

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION - DIVISION OF FINANCIAL ASSISTANCE
JULY 6, 2010**

ITEM 3

SUBJECT

CONSIDERATION OF A RESOLUTION TO ADOPT THE PETROLEUM UNDERGROUND STORAGE TANK (UST) EMERGENCY, ABANDONED, AND RECALCITRANT (EAR) ACCOUNT FISCAL YEAR (FY) 2010-2011 ANNUAL SITE LIST (ASL) AND TO AUTHORIZE THE EXECUTIVE DIRECTOR, OR DESIGNEE, TO ADD ELIGIBLE SITES TO THE FY 2010-2011 ASL FOR THE EXPENDITURE OF FEDERAL ECONOMIC RECOVERY GRANT FUNDS, TO APPROVE INCREASED EXPENDITURES FOR SITES ON THE ASL, AND TO ISSUE LETTERS OF AWARD OR EXECUTE CONTRACTS AND AMENDMENTS FOR THE EXPENDITURE OF EAR ACCOUNT FUNDS

DISCUSSION

California's and the nation's economy are in a significant recession. The federal economic recovery package provides a combination of tax and spending measures designed to create jobs, stimulate the economic recovery, and invest in technology and infrastructure for long-term benefit. California received \$15.6 million in Federal Economic Recovery Grant funds from the Leaking Underground Storage Tank (LUST) Trust Fund in federal FY 2009 for assessing and cleaning up petroleum contamination from leaking USTs. Funds from the federal economic recovery package must be committed quickly to eligible projects. This resolution will continue to help implementation of federal economic recovery efforts while maximizing the benefit to California's infrastructure and water quality needs.

Chapter 6.75 of Division 20 of the Health and Safety Code authorizes the State Water Board to provide funding from the UST Cleanup Fund (USTCF) to the State Water Board, Regional Water Quality Control Boards (Regional Water Boards), or local agencies for initiating corrective action at petroleum UST sites: (1) which require prompt action to protect human health or the environment; (2) for which a responsible party (RP) cannot be identified or located (abandoned site); or (3) where the identified RP is either unable or unwilling to take the required corrective action (recalcitrant site). The FY 2010-2011 proposed budget for the USTCF program includes sufficient funding for this function. The State Water Board has established procedures for administering the EAR account, which include the adoption of an ASL of abandoned and recalcitrant sites nominated by a Regional Water Board to receive EAR account funding. The sites approved on the EAR account ASL may be provided funding pursuant to a contract with or letter of award from the State Water Board, or the State Water Board may request the Department of General Services (DGS) to enter into a contract on behalf of the State Water Board or a Regional Water Board. Economic recovery funds are available for these project sites.

On January 14, 2010, the State Water Board requested the Regional Water Boards: (1) to contact local agencies in their regions to identify any abandoned and recalcitrant petroleum UST sites for inclusion on the EAR account FY 2010-2011 ASL; and (2) submit their annual list of recommended Regional Water Board and local agency sites to the State Water Board for EAR account funding.

Nine Regional Water Boards responded, nominating a total of 55 eligible sites and requesting \$2.81 million in funding. Sufficient funding is available for all 55 eligible sites.

POLICY ISSUE

Should the State Water Board:

1. Adopt the EAR account FY 2010-2011 ASL, to provide funding to the designated oversight agencies to initiate site cleanup at listed UST sites?
2. Authorize the Executive Director, or designee, to increase the approved funding for sites on the EAR account FY 2010-2011 ASL and, consistent with statutory requirements, to add eligible sites to the EAR account FY 2010-2011 ASL, as necessary to fully utilize Federal Economic Recovery Grant funds?
3. Authorize the Executive Director, or designee, to issue Letters of Award or execute contracts and amendments for the expenditure of EAR account funds designated in the ASL?
4. Authorize the Executive Director, or designee, to request DGS, pursuant to section 25299.36 of the Health and Safety Code, to enter into contracts on behalf of the State Water Board or a Regional Water Board and act as the agent of the State Water Board or a Regional Water Board for the expenditure of EAR account funds designated in the ASL?

FISCAL IMPACT

The State Water Board has designated \$5 million from the FY 2010-2011 USTCF appropriation for EAR account projects. This is sufficient to provide the requested amounts for all eligible listed sites.

The Federal Economic Recovery Grant funds will provide additional capital to supplement other sources of state funding for EAR account projects.

REGIONAL WATER BOARD IMPACT

The Regional Water Boards will administer 27 sites. The remaining 28 sites will be administered by local agencies.

