Addendum 2

PROGRAM REPORT

Underground Storage Tank Program

Chapter 6.7, Division 20 of the Health and Safety Code and the California Underground Storage Tank Regulations (Subchapter 16 of Title 23 of the California Code of Regulations), established a program for regulation and cleanup of underground storage tanks and their releases. In 1984 and 1985, 160,000 underground tanks were registered in the State Board's one-time-only inventory. There are two primary program elements, leak prevention and cleanup.

Leak Prevention
The Leak Prevention Program element includes requirements for tank installation, construction, testing, leak detection, spill containment, and overfill protection. The State Water Board established regulations governing prevention of leaks from underground storage tanks (USTs). There are published standards and requirements for installation, tank construction, tank testing, leak detection, spill containment and overfill protection. California UST laws and regulations give local agencies (counties, cities, water districts, etc.) authority throughout the State to issue permits for tank operation and to enforce tank testing requirements within their jurisdiction.

Cleanup
Cleanup of leaking tanks often involves a soil and groundwater investigation and remediation, under the direction of a regulatory agency. Regulatory agencies directing cleanups include Regional Boards, Local Implementing Agencies (LIAs, usually a County or City Health Department) and Local Oversight Programs (LOPs, LIAs under contract with the State Board). In either case, the various agencies coordinate to ensure that requirements from each agency are met and that the directed investigation and remediation work is consistent.

Within Region 5 there are approximately 2,650 open UST cases, more than any other Region. Of these approximately 1,100 cases are under the direct supervision of Regional Board staff and approximately 1,550 cases are under the direction of LOP or LIA staff. Board staff works closely with LIA and LOP staffs providing advice, guidance, direction, enforcement when needed, and an annual training roundtable held at the Regional Board office. In addition, Board staff meet frequently (numerous times per month) with many of the LOP and LIA program staff to discuss program and site specific issues.

To assist local agencies, responsible parties and consultants in conducting effective and cost efficient investigations, in 1990 staff from R1, R2 and R5 drafted the Tri-Regional Board Staff Recommendations for Preliminary Investigation and Evaluation of Underground Storage Tank Sites (aka The Tri-Regional Recommendations) which have been used by involved parties, and other regulators and the regulated public statewide, for nearly 15 years, providing uniform procedures for performing site investigations. Additionally, Region 5 staff developed and produced Appendix A, Staff Recommendations for Reporting (updated in 2004) as guidance for reporting site investigations, corrective activities, and no-further-action required documentation associated with leaking underground storage tank (UST) sites. Appendix A's purpose is to provide a format for consistency of documents, consistency of process for the regulated public, and to reduce the cost of reporting for dischargers and the UST Cleanup Fund by providing the dischargers and environmental consultants with information for developing complete workplans and reports. By using this document, the investigative phase can be completed in a timely, cost-effective and efficient manner, ensuring the appropriate remedial stage is completed as quickly as possible.

Region 5's UST Program
The primary workload for Region 5 staff is managing/directing the investigation and remediation of Regional Board lead cases. The 1,096 cases for which Region 5 is the lead represent approximately 25.9% of the Regional Board Lead cases Statewide. Region 5 receives approximately 21.5% of the UST funds (sufficient to fund approximately 19 staff positions) distributed to the Regional Boards three offices to work on these cases. Due primarily to the State Board's tendency to distribute resources based on the "every Region should get an equal amount" rather than actual workloads, only two Regions receive lower funding on a per case basis than Region 5. Within the Region approximately 15.9% of the Regional Board lead cases are handled by the Redding office, 22.5% by the Fresno office and 61.6% are handled by the Sacramento office. According to GeoTracker, State Board's web based UST information and tracking system, in Region 5 during calendar year 2004, 89 sites were successfully remediated and No Further Action Required (closure) letters issued. However, there were 30 new Regional Board lead cases opened in the system during the same time period. We expect to see similar numbers for closures and new cases for the next couple of years.

Board staff works closely with Responsible Parties (RPs) to try and keep sites moving steadily toward closure. Normal work progression, as outline in Appendix A is: site/contaminant investigation, evaluation/selection of remedial alternatives,

installation/operation of selected remediation system, post remediation monitoring and then case closure. However, as the RPs contract for the actual work they have significant control on the pace at which a site proceeds towards closure. A cooperative RP who wishes to proceed quickly can often complete the site investigation in a year and have a remediation system installed during the second year. Contrarily, a RP who drags their feet can delay a project for years or even decades. Due to a workload of 60-80 cases per line staff we are unable to propose formal enforcement orders for all recalcitrant RPs. Generally enforcement orders are reserved and issued for cases that have: 1) impacted sensitive receptors (supply wells or surface water), 2) RPs who are recalcitrant and which threaten sensitive receptors, and, 3) for which the RP is in bankruptcy proceedings. Orders are needed on cases in bankruptcy in order to secure the State's claim to assets for environmental work.

