California State Water Resources Control Board

Performance Audit of the Underground Storage Tank Cleanup Fund

March 2021

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Executive Summary

In 2021, Sjoberg Evashenk Consulting, working on behalf of the State Water Resources Control Board (Board), completed a performance audit of the Underground Storage Tank Cleanup Fund (Fund). The objectives of the audit were to assess:

- Compliance with statutes, regulations, policies, procedures, and processes at meeting program goals and objectives.
- Efficiency and effectiveness of policies, procedures, and processes at meeting program goals and objectives.
- Internal controls to prevent fraud and other activities incompatible with generally accepted accounting principles (GAAP), State Administrative Manual (SAM) guidelines, and sound Fund management practices.
- Implementation and effectiveness of measures in Board Resolution No. 2009-0042.
- Five-year projections of revenue and expenses and analysis of trends and factors affecting those projections.

Since the previous performance audit of the Fund in 2010, we found that significant improvements have been made in nearly every aspect of the program, most notably in the Fund's financial position. Specifically, the Fund's cash balances have grown considerably over the last decade, from a low of $27 million in Fiscal Year 2007-2008 to more than $864 million by June 30, 2018, driven largely by increased revenues and decreased reimbursement payments made to claimants. Given the size of the Fund's cash balance, projections suggest the Fund was well-positioned to meet remaining demand on resources prior to the emergence of the COVID-19 pandemic, which has created unforeseen challenges. Namely, loans from the Fund have been made available to cover government budget shortfalls at a time when Fund management is aggressively activating claims from the priority list so that available funding is utilized effectively to issue reimbursement payments and close cases prior to the sunset of the program in January 2026.

Our review also found that Fund management has taken action to contain cleanup costs and streamline eligibility and reimbursement processes. Specifically, Fund management reduced the maximum reimbursement that can be paid in a single year, and began assigning annual budgets to claims by project phase and regularly updating and utilizing cost guidelines. The Low-Threat Underground Storage Tank Case Closure Policy and Expedited Claim Account Program were implemented to reduce overall costs for site cleanup and increase and expedite case closures. Additionally, Fund management implemented electronic file reviews, established protocols to align reimbursement request submissions with project phases, incorporated faster communication methods with claimants, established the Fiscal and Financial and Reporting Units, and developed workload tracking and monitoring processes. Fund management has also made several improvements to its control environment, including working closely with the Fraud, Waste, and Abuse Prevention Unit, which was established in 2014 in the Office of Enforcement to investigate fraud and seek restitution from the perpetrators and developing Fund-wide policies and procedures.

Clearly, the Fund has made meaningful improvements to many of its practices. However, additional enhancements to improve financial management of the Fund are still warranted. Most critically, Fund Management needs regular and timely financial information from the Accounting branch to adequately manage and plan program resources and activities, but this information was not available due to workload challenges associated with the transition to the new statewide financial system, FI$Cal. Also, although the Fund's overall claim closure rate has improved, there are still many older claims that are active and continue to incur costs, driving up the overall average age and average cost of claims at closure—additional efforts to close languishing claims are needed. While matters related to financial planning and cost containment represent the Fund's most significant issues, we also noted additional improvements were needed in a few key areas related to secondary review processes, data integrity, and performance reporting and accountability.

Lastly, we found that the Fund implemented many of the key measures outlined in Board Resolution 2009-0042 issued in 2009, including creating a task force comprised of UST owners and operators, environmental consultants, interest group representatives, and Fund staff to review the circumstances of the Fund's past cash flow crisis and to make recommendations for process improvements. Additional components of the Resolution were implemented, such as posting payment request queues and approvals on GeoTracker to improve the transparency of the process and requiring regulatory bodies to reduce quarterly groundwater monitoring requirements to semiannual or less frequent to reduce monitoring costs. However, a key Resolution requirement has not yet been fully addressed related to initiating annual fiscal audits of the Fund.

Recommendations

To address the noted issues, the report provides 18 recommendations for the Board to consider directing staff to implement. Summary of key recommendations include:

- Resume processes to produce revenues and expenditure projections of the Fund's financial position and provide regular independent assessments of the Fund's current and future financial status to the Board.
- Provide regular, timely reports to Fund management that capture current financial information as well as trends in revenues, expenditures, and cash balances.
- Continue to collect and analyze data sufficient to fully determine the effectiveness of the Expedited Claims Account Program in reducing project costs and closing cases timely.
- Increase efforts to close old active claims.
- Continue protocols to ensure consistent and complete information is entered and tracked in SCUFIIS and work to incorporate application controls in the system.
- Implement independent, secondary or supervisory review processes to ensure each unit is performing effectively and efficiently. At a minimum, spot-checks should be documented to ensure the appropriate level of monitoring is occurring and the results are used to improve the program.
- Regularly report to the Legislature on Fund status by restarting its annual reporting required by Health and Safety Code.
- Initiate fiscal audits annually in compliance with Board Resolution 2009-0042.

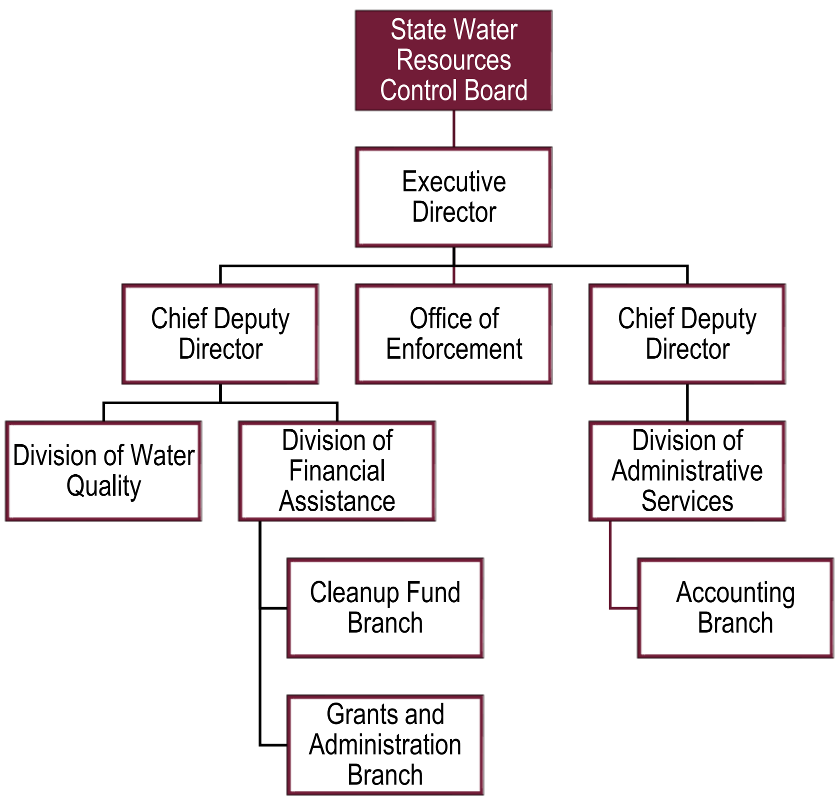
Introduction and Background

California's Underground Storage Tank Cleanup Fund (Fund) program was established by the Barry Keene Underground Storage Tank Cleanup Fund Act of 1989 (Senate Bill 299) to:

- Provide a means for petroleum underground storage tanks (UST) owners and operators (claimants or responsible parties) to meet the federal and state financial responsibility requirements; and,
- Reimburse eligible owners for corrective action costs associated with the cleanup of contaminated soil and groundwater caused by an unauthorized release of petroleum from underground storage tanks.

The Fund, one of the largest state-funded cleanup programs in the nation, is administered by the California State Water Resources Control Board's (SWRCB) Cleanup and Administration Branch within the Division of Financial Assistance.

EXHIBIT 1. SWRCB ORGANIZATION CHART (ABBREVIATED)



Cleanup Fund Process

Since the Fund's inception in 1991 through June 30, 2019, the Fund has received approximately 20,400 applications. To be deemed eligible to participate in the Fund, claimants must meet specific statutory and regulatory requirements, such as:

- Confirmed as the former or current owner or operator of the UST determined to have leaked a petroleum based or otherwise eligible substance;
- Received a directive from a regulatory agency to cleanup (take corrective action) the site;
- Complied with all UST permitting and corrective action requirements (regulatory cleanup orders);
- Paid all required UST storage maintenance fees to the California Department of Tax and Fee Administration (CDTFA); and,
- Provided adequate financial responsibility coverage for the UST.

As of June 30, 2019, of the approximate 15,650 that have been deemed eligible, about 2,725 claims were active, 2,190 claims were awaiting activation, and 10,375 claims had been closed. As part of its mandate, the Fund follows a "Priority System" to prioritize the funding of reimbursements to eligible claims based on claimants' ability to pay:

- Priority A (residential tank owners);
- Priority B (small California businesses, including nonprofit organizations, and some governmental entities);
- Priority C (certain California businesses, nonprofit organizations, and governmental entities not meeting the criteria for Priority B); and,
- Priority D (all other claimants, typically large corporations and some governmental entities).

