



## **STATE WATER RESOURCES CONTROL BOARD**

### **UNDERGROUND STORAGE TANK CLEANUP FUND**

**FISCAL YEAR 2009/2010**

**ANNUAL REPORT**



STATE WATER RESOURCES CONTROL BOARD  
REGIONAL WATER QUALITY CONTROL BOARDS

# Table of Content

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|   |           |
|---|-----------|
| <b>Executive Summary .....</b>                          | <b>3</b>  |
| Underground Storage Tank (UST) Cleanup Fund .....       | 3         |
| Background .....  | 4         |
| Payments .....  | 5         |
| <b>Fiscal Status Report .....</b>                       | <b>6</b>  |
| Environmental Performance .....                         | 7         |
| Site Closures .....                                     | 8         |
| State Water Board Resolution No. 2009-0042 .....        | 9         |
| Audit and Task Force Findings and Recommendations ..... | 10        |
| Financial Management and Cost Containment .....         | 10        |
| Actions: .....  | 10        |
| Processing Efficiency .....                             | 11        |
| Actions: .....  | 11        |
| Improve Internal Controls .....                         | 12        |
| Chapter 649 Statutes of 2009 (AB 1188, Ruskin) .....    | 13        |
| <b>Sub Accounts .....</b>                               | <b>14</b> |
| Emergency Abandoned and Recalcitrant Account .....      | 14        |
| Commingled Plume Account .....                          | 14        |
| School District Account .....                           | 15        |
| Orphan Site Cleanup Fund .....                          | 16        |
| American Recovery and Reinvestment Act .....            | 17        |
| Drinking Water Research Fund .....                      | 18        |
| <b>Conclusion .....</b>                                 | <b>19</b> |
| <b>Legislation .....</b>                                | <b>19</b> |

# Executive Summary

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## Underground Storage Tank (UST) Cleanup Fund

This annual report was prepared pursuant to Chapter 6.75, Article 9, Section 25299.81(d) of the Health and Safety Code (H&SC), which requires the State Water Resources Control Board (State Water Board) to prepare an annual report for posting to the State Water Board website describing the status of the Underground Storage Tank (UST) Cleanup Fund (Cleanup Fund) and discusses recent legislative changes to the Cleanup Fund for improving the efficiency of the program, with special emphasis on expanding environmental cleanup and the distribution of monies from the Cleanup Fund.

The Barry Keene Underground Storage Tank Cleanup Fund Act of 1989 established the Cleanup Fund. The Cleanup Fund's mission is to contribute to the protection of California's water quality, public health, and safety, through:

- Establishing an alternative mechanism to meet federal financial responsibility requirements for owners and operators of USTs,
- Reimbursing eligible corrective action costs incurred for the cleanup of pollution resulting from the unauthorized release of petroleum from USTs.

The Cleanup Fund benefits a large number of small businesses and individuals by providing reimbursement for expenses associated with the cleanup of leaking petroleum USTs. The Cleanup Fund also provides money to the nine Regional Water Quality Control Boards (Regional Water Boards) and local regulatory agencies to abate emergency situations or to undertake corrective action at abandoned sites that pose a threat to human health, safety, and the environment, as a result of a petroleum release from a UST. The Cleanup Fund also supports other special accounts authorized by the Legislature.

The Regional Water Boards, County Local Oversight Program agencies (LOP agencies), and other local agencies direct corrective action to clean up soil and groundwater contamination at petroleum UST sites that have had unauthorized releases.

The Cleanup Fund's revenues are generated by a storage fee (currently 2.0 cents) for every gallon of petroleum product placed into a UST. The State Board of Equalization (BOE) collects the fee quarterly from owners of active USTs.

The law establishing the Cleanup Fund will sunset on January 1, 2016.

## Background

The Barry Keene Underground Storage Tank Cleanup Fund Act of 1989 created the Cleanup Fund to help owners and operators of petroleum USTs satisfy federal and state financial responsibility requirements. To fulfill the federal financial requirements, the Cleanup Fund is available to assist petroleum UST owners and operators with the costs to cleanup contaminated soil and groundwater caused by leaking tanks. The federal financial responsibility requirements also require the Cleanup Fund to provide certain coverage for third-party liability due to unauthorized releases of petroleum from USTs.

