

STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION

STAFF SUMMARY REPORT – Cherie McCaulou  
MEETING DATE: May 19, 2004

ITEM: 5. J

SUBJECT: **Emergency, Abandoned, and Recalcitrant (EAR) Underground Storage Tank Account Nomination Request for: L&M Auto Service, 37810 Niles Boulevard, Fremont, Alameda County and Sunol Tree Gas Station, 3004 Andrade Road, Sunol, Alameda County** – Adoption of Resolution Supporting Nomination to State Water Resources Control Board’s EAR Account

CHRONOLOGY: April 19, 2000, Board adopted a resolution nominating L&M Auto Service to the EAR Account.  
April 18, 2001, Board adopted a resolution re-nominating L&M Auto Service  
April 17, 2002, Board adopted a resolution re-nominating L&M Auto Service  
April 16, 2003, Board adopted a resolution re-nominating L&M Auto Service

DISCUSSION: The Tentative Resolution (Appendix A) nominates the Sunol Tree Gas Station site, and re-nominates the L&M Auto Service site for inclusion in the State Water Resources Control Board’s (State Board) EAR Program for FY 2004-2005. The Alameda County Water District (ACWD) and the Alameda County Environmental Health have provided supporting documentation (Appendix B and C) for this nomination, as required by State Board’s memorandum dated January 16, 2004.

EAR Program Description

The Health and Safety Code authorizes the State Board to provide limited funding to regional boards, Local Oversight Agencies and Local Implementing Agencies for initiating direct cleanup of high-priority “emergency” leaking underground fuel tank sites requiring immediate corrective action to protect human health, safety, and the environment. The funding is available for “abandoned sites” where the discharger cannot be located, or “recalcitrant sites” where the discharger is unable or unwilling to comply with corrective action directives.

For the State Board to consider a site for inclusion to the EAR Program, a Regional Board Resolution must be passed each fiscal year to nominate, or re-nominate the site. For the L&M site, the State Board has approved four previous Regional Board resolutions to nominate and re-nominate the Site for inclusion in the EAR Program, and has approved \$300,000 in reimbursement funding for ACWD to conduct direct cleanup at the site. For the Sunol Tree Gas Station site, this will be its first year to be nominated for inclusion in the EAR Program. County Health is requesting \$300,000 in reimbursement funding to conduct direct cleanup at the site.

L&M Auto Site

The site is located in a sensitive groundwater recharge area, within 0.75-mile from the Peralta-Tyson well field in Fremont. The discharger's record of recalcitrance has been demonstrated through non-compliance with ACWD directives during 1994 through 1999, thus prompting the need for the site to be nominated for the EAR Account. The discharger claims that he does not have the time or financial resources to investigate and remediate the gasoline pollution caused by four leaking tanks removed in 1988, as discussed in ACWD's site nomination summary (Appendix B).

In a letter dated February 23, 2004 (Appendix B), ACWD requested that the site be re-nominated to the EAR Account List and remain eligible for reimbursement of \$300,000 in State Board approved funding, but did not request additional EAR funding for FY 04-05. The Tentative Resolution supports ACWD's request to re-nominate the site into the EAR Account for FY 04-05.

#### Sunol Tree Gas Station

The site lies within the Alameda Creek watershed. San Antonio Creek is about 1,300-foot cross gradient of the site, and Sheridan Creek, a tributary to Alameda Creek, is about 1,900-foot upgradient of the site. Gasoline releases from Sunol Tree Gas Station's underground tank systems have impacted the Sunol Subbasin, an active drinking water aquifer in Alameda County. A domestic well serving four residences has been impacted with up to 130 parts per billion (ppb) of methyl tertiary butyl ether (MTBE) and 62 ppb of gasoline. MTBE has also been detected in a nearby irrigation well. Several other domestic and irrigation wells located downgradient of the site are at risk of being impacted unless plume migration control measures can be quickly implemented. The discharger has demonstrated recalcitrance by failing to respond to repeated requests for remedial action by County Health.

We circulated the Tentative Resolution for public comment and received no comments. We expect this item to remain uncontested.

RECOMMEN-      Adopt the Tentative Resolution  
DATION:

FILE NO:        01-0998 (CCM)  
                     01-3506 (BG)

APPENDICES:    A. Tentative Resolution  
                     B. Alameda County Water District Letter and Site Summary  
                     C. Alameda County Environmental Health Letter and Site Summary