

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
ORDER WQ 2023-0038-UST

**In the Matter of Underground Storage Tank (UST) Case Closure
Pursuant to Health and Safety Code Section 25296.10 and the
Low-Threat Underground Storage Tank Case Closure Policy**

BY THE CHIEF DEPUTY DIRECTOR:¹

By this order, the Chief Deputy Director directs closure of the UST case at the site listed below, pursuant to section 25296.10 of the Health and Safety Code.² The name of the responsible party(ies), the site name, the site address, the Underground Storage Tank Cleanup Fund (Fund) claim number if applicable, current and former lead agencies, and case numbers are as follows:

McWhirter Real Estate & Investment Co., Inc. (Responsible Party)

Wahl's Texaco

40553 Big Bear Boulevard, Big Bear Lake, San Bernardino County

Fund Claim No. 3226

Santa Ana Regional Water Quality Control Board, Case No. 083601573T

San Bernardino County, Case No. 90156

¹ State Water Board Resolution No. 2012-0061 delegates to the Executive Director the authority to close or require the closure of any UST case if the case meets the criteria found in the State Water Board's Low-Threat Underground Storage Tank Case Closure Policy adopted by State Water Board Resolution No. 2012-0016. Pursuant to Resolution No. 2012-0061, the Executive Director has delegated this authority to the Chief Deputy Director.

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

I. STATUTORY AND PROCEDURAL BACKGROUND

Upon review of a UST case, the State Water Resources Control Board (State Water Board) is authorized to close or require closure of a UST case where an unauthorized release has occurred, if the State Water Board determines that corrective action at the site is in compliance with all the requirements of subdivisions (a) and (b) of section 25296.10. The State Water Board, or in certain cases the State Water Board Executive Director or Chief Deputy Director, may close a case or require the closure of a UST case. Closure of a UST case is appropriate where the corrective action ensures the protection of human health, safety, and the environment and where the corrective action is consistent with: 1) chapter 6.7 of division 20 of the Health and Safety Code and implementing regulations; 2) any applicable waste discharge requirements or other orders issued pursuant to division 7 of the Water Code; 3) all applicable state policies for water quality control; and 4) all applicable water quality control plans.

State Water Board staff has completed a review of the UST case identified above, and recommends that this case be closed. The recommendation is based upon the facts and circumstances of this particular UST case. The attached UST Case Closure Summary has been prepared for the case identified above and is incorporated by reference. The UST case record that is the basis for determining compliance with the Water Quality Control Policy for Low-Threat Underground Storage Tank Case Closures (Low-Threat Closure Policy or Policy) is available on the State Water Board's GeoTracker database.

[GeoTracker Case Record](http://geotracker.waterboards.ca.gov/?gid=T0607100176): <http://geotracker.waterboards.ca.gov/?gid=T0607100176>

Low-Threat Closure Policy

The Policy became effective on August 17, 2012. The Policy establishes consistent statewide case closure criteria for certain low threat petroleum UST sites. In the absence of unique attributes or site-specific conditions that demonstrably increase the risk associated with residual petroleum constituents, cases that meet the general and media-specific criteria in the Low-Threat Closure Policy pose a low threat to human health, safety, the environment, and are appropriate for closure under Health and Safety

Code section 25296.10. The Policy provides that if a regulatory agency determines that a case meets the general and media-specific criteria of the Policy, then the regulatory agency shall notify responsible parties and other specified interested persons that the case is eligible for case closure. Unless the regulatory agency revises its determination based on comments received on the proposed case closure, the Policy provides that the agency shall issue a uniform closure letter as specified in Health and Safety Code section 25296.10. The uniform closure letter may only be issued after the expiration of the 60-day comment period, proper destruction or maintenance of monitoring wells or borings, and removal of waste associated with investigation and remediation of the site.

Health and Safety Code section 25299.57, subdivision (I)(1) provides that claims for reimbursement of corrective action costs that are received by the Fund more than 365 days after the date of a uniform closure letter or a letter of commitment, whichever occurs later, shall not be reimbursed unless specified conditions are satisfied.

II. FINDINGS

Based upon the facts in the UST record and the hydrogeologic conditions at the site, as summarized in the attached UST Case Closure Summary, the State Water Board finds that corrective action taken to address the unauthorized release of petroleum at the UST release site identified as:

McWhirter Real Estate & Investment Co., Inc. (Responsible Party)

Wahl's Texaco

40553 Big Bear Boulevard, Big Bear Lake, San Bernardino County

Fund Claim No. 3226

Santa Ana Regional Water Quality Control Board, Case No. 083601573T

San Bernardino County, Case No. 90156

ensures protection of human health, safety, and the environment and is consistent with chapter 6.7 of division 20 of the Health and Safety Code and implementing regulations, the Low-Threat Closure Policy and with other applicable water quality control policies and plans.

