore WQOs over time. The Policy does not allow for impacts to occur and is designed to be protective of groundwater resource areas. The plume lengths and concentration levels are used to eliminate the likelihood of beneficial use or surface water impacts. The Policy does not make current site conditions worse.
17.00	Frey Environmental, Inc.	John Payne	PC	Inclusion of a "low threat" guidance document within the LUFT manual is more appropriate and would allow LOP's to prioritize higher risk properties. This would also allow better allocation of resources in the assessment and remediation of these properties.	If the proposed Policy is adopted by the State Water Board, the draft LUFT manual will likely be updated to reflect the Policy. Regulatory Criteria are necessary for statewide consistency and efficiency.
17.02			PC	A discussion and guidance for evaluation and threat reduction of TBA should be included.	TBA has been addressed in the three Technical Justification documents that support the proposed Policy.
17.03			PC	The Policy allows for relatively high levels of benzene and MTBE to remain in soil and groundwater under certain conditions. The threat that these and other chemicals pose to groundwater and the public can increase substantially if there are changes in property use, installation of additional production wells near the property, or there is an increase in the pumping of beneficial groundwater from a public water system in which the affected property is located.	See response 1.00.
17.04			SED PC	The risk to public health, and/or the reduction of useable water has not been adequately discussed in the Policy.	See response 1.00, 2.09, and 11.00.
18.00	Frey Environmental, Inc.	Josh Moeller	PC	Inclusion of a "low threat" guidance document within the LUFT manual is more appropriate and would allow LOP's to prioritize higher risk properties. This would also allow better allocation of resources in the assessment and remediation of these properties.	If the proposed Policy is adopted by the State Water Board the draft LUFT manual will likely be updated to reflect the Policy. Regulatory Criteria are necessary for statewide consistency and efficiency.
18.01			PC	A discussion and guidance for evaluation and threat reduction of TBA should be included.	See response 15.03.

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18.02			PC	The Policy allows for relatively high levels of benzene and MTBE to remain in soil and groundwater under certain conditions. The threat that these and other chemicals pose to groundwater and the public can increase substantially if there are changes in property use, installation of additional production wells near the property, or there is an increase in the pumping of beneficial groundwater from a public water system in which the affected	See response 1.00.
18.03			PC	The risk to public health, and/or the reduction of useable water has not been adequately discussed in the Policy.	See response 1.00, 2.09, and 11.00.
19.00	Frey Environmental, Inc.	Sawyer Jones	PC	How does a Policy allowing less stringent cleanup goals lower the concentrations of petroleum hydrocarbons in water? How does this relieve stress on an already limited water supply?	See response 1.00.
19.01			PC	Explain how the Policy will not further limit our water supply be allowing increased concentrations of petroleum hydrocarbons to remain in soil and groundwater.	See response 1.00.
19.02			PC	Explain how the Policy will help relieve stress of the population on our water supply.	See response 1.00, 2.05 and 3.02.
19.03			PC	Explain how the Policy addresses future increased populations and increased stress on the same groundwater.	See response 1.00, 2.05 and 3.02.
20.00	Frey Environmental, Inc.	Walter Bell	PC	A substantial amount of this Policy is already in practice by regulatory agencies and consultants across the board. Creating this Policy is redundant.	Standardized Criteria will promote consistency and efficiency.
20.01			PC	The Policy does not address TBA.	See response 15.03.
20.02			PC	The high levels of benzene and MTBE allowed to remain in soil and groundwater deviate significantly from the standards that are currently used by regulatory agencies.	Unsubstantiated assertion. There are no uniform standards in place. Regulatory Agencies make closure decisions on a case by case basis.
20.03			PC	The Policy does not reflect unforeseen increases in the population.	See response 1.00, 2.05 and 3.02.
21.00	G&M Oil Company, Inc.	Jennifer Talbert	PC	Strongly support the proposed Policy.	The commenter supports the proposed Policy.
22.00	Glenn F Barton	Glenn Barton	PC	Leaving petroleum contamination in soil and groundwater is not a sound decision in Southern CA. Policy does not discuss the pressures of our current state population on our increasingly limited water supply.	See response 1.00, 2.05 and 3.02.
22.01			PC	Explain how the Policy will not further limit our water supply by allowing increased concentrations of petroleum hydrocarbons to remain in soil and groundwater beneath former UST sites.	The Policy does not allow for additional impacts to occur so there are no cumulative impacts. See response 1.00, 2.05 and 3.02.
22.02			PC	Explain how the Policy will help relieve stress of the population on our water supply.	See response 1.00, 2.05 and 3.02.
22.03			PC	Explain how the Policy address's future increased populations and increased stress on the same water supply.	See response 1.00, 2.05 and 3.02.

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23.00	General Public	Joyce Dillard	PC	Application of Hydrologic Regions to Geology is to the geologic factor of rock formations is not indicated. Missing are Geological Survey for earthquake faults in vulnerable areas. No guidance for monitoring and testing. Missing are the qualifications required to test, monitor, review and close the case. Water Quality will never improve. These tanks appear in Methane Zones or Methane Buffer Zones which increases risk of contaminants and an extreme threat to Public Health and Safety. Again, the practice of fracking to extract oil has surfaced in Southern California which should change your Policy to one of extreme precaution for the Public Health and Safety. Hydrogen sulfide is an issue. Testing and reporting of the air quality should be required before closure. You need to acknowledge density in urban areas and the epidemiological effect. Affordable Housing, Department of Housing and Urban Development and California Debt Limit Allocation Committee funded, Department of Treasury New Markets Tax Credit and other financial factors are a reality around Major Projects in UST areas.	Policy requires that the adequacy of the CSM is to be determined by the Lead Agency. The Policy allows for site specific conditions to be a factor to keep a case open. The CSM has to be determined on a case by case basis by the Lead agency. The Policy addresses the Vapor Intrusion issue as one of the three media specific Criteria.
24.00	General Public	Kevin Brown	PC	Due to different release scenarios and mechanisms, the Policy should only pertain to petroleum fuel releases at UST sites, and not to petroleum hydrocarbon releases to the environment from refineries, pipelines, terminals, tanker trucks, surface spills, and other sources.	This Policy is a state Policy for water quality control and applies to all petroleum UST sites subject to Chapter 6.7 of Division 20 of the Health and Safety Code and Chapter 16 of Division 3 of Title 23 of the California Code of Regulations. The term "regulatory agencies" in this Policy means the State Water Board, Regional Water Quality Control Boards (Regional Water Boards) and local agencies authorized to implement Health and Safety Code section 25296.10. Only petroleum UST cases may be closed under this Policy.
24.01			GW	The "Diesel" and "Free Product Removal" sections of the Policy should be removed, as they are actually guidance discussions that can be adequately covered in the updated LUFT Manual.	The Technical Document for Groundwater has been revised for clarity.
24.02			GW	The Policy liberally references non-peer reviewed technical documents, yet fails to utilize existing regulatory guidance documents, including several important references from the State Water Board, Regional Boards, UC-Davis, etc. Instead, the main conclusions and recommendations relate to studies completed or funded by the major oil companies. This fact should be unacceptable to California's hydrogeologic community. The Stakeholder Group is largely comprised of oil company representatives and their consultants. This influence outside of the regulatory world gives a much too powerful voice to the polluters – the polluters are essentially the authors of the Policy. The document must include the review and use of a healthy balance of studies from all applicable resources, industry and non-industry alike, and the Policy writers should be unbiased.	The Technical Document for Groundwater has been revised for clarity. The Policy went through the peer review process. Numerous studies were reviewed and relied upon. Stakeholder Group included representatives from various groups, including Regional Water Boards.
24.03			GW	Self-serving phrases throughout the Policy, such as "well documented", "well known", and "well established", have no place in the Policy. These comments are trying to influence the reader of the Policy that all assumptions are common knowledge and uniformly accepted by everyone. The comments are unnecessary and add little to evaluating whether the Policy is valid from a scientific viewpoint.	Unsubstantiated assertion. Speculative assertion.

