

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2017-0009**

DELEGATING AUTHORITY TO THE DEPUTY DIRECTOR OF THE DIVISION OF FINANCIAL ASSISTANCE (DIVISION) TO APPROVE OR DENY THE EXPENDITURE OF FUNDS FROM THE EMERGENCY, ABANDONED, AND RECALCITRANT (EAR) ACCOUNT; TO EXECUTE GRANT AGREEMENTS, CONTRACTS, AND AMENDMENTS FOR THE EXPENDITURE OF EAR ACCOUNT FUNDS; AND TO PERFORM OTHER ACTIONS NECESSARY TO ADMINISTER THE EAR ACCOUNT PROGRAM

WHEREAS:

1. Subdivisions (c), (e), and (h) of section 25299.51 of the Health and Safety Code authorize the State Water Resources Control Board (State Water Board) to expend funds from the Underground Storage Tank Cleanup Fund (USTCF) for corrective action undertaken or contracted for by the State Water Board, a Regional Water Quality Control Board (Regional Water Board), or a certified Local Oversight Program (LOP) agency at sites that have had an unauthorized release of petroleum from a Underground Storage Tank (UST), if one or more of the following conditions applies:
 - a. prompt action is required to protect human health, safety, or the environment (emergency site);
 - b. no responsible party (RP) has been identified or located (abandoned site); and/or
 - c. the RP is either unable or unwilling to take the required corrective action in response to a Regional Water Board or LOP agency corrective action order or directive (recalcitrant site).
2. The State Water Board has established the EAR Account as a subaccount within the USTCF for the above purposes, and has historically designated \$5 million from the USTCF annual appropriation for the EAR Account;
3. In previous years, the State Water Board approved the expenditure of EAR Account funds by resolutions adopting Annual Site Lists and, when necessary, adopting a resolution to approve funding for individual sites;
4. To improve efficiency, it is desirable to delegate authority to the Deputy Director of the Division, or designee, to approve or deny EAR Account expenditures for UST sites on an ongoing basis, consistent with applicable law and available funding, and to perform other actions necessary to administer the EAR Account. It is also desirable to delegate to the Deputy Director of the Division, or designee, the authority to execute grant agreements, contracts, and amendments for the expenditure of EAR Account funds, or to request the Department of General Services (DGS) to enter into and administer EAR Account contracts on behalf of the State Water Board or a Regional Water Board;
5. To improve transparency, the Division will periodically report to the State Water Board members on the funding and status of the EAR Account sites; and

6. This resolution is not intended to supersede, limit, or modify State Water Board [Resolution No. 92-83](#), which delegates authority for approving EAR Account Funds up to \$100,000 per occurrence for emergency UST cleanup projects, and State Water Board [Resolution No. 99-049](#), which delegates authority for referring certain actions related to the USTCF and EAR Account to the Attorney General.

THEREFORE BE IT RESOLVED THAT:


The State Water Board:

1. Authorizes the Deputy Director of the Division, or designee, to approve or deny requests for funding and expenditures from the EAR Account, consistent with applicable law, in amounts that cumulatively do not exceed \$5 million per fiscal year;
2. Authorizes the Deputy Director of the Division, or designee, to negotiate and execute, for and on behalf of the State Water Board, grant agreements, contracts, and amendments to disburse approved EAR Account expenditures;
3. Authorizes the Deputy Director of the Division, or designee, to request DGS to enter into contracts on behalf of the State Water Board or a Regional Water Board and to act as the agent of the State Water Board or a Regional Water Board for the expenditure of approved EAR Account funds;
4. Authorizes the Deputy Director of the Division, or designee, to perform other actions necessary to administer the EAR Account; and
5. Requests the Division to periodically report to the State Water Board members on the funding and status of EAR Account sites.

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Board held on March 7, 2017.

AYE: Vice Chair Frances Spivy-Weber
Board Member Tam M. Doduc
Board Member Steven Moore
Board Member Dorene D'Adamo
NAY: None
ABSENT: Chair Felicia Marcus
ABSTAIN: None



Jeanine Townsend
Clerk to the Board