The following entities are integral to the Underground Storage Tank Cleanup Fund Program:

- SWRCB—Five-member oversight Board sets statewide water quality policy.
- Regional Boards—Nine semi-autonomous Boards make regional water quality decisions based on surface and groundwater basin plans.
- UST Program—Administers the following UST programs: Leak Prevention, Cleanup, Local Oversight Program, and Tank Tester Licensing.
- USTCF Program (Fund)—Provides reimbursement to eligible responsible parties for corrective action costs associated with the cleanup of contaminated soil and groundwater caused by leaking or unauthorized release of petroleum from underground storage tanks.
- SWRCB's Office of Enforcement— Provides support activities related to both UST leak prevention and cleanup by investigating fraud and violations of the UST laws and regulations related to issues such as improper UST construction, failure to upgrade USTs, tampering with leak detection devices.

- Regulatory Agencies—Provide regulatory oversight of all UST cleanup projects, whether or not the responsible party is a claimant that participates in the Fund and is eligible to receive reimbursement for the cleanup activities. Most cleanup projects are overseen by regulators that are employed at either the Regional Boards or County Local Oversight Programs, but a few projects were also overseen by City Local Implementing Agencies.
- Claimant (responsible party)—Owns or operates a leaking UST and meets specific eligibility requirements to participate in the Fund and receive reimbursement for cleanup activities. Not all responsible parties meet eligibility requirements or receive reimbursement for the cost of cleanup.
- CDTFA—Collects the UST maintenance fees from responsible parties that own or operate USTs in California that are the source of the Fund's revenues.

Objectives, Scope, and Methodology

Sjoberg Evashenk Consulting was hired by the State Water Resources Control Board (SWRCB) to conduct a performance audit of the Underground Storage Tank Cleanup Fund (USTCF). The objectives of the audit were to assess:

- Compliance with statutes, regulations, policies, procedures, and processes at meeting program goals and objectives.
- Efficiency and effectiveness of policies, procedures, and processes at meeting program goals and objectives.
- Internal controls to prevent fraud and other activities incompatible with generally accepted accounting principles (GAAP), State Administrative Manual (SAM) guidelines, and sound fund management practices.
- Implementation and effectiveness of measures in Board Resolution 2009-0042.
- Five-year projections of revenue and expenses and analysis of trends and factors affecting those projections.

The scope of our audit was July 1, 2009, and June 30, 2019. Fieldwork was conducted between January 2020 and October 2020; because work was conducted largely remotely due to the 2020 global pandemic, time spent with the auditees on-site was limited.

To ensure we gathered the full context of information and environment that the Fund must operate within, where appropriate, we gathered pertinent information relative to California Department of Tax and Fee Administration (CDTFA) (formerly part of the Board of Equalization), an entity outside of the SWRCB, and information from the SWRCB's Office of Enforcement, Division of Water Quality, and Division of Administrative Services (DAS), which are separate from the UST Cleanup Fund. We did not evaluate the processes of these entities or divisions as they were deemed not within the scope of this audit.

As part of the first phase of the audit, we conducted a preliminary review of the USTCF organizational and management processes and provided the SWRCB with a proposed project plan on May 4, 2020. In concert with the approved project plan and to answer audit questions and objectives, we specifically reviewed and relied upon the following as part of our work during this audit:

- Reviewed California Health and Safety Code, UST Cleanup Fund regulations, Legislative Annual Reports, Board decisions, SWRCB organizational charts, Fund policies and procedures, and the 2010 Underground Storage Tank Cleanup Fund Performance Audit.
- Interviewed SWRCB management and staff of the Cleanup Fund, Division of Financial Assistance's (DFA) Administrative Unit, DAS' Accounting Office, and Office of Enforcement, as well was CDTFA staff to gain an understanding of the Fund's overall environment.
- Conducted process walk-throughs with and gathered documents from management and staff within SWRCB, including the Fund's Claims Eligibility Unit, Settlement Unit, two Reimbursement Units

and one Closures and Support Services Unit within the Reimbursements Section, two Technical Claim Review Units and one Review Summary Reports Unit within the Hydrogeology and Engineering Section, Cleanup Accounts Section (which includes the Expedited Claims Account Program and Site Cleanup Subaccount Program), Grants and Contracts Unit, and DFA's Special Fund Fiscal Unit.

- Analyzed financial data, including revenues, expenditures, transfers, cash balances and reserves, encumbrances, reimbursement payments, etc.
- Projected future reimbursement demand and Fund resources to meet that demand from Fiscal Year 2019-2020 through the current sunset of the Fund on January 1, 2026. Analyzed a variety of scenarios to determine whether the projected revenues are likely to be sufficient to support the Fund's potential demand.
- Obtained, reviewed, and analyzed SCUFIIS system reports to determine timelines and trends related to areas such as:
  - Applicant submissions,
  - Claimant eligibility determinations,
  - Active and Priority List claimant pools, and
  - Closed claims.
- Obtained and reviewed GeoTracker system statistical reports related to areas such as:
  - Active and closed UST cleanup cases,
  - Regulatory performance data, and
  - Payment reports.
- Reviewed application claim files and reimbursement requests to determine the following:
  - If claim eligibility applications and reimbursement requests were processed efficiently in accordance with the Board's existing policies and procedures, applicable laws and regulations,
  - If claims were held to their annually assigned budget categories, and
  - If Reimbursement Requests (RRs) were evaluated using Fund-published Cost Guidelines.
- Assessed the adequacy of the internal control environment.
- Determined how measures in Board Resolution 2009-0042 and recommendations in the 2010 Underground Storage Tank Cleanup Fund Performance Audit were implemented.

Sjoberg Evashenk Consulting conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Chapter 1: While Fund Resources Have Grown Considerably and Some Process Enhancements Implemented, Additional Financial Management Improvements Needed

The Underground Storage Tank (UST) Cleanup Fund (Fund) program reimburses eligible owners for corrective action costs associated with the cleanup of contaminated soil and groundwater caused by leaking or unauthorized release of petroleum from underground storage tanks. Because the program is a reimbursement program to participants that have already expended monies on cleanup activities, reimbursing claimants as quickly as possible has been the Fund's top priority. The Fund generates revenue from UST maintenance fees paid by tank owners as well as some interest earnings. Those deemed eligible to participate in the reimbursement program are assigned to one of four rankings based on the claimant's ability to pay and are added to the Fund's "Priority List":

- Priority A (residential tank owners);
- Priority B (small California businesses, including nonprofit organizations, and some governmental entities);
- Priority C (certain California businesses, nonprofit organizations, and governmental entities not meeting the criteria for Priority B); and,
- Priority D (all other claimants, typically large corporations and some governmental entities).

We found that the Fund's cash balance has grown significantly over the last decade, from a low of $27 million in Fiscal Year 2007-2008 to more than $864 million by June 30, 2018, driven largely by increased revenues and decreased reimbursement payments made to claimants. Given the size of the Fund's cash balance, we project that the Fund appears well-positioned to meet remaining demand prior to its sunset in January 2026; however, the emergence of the COVID-19 pandemic has created unforeseen challenges to the Fund's financial position. Specifically, loans from the Fund have been made available to cover government budget shortfalls at a time when Fund management is aggressively activating claims from the priority list so that available funding is utilized effectively in issuing reimbursement payments and closing cases prior to the end of the program.

Additionally, we found that some process enhancements were implemented to improve financial management of the Fund, such as requiring claimants to submit multiyear Project Execution Plans (PEP) and budgets to control costs as well as developing annual projections of Fund resources. While PEPs are still in place, the Fund is not currently making projections of future resources. As a result, additional improvements are needed, such as providing Fund management with sufficient financial information to adequately manage and plan program resources and activities.

Cash Balances Have Increased Significantly Since Fiscal Year 2007-2008

Since its inception in 1991 through June 30, 2018, the Fund has generated approximately $6.1 billion in revenue and about $3.8 billion, or about 62% percent, was expended toward the Fund's single largest expense category— "Priority System" reimbursement payments, as shown in Exhibit 2.

EXHIBIT 2. CUMULATIVE PRIORITY SYSTEM REIMBURSEMENTS BY PRIORITY CLASS AS OF JUNE 30, 2018

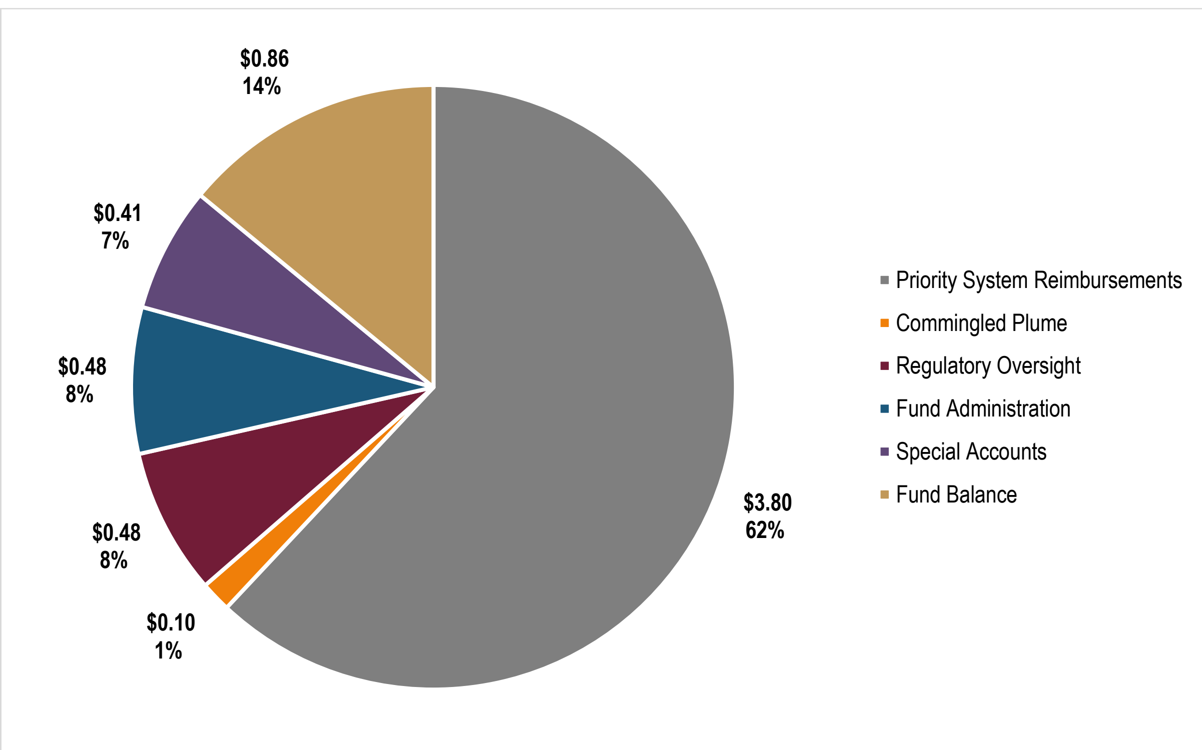
Priority Class	Cumulative Claim Reimbursement Payments	Share Percentage
A	$40,000,000	1%
B	$1,680,000,000	44%
C	$1,280,000,000	34%
D	$800,000,000	21%
Total (rounded)	**$3,800,000,000**	**100%**

