

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION

MEETING OF APRIL 13 and 14, 2011
SOUTH LAKE TAHOE, CALIFORNIA

ITEM: 7

SUBJECT: ADOPTION OF THE PRIORITY LIST FOR THE EMERGENCY,
ABANDONED, RECALCITRANT (EAR) ACCOUNT, FISCAL YEAR 2011-
2012

ISSUE: Annually, the Regional Board may nominate sites to the State Water Resources Control Board for listing in the EAR Account. The EAR Account finances site investigation and cleanup work at leaking underground storage tank (UST) sites that are not being investigated or cleaned up because the owner has either abandoned the site or is recalcitrant. Funds available under the EAR Account allow a lead regulatory agency to proceed with necessary site investigation and cleanup activities. Sites that are already funded by the EAR Account must be nominated on an annual basis to receive continued funding. The EAR Account is administered by California's UST Cleanup Fund. Funds distributed from the EAR Account are to be reimbursed by the responsible party (RP) for corrective action costs.

For fiscal year (FY) 2011-12, Regional Board staff propose to nominate the Yermo Truck Stop (San Bernardino County) and Pat and Ollies-Gateway (Nevada County). Both sites were also nominated in FY 2010-11.

DISCUSSION:

San Bernardino County:

The Yermo Truck Stop is nominated for the EAR Account because petroleum hydrocarbon contamination was detected in a nearby Yermo community supply well. Additional delineation of contamination is needed. Board staff has been unable to locate previous RPs for this abandoned site, but recently identified a new property owner. Board staff named the current property owner as a responsible party; however, the current property owner has indicated that he does not intend to comply with directives or grant site access due to a property ownership dispute. Staff is currently working with legal counsel to gain site access. Pending site access, staff will work with State Board's contractor to implement the initial scope of work.

Nevada County:

In December 2001, a UST failed and released approximately 6,000 gallons of premium unleaded gasoline into the subsurface at the Pat & Ollies - Gateway in Truckee. The Truckee River, a municipal water supply, is located about 5,000 feet downgradient from the site. The RP reached the

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maximum reimbursement amount of \$1.5 million from the UST Cleanup Fund in November 2002. Additional funding for remediation was received in 2005 from an Attorney General settlement; however, this funding was depleted in November 2008. EAR funds were used in FY 2010-11, and will continue to be needed in FY 2011-12, for remediation, monitoring, and reporting.

The enclosed (**PROPOSED**) Resolution includes an attached table listing the nominated sites. The table provides a summary of pertinent information for the sites, including current status, work planned for FY 2011-12, and requested funding.

RECOMMENDATION: Adoption of the Proposed Resolution.

Enclosure: Proposed Resolution

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ENCLOSURE 1

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CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LAHONTAN REGION

PROPOSED RESOLUTION NO. R6T-2011-(PROPOSED)

ADOPTION OF THE 2011/2012 PRIORITY LIST
EMERGENCY, ABANDONED, RECALCITRANT (EAR) ACCOUNT

WHEREAS, the California Regional Water Quality Control Board, Lahontan Region (Lahontan Water Board) finds:

1. Chapter 6.75 of the California Health and Safety Code authorizes the State Water Resources Control Board (State Water Board) to provide Underground Storage Tank (UST) funds to Regional Water Boards and local UST agencies, for the direct cleanup of petroleum UST sites requiring emergency or prompt corrective action to protect public health and/or the environment. These funds are called the Emergency, Abandoned, Recalcitrant (EAR) Account. Funds distributed from the EAR Account are to be reimbursed by the responsible party.
2. Chapter 6.75 of the California Health and Safety Code also authorizes the State Water Board to establish a UST Cleanup Fund Program (Cleanup Fund) to help responsible parties pay for corrective action and third party compensation claim costs that result from an unauthorized release of petroleum from an underground tank.
3. If EAR Account funds are accessed by a Regional Water Board or other agencies to perform corrective action at an EAR site, the responsible party(ies) become ineligible to receive compensation from the Cleanup Fund. Listing on the EAR Account and/or access of such funds for the purposes of abating an emergency does not result in the responsible party(ies) being ineligible for Cleanup Funds.
4. The State Water Board has requested that all Regional Water Boards adopt a regional priority list of EAR Account projects that will be presented to the State Water Board in May 2011. The State Water Board is required to recover all costs (staff time included) from the responsible parties for cleanups funded from the EAR Account.
5. Attachment A consists of the Lahontan Water Board's proposed 2010/2011 EAR Priority List.

