



## **EXPEDITED CLAIM PILOT PROJECT REPORT**

### **UNDERGROUND STORAGE TANK CLEANUP FUND PROGRAM STATE WATER RESOURCES CONTROL BOARD**

**December 29, 2017**



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## Executive Summary

This report has been prepared to comply with Senate Bill (SB) No. 445 (Hill, 2014), which added Section 25299.50.7 of the California Health and Safety Code. SB 445 requires an evaluation of the effectiveness and efficiency of the Underground Storage Tank (UST) Cleanup Fund (Fund) Expedited Claim Pilot Project (Pilot Project), undertaken by the Expedited Claim Account Program (ECAP). The Fund transferred \$100 Million to ECAP to fund the Pilot Project. The goal of ECAP is to reduce the cost for site cleanup and the time for UST cases to achieve regulatory closure under the Low-Threat UST Case Closure Policy (Policy), adopted by the State Water Resources Control Board on August 17, 2012 under Resolution 2012-0016.

The Pilot Project was conducted from July 1, 2016 through June 30, 2017, with approximately 100 UST Fund claims participating. The priority distribution of the Pilot Project participants generally matched the priority distribution of non-ECAP claims in the Fund.

The ECAP process includes a series of collaborative communications with a Joint Execution Team (JET) consisting of Fund staff, regulatory staff, the claimant and their consultant. Using the ECAP process, each of the sites in the Pilot Project was evaluated against the Policy, and data objectives, milestones, and a general approach to achieve closure was determined. By having all stakeholders participate in the JET meetings, expectations regarding scope of work, schedule, costs, and anticipated reimbursements were clearly defined prior to implementation of tasks.

In order to quantify the potential reduction of cost and time to closure, ECAP staff proposed several performance metrics in the areas of: Scope of Work Efficiencies, Policy Evaluation Efficiencies, and Projections to Closure Efficiencies. A performance evaluation method was also created for the reimbursements process. These proposed metrics were expanded based on input from key stakeholders. Data from 40 claims in the Pilot Project and a limited number of non-ECAP claims were used in the metric evaluations.

The results of the Pilot Project indicated the following potential benefits for the ECAP process for a claim in the Pilot Project:

- An approximate average cost savings of \$95,763 and time savings of 11.7 months per claim
- Fewer ineligible costs
- Faster technical review of reimbursement requests

Based on the results of the Pilot Project, the following long-term projections were made:

- At least 75% of the Pilot Project cases are projected to be closed within 2 years, and at least 92% are projected to be closed within 5 years.
- The \$100 Million appropriated for ECAP could provide reimbursements for at least 464 Fund claims in addition to the 104 existing ECAP claims.

The results of the Pilot Project demonstrate that the ECAP process is an effective method for reducing the costs and time to bring a UST case to regulatory closure. Improved and increased communication between stakeholders has clarified scope, expedited decision-making and project implementation, and reduced ineligible costs. Use of multi-year budgets has expedited the funding and reimbursements of site cleanup activities.

## 1. Background

Most sites that are accepted into the Underground Storage Tank (UST) Cleanup Fund (Fund) are open unauthorized petroleum release cases under the jurisdiction of the appropriate regulatory agency: the Regional Water Quality Control Board (Regional Water Board) or Local Oversight Program (LOP). Each agency assigns a site a unique case number. When a site is accepted into the Fund, it is assigned a unique claim number to track Fund reimbursements. Each site has a regulatory case number and a Fund claim number. The term “case” generally refers to the environmental activities performed, and the term “claim” refers to financial reimbursement.

The responsible party (RP) is defined in California Code of Regulations, Title 23, Division 3, Chapter 16, Article 11, Section 2720 and typically is a person or entity that formerly owned or operated USTs associated with an unauthorized release. The claimant is the owner or operator of a UST from which there has been an unauthorized release of petroleum for which a claim to the Fund is permissible under Chapter 6.75 of Division 20 of the California Health and Safety Code. While not always the same entity, the RP is legally responsible for the cleanup of an unauthorized release case, whereas, the claimant is an owner or operator seeking reimbursement for a claim associated with the unauthorized release.

On May 1, 2012, the State Water Resources Control Board (State Water Board) adopted Resolution 2012-0016, which implemented the Low-Threat UST Case Closure Policy (Policy) as a water quality control regulation for petroleum UST cleanup sites subject to Chapter 6.7 of the California Health and Safety Code. The Policy sets general and media-specific criteria for closure. If the criteria are satisfied, sites are considered to pose a low threat to human health and the environment and are eligible for case closure. Resolution 2012-0016 included a directive to the Regional Water Boards and LOPs to review all cases in the UST Cleanup Program using the framework provided in the Policy.

On November 6, 2012, the State Water Board adopted Resolution 2012-0062, which approved the Plan for Implementation of Low-Threat Underground Storage Tank Case Closure Policy and Additional Program Improvements (Policy Plan). The Policy Plan directed a number of actions for the State Water Board, Regional Water Boards, and LOPs, including aggressively implementing the Policy Plan and reviewing site-specific conditions to determine if site conditions meet Policy criteria for closure.

The Fund is scheduled to sunset on January 1, 2026. Claim reimbursement demand on the Fund is projected to be \$3.5 Billion between 2014 and 2026. The projected fee revenue available for claim reimbursement through the sunset date is estimated at \$2.9 Billion. Thus, a funding shortfall of about \$600 Million is projected.

Feedback from stakeholders indicates inconsistencies in the interpretation of the Policy and the actions necessary to meet the closure criteria of the Policy. Inadequate processes for managing the assessment and corrective actions required by the regulatory agencies increased the cost for site cleanup and extended the time to reach case closure at many sites. In many cases, the \$1.5 Million Fund allocation was poorly spent on unnecessary tasks or remediation methods ineffective for site-specific conditions. As a result, many claimants exceeded their maximum claim reimbursement before site closure was obtained, creating a potentially

avoidable financial burden. To address these obstacles, State Water Board staff determined that increased stakeholder communication and a more structured case and claim review process would significantly reduce the cost and time to reach case closure under the Policy.

In response to the aforementioned events, in 2014 the Legislature enacted SB 445 which required the State Water Board to investigate potential methods to reduce the overall cost for site cleanup and the time to reach closure. SB 445 added Section 25299.50.7 to the California Health and Safety Code to create the Expedited Claim Account Program (ECAP) within the Fund and a Pilot Project to implement the ECAP. Experiences and data gained from the Pilot Project are anticipated to enable Fund staff, regulatory agencies, claimants and their consultants, collectively, to increase the efficiency of UST cleanups and optimize the use of limited Fund resources.

## 2. SB 445 Objectives for Pilot Project

SB 445 specified the following actions under Health and Safety Code section 25299.50.7 for the development and implementation of ECAP:

- Transfer \$100 million dollars from the Fund to the new Expedited Claim Account to reimburse eligible corrective action costs of claims selected to be part of the Pilot Project. The maximum reimbursement amount remains unchanged for claims selected to participate in the Pilot Project.
- With stakeholder input, investigate potential methods to reduce the overall cost for site cleanup and the time to reach closure including, but not limited to:
  - Establish multi-year funding for claims.
  - Increase collaboration among Fund staff, regulatory staff, and claimants and their consultants.
  - Establish project milestones, cost estimates, and reimbursement submission schedules.
- Develop criteria for the selection of claims to participate in the Pilot Project, at a minimum, considering:
  - The threat to human health, safety, or the environment caused by contamination at the site that is the subject of the claim.
  - The priority ranking assigned to the claim pursuant to Health and Safety Code Section 25299.52.
  - The progress of cleanup at the site that is the subject of the claim.
- Select a limited number of claims to participate in the Pilot Project from all priority rankings to implement potential improvement methods.
- Include the following in the State Water Board's Annual UST Fund Report:
  - Information on the expenditure of funds transferred to the ECAP.
  - Amount of reimbursements requested by claimants participating in the Pilot Project.
  - Amount of reimbursements paid to claimants in the Pilot Project.
- On or before January 1, 2018, prepare and post on the State Water Board's website a Pilot Project Report analyzing:
  - The effectiveness and efficiency of the Pilot Project in expediting the funding of claims.
  - The effectiveness and efficiency of the Pilot Project in expediting the completion of site cleanups.

## Expedited Claim Pilot Project Report

- Projections of the long-term demand on the Fund, as forecast by metrics developed by the State Water Board in consultation with stakeholders.
- Periodically, update the Pilot Project Report and post it on the State Water Board's website.

The State Water Board interpreted the SB 445 phrase “expediting funding of claims” as expediting the decision-making associated with reviewing reimbursement requests for reasonable and necessary expenses, and not as expediting the payment of reimbursement requests. This approach was taken to single out the effectiveness of the ECAP collaborative process. ECAP claims did not receive a preferred payment schedule; they were paid following the “first in, first out” method used for non-ECAP claims. Claims in ECAP were subjected to the same requirements for submitting reimbursement requests as non-ECAP Fund claims.

### 3. ECAP Development

The State Water Board staff held several meetings with stakeholders in early 2015 to identify criteria for claim participation in the Pilot Project and establish goals for Pilot Project participation.

#### 3.1 Development of ECAP Participant Criteria

The degree of potential threat to human health, safety, and the environment caused by the contamination and the progress of cleanup to date were key factors for consideration. Cases that met one or more of the following four criteria were selected for Pilot Project participation:

- 1) The case had or may have impacted a nearby public water supply well.
- 2) The case posed the potential for vapor intrusion to indoor air.
- 3) The status of the claim (based on budget category) had not changed in over 5 years.
- 4) The claim expenditures exceeded \$750,000. An additional subset category was also established for claims that exceeded \$1 Million.

