

**STATE WATER RESOURCES CONTROL BOARD  
RESOLUTION NO. 2010-0001**

**ADOPTING THE UNDERGROUND STORAGE TANK PETROLEUM CONTAMINATION  
ORPHAN SITE CLEANUP FUND (ORPHAN SITE CLEANUP FUND) PRIORITY LIST AND  
AUTHORIZING THE DEPUTY DIRECTOR OF THE DIVISION OF FINANCIAL  
ASSISTANCE (DIVISION) TO ENTER INTO GRANT AGREEMENTS**

WHEREAS:

1. Senate Bill 1161 (Lowenthal, Chapter 616, Statutes of 2008) established the Orphan Site Cleanup Fund within the Petroleum Underground Storage Tank Cleanup Fund (USTCF). Pursuant to Health and Safety Code section 25299.50.2, \$10 million for each of the 2008/09, 2009/10, and 2010/11 fiscal years (FY), is transferred from the USTCF to the Orphan Site Cleanup Fund for the cost of response actions to remediate the harm caused by petroleum contamination at sites that meets specified conditions;
2. The State Water Resources Control Board (State Water Board) has received a Federal Economic Recovery Grant of \$15.577 million from the Leaking Underground Storage Tank Trust Fund for assessing and cleaning petroleum contamination from leaking underground storage tanks (USTs). Pursuant to Health and Safety Code section 25299.50.2, effective July 28, 2009, available federal money may be deposited in the Orphan Site Cleanup Fund. Health and Safety Code section 25299.50.2 further provides that the amount transferred from the USTCF to the Orphan Site Cleanup Fund in a fiscal year shall be reduced by the amount of federal money deposited in the Orphan Site Cleanup Fund in that fiscal year;
3. To implement Health and Safety Code section 25299.50.2, the State Water Board adopted regulations. These regulations became effective on October 16, 2009, and are contained in title 23 of the California Code of Regulations, division 3, chapter 18, article 7 (Orphan Site Cleanup Fund regulations);
4. Section 2814.29 of the Orphan Site Cleanup Fund regulations provides that within 60 days of receipt of a complete Orphan Site Cleanup Fund application, the State Water Board will review the application for eligibility. If the application is eligible, the State Water Board will issue a Notice of Eligibility and place the application on the Priority List. After that, the State Water Board and the applicant shall enter into a grant agreement for Orphan Site Cleanup Fund funding (Orphan Site Cleanup Fund regulations, section 2814.30);
5. Section 2814.27 of the Orphan Site Cleanup Fund regulations governs the priority ranking of Orphan Site Cleanup Fund applications. If the State Water Board determines that sufficient funding to meet the demand for Orphan Site Cleanup Fund grants will not be available in a given fiscal year, the State Water Board shall rank applications according to factors contained in section 2814.27, subdivision (c). If the State Water Board determines that sufficient funding is available to meet the demand for Orphan Site Cleanup Fund grants in a fiscal year, then section 2814.27, subdivision (b) requires that the State Water Board rank eligible applications based upon the date that the application is received;

6. Section 2814.27 also provides that applicants who previously applied for a grant from the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Subaccount (OSCA) and either received a grant from the OSCA or were on the OSCA's priority list at the time that the OSCA program was repealed, receive a higher priority than the other applicants to the Orphan Site Cleanup Fund. In order for the applicant to receive this higher priority, the State Water Board must receive the applicant's application on or before 45 days after the effective date of the Orphan Site Cleanup Fund regulations;
7. Section 2814.27 further provides that all other applications received on or before 45 days after the effective date of the Orphan Site Cleanup Fund regulations will be ranked as if received on the same date and randomly ranked to determine their order of priority. Applications received after the 45-day-period, are ranked according to the date they are received. The Orphan Site Cleanup Fund regulations became effective on October 16, 2009. The 45-day-period ended on November 30, 2009;
8. The Priority List reflects the Orphan Site Cleanup Fund applications that were determined eligible after October 16, 2009. Applications determined eligible before October 16, 2009, for a grant from the Orphan Site Cleanup Fund funded with federal funds have been or will be issued a grant pursuant to State Water Board [Resolution No. 2009-0036](#);
9. Sufficient funding to meet the demand for Orphan Site Cleanup Fund grants is available for FY 2009/10 because the estimated demand does not exceed \$24 million, which is approximately the amount of funds available for FY 2009/10;
10. Pursuant to Orphan Site Cleanup Fund regulations section 2814.27, the Orphan Site Cleanup Fund applications that were received on or before November 30, 2009, from applicants who previously applied for a grant from the OSCA and either received a grant from the OSCA or were on the OSCA's priority list at the time that the OSCA program was repealed, are given a higher priority than the other applicants to the Orphan Site Cleanup Fund. All other applications received on or before November 30, 2009, are randomly ranked to determine their order of priority. Applications received after November 30, 2009, are ranked in accordance with the date they were received; and
11. For efficient administration of the Orphan Site Cleanup Fund program, the State Water Board may delegate authority to Deputy Director of the Division, or designee, to execute grant agreements and amendments for the expenditure of Orphan Site Cleanup Fund funds.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Adopts the [Priority List for the Orphan Site Cleanup Fund](#); and
2. Authorizes the Deputy Director of the Division, or designee, to enter into grant agreements and amendments to those grant agreements with eligible Orphan Site Cleanup Fund applicants.

**CERTIFICATION**


The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Board held on January 5, 2010.

AYE: Chairman Charles R. Hoppin  
Vice Chair Frances Spivy-Weber  
Board Member Arthur G. Baggett, Jr.  
Board Member Walter G. Pettit

NAY: None

ABSENT: Board Member Tam M. Doduc

ABSTAIN: None

  
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Jeanine Townsend  
Clerk to the Board