Since the Cleanup Fund program began operations in 1991, the State Water Board has paid over \$2.2 billion to thousands of individuals and small businesses to help them cover the cost of cleaning up their gas stations and other leaking UST sites. Another \$500 million has been paid to local governments and large businesses. This financial assistance program is supported by fees paid by tank owners to the BOE.

During the course of the program, over 19,000 claims have been filed. Some 11,000 claims have been paid in part or in full, of which about 7,000 have been closed and about 4,000 remain active. Another 4,600 claims filed by major corporations and government agencies are on the priority list, awaiting activation. Individual payment transactions have numbered more than 66,000, for a long-term average payment of about \$40,000/claim/year.

During the late 1990s and most of the 2000s, the program was able to accommodate all eligible claims filed by small businesses and individuals. The cost of cleanups, however, has increased over the last few years as the annual cost per claim rose to \$50,000.

In 2008, the cash reserve built up in the early years of the program fell below prudent reserves, and the program experienced a cash shortage. This shortage was made worse because of a concurrent dip in revenues due to the slow-down in the economy. Insufficient cash was available to service all of the active claims, and payments were and remain delayed by many months. This created a sudden and severe hardship for the small business claimants and their consultants, who are also small businesses.

# Status of the Underground Storage Tank Cleanup Fund

## Payments

State Water Board staff review reimbursement requests (RRs<sup>1</sup>) submitted by claimants seeking reimbursement for:

- Reasonable and necessary corrective action costs incurred for cleanup of contamination caused by leaking USTs; and
- Court-approved amounts awarded to third parties against the claimant.

Claimants may be reimbursed costs up to \$1.5 million per occurrence, less the deductible and less any funds received from other sources. Only costs determined eligible are reimbursed to the claimant upon availability of funds.

| FY 2009/2010                              |                         |                 |                |                |                 |
|---|-------------------------|-----------------|----------------|----------------|-----------------|
|   | <sup>2</sup> Priority A | Priority B      | Priority C     | Priority D     | Total           |
| RRs Received                              | 58                      | 2,225           | 858            | 331            | 3,471           |
| RRs Processed                             | 124                     | 3,202           | 739            | 380            | 4,445           |
| RRs Paid                                  | \$3.2 million           | \$133.8 million | \$38.5 million | \$26.2 million | \$201.7 million |
| RRs on Hold for Payment                   | 0                       | 278             | 1,149          | 111            | 1538            |
| RR \$ on Hold for Payment                 | 0                       | \$10.3 million  | \$58 million   | \$6.1 million  | \$74.4 million  |
| Processing Time (Date Rec'd to Hold Date) | 35 days                 | 146 days        | 182 days       | 192 days       | 154 days        |
| Processing Time (Date Rec'd to Paid Date) | 82 days                 | 227 days        | 432 days       | 357 days       | 283 days        |

<sup>1</sup> Reimbursement requests (RR) are submitted by claimants requesting reimbursement of eligible corrective action costs.

<sup>2</sup> Fund statutes set forth a claim priority system based on specified claimant characteristics relating to the claimant's ability to pay. There are four priorities:

Class A: is reserved for residential tank owners.

Class B: is reserved for small California businesses, governmental agencies, and nonprofit organizations with gross receipts and employees below a specified maximum.

Class C: is for certain California businesses, governmental agencies, and nonprofit organizations not meeting the criteria for Class B, but who have less than 500 employees.

Class D: is given to all other eligible claimants.

Exceptions in statute require the Fund to award approximately 14 to 16 percent of the annual appropriation to any lower priority classes that would not otherwise be funded (i.e., Class C and D claimants each receive at least 14 to 16 percent of the annual funding).

Table 1 provides a summary of major revenues and expenditures from the Cleanup Fund in Fiscal Year 2009-10 and since its inception.