Public Outreach
Appendix A Staff Recommendations for Reporting, is a 28-page document developed by Region 5 staff that provides guidance to RPs, consultants and Local Agencies on following a logical sequence for the investigation, remediation and closure of cases with the appropriate reporting requirements.

California Water Code Section 13272.1 requires Regional Water Quality Control Boards to publish and distribute, on a quarterly basis, a list of dischargers of Methyl Tertiary Butyl Ether (MtBE). Region 5 maintains the required list and makes it available on our web site and by mail.

Geotracker is a geographic information system (GIS) that provides online access to environmental data to both regulators and the regulated public. Region 5 staff enters data for all Regional Board lead cases.

Region 5 maintains files on over 8,000 UST cases (both open and closed, local and RB lead) available for public review. Current real-estate practice calls for a case file review whenever a UST property, or nearby properties, are bought/sold to determine if contamination still exists. Our files are often the only information available on the condition of a site. In 2004 the Sacramento Office alone received approximately 1,000 requests to review site files.

Challenges Ahead
The California Performance Review proposes the consolidation of site cleanup programs that may result in the transfer of the UST Program to the Department of Toxic Substance Control (DTSC) under Health and Safety Code Chapter 6.8. Using the authority of Porter-Cologne the existing UST program, while not without its faults, is fairly efficient and allows cooperative RPs to work quickly towards site cleanup and closure. The Chapter 6.8 process may be appropriate for some large, complex, highly controversial sites, but it is very inefficient and unnecessary for the vast majority of UST sites. It involves an incredible amount of process that adds significantly to the cost without much benefit. In addition that process ignores water quality concerns because it focuses only on certain wastes and only on public health. For example, many of the chemicals associated with petroleum fuel releases, including toluene, xylenes and MTBE, have much lower taste and odor threshold limits than health-based criteria. For these chemicals, water is rendered unpalatable at significantly lower concentrations than it is rendered toxic. The Chapter 6.8 process does not address those concerns or other beneficial uses of water, such as industrial or agricultural supply. Additionally, there are currently approximately 12,000 open UST cases Statewide within the existing program. By contrast DTSC currently only oversees about 1,000 sites statewide. This influx of cases cannot be efficiently handled using the complex Chapter 6.8 process.

Since June 2001 the R5 UST program has seen a funding reduction of approximately $75,000. However, because of increasing salaries and other operational cost increases there has been a loss of approximately 4 full time positions in the program since 2001.

As with many Regional Board units the UST program relies heavily on students to perform many essential tasks, such as filing, data entry and meeting with the public for file reviews, which are necessary for the program to function. In the fall of 2003 the Sacramento student contract was cut from approximately $45,000 to $7,500. This cut of nearly 2 student PYs has caused the redirection of a corresponding amount of line staff time to complete these necessary tasks (at thrice the expense of the students).

Beginning in 2005, new regulations adopted by the State Board allow electronic reporting in place of the standard paper reports. For some information (e.g. data tables) this is an efficient method for the transfer and storage of data. However, for the review of text, maps, etc. the system is likely to reduce efficiency while increasing the amount of time staff must spend on computer workstations.

Conclusion
The Regional Board underground tank program has been chronically underfunded. Only after the acknowledgement of the impact of MTBE on groundwater in 1999 were Regional Boards given sufficient funds to operate a program capable of timely response to submittals and the ability to take enforcement action. Unfortunately recent budget cuts (funding for 6 PYs

over the last 4 years) are resulting in the return to the under-funded program of the past. Since the State is using Special Funds (taxes on gasoline) to pay for most of the UST positions and the cleanup of leaking underground tanks, it is in the State's best interest to have an efficient and effective underground tank program. Funding for the Regional Board underground tank program should be restored. Since this is a Special Funded program (funds for the program come primarily from the Cleanup Fund) and not the State General Fund, it does not appear there is any budgetary reason for the funds to have been reduced. In addition to providing the necessary funds for the Regional Boards, the State Board should have its budget restored for reviewing cleanup fund claims and reimbursement requests. Delays caused by Regional Board and State Board staff reductions increase the length of time tank cases are open and results in an increase in the amount of money the State must reimburse to leaking underground tank owners and operators.

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