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24.04			GW	The list of technical reports/references is minimal and contains no important and critical references from the United States Geological Survey. There are very minor technical references from the USEPA. The scientific references for MTBE are minimal and incomplete and do not even include previous Policy documents from the State Water Board.	The Technical Document for Groundwater has been revised for clarity.
24.05			PC	State Board Resolution 88-63, Sources of Drinking Water, lays out the technical rationale for determining how groundwater should be evaluated as a potential drinking water source (TDS, yield, etc.) in California. This Policy should not ignored.	The Policy is based on existing statutes, regulations and State Water Board resolutions. Resolution 88-63 has been considered. Water Quality Objectives are based on Resolution 88-63 and applicable Basin Plans.
24.06			PC	Many groundwater basins and recharge areas require a higher degree of protection because they are or could become highly used in the future, or because they are considered more vulnerable to groundwater quality degradation through individual or cumulative effects.	See response 1.00 and 4.32.
24.07			PC	Many older water supply wells were constructed years ago and do not meet current DWR standards.	The Policy requires setback distances from all water supply wells and surface water bodies. The setbacks and other closure Criteria prevent impacts to existing wells. See response 1.00.
24.08			PC	What about the influence of existing groundwater pumping wells (irrigation supply, industrial supply, municipal supply, etc.) on the shallow and deeper groundwater zones near UST sites?	See response 24.07.
24.09			PC	What about the role of man-made conduits, such as utility vaults and corridors, tunnels, etc. influencing the movement of shallow groundwater throughout California?	See response 2.00.
24.10			PC	The Policy is silent on commingled plumes. Multiple source areas complicate the exchange and movement of dissolved oxygen in the saturated zone, which inhibits biodegradation of the petroleum chemicals.	If there are current or anticipated future uses of groundwater at a site that are not adequately protected by the Criteria in the Policy, then a regulatory agency may determine that the site has unique site conditions.
24.11			PC	Groundwater has other beneficial uses besides being a source of drinking water. Private wells and irrigation wells – thousands of wells – have been impacted with petroleum hydrocarbons and MTBE throughout California. Private wells are typically located in shallow, less-protected aquifers (where no formal regular monitoring is required). There are sensitive habitats – wetlands, streams, Bay waters – that have impacted by fuel hydrocarbons and oxygenate releases which are not being considered in this Policy.	This Policy describes Criteria on which to base a determination that threats to existing and anticipated future beneficial uses of groundwater have been mitigated or are de minimis, including cases that have not affected groundwater. The Policy contains setback requirements for all water supply wells and surface waters. See response 9.20.
24.12			PC	The fact that petroleum hydrocarbons naturally degrade is not disputable. The rate of degradation with respect to potential health and environmental risks is the primary issue. There is no question that long-term exposure to petroleum fuels at high enough doses can cause adverse health effects. Subsurface petroleum contamination can also lead to the production of explosive gases, among other problems.	Releases from USTs can impact human health and the environment through contact with any or all of the following contaminated media: groundwater, surface water, soil, and soil vapor. Although this contact can occur through ingestion, dermal contact, or inhalation of the various media, the most common drivers of health risk are ingestion of groundwater from drinking water wells, inhalation of vapors accumulated in buildings, contact with near surface contaminated soil, and inhalation of vapors in the outdoor environment. The State Water Board believes it is in the best interest of the people of the State that unauthorized releases be prevented and cleaned up to the extent practicable in a manner that protects human health, safety and the environment. The Policy was submitted for peer review and the findings support the conclusion that the requirements of the Policy protects human health, safety, and the environment.

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24.13			PC	Future beneficial uses of groundwater, considering climate change, pressures on water resources located considerable distances from population centers, etc. have not been considered in this Policy.	See response 2.05.
24.14			PC	Over fifty percent of Californians use groundwater for drinking and other reasons. Promoting the use of local, shallow groundwater basins for irrigation (watering lawns, athletic fields, golf courses, etc.), instead of using pristine water from the Sierras, for example, should be encouraged by the State Water Board and the Regional Boards. Aquifer storage and using recycled water can also serve to lessen the strain on groundwater resources.	See response 1.00.
24.15			PC	Have there been any scientific and peer-reviewed evaluations of the cumulative impacts to groundwater basins from fuel hydrocarbon and oxygenate contamination in California and/or elsewhere? How have the short- and long-term impacts to groundwater basins from fuel hydrocarbons and MTBE contamination been evaluated?	See response 1.04.
24.16			PC	Because every UST site in California has unique hydrogeochemistry and microbial characteristics, the evidence for and the rate of in-situ biodegradation should be determined at all sites impacted by petroleum hydrocarbons and fuel oxygenates.	See response 4.34.
24.17			GW	This section discusses the five "classes" of low-threat groundwater plumes. It would be helpful to have illustrations of each class/scenario, where appropriate.	Comment noted.
24.18			GW	The contaminant concentrations are arbitrary and capricious. The Policy concentrations have no scientific validity and are based on unsupported assumptions, such as the effective solubility of free-phase benzene. Benzene typically composes less than one percent of the volume of gasoline.	See response 4.31.
24.19			GW	Does a petroleum hydrocarbon and/or fuel oxygenate plume need to be fully defined, both laterally and vertically?	All relevant site characteristics identified by the CSM shall be assessed and supported by data so that the nature, extent and mobility of the release have been established to determine conformance with applicable Criteria in the Policy. The Policy requires setback distances from all water supply wells and surface water bodies.
24.20			GW	Several of the cited plume length studies, most notably Rice et al. (LLNL, 1995) and Buscheck et al. (1996) did not present the actual data used to calculate the benzene plume lengths, and neither study included an evaluation of MTBE plume lengths. The plume lengths discussed in the LLNL report were taken from modeling studies. Two of the cited studies (Mace, et al., 1997; Groundwater Services, Inc., 1997) were conducted for LUFT sites in Texas and Florida, respectively, two states with vastly different soil, bedrock, and groundwater conditions than California. Furthermore, the Texas study included the evaluation of hundreds of bedrock aquifer sites where petroleum hydrocarbon plumes would be expected to be short (with the exception of karst aquifers). The Rice et al. (1995) study specifically excluded bedrock sites in California.	The Technical Document for Groundwater has been revised for clarity. Studies by Rice et al. were conducted in California.

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24.21			GW	Why is the 250 feet plume length appropriate? What is the technical rationale behind the “five years of monitoring to validate plume stability/natural attenuation” and “decreasing for a minimum of five years?” There appears to be little technical or scientific validity in choosing these values.	The Technical Document for Groundwater has been revised for clarity. Low-threat classes require a known maximum stabilized plume length, and meet all of the additional characteristics of one of the five classes of sites. Requiring that a plume must be stable or decreasing reduces uncertainty as to how long the plume might become in the future. The Policy addresses the potential for longer plumes of ethanol-enhanced gasoline by applying separation distance safety factors of 100% to 400%. The use of separation distances is consistent with other State and local practices regarding impacts to groundwater caused by anthropogenic releases. For example, State and local agencies establish required separation distances or setbacks between water supply wells and septic system leach fields (typically 100 feet), and sanitary sewers (typically 50 feet; [DWR 1981]).
24.22			PC	The DRAFT Policy ignores a very important State Water Board Policy, protection of beneficial uses.	See response 1.00 and 9.22
24.23				Peer Review Comments? • What was the selection process? • All four of the comment papers were prepared by professional engineers who are professors at esteemed universities. • Based on a review of their resumes/curriculum vitae, it does not appear that any of the reviewers are recognized experts in the geology or hydrogeology fields (none of the reviewers are California –licensed geologists or hydrogeologists). Since California has a very unique geologic setting, the lack of an expert hydrogeologist on the peer review panel is a significant mistake that deserves further scrutiny and discussion. • Why weren't recognized experts in California hydrogeology, especially those with expertise in petroleum fate and transport in groundwater, asked to comment on the Policy? Was the United States Geological Survey consulted? The University of California at Davis with their renowned researchers/professors? • Three of the comment letters mainly address groundwater and vapor intrusion (i.e., Pedro Alvarez, Elizabeth Edwards, and Robert Spear), while the fourth (Mark Widdowson and John Little) only addressed vapor intrusion. Only Pedro Alvarez and Robert Spear commented on direct contact (minor comments only). • What assurance will be given that the issues pointed out in the peer review letters will be properly incorporated into the revised Policy? • Are there any potential conflicts of interest? What is the relationship of the peer reviewers and members of the Stakeholder Group, if any?	Peer reviews were completed and posted on the State Water Board's website. The peer review process is required by Health Safety Code Section 57004 and provides for an independent review of scientific findings, conclusions and assumptions. The framework for the process is fully explained on the State Water Board's website.
25.00	General Public	Larry Turner	PC	Three monitoring wells should be left on-site and sampled annually or bi-annually to verify that natural attenuation is actually occurring and to provide adequate safeguards to property owners with minimal costs.	As stated in the proposed Policy, cases that meet Criteria established in the proposed Policy satisfy the case-closure requirements of Health and Safety Code section 25296.10, and are consistent with the requirements in the State Water Board Resolution No. 92-49 that requires that cleanup goals and objectives be met within a reasonable time frame. These cases do not require further corrective actions. Therefore, it is not necessary to leave wells on site and continue groundwater monitoring. In addition, there might be some risks associated with leaving wells on site since some percentage of monitoring wells act as conduits for contamination to flow to unaffected portions of an aquifer.  However, the proposed Policy does not restrict the property owners from keeping wells on site as long as they would certify that they will keep and maintain the wells in accordance with applicable local and state requirements.
25.01			PC	In the event a land use limitation and/or restriction is imposed as a condition of closure, there should be a fixed, reasonable "expiration" date included in the document. Five years should be the maximum time frame.	The Policy allows for a voluntary land use restriction to be used if free product will be left onsite, other sceneries do not. The Regulatory Agencies regulates the terms of the land use restriction are dependent on the facts of the case and 5 years may not be appropriate in all situations.