## Fiscal Status Report

**Table 1  
REVENUE/EXPENDITURES SUMMARY**

|  | <u>09/10 Fiscal Year</u> | <u>Since Inception</u> * |
|--|--------------------------|--------------------------|
| <b>FUNDS RECEIVED:</b>                       |                          |                          |
| Mill Storage Fee Collected                   | \$277,824,201            | \$3,443,617,418          |
| Net from Previous Fees                       |                          | \$8,591,052              |
| Net Interest Earned                          | \$201,378                | \$106,362,111            |
| Transfers/Misc.                              | \$4,109,344              | \$6,690,625              |
| <b>Total Funds Received:</b>                 | <b>\$282,134,923</b>     | <b>\$3,565,261,206</b>   |
| <b>FUNDS EXPENDED &amp; COMMITTED:</b>       |                          |                          |
| Fund Administration <sup>1</sup>             | \$14,073,250             | \$207,863,175            |
| Cleanup Oversight <sup>2</sup>               | \$21,780,128             | \$270,786,784            |
| Department of Trade & Commerce <sup>3</sup>  |                          | \$75,500,000             |
| Rust Program                                 |                          | \$15,104,012             |
| School District Account <sup>4</sup>         | \$10,000,000             | \$10,000,000             |
| Orphan Site Cleanup Fund <sup>5</sup> (OSCF) | \$20,000,000             | \$20,000,000             |
| Board of Equalization <sup>6</sup> (BOE)     | \$3,010,668              | \$33,368,428             |
| Claims Reimbursement <sup>7</sup>            | \$212,231,291            | \$2,894,919,550          |
| Department of Health Services <sup>8</sup>   |                          | \$20,000,000             |
| CalEPA                                       | \$762,138                | \$4,170,358              |
| Misc <sup>9</sup>                            | \$84,882                 | \$5,928,945              |
| <b>Total Funds Expended &amp; Committed:</b> | <b>\$281,942,357</b>     | <b>\$3,557,641,252</b>   |
| <b>NET FUNDS AVAILABLE:</b>                  |                          | <b>\$7,619,954</b>       |

\*Amounts from previous report were adjusted to reflect actuals

<sup>1</sup> Fund Administration includes prorata.

<sup>2</sup> This includes local oversight program costs. Under authority in H&SC Section 25299.51, the State Water Board receives an annual appropriation to hire or contract for local government staff to oversee cleanups.

<sup>3</sup> From the inception of the Fund, through FY 1998/99, the Department of Trade and Commerce received an annual appropriation to provide loans to small businesses for the upgrade and replacement of USTs. The Fund was transferred to the State Water Board in 2004.

<sup>4</sup> The School District Account was established under H&SC Section 25299.50.3; \$10 million dollars will be transferred in FYs 2009/10, 10/11, 11/12.

<sup>5</sup> The OSCF was established under H&SC Section 25299.50.2.

<sup>6</sup> The BOE receives an annual appropriation to cover the costs of collecting the UST fee.

<sup>7</sup> Claims Reimbursement includes Special Programs: OSCF past commitments, the Emergency, Abandonment, Recalcitrant Account and Commingled Plume Account

<sup>8</sup> Under authority provided in H&SC Section 25299.99.1, the State Water Board may annually transfer \$5 million to the Department of Public Health for the Drinking Water Treatment and Research Fund. This transfer expired on December 31, 2009.

<sup>9</sup> Misc includes accounts receivables, abatements, various contracts and loans.

## Environmental Performance

The 2008 update of the State Water Board strategic plan included a priority action to develop an approach to link Cleanup Fund reimbursements with performance. Interim or first measures were established that link reimbursements with acreage of land that has been cleaned up using Cleanup Fund dollars and the average per acre cost of cleanup. The completion of a cleanup is often needed to allow full utilization of land to occur, benefiting the community as well as environmental resources. The desirable trend is to reduce the cost per acre cleaned up while maintaining environmental protectiveness to demonstrate improvements in the overall program efficiency. The measure is calculated each year based on claims closed that year.

| <b>Environmental Performance</b> |                       |                     |
|----------------------------------|-----------------------|---------------------|
|                                  | <b>FY 2008/09</b>     | <b>FY 2009/10</b>   |
| <b>Sites Closed</b>              | <b>167</b>            | <b>133</b>          |
| <b>Acres Cleaned Up</b>          | <b>85.3</b>           | <b>66.5</b>         |
| <b>Total Paid for Cleanup</b>    | <b>\$41.6 million</b> | <b>\$35 million</b> |
| <b>Average Cost/Acre</b>         | <b>\$487,000</b>      | <b>\$536,554</b>    |

