ExxonMobil
Environmental Services Company
12851 166th Street
Cerritos, CA 90703
(310) 212-3863 Telephone
(262) 314-0562 Facsimile
dok.choe@exxonmobil.com

Dok Choe
Project Manager
Project Execution

November 14, 2014

VIA CERTIFIED E-MAIL AND U.S. MAIL

Vivian Gomez-Latino
State Water Resources Control Board
1001 I Street
P.O. Box 2231
Sacramento, CA 95812

USTClosuresComments@waterboards.ca.gov

Re: Comment Letter – American Honda Proposed Case Closure

Dear Ms. Gomez-Latino:

I am writing on behalf of ExxonMobil Oil Corporation's ("ExxonMobil") Torrance Refinery. ExxonMobil appreciates the opportunity to comment on the State Water Resources Control Board's ("State Board") proposed case closure of the Underground Storage Tanks ("USTs") release by American Honda Motor Co., Inc. ("American Honda") located at 1919 Torrance Boulevard, Torrance, California, specifically Building 320. ExxonMobil has reviewed the State Board's Draft American Honda Closure Order (ORDER WQ 20XX-XXXX-UST) ("Draft Closure Order"), dated September 4, 2014, and the Draft Closure Order Attachments, UST CASE CLOSURE SUMMARY and ATTACHMENT 1: SUMMARY OF BASIC INFORMATION (Conceptual Site Model), dated August 18, 2014. As you know, ExxonMobil previously commented on this proposed case closure (June 27, 2008), as did the Los Angeles Regional Water Quality Control Board ("Regional Board") on April 16, 2008, both ExxonMobil and the Regional Board expressing concerns at that time.

Considering those prior comments and its current review of the proposed case closure, ExxonMobil is deeply concerned that:

(1) the State Board's proposed decision as reflected in the Draft Closure Order and its Attachments to grant closure for the USTs release associated with Building 320 is premature as it is based on a limited amount of monitoring/sampling data (i.e., a single groundwater sampling event from 2008).

(2) the Draft Closure Order and its Attachments, as currently drafted, could be broadly misinterpreted to relieve American Honda from responsibility for any of the other prior historic releases that have occurred in the area and at this site, which may have

commingled and contributed to the regional groundwater plume[1] currently under and in the area of the site.

(2) the overly broad language in the Closure Order could be misinterpreted to remove American Honda as a responsible party for all prior historic releases that have occurred in the area and at this site and appear to focus on ExxonMobil as the sole and financially responsible party for cleaning up these releases, which is not supported by the facts and is inconsistent with the State Board's prior Orders and Policies related to UST closures.

Below, ExxonMobil provides detailed comments regarding the topics above, and, where appropriate, offers clarifying language to the Draft Closure Order and its Attachments.

I. It Is Premature For The State Board To Grant Closure For The USTs Release Associated With Building 320 As The State Board's Technical Findings And Justifications Supporting Its Determination To Grant Closure Are Based On A Limited Set Of Data.

Throughout the State Board's Draft Closure Order and its Attachments, the State Board indicates that it believes there is sufficient data to meet the Low-Threat Closure Policy for the USTs release associated with Building 320 on the American Honda site[2]. The following are examples of this:

> "1. There are sufficient data to determine that the Petitioner's unauthorized release, considered separately, meets all of the specified criteria of the State Water Board's Low-Threat Closure Policy. Petitioner's investigation of the release is adequate to provide sufficient information to evaluate whether Petitioner's individual release meets case closure criteria. The Conceptual Site Model upon which the evaluation of the case has been made is described in the UST Case Closure Summary and attached hereto.
>
> 2 Based on the data for the Petitioner's release, corrective actions performed for the separate release ensure the protection of human health, safety, and the environment. Based on the State Water Board's technical analysis described in UST Case Closure Summary, the residual petroleum constituents that can be attributed to the release from Petitioner's UST system meet Policy criteria and Petitioner's individual release would be eligible for case closure. … . Remaining petroleum constituents that can be attributed to Petitioner's release are limited, stable and declining. *Additional assessment/monitoring will not likely change the conceptual model*. Any remaining petroleum constituents that can be attributed to Petitioner's release pose a low risk to human health, safety, and the environment."

(*See* Draft Closure Order, Application of the Test for Relieving a Party from Responsibility Where the Party's Release has Commingled with a Release from Another Party, pp. 3-4; emphasis added.)

