

# **Performance Audit of the Underground Storage Tank Cleanup Fund (USTCF)**

**Presentation to:  
California State Water Resources Board**

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# Background

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- In June 2009, the State Water Resource Control Board contracted with Sjoberg Evashenk Consulting, Inc. to conduct a performance audit of the Underground Storage Tank Cleanup Fund (USTCF).
- In February 2010, Sjoberg Evashenk Consulting held an exit conference with USTCF management to discuss the audit findings and delivered a final report on February 22, 2010.

# Audit Objectives

- Compliance with statutes, regulations, policies, procedures, and processes at meeting program goals and objectives.
- Efficiency and effectiveness of policies, procedures, and processes at meeting program goals and objectives.
- Internal controls to prevent fraud and other activities incompatible with generally accepted accounting principles (GAAP), State Administrative Manual (SAM) guidelines, and sound fund management practices.

# Audit Methodology

- Reviewed California Health and Safety Code, Water Code, Fund regulations, UST regulations, Legislative Annual Reports, Board decisions, and Fund policies and procedures.
- Interviewed management and staff of the Fund, UST program, and Division of Administrative Services' Accounting Office, as well as Board of Equalization staff and conducted physical walk-throughs of the Fund's various processes and procedures.
- Analyzed financial data, including revenues, expenditures, fund balances and reserves, reimbursement payments, etc. and projected revenues and expenditures through 2016.
- Obtained, reviewed, and analyzed SCUFIS system reports related to areas such as, applicant submissions, claimant eligibility determinations, active and Priority List claimant pools, closed claims, payment and claim backlogs, and, timelines and trends associated with each category above.

# Audit Methodology (cont.)

- Obtained and reviewed Geotracker system statistical reports related to areas such as active and closed UST cleanup projects, regulatory data submission rates, and regulatory performance data.
- Performed research to identify national industry standards, best practices, and comparable statistics.
- Observed USTCF Task Force meetings and considered the audit recommendations prepared by the Task Force pursuant to SWRCB Resolution No. 2009-0042.

