

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
ORDER WQ 2024-0028-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:¹

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.² The name of the responsible party(ies), 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:

K6OYD Boxer Enterprises LLC (Responsible Party)

Sabek Gas Station

16270 Monterey Road, Morgan Hill, Santa Clara County

Fund Claim No. 7291, 7329

Santa Clara County Department of Environmental Health, Case No. 09S3E28Q01f

Central Coast Regional Water Quality Control Board, Case No. 3399

¹ State Water Board Resolution No. 2023-0036 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. 2023-0036, the Executive Director has delegated this authority to the Chief Deputy Director.

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

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 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 attached UST Case Closure Summary has been prepared for the case identified above and is incorporated by reference. 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](https://geotracker.waterboards.ca.gov/?gid=T0608578682): <https://geotracker.waterboards.ca.gov/?gid=T0608578682>

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.

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.

II. FINDINGS

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:

K6OYD Boxer Enterprises LLC (Responsible Party)

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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 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(ies) is/are ordered to:

1. Properly destroy any and all 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 any and 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(ies) 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.



Chief Deputy Director

March 5, 2024
Date

State Water Resources Control Board

UNDERGROUND STORAGE TANK (UST) CASE CLOSURE SUMMARY

Agency Information

Agency Name: Santa Clara County Department of Environmental Health (SCCDEH)	Address: 1555 Berger Drive, Suite 300 San Jose, CA 95112
Agency Caseworker: Shalom Marquardt	Case No.: 09S3E28Q01f

Case Information

UST Cleanup Fund (Fund) Claim No.: 7291, 7329	Global ID: T0608578682
Site Name: Sabek Gas Station	Site Address: 16270 Monterey Road Morgan Hill, CA 95037
Responsible Party #1 K6OYD Boxer Enterprises LLC Attention: Christiana M Hill	Address: 550 San Felipe Street Salinas, CA 93901
Responsible Party #2 Cava Family Trust	550 San Felipe Street Salinas, CA 93901
Responsible Party #3 Sabek, Inc. Attention: Andy Saberi	1045 Airport Boulevard South San Francisco, CA 94080
Fund Expenditures to Date: \$604,932	Number of Years Case Open: 36

GeoTracker Case Record: <https://geotracker.waterboards.ca.gov/?gid=T0608578682>

Summary

This case has been proposed for closure by the State Water Resources Control Board at the request of the SCCDEH, which concurs with closure.

The Low-Threat Underground Storage Tank Case Closure Policy (Policy) contains general and media-specific criteria, and cases that meet those criteria are appropriate

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

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for closure pursuant to the Policy because they pose a low threat to human health, safety, and the environment. The Site meets all of the required criteria of the Policy and therefore, is subject to closure.

This Site is the location of a former commercial petroleum fueling facility currently developed as an office building with a paved parking area. An unauthorized release was reported in January 1988 following an environmental site investigation. In May 1991, two 10,000-gallon gasoline USTs and one 5,000-gallon diesel UST were removed from the site. During tank removal activities, 440 cubic yards of petroleum hydrocarbon affected soil was excavated to a depth of 13 feet below ground surface (bgs).

In 1998, 120 pounds of oxygen releasing compound (ORC) was added to site monitoring wells. In March 2003, impacted soil was excavated to depths of 29 feet bgs to 51 feet bgs. An ozone microsparge remediation system was installed in September 2006 and operated through March 2011. The system was again operated in February and March 2018. A mobile soil vapor extraction and treatment (SVET) system operated between October 2014 and January 2015 and removed 1,410 pounds of petroleum hydrocarbons from the subsurface. In situ chemical oxidation (ISCO) injections were conducted between June and September of 2021 and then again in February and March of 2022.

Since 1998, 37 groundwater monitoring wells have been installed and monitored on a regular basis; 31 wells have been destroyed. The groundwater plume is stable. Post-remediation monitoring reports have shown petroleum concentrations in groundwater to be consistently below remedial objectives. Soil vapor samples indicate concentrations less than the Policy criteria.

Remaining petroleum constituents are limited, stable, and decreasing. Additional assessment would be unnecessary and will not likely change the conceptual model. Any remaining petroleum constituents do not pose significant risk to human health, safety, or the environment under current conditions.

Rationale for Closure Under the Policy

- General Criteria – Site **MEETS ALL EIGHT GENERAL CRITERIA** under the Policy.
- Groundwater Media-Specific Criteria – Site meets the criteria in **Class 5**. The regulatory agency determines, based on an analysis of Site-specific conditions that under current and reasonably anticipated near-term future scenarios, the contaminant plume poses a low threat to human health, safety, and to the environment and water quality objectives will be achieved within a reasonable time frame.
- Petroleum Vapor Intrusion to Indoor Air - Onsite meets **Criteria 2 (a), Scenario 1**. There is a bioattenuation zone that provides a separation of at least 30 feet vertically between the Light Non-

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Aqueous Phase Liquid in groundwater and the foundation of existing or potential buildings. Concentrations of total petroleum hydrocarbons as gasoline and diesel combined in soil are less than 100 milligrams per kilogram throughout the entire depth of the bioattenuation zone.

Offsite meets **Criteria 2 (a), Scenario 4**. The concentrations of benzene, ethylbenzene, and naphthalene in soil gas are less than the Policy limits as it applies to the bioattenuation zone, land use, and existing or planned future building structures at the Site.

- Direct Contact and Outdoor Air Exposure - Site meets **Criteria 3 (b)**. Maximum concentrations of petroleum constituents in soil are less than levels that a site specific risk assessment demonstrates will have no significant risk of adversely affecting human health.

Recommendation for Closure

The corrective action performed at this Site ensures the protection of human health, safety, and the environment. The corrective action performed at this Site is consistent with chapter 6.7 of division 20 of the Health and Safety Code, implementing regulations, applicable state policies for water quality control and applicable water quality control plans. Case closure is recommended.



Dayna Cordano, PG No. 9694

November 7, 2023

Date