State Water Board staff determined that the distribution of claim priority ranking in the Pilot Project should reflect the distribution of claim priority ranking in the Fund. The goal was to have 50 claims participating in the Pilot Project for an effective claim load and study group size. The claim priority ranking designation, A, B, C, or D, is assigned as defined in California Code of Regulations Title 23, Division 3, Chapter 18, Article 4, Section 2811.1 and described as follows.

- **Priority A:** a tank located at the residence of a person on property used exclusively for residential purposes at the time of discovery of the unauthorized release of petroleum.
- **Priority B:** Owners and operators of tanks that are either a small business or is a city, county, district, or nonprofit organization that receives total annual revenues of not more than seven million dollars (\$7,000,000).
- **Priority C:** Owners or operators of tanks that either employs fewer than 500 full-time and part-time employees, is independently owned and operated, and is not dominant in its field of operation or is a city, county, district, or nonprofit organization that employs fewer than 500 full-time and part-time employees.
- **Priority D:** All other tank owners and operators.

### **3.2 Pilot Project Solicitation**

ECAP staff first solicited the lead agencies (nine Regional Water Boards and 12 LOPs) for candidate projects for the Pilot Project. Each lead agency was asked to nominate ten cases that fit the Pilot Project criteria. ECAP staff sent out the first batch of invitations to join the Pilot Project in April 2016. As responses were received, ECAP staff tracked the priority ranking of claims to meet percentage goals. Additional invitations were periodically mailed out, with more invitations going to priority ranking groups that were below the percentage goal. Finally, ECAP staff made phone calls to claimants that were unresponsive as an additional effort to achieve the priority ranking goals.

The invitations requested a response within 30 days, and if not participating, to provide a reason for declining the invitation. The typical reasons for not participating were:

- 1) Closure has been requested or approved.
- 2) The path to closure is well established and feasible.
- 3) Remediation is complete and remaining costs are relatively insignificant.
- 4) The claimant was not satisfied with the Fund (for various reasons).

### **3.3 ECAP Implementation**

The key strength of ECAP is the Joint Execution Team (JET). The JET consists of the Fund staff, regulatory staff, the claimant and their consultant. In a series of teleconferences, the JET defines data objectives, milestones, and the general approach to undertaking the activities to meet Policy closure criteria. The JET directly communicates the current status and projected path to closure of the case. Each party brings an area of expertise to the group. Regulatory staff and ECAP staff align and focus the directives and funding toward conditions that do not meet Policy criteria for closure. The consultant provides direct communication about the conceptual site model, investigation, and remediation. By having all stakeholders participate in the JET meetings, expectations regarding scope, schedule and cost of work are clearly defined prior to implementation of tasks. ECAP staff document each meeting, distribute the notes to the JET for comment or correction, and retain the notes for historical record.

The JET develops, agrees upon, and follows a dynamic Project Execution Plan (PEP) for the case. The PEP is a multi-year budget and work plan that details the tasks, costs, and projected timeline through case closure. The agreed-upon PEP reduces the likelihood of ineligible costs within reimbursement requests; thus, reducing Fund staff time necessary to process the reimbursement requests.

Any JET member may alert all other JET members if an issue arises that may affect implementation of the agreed-upon PEP. JET meetings are accomplished via teleconference, web-conference, face-to-face meetings, or other means agreed upon by the participants, and are conducted at least twice annually to evaluate and update the PEP. ECAP staff track the implementation of tasks, review reimbursement requests, and address feedback from the JET. The coordination among the JET members and development and implementation of the PEP satisfies the requirements of SB 445 regarding stakeholder participation.

Establishing a quarterly reimbursement submission schedule to fulfill the requirement of SB 445 was considered; however, imposed invoicing dates were determined not to be the best approach because it may encourage progressive billing or splitting tasks between billing cycles. Instead, because site assessment and remediation activities are usually task-driven, ECAP encouraged claimants and their consultants to submit invoices as tasks were completed.

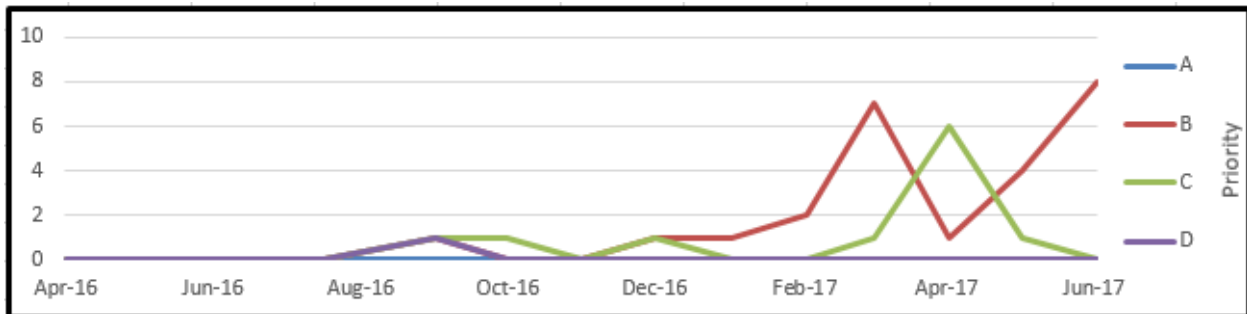


State Water Board staff drafted the Expedited Claim Pilot Project Implementation Plan (Implementation Plan) using the established criteria. The State Water Resources Control Board approved the Implementation Plan under Resolution 2017-54.

### 3.4 ECAP Growth

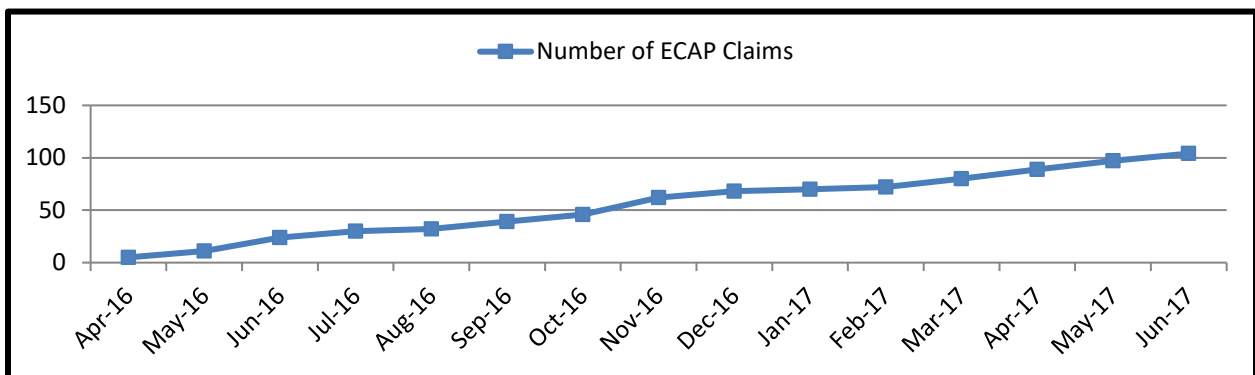
Once RPs, claimants and consultants became aware of ECAP, an increasing number volunteered to participate in ECAP. Most of these volunteers were responsible for several UST cases and cited a positive experience with one of their claims in ECAP as the reason.

**Graph 1 Number of Volunteers per Month Joining ECAP**



Graph 1 shows the number of claimants per month that volunteered to participate in ECAP during and after the Pilot Project study period. Claimants continue to volunteer for ECAP at a rate of approximately five claims per month. Graph 2 shows the ECAP participation growth over time. As of June 30, 2017, a total of 104 claims (both invitees and volunteers) had been accepted into ECAP.

**Graph 2 ECAP Participation Growth**



## 4. Pilot Project Results

The first claim invitation acceptance into the Pilot Project was received on April 21, 2016. ECAP staff selected Fiscal Year 2016/2017 (July 1, 2016 to June 30, 2017) as the timeframe for data collection and evaluation for the Pilot Project Report.

### 4.1 Priority Ranking Distribution and Volunteers

The goal of obtaining claims with a priority ranking distribution similar to the Fund as a whole was generally achieved. The solicitations distribution matched the priority ranking distribution, as shown in Table 1. “A” priority claims were not solicited, since the goal was 1%, and one claim accepted would have exceeded the goal. A total of 214 claimants and their consultants were invited to participate in the Pilot Project. Of those invited, 54% responded, and of the respondents, 74% accepted. The D priority group was the largest group (46% of their responses) to decline the invitation to participate.

Table 1 Priority Ranking Distribution of Pilot Project Participants						
Priority	Goal	Invited		40 Selected Sites		
	%	%	#	Invited	Volunteered	Final
				#	#	%
A	1	0	0	0	0	0
B	55	54	115	19	8	67
C	33	26	56	4	5	23
D	11	20	43	4	0	10
<b>Totals</b>			214	<b>27</b>	<b>13</b>	

% Percent

# Number of participants

Because the initial number of invitation acceptances was low, volunteers were also considered for the Pilot Project. The volunteer claims were evaluated for participation criteria and most were accepted regardless of priority ranking. The 40 claims selected for the Pilot Project were a subset of the 104 claims that had been accepted into ECAP as of June 30, 2017.

### 4.2 Study Group

The 40 claims used for the Pilot Project were the first 40 claims for which a PEP was completed, not necessarily the first 40 claimants who agreed or volunteered to participate in the Pilot Project. Most of the 40 Pilot Project participants were very motivated to move their sites toward closure by focusing on the unmet closure criteria of the Policy and developing a mutually-agreed-to path forward.

By the beginning of the Pilot Project study period on July 1, 2016, ECAP staff had held JET meetings for 40 ECAP claims, the criteria not met under the Policy had been identified, and the scopes of work to be performed to move the sites toward achieving Policy criteria had been agreed upon. In addition, the consultants had prepared multi-year PEPs with estimated costs for the scopes of work to be performed, and projected costs for the following years until the sites achieved closure under the Policy. The JETs had agreed upon the information in the PEPs. These 40 claims were the 40 claims evaluated in the Pilot Project.