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[1] For the purposes of this letter, reference to "regional groundwater plume" is intended to apply to the commingled groundwater plume within the non-drinking water aquifer (Gage-Gardena aquifer) that is contiguous to the surrounding properties, including the American Honda property.

[2] For the purposes of this comment letter, ExxonMobil reads the State Board's Draft Closure Order and its Attachments limited to the USTs release associated with Building 320 at American Honda's site.

"Los Angeles Regional Water Board staff objected to UST case closure because:

1. Site assessment data demonstrates that unauthorized releases from the former USTs on-Site have occurred in the past, and have impacted soil and groundwater beneath the Site.
   Response: Site conditions demonstrate that low levels of petroleum constituents remain limited to the soil near and below the former UST system that was removed and replaced. Residual soil contaminations attenuate with depth to low levels near the capillary fringe around 70 feet bgs. (See Attachment 1.)
2. Additional site assessment and continuous monitoring are necessary to fully define the extent of the soil and groundwater plume that resulted from the former USTs on-Site, and to determine if it is necessary for American Honda to clean up the soil and/or groundwater plume.
   Response: The available data set is sufficient for a determination that no further action should be required for this case. Soil and groundwater have been defined by several site assessment activities. (See Attachment 1.)"

(*See* UST CASE CLOSURE SUMMARY, Objections to Closure, p. 2.)

"Based on this conceptual site model, State Water Resources Board staff has determined:"

"• Petitioner's UST case (the residual petroleum constituents that can be attributed to the Petitioner's UST system) would be eligible for case closure."

(*See* ATTACHMENT 1: SUMMARY OF BASIC INFORMATION (Conceptual Site Model), Summary of State Water Board Technical Conclusions, pp. 6-7.)

However, ExxonMobil's review of the limited data associated with this case closure and the State Board's conceptual site model indicates that there has been no additional assessment or groundwater monitoring/sampling completed by American Honda associated with the Building 320 USTs release since 2008. Moreover, the groundwater sampling done in 2008 appears to be a one-time sampling event from LFMW-1.

Typically, a minimum of one-year post remedial groundwater monitoring/sampling is necessary to provide sufficient data to support case closure. Therefore, ExxonMobil is concerned that because the State Board appears to be relying upon old (not current) groundwater monitoring/sampling data from a single sample to make its closure determination, it cannot support or justify that "[a]dditional assessment/monitoring will not likely change the conceptual site model." (*See* Draft Closure Order, Application of the Test for Relieving a Party from Responsibility Where the Party's Release has Commingled with a Release from Another Party, p. 4.; UST CASE CLOSURE SUMMARY, Summary, p. 1, Objections to Closure, p. 2.). Nor does it have the requisite technical information to support the quoted statements above from its Draft Closure Order and Attachments

Accordingly, ExxonMobil believes that more groundwater monitoring/sampling data are required before the State Board, particularly through its conceptual site model, can support case closure for the USTs release associated with Building 320 on the American Honda site.

II. The Language in the State Board's Draft Closure Order And Its Attachments Is Not Clear and, As Would Be Appropriate, Narrowly Tailored To Be Specific Only To The USTs Release Associated With Building 320 On The American Honda Site.

Hopefully, as commented above, the State Board will require additional monitoring/sampling before further considering whether case closure should be granted to the USTs release associated with Building 320 on the American Honda site. However, whether the Board does this or not, any final Closure Order by the State Board must be narrowly tailored to this specific release. Unfortunately, the State Board's current Draft Order is overly broad and could be misinterpreted to relieve American Honda from any of the other prior historic releases that have occurred in the area and at this site, which may have commingled and contributed to the regional groundwater plume currently under the site and in the area of the site.

As background, as you may be aware and should be contained in the record for this proposed case closure, ExxonMobil in 2008 as an interested party to American Honda's Petition (Case No. 905010198) to the State Board, after being denied closure by the Regional Board for the UST release associated with Building 320 on the American Honda site, submitted a Statement to the State Board. In the Statement[3], ExxonMobil specifically challenged and refuted the numerous misstatements and mischaracterizations by America Honda against ExxonMobil and detailed for the State Board the numerous potential sources of groundwater contamination associated with historical industrial and commercial activities in the area of the American Honda property have not been adequately investigated such that a closure determination for these historic releases can be made. (*See ExxonMobil Oil Corporation's Interested Party Statement Regarding American Honda's Petition for Case Closure of Underground Storage Tank Site, 1919 Torrance Boulevard, Torrance, CA, Case No. 905010198*, dated June 27, 2008, ("ExxonMobil's June 27th Statement") incorporated herein by reference.)