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25.02			PC	Outside the Policy- Establish a cost-effective process of appeal for a property owner to request a case closure without limitations.	Comment noted. An appeal process already exists.
25.03			PC	Geotracker- To facilitate future inquiries, the primary responsible party should be required to register on GeoTracker to enable future interested parties access to discuss the history of a given site or to request information on the site.	Petroleum release information from UST cleanup cases is required to be uploaded to GeoTracker, the State Water Board's database.
25.04			SED	The Policy does not address the "cumulative effects" under CEQA 15064(h)(1).	See response to 1.04.
25.05			SED	Two objections to the required wells destruction prior to closure requirement: As stated in the SED, the Cal Codes Regs, tit. 23, 2722, subdivision (a), identifies the components of corrective action to include verification monitoring. No provision for verification monitoring in the proposed Policy.	California Code of Regulations, Title 23, Division 3, Chapter 16, Article 11 governs the entire corrective action process at leaking UST sites. The proposed Policy governs closure of leaking UST cases. The regulations are not currently interpreted nor should they be interpreted to require compliance with all provisions if it is determined that the case can be closed under applicable authority, including the State Water Board's state policies for water quality control.
25.06			SED	The SED states that: " <i>Resolution 92-49 does not require that the requisite water quality be met at the time of case closure; it specifies compliance with cleanup goals and objectives within a reasonable time frame.</i> " The term "reasonable time" is not defined.	See response 4.06.
25.07			SED	The proposed Policy is limited to sites that are in the monitoring phase. This will cause regulatory agencies to close cases with more petroleum left in place than with current practices. This would cause petroleum to remain in the subsurface subject to natural attenuation processes for a longer period of time. The burden to maintain the wells should be placed upon the responsible party, not the property owner.	If a case qualifies for case closure under this Policy then, "All wells and borings installed for the purpose of investigating, remediating, or monitoring the unauthorized release shall be properly destroyed prior to case closure unless a property owner certifies that they will keep and maintain the wells or borings in accordance with applicable local or state requirements."
25.08			SED	Lower property value as a result of the Policy.	See response 2.07. Cases that meet Policy Criteria are eligible for closure under Chapter 6.7 of the Health and Safety Code. If a landowner believes that cleanup beyond regulatory levels will increase the landowners property value, the landowner can, at its expense, remediate further.
25.09			SED	The Project Description states: "...to provide direction to responsible parties, their service providers, and regulatory agencies." The Project Description does not include property owners.	California Health and Safety Code, Sections 25280-25299.8 (regarding hazardous substances and waste stored in underground locations) and the California Code of Regulations, Title 23, Division 3, Chapter 16, "Underground Storage Tank Regulations," refer to the responsible party as "owner" and/or "operator." Responsible parties including property owners, therefore, the Project Description is intended to include property owners.
25.10			SED	The Policy does not consider the secondary indirect physical economic and social impacts to property owners.	See response 6.00.

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25.11			SED	It is incorrect to state that many petroleum-impacted sites that are subject to the proposed Policy are developed parcels of land, so closure of cases on these sites will not lead to redevelopment. The number of service stations has fallen over the years and they would likely be redeveloped at a higher rate absent the "stigma" of residual contamination.	A change that is speculative or unlikely to occur is not reasonably foreseeable. Environmental documents are not required to include speculation as to future environmental consequences of future development that is unspecified and uncertain. (Environmental Council of Sacramento v. City of Sacramento (2006) 142 Cal.App.4th 1018 [48 Cal.Rptr.3d., 544]; National Parks & Conservation Assn. v. County of Riverside (1996) 42 Cal.App.4th 1505, 1515 [50 Cal.Rptr.2d. 339].) Until specific measures or projects are adopted and the details are fleshed out, the environmental impacts remain "abstract and speculative." (Environmental Council of Sacramento v. City of Sacramento citing Sacramento Old City Assn. v. City Council (1991) 229 Cal.App.3d 1011, 1025 [280 Cal.Rptr. 478].) Many Leaking Underground Storage Tank (LUST) sites that are subject to the proposed Policy are developed parcels of land, so closure of cases on these sites will not lead to redevelopment. Even though a subset of the LUST sites that may be subject to the proposed Policy are undeveloped, future development at these sites throughout California is uncertain and environmental consequences of any future development cannot be fully considered in this draft SED. Any future development on sites that may be closed under this proposed Policy will be subject to a separate environmental review under CEQA. The commenter asserts that the Policy will actually decrease the rate of redevelopment at these sites because of the stigma associated with the residual petroleum, thus highlighting the speculative nature of future development at sites closed under the Policy.
26.00	Groundwater Resources Association	Sarah Raker	PC	General- Would like clarification how OEHHA comments in 2011 will be incorporated into the next version of the Closure Policy, if at all.	OEHHA comments have been considered along with all the comments.
26.01			PC	General- The State Board published the latest version of the Closure Policy and three supporting technical justification documents, as well as the latest CEQA document, on January 31,2012. It is unclear how this version is different from the version submitted to the peer reviewers.	The January 31, 2012 Documents are the same versions submitted for peer review.
26.02			PC	General- The comment period is short (January 31, 2012 to March 19, 2012).	The comment period was 45 days. In addition, multiple outreach and scoping meetings were conducted. Typically comment periods are 30 calendar days.
26.03			PC	General- The latest version of the Closure Policy may be different than the one used by the CalEPA peer reviewers.	Peer reviewers submitted comments on a draft Policy. These comments along with the comments submitted by the interested parties were incorporated into a final draft dated April 19, 2012 and was noticed April 20, 2012.
26.04			PC	General- The CalEPA peer review panel responses became available after publication of the latest version of the Closure Policy.	Health and Safety Code Section 57004, requires all Cal/EPA organizations to submit for external scientific review the scientific basis and scientific portion of all proposed policies, plans and regulations. The peer reviewer's responsibility is to determine whether the scientific findings, conclusions, and assumptions are based upon sound scientific knowledge, methods, and practices. Peer review comments have been considered and changes to applicable documents have been made.
26.05			PC	General- The Closure Policy was developed for petroleum UST release sites. Other. Chemical releases or other release scenarios such as refineries, pipelines, terminals, tanker trucks, surface spills should not be included in the Closure Policy.	See response 24.00.
26.06			PC	The Policy should address commingled plumes. Multiple source areas complicate the site conceptual models, and determination of plume lengths.	See response 1.01 and 24.10.
26.07			PC	It would be helpful to have illustrations of each five "classes" of low-threat groundwater plumes similar to the illustrations provided for the vapor intrusion scenario.	Comment noted.



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26.08			PC It is impossible to say, a priori, that "cases that meet the general and media specific Criteria established in this Policy satisfy the case closure requirements of Health and Safety Code section 25296.10" and State Water Board's Resolution 92-49, as stated on page I of the Closure Policy under the "Low-Threat Case Closure" head. GRA recommends that the Closure Policy be revised to emphasize the continued need for site-specific interpretation and evaluation of all data and information to support rational UST site closure decisions.		See response 25.00. Cases that meet the Criteria in the Policy are generally expected to ensure the protection of human health, safety, and the environment. However, for unique attributes or site conditions that increase the risk, the Policy allows exceptions.
26.09			PC Closure Policy be shortened and simplified, eliminating the "media specific" UST site closure Criteria while retaining the general call for low-threat sites to be closed in an orderly manner. GRA believes that the media-specific Criteria contained in the Closure Policy should not be part of a State Water Board Policy, but rather should be included in a guidance manual and specifically, in the California LUFT Manual.		Comment noted. Regulatory Criteria are necessary for consistency.
26.10			SED The scoping document did not properly evaluate environmental impacts because it failed to compare the proposed project's impacts with those under the current closure Policy. Where a project proposes to alter an existing plan or Policy document, a "two-baselines approach" is required. Further, under CEQA a lead agency is required to make a good faith effort to disclose the environmental impacts of a project to decision makers and the public.		See response 4.05.
27.00	Grubb & Ellis Company	Mike Kalmanson	PC 1) How will property values be affected by elevated soil and GW contamination remaining?		See response 2.07 and 6.00.
27.01			PC It is "my" belief that the USTCF was meant to help property owners clean up property to pre-UST conditions to restore property values. The Policy will not restore property values.		See response to 6.00 and 25.08. The UST Cleanup Fund provides financial assistance for corrective action consistent with the Health and Safety Code.
27.02			PC Current and future clients are paying into a fund and have an expectation that those payments will allow a claim to be submitted to the USTCF at some later date to offset costs to restore property values to pre-UST conditions. The Policy will not allow them to restore property values to pre-UST conditions but they will still be required to pay into the Fund. This may require us to take further legal action against the SWRCB.		Comment noted. See response 27.01.
27.03			PC Several national banks state that they are governed by federal maximum contaminant levels (MCLs). If a site is above MCLs then they will not approve a loan.		Comment noted. See response 6.00 and 27.01.

