

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION - DIVISION OF FINANCIAL ASSISTANCE
JULY 1, 2008**

ITEM 3

SUBJECT

CONSIDERATION OF A RESOLUTION ADOPTING THE PETROLEUM UNDERGROUND STORAGE TANK (UST) EMERGENCY, ABANDONED, RECALCITRANT (EAR) ACCOUNT FISCAL YEAR (FY) 2008-2009 ANNUAL SITE LIST; AND, AUTHORIZING THE EXECUTIVE DIRECTOR, OR DESIGNEE, TO ISSUE LETTERS OF AWARD OR EXECUTE CONTRACTS AND AMENDMENTS FOR THE EXPENDITURE OF EAR ACCOUNT FUNDS

DISCUSSION

Chapter 6.75 of Division 20 of the Health and Safety Code authorizes the State Water Resources Control Board (State Water Board) to provide funding from the UST Cleanup Fund (USTCF) to Regional Water Quality Control Boards (Regional Water Boards) or local agencies for initiating corrective action at petroleum UST sites: (1) which require prompt action to protect human health or the environment; (2) for which a responsible party (RP) cannot be identified or located (abandoned site); or, (3) where the identified RP is either unable or unwilling to take the required corrective action (recalcitrant site). The FY 2008-2009 proposed budget for the USTCF Program includes sufficient funding for this function.

The State Water Board has established procedures for administering the EAR Account, which include the adoption of an annual site list of abandoned and recalcitrant sites nominated by a Regional Water Board to receive EAR Account funding. The sites approved on the EAR Account Annual Site List (ASL) may be provided funding pursuant to a contract with or letter of award from the State Water Board, or the State Water Board may request the Department of General Services (DGS) to enter into a contract on behalf of the State Water Board or a Regional Water Board.

On January 16, 2008, the State Water Board requested the Regional Water Boards to: (1) contact local agencies in their regions to identify any abandoned and recalcitrant petroleum UST sites for inclusion on the EAR Account FY 2008-2009 ASL, and (2) submit their annual list of recommended Regional Water Board and local agency sites to the State Water Board for EAR Account funding.

Six Regional Water Boards responded, nominating a total of 45 eligible sites and requesting \$3 million in funding. Sufficient funding is available for all 45 eligible sites.

POLICY ISSUE

1. Should the State Water Board adopt the EAR Account FY 2008-2009 ASL, to provide funding to the designated oversight agencies to initiate site cleanup at listed UST sites?
2. Should the State Water Board authorize the Executive Director, or designee, to issue letters of award or execute contracts and amendments for the expenditure of EAR Account funds for the designated sites?

FISCAL IMPACT

The State Water Board has designated \$5 million from the FY 2008-2009 USTCF appropriation for EAR Account projects. This is sufficient to provide the requested amounts for all eligible listed sites.

REGIONAL WATER BOARD IMPACT

The Regional Water Boards will administer 11 sites. The remaining 34 sites will be administered by local agencies.

STAFF RECOMMENDATION

The State Water Board should:

1. Adopt a resolution to grant EAR Account funding, as specified in the EAR Account FY 2008-2009 ASL;
2. Authorize the Executive Director, or designee, to issue letters of award or execute contracts and amendments for the expenditure of EAR Account funds designated in the EAR Account ASL; and
3. Authorize the Executive Director, or designee to request DGS to enter into contracts on behalf of the State Water Board or a Regional Water Board for the expenditure of EAR Account funds designated in the ASL.

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STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2008-

ADOPTING THE PETROLEUM UNDERGROUND STORAGE TANK (UST)
EMERGENCY, ABANDONED, RECALCITRANT (EAR) ACCOUNT
FISCAL YEAR (FY) 2008-2009 ANNUAL SITE LIST; AND, AUTHORIZING
THE EXECUTIVE DIRECTOR, OR DESIGNEE, TO ISSUE LETTERS OF AWARD OR
EXECUTE CONTRACTS AND AMENDMENTS
FOR THE EXPENDITURE OF EAR ACCOUNT FUNDS

WHEREAS:

1. Chapter 6.75 of Division 20 of the Health and Safety Code authorizes the State Water Resources Control Board (State Water Board) to provide funding to Regional Water Quality Control Boards (Regional Water Boards) or local agencies for initiating corrective action at petroleum UST sites which have had unauthorized releases;
2. Section 25299.36 of the Health and Safety Code authorizes the State Water Board to undertake or contract for corrective action at specified sites or to request the Department of General Services (DGS) to act as the agent of and enter into contracts on behalf of the State Water Board or a Regional Water Board for corrective action at those sites;
3. The State Water Board has established administrative procedures for providing cleanup funds to Regional Water Boards and local agencies, which include adoption of an EAR Account Annual Site List (ASL);
4. On January 16, 2008 the State Water Board requested the Regional Water Boards to: (1) contact local agencies in their regions to identify any abandoned and recalcitrant petroleum UST sites for inclusion on the EAR Account FY 2008-2009 ASL, and (2) submit their annual list of recommended Regional Water Board and local agency sites to the State Water Board for EAR Account funding;
5. Six Regional Water Boards responded, nominating a total of 45 eligible sites;
6. Sufficient funding is available to provide the requested amounts for all 45 eligible sites; and
7. For efficient operation of the EAR Account Program, the State Water Board may delegate authority to the Executive Director, or designee, to issue letters of award or execute contracts and amendments for the expenditure of EAR Account funds or to request DGS to enter into contracts on behalf of the State Water Board or a Regional Water Board for the expenditure of EAR Account funds designated in the EAR Account Annual Site List.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Adopts the Emergency, Abandoned, Recalcitrant (EAR) Account FY 2008-2009 Annual Site List;

D R A F T

2. Authorizes the Executive Director, or designee, to issue letters of award or negotiate and execute contracts and amendments for the expenditure of EAR Account funds designated in the Annual Site List; and
3. Authorizes the Executive Director, or designee, to request DGS, pursuant to §25299.36 of the Health and Safety Code, to enter into contracts on behalf of the State Water Board or a Regional Water Board and act as the agent of the State Water Board or a Regional Water Board for the expenditure of EAR Account funds designated in the Annual Site List.

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 July 1, 2008.

Jeanine Townsend
Clerk to the Board