



## **STATE WATER RESOURCES CONTROL BOARD**

# **REPLACEMENT OF UNDERGROUND STORAGE TANKS PROGRAM**

## **2009-10 ANNUAL LEGISLATIVE REPORT**

**DECEMBER 2010**



**Water Boards**

STATE WATER RESOURCES CONTROL BOARD  
REGIONAL WATER QUALITY CONTROL BOARDS

## **Summary**

Chapter 6.76, Section 25999.112 of the Health and Safety Code requires the State Water Resources Control Board (State Water Board) to annually prepare a report to the Legislature on the performance of the Replacing, Removing, or Upgrading Underground Storage Tanks (RUST) grant and loan program, including the number and size of grants and loans made, characteristics of grant and loan recipients, the number of underground storage tanks (USTs) removed, replaced, and/or upgraded as a result of the grant and loan program, and the amount of money spent on administering the program. The RUST Program has been effective in helping independent gas retailers, who cannot otherwise afford the expense associated with required UST and component upgrades and/or removing and replacing older USTs, to remain in business. The State Water Board received an appropriation of \$8 million from the Petroleum Underground Storage Tank Financing Account (PUSTFA) in the 2009-10 Budget Act and an additional \$8 million appropriation in Chapter 69, Statutes of 2009, (AB 96, Ruskin) for RUST grants and loans. In Fiscal Year 2009-10, the State Water Board approved a total of 179 RUST grants and 24 RUST loans totaling \$7,315,012 and \$4,491,578 respectively. The RUST Program has successfully helped to: 1) protect California's drinking water from contaminants, including methyl tertiary-butyl ether (MTBE); 2) protect California's air, by assisting small gas station owners in complying with the Air Resources Board's (ARB) Enhanced Vapor Recovery (EVR) Phase II requirements; and 3) ensure that necessary fuel supplies are maintained, particularly in rural areas.

## **Background**

The RUST Program was established at the Technology, Trade, and Commerce Agency in 1989 to provide low-interest loans (ranging from \$10,000 to \$750,000) to small businesses (fewer than 500 employees) for replacing, removing, and repairing USTs to meet regulatory standards and to take corrective actions in response to leaks. In 1999, the Legislature expanded the RUST Program as part of legislation aimed at limiting the release of MTBE from leaking USTs into groundwater and surface water resources. The 1999 legislation enabled small and disadvantaged businesses (defined as businesses having fewer than 20 employees and selling under 900,000 gallons of gasoline annually) to obtain grants (ranging from \$3,000 to \$50,000) for required UST and UST-related upgrades. The 2003-04 Budget Act abolished the Technology, Trade, and Commerce Agency and transferred the RUST Program to the State Water Board for the collection of outstanding loans.

Chapter 624, Statutes of 2004, (AB 1068, Liu), reinstated the RUST Program in the State Water Board, with a sunset date for the program of January 1, 2011. RUST loans and grants are funded from the PUSTFA. Repayments on RUST loans are deposited into the PUSTFA and made available for future loans and grants. The loan interest rate is currently at one percent; this is based on the most recent State Treasurer's Surplus Money Investment Fund rate verified and adjusted bi-annually.

Chapter 69, Statutes of 2009, (AB 96, Ruskin), an urgency measure, effective August 6, 2009, transferred \$8 million from the administrative subaccount of the PUSTFA to the grants and loans account of the PUSTFA and appropriated \$8 million to the State Water Board for RUST grants and loans in Fiscal Years 2008-09 and 2009-10. These funds were only available to fund RUST grants if the State Water Board had received the

RUST grant application not later than June 30, 2009. Additionally, these funds were only available to fund RUST grants and loans for the purpose of compliance with EVR Phase II regulations if the applicant applied for or obtained a permit from the air quality management district by April 1, 2009, and obtained an enforcement agreement or other binding obligation by June 30, 2009. This legislation provided immediate funding to small gas station owners and operators to assist them in complying with the ARB's EVR Phase II requirements. This legislation also extended the sunset date of the RUST program from January 1, 2011, to January 1, 2016, and revised the eligibility criteria for the RUST Program.

Chapter 649, Statutes of 2009, (AB 1188, Ruskin), an urgency measure, effective November 4, 2009, mandated changes to the RUST grant and loan program. Prior to enactment of this legislation, the State Water Board was unable to reimburse RUST grant applicants for work performed before the execution of a RUST grant. This legislation allows the State Water Board to reimburse grantees for the costs that they incurred to comply with the EVR Phase II regulations between the time that they submitted their RUST grant application and time that the grant was executed, if they submitted their application by April 1, 2009.

The following information is based on RUST Program records through June 30, 2010.