Specifically, many reports have been submitted to the Regional Board over the years by various entities describing the numerous potential sources of groundwater contamination associated with historical industrial and commercial activities in the area of the American Honda property since 1914, which may have impacted the American Honda site.[4, 5, 6] Indeed, American Honda's own consultant, LFR, admitted in its January 22, 2008, Technical Report that "the Honda facility is located in a heavily industrialized portion of Los Angeles County. There are numerous warehouses, manufacturing facilities and other industrial uses in the immediate vicinity of the site."

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[3] For the purpose of its Statement, ExxonMobil at the time read American Honda's Petition and the Regional Board's April 16, 2008 letter as addressing whether site closure is appropriate for the limited UST case involving Building 320 at American Honda's site.

[4] Harding Lawson Associates, March 17, 1989. Potential Off-site Contamination Source Identification - Area Southeast of the Mobil Torrance Refinery, Torrance, California. (Exhibit A to ExxonMobil's June 27th Statement.)

[5] Harding Lawson Associates, January 31, 1991. MW-Series Well Installation, Data Summary and Discussion, Mobil Torrance Refinery. (Exhibit B to ExxonMobil's June 27th Statement.)

[6] SCS Engineers, April 30, 1991. Review and Comments on Mobil/Harding Lawson Associates Report "MW-Series Well Installation, Data Summary and Discussion, Mobil Torrance Refinery." (Exhibit C to ExxonMobil's June 27th Statement.)

In addition to the contamination that was the subject of American Honda's Petition (MTBE contamination associated with Building 320 UST, Case No. 905010198), there are documented potential contamination sources on or near the American Honda site, including the following:

(1) Numerous USTs that stored gasoline, diesel, and solvents, formerly located on the southern 26-acre portion of the American Honda site, approximately 3,500 feet southeast of the refinery. The USEPA's 2006 RCRA El determination for the refinery determined that:

"Based on a review of available information, the chlorinated VOCs located in the area *3,500* feet southeast do not appear to be related to site activities but may be related to other sources in this industrialized and commercial area. Review of available information does not establish a clear pattern or link between the chlorinated volatile VOCs located 3,500 feet off-site and the refinery."[7]

The historic USTs on the American Honda site were associated with previous commercial / industrial businesses, and included the following:

(a) Two 10,000-gallon gasoline USTs at the former Eden National Steel site, reportedly removed in 1987. Up to 1,740 mg/kg of total petroleum hydrocarbons ("TPH") were detected in soil beneath the USTs during removal.

(b) Fifteen 1,000-gallon and four 8,000-gallon USTs at the former Solvent Coatings site, reportedly removed in 1987. The USTs contained VOCs including xylenes, toluene, and methanol. Prior to UST installation in 1980, solvents were stored in drums at the site, which was in operation beginning in 1955. BTEX and chlorinated VOCs were detected in soil beneath the site during investigations in 1987 and 1988, with the highest concentrations reported between 30 and 60 feet below ground surface ("bgs"). A vapor extraction system was reportedly installed to address impacted soils, but no further information is available regarding remediation efforts, including whether the vapor extraction system achieved its design objectives. According to an April 30, 1991 letter from American Honda's consultant (SCS Engineers) to the Regional Board, "elevated levels of toluene and xylenes are present in ground water directly underlying the subject site."

(c) One 1,000-gallon gasoline UST and one 2,000-gallon UST of unknown contents, located at the former South Bay Roofing / D&D Cucci Boat Repair site. No documentation of the removal or investigation of these USTs is available.

(d) One 5,000-gallon leaking UST discovered during site grading activities in 1989, located on the former United Crane/International Die Casting site. Up to 2,100 mg/kg of TPH were detected in soil beneath the UST during removal. This site

[7] USEPA Region 9, April 10, 2006. Documentation of Environmental Indicator Determination, RCRA Corrective Action, Environmental Indicator RCRIS Code (CA 750) - Migration of Contaminated Groundwater Under Control, ExxonMobil Torrance Refinery. (Exhibit D to ExxonMobil's June 27th Statement.)

also had a permit on file with the Torrance Fire Department for a 1,000-gallon gasoline UST that was reportedly removed, although records did not indicate when it was removed.