Source: CalSTRS Q16 Expenditure Reports and GeoTracker (share percentage).

In addition to the priority system reimbursement payments, the Fund also expended approximately $100 million, or about 2 percent of revenue, on commingled plume claim payments, which are complex claims processed by the Fund involving multiple claimants.

The remaining 36 percent, or approximately $2.3 billion, of the Fund's revenues went toward the Fund's administration and regulatory oversight expenses, transfers related to special account programs,[1] and building cash balances. The Fund's use of resources since inception through June 30, 2018 is illustrated in Exhibit 3.

EXHIBIT 3. UTILIZATION OF FUND REVENUES—INCEPTION THROUGH JUNE 30, 2018 (IN BILLIONS)



Source: CalSTARS Q16 reports.

[1] Includes orphan, school district, Site Cleanup Sub-Account Program (SCAP), and Replacing, Removing or Upgrading Underground Storage Tanks (RUST) programs.

Historically, the Fund has reserved portions of its balance for the following purposes:

- Emergency Reserves—State Water Resources Control Board (SWRCB) executive management sets the emergency reserve level at a specific percentage of yearly revenue to protect against economic uncertainties and assistance with daily cash flow. The 2010 audit reflected that this reserve was set at ten percent.
- Clearing Account—Established (in statute) by the California Department of Finance (DOF) to coordinate the payment of SWRCB's administrative expenses. The clearing account receives monthly reimbursements from each of the SWRCB's 34 funds. While the Fund's monies are utilized to provide a continuous float, the fact that the Fund acts as the SWRCB's clearing account does not directly impact the number of claims that can be paid annually. The 2010 audit reflected that this reserve was set at $26.5 million.

However, the Accounting Office noted that because there have been large increases in the Fund's cash balance in recent years, the need to determine reserves has not been a pressing issue and, as a result, there are not currently established amounts for reserves or the clearing account. Further, because of issues associated with the transition to the FI$Cal financial system, the Accounting Office believes that an assessment of reserve amounts is not currently possible.

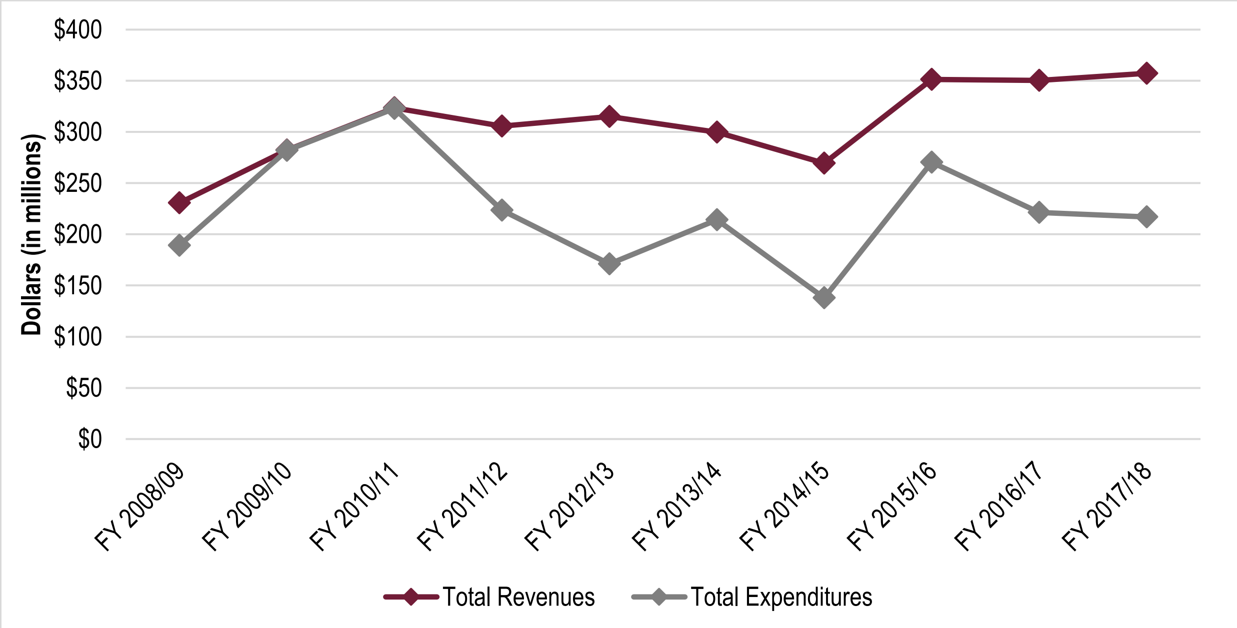
The Fund also encumbers (sets aside) some of its cash balances for portions of near-term cleanup project costs. The amount of the Fund's cash balances encumbered vary year to year depending how much of the money set aside was actually paid out or held and carried forward to the next fiscal year. Under DOF provisions, monies can only be encumbered for three years and if unspent revert back to an unencumbered status once the time period has expired.

The 2010 performance audit of the Fund noted that cash balances built up during the 1990s and early 2000s had largely been depleted by 2008. Specifically, the Fund's cash balance had declined from $185.5 million in Fiscal Year 2001-2002 to just over $27 million by Fiscal Year 2007-2008. Over the current audit period, the Fund's cash balances increased significantly as described in the following sections.

As Revenues Increased Significantly and Expenditures Were Volatile, the Fund's Cash Balances Increased to $864 Million by the end of Fiscal Year 2017-2018

As shown in Exhibit 4, Fund revenues increased significantly during the current audit period—from $231 million in Fiscal Year 2008-2009 to $357 million in Fiscal Year 2017-2018, or about a 55 percent increase.

EXHIBIT 4. FUND REVENUES AND EXPENDITURES, FISCAL YEARS 2008-2009 THROUGH 2017-2018



Source: CalSTARS Q16 reports, Cash Status Reports, and other accounting records.

Revenues grew rapidly in Fiscal Years 2009-2010 and 2010-2011 as a result of an increase in the Underground Storage Tank Maintenance Fee, which is paid by owners and operators that store petroleum products in underground storage tanks, including gasoline, jet fuel, diesel, heating oil and solvents. Specifically, the fee increased from $0.014 to $0.020 per gallon on January 1, 2010. However, on January 1, 2014 the fee decreased back to $0.014 cents per gallon, leading to corresponding decreases in revenue in Fiscal Years 2013-2014 and 2014-2015. On January 1, 2015, the fee was again increased back to $0.020 per gallon as the result of Senate Bill 445, resulting in a corresponding increase in revenue in Fiscal Year 2015-2016. The historical fee rate per gallon is reflected in Exhibit 5.

EXHIBIT 5. HISTORICAL UST MAINTENANCE FEES

UST Maintenance Fees Assessed (per gallon)	Fee Collection Timeframe
$ 0.006	January 1, 1991–December 31, 1994
$ 0.007	January 1, 1995–December 31, 1995
$ 0.009	January 1, 1996–December 31, 1996
$ 0.012	January 1, 1997–December 31, 2004
$ 0.013	January 1, 2005–December 31, 2005
$ 0.014	January 1, 2006–December 31, 2009
$ 0.020	January 1, 2010–December 31, 2013
$ 0.014	January 1, 2014–December 31, 2014
$ 0.020	January 1, 2015–Present