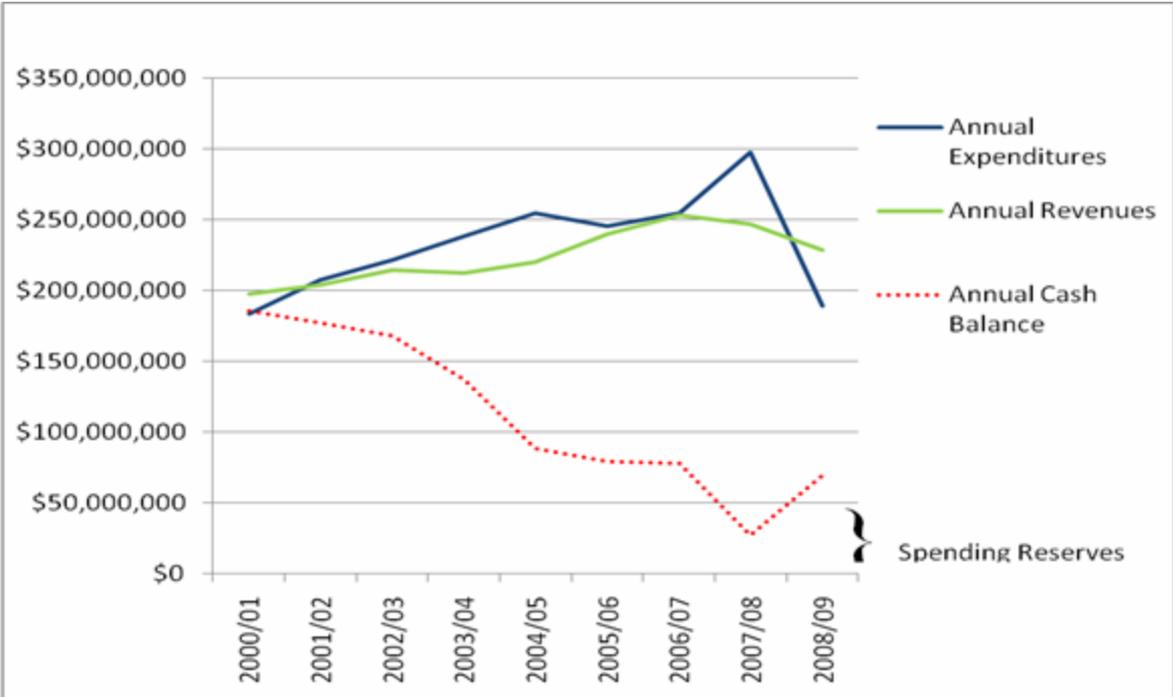
# Audit Findings & Recommendations

- Overall, we found that since the program is premised on reimbursing participants for the cleanup costs that have already been incurred, the Fund's top priority is to reimburse claimants as quickly as possible. To do so, the Fund activated claimants with a goal to fully utilize resources in the short-term without sufficient data or cash flow estimates to project the full extent of funding needed to close out projects or to estimate unmet needs.
- Further, claimants expecting reimbursement from the Fund were not required to provide Fund staff with project plans or cost estimates in advance for review and approval prior to cleanup work beginning. Without needed data, Fund management is unable to successfully manage or estimate the demand on the Fund's limited resources—either related to current cash flow demands or more broadly related to future demand.
- As a result, an unanticipated financial crisis occurred in 2008 as demand on the Fund outpaced resources, cash balances and reserves were nearly depleted, and millions of dollars in claimant reimbursement payments had to be placed on hold.
- The audit report provides 60 detailed recommendations to address the financial management and operational problems identified as well as enhance the efficiency and effectiveness of the USTCF. Some recommendations may require legislative action and changes in budget authority to implement.

# Reduced Cash Balances, Diminished Reserves, and Inadequate Financial Management Strategies Challenge USTCF

## Key Findings:

- Cash balances built up during the 1990s were depleted over the last decade, largely due to rapidly increasing project costs and a larger active claimant pool.



# Reduced Cash Balances, Diminished Reserves, and Inadequate Financial Management Strategies Challenge USTCF (cont.)

## Key Findings:

- Certain demands on Fund resources were either outside of Fund management's control or lacked a corresponding revenue source.
- Financial condition was unable to support continuing reimbursement demands (claims suspended and payments placed on hold).
- Financial projections indicated resources were not sufficient to cover future demand before the Fund is scheduled to sunset—a shortfall of between \$1.6 billion and \$1.8 billion.
- Administration of Fund resources was based on inadequate financial management strategies.
- Other issues contributing to management's challenges include limited data on the number of regulated USTs.

# Reduced Cash Balances, Diminished Reserves, and Inadequate Financial Management Strategies Challenge USTCF (cont.)

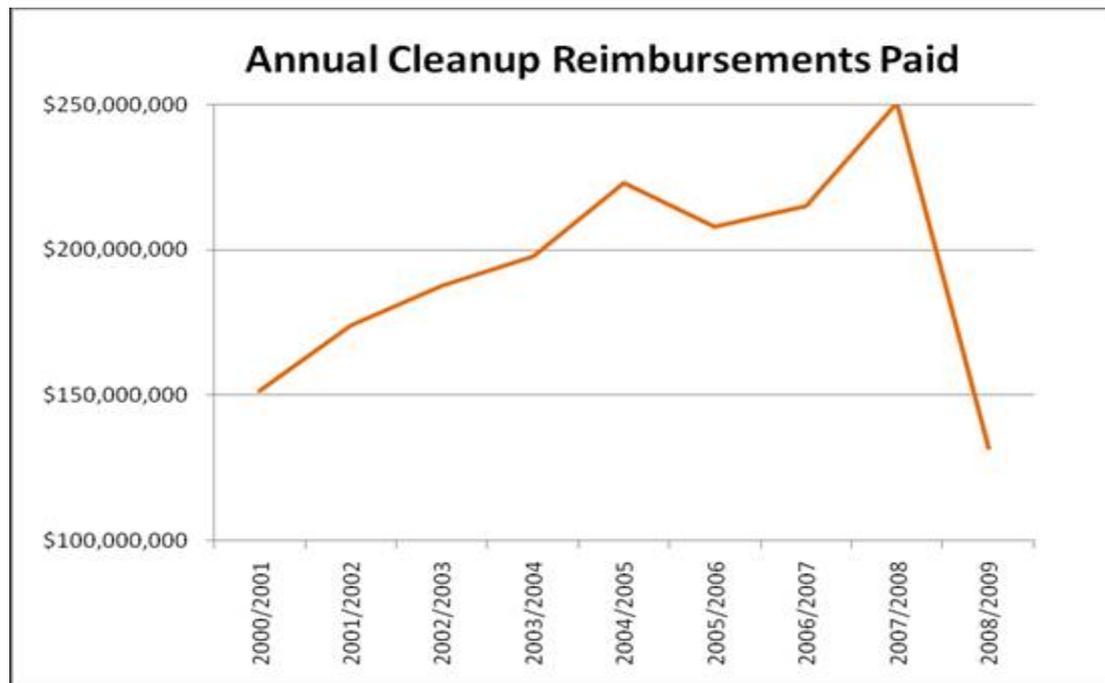
## Key Recommendations:

