

# DRAFT

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD  
ORDER WQ 20XX-XXXX-UST

---

---

**In the Matter of Underground Storage Tank Case Closure  
Pursuant to Health and Safety Code Section 25296.40 and the  
Low-Threat Underground Storage Tank Case Closure Policy**

---

---

**BY THE EXECUTIVE DIRECTOR:<sup>1</sup>**

By this order, the Executive Director directs closure of the underground storage tank (UST) case at the site listed below, pursuant to subdivision (a) of section 25296.40 of the Health and Safety Code.<sup>2</sup> The name of the petitioner, the site name, the site address, the Underground Storage Tank Cleanup Fund (Fund) claim number if applicable, the lead agency, and case number are as follows:

**American Honda Motor Company, Inc. (Petitioner)**

**American Honda**

**1919 Torrance Boulevard, Torrance, Los Angeles County**

**Los Angeles Regional Water Quality Control Board, Case No. 905010198**

## **I. STATUTORY AND PROCEDURAL BACKGROUND**

Upon receipt of a petition from a UST owner, operator, or other responsible party, section 25296.40 authorizes the State Water Resources Control Board (State Water Board) 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 of 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, 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

---

<sup>1</sup> 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.

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

# DRAFT

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 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.

URL: [http://geotracker.waterboards.ca.gov/profile\\_report.asp?global\\_id=T0603715594](http://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T0603715594)

## **Brief Case Overview**

Petitioner operates an active fueling facility at the site. In January 2004 Petitioner removed and replaced two USTs and discovered the unauthorized release. Petitioner conducted site investigation, requested closure in 2004 and in 2007, was denied closure most recently by the Regional Board on May 18, 2007, and subsequently filed a petition seeking State Water Board review.

The ExxonMobil Refinery property located at 3700 West 190<sup>th</sup> Street is approximately 1,800 feet northwest of the Petitioner's fueling facility. A documented groundwater plume of affected groundwater emanates from the ExxonMobil Refinery site, and has been the subject of corrective action orders for more than twenty years. The plume from the ExxonMobil Refinery site extends beyond the site's boundaries and onto various offsite properties, including Petitioner's site.

Although the unauthorized release from Petitioner's UST meets the Policy's criteria for closure, Petitioner's release has commingled with the release from the ExxonMobil Refinery property. Therefore, it is additionally necessary to address whether the circumstances of Petitioner's commingled release permit closure of the UST case. As described below, this Order finds that closure of Petitioner's UST case is merited.

# DRAFT

## **Relief from Responsibility at Commingled-Release Sites**

In 2013, the State Water Board adopted State Water Board Order WQ 2013-0109 (*In the Matter of the Petition of James Salvatore, hereafter Salvatore*), which provides a test for relieving a party from responsibility where the party's unauthorized release has commingled with a release from another party. Under this test, if a party's 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. (*Salvatore*, p. 12.)

This test applies in situations where case closure for the relatively minor release was warranted before the commingling occurred. This test also applies to situations where case closure for the minor release could not have been obtained before the commingling occurred, for example in situations where the minor release impacts groundwater that has already been significantly impacted by another release. (*Id.*, pp. 12-13.) The party seeking removal of responsible party status under this test must demonstrate that its release has been adequately investigated and characterized, and that there are sufficient data to analyze whether the individual release meets case closure criteria. This test acknowledges the relative contributions of the responsible parties and provides relief to the party whose release is not significant enough on its own to require corrective action. (*Id.*, p. 13.)

As a condition of closure at a commingled release site, the party seeking relief must provide reasonable access to the responsible party performing corrective action at the relieved party's site. (*Id.*, p. 14.)

## **Application of the Test for Relieving a Party from Responsibility Where the Party's Release has Commingled with a Release from Another Party.**

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

# DRAFT

system meet Policy criteria and Petitioner's individual release would be eligible for case closure. The affected groundwater is not currently being used as a source of drinking water or for any other designated beneficial use, and it is highly unlikely that the affected groundwater will be used as a source of drinking water or for any other beneficial use in the foreseeable future. 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.

3. Petitioner's case is consistent with the Low-Threat Closure Policy. The Petitioner's site meets all the General Criteria and all the applicable Media-Specific Criteria, as described in the UST Case Closure Summary.

## **Low-Threat Closure Policy**

In State Water Board Resolution No. 2012-0016, the State Water Board adopted the 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, and 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 UST 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 (l)(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.

# DRAFT

## II. FINDINGS

Pursuant to the test established by State Water Board Order WQ 2013-0109, a party may be removed as a responsible party for a UST cleanup case if that party demonstrates that the release, when considered separately from other releases that have commingled with the responsible party's release, meets State Water Board closure policies. Petitioner has demonstrated that the separate release for which Petitioner is responsible has been adequately investigated and characterized. There are sufficient data for the State Water Board to determine that Petitioner's UST case should be closed, as summarized in the attachment.

Based on the State Water Board's review, closure of Petitioner's case will not create an orphan site, as a financially responsible party is currently undertaking cleanup activities related to the unauthorized release and commingled plume that has impacted 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 Water Board, and has the financial ability to complete corrective action related to the commingled releases.

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

**American Honda Motor Company, Inc. (Petitioner)**

**American Honda**

**1919 Torrance Boulevard, Torrance, Los Angeles County**

**Los Angeles Regional Water Quality Control Board, Case No. 905010198**

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 other applicable water quality control policies and water quality control plans.

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

# DRAFT

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 Petitioner is ordered to:

1. Properly destroy Petitioner's 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 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.

4. Provide reasonable access to Petitioner's site as necessary to permit continuing corrective action for the commingled plume.

# DRAFT

- 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 Petitioner 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.

---

Executive Director

---

Date