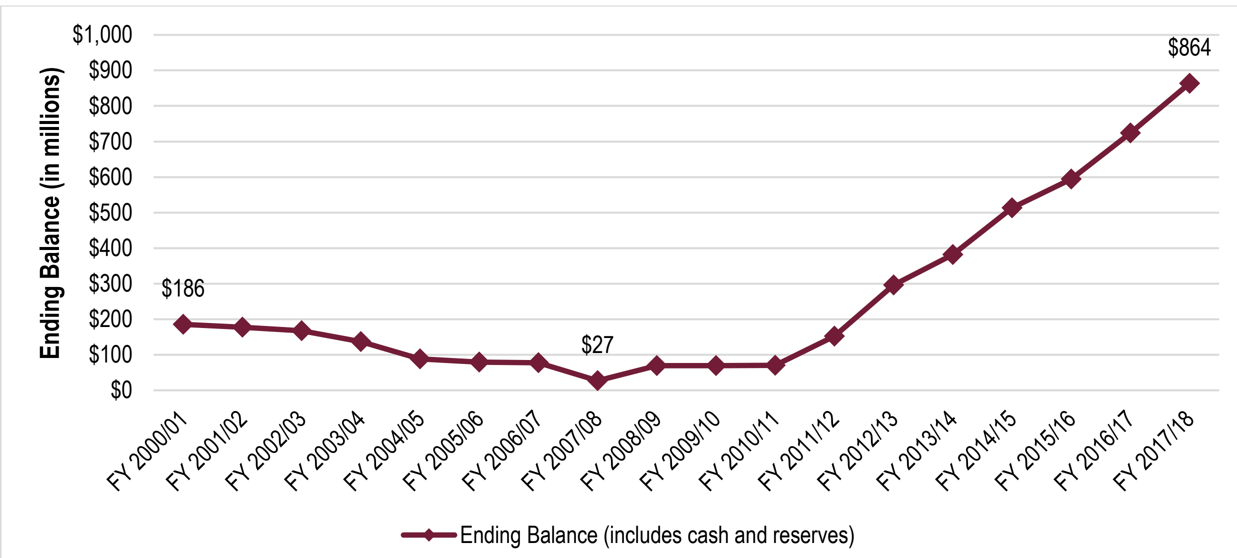
Source: California Department of Tax and Fee Administration.

As shown in Exhibit 4, as revenues increased substantially, total expenditures were quite volatile year over year and were often considerably less than revenues. Specifically, the Fund's expenditures increased from $189 million in Fiscal Year 2008-2009 to a high of $323 million in Fiscal Year 2010-2011 before dropping to a low of $138 million in Fiscal Year 2014-2015 and back up above $200 million in subsequent years.

Because revenues outpaced expenditures over the period, the Fund's cash balance increased significantly. To calculate the Fund's cash balance at the end of Fiscal Year 2017-2018, we started with the ending Fiscal Year 2007-2008 balance reflected in the 2010 audit report and added the Fund's subsequent revenue and expenditure activity through Fiscal Year 2017-2018 detailed in financial system records provided by the Board's Accounting Office; however, despite repeated requests, we were unable to speak with the Accounting Office to confirm the calculated balances. Nonetheless, based on discussions with Fund management and review of the annual Cash Status Reports prepared by the Accounting Office, the calculated cash balances discussed below appear reasonable.

As shown in Exhibit 6, cash balances grew from just over the $27 million reported in Fiscal Year 2007-2008 to more than $864 million by June 30, 2018. Increases in the balance began most notably in Fiscal Year 2011-2012 when expenditures fell sharply, as shown in Exhibit 4.

Exhibit 6. Cash Balances, Fiscal Years 2000-2001 through 2017-2018

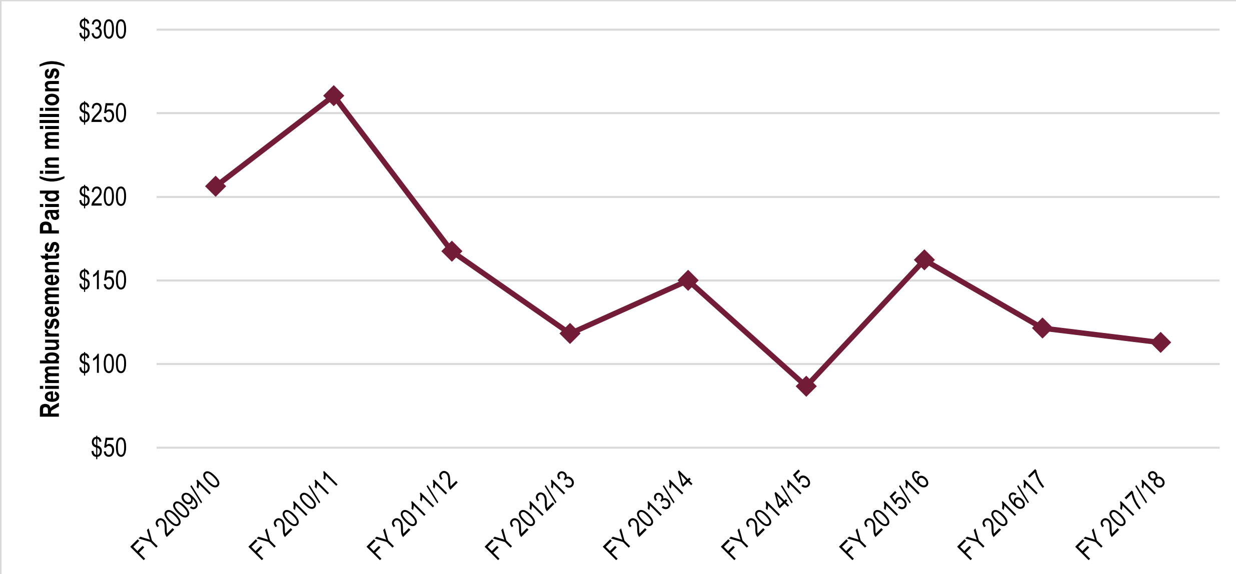


Source: CalSTARS Q16 reports, Cash Status Reports, and other accounting records.

Priority System Reimbursements Declined Significantly Over the Audit Period

Looking more closely at Fund expenditures, we found that Priority System reimbursement payments, the largest category of expenditures, fell sharply after Fiscal Year 2010-2011, as shown in Exhibit 7. This decrease is largely responsible for the increase in the Fund's cash balances.

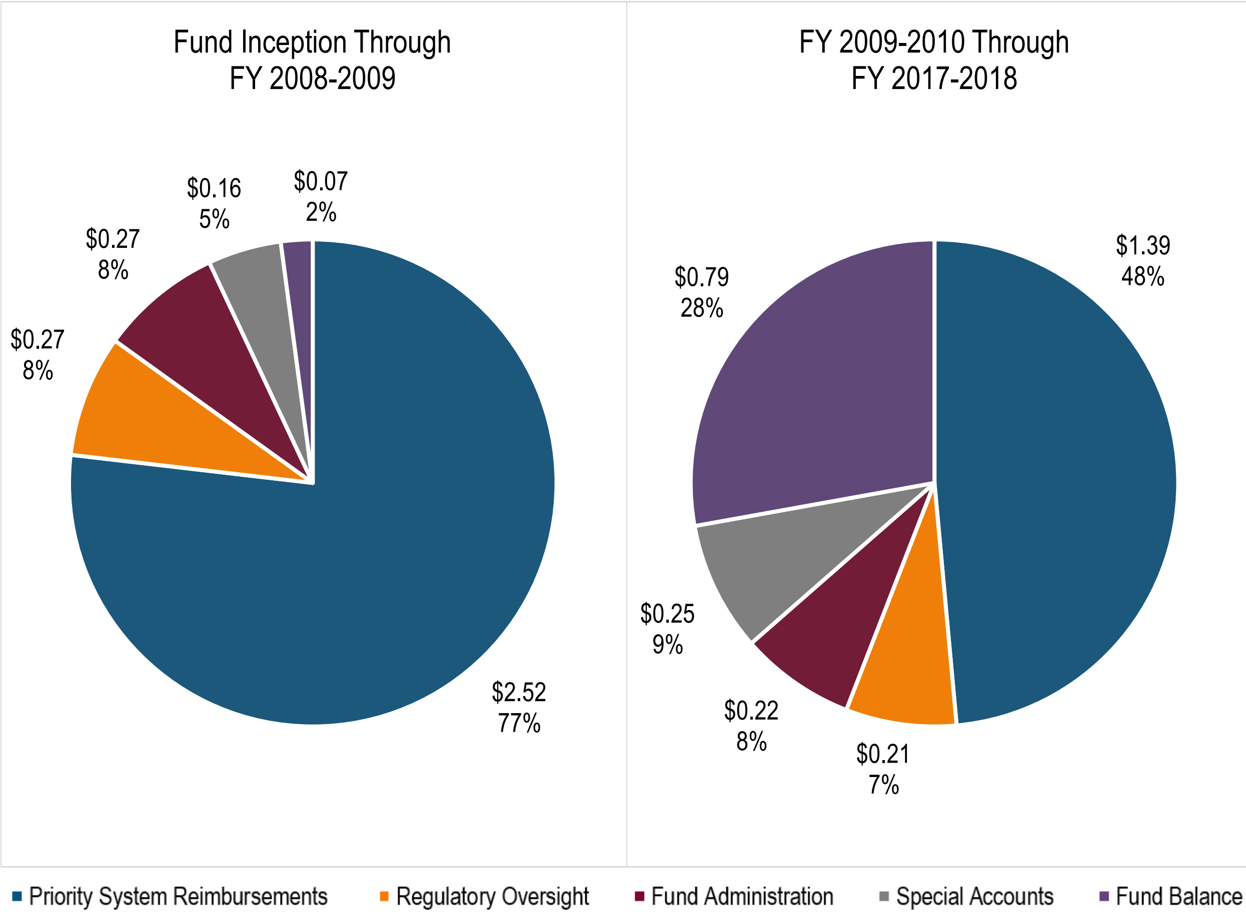
EXHIBIT 7. ANNUAL CLEANUP REIMBURSEMENTS PAID



Source: CalSTARS Q16 reports, Cash Status Reports, and other accounting records.