- Regularly analyze demand and resources to monitor the Fund's overall financial viability and compare estimates with actual amounts. When unexpected variances occur, immediately understand the cause of the variance and determine any associated impact.
- Base financial planning decisions and management strategies only on comprehensive and dependable data, such as project plans, budgets, etc and only activate new claimants when analysis of annual demand and revenue indicates sufficient resources are available .
- Provide the Board with financial status reports that contain critical financial information that could positively or negatively impact the Fund's current or future financial situation
- Work with the California EPA and CUPA organization to develop procedures that require all UST permitting agencies to verify BOE accounts exist before approving UST permits.
- Work with Fund stakeholders and industry experts to conduct an in-depth analysis of the likelihood that the Fund will run out of resources before the demand for cleanup reimbursement is met and carefully weigh alternatives, including transitioning entirely from a state UST Cleanup Fund program to requiring all responsible parties to secure private insurance to meet federal responsibilities requirements.

# Fund Management Lacks Necessary Processes as well as Clear Responsibility and Authority Needed to Effectively Contain Costs

## Key Findings:

- Project expenses associated with claim reimbursements have increased significantly.



# Fund Management Lacks Necessary Processes as well as Clear Responsibility and Authority Needed to Effectively Contain Costs (cont.)

## Key Findings:

- Cleanup projects are remaining open longer and becoming more expensive:
  - Between Fiscal Years 2000-2001 and 2008-2009, the average number of years cleanup projects closed increased from 3.3 to 8.1 years.
  - Between 2004-2005 and 2008-2009, the total cost of an average cleanup (calculated after a claim is closed) increased from \$131,000 to approximately \$256,000.
  - By November 2009, the average project cost of an active claim was already more than \$400,000.
- Fund management is developing Multi-Year Management Plans to improve cost containment and financial planning
- Little coordination between the roles and responsibilities of Cleanup Fund staff and Regulatory Agency staff occurs which makes it difficult to balance water quality objectives and cost containment concerns.
- Regulatory oversight and contracting practices with regulators need improvement to address the lack of accountability.

# Fund Management Lacks Necessary Processes as well as Clear Responsibility and Authority Needed to Effectively Contain Costs (cont.)

## Key Recommendations:

- Create a uniform list of standardized project information claimants must submit covering the entire lifecycle of each cleanup project, such as project plans, project schedules, cost estimates/budgets, and reimbursement submission schedules.
- Establish cost estimation methodologies that are acceptable to ensure consistency of information submitted and incorporate competitive bidding processes into cost estimation methodologies.
- Establish review and approval process that occurs before cleanup work commences and details all agreements reached related to project plans, cost estimates, budgets, work schedules/timelines, milestones, etc. and develop revision processes. Hold claimants responsible for adhering to agreements reached and develop consequences for non-compliance.
- Clarify the roles and responsibilities of stakeholders (including the Board, UST program staff, Fund staff, and regulators)—particularly which entities have the authority and responsibility to make critical decisions, such as reasonableness and necessity of cleanup activities and costs.
- Develop specific performance measures that hold regulators accountable for performing oversight efficiently and effectively and improve contracting practices by linking performance results and workload with funding levels.

