

**STATE OF CALIFORNIA  
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL COAST REGION**

**STAFF REPORT FOR REGULAR MEETING OF MARCH 25, 2005**

Prepared on March 2, 2005

**ITEM NUMBER: 29**

**SUBJECT: Resolution No. R3-2005-0039, Underground Storage Tank Cleanup Fund Emergency, Abandoned, Recalcitrant Account FY 2005-06 Annual Sites List**

**DISCUSSION**

Chapter 6.75 of the Health and Safety Code authorized creation of the Underground Storage Tank Cleanup Fund. The Fund reimburses underground storage tanks (USTs) owners for costs incurred cleaning up the effects of unauthorized USTs releases. In addition to providing for reimbursement of tank owner cleanup costs, Chapter 6.75 of the law authorizes the State Water Resources Control Board (State Board) to provide funds to Regional Boards and local agencies for taking corrective action at petroleum UST sites that have had an unauthorized release and meet the following conditions: (1) where immediate or prompt action is needed to protect human health and safety or the environment, (2) where a responsible party cannot be identified or located, or (3) where the responsible party is either unable or unwilling to take the required corrective action.

The State Board has established administrative procedures for administering the funds in an Emergency, Abandoned, Recalcitrant (EAR) Account. The administrative procedures provide for establishment of an annual sites list in July and state in part:

The EAR Account is to be used primarily to:

- 1) Provide funding to Regional Boards and local implementing agencies (Local Agencies) to initiate emergency corrective action at petroleum UST sites where immediate action is required to protect human health, safety and the environment and any delay, while awaiting State Board approval of the request, would endanger human health, safety or the environment (emergency sites);
- 2) Provide funding to Regional Boards and Local Agencies to initiate prompt corrective action at petroleum UST sites where such prompt action is required to protect human health, safety and the environment, and the responsible party, if any, has failed to comply with a final order for corrective action (prompt action sites). Prompt action requests shall be limited to those sites where the required prompt corrective action cannot wait until the next annual EAR Account priority list is developed in accordance with the Annual Schedule for Processing Abandoned and

Recalcitrant Site Funding Request section of the State Administrative Procedures Manual;

- 3) Provide funding to Regional Boards and Local Agencies to initiate corrective action at petroleum UST sites where no responsible party has been identified or located (abandoned sites);
- 4) Provide funding to Regional Boards and Local Agencies to initiate corrective action at petroleum UST sites where the responsible party is either unable or unwilling to take the required corrective action in response to a Regional Board or Local Agencies' final order for corrective action (recalcitrant sites);
- 5) Pay for administrative, legal, technical, and oversight costs directly associated with the required corrective action; and
- 6) Pay appropriate costs associated with administration of the EAR Account and recovery of costs from the responsible party.

Allowable Activities

- a) Any actions necessary to stop the unauthorized release of petroleum from a UST, including removal of the UST and associated piping;
- b) Any interim remedial actions required to mitigate fire and safety hazards posed by vapors or free product, minimize the spread of contamination, and remedy hazards posed by contaminated soils that are excavated and exposed. Allowable interim remedial actions may include, but are not limited to:
  - Removal of free product;
  - Enhanced biodegradation;

- Excavation and disposal of contaminated soils;
- Excavation and treatment of contaminated soils;
- Vacuum extraction of contaminants from soil or ground water; and
- Pumping and treatment of ground water.

- c) Any activities required to investigate the site and take the required corrective action to cleanup an unauthorized release from a petroleum UST.

The following agencies may use the EAR Account: State Board, Regional Board, and Local Agencies, which are overseeing corrective action at unauthorized release sites.

The Regional Board has adopted a list annually since 1993. EAR Account funds were used by Regional Board staff to effect cleanup of a site located at 352 Ford Street, Watsonville. EAR Account funds are no longer used at this site because it now has a responsive owner. EAR Account funds are also being used by the County of Monterey, Department of Health, to effect cleanup of a site located at 53 Porter Drive in the community of Pajaro. Additional funds will be needed to continue the investigation and cleanup.

Regional Board staff sent a letter on January 18, 2005 (Attachment 1) to Local Agencies in the Region reminding them of the need to submit recommendations for additions to the list by March 1, 2005. Attachment 2 is a State Board memorandum sent to Regional Boards and Local Agencies, requesting EAR nominations to the Regional Boards by March 1, and nominations to the State Board by May 1, 2005. Resolution R3-2005-0039 is proposed for adoption by the Regional

Board, including the 2005-2006 EAR Annual Sites List (Attachment 3).

Regional Board staff has received two responses to the request for nominations or re-nominations: Monterey County has re-nominated the Pajaro Beacon site and Santa Cruz County has re-nominated the Ahlport Petroleum site from the 2004-2005 list. Re-nomination of the sites will allow continued funding as necessary for cleanup at these sites

### **RECOMMENDATION**

Adopt Resolution No. R3-2005-0039 establishing the Region 3 2005-06 EAR Account Annual Sites List and directing the Executive Officer to forward it to the State Water Resources Control Board for inclusion in the statewide list.

### **ATTACHMENTS**

1. January 18, 2005, Regional Board letter sent to Local Agencies
2. January 12, 2005, State Board memorandum from Ronald M. Duff, Manager, Underground Tank Storage Tank Cleanup Fund, including 2004/2005 EAR Annual Site List
3. Resolution No. R3-2005-0039 and attached list, Petroleum Underground Storage Tank Cleanup Fund