

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF FINANCIAL ASSISTANCE
AUGUST 20, 2013**

ITEM 4

SUBJECT

CONSIDERATION OF A RESOLUTION TO ADOPT THE PETROLEUM UNDERGROUND STORAGE TANK (UST) EMERGENCY, ABANDONED, AND RECALCITRANT (EAR) ACCOUNT FISCAL YEAR (FY) 2013-2014 ANNUAL SITE LIST (ASL); AND AUTHORIZING THE EXECUTIVE DIRECTOR, OR DESIGNEE, TO ISSUE LETTERS OF AWARD OR EXECUTE CONTRACTS AND AMENDMENTS FOR THE EXPENDITURE OF EAR ACCOUNT FUNDS

DISCUSSION

The State Water Resources Control Board (State Water Board) is authorized to provide funding from the UST Cleanup Fund (USTCF) EAR Account to Regional Water Quality Control Boards (Regional Water Boards) or local agencies (LAs) to initiate corrective action at certain petroleum UST sites. (Chapter 6.75 of Division 20 of the Health and Safety Code.) UST sites that have had an unauthorized release of petroleum are eligible if one or more of the following conditions applies: (1) prompt action is required to protect human health, safety, or the environment (emergency site); (2) no responsible party (RP) has been identified or located (abandoned site); or (3) the RP is either unable or unwilling to take the required corrective action in response to a Regional Water Board or LA corrective action order (recalcitrant site). In addition, the State Water Board is authorized to undertake or contract for corrective action at specified sites. The State Water Board is also authorized 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. (Health and Safety Code §25299.36.)

The State Water Board's procedures for administering the EAR Account include: (1) State Water Board instructions to Regional Boards and LAs for nomination of eligible sites; (2) The Regional Water Boards and LAs identify candidate sites; (3) Regional Water Boards adopt Resolutions nominating candidate sites; (4) State Water Board prepares the EAR Account Annual Site List (ASL) as a statewide priority list of UST sites. The ASL identifies sites for which the State Water Board previously approved corrective action funding. The ASL also identifies sites requesting additional corrective action funding and newly nominated sites requesting corrective action funding in FY 2013-2014; (5) State Water Board considers adoption of the ASL; and (6) State Water Board notifies the Regional Water Boards and LAs of its adoption of the ASL and provides instruction to access EAR Account funds.

All nine Regional Water Boards nominated sites and recommended a total of 57 sites for inclusion on the FY 2013-2014 ASL. Of the 57 sites, two sites (36397 N. Center Street, Clarksburg and 716 Houston Street, West Sacramento) were withdrawn by the Central Valley Regional Water Board because they have since closed.

One additional site at 7891 Stockton Blvd., Sacramento (USTCF Claim No. 10777), does not meet eligibility criteria. Funding is still available under its USTCF claim and no RP has failed to comply with a final order for corrective action. The State Water Board will not approve EAR Account funding unless the RP has failed or refused to comply with a final order for corrective action.

As a result, of the 57 sites nominated by the Regional Water Boards for EAR Account funding in FY 2013-2014, 54 are eligible and are identified on the proposed FY 2013-2014 ASL. Of the 54 sites listed on the FY 2013-2014 ASL, the Regional Water Boards will administer 35 sites and the remaining 19 sites will be administered by LAs.

The column identified on the FY 2013-2014 ASL as “Revised Approved Total” is the maximum amount a Regional Water Board or LA may receive for eligible EAR costs for the site if the State Water Board adopts the Resolution. The “Additional Funding Requested in FY 2013-2014” column is \$2,340,500. If a Regional Water Board or LA anticipates additional EAR Account dollars will be necessary, they must request additional funds be approved during the ASL nomination process or by other resolution of the State Water Board.

POLICY ISSUE

Should the State Water Board:

1. Adopt the FY 2013-2014 ASL and approve additional funding requested in FY 2013-2014;
2. Authorize the Executive Director, or designee, to issue letters of award or negotiate and execute contracts and contract amendments for the expenditure of EAR Account funds designated in the FY 2013-2014 ASL; and
3. 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 FY 2013-2014 ASL?

FISCAL IMPACT

The State Water Board has designated \$5 million from the FY 2013-2014 USTCF appropriation for EAR Account projects. That is sufficient to provide the requested amounts for all eligible sites listed on the FY 2013-2014 ASL.

REGIONAL WATER BOARD IMPACT

Yes. All Regional Water Boards nominated sites and will oversee corrective action on 35 sites using DGS contracts.

STAFF RECOMMENDATION

That the State Water Board approve the proposed Resolution.

State Water Board Action on this item will assist the Regional 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.

DRAFT

STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2013-

ADOPTING THE PETROLEUM UNDERGROUND STORAGE TANK (UST) EMERGENCY, ABANDONED, AND RECALCITRANT (EAR) ACCOUNT FISCAL YEAR (FY) 2013-2014 ANNUAL SITE LIST (ASL); AND AUTHORIZING THE EXECUTIVE DIRECTOR, OR DESIGNEE, TO ISSUE LETTERS OF AWARD OR EXECUTE CONTRACTS AND AMENDMENTS FOR THE EXPENDITURE OF EAR ACCOUNT FUNDS

WHEREAS:

1. The State Water Resources Control Board (State Water Board) is authorized to provide funding from the Underground Storage Tank Cleanup Fund (USTCF) EAR Account to Regional Water Quality Control Boards (Regional Water Boards) or local agencies (LAs) to initiate corrective action at certain petroleum UST sites. (Chapter 6.75 of Division 20 of the Health and Safety Code.) UST sites that have had an unauthorized release of petroleum are eligible if one or more of the following conditions applies: (1) prompt action is required to protect human health, safety, or the environment (emergency site); (2) no responsible party (RP) has been identified or located (abandoned site); or (3) the RP is either unable or unwilling to take the required corrective action in response to a Regional Water Board or LA corrective action order (recalcitrant site);
2. The State Water Board's administrative procedures for expenditure of EAR Account funds include identification of eligible sites by Regional Water Boards and LAs, nomination of eligible sites by Regional Water Boards, and adoption of an EAR Account Annual Site List (ASL) by the State Water Board;
3. Nine Regional Water Boards nominated 57 sites for EAR Account funding and inclusion on the FY 2013-2014 ASL. Of the 57 sites nominated, 54 sites are eligible for EAR Account funding. The Regional Water Boards requested that the State Water Board approve \$2,340,500 of additional funding in FY 2013-2014;
4. The FY 2013-2014 ASL identifies the 54 eligible UST sites and maximum amounts available for each site;
5. The State Water Board has designated \$5 million from the FY 2013-2014 USTCF appropriation for EAR Account projects. That amount is sufficient to provide the requested amounts for all eligible sites listed on the FY 2013-2014 ASL;
6. The State Water Board may delegate authority to the Executive Director, or designee, to issue letters of award or execute contracts and contract amendments for the expenditure of EAR Account funds or to request the Department of General Services (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 Account ASL; and
7. The State Water Board is authorized to undertake or contract for corrective action at specified sites or to request 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. (Health and Safety Code §25299.36.)

DRAFT

THEREFORE BE IT RESOLVED THAT:

The State Water Resources Control Board:

1. Adopts the [FY 2013-2014 ASL](#) and approves additional funding requested in FY 2013-2014;
2. Authorizes the Executive Director, or designee, to issue letters of award or negotiate and execute contracts and contract amendments for the expenditure of EAR Account funds designated in the FY 2013-2014 ASL; and
3. 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 FY 2013-2014 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 Resources Control Board held on August 20, 2013.

Jeanine Townsend
Clerk to the Board