Further, the Fund's utilization of revenues from Fiscal Years 2009-2010 to 2017-2018 compared to the utilization reported in the 2010 audit report shifted quite a bit, with the largest change related to the percentage of revenue spent on Priority System reimbursements. As shown in Exhibit 8, from inception of the program through Fiscal Year 2008-2009, reimbursement payments accounted for 77 percent of the Fund's revenue utilization, dropping to just 49 percent between Fiscal Years 2009-2010 and 2017-2018.

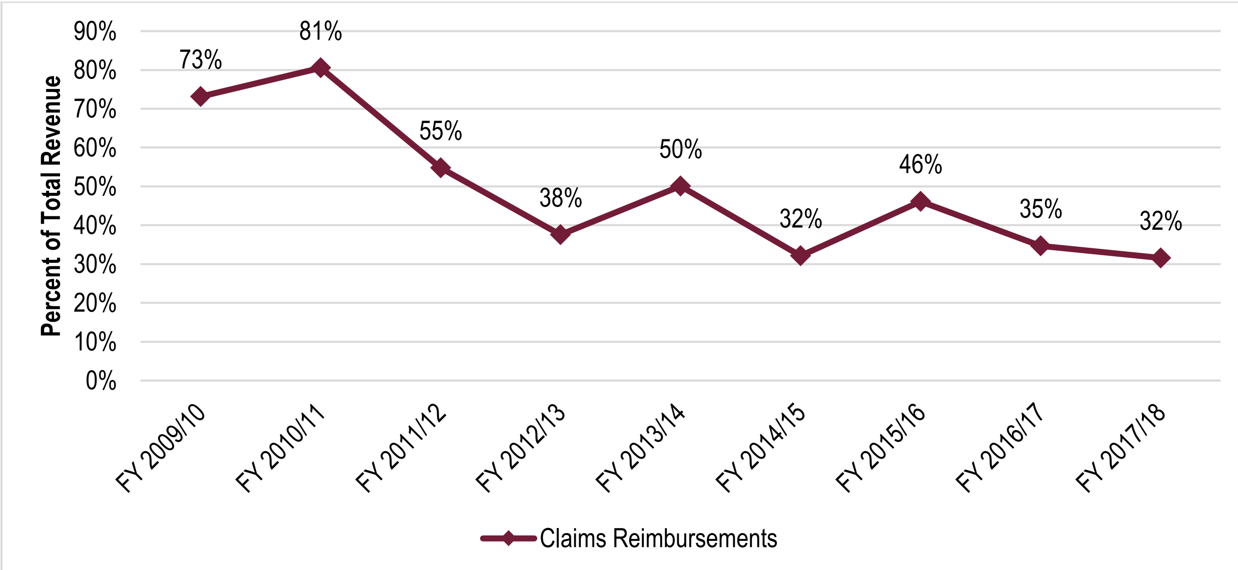
EXHIBIT 8. UTILIZATION OF REVENUE FROM PROGRAM INCEPTION THROUGH FISCAL YEAR 2008-2009 COMPARED TO FISCAL YEARS 2009-2010 TO 2017-2018 (IN BILLIONS)



Source: CalSTARS Q16 reports, Cash Status Reports, and other accounting records.

In fact, the percentage of annual revenue utilized to pay reimbursement requests during the current audit period has decreased year over year—in Fiscal Year 2009-2010, 73 percent of Fund revenues were used to pay reimbursement claims, dropping to just 32 percent by Fiscal Year 2017-2018, as shown in Exhibit 9.

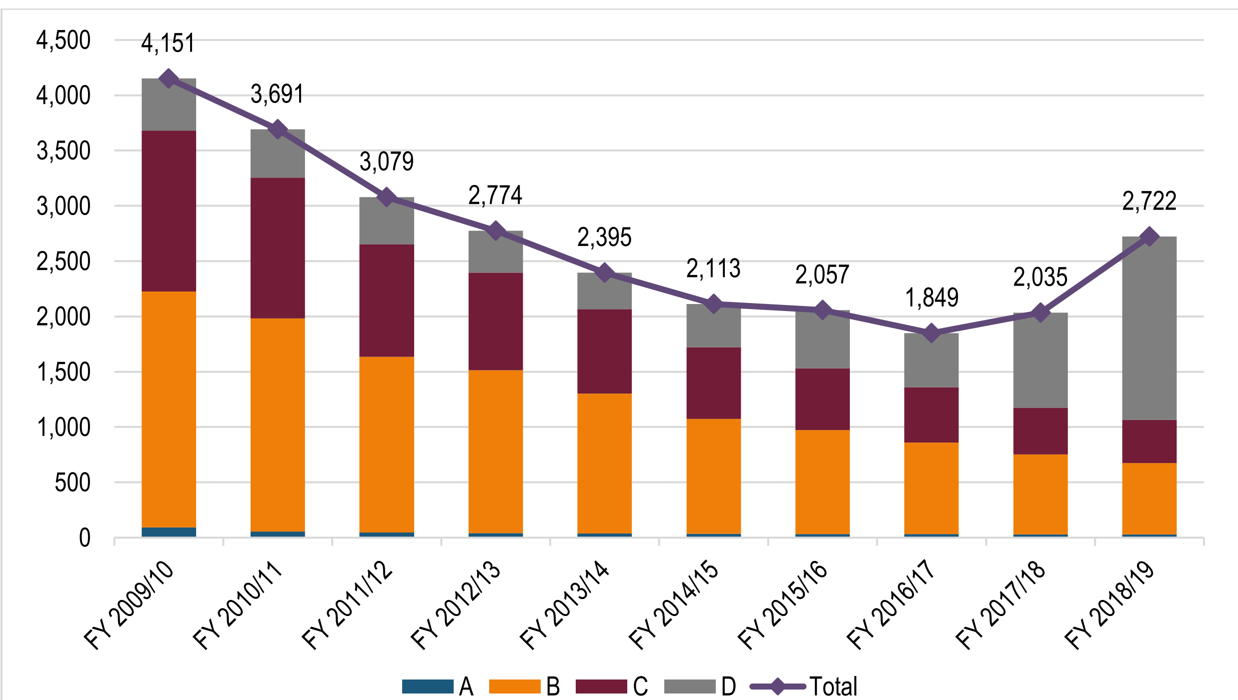
EXHIBIT 9. PERCENT OF ANNUAL REVENUES USED FOR PRIORITY SYSTEM REIMBURSEMENTS



Source: CalSTARS Q16 reports, Cash Status Reports, and other accounting records.

The decrease in Priority System reimbursement expenditures coincide with decreases in the number of "active" claims, which are claimants eligible to submit requests for reimbursements. As shown in Exhibit 10, the number of active claims decreased from 4,151 at the end of Fiscal Year 2009-2010 to just 1,849 at the end of Fiscal Year 2016-2017, before growing again to 2,722 at the end of Fiscal Year 2018-2019.

EXHIBIT 10. ACTIVE CLAIMS POOL BY PRIORITY CLASS, FISCAL YEAR 2009-2010 THROUGH FISCAL YEAR 2017-2018



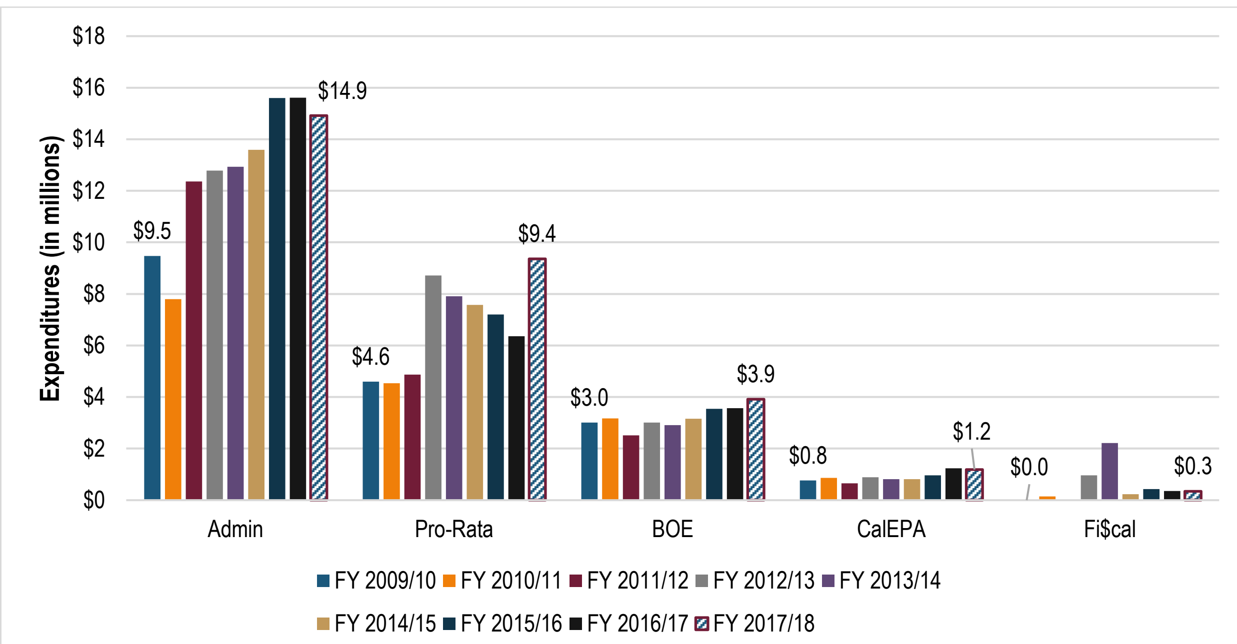
Source: CalSTARS Q16 reports, Cash Status Reports, and other accounting records.

