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Public Comment
UST Case Closure - Palm Springs Oil #1
Deadline: 9/2/11 by 12:00 noon



Edmund G. Brown Jr.
Governor

TO: Jeanine Townsend
Clerk to the State Water Board

FROM: Robert Perdue 
Executive Officer
COLORADO RIVER BASIN
REGIONAL WATER QUALITY CONTROL BOARD



DATE: September 2, 2011

SUBJECT: COMMENT LETTER – PALM SPRINGS OIL #1 UST CASE CLOSURE
SUMMARY

The Colorado River Basin Regional Water Board (Board) wishes to submit these comments regarding the petition submitted to the State Water Board by Mr. Benton C. Beckley (Petitioner) to close the subject UST site.

As a prefatory comment, however, the Board requests that the comment deadline of noon, September 2, 2011, be extended to September 30, 2011, to enable Board staff to more thoroughly review reports and data related to this matter since the Board only recently received notification of this matter on August 19, 2011. UST Cleanup Fund regulations require that a 20-day comment period be provided following notification of a closure petition (Cal. Code Regs., tit. 23, section 2814.7(b).) Since the comment deadline is noon, September 2, 2011, the Board was provided with only a 14-day comment period.

The Board's request to extend the comment deadline is also based on Board staff's recently learning that other interested persons were similarly not given timely notice. These interested persons include: (1) the lead regulatory agency for this matter, Riverside County Environmental Health Department—Environmental Cleanup Programs (the Local Oversight Program entity), which received notice on August 18 via the State Water Board's Lyris list (15 days prior to comment deadline); (2) Desert Water Agency, the local water purveyor, which was notified on August 26 pursuant to Board staff's specific request (7 days prior to comment deadline); (3) the cities of Cathedral City and Palm Springs, which were notified on August 31 pursuant to Board staff's specific request (2 days prior to comment deadline); and (4) Coachella Valley Association of Governments, which was notified on August 31 pursuant to Board staff's specific request (again, 2 days prior to comment deadline).

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If, for some reason, it would be difficult or inappropriate to extend the comment period to September 30, 2011, the Board requests in the alternative that the comment period be extended to noon, Friday, September 16, 2011, a date that would reflect a 20-day comment period for the Desert Water Agency based on its notification on August 26.

As a result of this limited comment period, the Board requests that you consider these comments as being tentative at best since they cannot reflect all facts and information pertaining to this site due to Board staff's having insufficient time to complete its review of all file materials.

The main concern the Board has with the proposed closure of the UST site petitioner has requested is that the drilling investigation is incomplete. As described in the draft UST Case Closure Summary Report, dated August 8, 2011, and prepared by State Water Board staff, drilling was conducted only to a depth of 91 feet below ground surface (bgs), the depth that petitioner has characterized as "refusal"—the depth beyond which the drilling rigs and drilling methods used were unable to proceed. Groundwater depth was estimated at 170 feet bgs, or approximately 79 feet below the "refusal" depth. Thus, there are no soil data below 91 feet and, of course, no groundwater data. These data are essential to scientifically support any decision regarding site closure since, at this point, it is unknown whether groundwater has been impacted or whether the residual contamination detected at the refusal depth threatens to impact that groundwater.

Moreover, groundwater around the area is used as a sole drinking water source. The subject site is located within the service area of Desert Water Agency (DWA) – the local water purveyor. It is our understanding that DWA pumps groundwater from deep wells located throughout its service area, and the closest well is about 3000 feet away from the subject site. Therefore, since this groundwater aquifer is the sole source of drinking water for the overlying communities, including the cities of Palm Springs and Cathedral City, conclusively determining whether this vital resource has been impacted is not only of critical importance to the Board to ensure it is able to carry out its statutory mandate to protect water quality for all Californians, but also to the Desert Water Agency, which must comply with strict statutory and regulatory duties as a water purveyor to provide high quality drinking water to its many thousands of customers.

To evaluate whether there was any precedent for terminating a drilling investigation above the groundwater table, as is being proposed here, Board staff reviewed a nearby UST cleanup site in which the Board was the lead regulatory oversight agency. This site, identified as "The Wash," is located approximately 1600 feet to the southeast of the subject UST site. For this site investigation, deeper drilling was conducted and identified groundwater contamination at approximately 180 feet bgs. Thus, "The Wash" site provides no support for terminating drilling at the Palm Springs Oil #1 site prior to

reaching groundwater. Moreover, based on its preliminary review of other UST cleanup sites, Board staff was unable to identify any other UST cleanup sites where drilling was terminated prior to reaching the groundwater table.

Board staff also conducted a quick review of nearby well logs within a 3000-foot radius of the subject site. This review indicated that there was a layer of gravelly sand at a depth of approximately 10 to 20 feet, containing abundant gravel and cobbles to 80 feet below grade, which was followed below by poorly graded sand to the groundwater table at 164 feet below grade. However, the petitioner contends that the subject site is underlain by impermeable granitic bedrock at a depth of approximately 80 to 90 feet below grade, the depth petitioner identified as refusal. These other data do not support that proposition.

Board staff is also concerned that sampling for MTBE was not conducted. Health and Safety Code section 25296.15 prohibits closing a UST case unless the soil or groundwater, or both, where applicable, has been tested for the presence of MTBE. This testing requirement is commonly referred to as the "MTBE policy." As of today, no groundwater data have been collected from the subject site to determine whether any concentrations of MTBE are present. Thus, the MTBE policy has not been satisfied for this proposed case closure.

Petitioner has also asserted that no further downward migration of residual petroleum hydrocarbon contamination has occurred or is likely to occur, and that even if such downward migration were to occur, minimal to no impact to groundwater is likely. There simply is insufficient data to support these assertions.

In conclusion, based on the information provided by the petitioner, Riverside County, and Desert Water Agency, and on information obtained from Board staff's UST site cleanup investigation at "The Wash" and on other comparable UST cleanup experiences, there are insufficient data to conclude the subject site does not threaten groundwater quality and public health. Instead, it is more reasonable to conclude that there is an unquantified risk that groundwater has been impacted or that the groundwater is threatened to be impacted.

For the above reasons, as the Board's Executive Officer, I respectfully request that the petition to close the UST case be denied and that further investigation to groundwater be conducted.