### **Loans, Grants, and Results**

In Fiscal Year 2009-10, the State Water Board approved a total of 179 RUST grants and 24 RUST loans totaling \$7,315,012 and \$4,491,578 respectively. RUST loans and grants executed in Fiscal Year 2009-10 enabled recipients to replace/ upgrade 508 USTs to comply with air and water quality regulatory requirements and preserved 770 jobs. The replacement/upgrade of these USTs also helped protect groundwater from contamination from UST leaks.

**RUST Loans.** During Fiscal Year 2009-10, the State Water Board received 27 RUST loan applications, totaling \$5,325,000. Of these applications, the State Water Board approved 24 loan applications, totaling \$4,491,578, with an average loan amount of \$187,149, and 3 loan applications were withdrawn by the applicants.

**RUST Grants.** During Fiscal Year 2009-10, the State Water Board received 234 RUST grant applications totaling \$9,699,358. The State Water Board approved 179 of those applications, totaling \$7,315,012, with an average grant amount of \$40,639. Of the remaining grant applications, eight applications were withdrawn by the applicants and the other 47 RUST grant applications were denied funding because they did not meet Chapter 69/2009 eligibility requirements and the State Water Board had exhausted its 2009-10 funding for non-Chapter 69/2009 eligible grants. These RUST grant applicants may be eligible for funding in Fiscal Year 2010-11.

Of the 179 grant applications that were approved by the State Water Board, 60 grant applications were eligible under the provisions of Chapter 649/2009, and a total of 113 of the 179 grants, totaling \$4,554,020, were funded by the money appropriated in Chapter 69/2009 to assist small gas stations and operators in complying with the EVR Phase II requirements. Although Chapter 69/2009 appropriated \$8 million in grants and loans for EVR Phase II requirements, the State Water Board was only able to fund a

total of \$4,554,020 with these funds due to the strict eligibility criteria specified in Chapter 69/2009.

**RUST Grants, Loans, and Results Over Time.** Attachment A contains Charts 1 through 4, which show the total number and amount of RUST loans and grants approved and the number of project tanks replaced/upgraded during Fiscal Years 2004-05 through 2009-10. Charts 1 and 2 show the number of grants approved, the number of project tanks replaced/upgraded, and the amount of grant funding approved during Fiscal Years 2004-05 through 2009-10. The number of grants approved, the number of project tanks replaced/upgraded, and the amount of grant funding approved increased in Fiscal Year 2009-10 as a result of the additional funding made available for RUST grants by Chapter 69/2009.

Chart 3 shows the number of RUST loans funded and project tanks replaced/upgraded over the past four years, and Chart 4 shows the amount of RUST loan funding approved in each of the past four years. The State Water Board received fewer loan applications and issued fewer RUST loans than normal in 2009-10, due to increased interest in the RUST grant program during and the recent downturn in the economy. The number of tanks replaced/upgraded in each fiscal year fluctuates depending on the amount of work being done on the tanks at each RUST loan site and the number of tanks at each site that are being upgraded/replaced.

**Characteristics of Grant and Loan Recipients**

The State Water Board includes questions in the RUST loan and grant applications to help identify the characteristics of the applicants. The following tables summarize the characteristics of the businesses that received RUST grants and loans in 2009-10.

**Table 1. Applicant’s Ethnicity**

| <b>ETHNICITY</b>        | <b>FY 2009-10<br/>TOTAL</b> |
|-------------------------|-----------------------------|
| White                   | 52                          |
| Asian/ Pacific Islander | 33                          |
| Hispanic                | 9                           |
| African-American        | 0                           |
| East Indian             | 18                          |
| Other                   | 14                          |
| Not Reported            | 58                          |

**Table 2. Business Types**

| <b>BUSINESS TYPES</b> | <b>FY 2009-10<br/>TOTAL</b> |
|-----------------------|-----------------------------|
| Gas Sales             | 34                          |
| Gas & Auto Repair     | 19                          |
| Gas & Mini Mart       | 128                         |
| Gas & Car Wash        | 2                           |
| Cardlock              | 1                           |

**Table 3. Legal Business Structure**

| <b>LEGAL STRUCTURE</b>    | <b>FY 2009-10<br/>TOTAL</b> |
|---------------------------|-----------------------------|
| Sole Proprietorship       | 67                          |
| Corporation               | 69                          |
| Partnership               | 17                          |
| Individual                | 29                          |
| Limited Liability Company | 0                           |
| Trust                     | 2                           |