(e) One 10,000-gallon gasoline UST and one 1,000-gallon diesel UST at the former South Bay Disposal site, reportedly removed in 1987. Concentrations of TPH were detected in soil during removal of the USTs, at concentrations up to 14,300 mg/kg beneath the diesel UST. No BTEX analyses were documented.

(f) One 10,000-gallon gasoline UST at the former Cobabe Brothers, Inc. site, reportedly removed in 1987. No contamination was detected beneath the tank during removal; however, only one sample was reportedly collected, as opposed to the typically required excavation sidewall and bottom samples.

(g) One 1,000-gallon gasoline UST at the former Crown Body and Fender site, reportedly removed in 1986. No documentation of observed soil conditions beneath the UST during removal or additional investigation was located.

(h) Remnants of gasoline pumps and dispenser islands were observed on a portion of the site formerly occupied by several automotive repair businesses, although no records of USTs exist for these businesses.

Also noteworthy regarding these former facilities is that these sites may not have been fully investigated as these sites are not currently listed in State Board's GeoTracker and/or the California Department of Toxic Substance Control's ("DTSC") Envirstor databases. Therefore, it is currently unclear as to what, if any, investigation and remediation may have already occurred for the sites.

(2) A subsurface waste fluid storage vault located on the former US Steel main plant complex, in what is now the central portion of the American Honda site. Twenty-five barrels of oily waste fluid were reportedly removed from this vault during site demolition in the early 1980s. Free-phase hydrocarbon product (FHP) has consistently been detected at nearby groundwater monitoring well EW-07 since its installation in 1990.

(3) Three aboveground storage tanks ("ASTs") located on the former US Steel main plant complex, possibly used for fuel oil storage. Soil samples collected from nearby well MW-8 in 1990 indicated possible fill materials to a depth of 55 feet bgs, and elevated concentrations of TPH-diesel and TPH-gasoline at depths of 15, 35, and 70 feet bgs. Concentrations of BTEX and PCE were also detected in soil at depths of 35 and 70 feet bgs.[8]

[8] Harding Lawson Associates, January 31, 1991. MW-Series Well Installation, Data Summary and Discussion, Mobil Torrance Refinery. (Exhibit B to ExxonMobil's June 27th Statement.)

(4) A cooling pond approximately 3.5 acres in size, with two adjacent circulation channels, formerly located on the southeastern portion of the American Honda site. The pond was reportedly observed on a 1928 aerial photograph and was used until 1979. An estimated total of *29,216* tons of sludge and soil contaminated with hazardous concentrations of copper, lead, nickel, chromium, and zinc were removed from the pond in 1982. The Department of Health Services oversaw the removal, but reportedly did not document the depth and extent of removal or perform any verification sampling. No sampling or removal of soils from the unlined circulation channels was performed.

(5) Waste disposal areas on the northern portion of the American Honda site and adjacent Virco Manufacturing Corporation (Virco) site. These areas were used by US Steel for slag and trash disposal. Up to 60 feet of fill were reportedly observed during site investigation and demolition activities in the 1980s.

Also noteworthy regarding the former US Steel facility and the areas of the site discussed in (2) through (5) above is that these areas may not have been fully investigated as they are not currently listed in GeoTracker and/or Envirostor databases. Therefore, it is currently unclear as to what, if any, investigation and remediation may have already occurred for the site.

(6) Recently, ExxonMobil has done another review of the GeoTracker and Envirostor databases and has found the following other USTs in the area of the American Honda property that may have not been fully investigated:

(a) GeoTracker: Regional Board Case No. 0259, FHL Group, 2027 Harpers Way (near corner of Van Ness). Open case since 1996. Potential contaminants of concern are volatile organic compounds ("VOCs"). No documents are currently listed on GeoTracker.

(b) GeoTracker: Regional Board Case No. 905010152 – Ken's Welding (former gas station) - Discovered leak in 1990 during tank closure (2 gasoline USTs and 1 waste oil UST). Soil was impacted, sampled, and excavated in 1994.

