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STATE OF CALIFORNIA

STATE WATER RESOURCES CONTROL BOARD

ORDER WQ 20XX-XXXX-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:ⁱ

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.ⁱⁱ The name of the responsible party, 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:

Tesoro Refining & Marketing Company, LLC (Responsible Party)

ARCO #5110

5731 East Firestone Boulevard, South Gate, Los Angeles County

Fund Claim No. 15026

Los Angeles Regional Water Quality Control Board, Case No. I-12074

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

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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 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=T0603703915>

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.

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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.

Brief Case Overview

The Site currently operates as a retail gasoline fueling facility. The release was identified during the removal of four USTs in 1989. Following discovery of the release, several forms of remediation were conducted at the site between 1999 and 2017, including enhanced fluid recovery, soil over-excavation, air sparge and soil vapor extraction, in-situ oxygen curtain diffusion, and free product removal. Remedial efforts removed a total of 17,391 gallons of petroleum impacted groundwater, 2,115 tons of petroleum impacted soil, 51,789 pounds of vapor-phase hydrocarbons, and 19.08 gallons of free product.

Petroleum hydrocarbons at the site appear to be comingled with a more significant release from the ARCO Vinvale Tank Farm (Case Number 0055, GeoTracker Number SL373452448), a petroleum distribution center located approximately 500 feet north of the site. Site investigations indicate that the historical release from ARCO #5110 no longer poses a threat to human health. Upgradient methyl tertiary butyl ether (MTBE) and benzene continue to exceed groundwater water quality objectives (WQOs), but both constituents attenuate to below WQOs within 100 feet downgradient of the former UST release. It is likely that the source of the upgradient MTBE and benzene is the ARCO Vinvale Tank Farm and not from historical releases associated with ARCO #5110.

Tesoro Refining and Marketing Company LLC is the responsible party for both the ARCO Vinvale Tank Farm and the ARCO #5110 sites.

Relief from Responsibility at Comingled 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*),

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which provides a test for relieving a party from responsibility where the party's unauthorized release has commingled with a release from another party. The *Salvatore* 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. (*Salvatore*, p. 13.) Under this test, a party may be relieved from responsibility for a release if the party demonstrates that its release, considered separately from other commingled releases, meets case closure criteria and the site should be closed. (*Ibid.*) The party seeking removal of the responsible party status must demonstrate that the separate release for which the party is responsible has been adequately investigated and characterized, and that there are sufficient data to determine that the case based on the individual release meets case closure criteria. (*Id.*, pp. 13-14) In addition, as a condition of closure, the party seeking relief must provide reasonable access to the responsible party performing corrective action at the relieved party's site. (*Id.*, p. 14.) Finally, the State Water Board stated that this test is not applicable in circumstances where a financially responsible party has not been identified and removal of a party may result in the creation of an orphan site. (*Id.*, p. 19.)

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 Responsible Party's unauthorized release at the ARCO #5110 site, considered separately, meets all of the specified criteria of the State Water Board's Low-Threat Closure Policy. The Responsible Party's investigation of the release is adequate to provide sufficient information to evaluate whether the Responsible Party's UST 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 in the record concerning the Responsible Party's release at the ARCO #5110 site, corrective actions performed for that separate release ensure the protection of human health, safety, and the environment. Based on the State Water Board's technical analysis described in the attached UST Case Closure Summary, the

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residual petroleum constituents that can be attributed to the release from the Responsible Party's former UST system meet Policy criteria, and the Responsible Party's UST case 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 the Responsible Party's UST 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 the Responsible Party's UST release do not pose significant risk to human health, safety, or the environment.

3. The Responsible Party's UST case is consistent with the Low-Threat Closure Policy. The Responsible Party's ARCO #5110 site meets all the General Criteria and all the applicable Media-Specific Criteria, as described in the attached UST Case Closure Summary.

4. The Responsible Party does not own or lease the site, so it is not authorized to provide others with access to the site. The Responsible Party and the site owner have executed access agreements to allow the Responsible Party to enter the site to conduct corrective action. It is anticipated that the site owner will continue to permit access to the site as necessary for further corrective action activities.

5. Tersoro Refining & Marketing Company, LLC is named the Responsible Party for the ARCO Vinvale Tank Farm case that is comingled with ARCO #5110. They are currently performing corrective action for the ARCO Vinvale Tank Farm release and will continue to do so. Necessary monitoring and/or corrective action with respect to any remaining petroleum contamination at, beneath, or migrating onsite, will be in compliance with chapter 6.7 of division 20 of the Health and Safety Code, as directed by the Regional Board.

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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 its release, when considered separately from other releases that have commingled with the responsible party's release, meets State Water Board closure policies. In this case, the Responsible Party has demonstrated that the release from the former USTs at the ARCO #5110 site has been adequately investigated and characterized. There are sufficient data for the State Water Board to determine that the UST case meets case closure criteria when considered separately from commingled releases from the Vinvale Tank Farm, and the UST case should be closed.

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:

Tesoro Refining & Marketing Company, LLC (Responsible Party)

ARCO #5110

5731 East Firestone Boulevard, South Gate, Los Angeles County

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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

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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 is ordered to:

1. Properly destroy monitoring wells and borings, except those required by the Regional Water Board to be maintained and for which the owner of real

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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.

- 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 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.

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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.

Chief Deputy Director

Date

ⁱ 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.

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