Other performance measures have subsequently been developed for the program, primarily dealing with process efficiencies in rates of claim closures and reimbursements. Detailed descriptions and discussion of these measures are available on the State Water Board's website at:

[http://www.swrcb.ca.gov/about\\_us/performance\\_report/fund/docs/51122\\_ust\\_fund\\_claims.pdf](http://www.swrcb.ca.gov/about_us/performance_report/fund/docs/51122_ust_fund_claims.pdf)

# Activities Taken to Address Cash Shortage

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In 2008-09, the State Water Board took numerous actions in response to the Cleanup Fund's cash shortage. State Water Board members directed staff to undertake specific steps to improve the efficiency and effectiveness of the Cleanup Fund. In addition, the State Water Board established two stakeholder task forces to review both the regulatory and payments side of the Cleanup Fund and make suggestions for improvements or changes. State Water Board staff was also directed to commission an independent audit of the program. The audit and task force work began in July 2009 and ended early 2010.

Through this stakeholder input and self-examination, State Water Board staff confirmed that the problem was two pronged: 1) There was a need to improve the business model and processes at the State Water Board to better manage the cash flow; and 2) there was a lack of incentive to get cases cleaned up quickly and efficiently. The lack of closure incentive applied to all three major parties: 1) the responsible party or claimant, whose site cleanup bills are paid by the Cleanup Fund; 2) the consultant, who can continue to bill hours as long as the case is active; and 3) the regulator, who generally prefers to close only cases that have minimal or no risk associated with the site closure. As a result of these disincentives, over 43 percent of the active claims have been open for ten years or more.

## Site Closures

The Regional Water Boards, LOP agencies, and other local agencies (Regulatory Agencies) are responsible for closing UST cases that are ready for closure. State Water Board Resolution No. 2009-0042 directed the Regulatory Agencies to begin review of all cases in the UST Cleanup Program.

The State Water Board provided general guidance for the review:

- Case review order will be determined by the Regulatory Agencies. Cases with an active or suspended LOC with the Cleanup Fund should be given first consideration for review.
- Case reviews should include, at a minimum, the following for each UST case:
  - Determine whether or not the case is ready for closure. If not, determine:
    1. the impediments to closure;
    2. the specific environmental benefits of any additional work to be performed at the site;
    3. the existing sensitive receptors that are likely to be impacted by contamination at the site and the probable timeframe for those impacts to occur
- Case reviews must be made available to the public on the State Water Board's GeoTracker web site within 30 days of the completed review.

- The Regulatory Agencies shall close all cases identified as ready for closure, within 90 days of the case reviews.
- Unless site specific needs warrant, no new directives for additional corrective action will be issued until all site reviews have been completed.

Current law requires the Cleanup Fund Manager to annually review the case history of all claims having a Letter of Commitment active for more than five years, unless the owner or operator objects.

In cases where the Five Year Review finds that the case should be considered for closure and the regulatory staff has not provided a reasonable basis for keeping the case open, the Cleanup Fund Manager will:

- Within one month, elevate the case to the Regulatory Agencies' Executive Officer (EO) or Director for a thirty day review.
- If the Regulatory Agencies' EO or Director agrees to case closure, they will send a No Further Action letter within 90 days.
- When there is continued disagreement between the State Water Board, and the Regulatory Agencies regarding case closure, the Cleanup Fund Manager will recommend the case to the State Water Board for closure consideration.

## **State Water Board Resolution No. 2009-0042**

On May 19, 2009, the State Water Board directed actions to improve administration of the Cleanup Fund. Specifically, the State Water Board directed:

- The Regional Water Boards and LOP agencies to reduce ground water monitoring frequency to twice yearly versus four times yearly, unless site conditions warrant otherwise.
- State Water Board staff to:
  1. Accelerate 5-Year reviews and elevate site closures to the State Water Board.
  2. Facilitate claimant's ability to obtain financing.
  3. Create a task force to improve Cleanup Fund administration procedures and the UST Regulatory Program.
  4. Enhance the Cleanup Fund's web page to improve transparency of the payment request queue and approvals to aid claimants with payment receipt projections.
  5. Complete development of an updated Leaking Underground Fuel Tank (LUFT) manual.