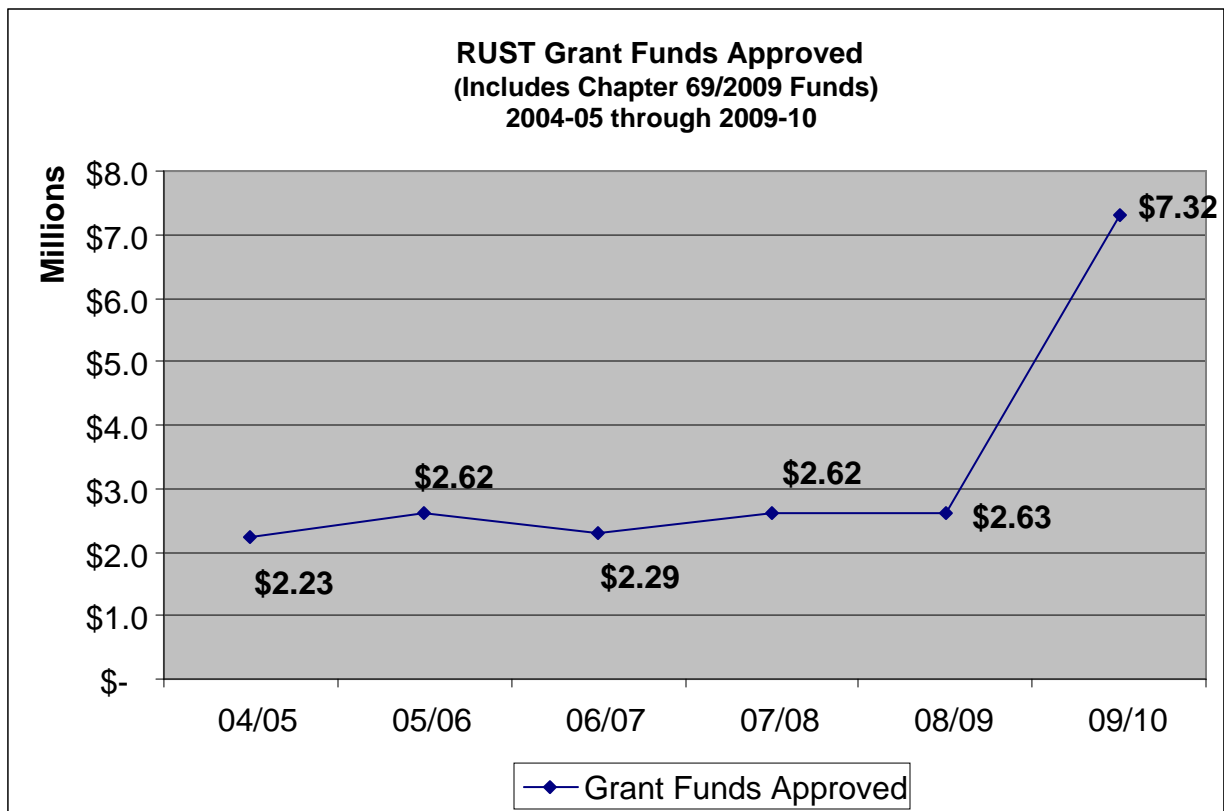
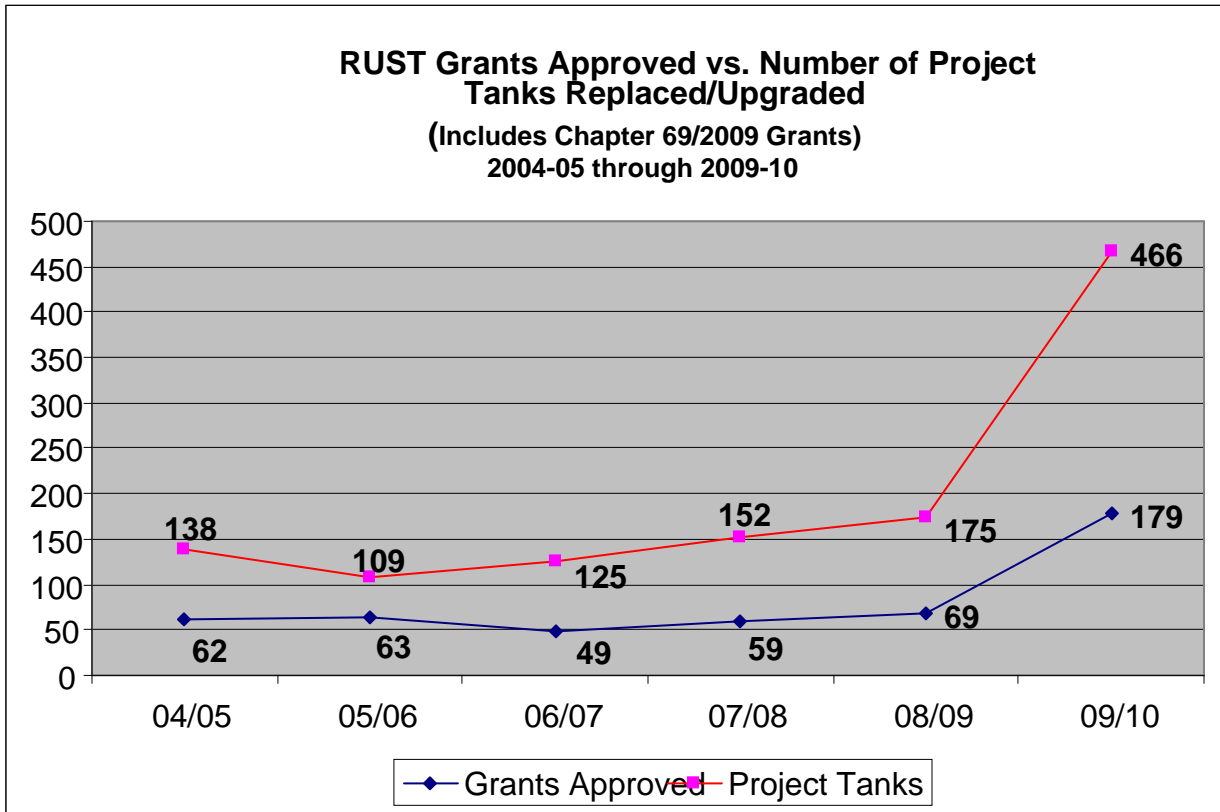
**Administrative Costs**

