
State Water Resources Control Board

UST Cleanup Fund Program Update

(as of February 22, 2012)

New Fund Manager: Lisa Babcock is the new Fund Manager. Lisa is a Professional Geologist and Certified Engineering Geologist who has been with the State Water Board since 1984. Her previous program area responsibilities included cleanup and transfer of military facilities (DoD Program), cleanup of non-UST properties (Site Cleanup Program), regulation of waste discharges to land such as landfills (Land Disposal Program), and the statewide Groundwater Ambient Monitoring and Assessment (GAMA) program.

Non-Budgeted Costs: Non-budgeted costs will be reimbursed as funds become available in the future and payment may be delayed indefinitely. Payments will be disbursed based on several factors such as claim priority, and time when the reimbursement request was submitted for reimbursement.

Non-budgeted costs are:

- Costs incurred prior to July 1, 2011. These are sometimes referred to as "Old Costs";
- Costs during any fiscal year that exceed the site annual budget. These are sometimes referred to as "Over-Budget Costs";
- Budgeted costs where RRs are submitted more than 90 days after the end of the fiscal year (after September 30 annually). These may be referred to as "Late RRs";
- For claims that are activated from the Priority List, costs incurred prior to the claims receiving their Letter of Commitment.

Costs Incurred Prior to July 1, 2011 (Old Costs): The Fund continues to receive Reimbursement Request (RR) packages for costs incurred prior to July 1, 2011 ("old costs"). At this point in the fiscal year, nearly \$50 million of old costs have been submitted to the Fund and are under review. Based on previous projections, the Fund budgeted \$70 million to reimburse old costs for this FY. However, based on the new projections from the current rate of old cost submittals the Fund is now allocating approximately \$125 million toward old costs. This allocation increase was made possible due to additional revenue generated by the fee increase required by AB 291 (2011, Wieckowski). As a result, RR packages containing old costs received through December 31, 2011, are anticipated to be paid this FY. Our goal is to pay off all

outstanding costs so that in the next FY most of the revenues can be allocated to site budgets. The budget after June 30, 2012 that is earmarked for these old costs is extremely limited. RRs for old costs submitted after June 30, 2012 will become non-budgeted costs. Therefore, the Fund strongly encourages claimants to submit any remaining RRs for costs incurred prior to July 1, 2011.

Costs Paid to Date for FY 2011-2012: To date, the Fund had paid approximately \$76 million of the \$125 million available for non-budgeted/old costs and have approximately another \$50 million in the process of being reviewed and/or paid. The Fund has only paid out \$5 million of the \$89 million available for budgeted costs. There are approximately \$10 million in the process of being reviewed and paid.

Activating Claims from the Priority List: The Fund is currently issuing Letters of Commitment (LOCs) and activating Priority A claims, School District claims in all priorities, and some Priority D claims. Priority A claims are being activated because they are the highest priority and funds are available to reimburse their costs. Some Priority D claims are being activated to comply with statute that requires Priority D claims be reimbursed 14% of the total amount that is available to reimburse all claims annually. For this FY, 14% amounts to approximately \$37 million. The School District claims are continuously activated to comply with statute which created a separate School District account. However, claims must be paid on or before June 30, 2014. The activation of Priority B and C claims is dependent on available revenue. These claims will remain on the Priority List and will be activated in order of rank and priority when funding is available.

Demand Against the Fund for both Active and Priority List Claims: To assist us in preparing better expenditure projections, the Fund is beginning to review both active claims and claims on the Priority Lists to estimate past expenditures at each site, as well as the anticipated future cost to complete cleanup and close the claim. For active sites in the Fund, Fund staff is estimating these costs primarily based on data to which they currently have access. For sites on the Priority List, the Fund will contact the claimants to obtain both the costs already incurred on the claims and the anticipated costs of completing the corrective action required to close the claims. By gathering this information, the Fund can make estimates of the approximate overall liability associated with future corrective action costs for claims accessing the Fund. A better understanding of these future liabilities will better inform the Fund as to how to distribute revenues until the scheduled sunset of the Fund at the end of 2015.

Annual Budgets: Claimants have been notified of the new budget allocation process commencing from FY 2011-2012 fiscal year that will limit their reimbursement strictly to the approved budgeted amount for the fiscal year. Approximately \$253 million were requested. Less than \$100 million is available this fiscal year. The budgeted amount for active claims is posted on the cleanup Fund website at

http://www.waterboards.ca.gov/water_issues/programs/ustcf/docs/budget/063011budgetlisting.pdf

The budgeted amount for each active claim has been determined by the Fund based on several factors but not limited to projected revenues, required corrective action work, agency directives, effort towards expedited site closure, past site corrective action activities, and effective cleanup strategy.

Budget Change Order Requests: As of December 31, 2011, the Fund received about 420 Budget Change Order Requests totaling approximately \$38 million. From the requests received, the Fund augmented budgets for approximately 150 claims totaling \$6.4 million. Claimants receiving an augmentation to their budget have been notified by letter. The Fund expects to augment additional budgets in the upcoming months as money becomes available. Funding for individual site budgets remains limited during Fiscal Year (FY) 2011-2012 (ending June 30), and the Fund does not anticipate having sufficient money available to accommodate all the budget changes requested. It is expected that as old costs are paid off additional money will be available for site budgets.

Annual Claim Budgets for FY 2012-2013: The Fund has begun working on annual claim budgets for next FY. Current revenue projections indicate that approximately \$185 million should be available for these claims. Fund staff will use existing data from GeoTracker and the Fund's claim files to determine claim budgets. Fund staff will also be contacting individual claimants, as necessary, to obtain additional information prior to assigning and/or approving budgets.

Annual Budget for Cases Where Fund Recommends Site Closure: Claimants are notified of limited fund availability for the site after the Fund Manager recommends site closure to the State Water Board. Subsequent fund allocation will be limited to \$10,000 each fiscal year for correction action costs. However, additional costs may be considered for recommended closure sites if the costs are directly related to site closure activities such as well abandonment, decommissioning and removal of remedial equipment, and disposal of stored waste generated from earlier corrective action activities. Prior to incurring costs, a budget change order request will be required to be considered for additional closure costs above the budgeted \$10,000.

Costs during any fiscal year that exceed the site annual budget (Over-Budget Costs): Any costs incurred in excess of the approved budgeted amount are non-budgeted costs.

The Claimant may still be obligated to implement additional corrective action by the local agency that will also be considered as non-budgeted cost. The Claimant is advised to discuss the extent of corrective action implementation with the local agency prior to incurring any costs.

Budgeted costs where RR's are submitted more than 90 days after the end of the fiscal year (Late RRs): All FY 2011-2012 budgeted costs incurred by June 30, 2012 must be received by the Fund by September 30, 2012. If RR's are not received by this date, you will lose your 2011-2012 FY budget allocation. These will become non-budgeted costs.