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28.00	Howard S. Mehler, Ph.D., J.D. & Associates Incorporated	Howard Mehler	PC	The Policy if implemented, will violate the long-standing Anti-Degradation Policy of the Water Board.	State Water Board Resolution 68-16 establishes a general Policy of maintaining the quality of waters in the state, but it also provides flexibility to allow change that is consistent with the maximum benefit to the people of the State, will not unreasonably affect present and anticipated beneficial uses of water, and will not result in water quality less than that prescribed in plans and policies. With cleanup actions, cleanup levels may be set between background levels and applicable water quality objectives. Numerous State Water Board precedential decisions explain why achieving background water quality is infeasible, including the need to completely excavate contaminated soil to reach background water quality and the consequential destruction of roads and other structures, the impacts to landfills if total excavation were required at every site, and the lack of adverse impact on existing and anticipated beneficial uses. The same reasons justify setting a level of water quality less stringent than background under the proposed Policy. (See State Water Board Orders on UST case closure)
28.01			PC	The Policy Criteria are ambiguous and cannot guarantee that background water quality will ever be achieved through natural attenuation.	Cases that meet Criteria established in the proposed Policy are considered low threat to public health, safety, and the environment, and are ready for case closure. Natural attenuation processes degrade the petroleum and will restore water quality objectives (WQOs) over time. The Policy does not make the current site conditions worse so the property value should not be diminished as a result of the Policy.
28.02			PC	What constitutes the mitigation of a "substantial fraction" of a petroleum contaminant mass? What facts will the Water Board require to make this assessment?	See response 2.00.
28.03			PC	Is the principal responsible party (RP) required to estimate total contaminant mass in the subsurface and total contaminant mass recovered?	See response 2.00.
28.04			PC	What standard will the Water Board use to determine whether a principal RP has implemented secondary source removal to the extent practicable? Will a brief pilot test suffice to enable a principal RP to meet its burden of proof that secondary source removal has been conducted to the extent practicable?	See response 2.02.
28.05			PC	What level of certainty is required to establish that natural attenuation will achieve water quality objectives within a reasonable time?	See response 1.01. If applicable Policy Criteria are satisfied, and in the absence of unique attributes or conditions, WQOs are expected to be met.
28.06			PC	Who decides when petroleum impacted UST sites are beyond active remediation and are in the monitoring phase?	See response 2.04.
28.07			PC	The proposed Policy lacks soil MTBE concentration Criteria to preclude further groundwater contamination from MTBE remaining in soil.	See response 2.09.
29.00	Indus Valley American Chamber of Commerce	Sukh Singh	PC	Leaving significant contamination behind now might become a liability in the future and/or limit the property's use and hence value.	See response 27.00.
30.00	James V. DeMera III Attorney at Law	James DeMera	PC	The Policy will diminish property values.	The Health and Safety Code requires that site conditions at the time of closure be protective of human health, safety and the environment. Sites that meet the Criteria in the Policy meet these requirements and are suitable for unrestricted use. Property values may be affected by many factors, a history of contaminants in the subsurface is only one of those factors. The Policy governs regulatory closure and does not limit other appropriate remedies available to landowners.
31.00	Klinedinst	Jason Scott	PC	Policy provides windfall profits to environmental companies. Low risk closure will reduce property values.	See response 2.07, 6.00, and 25.08.

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32.00	Office of Environmental Health Hazard Assessment	David Siegel	PC	OEHHA staff found that the Technical support documents adequately support the proposed Policy. Various suggestions are made to improve the accuracy and clarity of the technical support documents.	The technical support documents have been modified for accuracy and clarity.
33.00	Ragghianti and Freitas, LLP	Riley Hurd	PC	The Policy conflicts with Section 13050 of the Porter-Cologne Water Quality Control Act: As defined in Section 13050 of the Porter-Cologne Water Quality Control Act, nuisance includes "an obstruction to the free use of property." The proposed numerical threshold included in Table 1 of the Policy would obstruct "free use of property."	Table 1 has been modified. See response 2.08.
33.01			PC	The Policy conflicts with existing guidelines concerning soil remediation: The Policy does not reconcile how the subject plumes would be stable and/or decreasing if there are concentrations of chemicals in the soil that contribute to additional groundwater contamination.	Cases that meet Criteria established in the proposed Policy are low threat to human health, safety, and the environment, and are ready for case closure. Natural attenuation processes will continue to occur at sites closed under the proposed Policy. Natural attenuation processes slow and limit the migration of dissolved petroleum plumes in groundwater. The Policy does not make the current site conditions worse. The Policy does not allow for impacts to occur and is designed to be protective of groundwater resource areas. The Policy requires demonstration that the plume is stable or declining.
33.02			PC	Adoption of the Policy would create situations where non-USTs sites would be required to remediate the same constituents in soil to address the threat to groundwater.	See response 9.26.
33.03			PC	The Policy allows soil to contain concentrations above health-based protective levels at deeper than five feet below ground surface with no requirements for land use covenants. This is in conflict with the DTSC's sensitive land use Policy and guidance.	See response 12.00. The Policy, which specifically applies to petroleum, has been peer reviewed and is protective of human health, safety, and environment.
33.04			PC	The Policy conflicts with existing guidance concerning soil gas remediation: Field investigations have shown that aerobic biodegradation of the VOCs only occurs in a narrow fringe beneath buildings where VOCs and oxygen vapors are present. The addition of building, pavement, or other barriers following site closure is not addressed and therefore invalidate the conclusions regarding the true viability of bio attenuation.	There is sufficient scientific evidence to support the Criteria in the Policy as described in the Technical Justification for Vapor Intrusion Media-Specific Criteria. The regulatory agency may determine that a site has unique site specific conditions.
33.05			PC	The Policy excludes considerations addressed in Section 2725 of the UST Regulations which requires that the responsible party perform an assessment of the chemical characteristics of the released substances "including their toxicity, persistence, and potential for migration in water, soil, and air."  The proposed Policy does not address the conflict that will arise when new toxicity Criteria are issued by the California Office of Environmental Health Hazardous Assessment (OEHHA). b. Section 2727 of the UST Regulations requires a Verification Monitoring Phase and states that the responsible party "shall evaluate the effectiveness of the site work." Under this Policy, the responsible party becomes its own regulator. c. The Policy creates new responsibilities for agencies that are currently included in the UST Regulations. d. The Policy violates the State Water Board Resolution 88-63. e. The Policy does not comply with the State Water Board Resolution 92-49 and 23 CCR 2722(a).	The Policy is a state Policy for water quality control that governs case closure at UST sites and is consistent with Resolution 92-49. See response 1.02 and 14.00.

Comment No.	Agency Organization Interested Party	Representative	Policy Comment ( PC) SED Comment (SED) Groundwater Tech Doc (GW) Vapor Tech Doc (V) Direct Contact Tech Doc (DC)	Comment	Staff Response
33.06			PC	<p>The Policy fails to consider the effect of tertiary butyl alcohol (TBA):</p> <ul style="list-style-type: none"> <li>a. The Policy failed to address the significant portion of sites with TBA that are not likely to attenuate.</li> <li>b. The State Water Board ignores the conclusions of more appropriate and reliable sources such USEPA.</li> <li>c. The Policy should be revised to require generation of data demonstrating that TBA is degrading and that groundwater conditions will remain conducive to degradation during the time it takes to achieve water quality objectives.</li> </ul>	See response 15.03.
33.07			PC	<p>The Policy raises a number of broader Policy issues that should be considered by the State Water Board:</p> <ul style="list-style-type: none"> <li>a. Given the current state of the economy, it is difficult for independent service station owners to obtain financing to purchase their sites. Given the Policy's allowance for residual contamination to remain onsite for a much longer time, it may be impossible to obtain financing after the Policy.</li> <li>b. The Policy may result in financial impacts on off-site property owners and utility companies resulting from leaving unmonitored and unmanaged contamination behind.</li> <li>c. The Policy could conflict with local land use and/or zoning decision.</li> <li>d. Property values both on-site and off-site may decline due to the presence of soil and groundwater contamination beneath a property.</li> </ul>	See response 2.00, 2.05, 2.07 and 16.00.
33.08			PC	<p>Recommendations:</p> <ul style="list-style-type: none"> <li>a. Update the CEQA review for the Policy such that it is supported by actual evidence and complies with applicable law.</li> <li>b. Remove items 1 through 5 under Media-Specific Criteria / Groundwater section.</li> <li>c. Re-assess the benzene and MTBE thresholds such that they compare with existing science and better protect humans and environment.</li> <li>d. Consider the effect of TBA.</li> <li>e. Requires for the provision of actual data that a particular site has verified bio attenuation capabilities.</li> <li>f. Combine the creation/passage of the Policy with the re-writing of the LUFT manual, such that the two documents are complementary and consistent.</li> <li>g. Reduce the reporting frequency of groundwater monitoring to an annual or biannual basis for sites that are not being actively or passively remediated.</li> </ul>	See response 1.00, 4.05, 4.07, 9.52. The LUFT manual is a guidance document versus a proposed state wide Regulatory Policy. Regulatory closure Criteria are necessary for consistency and efficiency. The frequency of groundwater monitoring should be determined on a case by case basis.