The initial expectation for the Pilot Project, developed in the draft Implementation Plan, was 50 claims for an effective claim load and study group size. While the number of claims with PEPs was lower than expected, the quantity was sufficient to generate meaningful preliminary data and forecasting.

Prior to joining the Pilot Project, the 40 claims had already been reimbursed an average of \$669,377. The maximum reimbursement was \$1,308,419 and the minimum reimbursement was \$21,603. These numbers indicate that the claims selected for the Pilot Project represented sites at various stages in the assessment and remediation process required to obtain regulatory closure.

### **4.3 Case Study**

The following Pilot Project case study illustrates the benefits of using the ECAP process on a claim. For this claim, the estimated funds saved is at least \$400,000 in excavation and groundwater monitoring costs.

The Site is a former fuel dispensing facility located in metropolitan southern California. The petroleum USTs were removed in 1984, and approximately 175 tons of impacted soil were excavated and disposed offsite at that time. Remediation efforts included free product recovery and soil vapor extraction with air sparging. Remediation removed approximately 2,000 pounds of petroleum hydrocarbons. Thirteen groundwater monitoring wells had been monitored since 1984.

Prior to ECAP participation, the Low-Threat Closure Checklist in GeoTracker indicated that the case did not meet any of the media-specific Policy criteria (Groundwater, Vapor Intrusion to Indoor Air, and Direct Contact and Outdoor Air Exposure). In addition, the checklist indicated that secondary source had not been removed to the extent practicable. When the case entered the Pilot Project, a work plan to perform remedial excavation of contaminated soil had been approved by the regulatory agency. The estimated cost for the proposed remedial excavation was \$400,000.

During the JET meeting, and as a result of a review of the site history and available data, the JET determined that the Site met the Groundwater media-specific Policy criteria under Class 1. Rather than perform the proposed remedial excavation, the JET decided to collect soil gas samples and shallow soil samples to obtain the data necessary to evaluate the Vapor Intrusion to Indoor Air and the Direct Contact and Outdoor Air Exposure criteria to determine whether secondary source had been removed to the extent practicable. The estimated cost for the sampling activities was approximately \$20,000, and the actual cost was approximately \$23,000.

Upon review of the investigation results, the JET agreed that Policy criteria for closure had been met. No additional investigation or remedial excavation was necessary, and groundwater monitoring activities could be terminated upon receipt of pre-closure notification from the regulatory agency. That decision eliminated future costs for groundwater monitoring, and allowed planning for well destruction activities to occur earlier than previously anticipated. The regulatory agency stated they intended to issue a closure letter within the year.

### **4.4 Cost and Time to Closure Evaluations**

To quantify the potential reduction of cost and time to closure, ECAP staff developed several methods to evaluate the ECAP method in the Pilot Project. Three performance metrics were developed:

- **Scope of Work Efficiencies**, which compared the proposed scope of work for a claim prior to entering the Pilot Project, to the scope of work agreed upon in the JET meeting for the claim;
- **Policy Evaluation Efficiencies**, which compared the criteria not met on the LTCP checklist for a claim prior to entering the Pilot Project compared to the criteria not met on the LTCP checklist after the JET meeting for a claim; and
- **Projections to Closure**, which project the number of years a claim is likely to remain open and the estimated costs for each year the claim remains open. The projections were only completed for ECAP claims since multi-year plans and budgets are not available for non-ECAP claims.

Each performance evaluation method is described in greater detail below.

#### 4.4.1 Scope of Work Efficiencies

The first method compared the proposed scope of work for a claim prior to entering the Pilot Project to the scope of work agreed upon in the JET meeting for the claim. For each claim ECAP staff reviewed the agency directives, proposed and approved work plans, and budget change requests submitted to the Fund to identify the scope of work that had been planned for the site prior to entering the Pilot Project. ECAP staff compared the pre-Pilot Project scope of work for a claim to the scope of work that was agreed upon during the initial JET meeting for the claim. For 37 of the 40 claims in the Pilot Project the scope of work was either increased or decreased. For three ECAP claims the scope of work proposed prior to joining the Pilot Project was agreed upon by the JET, and therefore was not changed.

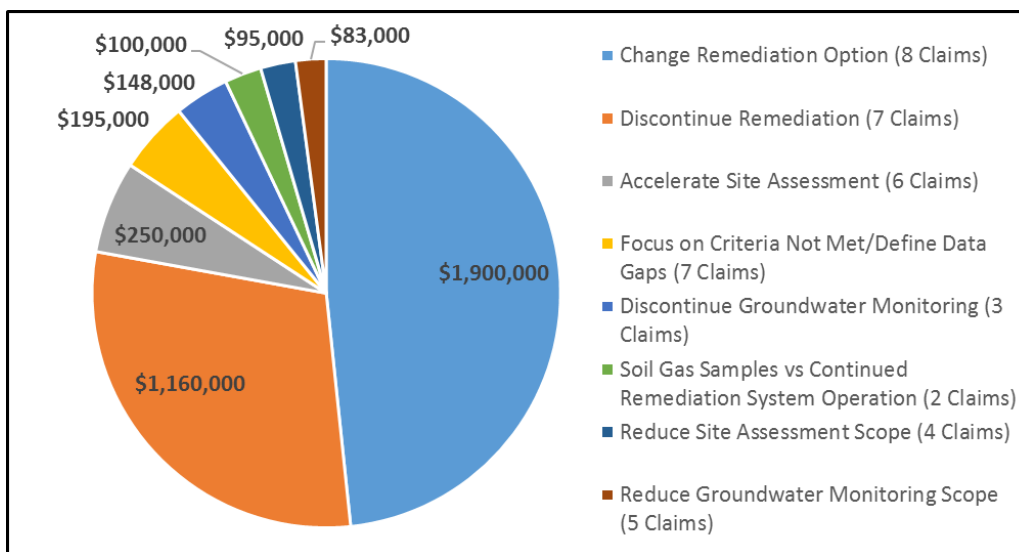
After the initial JET meetings, the scope of work costs for a claim were reduced by an average of \$95,763 and the estimated time to closure was reduced by an average of 11.7 months.

The maximum cost saved was \$500,000, for two sites. One site had an approved Corrective Action Plan (CAP) for a large excavation. The JET agreed that Policy criteria were met and the planned remediation was not necessary. The plan for excavation was discontinued. The other site also had a proposed CAP for a large excavation. The JET agreed that most of the Policy criteria were met and the remediation strategy was changed from excavation to monitored natural attenuation.

The maximum time saved was 60 months for one site. Prior to joining the Pilot Project, the path to closure for this site included continued free product removal and monitoring. Based on the information shared in the JET meeting, the JET agreed that the free product was originating from an offsite source and no additional monitoring or remediation was required. Instead, the regulatory agency decided to move the case toward closure.

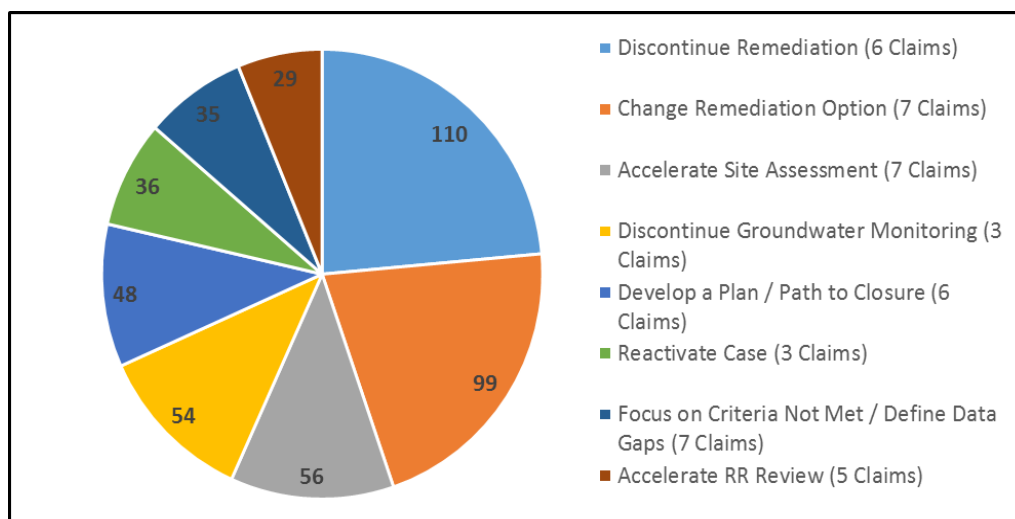
The minimum cost and time saved on a claim by SOW evaluation method was \$0 and zero hours, for the three ECAP claims for which the scope of work did not change.

**Graph 3 Total Scope of Work Cost Savings (\$)**



Graph 3 displays the total cost savings for each of 8 categories describing a scope of work change that had an associated cost savings. The number of claims that had a cost savings in that category are listed in parentheses after the description. Graph 4 displays the total time savings for each of 8 categories describing a scope of work change that had an associated time savings. The number of claims that had a time savings in that category are listed in parentheses after the description.

**Graph 4 Total Scope of Work Time Savings (Months)**



The data show that the most cost savings were associated with changing the remediation option and/or discontinuing remediation. The most time savings were associated with discontinuing remediation and changing the remediation option.