According to Fund Management, an important factor in the decrease in the active claims pool relates to Priority Class D claimants not applying to participate in the Fund as well as Priority Class A, B, and C claims closed. Priority Class D claims, which typically relate to major oil companies, did not believe they would be able to be reimbursed for their cleanup activities due to the Fund's prioritizing residential and small business claim payments and the perception of limited available funding. Therefore, historically, many large companies did not apply to participate in the Fund. Those that did apply and were accepted remained on the priority list for years before being activated and have been slow to gather the documentation and submit reimbursement requests for cleanup activities that has already been completed. However, in recent years more Priority Class D claimants have been participating in the program as the Fund has been activating claims in this class.

Non-Programmatic Expenses Increased Overall, Driven by Increases in the Fund's Administrative Costs

While Priority System reimbursement payments decreased, non-programmatic expenses increased overall during the same period—from $17.9 million in Fiscal Year 2009-2010 to $29.7 million in Fiscal Year 2017-2018. One of the largest drivers of the increase in non-programmatic expenses relates to the Fund's internal administrative costs, which increased from $9.5 million to $14.9 million during the period, an increase of 57 percent, as shown in Exhibit 11.

EXHIBIT 11. NON-PROGRAMMATIC EXPENSES, FISCAL YEAR 2009-2010 THROUGH FISCAL YEAR 2017-2018



Source: CalSTARS Q16 reports, Cash Status Reports, and other accounting records.

Fund management noted that furloughs in Fiscal Year 2010-2011 led to a decrease in administrative costs for that year. Fund management also indicated the increase in administrative costs in Fiscal Year 2015-2016 was the result of hiring additional staff resources to implement the new Expedited Claims Account Program (ECAP) and Site Cleanup Sub-Account Program (SCAP) programs.

Additionally, there are other administrative and shared costs that are outside the Fund's control. Pro-Rata expenses are charged to the Fund by the California Department of Finance (DOF) to cover costs of providing central administrative services. Similar to internal administrative costs, Pro-Rata expenses increased significantly over the period, growing from $4.6 million in FY 2009-2010 to $9.4 million in FY 2017-2018—an increase of 104 percent. CalEPA expenses are directly apportioned by the Board from multiple sources to cover the two agencies' shared costs. Finally, the California Department of Tax and Fee Administration (CDTFA) charges for collecting UST Maintenance fees. Together, Pro-Rate, CDTFA, and CalEPA costs increased from a combined $8.4 million in Fiscal Year 2009-2010 to $14.5 million in Fiscal Year 2017-2018.

Oversight Expenses were Consistent between Fiscal Years 2009-2010 and 2017-2018

The Fund pays for the costs associated with Regional Water Board and Local Oversight Program costs directing and overseeing cleanup costs, as discussed in Chapter 2. Although oversight costs increased slightly between Fiscal Years 2009-2010 and 2013-2014, these annual costs remained fairly consistent over the entire audit period, ranging from about $21 million to $26 million over the period.

Some Funding Allocated to Special Accounts and Programs

In addition to expending monies on reimbursement payments, administrative costs, and oversight activities, the Fund also transfers monies to several special cleanup programs, but transfers do not always occur each year. Specifically, the Fund is required to transfer a portion of maintenance fee collections to:

- Removing, Replacing, or Upgrading Underground Storage Tanks (RUST) Loans and Grants—provides grants of up to $15,000 to businesses with less than 500 employees for cleanup costs and leak-detection equipment. RUST received a total of $85,113,657 between Fiscal Years 2013-2014 and 2017-2018.
- Site Cleanup Subaccount Program (SCAP)—established in 2014, provides grants to remediate harm caused by surface or groundwater contamination, but is not restricted to petroleum products. As of May 2020, the SCAP had 74 funded projects. SCAP received a total of $77,113,567 between Fiscal Years 2016-2017 and 2018-2019.
- School District Account—established in 2008, provides funding to school districts for the reimbursement of costs associated with cleaning up contamination caused by leaking petroleum USTs. While the program was previously funded through legislatively-mandated transfers from the Fund, SB 445 provides a dedicated $0.003 per gallon from the UST maintenance fee collections. The account received a total of $30 million between Fiscal Years 2009-2010 and 2010-2011. Fund management noted that the account has sufficient funding to reimburse claimants; as a result, its portion of maintenance fee collections has since been evenly split between RUST and SCAP.
- Emergency, Abandoned and Recalcitrant (EAR) Account Program—through a $5 million annual appropriation, provides funding for regulatory agencies to abate emergency situations or to cleanup abandoned or recalcitrant sites. The EAR program expended a total of $19,415,740 between Fiscal Years 2009-2010 and 2017-2018.

- Orphan Site Cleanup Fund (OSCF)—previously known as the Orphan Site Cleanup Account (OSCA), provides grant funding to eligible applicants for the cleanup of sites contaminated by leaking petroleum underground storage tanks where there is no financially responsible party and the applicant is not an eligible claimant to the UST Cleanup Fund. The OSCF received a total of $34,474,875 between Fiscal Years 2008-2009 and 2010-2011. Although the program does not currently receive funds from the Fund, it remains active and the legislature may choose to transfer additional monies from the Fund in the future.

Given the large increase in the Fund's cash balance, the special account transfers did not appear to inhibit or prevent resources being expended on the Fund's primary purpose, which is paying Priority System reimbursements. Moreover, the RUST, SCAP, and the School District Account programs began receiving dedicated funding as a result of SB 445.

Fund Appears to Have Sufficient Resources to Cover Demand; However, the COVID-19 Pandemic has the Potential to Significantly Reduce Fund Resources

The Fund is currently set to sunset on January 1, 2026. While our projections suggest that the Fund will likely have sufficient funds to meet near term reimbursement demands, the estimates do not account for potential impacts the COVID-19 pandemic may have on the Fund's resources.

Estimates of Future Available Resources

The CDTFA prepares internal projections of UST maintenance fee revenue, the major source of funding for the USTCF program, for the upcoming two fiscal years. The CDTFA considers the average growth rate in fee revenues over the previous five years and the average growth rate in the number of gallons of petroleum stored as reported by feepayers. We estimated the Fund's maintenance fee revenue following the CDTFA's methodology.

Specifically, annual UST maintenance fee revenues increased between Fiscal Years 2013-2014 and 2017-2018, from roughly $297.5 million to more than $344.5 million, a five-year average increase of 3.94 percent. Additionally, the five-year average percentage growth in the number of gallons stored was 2.48 percent, as reflected in Exhibit 12.

EXHIBIT 12. ACTUAL UST GALLONS STORED IN USTS, FISCAL YEARS 2014-2015 THROUGH 2018-2019

<table>
<tr><th>Fiscal Year</th><th>Gallons Stored</th><th>Five-year Average Percent Change</th></tr>
<tr><td>2014-2015</td><td>14,402,643,378</td><td rowspan="2">2.48%</td></tr>
<tr><td>2018-2019</td><td>15,834,021,759</td></tr>
</table>

Source: California Department of Tax and Fee Administration (CDTFA).

Using the maintenance fee revenue and gallons store growth rates as described, we estimated future revenue fee generation for Fiscal Years 2019-2020 through 2025-2026 using growth rates of 2 and 4.5 percent, as shown in Exhibit 13.

EXHIBIT 13. ESTIMATED GROWTH IN UST MAINTENANCE FEE REVENUES, FISCAL YEARS 2019-2020 THROUGH 2025-2026

Fiscal Year	2.0 Percent	4.5 Percent
2019-2020	$339,931,225	$348,262,872
2020-2021	$346,729,849	$363,934,702
2021-2022	$353,664,446	$380,311,763
2022-2023	$360,737,735	$397,425,792
2023-2024	$367,952,490	$415,309,953
2024-2025	$375,311,540	$433,998,901
2025-2026[2]	$191,408,885	$226,764,426
Total	**$2,335,736,170**	**$2,566,008,409**
76 Percent Required for Reimbursement Payments	**$1,775,159,489**	**$1,950,166,391**

As reflected in Exhibit 13, the estimates reflect that the Fund could receive an additional $2.34 billion to $2.57 billion in maintenance fee revenue from Fiscal Year 2019-2020 through the sunset of the Fund in January 2026. As shown in Exhibit 8, Fund administration, oversight, and special account transfers accounted for a combined 24 percent of the utilization of revenues between Fiscal Year 2009-2010 and Fiscal Year 2017-2018. Assuming the remaining 76 percent of future revenues can be used for Priority System reimbursements, between $1.78 billion and $1.95 billion will be available, as shown in Exhibit 13.

As described earlier, the Fund built up a substantial cash balance due to lower than expected reimbursement submission by claimants and increased maintenance fee revenue collections. Using the Fund's cash balance as of June 30, 2018, we developed two scenarios to estimate a beginning cash balance as of July 1, 2019 as a baseline for our projections:

- Cash balance of $864 million as of June 30, 2018 (Exhibit 6) used as the July 1, 2019 starting cash balance in the first scenario. Although we know that the cash balance likely grew between July 1, 2018 and June 30, 2019, the $864 million figure provides an established starting point.
- Cash balance of $1.08 billion used as the July 1, 2019 starting cash balance in the second scenario. This estimate was calculated by taking the 25.3 average annual growth in the Fund's cash balance between Fiscal Years 2013-2014 and 2017-2018 and applying it to the $864 million balance as of June 30, 2018.