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33.09			SED	<p>The draft SED fails to comply with CEQA's legal requirements for the following reasons:  The Policy is not exempt from the requirement to prepare an EIR:  a. The Policy goes beyond the scope of the exempted certified regulatory program as it is also adopting cleanup standards for soil and soil gas, independent of water quality issues.  b. The SED fails to analyze a single alternative.</p>	<p>See response 1.04. The State Water Resource Control Board's (State Water Board) approval of state policies for water quality control is a regulatory program that has been certified as an exempt regulatory program by the Secretary of Natural Resources in accordance with subdivision (c) of Public Resources Code, section 21080.5. (CEQA Guidelines, § 15251, subd. (g), Cal. Code Regs., tit. 23, § 3775.) As such, the State Water Board's approval of state policies for water quality control is exempt from the requirement to prepare EIRs and negative declarations. (CEQA Guidelines, § 15250.) Instead, the State Water Board may prepare a document used as a substitute for an EIR or negative declaration. (CEQA Guidelines, § 15252, subd. (a), Cal. Code Regs., tit. 23, § 3775.)  The State Water Board has broad authority to establish state Policy for water quality control. (Wat. Code, §§ 13140 and 13142.) The State Water Board's authority extends beyond impacts to water quality. The Water Code authorizes regional water quality control boards and the State Water Board to control pollution and nuisance, and to require the cleanup and abatement of pollution and nuisance. (Wat. Code, §§ 13263 and 13304.) The term nuisance, insofar as relevant, means a condition that is injurious to health or is indecent or offensive to the senses and that occurs during as a result of the treatment or disposal of wastes. (Wat. Code, §13050.) Similar authority is provided pursuant to Chapter 6.7 of the Health and Safety Code. Section 25296.10 of the Health and Safety Code requires responsible parties at leaking Underground Storage Tank (UST) sites to conduct corrective action in a manner that ensures the protection of human health, safety, and the environment and that is consistent with waste discharge requirements or other orders issued pursuant to Division 7 of the Water Code, state policies for water quality control, and water quality control plans. The State Water Board's exercise of its authority to regulate other exposure scenarios has been both consistent and longstanding. See, for example, State Water Board Resolution 92-49, Policies and Procedures for Investigation of Cleanup and Abatement of Dischargers Under Water Code Section 13304.</p>
33.10			SED	<p>The SED contains an inadequate Project Description: The SED does not evaluate the impact of leaving more petroleum in place or the impact of the longer period of cleanup, thereby failing to adequately report, or analyze, the true scope of the Policy.</p>	<p>The State Water Board's regulations require the SED to include a brief description of the proposed project. (Cal. Code Regs., tit. 23, § 3777, subd. (b)(1), Cal. Code Regs., tit. 23, § 3779.5, subd. (b)(1).) The project description in the SED includes all of the following: The purpose of the Policy, which is to establish consistent, statewide Criteria for closing low-threat leaking UST sites. The project is limited to leaking petroleum UST sites. The SED explains that both general and media-specific Criteria must be satisfied in order to qualify for case closure under the Policy. The SED provides a brief description of the general and media-specific Criteria and incorporates by reference the Policy for more detail. The description explains how some regulatory agencies throughout the state are already implementing practices that conform to the Policy and that other agencies are not and how the Policy may, therefore, affect the timing of closing leaking UST cases.  The Policy is programmatic in nature and the description is, therefore, by necessity conveyed in more general terms. The commenter incorrectly suggests that the specific requirements for a project description contained in CEQA Guidelines, section 15124 apply to the project description contained in the SED. CEQA Guidelines, section 15124 applies to project descriptions in EIRs.  The proposed Policy states that it does not specifically address other petroleum releases scenarios such as pipelines or above ground storage tanks. The Policy offers that if a different petroleum release scenario exhibits attributes similar to those that this Policy addresses, the closure evaluation of the non-UST petroleum sites should be similar to those in the Policy. The closure Criteria in the Policy are clearly limited to petroleum releases from USTs and, accordingly, only leaking UST sites may be closed based upon the application of the Policy. The project description in the SED accurately describes the applicability of the proposed Policy.</p>
33.11			SED	<p>The SED uses an improper baseline for analysis: The baseline for the SED should account for future environmental benefits that would occur if the current closure Criteria were simply left in place.</p>	<p>See response 4.05.</p>

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33.12			SED	<p>The SED contains an inadequate assessment of the Policy's environmental impacts:</p> <p>a. Air Quality: The Policy conflicts with existing air quality requirements by allowing residual concentrations of petroleum hydrocarbon-related volatile organic compounds in soil at levels above applicable air quality management Criteria. The Policy has the potential to expose sensitive receptors to unacceptable levels of pollutants.</p> <p>b. Greenhouse Gas Emission: The SED fails to consider the impacted of unabated release of greenhouse gases from the in situ degradation resulting from leaving more petroleum in place.</p> <p>c. Biological Resources: The petroleum mass that will remain in soil and groundwater if the Policy is adopted can result in damage to soil invertebrates and to plants, through direct plant uptake, because the Policy will allow levels of materials toxic to environmental receptors. The Policy does not set screening levels for other constituents (e.g., toluene, ethyl benzene, MTBE, TBA...) that would also have the potential to pose a threat to soil invertebrates and plants.</p>	<p>See response 4.05 and 4.07. When evaluating the significance of the environmental effect of a project, an agency must consider both direct physical changes in the environment that may be caused by the project and reasonably foreseeable indirect physical changes that may be caused by the project. (CEQA Guidelines, §15064, subd. (d).) To assess the changes to the environment that will result from the project, the agency treats existing conditions as the environmental baseline against which the project's changes to the environment are measured. (CEQA Guidelines, § 15125.)</p> <p>The commenters' assertion that the State Water Board is required to compare the amounts of residual petroleum that will remain at these sites under the current Policy and the proposed Policy to assess environmental impacts is not supported by the CEQA Guidelines or applicable case law.</p> <p>This mischaracterization of the environmental baseline is carried over to specific comments made on environmental impacts, e.g. air quality, greenhouse gas emissions, biological resources, hydrology and water quality, land use planning, public services, hazardous materials. The commenters' assertions that the Policy will result in specific, significant environmental impacts are based on an incorrect baseline under CEQA. Only changes over the environmental baseline are project impacts for purposes of the analysis of the significance of the impacts.</p>
33.13			SED	<p>d. Hydrology and Water Quality: The SED fails to identify any impacts to hydrology or water quality. The Policy will "deplete groundwater supplies" by allowing portions of groundwater basins designated for water supply to be degraded with residual contaminants. The SED does not consider the potential impacts from migration of polluted groundwater to area beyond the extents anticipated under the Policy. The potential impacts from migration of contaminated groundwater to surface water could pose a potentially significant adverse impact to surface water quality. The SED needs to evaluate this threat and incorporate mitigation measures to address this impact.</p>	See response 4.05, 4.07 and 33.09.
33.14			SED	<p>e. Land Use and Planning: The SED states that the Policy would not conflict with a single land use plan, general plan, local coastal program, habitat conservation plan, or zoning ordinance. It is unclear how this finding can be made with no citations or supporting evidence.</p>	See response 4.05, 4.07, 4.09, 4.14, and 33.08.
33.15			SED	<p>f. Public Services: The SED did not include the analysis of the impact on utilities from contaminated groundwater during the potential hundreds of years that it will take for the concentrations to naturally attenuate to safe levels. The SED fails to evaluate the effect of residual petroleum hydrocarbons on existing and future water supply piping.</p>	See response 4.05, 4.07 and 33.08.

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33.16			PC g. Hazards and Hazardous Materials: The SED fails to identify or analyze the potentially significant impact of reasonably foreseeable accidents involving the release of hazardous material resulting from closing sites with "more petroleum left in place than with current practices." The Policy lacks requirements for notification of proposed changes in future land uses at sites closed with residual contamination in place.		See response 4.05, 4.07 and 33.08.
33.17			SED The SED fails to identify and analyze any cumulative impacts.		See response 1.04.
33.18			SED The SED fails to identify and analyze any alternatives to the Policy: The SED contains the following statement: "The State Water Board has determined that no fair argument exists that the Project could result in any foreseeable significant adverse environmental impacts and, therefore, this draft SED does not identify and analyze any alternatives to this project." The above statement is momentous. The State Water Board should consider this statement before adopting the Policy.		See response 4.00 and 4.16.
33.19			SED The findings in the SED directly conflict with the State Water Board's own previous findings: The containment zone amendment to Resolution 92-49 acknowledged that "some pollutants will remain within the containment zone for some period of time." This conclusion is similar to the Policy, which the SED acknowledges will cause petroleum to remain "for a longer period of time." Adopting the proposed Policy would be circumventing mitigation measures the State Water Board agreed were necessary in 1996 when leaving residual petroleum constituents that would require some period of time to meet water quality objectives.		In 1998, the Resources Agency adopted an amendment to the CEQA Guidelines to specify how agencies should determine the baseline. (CEQA Guidelines, § 15125.) This amendment was designed to make explicit the relationship between the description of existing environmental conditions and the assessment of the project's environmental impacts. The adoption and amendment to State Water Board Resolution 92-49 predated the amendment to the CEQA Guidelines that specifies the environmental baseline and key court decisions. At the time that Resolution 92-49 was adopted and amended, significant effects resulting from remaining pollutants could be identified based upon the environmental baseline under CEQA at that time. Existing CEQA Guidelines, which apply to the proposed Policy, clearly provide that the baseline is the "the physical environmental conditions in the vicinity of the project, as they exist . . . at the time the environmental analysis is commenced." (CEQA Guidelines, § 15125.) Use of the appropriate baseline is critical for an accurate assessment of a project's environmental impacts, and the appropriate baseline for the proposed Policy is existing conditions. Thus, the finding that no significant adverse effect will result by the remaining petroleum in the subsurface is not inconsistent with previous State Water Board actions.
34.00	Redding Oil Company	Jack Reiser	PC	General-Strongly recommend that the Policy be adopted.	The Commenter supports the proposed Policy.
35.00	Remediation Testing and Design, Inc.	Howard Whitney	PC	RTD recommends that the Policy include total petroleum hydrocarbons in the development of screening levels for media specific Criteria. Point out an error in current screening levels	TPH is allowed by the Policy to be used to determine the extent of the contamination and pathway determination as the commenter suggests. However, TPH is not a primary component of the risk at UST sites and the Policy does not include specific cleanup levels for TPH. The equations and direct contact tables have been modified to incorporate the corrections suggest by commenter.
36.00	Robinson Oil Corporation	Thomas Robinson	PC	General-Strongly support the proposed Policy.	The commenter supports the proposed Policy.

