

STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2003 - 0021

RESOLUTION AFFIRMING THE DELEGATION TO THE EXECUTIVE DIRECTOR OF
THE AUTHORITY TO REQUEST THE DEPARTMENT OF GENERAL SERVICES TO
ENTER INTO A CONTRACT ON BEHALF OF THE STATE WATER RESOURCES
CONTROL BOARD FOR CORRECTIVE ACTION FUNDED FROM THE EMERGENCY,
ABANDONED, AND RECALCITRANT ACCOUNT OF THE UNDERGROUND STORAGE
TANK CLEANUP FUND

WHEREAS:

1. Section 25299.36 of the Health and Safety Code provides that the State Water Resources Control Board (SWRCB), a regional board, or a local agency may undertake or contract for corrective action in response to an unauthorized release of petroleum from an underground storage tank (UST) at sites where a responsible party does not comply with a corrective action order or if a situation exists that requires prompt action to protect human health or the environment.
2. Pursuant to section 25299.51 of the Health and Safety Code, the SWRCB may spend monies from the UST Cleanup Fund for the corrective action referenced in Whereas No. 1, up to \$1,500,000 per occurrence. The Emergency, Abandoned, and Recalcitrant (EAR) Account is a sub-account within the UST Cleanup Fund that has been established to provide funding for corrective action at these sites.
3. Each fiscal year the SWRCB adopts an EAR Account Annual Site List, naming the sites that will receive corrective action funding from the EAR Account in that year and providing a specified funding amount for each site.
4. Section 25299.36 of the Health and Safety Code authorizes the Department of General Services (DGS), at the request of the SWRCB or a regional board, to enter into a contract on behalf of the SWRCB or a regional board and act as the agent of the SWRCB or a regional board for corrective action at EAR Account sites.
5. SWRCB Resolution No. 2002-0104 delegates to the Executive Director the power to supervise and conduct activities of the SWRCB, except as specifically precluded.
6. Many routine interagency agreements and contracts with public and private entities not involving loans and grants must be executed for and on behalf of the SWRCB and the nine regional boards. Paragraph 2.2 of SWRCB Resolution No. 2002-0105 delegates to the Executive Director authority to execute for and on behalf of the SWRCB and/or regional boards interagency agreements and contracts with public and private entities that do not involve specified loans and grants programs and that individually involve no more than \$500,000 or three years duration.

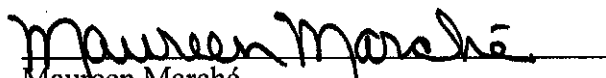
7. The foregoing existing resolutions convey to the Executive Director the authority necessary to request the DGS to enter into contracts on behalf of the SWRCB or a regional board and act as the agent of the SWRCB or a regional board to procure corrective action at sites on an EAR Account Annual Site List where such contracts individually involve no more than \$500,000 or three years duration.
8. Nonetheless, the DGS has stated that it will not accept a request from the Executive Director to enter into a contract on behalf of the SWRCB for corrective action at EAR Account sites absent a SWRCB resolution specifically stating that the SWRCB has authorized the Executive Director to request the DGS, pursuant to section 25299.36 of the Health and Safety Code, to enter into a contract on behalf of the SWRCB or a regional board and act as the agent of the SWRCB or a regional board to procure corrective action for sites on the EAR Account Annual Site List.

THEREFORE BE IT RESOLVED THAT:

1. The SWRCB affirms that if a proposed contract individually involves no more than \$500,000 or three years duration, the Executive Director is authorized to request the DGS to enter into a contract on behalf of the SWRCB or a regional board and act as the agent of the SWRCB or a regional board as necessary to procure corrective action at sites where the SWRCB or a regional board is authorized pursuant to section 25299.36 of the Health and Safety Code to undertake or contract for corrective action and where the SWRCB has adopted an EAR Account Annual Site List approving the expenditure of EAR Account funds for the site.
2. The Executive Director may further delegate this authority, in writing, as the Executive Director deems appropriate.

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 March 19, 2003.


Maureen Marché
Clerk to the Board