Adding the $1.78 billion and $1.95 billion range of estimated revenues from Exhibit 13 to the Fund's estimated cash balance scenarios of $864 million and $1.08 billion, the Fund could have between $2.6 billion and $3.0 billion in resources from July 1, 2019 through its expected termination in January 2026 to use for priority system reimbursement payments.

[2] As the program sunsets on January 1, 2026, estimates cover the first six months of Fiscal Year 2025-2026.

Estimates of Future Demand

To determine the Fund's future demand for reimbursements, we estimated:

- Future claims pool that will seek reimbursements
- Reimbursement costs to close claims

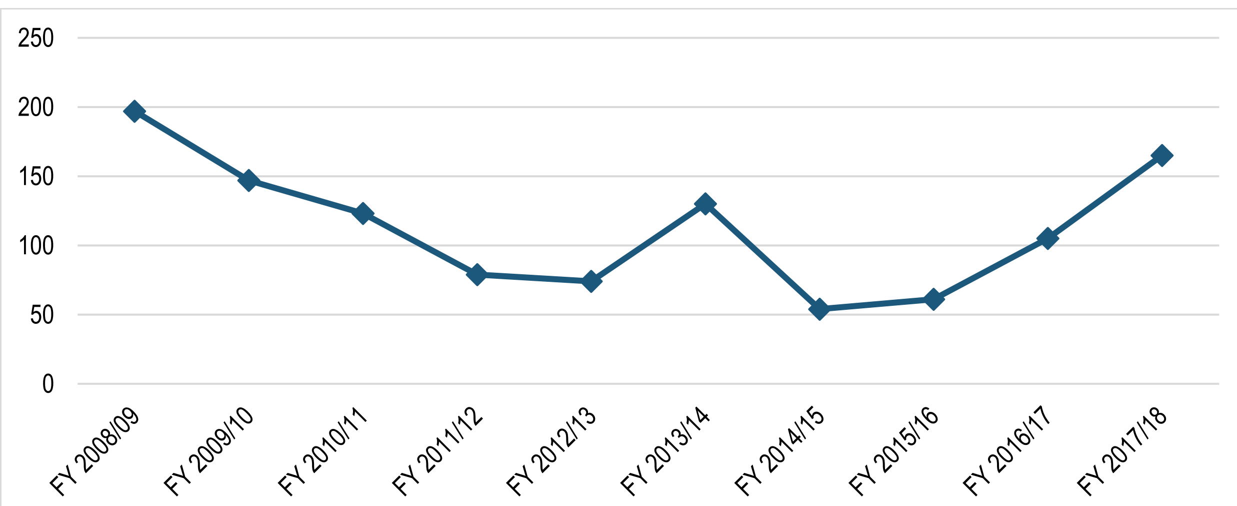
The following sections walk-through the processes used to estimate the size of the potential claims pool and costs to close claims.

Estimated Future Claimant Pool

The future claims pool is comprised of three groups: currently active claims seeking reimbursements, claims on the priority list awaiting activation, and new claims not yet on the priority list that will be accepted before the Fund sunsets in January 2026. The 2010 audit of the Fund showed that a total of about 19,270 applications were submitted from Fund inception in 1991 through June 30, 2009. During more recent years, just over 1,100 new applications were submitted between July 1, 2009 and June 30, 2019. Taken together, since inception of the Fund through June 30, 2019, approximately 20,400 applications have been submitted, of which about 15,650, or 77 percent, were deemed eligible and placed on the priority list.

Over time, the number of application submissions have generally decreased year over year. Specifically, more than 1,200 applications were submitted in Fiscal Year 1999-2000, down to about 200 during Fiscal Year 2008-2009. As shown in Exhibit 14, the number of applications continued to decrease until Fiscal Year 2015 when submissions began to increase, largely driven by new Priority Class D applicants.

EXHIBIT 14: APPLICATIONS SUBMITTED BETWEEN JULY 1, 2009 AND JUNE 30, 2019



Source: SCUFIIS.

According to Fund Management, major companies began submitting applications because the Fund began activating more Priority Class D claims due to increases in available resources to activate these claims. As shown in Exhibit 15, Priority Class D claims made up 53 percent of application submissions between July 1, 2009 through June 30, 2019, up from 36 percent during previous years.

EXHIBIT 15. APPLICATIONS SUBMITTED AND DEEMED ELIGIBLE BY PRIORITY CLASS, INCEPTION THROUGH JUNE 30, 2019

Priority Class	Fund Inception to June 30, 2009		July 1, 2009 to June 30, 2019	
	Number of Applications	Percent of Total Applications	Number of Applications	Percent of Total Applications
A	460	3%	65	9%
B	5,080	34%	185	25%
C	4,060	27%	100	13%
D	5,300	36%	400	53%
Total	**14,900**	**100%**	**750**	**100%**

Source: SCUFIIS.

As reflected on Exhibit 16, based on an average of 75 applications submitted and deemed eligible per year between Fiscal Years July 1, 2009 and June 30, 2019, an additional 488 claims could add to the demand on Fund resources through January 1, 2026.

EXHIBIT 16. ESTIMATES OF APPLICATIONS DEEMED ELIGIBLE BY PRIORITY CLASS, THROUGH JANUARY 1, 2026

Priority Class	July 1, 2009 Through June 30, 2019			July 1, 2019 through January 1, 2026[3]
	Applications Accepted	Percent	Average per Year	Estimated New Claims
A	65	9%	6	39
B	185	25%	18	117
C	100	13%	10	65
D	400	53%	41	267
Total	**750**	**100%**	**75**	**488**

In addition to new applicants, the number of active claims on the priority list comprise the remainder of the future claimant pool. As of June 30, 2019, the Fund had approximately 2,725 active claims and 2,190 claims on the priority list, as shown in Exhibit 17.

[3] Assumes 38 applicants from July 1, 2025 to January 1, 2026 at program sunset, or half the number forecasted for a full year.

EXHIBIT 17. ESTIMATE OF FUTURE CLAIMS POOL, JULY 1, 2019 THROUGH JANUARY 1, 2026

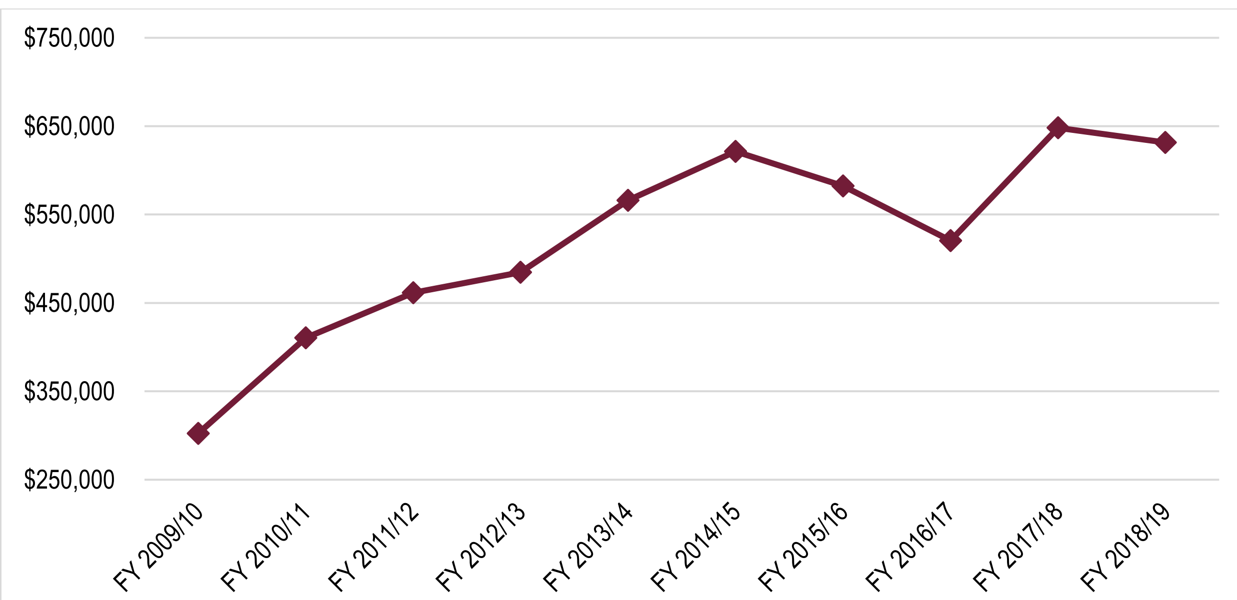
Priority Class	Active Claims as of 6/30/2019	Priority List Claims as of 6/30/2019	New Claims through 1/1/2026	Estimated Total Claims Through 2026
A	30	2	39	71
B	644	12	117	773
C	391	11	65	467
D	1660	2,165	267	4,092
Total	**2,725**	**2,190**	**488**	**5,403**

Taken together, the Fund could expect about 5,400 active claims through January 2026 that will be accepted into the program and eligible to submit reimbursement requests until the claims are closed, as reflected in Exhibit 17.

Estimated Costs to Close Remaining Claims

The 2010 audit of the Fund reported that the average claim closed in Fiscal Year 2008-2009 cost just over $250,000 in total, but ongoing costs paid to active claims as of June 30, 2009 averaged about $400,000. During the current audit period, the average cost of closed claims continued to increase, reaching $631,354 in Fiscal Year 2018-2019, as shown in Exhibit 18.