#### 4.4.2 Policy Evaluation Efficiencies

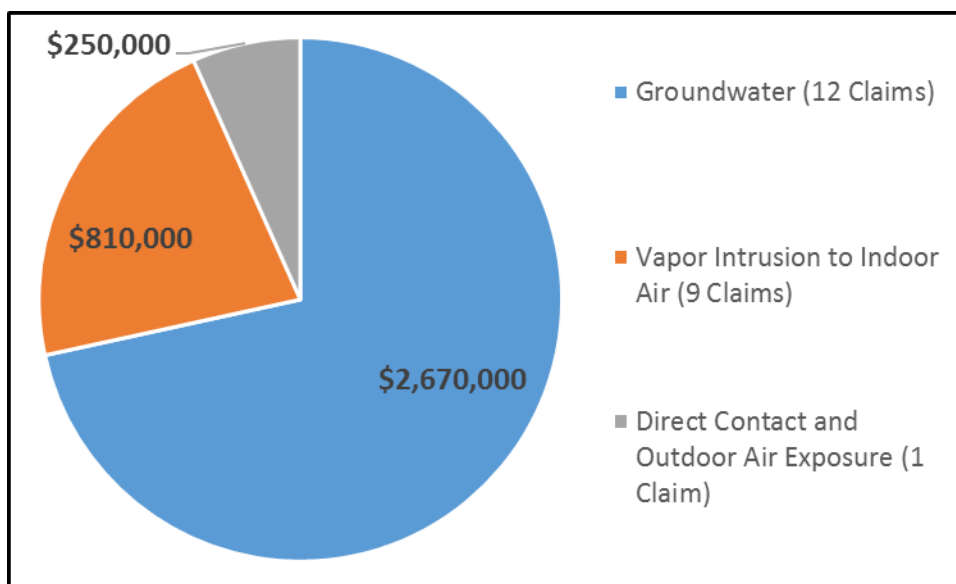
The second method compared the information on the Policy checklist in GeoTracker for a claim prior to entering the Pilot Project, to the results of the JET meeting for the claim, regarding the Policy checklist. After the JET meetings, the regulatory agency adjusted the Policy checklist on GeoTracker, if necessary. The decisions made regarding what criteria were met and not met factored into the work necessary to obtain closure.

The JET reviewed site conditions and identified which general and media-specific Policy criteria were not met. Through increased communication among JET members, the status of the Site relative to the Policy criteria for closure was re-evaluated and agreed upon. Savings resulted by determining that certain general and/or media-specific closure criteria were in fact met, and additional investigation or remediation to satisfy those criteria were no longer necessary. Additionally, the time and cost to closure were reduced by focusing future work only on Policy criteria that had not been met. Graphs 5 and 6 depict the estimated cost and time saved for the 40 claims based on media-specific Policy criteria evaluations.

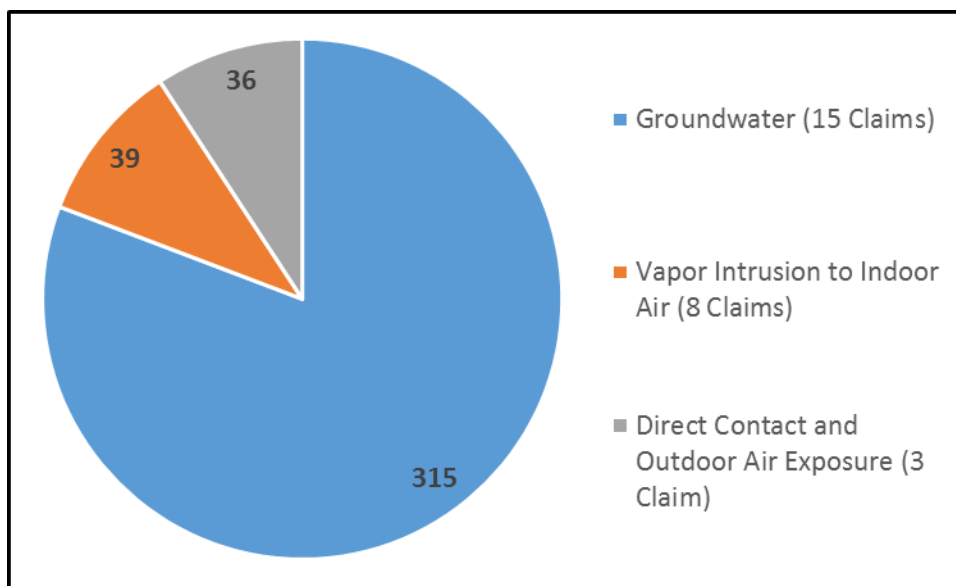
After reviewing the site against Policy criteria in the JET meetings, the estimated cost savings averaged \$93,250 per claim and the estimated time saved averaged 9.7 months per claim. These results are consistent with those of the SOW efficiencies evaluation.

The maximum cost and time saved on a claim by the Policy evaluation method was \$630,000 and 39 months for the same claim. Prior to joining the Pilot Project, the Low-Threat Closure Checklist for the site indicated the site did not meet the Groundwater Media-Specific Criteria or the Petroleum Vapor Intrusion to Indoor Air Media-Specific Criteria. Based on a review of the Policy and discussion of site-specific data, the JET determined that the Groundwater Media-Specific Criteria and Petroleum Vapor Intrusion to Indoor Air Media-Specific Criteria had been met, therefore, the proposed remediation was not necessary.

**Graph 5 Total Policy Media-Specific Criteria Cost Savings (\$)**



**Graph 6 Total Policy Media-Specific Criteria Time Savings (Months)**



The data show that the most cost savings are associated with a reduction of work performed to meet the Groundwater Media-Specific Criteria (an average of \$222,500 for 12 claims) and Vapor intrusion to Indoor Air criteria (an average of \$90,000 for 9 claims), and the most time savings are associated with a reduction of work performed to meet the Groundwater Media-specific criteria (an average of 21 months for 15 claims).

For 15 ECAP claims, the Policy criteria met before joining the Pilot Project were the same as after the JET meeting. The minimum cost and time saved on these 15 claims by the Policy evaluation method was \$0 and zero hours. By using the SOW method and the Policy method, and averaging the cost and time savings over the number of claims in the Pilot Project, the data indicate an approximate average cost savings of \$95,763 and time savings of 11.7 months per claim.

#### 4.4.3 Projections to Closure

The third method focused on projections to closure. For each claim, a PEP was prepared that identified scopes of work and associated estimated costs for each year from the present until the last reimbursement (typically associated with well destruction reporting and final project management activities) would be likely to occur. For example, if a site was currently in remediation which was expected to end within the year, the current year's costs might include remediation operation and maintenance, groundwater monitoring and reporting, and project management. For the following year the scope might be remediation system removal, semiannual verification groundwater monitoring, reporting and project management, and the year after that might be only costs for well destructions and final project management. Therefore, the site would have a three-year projection with an associated estimated reimbursement. ECAP staff used the information provided in the agreed-upon PEP for each claim to make the projection to closure.

Based on the PEP data for the 40 Pilot Project sites:

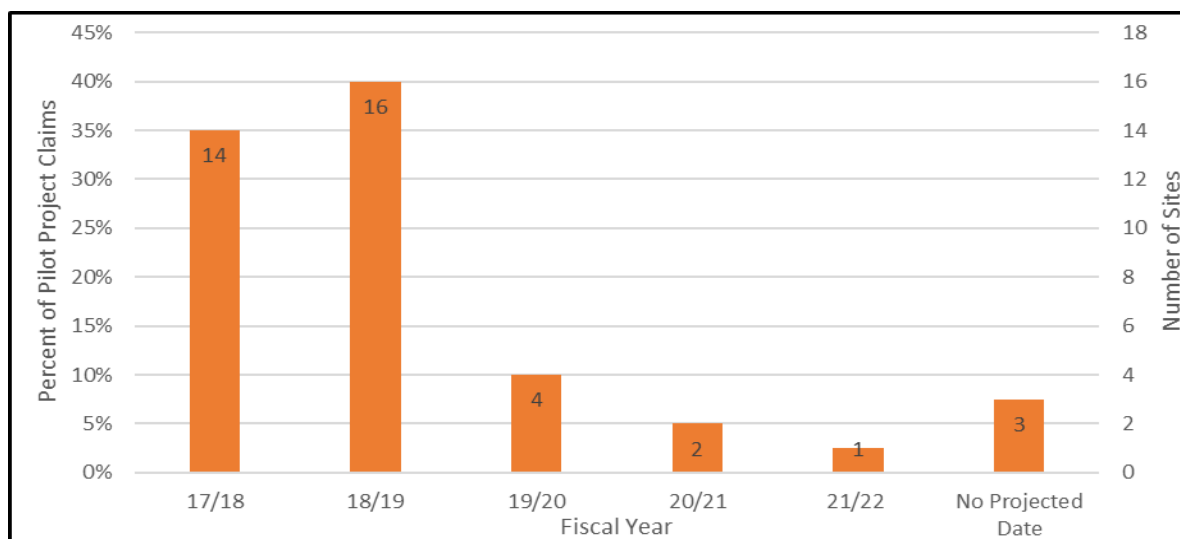
- 14 cases have a one-year projection to closure by June 2018
- 16 cases have a two-year projection to closure by June 2019
- 4 cases have a three-year projection to closure by June 2020

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- 2 cases have a four-year projection to closure by June 2021
- 1 case has a five-year projection to closure by June 2022
- 3 cases could not be projected to closure

The projections are shown on Graph 7. The data show that 75% of the Pilot Project claims are projected to be closed within two years, and 92% are projected to be closed within 5 years.

**Graph 7 Pilot Project Closure Projections**



For the 37 claims that could be projected to closure, an average of \$669,377 had already been reimbursed prior to joining the Pilot Project, and an estimated average of \$215,678 per claim would be required in future reimbursements from current status to closure. The average estimated costs to closure for non-ECAP claims has not been evaluated since until very recently non-ECAP Fund sites have not been required to submit multi-year budgets. Therefore, there is no comparable data for non-ECAP claims. The Fund has recently expanded the request for multi-year budgets to claims in the Emergency, Abandoned and Recalcitrant Account, the Orphan Site Cleanup Fund, and the Commingled Plume Account and they are recommended, but not required, for all non-ECAP claims.