# Efficiency Improvements Needed to Assist Fund in Meeting Mandated Processing Timelines

## Key Findings:

- Although some payment processing activities are outside the control of the Fund, it does not meet mandated claimant eligibility determination timelines or required reimbursement request processing timelines.
  - The average number of days from date claim applications were received to date claimants were preliminarily accepted or rejected increased—taking 129 days in 1999-2000 to 258 days in 2007-2008. When including the average number of days until a final eligibility determination decision is rendered (after the detailed compliance site review), an additional 133 days in 1999-2000 and 114 days in 2007-2008 was required.
  - The average number of days from date a reimbursement request is received to date claimants were paid increased—from 63 days in 1999-2000 to 100 days in 2007-2008.
- Certain processing and administrative activities are inefficient, such as the requirement to perform detailed site visits for every eligibility application, the lack of invoice standardization, and need for multiple “wet” signatures.
- Fund lacks processes to monitor staff workload and measure performance efficiency.

# Efficiency Improvements Needed to Assist Fund in Meeting Mandated Processing Timelines (cont.)

## Key Recommendations:

- Utilize a risk-based approach to conducting detailed site compliance review rather than visiting every eligibility applicant and identify additional information that claimants could submit at the beginning of the application process to reduce Fund staff processing burden.
- Reject applications that do not provide all required information and/or develop a tracking process to “stop the clock” when necessary information isn’t received by the claimant.
- Standardize invoicing requirements to ensure reimbursement request documentation and support is provided in a way that is consistent and easy to review by analysts.
- When feasible, contact claimants by telephone to obtain needed information or clarification rather than utilizing time consuming formal letters.
- Eliminate unnecessary “wet” signature processes, such as those associated with the letters of commitment that do not provide controls, but increase inefficiencies.
- Assign, track, monitor, and manage employee workload as well as set performance goals and regularly measure employee performance against goals.

# Fund Struggles Balancing Reimbursing Claimants Quickly and Maintaining a Strong Control Environment

## Key Findings:

- The Fund is at risk of inappropriate or duplicate payments due to the:
  - Lack of second level or supervisory review of payment analysts' reimbursement decisions,
  - Reduction in the level of technical staff involvement in the review of reimbursement requests,
  - Lack of staff workload monitoring and management, and
  - Reimbursement requests of a single claimant are not always reviewed by the same payment analyst.
- Fund controls over data could be improved to better safeguard and ensure integrity of claim information as users can delete comments and information without an audit trail or history.

# Fund Struggles Balancing Reimbursing Claimants Quickly and Maintaining a Strong Control Environment (cont.)

## Key Recommendations:

- Ensure all staff involved in the review and approval process related to reimbursement requests as well as staff involved in determining the reasonableness and necessity of cleanup activities and costs have the necessary knowledge, skills and abilities.
- Implement an independent, secondary (supervisory) review process of approved reimbursement requests before payments are made.
- Develop a quality control process to review paid reimbursement requests and associated documentation to determine if staff appropriately reviewed and approved payments and to identify situations that require additional training or position changes.
- Develop a process to compare costs submitted for reimbursement against previously reimbursed costs to eliminate the ability for consultants and claimants to have duplicate charges or previously denied charges approved.
- Ensure staff workload is assigned and monitored and develop processes to ensure reimbursement requests are always reviewed in date order received.
- Consider designing system user access and audit reports for SCUFIS that will enable the Fund to easily identify changes made within the system.

# THANK YOU

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Sjoberg Evashenk Consulting, Inc. would like to express its gratitude to the management and staff of the Underground Storage Tank Cleanup Fund for their cooperation and assistance during the audit.

# Questions?

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