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37.00	San Francisco Bay Regional Water Board	Bruce Wolfe	PC	Suggested changes to Table 1 in Low Risk Policy: Agency has one comment related to non-UST petroleum releases such as pipeline spills and releases from bulk facilities. The Direct Contact Screening Levels proposed in Table 1 will often be inappropriate for these non-UST sites. Suggested language change to Table 1 assumptions. "1. This table was derived using assumptions about the release scenario and the resulting size of petroleum hydrocarbon releases that are commonly found at typical UST sites (i.e., petroleum releases result in a relatively small finite source that degrades to non-detect within a reasonable time frame). This table is appropriate to use only for sites that exhibit those characteristics." 2. Based on the seven carcinogenic poly-aromatic hydrocarbons (PAH) as benzo(a)pyrene toxicity equivalent (BaPe). Sampling and analysis of PAH is only necessary where soil was affected by either waste oil or Bunker C fuel.	A footnote was added to the table clarifying the size of the source used in the technical analysis.
38.00	Santa Clara Valley Water District	Joan Maher	PC	1. A statewide Policy that closes contamination sites based on fixed numeric targets does not adequately address local concerns and conditions.	The Policy includes Criteria (both general and media-specific) that are designed to ensure the protection of human health, safety and the environment. The Policy expressly recognizes that there may be unique circumstances at a site that make closure under the Policy inappropriate, despite the fact that the stated Policy Criteria are met. Local considerations are allowed by the Policy and the regulatory agency may consider unique site specific conditions.
38.01			PC	2. The District does not believe this Policy is adequately protective of groundwater resources. The District believes that the determination of whether attainment of water quality objectives is feasible should rely on a good CSM.	The Policy requires the development of a CSM as the commenter suggests. All of the general and media specific Criteria must be met. If the Criteria in the Policy are met, there will be no restricted use on the sites. Public supply wells are usually constructed with competent sanitary seals and intake screens that are in deeper more protected aquifers. Pursuant to State Water Board Resolution 92-49, cleanup should occur in a manner that promotes attainment of either background levels or the best water quality that is reasonable if background cannot be restored. The level of water quality cannot exceed applicable water quality objectives. Thus, Resolution 92-49 provides that the cleanup level of polluted groundwater range between background and the applicable water quality objective. Resolution 92-49 does not require that the requisite level of water quality be met at the time of case closure; there must be a substantial likelihood of achieving compliance with cleanup goals and objectives within a reasonable period of time. Numerous State Water Board precedential decisions explain why achieving background water quality is infeasible, including the need to completely excavate contaminated soil to reach background water quality and the consequential destruction of roads and other structures, the impacts to landfills if total excavation were required at every site, and the lack of adverse impact on existing and anticipated beneficial uses. The same reasons justify setting a level of water quality less stringent than background for sites covered under the proposed Policy. Petroleum UST cases that meet the closure Criteria in the Policy are expected to meet applicable WQOs within a reasonable period of time through natural attenuation. Even though reaching WQOs could take a significant period of time, the time period is reasonable because the closure Criteria prevents adverse impacts to existing and anticipated uses of the water and is protective of human health and safety.
38.02			PC	3. The Policy does not adequately address off-site cleanup.	A cleanup case includes all the petroleum affected media on and off the site. Petroleum releases extend off the site of origination in some cases and if the Criteria in the Policy are satisfied, the UST case can be closed notwithstanding the fact that the release has moved offsite. The risk associated with the release should not be increased due to the fact that the release has moved off site. The Policy allows regulatory agencies to consider unique case attributes and site specific conditions, so if there are additional risks presented by the release moving offsite, the regulatory agency would be able to consider those risks.



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38.03			PC	4. The Policy inappropriately shifts the burden of proof from the responsible party to others, including the local oversight agencies and taxpayers.	Regulatory agencies are currently required to determine regulatory requirements that a site must meet. The Policy does not change this as commenter suggests. The Policy contains general and media-specific Criteria that will, if met, ensure the protection of human health, safety and the environment. The Policy expressly recognizes that there may be unique circumstances at a site that make closure under the Policy inappropriate, despite the fact that the stated Policy Criteria are met. If the Criteria in the Policy are satisfied, it is reasonable to expect regulatory agencies to identify unique attributes of the case or site-specific conditions that make closure under the Policy inappropriate.
39.00	Stanford University Real Estate Office	Annette Walton	PC	General Criteria, Item d(a), page 3 - "Free product shall be removed in a manner that minimized the spread of the unauthorized release..."	See response 9.08.
39.01			PC	page 4: " <i>Secondary source removal has been addressed</i> ":	Commenter supports the application of general and media specific Criteria and agrees that closure is appropriate if those Criteria are met.
39.02			PC	General Criteria, page 4: Nuisance a. The definition for "nuisance" needs to be clarified and given a boundary. b. The statutory definition is not really helpful in figuring out whether there is a nuisance in any particular case.	The term nuisance has been clearly defined in section 13050 of the California Water Code. Application of nuisance Criteria is site specific.
39.03			PC	Media-Specific Criteria for Groundwater: a. It appears that the Policy will rely on establishing an "alternative level of water quality" not to exceed that prescribed in the Basin Plan or Resolution 92-49 as a basis for applying for closure. "Alternative Water Quality" needs to be defined for clarity and consistency. b. The focus of this section should provide how one can successfully show mitigation or show how the risk are truly de minimums. For instance, using the RWQCB ELSs or DTSCs CHHSLs as a screening tool is one way to establish that there are no human health risks followed by providing evidence of plume stability, and then meet the five classes as listed.	The Media-Specific Criteria for Groundwater section adequately establishes Criteria for low-threat case closure using well-developed studies at UST sites. If the general and media specific Criteria are met, then no other Criteria outside of the Policy such as ESIs or CHSSLs need be met. See response 1.02.

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39.04			PC	<p>A deed restriction is a legal requirement that can encumber a property and may delay or interfere with real estate transactions. A deed restriction should not be required if the following is reasonably demonstrated for this specific closure option:</p> <ul style="list-style-type: none"> <li>a. A human health and/or ecological risk assessment has shown there are no impacts.</li> <li>b. Residual concentrations do not exceed DTSCs CHHSLs or the RWQCB ESLs.</li> <li>c. Require the RP(s) to develop a Site Management Plan with full disclosure during any future real estate transaction. The plan would be tracked on the governing agencies database or city's planning departments. The purpose of the SMP would be provide guidance for health and safety and media specific handling of material should subsurface intrusion in the vicinity of the UST is required during future construction activities.</li> <li>d. This should only be a "groundwater deed restriction", prohibiting the use of this water as a domestic drinking water supply.</li> </ul>	See response 25.01.
39.05			PC	<p>There is no "time" commitment on the parts of the local agencies, to get the cases to closures. The local agency should be required to do the following:</p> <ul style="list-style-type: none"> <li>a. If an RP can demonstrate that they meet the Criteria under this Policy and notifies the agencies with the proof, the agency should be required to do the following: <ul style="list-style-type: none"> <li>- Within 10 days of receipt of a request for closure, the local agency should acknowledge receipt of the request.</li> <li>- Within 30 days, the agency should review the closure package and make a determination that it accepts or denies the closure application.</li> <li>- If closure is accepted, then the agency has 30 days to prepare the necessary paper work and simultaneously start the necessary public 30- day notification.</li> <li>- At the end of the 30-day public notification and based on comments received, the agency shall issue the closure within 30 days.</li> <li>- If closure is denied, the denial should be based solely on the Policy and the parties shall hold a meeting to discuss within 30 days.</li> </ul> </li> <li>b. The agency should be given the flexibility to close the tanks individually if they choose so or if requested by the RP. Without</li> </ul>	Agency implementation timeframes are not dictated by the Policy. Agencies shall review each case annually.
39.06			PC	Agencies should be given the flexibility to close individual tanks to speed property development.	The Policy does not restrict closing portions of a site to allow development.
39.07			PC	Clarify the new process for case closure and the petition process.	The process for case closure and filing petitions are still the same.
40.00	Teri L. Copeland, M.S., DABT Environmental Toxicologist	Teri Copeland	PC	1.1 Use standard risk assessment guidance.	The purpose of this Policy is to establish consistent statewide case closure Criteria for low threat petroleum UST sites. The Policy is consistent with existing statutes, regulations, State Water Board precedential decisions, policies and resolutions, and is intended to provide clear direction to responsible parties, their service providers, and regulatory agencies.
40.01			PC	1.2. Expand list of indicator chemicals.	See response 4.31.