The maximum projected cost to closure was \$673,839 for a site that projected remediation system installation and several years of remediation. The minimum projected cost to closure was \$25,316 for site closure activities (well destructions) following the JET determination that the site met closure criteria. The same minimum projected cost to closure could be assumed for a comparable non-ECAP site.

### 4.5 Reimbursements Efficiencies

A performance evaluation method was also created for the reimbursements process. The length of time to process a reimbursement request and the percentage of costs determined to be eligible by ECAP staff for Pilot Project claims was compared to the length of time to process a reimbursement request and the percentage of costs determined to be eligible by Fund staff for non-ECAP claims for the period from July 1, 2016 to June 30, 2017.

Reimbursement requests undergo technical and administrative review. Technical review is performed to ensure that the work performed was directed by the regulatory agency, reasonable



and necessary, and the associated costs are appropriate. Administrative review is performed to ensure all necessary information has been provided, proper rates have been used, documents have been filled out correctly and uploaded properly, invoiced costs have supporting documentation, and proof of payment has been provided. Technical review may result in relatively larger amounts of ineligible costs (for example, if the work was not directed by a regulatory agency), and administrative review, including the interaction between the Fund and claimant or consultant to obtain the necessary documentation, more often results in longer processing periods. Both technical and administrative review may result in ineligible costs.

#### **4.5.1 Reimbursement Requests**

As shown on Table 2, the total reimbursement requests received during the Pilot Project were \$626,072, and of that amount, \$585,434 in costs were reimbursed. On average, 100% of Pilot Project reimbursement requests were deemed eligible following technical review, and 94% were deemed eligible after administrative review. This reflects the consistency between the scope of work discussed in the JET meeting, the costs agreed upon in the PEP, and the invoices submitted in the reimbursement requests for the work conducted. By comparison, 92% of non-ECAP claim reimbursement requests submitted during the same period were deemed eligible following technical review, and 89% of non-ECAP claims were deemed eligible after administrative review.

<b>Table 2 ECAP and Non-ECAP Reimbursement Statistics</b>			
<b>Metric</b>	<b>Category</b>	<b>ECAP Pilot Project</b>	<b>Non-ECAP</b>
<b>Total</b>	Number of RRs	45	1,602
	Amount requested in all RRs	\$626,072	\$55,949,865
	Tech Eligible Determination	\$625,945 (100%)	\$51,534,255 (92%)
	Paid (Tech + Admin Review)	\$585,434 (94%)	\$49,522,993 (89%)
<b>Average</b>	Amount Requested	\$13,913	\$34,708
	Tech Eligible Determination	\$13,910 (100%)	\$32,269 (93%)
	Paid (Tech + Admin Review)	\$13,010 (94%)	\$30,741 (88%)
	Ineligible	\$903	\$3,989
	Days to process RR	84	149
<b>Maximum</b>	Amount Requested	\$64,333	\$1,492,596
	Tech Eligible Determination	\$64,333 (100%)	\$1,242,316 (83%)
	Paid (Tech + Admin Review)	\$58,985 (92%)	\$1,232,316 (83%)
	Ineligible	\$12,619	\$461,880
	Days to process RR	233	365
<b>Minimum</b>	Amount Requested	\$46	\$57
	Tech Eligible Determination	\$46	\$57
	Paid (Tech + Admin Review)	\$46	\$57
	Ineligible	\$0	\$0
	Days to process RR	Data not available	Data not available

For the time period July 1, 2016 to June 30, 2017

Tech Eligible: Following review by technical staff (ECAP or other unit)

Paid: Following review by administration after technical review

RRs: Reimbursement Requests

(94%) percent of requested amount

Days: Between RR received and amount approved by the Fund (sent to accounting department)

Historical data for all UST claims indicate that since the Fund inception in 1992, \$3.15 Billion in reimbursements have been requested, and \$2.61 Billion have been reimbursed, approximately 83% of the requested amount. In Fiscal Year 2016/2017 the Fund made a concerted effort, through additional payment staff resources and training, to improve the reimbursable percentage. The data from the Pilot Project, shown in Table 2, reflects the improvement from the historical average of 83% to 92%.

Table 2 shows that ECAP claims in general have fewer ineligible costs, although both Pilot Project and non-ECAP claims continue to have costs denied in administrative review.

The Pilot Project was the first year of ECAP, and the level of reimbursement activity was lower than it has been since the end of the Pilot Project in July 2017. This is because it took time to hold the JET meetings, obtain consensus and agree upon the PEP, perform the work and then submit the reimbursement request. The level of reimbursement activity since July 2017 has increased and is expected to continue to increase.

The days to process the reimbursement request is the number of calendar days between the date the reimbursement request is received, and the date the reimbursement amount is sent to the Accounting Department. At that point reimbursement processing time is no longer under the control of the Fund. The Accounting Department forwards the reimbursement amount to the State Controller's Office (SCO), which issues the check. According to information in GeoTracker, processing by the Accounting Department and SCO may, depending on work load, take from a few days to a few months until the claimant receives the reimbursement check.

Table 2 shows that Pilot Project claims were processed more quickly than non-ECAP claims. This is because ECAP staff were familiar with the claim and the scope of work that was agreed upon by the JET. In addition, ECAP staff provide guidance in the preparation of the PEP. Another key factor is the number of ECAP reimbursement requests, which is significantly less than the number of non-ECAP reimbursement requests for the same period.

### **4.5.2 Budget Change Requests**

A key directive for the Pilot Project was to expedite the funding of claims for site cleanup. The ECAP process did so by establishing multi-year budgets that were not restricted by annual budget category limits. Each year non-ECAP Fund claims are assigned an annual budget based on the site status (investigation, corrective action, et cetera). If additional funding is required beyond the assigned amount, a Budget Change Request (BCR) must be submitted. The BCR process requires a review of the requested additional budget to determine if the work was directed and is necessary and reasonable. BCRs can be completely approved, partially approved, or completely denied. During the Fiscal Year 2014/2015, the average non-ECAP BCR was 60% approved, meaning that 60% of the proposed work was determined to be reasonable and necessary, and 40% of the proposed work was determined to be unnecessary or unreasonable.

In ECAP, instead of submitting an annual budget and following up with one or more BCRs if the annual budget will be exceeded, the claimant submits a revised multi-year budget plan in the PEP. The revised PEP is reviewed and agreed upon by all members of the JET. Once agreed upon, the annual budget for each year is outlined on the PEP. The annual budget for the current fiscal year is an approved amount of anticipated reimbursements. The projected costs for future years are estimates only and not a guarantee of reimbursement.

## **4.6 Appeals**

Efficiencies related to the number and processing of appeals was also evaluated during the Pilot Project. The metrics evaluated were:

- The percentage of ECAP sites that require an appeal to resolve disallowed costs compared to the percentage of Fund sites that require an appeal to resolve disallowed costs by Fund staff.
- The percentage of ECAP sites that require an appeal to resolve a disagreement between the consultant and regulatory staff compared to the percentage of Fund sites that require an appeal to resolve a disagreement between the consultant and regulatory staff.

An appeal is typically generated when the Fund determines that part or all of a reimbursement request includes costs that are not eligible for reimbursement for one or more of the reasons

presented in Section 4.5, and the claimant disagrees with the Fund’s determination. According to the Petroleum Underground Storage Tank Cleanup Fund regulations, “a claimant who disagrees with a decision rendered by Division [Fund] staff may request review of the decision by the Fund Manager.” There are additional steps in the appeal process if the claimant disagrees with the Fund Manager determination. Table 3 compares the number of appeals received for ECAP and non-ECAP sites.

<b>Table 3 ECAP and Non-ECAP Appeal Statistics</b>		
<b>Category</b>	<b>ECAP Pilot Project</b>	<b>Non-ECAP</b>
Number of RRs	45	1,602
Number of Appeals	0	133
Percentage of Appeals	--	8.3%

For the time period July 1, 2016 to June 30, 2017  
RR: reimbursement request

No appeals were received in Fiscal Year 2016/2017 for ECAP claims for work that was conducted while the claim was in ECAP. Some ECAP sites have appeals for work that was conducted prior to entering the Pilot Project; these appeals were not included because they are not related to participation in ECAP or the Pilot Project.

It is rare for the Fund to receive an appeal to resolve a disagreement with regulatory staff. The Fund is not a regulatory agency, and while Fund staff may assist claimants with issues they have with their respective regulatory agencies, the requested assistance is not usually in the form of an appeal. For ECAP sites, the JET meeting process is the forum to resolve a disagreement with a regulatory agency. Therefore, metrics were not generated for resolution of a disagreement with the regulatory agency.

#### **4.7 Communication and Collaboration Improvements**

The most significant achievement of the ECAP Pilot Program is the improvement in communication and collaboration between all members of the JET. The timely and direct communication generally increases the productivity of JET members, fosters collaboration, reduces the time to issue a directive and complete a directed task, and provides a clear schedule and mutually agreed-upon path to closure.

The positive outcomes of JET meetings include:

- More conscientious use of Fund monies
- Streamlined directives
- Reduced scope of work and associated costs
- Efforts focused on meeting Policy criteria
- Improved project tracking.

The ECAP process focuses directives toward Policy criteria not met. In the JET meetings, the regulatory directives are discussed, and JET members agree they are understood. The JET jointly determines tasks that are reasonable and necessary, reducing the chance of ineligible costs. During task planning, ECAP staff contribute ideas to reduce costs wherever possible. In addition, the JET agrees that the work will be completed on a timely basis and that reasonable

and necessary costs will be reimbursed. Consultants and claimants have direct access to ECAP staff to communicate about reimbursement requests at any time.

