

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF FINANCIAL ASSISTANCE
JULY 15, 2014**

ITEM 5

SUBJECT

CONSIDERATION OF A RESOLUTION TO ADOPT THE PETROLEUM UNDERGROUND STORAGE TANK EMERGENCY, ABANDONED, AND RECALCITRANT ACCOUNT FISCAL YEAR 2014-2015 ANNUAL SITE LIST AND AUTHORIZE THE EXECUTIVE DIRECTOR OR DESIGNEE TO ISSUE LETTERS OF AWARD OR EXECUTE CONTRACTS AND AMENDMENTS FOR THE EXPENDITURE OF EMERGENCY, ABANDONED, AND RECALCITRANT ACCOUNT FUNDS

DISCUSSION

The State Water Resources Control Board (State Water Board) is authorized to provide funding from the Underground Storage Tank (UST) Cleanup Fund (USTCF) Emergency, Abandoned and Recalcitrant (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 or directive (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 provides instructions to Regional Water Boards and LAs for nomination of eligible sites; (2) 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). 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 funding in FY 2014-2015; (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.

Eight Regional Water Boards nominated sites and recommended a total of 51 sites for inclusion on the FY 2014-2015 ASL. Of the 51 sites, one site at 7891 Stockton Blvd., Sacramento (GeoTracker Global ID No. T0606700876; 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 for a recalcitrant site unless the RP has failed or refused to comply with a final order for corrective action.

Of the 51 sites nominated by the Regional Water Boards for EAR Account funding in FY 2014-2015, 50 are eligible and are identified on the proposed [FY 2014-2015 ASL](#). Of the 50 sites listed on the FY 2014-2015 ASL, the Regional Water Boards will administer 43 sites and LAs will administer the remaining 7 sites.

The column identified on the FY 2014-2015 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 Board adopts the Resolution. The “Additional Funding Requested for FY 2014-2015” column is \$3,595,000. If a Regional Water Board or LA anticipates additional EAR Account dollars will be necessary, it 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 2014-2015 ASL and approve additional funding requested therein for FY 2014-2015;
2. Authorize the Executive Director or designee to issue letters of award or to negotiate and execute contracts and contract amendments for the expenditure of EAR Account funds designated in the FY 2014-2015 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 to 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 2014-2015 ASL?

FISCAL IMPACT

The State Water Board has designated \$5 million from the FY 2014-2015 USTCF appropriation for EAR Account projects. That is sufficient to provide the requested amounts for all eligible sites listed on the FY 2014-2015 ASL.

REGIONAL BOARD IMPACT

Yes. Eight Regional Water Boards nominated sites and will oversee corrective action on 43 sites using DGS contracts.

STAFF RECOMMENDATION

That the State Water Board:

1. Adopt the FY 2014-2015 ASL and approve additional funding requested therein for FY 2014-2015;
2. Authorize the Executive Director or designee to issue letters of award or to negotiate and execute contracts and contract amendments for the expenditure of EAR Account funds designated in the FY 2014-2015 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 to 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 2014-2015 ASL.

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. 2014-

TO ADOPT THE PETROLEUM UNDERGROUND STORAGE TANK EMERGENCY, ABANDONED, AND RECALCITRANT ACCOUNT FISCAL YEAR 2014-2015 ANNUAL SITE LIST AND AUTHORIZE THE EXECUTIVE DIRECTOR OR DESIGNEE TO ISSUE LETTERS OF AWARD OR EXECUTE CONTRACTS AND AMENDMENTS FOR THE EXPENDITURE OF EMERGENCY, ABANDONED, AND RECALCITRANT ACCOUNT FUNDS

WHEREAS:

1. The State Water Resources Control Board (State Water Board) is authorized to provide funding from the Underground Storage Tank (UST) Cleanup Fund (USTCF) Emergency, Abandoned and Recalcitrant (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 or directive (recalcitrant site).
2. The State Water Board's administrative procedures for expenditure of EAR Account funds includes 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. Eight Regional Water Boards nominated a combined total of 51 sites for EAR Account funding and inclusion on the Fiscal Year (FY) 2014-2015 ASL. Of the 51 sites nominated, 50 sites are eligible for EAR Account funding. The Regional Water Boards requested the State Water Board approve \$3,595,000 of additional funding in FY 2014-2015;
4. The FY 2014-2015 ASL identifies the 50 eligible UST sites and the maximum funding amounts available for each site;
5. The State Water Board has designated \$5 million from the FY 2014-2015 USTCF appropriation for EAR Account projects. That is sufficient to provide the requested amounts for all eligible sites listed on the FY 2014-2015 ASL;
6. The State Water Board may delegate authority to the Executive Director, or designee, to issue letters of award, to 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

DRAFT

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.)

THEREFORE BE IT RESOLVED THAT:

The State Water Resources Control Board:

1. Adopts the [FY 2014-2015 ASL](#) and approves additional funding requested therein for FY 2014-2015;
2. Authorizes the Executive Director, or designee, to issue letters of award or to negotiate and execute contracts and contract amendments for the expenditure of EAR Account funds designated in the FY 2014-2015 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 to 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 2014-2015 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 July 15, 2014.

Jeanine Townsend
Clerk to the Board