## **Audit and Task Force Findings and Recommendations**

The State Water Board directed an independent program and fiscal audit of the Cleanup Fund which was completed in early 2010. The results of the program audit are posted on the State Water Board's web site at:

[http://www.waterboards.ca.gov/water\\_issues/programs/ustcf/docs/audit\\_rpt022210.pdf](http://www.waterboards.ca.gov/water_issues/programs/ustcf/docs/audit_rpt022210.pdf).

In addition, State Water Board Resolution 2009-0042 directed the creation of a Task Force to review the Cleanup Fund and the circumstances associated with its 2008/2009 cash-flow crisis and make recommendations for process improvement. Task Force members represented a diversity of stakeholders affected by the Cleanup Fund including UST owners and operators, environmental consultants, regulatory agency staff, and representatives from the Western States Petroleum Association, the California Independent Oil Marketers Association and the Sierra Club. The Task Force met approximately twice a month from June 2009 through December 2009.

The findings and recommendations of both the audit and task force were consistent and centered around four topics.

- Financial Management
- Cost Containment
- Processing Efficiency
- Internal Controls

In response to the findings of the task force and audit review, the State Water Board began developing a new business model.

The following summarizes actions implemented and to be implemented to address the findings and recommendations of both the task force and audit.

### **Financial Management and Cost Containment**

The State Water Board plans to bring long term demand into balance with revenue by reducing the number of active claims and reducing the average cost per claim. The reduction in active claims will be accomplished by an ongoing review of older claims and quickly moving them to closure when site conditions warrant. Cost savings for active sites will be achieved by developing individual site budgets for Priority Class A, B and C claims.

#### **Actions:**

- The State Water Board directed that groundwater monitoring be reduced to twice annually instead of four times a year. This will save an estimated \$30 million annually.

- The State Water Board directed that all Regional Board and LOP agencies complete reviews on all cases by June 2010 for closure or movement to closure.
- State Water Board staff accelerated the review of older Cleanup Fund cases to determine closure under existing H&SC authority. State Water Board staff are bringing cases before the State Water Board for closure consideration. The first sets of cases were heard by the State Water Board in January and April 2010.
- The State Water Board created and filled a Cleanup Fund Financial Manager position. The Cleanup Fund Financial Manager is responsible for determining the number of active claims the program can support. In addition, the Cleanup Fund Financial Manager will conduct regular cash flow projections and provide projection reports to the State Water Board stakeholders and Cleanup Fund claimants.
- State Water Board staff will manage the number of active claims to ensure demand is in balance with revenues. Funding for new claims will be issued once a year dependent on available funding and approval of a project budget.
- State Water Board Staff began analyzing expenditures by types of costs and project phases to help develop long term cash flow planning for placement in budget categories.
- State Water Board staff began project budget development for all Priority Class A, B and C claims. This will establish costs limits for individual claims and enable development of program cash flow demand projections. Setting project budgets for claimants will lead to faster and more efficient cleanups by focusing all cleanup work toward the ultimate goal of case closure.
- State Water Board staff began imposing a stay on any additional payments for claims determined ready for closure under the Five Year Review process while the case is elevated to the State Water Board for formal closure consideration.

## **Processing Efficiency**

The State Water Board is improving claim processing time through the use of standardized invoices and simplified procedures. State Water Board staff have implemented numerous changes in this area and continue to transition to a more effective budgeted-claim approach.

### **Actions:**

- The State Water Board formed a stakeholder advisory group to provide feedback and suggestions for changes in the Cleanup Fund's program business model.
- The State Water Board temporarily redirected Claims Eligibility staff from claim eligibility processing to payment processing to reduce the backlog of payment requests.