The State Water Board's actual operating expenditures for the RUST Program in 2009-10 totaled \$339,000, which is 62 percent of the total amount appropriated for RUST operating expenses. These expenditures are for loan and grant servicing and collection costs. Servicing costs include processing and accounting for new and existing loans and grants and depositing of monthly payments. Collection costs include pursuing delinquent borrowers and enforcement of contract provisions that ensure loan repayment.

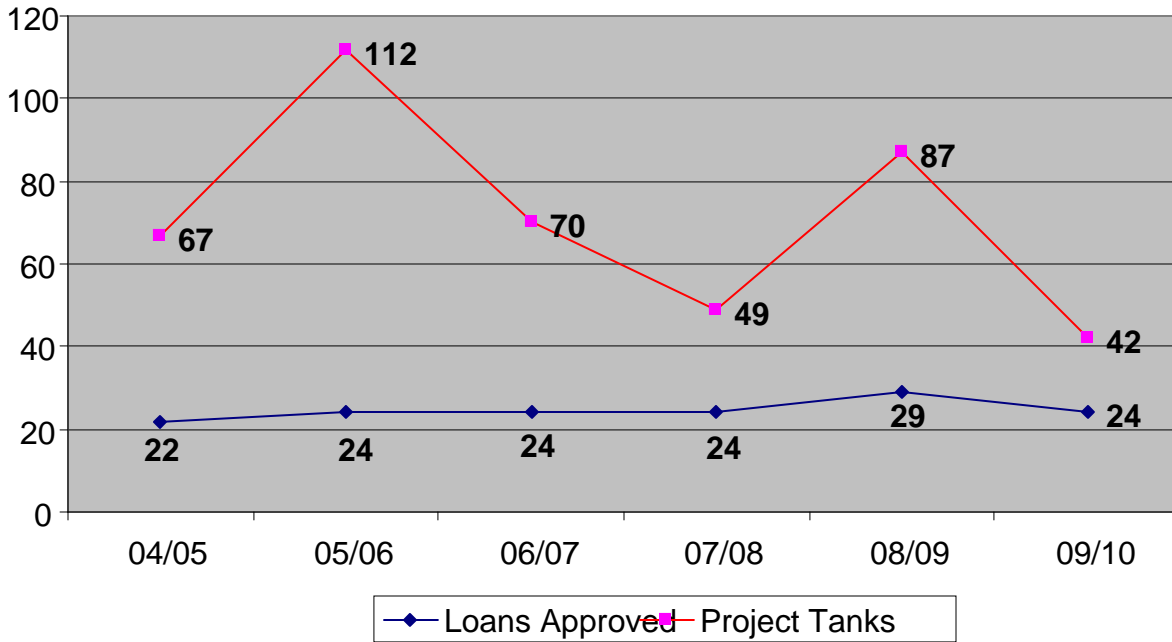
**Conclusion**

Through the RUST Program, the State Water Board has helped independent gas retailers who cannot otherwise afford the expense associated with certain water quality and air quality regulatory requirements to remain in business. The success of the RUST Program has helped protect California's drinking water from contaminants, including MTBE, protected California's air, by assisting small gas station owners in complying with the ARB's EVR Phase II requirements and ensured that necessary fuel supplies, particularly in rural areas, are maintained.

Attachment A  
 RUST Loans and Grants  
 2004-05 through 2009-10



**RUST Loans Approved vs. Number of Project Tanks Replaced/Upgraded  
2004-05 through 2009-10**



**RUST Loan Funds Approved  
2004-05 through 2009-10**