The unauthorized release from the UST consisted only of petroleum. This order directs closure for the petroleum UST case at the site. This order does not address non-petroleum contamination at the site, if non-petroleum contamination is present.

Pursuant to the Low-Threat Closure Policy, notification has been provided to all entities that are required to receive notice of the proposed case closure, a 60-day comment period has been provided to notified parties, and any comments received have been considered by the State Water Board in determining that the case should be closed.

Pursuant to section 21080.5 of the Public Resources Code, environmental impacts associated with the adoption of this order were analyzed in the substitute environmental document (SED) the State Water Board approved on May 1, 2012. The SED concludes that all environmental effects of adopting and implementing the Low-Threat Closure Policy are less than significant, and environmental impacts as a result of adopting this order in compliance with the Policy are no different from the impacts that are reasonably foreseen as a result of the Policy itself. A Notice of Decision was filed August 17, 2012. No new environmental impacts or any additional reasonably foreseeable impacts beyond those that were addressed in the SED will result from adopting this order.

The UST case identified above may be the subject of orders issued by the Regional Water Quality Control Board (Regional Water Board) pursuant to division 7 of the Water Code. Any orders that have been issued by the Regional Water Board pursuant to division 7 of the Water Code, or directives issued by a Local Oversight Program (LOP) agency for this case should be rescinded to the extent they are inconsistent with this order.

III. ORDER

IT IS THEREFORE ORDERED that:

- A. The UST case identified in Section II of this order, meeting the general and media-specific criteria established in the Low-Threat Closure Policy, be closed in

accordance with the following conditions and after the following actions are complete. Prior to the issuance of a uniform closure letter, the responsible party(ies) is/are ordered to:

1. Properly destroy any and all monitoring wells and borings unless the owner of real property on which the well or boring is located certifies that the wells or borings will be maintained in accordance with local or state requirements;
 2. Properly remove from the site and manage any and all waste piles, drums, debris, and other investigation and remediation derived materials in accordance with local or state requirements; and
 3. Within six months of the date of this order, submit documentation to the regulatory agency overseeing the UST case identified in Section II of this order that the tasks in subparagraphs (1) and (2) have been completed.
- B. The tasks in subparagraphs (1) and (2) of Paragraph (A) are ordered pursuant to Health and Safety Code section 25296.10, and failure to comply with these requirements may result in the imposition of civil penalties pursuant to Health and Safety Code section 25299, subdivision (d)(1). Penalties may be imposed administratively by the State Water Board or Regional Water Board.
- C. Within 30 days of receipt of proper documentation from the responsible party(ies) that requirements in subparagraphs (1) and (2) of Paragraph (A) are complete, the regulatory agency that is responsible for oversight of the UST case identified in Section II of this order shall notify the State Water Board that the tasks have been satisfactorily completed.
- D. Within 30 days of notification from the regulatory agency that the tasks are complete pursuant to Paragraph (C), the Deputy Director of the Division of Water Quality shall issue a uniform closure letter consistent with Health and Safety

Code section 25296.10, subdivision (g) and upload the uniform closure letter to GeoTracker.

- E. Pursuant to section 25299.57, subdivision (l)(1), and except in specified circumstances, all claims for reimbursement of corrective action costs must be received by the Fund within 365 days of issuance of the uniform closure letter in order for the costs to be considered.
- F. Any Regional Water Board or LOP agency directive or order that directs corrective action or other action inconsistent with case closure for the UST case identified in Section II is rescinded, but only to the extent the Regional Water Board order or LOP agency directive is inconsistent with this order.



May 15, 2023

Chief Deputy Director

Date

State Water Resources Control Board

UNDERGROUND STORAGE TANK (UST) CASE CLOSURE SUMMARY

Agency Information

Agency Name: Santa Ana Regional Water Quality Control Board (Santa Ana Board)	Address: 3737 Main Street, Suite 500 Riverside, CA 92501
Agency Caseworker: Kyle Wright	Case No.: 083601573T

Case Information

UST Cleanup Fund (Fund) Claim No.: 3226	Global ID: T0607100176
Site Name: Wahl's Texaco	Site Address: 40553 Big Bear Boulevard Big Bear Lake, CA 92513
Responsible Party: McWhirter Real Estate & Investment Co., Inc. Attn: Donna McWhirter	Address: 10523 Penfield Avenue Chatsworth, CA 91311
Fund Expenditures to Date: \$1,495,000	Number of Years Case Open: 33

GeoTracker Case Record: <http://geotracker.waterboards.ca.gov/?gid=T0607100176>

Summary

This case has been proposed for closure by the State Water Resources Control Board at the request of the Santa Ana Regional Water Quality Control Board, which concurs with closure.