ECAP requires active participation of stakeholders. Through the JET meetings, issues of concern are addressed and resolved collaboratively, plans are created for sites that have been idle, and stakeholders are accountable for best use of Fund monies. This activity improves upon the previous system of communication through directives and phone calls between parties, with months of inactivity in between responses, and results in cost and time savings.

ECAP staff also prepare a Review Summary Report for each claim, which is very useful to the JET and other units in the Fund. The Review Summary Report identifies the Policy criteria met and not met, and contains the directives by the regulatory agency as agreed upon in the JET meeting. Fund concurrence with agency directives provides the justification necessary for reviewing and approving ECAP claim reimbursement requests. Finally, the multi-year budget planning in the PEP aids the Fund as a whole in forecasting long-term demand on the Fund.

#### 4.8 Stakeholder Feedback and Survey

Fund staff, with input from key stakeholders, developed proposed metrics to evaluate the ECAP process, and a survey to obtain feedback. A survey was emailed to ECAP participants on September 25, 2017. ECAP participants who did not have an email address on record with the Fund received a hard copy of the survey with a self-addressed stamped response envelope. The survey is included as Appendix A.

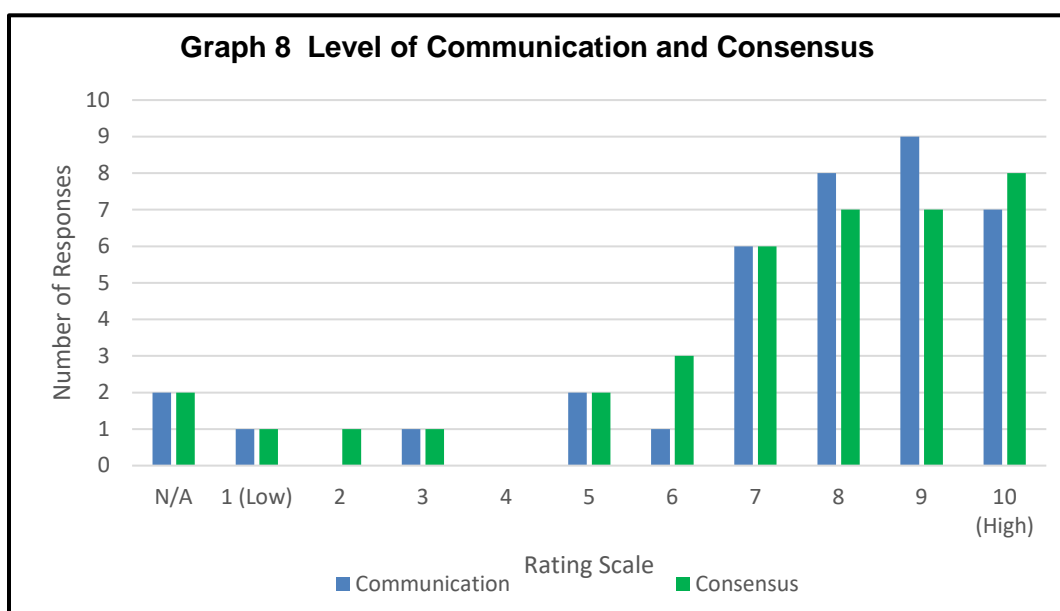
The ECAP survey consisted of 10 multiple choice and matrix/rating scale questions and two open-ended questions. The ECAP survey was sent to a total of 132 regulators, claimants, responsible parties, and consultants. A total of 42 responses were received. Most responses were from regulators and consultants as shown on Table 4. When asked the open-ended question, “Why did you join ECAP?” the most frequent response from consultants and their claimants was that they wanted to increase communication with all parties involved and to speed up reimbursements. Most regulators did not choose to be a part of ECAP since the decision to join was made by the claimant and their consultant. The survey also asked how easy it was to join ECAP. All parties felt that the process of joining ECAP was easy.

<b>Table 4 Survey Responses by Stakeholder Category</b>			
<b>Regulator</b>	<b>Claimant</b>	<b>Responsible Party</b>	<b>Consultant</b>
23 (59%)	4 (8%)	3 (5%)	12 (28%)

Table 5 shows that most survey respondents had an agreed-upon PEP. The significance of this response is that claimants and consultants that had an agreed-upon PEP have more experience with the ECAP process, and therefore have more information to make their assessment. Claimants that responded “No” were mostly newer volunteers to ECAP and have not yet reached that point in the process.

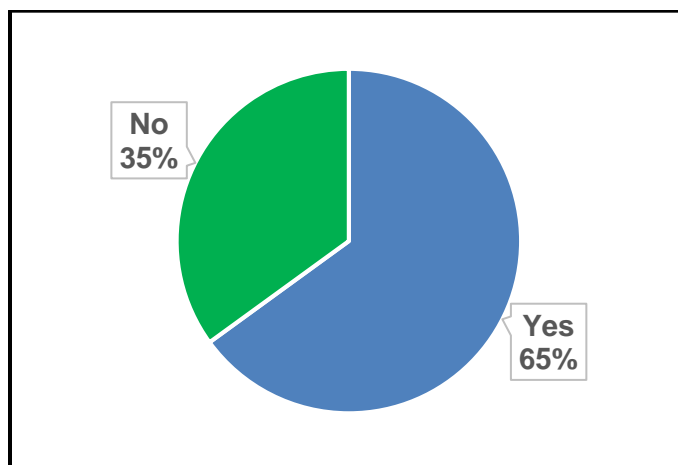
Table 5 Has a final PEP been approved by the JET?	
Yes	No
32 (76%)	10 (24%)

A key question in the survey was, “How you would rate the quality and quantity of written and verbal communications between JET members?” As shown in Graph 8, the survey responses showed a positive response to the overall communication of the JET team. The survey asked to “rate the level of consensus reached between JET members regarding corrective actions for the site.” Graph 8 also shows a correlation between good communication and a high level of consensus regarding corrective action.

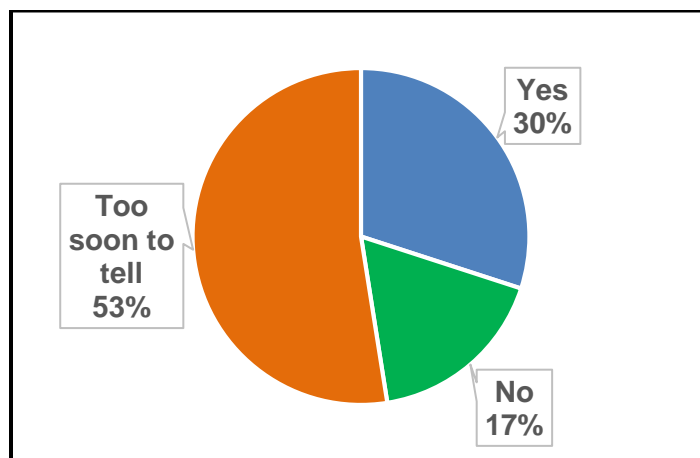


Participants were also asked if they were satisfied with the rate of progress with the ECAP process, and if the ECAP process was saving them time and money. As shown in Graphs 9 and 10, most participants are satisfied with the rate of the ECAP process but felt that it is too soon to tell if the ECAP process is saving them time and money. The two main reasons that participants were not satisfied with the rate of the ECAP process was that reimbursement time was still slow and that it created another layer of review by those who were previously not directly associated with the case, meaning ECAP staff.

**Graph 9 Satisfaction with Progress**  
**(Are you satisfied with the rate your site is moving through the ECAP process?)**



**Graph 10 Is the ECAP process saving you time and money?**



The final question in the survey asked participants to provide additional comments, feedback, or suggestions related to ECAP. The responses varied depending on stakeholder category. Regulators seemed to have mixed feelings about the ECAP process. While most regulators saw the benefits of increased communication, especially with ECAP staff and regarding the funding aspects, some regulators felt that the ECAP staff were too forceful regarding the appropriate scope of work to move a site forward. Regulators emphasized that the ECAP process does not supersede any directives of the lead agency (ECAP staff agree with this statement). Claimants and consultants frequently stated that they are grateful that the ECAP process is focusing efforts only on the work that is reasonable and necessary to bring the site to closure with the remaining funds; and the higher level of assurance the Fund will reimburse the costs. A frequent

comment received was that the PEP worksheet is confusing and difficult to complete. Another frequent comment from claimants and consultants was that they are still dissatisfied with the time it takes to be reimbursed. Most responses were positive, and most participants seem satisfied with the ECAP process.

## 5. Long Term Metrics

As required by SB 445, the State Water Board, in consultation with stakeholders, must work to develop metrics to forecast the long-term demand on the Fund. ECAP cases were solicited because, compared to the average non-ECAP UST Fund case, ECAP cases have less budget remaining and are more likely to be a threat to human health, safety, and or the environment. In addition, the Pilot Project was conducted on a limited number of sites for a limited period. Therefore, the long-term projections based on Pilot Project data should be considered preliminary and conservative. The evaluations as well as the associated projections are estimates based on assumptions of “average” site conditions. Cases differ dramatically by location, degree and extent of contamination, suitability of remediation, and many other variables.

### 5.1 Projected Use of \$100 Million

SB 445 has set aside \$100 Million for the Expedited Claim Account. The PEP projections for the 40 Pilot Project sites indicate \$8,627,105 will be spent to close those 40 sites, at an average of \$215,678 per site. The other 64 sites in ECAP which are not part of the Pilot project were also selected under the criteria presented in Section 3.1, therefore the average cost to closure could be applied to these sites. The total projected costs for the 40 Pilot Project sites plus the 64 other ECAP sites would be \$22,430,512. That would leave approximately \$77.5 Million available for sites that are not currently in ECAP.