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			Comment		
40.02			PC	1.3. Include Ecological Risk in assessment.	Humans are the risk driver of petroleum cleanup cases. If a high ecological risk has been determined then, a regulatory agency may determine that the site has unique site conditions. The Policy requires setback distances from all water supply wells and surface water bodies.
40.03			PC	2.1. Provide peer review of toxicology Criteria.	Table 1 and technical support documents have been modified for accuracy and clarity.
40.04			PC	3.1. Provide list of participants with direct and indirect involvement in developing the Policy.	The list of names is available on the website: <a href="http://www.waterboards.ca.gov/water_issues/programs/peer_review/">http://www.waterboards.ca.gov/water_issues/programs/peer_review/</a>
40.05			DC	4.1. Soil depth intervals for direct contact are not consistent with CalEPA/ DTSC guidance.	Table 1 and technical support documents have been modified for accuracy and clarity.
40.06			DC	4.2. Exposure parameter units for skin surface area need to be changed to cm <sup>2</sup> /day.	The technical support documents have been modified for accuracy and clarity.
40.07			DC	4.3. Table 4 California Reference Exposure Levels (RELs) should be used rather than USEPA Reference Concentrations ( RfCs).	The technical support documents have been modified for accuracy and clarity.
40.08			DC	4.4. Toxicity Criteria Table 7 should be consistent with current Cal/EPA/OEHHA toxicity Criteria (CalEPA, 2012a,b).	The technical support documents have been modified for accuracy and clarity.
40.09			GW	5.1. Add 1,2-DCA, EDB, TBA, and Naphthalene to list of carcinogenic constituents on the basis that they are indicator chemicals for GW plume length.	See response 4.31.
40.10			GW	5.2. Based on our review of Shih et al. (2004), it is recommended that tertiary butyl alcohol (TBA) be added to the listing of indicator chemicals.	See response 15.03.
40.11			GW	5.3. It is recommended that Falta (2004) be considered when developing the final Policy.	Comment noted.
40.12			GW	5.4. See comment 5.12.	Comment noted.
40.13			GW	5.5 See comment 5.10.	Comment noted.
40.14			GW	5.6. Revise paragraph regarding Silica Gel Cleanup.	The technical support documents have been modified for accuracy and clarity.
40.15			GW	5.7. The free product Criteria/conditions for defining low threat groundwater scenarios requires further definition.	The technical support documents have been modified for accuracy and clarity.
40.16			GW	5.8. It is recommended that the Policy provide a definition of "service area of public water system"	A definition for a public water system has been added to the Policy for accuracy and clarity: "For purposes of this Policy, a public water system is a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year."
40.17			GW	5.9. See Comment 5.11, Comment 5.12 and Comment 5.13.	Comment noted.
40.18			GW	5.10. See Comment 5.12	Comment noted.
40.19			GW	5.11. It is recommended that the final guidance specify which concentration value is to be used to establish plume stability and extent.	See response 1.01.
40.20			GW	5.12. It is recommended that the final Policy define "reasonable time frame" or provide guidance as to how it is to be established.	See response 5.04.

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40.21			GW	5.13. It is recommended that the final Policy provide guidance regarding the methodology: (a) for establishing whether a plume has "expanded to its maximum extent", (b) how one is to establish whether a contaminant plume is "stable or decreasing in areal extent" and (c) for establishing "where attenuation exceeds migration".	See response 5.04.
40.22			GW	5.14. It is recommended that the phrase "there is no free product present" be removed and "General Criteria – Item d" should read "there is no free product present or free product has been removed to the extent practical".	Comment noted.
40.23			GW	5.15 A benzene plume at 1000 µg/L and 250 feet in length is highly unusual when considered in light of Shih et al. (2004) and, as such, should require additional characterization at a minimum and likely remediation. It is recommended that such a plume not be considered for closure as set forth in the final Policy.	Comment noted.
40.24			GW	5.16. A benzene plume at 1000 µg /L and 1000 feet in length is highly unusual when considered in light of Shih et al. (2004) and, as such, should require additional characterization at a minimum and likely, remediation. It is recommended that such a plume not be considered for closure as set forth in the final Policy. Also, it is not clear whether free product is permissible in this case.	Comment noted.
40.25			GW	5.17 Under current guidance, human health risk assessment guidance requires that future scenarios consider exposure 30 years and 25 years into the future for residential and commercial/industrial exposure scenarios, respectively. It is therefore recommended that the final Policy define the time frame associated with "reasonably anticipated near-term future scenarios".	See response 4.06 and 5.04.
40.26			GW	5.18. The SWRCB has developed this draft Policy in an attempt to inject reason into the manner in which sites are characterized, remediated, and closed. Case 5 and Case 6 capture the essence of what the draft Policy is attempting to promulgate. However, the other four cases are unnecessary and presenting them confuses the characterization/remediation/closure process.	Comment noted.
40.27			V	6.1. It is recommended that additional indicator constituents of gasoline releases and diesel releases be considered in a site-specific manner.	There is sufficient scientific evidence to support the Criteria in the Policy as described in the Technical Justification for Vapor Intrusion Media-Specific Criteria.
40.28			V	6.2. By relying on concentrations in a single medium, the proposed approach is inconsistent with the multimedia approach set forth in the final CalEPA guidance (CalEPA, 2011).	See response 40.27.
40.29			V	6.3. With the exception of Scenario 4, the media of concern are inconsistent with CalEPA guidance (CalEPA, 2005).	See response 40.27.
40.40			V	6.4. The draft Policy is inconsistent with USEPA guidance (USEPA, 1989) and CalEPA guidance (CalEPA, 2011) in that all detected compounds (i.e., as opposed to only TPH and LNAPL in soil and groundwater, only benzene in groundwater, or only benzene and naphthalene in soil gas) should be considered when evaluating the risk associated with a given site.	See response 40.27.

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40.41			V	6.5. The rules of thumb in the draft Policy are consistent with generally accepted practices for identifying the presence and nature of LNAPL.	Comment noted.
40.42			V	6.6. It is recommended that soil gas samples collected from 5 feet and/or in close proximity to the subsurface source be used in conjunction with subslab or, in cases where no slab is present, near-surface (e.g., at a depth of 1 or 2 feet) soil gas samples to establish that attenuation is indeed occurring at a given site.	Comment noted.
40.43			V	6.7. The data requirements for the four scenarios set forth in the draft Policy involve collection and analysis of soil data and/or groundwater data and/or soil gas data and characterization of LNAPL and, as such, appear to be less time- and cost-effective than simply collecting soil gas samples, as is being done under current CalEPA guidance.	Comment noted.
40.44			V	6.8. The computer model must consider VOC concentrations that may prove toxic to microbes. This should be discussed in the guidance.	The technical support documents have been modified for accuracy and clarity.
40.45			V	6.9. Assuming first order degradation, the rate constant assumed in the model gives a half-life of about 1 hour, which does seem high. This half-life must consider the presence of other fuel hydrocarbons (FHCs) that may be preferentially degraded over benzene. It is recommended that field-derived degradation rates be used in the model.	Comment noted. The technical support documents have been modified for accuracy and clarity.
40.46			V	6.10. The Policy should specify the reporting limit used to establish "full attenuation".	Comment noted.
40.47			V	6.11. While this reviewer agrees with the idea biodegradation of fuel hydrocarbons (especially benzene) is significant and important to consider, the existence of a bioattenuation zone can be readily determined using 5 foot and subslab vapor probes. Such probes are relatively time- and cost-effective to install, sample, and analyze.	Comment noted.
40.48			V	6.12. It is recommended that soil gas samples collected from 5 feet and/or in close proximity to the subsurface source be used in conjunction with subslab or, in cases where no slab is present, near-surface (e.g., at a depth of 1 or 2 feet) soil gas samples to establish that attenuation is indeed occurring at a given site.	See response 6.6.
41.00	Trihydro	William Glenn	PC	Page 3,d. Free product has been removed to the maximum extent practicable: To be consistent, the term "free product" should be replaced by LNAPL which is used later in the Appendices.	The term "free product" is obtained directly from section 280.64 of the 40 CFR. To be consistent with section 280.64 of the 40 CFR, the proposed Policy will not be modified as suggested. The term "LNAPL" and "free product" are used interchangeably in the Policy and supporting technical documents based upon the context. "LNAPL" is more frequently found in academic literature and "free product" is more often found in regulatory documents.
41.01			PC	Appendix 1, Scenario 1 - Unweathered LNAPL in Groundwater: Clarify text #2. How many discrete samples are required, and are composite samples also acceptable?	The regulatory agency will determine how many samples are necessary based upon site specific conditions and professional judgment.
41.02			PC	Appendix 2, Scenario 2 - Unweathered LNAPL in Soil: Clarify text #2. What Criteria will meet the term "throughout"?	See response 41.01.