(d) GeoTracker: Regional Board Case No. 121594-79, Aable Muffler Shop – Three USTs were abandoned in place. Soil investigation conducted in 1992. Closure granted in 1995.

(d) GeoTracker: Regional Board Case No. 0009 - Open case since 2000. Potential contaminants of concern are petroleum fuels/oils, VOCs. No documents are currently listed on GeoTracker.

(e) GeoTracker makes reference to another Regional Board case (Case No. 0035) for the American Honda property that was turned over to DTSC (Case No. 60000736) in 2007. This case is associated with a preliminary endangerment assessment associated with the construction of the Building 510 parking lot to serve as a cap for soils contaminated with metals and SVOCs.

(f) Envirostor makes reference to DTSC Case No. 19330028 that appears associated with the American Honda site, and which appears to have been turned over to the Regional Board in 1995. However, there is no corresponding case information in the State Boards' GeoTracker.

The potential sources described above have not been adequately investigated, based on typical industry practice and regulatory requirements, to determine the extent to which they may have contributed to groundwater contamination beneath the American Honda site and in the area of the site. For at least items (1) through (5) above, this was echoed in the Regional Board's technical response set forth in its April 16, 2008, letter to the State Board.

Based on the foregoing information that was previously submitted to the State Board and ExxonMobil's original and current understanding that this case closure was and is specific to the USTs release associated with Building 320 on the American Honda site, ExxonMobil is confused and concerned with the State Board's proposed use of overly broad language throughout the Draft Closure Order and its Attachments; such language could lead to the misinterpretation and misimpression that this case closure covers not only the UST release associated with Building 320, but also all prior historic releases in the area and at this site, which may have commingled and contributed to the regional groundwater plume currently under the site and in the area of the site. That clearly cannot be what the State Board intends and this should be rectified before the State Board takes further action to finalize the Closure Order and its Attachments in this case.

Therefore, to remedy these concerns and the overly broad language, ExxonMobil requests that the State Board make the following revisions to the Draft Closure Order and its Attachments:

> "~~The ExxonMobil Refinery property located at 3700 West 190th Street is approximately 1,800 feet northwest of the Petitioner's fueling facility.~~ A documented groundwater plume of affected groundwater under Petitioner's site commingles with a regional groundwater plume in the area and offsite, including a plume that emanates from the ExxonMobil Refinery site, ~~and~~ which has been the subject of corrective action orders for nearly ~~twenty~~ thirty years. ~~The plume from the ExxonMobil Refinery site extends beyond the site's boundaries and onto various offsite properties, including Petitioner's site.~~ The ExxonMobil Refinery property located at 3700 West 190th Street is approximately 1,800 feet northwest of the Petitioner's fueling facility.
>
> Although the unauthorized release from Petitioner's UST meets the Policy's criteria for closure, Petitioner's release has commingled with a regional groundwater plume in the area and offsite, including a plume that emanates ~~the release~~ from the ExxonMobil Refinery property."

(*See* Draft Closure Order, Section I., Brief Case Overview, p. 2.)

> "The source of the majority of elevated concentrations of petroleum constituents other than MTBE and TBA in the Petitioner's well is the off-Site unauthorized releases that originate in the area and offsite, including a plume that emanates from the ExxonMobil Refinery site located upgradient from the site at 3700 West 190th Street."

(*See* ATTACHMENT 1: SUMMARY OF BASIC INFORMATION (Conceptual Site Model), Summary of State Water Board Technical Conclusions, p. 6.)

> "Multiple reports prepared by California Licensed Professionals, and multiple Cleanup and Abatement Orders, document ~~that a large~~ regional groundwater plume of affected groundwater under Petitioner's site commingles with a plume in the area and offsite, including a plume emanating from the ExxonMobil Refinery property."

(*See* Id., Source of Elevated Petroleum Constituents in Petitioner's well, p. 7.)

It should be noted that if it is the State Board's intent for this case closure to cover more than the limited scope of contamination associated with the USTs release associated with Building 320, the State Board cannot make the requisite statutory findings under the State Water Board Order WQ 2013-0109 (In the Matter of the Petition of James Salvatore, hereafter "*Salvatore*") or Water Board Resolution No. 2012-0016 (Low-Threat Closure Policy) to justify such a determination. Based on the information provided previously by both ExxonMobil and Regional Board, the prior historic releases in the area and on American Honda's property, which may have impacted the groundwater under the site and in the area of the site, have not been adequately investigated, based on typical industry practice and regulatory requirements.

