



Public Comment
UST Case Closure-Northgate
Deadline: 9/17/10 by 12 noon

Countywide Services Agency

Environmental Management
Department

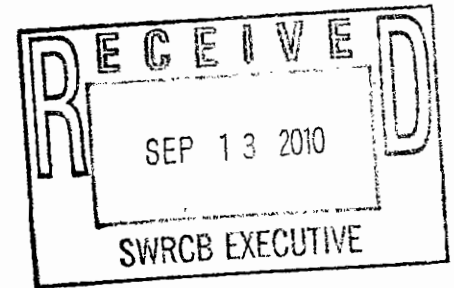
Environmental Compliance Division
Elise Rothschild, Acting Chief

County of Sacramento

Steven C. Szalay, Interim County Executive
Bruce Wagstaff, Agency Administrator
Val F. Siebal, Department Director

September 14, 2010

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
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Dear Ms. Townsend:

**SUBJECT: October 19, 2010 Board Meeting
UST Case Closure
Northgate Liquor & Food
3016 Northgate Boulevard, Sacramento, CA
USTCF Claim No. 13224**

The Sacramento County Environmental Management Department (EMD) is writing to provide comments on the proposed UST case closure cited above. Our comments are both general and specific and are presented following.

General Comments

Previous State Water Resource Control Board (SWRCB) UST closure petition decisions have relied on the concept, first expressed in the 1998 *Walker* decision that:

“The approximate time period in which the requisite level of water quality for dissolved petroleum hydrocarbons and oxygenate compounds will be met is estimated to be decades to hundreds of years. Though the requisite level of water quality has not been met, water quality objectives will be achieved via natural attenuation in decades to hundreds of years. This is a reasonable period in which to meet the requisite level of water quality because the affected groundwater is not currently being used as a source of drinking water and it is highly unlikely that the affected groundwater will be used as a source of drinking water in the future.”

We interpret “decades to hundreds of years” to mean “less than a thousand years”. In the present Northgate Liquor & Food Case Closure Summary (page 6) SWRCB staff says “it is *impossible* (emphasis mine) to determine the precise level of water quality that will be attained”. We agree that because there is no declining trend of MTBE or 1, 2-DCA at this site, it is impossible to determine that water quality goals will be met within decades to hundreds of years. Because it is impossible to make the requisite determination that water quality objectives will be attained within decades to hundreds of years, closing the site would then appear to violate Porter-Cologne, the Basin Plan, and your Board’s reasoning in the Walker case. We note, however, that on page 7 of the Case Closure Summary staff opines that “the approximate time period in which the requisite level of water quality will be met for both constituents is 5 to 20 years”. This assertion not only contradicts the earlier statement, but because there is no declining trend appears to have no basis in fact. Therefore it would appear to be illegal to close the site.

Risk Evaluation

We take exception to several statements in this section which, on the surface, are presented as facts, but appear to be speculative:

“Since the Site and public areas are paved, any residual soil contamination has little potential to migrate to the shallow groundwater or pose a significant threat to human health and the environment.” Regarding the first assertion, as the site has been paved from the time the service station was constructed, if paving prevents vertical migration, how was the groundwater impacted in the first place?

“Vapor sampling at the start of SVE and following rebound testing has shown that the *majority* (emphasis mine) of the soil contamination had been removed...” A majority means more than 50%. As 7,400 pounds of petroleum hydrocarbons were removed by SVE, another reading of this statement might be “we think there may be as much as 7,399 pounds of hydrocarbons remaining in soil”. In reality, we have no idea how much contamination remains in soil because no post-SVE sampling was performed. In addition, because we have no post-remedial samples, and no leaching evaluation has been done, we have no idea whether remaining soil contamination will continue to impact groundwater. The *facts* that the MTBE concentration in well MW-104 is increasing, and that during the most recent monitoring event MTBE was detected at its greatest concentration since the inception of monitoring, suggest that soil contamination *is* migrating. We note that there is a City of Sacramento water supply well approximately 1,000 feet down-gradient of the increasing MTBE concentrations in well MW-104.

“...the [SVE] system had reached the point of diminishing return.”

At the end of the SVE system rebound test in 2007, the system was removing 11 pounds of hydrocarbons per day. If this removal rate was sustainable, it would be the equivalent of removing approximately 4,000 pounds per year, or *more than* the average annual mass removed during the SVE system's continuous operation (August 2004 – July 2006).

Closure

“Will corrective action performed ensure the protection of human health, safety, and the environment? Yes.” *Ensure* means “the making certain or inevitable of an outcome.” “Yes” seems a dubious proposition as the down-gradient extent of MTBE has not been established, MTBE concentrations are increasing in the most down-gradient well, there is a City of Sacramento public water supply well approximately 1,000 feet down-gradient, and the actual remaining mass and soil contaminant concentrations in soil are unknown.

It appears to this Agency that the SWRCB has concluded that: (1) the *Northgate Liquor & Food* plume is likely to meet water quality objectives (WQOs) in less than a thousand years and (2) this is a reasonable period of time to reach WQOs because the groundwater is unlikely to be used before the end of that time. The first conclusion is untenable because of the reasons cited above. Concerning the second conclusion (i.e., that this particular groundwater is unlikely to be used within a thousand years), we believe this too is unsupportable. While we recognize the low yield and low quality of the subject water, the concept that the SWRCB has any idea of the specific waters that will be used in California within a thousand years is inherently flawed. It is problematic enough to make water usage predictions on a general scale over a relatively short period of time, as the authors of the peer-reviewed CALVIN model freely acknowledge. How much more problematic is making predictions for a specific local source over a time frame of “less than a thousand years”? Technological advances and water needs over the next thousand years could reasonably be said to be unfathomable, and may very well make water that is not economically feasible to use now very useable in the distant future.

Training provided to Regional Board and Local Agency staff by State Board counsel appeared to affirm that if the time to reach WQOs cannot be projected at a release site, and if the time for use of designated drinking waters at a release site cannot be projected, closing the site is in violation of Basin Plans and the Porter-Cologne Water Quality Control Act. Closing such sites may place some liability on the registered professional taking responsibility for site closure as well as the Agency itself. Therefore, Local Agencies such as ours are reluctant to close sites where there appears to be no legal support for this action; we recommend that the *Northgate Food and Liquor* site not be closed.

Jeanine Townsend
September 14, 2010
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If you have any questions regarding the above comments, you may contact me by telephone at (916) 875-8506, or by e-mail at marcusb@saccounty.net.

Sincerely,

A handwritten signature in cursive script, appearing to read "Barry Marcus", followed by a horizontal line.

Barry Marcus, P.G.
Supervising Environmental Specialist
Local Oversight Program

BIM:bm

c: Cori Condon, CVRWQCB
Ben Heningburg, SWRCB
John Russell, SWRCB