

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION

STAFF REPORT FOR REGULAR MEETING OF MARCH 20-21, 2008
Prepared February 22, 2008

ITEM NUMBER: 32

SUBJECT: Resolution No. R3-2008-0024, Underground Storage Tank Cleanup Fund Emergency, Abandoned, Recalcitrant Account FY 2008-2009 Annual Sites List

KEY INFORMATION

This Action: Adopt Resolution R-32008-0024 Approving Staff's Recommended EAR Account List

SUMMARY This staff report briefly describes the State Water Resources Control Board's Emergency, Abandoned and Recalcitrant (EAR) Account. The report recommends adopting a resolution which authorizes the Executive Officer to forward our region's EAR account sites list to the State Water Board.

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 (UST) owners for costs incurred cleaning up the effects of unauthorized UST 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 Water Board) to provide funds to Regional Water 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 Water 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 Water 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 Water Board approval of the request, would endanger human health, safety or the environment (emergency sites);
- 2) Provide funding to Regional Water 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.

- 3) Provide funding to Regional Water 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 Water 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 Water 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 clean up an unauthorized release from a petroleum UST.

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

The Central Coast Water Board has adopted a list annually since 1993. EAR Account funds are currently being used by the Monterey County Department of Health to effect cleanup of a site located at 53 Porter Drive in the community of Pajaro. Also, the Santa Cruz County Department of Health is using EAR funds to clean up a site at 950 West Beach Street in Watsonville.

At both sites, the counties have removed the underground tanks and surrounding contaminated soil. The counties are currently investigating subsurface conditions to characterize the extent of any offsite migration of contaminants.

Central Coast Water Board staff sent a letter on January 29, 2008 (Attachment 1), to Local Agencies in the Central Coast Region reminding them of the need to submit recommendations for

additions to the list by February 25, 2008. Attachment 2 is a State Water Board memorandum sent to Regional Water Boards and Local Agencies, requesting EAR nominations to the Regional Water Boards by March 1, 2008 and nominations to the State Board by May 1, 2008. Staff proposes the Central Coast Water Board adopt Resolution R3-2008-024, which includes the 2008-2009 EAR Annual Sites List (Attachment 3).

Central Coast Water Board staff has received two responses to the request for nominations or re-nominations. Monterey County has re-nominated the Pajaro site and requested an additional \$250,000 to continue site investigation and cleanup. Santa Cruz County has re-nominated the Watsonville site from the 2007-2008 list but has not requested any additional money. Re-nomination of the sites will allow continued funding as necessary for investigation and cleanup at these sites

RECOMMENDATION

Adopt Resolution No. R3-2008-024 establishing the Central Coast Water Board 2008-2009 EAR Account Annual Sites List and directing the Executive Officer to forward it to the State Water Board for inclusion in the statewide list.

ATTACHMENTS

1. January 29, 2008, Central Cost Water Board letter sent to Local Agencies
2. January 16, 2008, State Water Board memorandum from David Ceccarelli, Manager, Emergency, Abandoned, and Recalcitrant Program
3. Resolution No. R3-2008-024 and attached list, Petroleum Underground Storage Tank Cleanup Fund