STAFF RECOMMENDATION

The State Water Board should:

1. Adopt the [EAR account FY 2010-2011 ASL](#), to provide funding to the designated oversight agencies to initiate site cleanup at listed UST sites;
2. Authorize the Executive Director, or designee, to increase approved funding for sites on the EAR account FY 2010-2011 ASL and, consistent with statutory requirements, to add eligible sites to the EAR account FY 2010-2011 ASL, as necessary to fully utilize Federal Economic Recovery Grant funds;
3. Authorize the Executive Director, or designee, to issue Letters of Award or execute contracts and amendments for the expenditure of EAR account funds designated in the ASL; and
4. Authorize the Executive Director, or designee, to request DGS, pursuant to section 25299.36 of the Health and Safety Code, to enter into contracts on behalf of the State Water Board or a Regional Water Board and act as the agent of the State Water Board or a Regional Water Board for the expenditure of EAR account funds designated in the ASL.

State Water Board action on this item will assist the Water Boards in reaching Goal 1 of the Strategic Plan Update: 2008-2012 to implement strategies to fully support the beneficial uses for all 2006-listed water bodies by 2030.

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STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2010-

ADOPTING THE PETROLEUM UNDERGROUND STORAGE TANK (UST) EMERGENCY, ABANDONED, OR RECALCITRANT (EAR) ACCOUNT FISCAL YEAR (FY) 2010-2011 ANNUAL SITE LIST (ASL) AND AUTHORIZING THE EXECUTIVE DIRECTOR, OR DESIGNEE, TO ADD ELIGIBLE SITES TO THE FY 2010-2011 ASL FOR THE EXPENDITURE OF FEDERAL ECONOMIC RECOVERY GRANT FUNDS, TO INCREASE APPROVED FUNDING FOR SITES ON THE ASL, AND TO ISSUE LETTERS OF AWARD OR EXECUTE CONTRACTS AND AMENDMENTS FOR THE EXPENDITURE OF EAR ACCOUNT FUNDS

WHEREAS:

1. California received \$15.6 million in a Federal Economic Recovery Grant funds from the Leaking UST Trust Fund for federal FY 2009 for assessing and cleaning up petroleum contamination from leaking USTs;
2. California may receive a Federal Economic Recovery Grant from the Leaking UST Trust Fund for federal FY 2010 for assessing and cleaning up petroleum contamination from leaking USTs;
3. Chapter 6.75 of Division 20 of the Health and Safety Code authorizes the State Water Resources Control Board (State Water Board) to provide funding to the State Water Board, Regional Water Quality Control Boards (Regional Water Boards), or local agencies for initiating corrective action at petroleum UST sites which have had unauthorized releases;
4. Section 25299.36 of the Health and Safety Code authorizes the State Water Board to undertake or contract for corrective action at specified sites or to request the Department of General Services (DGS) to act as the agent of and enter into contracts on behalf of the State Water Board or a Regional Water Board for corrective action at those sites;
5. The State Water Board has established administrative procedures for providing cleanup funds to Regional Water Boards and local agencies, which include adoption of an EAR Account ASL;
6. On January 14, 2010, the State Water Board requested the Regional Water Boards: (1) contact local agencies in their regions to identify any abandoned and recalcitrant petroleum UST sites for inclusion on the EAR Account FY 2008-2009 ASL; and (2) submit their annual list of recommended Regional Water Board and local agency sites to the State Water Board for EAR Account funding;
7. Nine Regional Water Boards responded, nominating a total of 55 eligible sites;
8. Sufficient funding is available to provide the requested amounts for all 55 eligible sites;
9. For efficient operation of the EAR Account Program, the State Water Board may delegate authority to the Executive Director, or designee, to issue Letters of Award or execute contracts and amendments for the expenditure of EAR Account funds or to request DGS to enter into contracts on behalf of the State Water Board or a Regional Water Board for the expenditure of EAR Account funds designated in the EAR ASL; and

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10. For efficient and timely management of the Federal Economic Recovery Grant, it is also appropriate and desirable to delegate to the Executive Director, or designee, authority to increase approved funding for sites on the EAR Account FY 2010-2011 ASL and to add eligible sites to the EAR account FY 2010-2011 ASL.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Adopts the [Emergency, Abandoned, or Recalcitrant \(EAR\) Account FY 2010-2011 ASL](#);
2. Authorizes the Executive Director, or designee, to increase approved funding for sites on the EAR account FY 2010-2011 ASL and, consistent with statutory requirements, to add eligible sites to the EAR account FY 2010-2011 ASL, as necessary to fully utilize Federal Economic Recovery Grant funds;
3. Authorizes the Executive Director, or designee, to issue Letters of Award or negotiate and execute contracts and amendments for the expenditure of EAR account funds designated in the ASL; and
4. Authorizes the Executive Director, or designee, to request DGS, pursuant to section 25299.36 of the Health and Safety Code, to enter into contracts on behalf of the State Water Board or a Regional Water Board and act as the agent of the State Water Board or a Regional Water Board for the expenditure of EAR account funds designated in the ASL.

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 July 6, 2010.

Jeanine Townsend
Clerk to the Board