- State Water Board staff:
  - Moved from a two step to a one step process to encumber and pay funds. This saves staff time, processing time and paper.
  - Moved to a “risk” approach for conducting compliance reviews at regulatory agencies to reduce both claim processing time and costs for travel on new applications.
  - Reduced the number of steps and staff involved with reviewing a payment, which also reduced wait time.
  - Eliminated the requirement for submittal of hard-copy reports when the reports are available on the State Water Board’s online cleanup program database, GeoTracker.
  - Developed a vendor affidavit to provide proof of payment rather than submittal of cancelled checks.
  - Eliminated the need for original wet signatures on some forms where legally defensible to facilitate submittal by email and FAX.
  - Developed and will continue to develop more user-friendly forms for claimants.
  - Enhanced and continue to improve the Cleanup Fund web site to better inform claimants about the status of payments thereby reducing telephone calls and email response demands.
  - Plan to standardize invoice formats and establish regular reimbursement schedules for budgeted claims. This will improve processing speed and allow the State Water Board to better manage cash flow and workloads.

## Improve Internal Controls

State Water Board staff began implementing changes to strengthen internal controls.

- State Water Board staff established an independent Fraud Team in the State Water Board’s Enforcement Office to pursue allegations of fraud, waste, and abuse.
- State Water Board staff plans to establish:
  1. a real time payment audit and review process to ensure payment reviews are accurate.
  2. management level quality control processes to evaluate claim processing procedures.

A complete copy of the Task Force report is posted on the Cleanup Fund’s web site:

[http://www.waterboards.ca.gov/water\\_issues/programs/ustcf/docs/taskforce/tf\\_final\\_rpt.pdf](http://www.waterboards.ca.gov/water_issues/programs/ustcf/docs/taskforce/tf_final_rpt.pdf)

A complete copy of the Audit Report is posted on the Cleanup Fund's web site:

[http://www.waterboards.ca.gov/water\\_issues/programs/ustcf/docs/audit\\_rpt022210.pdf](http://www.waterboards.ca.gov/water_issues/programs/ustcf/docs/audit_rpt022210.pdf)

## **Chapter 649 Statutes of 2009 (AB 1188, Ruskin)**

On November 4, 2009, the Governor signed Chapter 649, Statutes of 2009 (AB 1188, Ruskin) which took effect immediately, this bill:

- Temporarily increases the UST petroleum storage fee by \$0.006 to two cents per gallon for a two year period from January 1, 2010, through December 31, 2011.
- Allows the School District Account to use funds for all school district claims regardless of priority class.
- Authorizes reimbursement of carrying costs for some claimants.

The additional revenue resulting from Chapter 649/2009 will allow the program to make payments on more than \$100 million in outstanding payment requests. It also provides the Cleanup Fund an opportunity to implement changes necessary to prevent the cash shortage from being repeated.

# Sub Accounts

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There are five active accounts that were established through legislation.

## Emergency Abandoned and Recalcitrant Account

The Emergency Abandoned and Recalcitrant (EAR) Account was established in 1991. The EAR Account provides funding to Regional Water Boards and Local Agencies to initiate corrective action at petroleum UST sites which have had an unauthorized release and which require either:

- An immediate or prompt action response at a site to protect human health, safety, or the environment; or
- Action at a site where a responsible party (RP) cannot be identified or located (abandoned site); or
- The identified RP is either unable or unwilling to take the required corrective action (recalcitrant site).

The emergency funds are a critical resource and are used to abate explosive gasoline vapors, abate the migration of highly contaminated groundwater to residential areas and nearby creeks, deliver potable water to residents whose private wells were contaminated with petroleum, and install well head treatment on impacted domestic wells. All EAR Account costs are subject to cost recovery from the responsible parties. Since establishment of the EAR Account 45 sites have received \$10.5 million in reimbursements and 8 sites have been closed.

| FY 2009/2010<br>EAR Account |                       |                  |
|-----------------------------|-----------------------|------------------|
| Sites                       | Payments<br>Processed | Total<br>Payment |
| 16                          | 80                    | \$1,014,083      |

## Commingled Plume Account

The Commingled Plume Account (CPA) was created to encourage responsible parties with commingled plumes to coordinate their cleanup efforts, avoid litigation, more rapidly address required cleanups, and significantly reduce the costs of cleanup.