THEREFORE BE IT RESOLVED:

That the proposed 2011/2012 EAR Account Priority List be adopted, as shown on Attachment A, which is made a part of this Resolution, and that a copy of this Resolution be transmitted to the State Water Board for consideration in the formulation of the final 2011/2012 EAR Account Priority List.

I, Harold J. Singer, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Lahontan Region, on April 14, 2011.

HAROLD J. SINGER
EXECUTIVE OFFICER

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ATTACHMENT A

California Regional Water Quality Control Board, Lahontan Region

2011/2012

Emergency Abandoned, Recalcitrant Account Priority List

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San Bernardino County

Information Item	Yermo Truck Stop		
UST Case No.	6B3600059T		
Address	38735 Yermo Road Yermo, CA 92398		
All Potential Responsible Parties (RPs)	Riad Barikhan 1418 10 th Street, Apt 2 Santa Monica, CA 90401 (Former Owner)	Max Lair (deceased) 16404 Sycamore St. Hesperia, CA 92345 (Former Owner)	Robert Alexander (deceased) All-American Eagle Mortgage Foundation, Inc. PO Box 2098 San Bernardino, CA 92406 (Former Owner)
	Orval (deceased) and Maxine Bishop PO Box 870 Earp, CA 92242 (Former Owners)	Mischke Enterprises, Inc. 21902 De La Osa Woodland Hills, CA 91364 (Former Owner)	Khosrow Abtahi PO Box 6358 Laguna Niguel, CA 92607 (Current Owner)
	Cecil and Shirley (deceased) Guy 1379 E Holt Blvd. Ontario, CA 91761 (Former Owner/ Operators)	Danny Polovin 9558 SVL Box Victorville, CA 92395 (Former Lessee)	See mailing list for additional alternate addresses
Final Corrective Action Order or CAO	CAO No. 6-88-184		
Name and Address of Oversight Agency	Lahontan Water Board 2501 Lake Tahoe Boulevard South Lake Tahoe, CA 96150		
Name and Phone No. of Regulatory Contact Person	Brian Grey, (530) 542-5421		
Description of the Unauthorized Release	Contaminants detected in a nearby Yermo community supply well are believed to be from the site.		
Why Site is Recalcitrant	Identified new property owner in 2009. New property owner has indicated that he does not intend to comply with agency directives or grant site access.		
Why RP can or will not clean up site	Unresponsive		
Disputes between Regulatory Agency and RP	Unresponsive		
Actions Previously Taken to Clean up Release	In 1996, three ground water monitoring wells were installed and sampled by Regional Board staff. In 1997, ground water monitoring sampling and analysis were completed. In early 2007, Water Board staff met with Tetra Tech (a consulting firm) to discuss future actions.		
Proposed Cleanup and Abatement	Prepare and implement work plan to remove remaining USTs.		
Amount of Annual Funding Requested	\$150,000		
Est. Total Funds Required	\$200,000		
Funding Spent to Date	\$52,000		
Results if Funding Denied	Contamination would remain at site		
Case Type	Health and Safety, Groundwater		
Site Type	Abandoned		

Nevada County

Information Item	Pat & Ollies – Gateway
UST Case No.	6T0353A
Address	Nevada Co. APN 19-092-04 10115 Donner Pass Road Truckee, CA 96160
All Potential Responsible Parties (RPs)	Oliver Crose Enterprises, LLC PO Box 353 Truckee, CA 96160
Final Corrective Action Order or CAO	CAO R6T-2002-0004A1
Name and Address of Oversight Agency	Nevada County Environmental Health Department, 950 Maidu Avenue, Nevada City, CA 95959
Name and Phone No. of Regulatory Contact Person	Dave Huff (530) 265-1767
Description of the Unauthorized Release	Gasoline contamination from underground storage tank release.
Why Site is Recalcitrant	RP insolvent
Why RP can or will not clean up site	RP insolvent
Disputes between Regulatory Agency and RP	RP has reached the \$1.5 million Cleanup Fund maximum reimbursement amount.
Actions Previously Taken to Clean up Release	Soil vapor extraction system. Pump and treat system. Free product removal. Conduct groundwater monitoring and reporting.
Proposed Cleanup and Abatement	Operate current remediation systems. Conduct monitoring and reporting.
Amount of Annual Funding Requested	\$300,000
Est. Total Funds Required	\$1,000,000
Funding Spent to Date	\$203,000
Results if Funding Denied	Gasoline and MTBE contamination will continue to spread threatening the Truckee River, a municipal water supply.
Case Type	Health and Safety, Groundwater
Site Type	Recalcitrant