III. American Honda Cannot Be Removed As Responsible Party And ExxonMobil Should Not Be Viewed As The Sole Responsible Party Nor Financially Responsible For American Honda's Groundwater Cleanup From All Of Its Prior Historic Releases.

ExxonMobil is especially concerned that the overly broad language particularly in the Draft Closure Order gives the misimpression that ExxonMobil is being designated by the State Board as the only responsible party for the regional groundwater plume that is currently under the American Honda site. As catalogued above, there have been numerous historic releases by other parties and/or predecessors of American Honda that have occurred in the area and at this site, which may have commingled and contributed to the regional groundwater plume currently under the site and in the area of the site.

In the Findings of the Draft Closure Order (p. 5), the State Board cites to *Salvatore* as the regulatory basis for relieving American Honda from being a responsible party for its release into the commingled regional groundwater plume underlying its site and appears to seek to place the financial burden on ExxonMobil for cleaning up this release. However, use of *Salvatore* broadly here by the State Board is a misapplication of that case, and stretches it beyond any reasonable application or interpretation.

In *Salvatore*, the State Water Board modified the test it had previously established in Order WQ 2002-0021, *In the Matter of the Petition of Mehdi Mohammadian* (hereafter "*Mohammadian*") for determining when it is appropriate to relieve a party from responsibility when two or more releases have commingled at a site. (*See Salvatore*, p. 13.) Under the test established in *Mohammadian*, a Petitioner could not be removed as a responsible party because remaining petroleum constituents from Petitioner's release are contributing to the need for cleanup of the commingled release. (*Id*., p. 12.) Under the new UST closure test established in *Salvatore* "if a party's unauthorized release has been adequately characterized and there are sufficient data to determine that the individual release could be closed, then the party responsible for that release may be relieved from responsibility even though the release has commingled with another release." (*Id*.)

As a preliminary matter, as commented above, ExxonMobil believes that because the State Board appears to be relying upon old (not current) groundwater monitoring/sampling data from a single sample taken in 2008 to make its closure determination, it cannot meet the *Salvatore* test even for the limited purpose of the USTs release associated with Building 320 on the American Honda site. Particularly, based on this limited data, the State Board cannot currently establish that the *"release is not significant enough on its own to require corrective action.*" (*Id*., p. 13; emphasis added.)

However, in *Salvatore* the State Board appropriately made clear and highlighted that there are <u>limitations</u> to this test:

> "As a safeguard, the application of the above-described responsible party removal test *does not apply where multiple minor releases*, which could be closed if considered separately, combine to make corrective action necessary. Although unlikely, there could be cases involving multiple, minor commingled releases that could be closed when considered separately but require corrective action when considered together. Under a strict application of the closure test described above, parties responsible for each minor release could be relieved of responsibility if they demonstrate that the release for which they are responsible, considered individually, would meet closure criteria. *If all parties responsible for the commingled release were relieved of responsibility, then cleanup would fall on the public, rather than the responsible parties, which is an unacceptable result.*

(*Id*.; emphasis added.)

Accordingly, based on this limitation, if the State Board's intent is to cover the entire American Honda property and all historic releases have occurred in the area and at this site in this Closure Order, then such an order cannot be currently issued by the State Board pursuant to *Salvatore* as these releases have not been adequately investigated, based on typical industry practice and regulatory requirements, and therefore, there still could be multiple releases, which combined or separately may require corrective action.

If the State Board were to misapply *Salvatore* here, then owners/operators of other current and former USTs on the American Honda property as well as those in the area that may be impacting the regional groundwater plume, could simply say they had a small release, point to ExxonMobil as a

financially responsible party, and then be removed as a responsible party. ExxonMobil believes that this could create a piece-mealing precedent that was never intended by *Salvatore*.

