

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION

STAFF REPORT FOR REGULAR MEETING OF MARCH 19-20, 2009

Prepared February 17, 2009

ITEM NUMBER: 19

SUBJECT: Resolution No. R3-2009-0026, Underground Storage Tank Cleanup Fund Emergency, Abandoned, Recalcitrant (EAR) Account FY 2009-2010 Annual Sites List

KEY INFORMATION This year's list re-nominates Monterey and Santa Cruz Counties to allow continued funding as necessary for investigation and cleanup of previously nominated sites

This Action: **Adopt Resolution R3-2009-0026 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 the Central Coast Region's EAR account sites list, containing two sites re-nominated from the previous year, to the State Water Board.

DISCUSSION

Chapter 6.75 of the Health and Safety Code authorized creation of the Underground Storage Tank Cleanup Fund (Fund). The Fund reimburses underground storage tank (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 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, 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 two Local Agencies 1) the Monterey County Department of Health, to cleanup a site located at 53 Porter Drive in the community of Pajaro, and 2) the Santa Cruz County Department of Health, to clean up a site at 950 West Beach Street in Watsonville.

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

The State Water Board sent a memorandum dated January 16, 2009 (Attachment 1) 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. Central Coast Water Board staff sent a letter on January 27, 2009 (Attachment 2), and subsequent letter on February 13, 2009 (Attachment 3), to Local Agencies in the Central Coast Region reminding them to submit

recommendations for additions to the list by February 27, 2009. Staff proposes the Central Coast Water Board adopt Resolution R3-2009-0026, which includes the 2009-2010 EAR Annual Sites List (Attachment 4).

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 Santa Cruz County has re-nominated the Watsonville site from the 2008-2009 list. Re-nomination of the sites will allow continued funding as necessary for investigation and cleanup at these sites.

RECOMMENDATION

- 1) Adopt Resolution No. R3-2009-0026 establishing the Central Coast Water Board 2009-2010 EAR Account Annual Sites List, and
- 2) Direct the Executive Officer to forward it to the State Water Board for inclusion in the statewide list.

ATTACHMENTS

1. January 16, 2009, State Water Board memorandum from Wendy Westerman, Manager, Emergency, Abandoned, and Recalcitrant Program
2. January 27, 2009, Central Cost Water Board letter to Local Agencies
3. February 13, 2009 Central Coast Water Board notification of revised Board Meeting date and location
4. Resolution No. R3-2009-026 and attached list, Petroleum Underground Storage Tank Cleanup Fund