According to GeoTracker, as of November 1, 2017, a total of 1,001 Fund cases are open and could participate in ECAP, not including the 104 cases currently in ECAP. Another 379 open UST cases are on the Fund Priority List awaiting a Letter of Commitment (LOC), which would then allow the claimant to join the Fund and participate in ECAP. Those 1,380 cases range from sites where no assessment or remediation work has been performed to date, to sites where substantial efforts in assessment and remediation have been performed to date. Sites that have already received regulatory closure and are in the Fund or on the Fund Priority List would not benefit from the ECAP process.

Based on the average cost to closure of \$215,678 calculated for the Pilot Project sites (Section 4.4.3), the \$100 Million could provide adequate funding for approximately 464 claims. The 40 claims in the Pilot Project had already incurred an average of \$669,377 in costs prior to joining ECAP. It is anticipated that claims that join ECAP earlier in their life cycle will require significantly less funding for assessment and remediation, therefore the \$100 Million may be able to fund more than 464 claims. This projection will be updated as more data is obtained for the ECAP projects.

The increase in ECAP claims is predicted to continue though volunteers; however, specific claims identified by regulators that could benefit may also be solicited. Consultants and claimants with multiple claims that meet the participation criteria are the next logical group to solicit.



## 5.2 Budget Category

Each claim (both ECAP and non-ECAP) is assigned an annual budget category by the Fund, which generally indicates the cleanup status of the site. Yearly site budgets are assigned to claims according to their budget categories. The budget categories include: Soil/Water Investigation (SWI), Remedial Selection/Interim Remedial Action (RS/IRA), Corrective Action Plan/Remediation (CAP/REM), Verification Monitoring (VM), and Site Closure (SC). At any time a site is in one category, but not all sites follow the same process through the budget categories. It is possible for a site to go from SWI directly to SC, and it is possible for a site to go from CAP/REM to SWI and back to CAP/REM.

Stakeholders requested a budget category metric that calculated the minimum, average and maximum time a claim spent in each budget category within the ECAP program compared to the minimum, average and maximum time a claim spent in each budget category in the Fund. However, the budget category was not tracked during the first fiscal year of ECAP for two reasons. For ECAP sites, budget category is less important with the development of the PEP since baseline budgets are replaced by the annual amount agreed upon in the PEP. Secondly, the length of time for the Pilot Project (one year) was not long enough to show changes in budget categories because changes are most often made at the beginning of a fiscal year. This metric will be considered for tracking for future updates to the Pilot Project report.

As of October 3, 2017, the approved PEPs for the 40 ECAP claims contained a total Fiscal Year 2017/2018 budget of \$4.8M, which is an average of \$120,000 per claim. Table 6 depicts the number of ECAP cases in each budget category and the projected budget categories for future fiscal years. The current percentage of Fund cases in each budget category are also included for comparison. The data show that for both ECAP and non-ECAP claims, the largest number of sites are in the CAP/Remediation budget category. However, there are proportionally more non-ECAP sites in the Soil/Water Investigation stage, which typically occurs earlier in a site assessment/remediation life cycle. Sites that are early in their life cycle are likely to obtain the most cost and time savings using the ECAP process.

Table 6 ECAP and Non-ECAP Current and Projected Budget Categories						
ECAP Budget Categories for 40 Pilot Project Claims						Non-ECAP FY 17/18*
Fiscal Year	17/18	18/19	19/20	20/21	21/22	
Soil/Water Investigation	1	--	--	--	--	461
Remedial Selection/Interim Remedial Action	7	--	--	--	--	121
CAP/Remediation**	15	8	3	--	--	745
Verification Monitoring	4	2	2	3	--	260
Site Closure	13	16	4	2	1	240
Total Estimated Budget	\$4.8M	\$2.4M	\$886K	\$362K	\$107K	\$185M

\*No budget category data is available for non-ECAP sites beyond FY17/18.

\*\*Corrective Action Plan/Remediation

## 5.3 Pilot Project Case Closures

No Pilot Project claims were officially closed during Fiscal Year 2016/2017 due to the time needed for a Regional Board or LOP to process a case closure. Four Pilot Project cases are in

various stages of the closure process; however, the completion of the closure process, measured by receipt of a No Further Action letter, depends on the schedule and resources of the regulatory agency. Future updates to the Pilot Project report will contain statistics on case closures.

## 6. Long Term Vision

### 6.1 Scaling ECAP

The Fund plans to continue to encourage participation in the ECAP process and anticipates growth in the number of sites. Based on the Pilot Project projections, claims will be added at an estimated rate of 100 per year.

#### 6.1.1 Expedited Claim Account Eligibility and Expansion

According to reports in GeoTracker, approximately 1,000 open active claims meet at least one participation criteria used for the Pilot Project. Not all claimants will elect to participate in ECAP. Based on the approximately 40% acceptance rate from the initial solicitations, and assuming the same rate of acceptance, if invitations were sent out for the 1,000 open active claims, an estimated 400 invitations would be accepted.

A certain number of the existing ECAP claims will be closed each year, but the rate of volunteers into ECAP will likely exceed the rate of regulatory case closure of ECAP sites. ECAP anticipates a need for an additional staff in order to manage the claim load that the \$100 Million is projected to support.

#### 6.1.2 All Fund Claims Become ECAP Claims

ECAP staff considered a scenario where all Fund claims adopt the ECAP process. If the average savings of \$95,763 for each Pilot Project site is projected to the 1,001 open Fund claims and 379 claims on the Priority List, this equates to a potential Fund savings of approximately \$132 Million. This estimate is conservative because the sites selected for the Pilot Project were relatively far along in the assessment and remediation process. Sites that enter ECAP at an earlier stage, such as shortly after an unauthorized release is reported, could potentially save more money, on average, than the sites selected for the Pilot Project. The savings of \$132 Million could offset the \$600 Million projected Fund budget shortfall anticipated in the UST Cleanup Fund Fiscal Year 2013/2014 Annual Report. However, as stated earlier, these projections are based on averages and the limited data set of the Pilot Project.

Utilizing the data from Section 4.4.3, the average projected cost to closure of the 37 ECAP claims with agreed upon PEPs is \$215,678. At this cost per case, the estimated cost to closure for the 1,001 open Fund claims and 379 claims on the Priority List, equals \$298 Million. Therefore the \$100 Million is unlikely to be sufficient to provide reimbursements for all 1,380 claims.

At least 65% of the Pilot Project claims are projected to be closed within 2 years, and at least 92% are projected to be closed within 5 years. The remaining 7% could not be projected to closure. The limited data set of the Pilot Project is too small to project whether 65% of the non-ECAP claims could obtain closure within 2 years, and 92% could obtain closure within 5 years of joining ECAP. Regardless of the number of claims in ECAP, there

will be a certain percentage of sites for which it may not be possible to reasonably project a time to closure.

## 6.2 Improvements

ECAP staff continue to observe, evaluate, and improve methods used in the Pilot Project. Despite the overall improvement in expediting site cleanup, approximately ten percent of cases in ECAP have not moved forward toward closure for the following reasons:

- 1) The consultant refuses to do work until payment for past (pre-ECAP) work is received, whether the payment is a reimbursement request or an appeal of previously denied costs.
- 2) The regulator has not issued a directive despite the JET meeting collaboration to establish a directive.
- 3) There is disagreement about the necessity of work to meet other criteria than the Policy (such as Environmental Screening Levels).
- 4) A technical hurdle exists, such as waiting for an electrical connection for a remediation system.
- 5) Cases entered the ECAP with insufficient funds remaining to execute the remaining scope and the claimant and/or RP is unwilling or unable to finance the remainder of the work needed to obtain closure.

These obstacles are common to non-ECAP Fund claims as well and are not a result of the Pilot Project. ECAP staff are actively working to resolve these challenges to get the ECAP claims moving forward again.

Stakeholders have also provided input for improving ECAP. Stakeholders have suggested many improvements to the PEP, which Fund staff are evaluating. ECAP staff plan to streamline the PEP and upload a new version to the ECAP website. ECAP staff will continue to observe details of the process and improve the expediting of funding. Within the State Water Board Division of Financial Assistance, changes to the UST Fund budget processes have been gradually implemented based on the success of ECAP. For example, the Fund is requesting that PEPs be submitted with all BCRs.

Another issue is a “one-size-fits-all” approach to remediation, which is rarely cost effective. Certain consultants consistently recommend one or two remediation methods for all of their Fund sites without considering site-specific conditions. No corrective action plan/feasibility study is prepared and/or there is inadequate justification for the selected remediation method. As a result, remediation is unnecessarily expensive, only partially effective, and the time to remediate is prolonged. ECAP and regulatory staff cannot direct a consultant to use a specific remediation technology. Because a goal of ECAP is to optimize use of State funds, one possibility is to increase the technical standards required for ECAP site feasibility studies.

The survey results also provided suggestions for improvements. The most frequent complaint from the lead regulatory agencies was that ECAP infringes on their role as the lead regulator. ECAP staff have responded to that concern by reiterating in each JET meeting that ECAP staff do not have regulatory authority. ECAP staff recognize the need for improving communication of their role as a mediator, financial representative, Policy advocate and technical reviewer.

## 7. Conclusions

The Pilot Project has created processes for improving the speed and quality of communication between the Fund staff, regulatory staff, claimants, and consultants. The enhanced communication has resulted in expediting site cleanup and the funding of claims. A greater percentage of costs are reimbursed for work performed. The cost for cleanup is reduced because of an improved understanding of, and agreement on, necessary cleanup activities. The time to closure is reduced due to the improved communication, expediting the funding of claims, reducing barriers for budget increases, and greater collaboration evaluating Policy criteria. The PEP, a multi-year funding and planning tool was developed, has become available to all Fund claimants, and continues to be improved.