Moreover, ExxonMobil does not now, nor has it ever, assumed liability for the groundwater contamination underlying the American Honda site, nor has the Regional Board ever concluded that ExxonMobil is responsible for all contamination at the American Honda facility. For example, CAO 88-43, which ExxonMobil has complied with for nearly thirty years without any Regional Board penalties, never states that ExxonMobil is responsible for contamination extending to American Honda's property. That CAO, like the more recent Regional Board CAOs issued to ExxonMobil, require further investigation of contamination, which is ongoing.[9]

Furthermore, *Salvatore* did not alter the State Board's long-standing policy of assessing joint and several liability against all responsible parties in cleanup cases. (*Id*., p. 19, "This Order does not alter that policy, and it remains the Board's intent to name all responsible parties jointly and severally liable in cleanup actions.)[10]

Accordingly, based on the foregoing, if the State Board does conclude that closure of this USTs case is appropriate, to address the overly broad language in order to avoid misinterpretation, ExxonMobil requests that the State Board make the following revisions to the Draft Closure Order:

> "Based on the State Water Board's review, closure of Petitioner's case as it specifically relates to the UST system associated with Building 320 on Petitioner's site will not create an orphan site, as American Honda is a financially responsible party and there are other financially responsible parties, including ExxonMobil Oil Corporation (ExxonMobil), ~~is~~ currently undertaking cleanup activities related to the ~~unauthorized release and~~ commingled regional plume that ~~has impacted~~ is under, in the area, and offsite of Petitioner's site. ~~The ExxonMobil Oil Corporation (ExxonMobil) has been identified as the responsible party at the ExxonMobil Refinery site. ExxonMobil remains in compliance with corrective action orders issued by the Los Angeles Regional State Board, and has the financial ability to complete corrective action related to the commingled releases~~."

(*See* Draft Closure Order, Section II., Findings, p. 5.)

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[9] ExxonMobil has worked with the Regional Board for almost 30 years to define and monitor the extent of groundwater contamination beneath the American Honda site. These efforts have included the installation and quarterly monitoring of 25 wells beneath American Honda and another 24 wells beneath adjacent off-site properties, in addition to the more than 60 Gage-Gardena wells installed on the eastern portion of the Refinery.

[10] See also *Id*., p. 11-12:

> "When releases from two or more different sources commingle, the State Water Board generally considers all responsible parties of the separate releases as jointly and severally liable for the commingled release. (State Water Board Orders WQ 1990-2 (Union Oil Company of California); WQ 2009-0001-UST (Ultramar, Inc.).) This is true where the releases originate from different properties or where the releases originate from the same property but at different times. All parties that contributed to the commingled release are generally considered liable until the entire commingled release requires no further action."
>
> (Internal italics omitted.)

IV. Conclusion

ExxonMobil believes that closure of the USTs release associated with Building 320 on the American Honda site is premature as more groundwater monitoring/sampling data is required before the State Board, particularly through its conceptual site model, can support case closure here.

The language in the Draft Closure Order and its Attachments is seriously flawed in that it is not clearly limited to the UST associated with Building 320 on the American Honda site. To avoid misinterpretation regarding the extent of the Closure Order and its Attachments, ExxonMobil requests that the above revisions in Section II of this letter be incorporated into the final Closure Order and its Attachments.

ExxonMobil believes that American Honda cannot properly be removed as a responsible party for its releases, as well as the numerous documented historic releases by other parties and/or the predecessors of American Honda that have occurred in the area and at this site, which may have commingled and contributed to the regional groundwater plume currently under the site and in the area of the site. ExxonMobil has never been deemed responsible for the entirety of contamination that may exist in the regional groundwater plume and such a status should not be implied or included as such in the final Closure Order. These other parties, including American Honda, are still jointly and severally liable for their releases and cleanup actions. Accordingly, ExxonMobil requests that the above revisions in Section III of this letter be incorporated into the final Closure Order.

ExxonMobil would like to stress that the uniform closure letter as specified in California Health and Safety Code section 25296.10 shall not be issued if the State Board revises its determination based on comments received on the proposed case closure. (*See* Draft Closure Order, Low-Threat Closure Policy, p. 4; *see also* Section II., Findings, p. 5, indicating that the State Board must consider any comments received during the 60-day comment period before the case can be closed.)

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ExxonMobil appreciates the opportunity to comment on the Draft Closure Order and its Attachments and your consideration of its letter. Please contact me if you require any further information.

Sincerely,

Dok Choe
Project Manager
ExxonMobil Environmental Services Company

cc: Ben Heningburg, State Board, UST Cleanup Unit III (via e-mail and U.S. Mail)
Steven Westhoff, State Board, Staff Counsel (via e-mail and U.S. Mail)
Sam Unger, Regional Board, Executive Officer (via e-mail and U.S. Mail)