The CPA provides multi-site funding where a commingled plume has been confirmed by the regulatory agency. A commingled plume is defined as the condition that exists when groundwater polluted with petroleum from two or more discrete unauthorized

release sites have mixed or encroached upon one another to the extent that the corrective action performed on one plume will necessarily affect the other. Commingled plume sites represent a special groundwater protection problem because they often represent more serious water quality impacts, involve parties that disagree as to liability, and include cleanups that are stalled or handled in a piecemeal, haphazard, or expensive manner. Unless coordinated, commingled plume site corrective action is often ineffective.

Since establishment of the CPA Account:

- 64 CPA applications were reviewed
- 49 CPA applications were determined eligible
- 39 CPA claims were reimbursed for a total of \$55 million
- 4 CPA sites have been closed

| <b>FY 2009/2010<br/>CPA Account</b>   |                                     |                                |
|---------------------------------------|-------------------------------------|--------------------------------|
| <b>Sites<br/>Requesting<br/>Funds</b> | <b>Reimbursements<br/>Processed</b> | <b>Total<br/>Reimbursement</b> |
| <b>28</b>                             | <b>51</b>                           | <b>\$5,492,633</b>             |

## **School District Account**

Prior to 2008, all School District Claims were paid out of the primary Cleanup Fund Account. Historically, limited funding has been available to Priority Class D claims for school districts due to the number of active claims in the higher priority classes.

Chapter 644 Statutes of 2008, (AB 2729, Ruskin), established the School District Account (Account) within the Cleanup Fund. Specifically, the Account assists Priority Class D school districts with reimbursement of corrective action costs. Chapter 644/2008 transfers \$10 million per year from the Cleanup Fund into the School District Account during FY 2009/10, FY 2010/11 and FY 2011/12 totaling \$30 million. Funds from the School District Account must be obligated by July 1, 2012, and liquidated on or before June 30, 2014.

In November 2009, Chapter 649/2009 amended AB 2729 allowing Priority B and C School District claims to be included in the School District Account. The change was effective January 1, 2010.

Currently, all school district claims are being reimbursed through the School District Account. The State Water Board received a total of 236 school district claims

statewide. The chart below identifies the claims funded only through the School District Account initially established in 2008.

| <b>FY 2009/2010<br/>School District Account</b> |                         |                         |                         |                    |
|---|-------------------------|-------------------------|-------------------------|--------------------|
| <b>Funded School District Claims</b>            | <b>Priority Class B</b> | <b>Priority Class C</b> | <b>Priority Class D</b> | <b>Total</b>       |
| <b>School District Applications</b>             | <b>13</b>               | <b>16</b>               | <b>22</b>               | <b>51</b>          |
| <b>School District Payments</b>                 | <b>\$716,193</b>        | <b>\$1,061,785</b>      | <b>\$4,387,758</b>      | <b>\$6,165,736</b> |

The chart below identifies the cumulative claims funded through the Cleanup Fund and the School District Account. As mentioned above all School Districts are currently being funded through the School District Account.

| <b>Cumulative Total for<br/>Fund and School Accounts</b> |                    |                    |                    |                     |
|--|--------------------|--------------------|--------------------|---------------------|
|  | <b>Priority B</b>  | <b>Priority C</b>  | <b>Priority D</b>  | <b>Totals</b>       |
| <b>Claims Funded</b>                                     | <b>58</b>          | <b>50</b>          | <b>56</b>          | <b>164</b>          |
| <b>Payments Released</b>                                 | <b>\$7,741,024</b> | <b>\$7,346,304</b> | <b>\$6,772,345</b> | <b>\$21,859,673</b> |

## **Orphan Site Cleanup Fund**

Chapter 616, Statutes of 2008, (SB1161, Lowenthal), established the Orphan Site Cleanup Fund (OSCF) . OSCF is a reauthorized program of the Orphan Site Cleanup Account (OSCA) to continue and pay for the cleanup of brownfield petroleum UST contaminated sites where there is no financially responsible party (orphan sites). The OSCF received a \$10 million transfer of funds from the Cleanup Fund for fiscal years 2008/2009, 2009/2010 and 2010/2011. The OSCF is scheduled to sunset on January 1, 2016.