Many of the fundamentals of ECAP can benefit all Fund claims. Use of the PEP is expected to improve budget forecasting. Improving communication between all Fund staff (administration and technical), regulatory staff, claimants and their consultants expedites funding, cleanup, and reimbursements. During Fiscal Year 2016/2017, ECAP reimbursed \$585,434 and paid 94% of reimbursement requests.

The ECAP process identified an average cost to closure reduction of \$95,763, and average time savings of 11.7 months per claim. Based on PEP projections, 37 of the 40 Pilot Project sites will be closed within 5 years.

Claimants continue to volunteer claims for ECAP, and volunteers will continue to be considered for participation. Solicitation to a broader group of claimants and consultants is also planned. Stakeholders recommended, and ECAP staff agree, that including sites with less than \$750,000 spent is important for comparison, moving forward. Sites that are early in their life cycle are likely to obtain the most cost and time savings using the ECAP process.

## References

California Code of Regulations, Title 23, Division 3, Chapter 16, Article 11, Section 2720

California Code of Regulations Title 23, Division 3, Chapter 18, Article 4, Section 2811.1.

Plan for Implementation of Low-Threat Underground Storage Tank Case Closure Policy and Additional Program Improvements

Senate Bill No. 445 (Hill, 2014)

State Water Resources Control Board Resolution 2012-0016

State Water Resources Control Board Resolution 2012-0062

UST Cleanup Fund Fiscal Year 2013/2014 Annual Report

**APPENDIX A**  
**EXPEDITED CLAIM PILOT PROJECT SURVEY**

State Water Board staff are actively working to improve procedures that expedite the closure of sites under the Low-Threat Closure Policy. We seek legitimate constructive feedback from regulatory staff, consultants, and claimants/responsible parties. A summary of the ranking results may be included in the Expedited Claim Pilot Project Report. Your written survey comments will remain confidential. No results will be associated by name with any respondent.

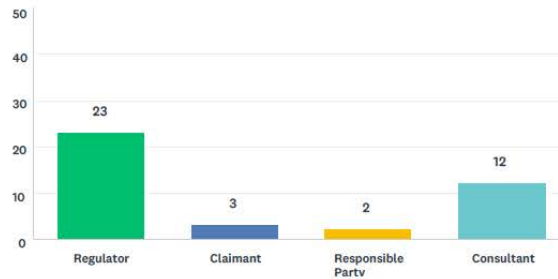
Please answer each question below. Make your selection based on all Pilot Project cases/claims with which you are involved. You will not complete a survey for each case/claim.

1. Why did you want to participate in ECAP?

EXPEDITED CLAIM PILOT PROJECT SURVEY (PLEASE COMPLETE BY SEPTEMBER 25, 2017) Distributed by: The State Water Resources Control Board - UST Cleanup Fund

Q2 Identify your stakeholder category (check all applicable)

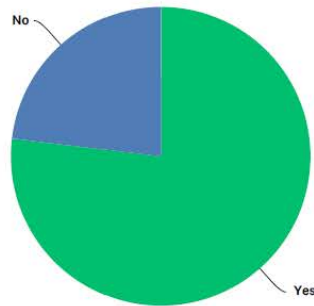
Answered: 39 Skipped: 0



ANSWER CHOICES	RESPONSES	
Regulator	58.97%	23
Claimant	7.69%	3
Responsible Party	5.13%	2
Consultant	30.77%	12
Total Respondents: 39		

Q3 Has a final Project Execution Plan (PEP) for your claim been approved by the Joint Execution Team (JET)? The PEP includes budget costs for Fiscal year 2017/2018 and estimated costs for future years to site closure.

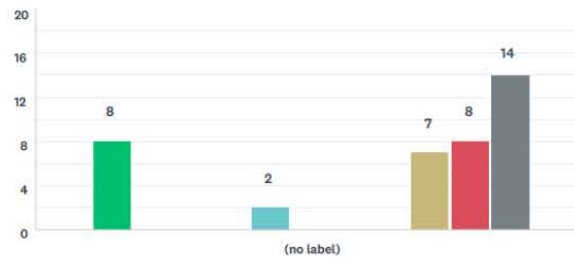
Answered: 39 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	76.92%	30
No	23.08%	9
TOTAL		39

Q4 How easy was it for you to be accepted into ECAP?

Answered: 39 Skipped: 0



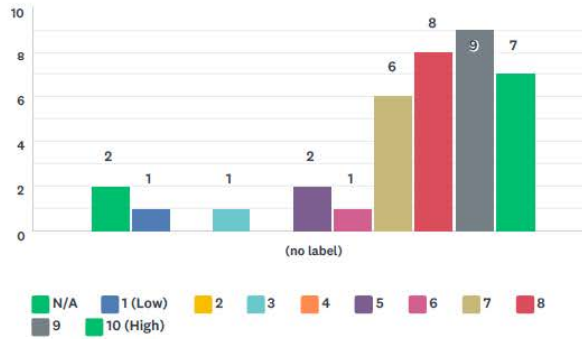
Legend for Q4: N/A (Green), 1 (Not Easy) (Blue), 2 (Yellow), 3 (Orange), 4 (Light Blue), 5 (Red), 6 (Purple), 7 (Pink), 8 (Olive), 9 (Red), 10 (Easy) (Grey)

	N/A	1 (NOT EASY)	2	3	4	5	6	7	8	9	10 (EASY)	TOTAL	WEIGHTED AVERAGE
(no label)	20.51%	0.00%	0.00%	0.00%	5.13%	0.00%	0.00%	0.00%	17.95%	20.51%	35.90%	39	8.0
	8	0	0	0	2	0	0	0	7	8	14		



Q5 How would you rate the quality and quantity of written and verbal communications between JET members?

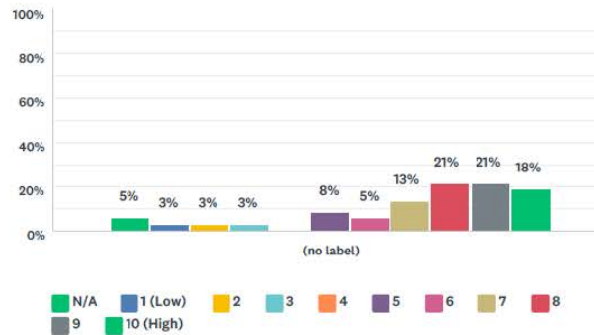
Answered: 37 Skipped: 2



	N/A	1 (LOW)	2	3	4	5	6	7	8	9	10 (HIGH)	TOTAL	WEIGHTED AVERAGE
(no label)	5.41%	2.70%	0.00%	2.70%	0.00%	5.41%	2.70%	16.22%	21.62%	24.32%	18.92%	37	8.41
	2	1	0	1	0	2	1	6	8	9	7		

Q6 How would you rate the level of collaboration between JET Members?

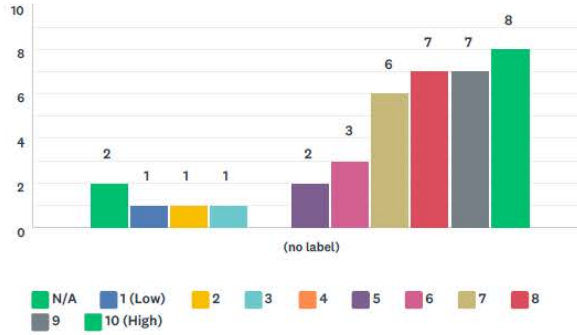
Answered: 38 Skipped: 1



	N/A	1 (LOW)	2	3	4	5	6	7	8	9	10 (HIGH)	TOTAL	WEIGHTED AVERAGE
(no label)	5%	3%	3%	3%	0%	8%	5%	13%	21%	21%	18%	38	8.21
	2	1	1	1	0	3	2	5	8	8	7		

Q7 What is the level of consensus reached between the JET members regarding required corrective action for the site?

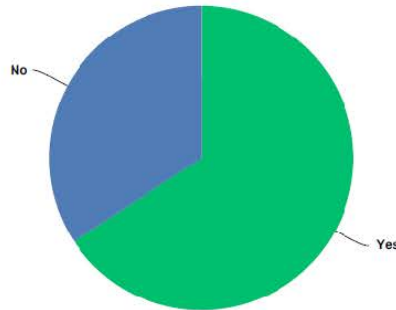
Answered: 38 Skipped: 1



	N/A	1 (LOW)	2	3	4	5	6	7	8	9	10 (HIGH)	TOTAL	WEIGHTED AVERAGE
(no label)	5.26%	2.63%	2.63%	2.63%	0.00%	5.26%	7.89%	15.79%	18.42%	18.42%	21.05%	38	8.2
	2	1	1	1	0	2	3	6	7	7	8		

Q8 Are you satisfied with the rate at which your site is moving through the ECAP process?

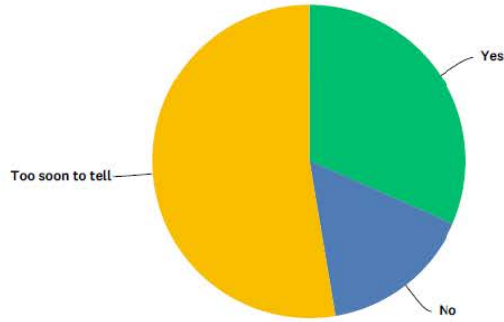
Answered: 38 Skipped: 1



ANSWER CHOICES	RESPONSES	
Yes	65.79%	25
No	34.21%	13
TOTAL		38

### Q9 Is the ECAP process saving you time and money?

Answered: 38 Skipped: 1



ANSWER CHOICES	RESPONSES	
Yes	31.58%	12
No	15.79%	6
Too soon to tell	52.63%	20
TOTAL		38

10. Please provide additional comments, feedback or suggestions related to the ECAP.

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