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41.03			PC Appendix 4, Scenario 4 – Direct Measurement of Soil Gas Concentrations: a. Move diagram "Soil Gas Sampling - with Bio attenuation Zone" above "Soil Gas Sampling - No Bio attenuation Zone" so that columns A and B of the "Soil Gas Criteria" table corresponds to the top diagram and bottom diagram, respectively. b. Text #2, "Soil Gas Sampling - with Bio attenuation Zone": replace "ppm" by mg/kg for consistency to Appendices 1 and 2.		Comment noted. Appendix 4 of the proposed Policy will be modified as recommended.
42.00	Western States Petroleum Association	Patty Senecal	PC General- Potential Low Threat Sites must then meet all of the following: Site must be in service area of public water system. Release must consist of "petroleum" only. Release has been stopped. Free product has been removed to the extent practicable. The Conceptual Site Model has been prepared and validated. The pollutant levels at the site are below accepted levels in the soil, groundwater and air. The site has been shown to have a plume that is stable or decreasing in aerial extent. See response to the County's written comment and response to the Alameda County Water District.		Commenter supports the Policy.
<b>Staff Response to Oral Comments Received During the April 17, 2012 Public Hearing</b>					
1.00	Groundwater Resources Association	David Von Aspern		The commenter summarized the GRA comment letter dated March 19, 2012.	See response to written comments 26.00 - 26.10.
2.00	EquoLogic	Erin Garner		The commenter summarized the comment letter dated March 19, 2012.	See response to written comments 14.00 - 14.06.
3.00	Alameda County Health Care Services Agency	Jerry Wickham		The commenter summarized the County's comment letter dated March 19, 2012 and recommended that the Policy specifically exclude areas that are actively managed for groundwater recharge.	See response to the County's written comments 2.00 - 2.10 and Alameda County Water District's response to written comments 2.00 - 2.10.
4.00	Ragghianti and Freitas, LLP	Riley Hurd		The commenter summarized his comment letter dated March 15, 2012.	See response to written comments 33.00 - 33.15.
4.01				The commenter also stated that leaving hydrocarbons in place relying on degradation depends on oxygen content and that bioattenuation is not effective if there is any type of barrier.	See response to written comment 33.04.
4.02				The commenter recommends that the Policy require a limited number of monitoring wells.	If the case has been determined by the regulatory agency to meet the Criteria in this Policy then as required in the Policy - All wells and borings installed for the purpose of investigating, remediating, or monitoring the unauthorized release shall be properly destroyed prior to case closure unless a property owner certifies that they will keep and maintain the wells or borings in accordance with applicable local or state requirements.
5.00	General Public	Bill Vecera		The commenter made the following comments: 1.) If a site is closed under the Policy, it could be reopened later and responsible parties could be required to perform further cleanup; 2.) The Underground Storage Tank Cleanup Fund (USTCF) may not be in existence in the future so responsible parties and landowners would be required to pay for cleanup; and 3.) Deed restrictions may devalue the property.	Oral response was provided at the hearing. If a case is reopened in the future, then responsible parties and property owners at the time may be required to perform cleanup. Under certain conditions, a new property owner may reactivate a USTCF claim, assuming the USTCF is in existence at the time the case is reopened. Deed restrictions are not required for every case-closure scenario under the Policy. Only one of the scenarios under the groundwater-specific Criteria requires the imposition of a restriction if the regulatory agency requires such a restriction.

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6.00	Alameda County Flood Control and Water Conservation District Zone 7	Brad Ledesma		The commenter summarized the agency's comment letter dated March 19, 2012.	See response to written comments 1.00 - 1.04.
6.01				The commenter stated that activities such as pumping could make plumes unstable.	See response to written comment 1.00.
7.00	General Public	Larry S. Turner		The commenter summarized is comment letter dated March 15, 2012.	See response to written comments 25.00 - 25.11.
8.00	Clearwater Group	Olivia Jacobs		The commenter summerized some of the issues raised in comment letters dated March 19, 2012. Commenter made the following points: a.) The Policy threatens the livelihood of businesses like hers and makes brokering case closure with regulators more difficult, b.) Peer review and other public comments have been largely ignored; c) Policy puts professionals in conflict with protecting waters of the state, d.) Stakeholder groups should have had more-broad representation, e.) The Policy should include consumer protections to assist with resolving disputes. f.) Geotracker should show current contaminant information, g.) Release sites should be ranked by level of threat.	See response to written comments 8.00 - 9.61.
9.00	General Public	John Corcoran		The environmental document is flawed. The document does not identify any significant environmental impacts, which is inconsistent with the containment zone Policy in State Water Board Resolution 92-49. The Policy allows for a significant amount of petroleum to be left in place, which could impact water supply in the future. The Policy is inconsistent with regulations and creates uncertainty about responsibility and offsite migration.	See response to written comments 2.05, 4.05, 4.06, and 16.00.
10.00	General Public	James Jacobs		The commenter agrees that the Policy is necessary and wants to ensure that it complies with applicable laws and is based on sound science.	Health and Safety Code Section 57004, requires all Cal/EPA organizations to submit for external scientific review the scientific basis and scientific portion of all proposed policies, plans and regulations. The peer reviewer's responsibility is to determine whether the scientific findings, conclusions, and assumptions are based upon sound scientific knowledge, methods, and practices. There is sufficient scientific evidence to support the Criteria in the Policy
11.00	Association of California Water Agencies	Danielle Blacet		The commenter agrees that the Policy is a good step forward. A number of member water agencies expressed concern and ACWQ urges the State Board to consider the concerns of specific water districts.	Comment noted.
12.00	Remediation Testing and Design, Inc.	Howard Whitney		Summarized comment letter dated March 19, 2012.	See response to written comments 35.00.
12.01				Stated that it is necessary to establish the closure Criteria in a regulatory Policy rather than guidance.	Comment noted.
13.00	Alameda County Water District	John Weed		The commenter summarized comment letter dated March 19, 2012.	See response to written comments 3.00 - 4.36.
14.00	Alameda County Water District	Thomas Berkins		The commenter summarized comment letter dated March 19, 2012.	See response to written comments 3.00 - 4.36.
14.01				The commenter stated that the Policy should use the method used by the California Department of Public Health when establishing groundwater protection zones, which considers local groundwater conditions.	The Policy is based on existing statutes, regulations and State Water Board resolutions. The method used by the California Department of Public Health to establish groundwater protection zones is based on the sum total of contaminants; whereas, the Policy is based on Petroleum contaminants that naturally attenuate.

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15.00	California Independent Oil Marketers Association	Jay McKeeman		The commenter summarized comment letter dated February 17, 2012.	Supports Policy.
16.00	CORE Environmental Foundation	Bob Clark-Riddell		The Policy provides clarity and consistency. The State Board should ensure that the Policy is based on sound science and maintain the transparency of the process. The Policy should consider issues surrounding reopening of sites, such as responsibility and funding. Costs to handle remaining petroleum should be addressed, such as tracking. Lender concerns and deed restrictions should be address.	If a case is reopened in the future, then responsible parties and property owners at the time may be required to perform cleanup. Under certain conditions, a new property owner may reactivate a USTCF claim, assuming the USTCF is in existence at the time the case is reopened. Deed restrictions are not required for every case-closure scenario under the Policy. Only one of the scenarios under the groundwater-specific Criteria requires the imposition of a restriction if the regulatory agency requires such a restriction. If a case meets the Criteria in the Policy, there will be no need to track the case and, therefore, no associated costs to monitor the remaining petroleum. Health and Safety Code Section 57004, requires all Cal/EPA organizations to submit for external scientific review the scientific basis and scientific portion of all proposed policies, plans and regulations. The peer reviewer's responsibility is to determine whether the scientific findings, conclusions, and assumptions are based upon sound scientific knowledge, methods, and practices. There is sufficient scientific evidence to support the Criteria in the Policy
17.00	Santa Clara Valley Water District	Julia Maclay		Summarized comment letter dated March 19, 2012.	See response to written comments 38.00 - 38.03.
18.00	City of San Diego	Gary Carlton		The commenter requests revisions to the Policy that will ensure that the City of San Diego will be provided with adequate notice to raise concerns about case closure before a case is actually closed. The commenter encourages the State Water Board to conduct outreach on the Policy to make sure it is adequately publicized.	The comment period on proposed closures has been changed from 30 days to 60 days.
19.00	General Public	Aysha Massell		There is a need to identify ways to replenish water supplies. The Policy does not account for the fact that municipalities will be looking at these sources of water for supply. The stakeholder group is too limited.	See response to written comments 1.00, 2.05, and 9.30.