Below are comments submitted on the subject document on behalf of the Stanford University Real Estate Office. Thank you in advance for considering these comments and questions.

From the Draft Policy -- Page 3, General Criteria d (a). Free product shall be removed in a manner that minimized the spread of the unauthorized release.

Comment 1:

- Free product shall be "qualified". Free product should only be a concern if it is demonstrated that the petroleum fractions (i.e. Benzene, MTBE, PAHs or those constituents that are known carcinogens) are/is still present. If these carcinogenic constituents are at or below the most conservative health risk based criteria or the media specific criteria established for groundwater, free product still should not be a concern and need not be removed.

Comment 2:

- Removing free product can cause the plume to move as noted in the draft policy. If the plume has been stable for five years; the groundwater gradient is flat and there is no influence/movement of groundwater associated with any nearby extraction or dewatering systems, the free product removal is not warranted.

From the Draft Policy -- Page 4, Secondary Source Removal (f):

Comment 3:

- The same comment applies as above—soil or groundwater removal should only be a concern if it is demonstrated that the petroleum fractions (i.e. Benzene, MTBE, PAHs or those constituents that are known carcinogens) are/is still present. If these carcinogenic constituents are at or below the most conservative health risk based criteria or media specific criteria established for groundwater, then source removal should not be a concern in cases where there are access issues, cost or other feasibility limitations.

From the Draft Policy -- Page 4, Nuisance (h):

Comment 4:

- This criterion does not help the debate because it is so ill-defined. What a community and regulatory agency defines as a nuisance may not be viewed the same way by a landowner or responsible party. This definition needs to be clarified and given a boundary. If the release only effects the landowner and not

the community in general (neighbors or water supply) and the landowner has accepted how the site is remediated/closed, then the regulatory agency/community should not be given the authority to use this criteria to keep a case opened. The nuisance criteria should not apply if the release only affects the property owner's site and they want case closure. If the landowner and the responsible parties are different and the landowner sees that the closure would obstruct their free use of the property, then its valid to use the nuisance criterion until a solution is agreed upon.

Comment 5:

- The statutory definition is not really helpful in figuring out whether there is a nuisance in any particular case.

From the Draft Policy – Page 5, Media-Specific Criteria for Groundwater.

Comment 6:

- Under the Groundwater Media Specific Criteria section, the discussion focuses on (1) basin plan water quality objectives, (2) cleanup goals and objectives within a reasonable time frame and (3) natural attenuation. But it appears that the policy will rely on establishing an "alternative level of water quality" not to exceed that prescribed in the Basin Plan or Resolution 92-49 as a basis for applying for closure. This does not establish a final remedial cleanup goal for an responsible party and gives the LOP reasons to keep a case open until this "water quality" objective is met. "Alternative Water Quality" needs to be defined for clarity and consistency. See next comment.

Comment 7:

- Since this section starts off stating that "this policy describes criteria on which to base a determination that risks to existing and anticipated beneficial uses of groundwater have been mitigated or are de minimus, including cases that have not affected groundwater. The focus of this section should provide how you can successfully show mitigation or show how the risk are truly de minimus. For instance, using the RWQCB ELSs or DTSCs CHHSLs as a screening tool is one way to establish that there are no human health risks followed by providing evidence of plume stability, and then meet the five classes as listed. Many of these low risk UST cases have undergone some form of remediation, so considering the five classes are appropriate. If the health risk are acceptable, mitigation may not be warranted.

From the Draft Policy --Page 6, Media Specific Criteria (1) Groundwater, 3(e): The property owner is willing to accept a deed restriction if the agency requires one for the condition of closure

Comment 8 :

- A deed restriction is a legal requirement that can encumber a property and may delay or interfere with real estate transactions. A deed restriction should not be

required if the following is reasonably demonstrated for this specific closure option:

1. A human health and/or ecological risk assessment has shown there are no impacts. Please note, not all responsible party(ies) (RPs)can afford a full fledge risk assessment. The risk could be established for residential or commercial setting, but ultimately it should be based on what he landowner would require.

2. Residual concentrations do not exceed DTSCs CHHSLS or the RWQCB ESLs

3.Require the RP(s) to develop a Site Management Plan with full disclosure during any future real estate transaction. The plan would be tracked on the governing agencies database or city's planning departments. The purpose of the SMP would be provide guidance for health and safety and media specific handling of material should subsurface intrusion in the vicinity of the UST is required during future construction activities.

4.This should only be a "groundwater deed restriction", prohibiting the use of this water as a domestic drinking water supply.

Comment 9:

- A deed is probably the last place that a tenant or contractor would look for useful information on conditions of a site and how to manage them. Not all construction or redevelopments projects require or trigger deed disclosures/notifications.

From the Draft Policy -- Page 8, Low Threat Case Closure:

Comment 10:

- The policy is great at helping to promote consistency on how all agencies (state and local) should approach the problem. However, there is no "time" commitment on the parts of the local agencies, to get the cases to closures. Currently, this draft relies on the agency to notify the RPs that the site is eligible for closure. Many cases are with the regulatory agencies now requesting closure but the agency is very slow to respond and they have no incentive to close these since their budgets are based on the number of cases they manage. Therefore, if an RP can demonstrate they meet the criteria under this new policy and notifies the agencies with the proof, the agency should be required to do the following:

1. Within 10 days of receipt of a request for closure, the agency (LOP) should acknowledge receipt of the request.

2. Within 30 days, the agency should review the closure package and make a determination that it accepts or denies the closure application.

3. If closure is accepted, then the agency has 30 days to prepare the necessary paper work and simultaneously start the necessary public 30 day notifications.

4. At the end of the 30 day notification clock and based on comments (if any), the agency shall issue the closure within 30 days.

5. If closure is denied, then the denial should be based solely on this policy only and the parties shall hold a meeting to discuss within 30 days.

Comment 11:

- There are several instances where there are sites that have multiple tanks with releases and agencies have tried to close an entire site as opposed to closing each tank site individually. The agency should be given the flexibility to close the tanks individually if they choose or if requested by the responsible party. Without being able to get closure for individual tank cases per site, it could potentially delay the site's redevelopment.

From the Draft Policy -- Page 8, Table 1 Concentrations of Petroleum Constituents in Soil That Will Have No Significant Risk of Adversely Affecting Human Health.

Question 1:

· Why is MTBE not included in Table 1?

General Questions regarding the Draft Policy:

1. For clarification, will the closure process still be handled in the same manner, where the local governing agency (LOP) submits the closure package to the Regional Water Board for final sign off? Or will the closure process solely be handled by the LOP and they grant final closure? If this is not the class, please describe how the "new" process will work?

2. If the LOP and RP cannot agree that the site is a candidate for closure or the local LOP fails to provide closure in a reasonable time frame, will the State Board appeal process still be available to the RP based on this new draft policy?

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