## American Recovery and Reinvestment Act

The State Water Board received \$15.6 million in federal stimulus money through the American Recovery and Reinvestment Act (ARRA) from the federal Leaking UST (LUST) Trust Fund. The funds are being disbursed through the OSCF to fund projects and UST Cleanup personnel efforts toward closing sites. The State Water Board used existing regulations and procedures that are consistent with federal requirements to award and disburse ARRA funds for eligible OSCF projects. The OSCF seeks eligible applicants that meet established eligibility requirements and provide financial assistance on orphan site shovel ready projects.

| <b>FY 2009/2010<br/>OSCF Account</b>  |                               |                          |
|---------------------------------------|-------------------------------|--------------------------|
| <b>Sites<br/>Requesting<br/>Funds</b> | <b>Payments<br/>Processed</b> | <b>Total<br/>Payment</b> |
| <b>13</b>                             | <b>39</b>                     | <b>\$818,767</b>         |

Since the OSCF was established in 2009:

- Received 45 project applications;
- Determined 39 project applications were eligible;
- 31 projects received either State or ARRA grant funding totaling \$9.8 million
- 17 projects formerly funded under the OSCA, received OSCF funds to complete the cleanup

## Drinking Water Research Fund

The H&SC permitted the California Department of Public Health (CDPH) to annually request that the Cleanup Fund transfer up to \$5 million to the CDPH Research Fund (Research Fund). CDPH used the Research Fund to address public drinking water wells contaminated by motor fuel oxygenates (usually methyl tertiary butyl ether (MTBE)), where there was substantial evidence that the contamination was caused by a UST release.

The law permitted CDPH to request an annual transfer when unencumbered funds in the Research Fund were less than \$2 million. The Research Fund sunsetted on December 31, 2009. A total of \$20 million was transferred during fiscal years 2001/02, 2002/03, 2004/05, and 2005/06. The State Water Board does not track the expenditures authorized by the CDPH from the Research Fund.

Additional information on the Research Fund can be found at the CDPH web site:

<http://www.cdph.ca.gov/services/funding/Pages/DWTRF.aspx>

# Conclusion

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The State Water Board continues to make significant progress in improving (a) financial management and cost containment, (b) processing efficiency, and (c) internal controls for the Cleanup Fund. Implementation of key additional steps, including placing all small business claims on a budget, is planned to be complete by July 2011.

FY 2011/12 will be a test year for these significant changes to the State Water Board, and any necessary further changes and improvements will be implemented as they are identified through continued ongoing process improvement reviews. It is anticipated that the State Water Board will be operating on a “business as normal” basis incorporating all the planned changes by July 2012.

# Legislation

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[Chapter 649 Statutes of 2009, \(AB 1188, Ruskin\)](#), effective January 1, 2010, is an urgency measure that: 1) provides a \$0.006 increase to the UST storage maintenance fee from January 1, 2010, until January 1, 2012; 2) requires the State Water Board to post on its web site within 90 days of completion the result of a program or fiscal audit of the Cleanup Fund; 3) expands reimbursement from the School District Account to Priority Class B and C school district claims; 4) allows some claimants who have approved but unpaid claims to be reimbursed for carrying costs related to obtaining other financing; 5) makes a clarifying change to the grant awards process for the Replacing, Removing, or Upgrading Underground Storage Tanks (RUST) grants allowed pursuant to Chapter 69, Statutes of 2009, (AB 96, Ruskin).

[Chapter 644 Statutes of 2008, \(AB 2729, Ruskin\)](#), effective January 1, 2009, established the School District Account in the Cleanup Fund and transfers a total of \$30 million over three years from the Cleanup Fund to the School District Account. AB 2729 authorizes the State Water Board to make expenditures from the School District Account to reimburse Priority Class D school district claims, and requires the State Water Board to consult with the State Department of Toxic Substance Control in allocating the funds to school districts.

[Chapter 616 Statutes of 2008, \(SB 1161, Lowenthal\)](#), effective January 1, 2009, established the Orphan Site Cleanup Fund (OSCF) in the State Treasury. OSCF is a reauthorized program of the Orphan Site Cleanup Account (OSCA) to continue and pay for the cleanup of brownfield petroleum UST contaminated sites where there is no financially responsible party (orphan sites). The OSCF sunsets on January 1, 2016, and will receive a \$10 million transfer of funds from the Cleanup Fund for fiscal years 2008/09, 2009/10 and 2010/11.