The Low-Threat Underground Storage Tank Case Closure Policy (Policy) contains general and media-specific criteria, and cases that meet those criteria are appropriate for closure pursuant to the Policy because they pose a low threat to human health, safety, and the environment. The Site meets all of the required criteria of the Policy and therefore, is subject to closure.

This case currently operates as a commercial fueling facility located on the southwest corner of Big Bear Boulevard and Paine Road. An unauthorized release was reported in May 1990 when the Big Bear Fire Department encountered free product in a test well located at the site. In August 1990, three gasoline underground storage tanks (UST) were removed from the site and replaced with two 10,000-gallon USTs feeding six fuel dispensers. Soil vapor extraction was conducted between March 2002 and December

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

Wahl's Texaco, T0607100176
40553 Big Bear Boulevard, Big Bear Lake

2002. Groundwater extraction was conducted between June 2000 and March 2012, removing 9.2 million gallons of impacted groundwater. Concentrations of petroleum constituents in soils in post-remediation confirmation samples are below the limits in Table 1 of the Policy and are protective of human health.

Since 1990, 21 groundwater monitoring wells have been installed and monitored regularly through February 2015. Remaining groundwater concentrations of petroleum hydrocarbons exist at low concentrations. Concentrations exceeding water quality objectives are well defined and decreasing in aerial extent. There are no public water supply wells within 1,000 feet of the projected plume boundary; however, Big Bear Lake is located approximately 590 feet northwest of the projected plume boundary. Concentrations of petroleum constituents have been decreasing over time, and it is unlikely that the remaining contaminants will impact Big Bear Lake. Site groundwater monitoring wells were destroyed in November 2019 with lead agency approval.

Depth to groundwater onsite ranged from 0.75 to 5.15 feet below ground surface in 2017. Vapor samples were not collected onsite; however, concentrations of benzene in groundwater were slightly above water quality objectives and are far below groundwater thresholds in the Policy that are protective of human health. Based on remaining low concentrations of petroleum constituents in groundwater and soils, complete vapor intrusion pathways are unlikely to exist onsite. Additionally, the site is an active fueling station and exposure to petroleum vapors associated with historical fuel system releases is comparatively insignificant relative to exposures from small surface spills and fugitive vapor releases that typically occur at active fueling facilities.

Remaining petroleum constituents are limited, stable, and decreasing. Additional assessment would be unnecessary and will not likely change the conceptual model. Any remaining petroleum constituents do not pose significant risk to human health, safety, or the environment under current conditions.

Rationale for Closure Under the Policy

- General Criteria – Site **MEETS ALL EIGHT GENERAL CRITERIA** under the Policy.
- Groundwater Media-Specific Criteria – Site meets the criteria in **Class 5**. The regulatory agency determines, based on an analysis of Site-specific conditions that under current and reasonably anticipated near-term future scenarios, the contaminant plume poses a low threat to human health, safety, and to the environment and water quality objectives will be achieved within a reasonable time frame.
- Petroleum Vapor Intrusion to Indoor Air – Site meets **Criteria 2 (b)**. A Site-specific risk assessment for the vapor intrusion pathway was conducted under the policy and demonstrates that human health is protected to the satisfaction of the regulatory agency.

Wahl's Texaco, T0607100176
40553 Big Bear Boulevard, Big Bear Lake

- Direct Contact and Outdoor Air Exposure – Site meets **Criteria 3 (a)**. Maximum concentrations of petroleum constituents in soil from confirmation soil samples are less than those listed in Table 1 of the Policy.

Recommendation for Closure

The corrective action performed at this Site ensures the protection of human health, safety, and the environment. The corrective action performed at this Site is consistent with chapter 6.7 of division 20 of the Health and Safety Code, implementing regulations, applicable state policies for water quality control and applicable water quality control plans. Case closure is recommended.

Reviewed By:



Matthew Cohen, P.G. No. 9077
Senior Engineering Geologist

1/24/2023

Date