EXHIBIT 18. AVERAGE COST OF CLOSED CLAIMS, FISCAL YEARS 2009-2019 THROUGH 2018-2019



Source: SCUFIIS.

However, we also noted that the average cost for closed claims varied widely by priority class, as shown in Exhibit 19. Specifically, the five-year average cumulative cost to close Priority Class A claims was $161,276 compared to $690,351 to close Priority Class C claims.

EXHIBIT 19. AVERAGE COST OF CLOSED CLAIMS BY PRIORITY CLASS, FISCAL YEARS 2009-2019 THROUGH 2018-2019

Fiscal Year	Priority A	Priority B	Priority C	Priority D	All Priority Classes
2009-2010	$92,466	$309,916	$240,292	$423,476	$302,381
2010-2011	$133,262	$376,466	$405,571	$971,918	$410,685
2011-2012	$129,157	$438,118	$464,429	$623,576	$461,486
2012-2013	$200,102	$478,438	$503,385	$504,642	$484,838
2013-2014	$179,170	$563,378	$579,580	$599,290	$566,105
2014-2015	$173,722	$589,452	$674,579	$701,980	$621,567
2015-2016	$456,399	$575,009	$628,274	$505,710	$582,494
2016-2017	$46,278	$603,101	$641,290	$424,921	$520,360
2017-2018	$80,899	$699,236	$706,056	$586,469	$648,085
2018-2019	$49,084	$717,073	$801,557	$431,457	$631,354
Average	$154,054	$535,019	$564,501	$577,344	$522,935
Average over Last Five Years	**$161,276**	**$636,774**	**$690,351**	**$530,111**	**$600,772**

Source: SCUFIIS.

It seems reasonable to assume that most of the estimated 5,400 claims in the future claimant pool reflected in Exhibit 17 will likely incur similar costs at claim closure as the averages reflected in Exhibit 19. However, we noted that some of the Fund's active claims had ongoing costs that were much higher than the average cost of closed claims. Specifically, of the Fund's 2,725 claims that were active as of June 30, 2019, 1,247 that had already received at least one reimbursement were generally older and averaged $754,298 in payments-to-date, as shown in Exhibit 20. As such, the cost to close these 1,247 claims will likely be significantly higher than the overall average costs to close claims reflected in Exhibit 19.

EXHIBIT 20. REIMBURSEMENTS TO ACTIVE CLAIMS WITH AT LEAST ONE PAYMENT AS OF JUNE 30, 2019

Priority	Active Claims	Cumulative Paid on Active Claims	Average Paid per Active Claim
A	23	$6,596,068	$286,786
B	608	$452,684,029	$744,546
C	366	$273,686,810	$747,778
D	250	$163,871,417	$655,486
Total	**1,247**	**$896,838,324**	**$719,197**

Source: SCUFIIS.

The remaining 1,478 claims of the 2,725 claims active as of June 30, 2019 that had not yet sought a reimbursement payment generally represented younger claims and were mostly Priority Class D claims that typically have already completed the cleanup projects—since these claims are not associated with open and ongoing projects, the costs will likely be closer to the overall average costs shown in Exhibit 19.

To provide robust cost estimates, we developed two scenarios.

Cost Scenario 1—For most of the 5,400 future claims pool (Exhibit 17), we calculated the cost to close claims using the overall five-year averages reflected in Exhibit 19. Combined, the 2,190 claims on the priority list, the 1,478 active claims that had not yet sought a reimbursement payment, and the estimated 488 new claims could cost $2,283,486,005 to close, as shown in Exhibit 21.

EXHIBIT 21. TOTAL COST TO CLOSE CLAIMS THAT HAVE NOT YET RECEIVED A REIMBURSEMENT REQUEST

Claim Priority	Active Claims with No RR Payments	Claims on the Priority List	Estimated New Claims Added after 6/30/2019	Total Claims	Five-Year Average Cost of Closed Claims	Total Remaining Costs - Claims with No RRs Paid
A	7	2	39	48	$161,276	$7,741,248
B	36	12	117	165	$636,774	$105,067,710
C	25	11	65	101	$690,351	$69,725,451
D	1,410	2,165	267	3,842	$546,838	$2,100,951,596
Total	**1,478**	**2,190**	**488**	**4,156**		**$2,283,486,005**

Additionally, we calculated the cost to close the 1,247 active claims that have had at least one reimbursement payment using the actual costs paid-to-date as the cost to establish a lower bound. In total, these claims could cost roughly $896,838,324, as shown in Exhibit 20.

Together, total costs to close all estimated 5,400 claims in the claims pool under Cost Scenario 1 is $3,180,324,329 ($2,283,486,005 plus $896,838,324).

Cost Scenario 2—In addition to the approximate $2,283,486,005 to close the claims reflected in Exhibit 21, we also considered higher estimates for payments to the 1,247 currently active claims because these claims tend to be older and more expensive. Specifically, the alternative scenario considers that, on average, these Priority Class B, C, and D claims may require the maximum reimbursement payout of $1,000,000 to close the claim while Priority Class A may require $500,000, as reflected in Exhibit 22.

Note: we set the upper bound on our projections of demand using $1,000,000 as the estimate for the maximum reimbursement payout even though some claims were deemed eligible before December 31, 2014 when the maximum payout was $1,500,000. Specifically, of the 1,247 claims with one or more reimbursement payments, 17 percent fall under the $1,000,000 cap and 83 percent fall under the $1,500,000 cap. However, over the audit period, only 6 percent of cases were closed because they received their maximum payout. As a result, we used $1,000,000 in order to set a reasonable upper bound on our projections.

EXHIBIT 22. ESTIMATED COST TO CLOSE ACTIVE CLAIMS WITH AT LEAST ONE REIMBURSEMENT PAYMENT– SIGNIFICANT ADDITIONAL COST ASSUMED

Claim Priority	Active Claims w/ at least one RR Paid	Estimated Costs to Close Claims	Estimated Costs
A	23	$500,000	$11,500,000
B	608	$1,000,000	$608,000,000
C	366	$1,000,000	$366,000,000
D	250	$1,000,000	$250,000,000
Total	**1,247**		**$1,235,500,000**

Together, total costs to close all estimated 5,400 claims in the future claimant pool under Cost Scenario 2 is $3,518,986,005 ($2,283,486,005 from Exhibit 21 plus $1,235,500,000 from Exhibit 22).

While Projections Reflect the Fund Will Generate Sufficient Resources to Meet Reimbursement Demands, Loans Related to COVID-19 May Impact Fund's Cash Balances

To compare estimates of the Fund's future demand against estimates of available resources described throughout the previous sections, we developed two scenarios that provide a range of possible outcomes based on our estimates:

- **Cash Balance Scenario 1**—Optimistic: Highest revenue and fund balance scenarios and the lowest demand scenarios.
- **Cash Balance Scenario 2**—Conservative: Lowest revenue and fund balance scenarios and the highest demand scenarios.

As shown in Exhibit 23, Fund resources available to pay Priority System reimbursements exceed estimated demand under each scenario. In the more optimistic Scenario 1, which assumes few remaining costs for claims that have received one or more reimbursements, robust revenue growth of 4.5 percent on average, and a cash balance on July 1, 2019 in excess of $1 billion, the Fund is projected to have roughly $749 million more in resources available than demand before the program sunsets.

In the less optimistic Scenario 2, which assumes significant remaining costs for claims that have received one or more reimbursements, revenue growth of 2 percent on average, and a cash balance of $864 million on July 1, 2019, the Fund is projected to have almost $17 million more in resources available than demand before the program sunsets.

EXHIBIT 23. ESTIMATES OF FUND DEMAND AND RESOURCES, JULY 1, 2019 THROUGH JANUARY 1, 2026

Scenario 1 - Optimistic		Scenario 2 – Conservative	
Low Estimate of Fund Demand See Page 26	$3,180,324,329	Estimated Fund Demand – High See Page 27	$3,518,986,005
Less Amounts Paid on Currently Active Claims through June 30, 2019 See Exhibit 20	$896,838,324	Less Amounts Paid on Currently Active Claims through June 30, 2019 See Exhibit 20	$896,838,324
Total Projected Demand Through January 1, 2026	**$2,283,486,005**	**Total Projected Demand Through January 1, 2026**	**$2,622,147,681**
Projected Revenues July 1, 2019 through January 1, 2026 - 4.5% Growth 76 Percent Available for Reimbursements See Exhibit 13	$1,950,166,391	Projected Revenues July 1, 2019 through January 1, 2026 - 2% Growth 76 Percent Available for Reimbursements See Exhibit 13	$1,775,159,489
High Estimate of Balance on July 1, 2019 See Page 21	$1,081,957,320	Low Estimate of Balance on July 1, 2019 See Page 21	$863,806,920
Total Projected Available for Reimbursements Resources July 1, 2019 through January 1, 2026	**$3,032,123,711**	**Total Projected Available for Reimbursements Resources July 1, 2019 through January 1, 2026**	**$2,638,966,409**
Projected Excess at January 1, 2026	**$748,637,706**	**Projected Excess at January 1, 2026**	**$16,818,728**

While both scenarios suggest that the Fund is likely to have sufficient resources to meet demand through the sunset of the Fund on January 1, 2026, the estimates do not consider potential impact on Fund resources associated with the COVID-19 pandemic. Because the pandemic emerged after the start of audit fieldwork and still ongoing, conclusive analyses of short or long-term impacts were uncertain prior to the conclusion of our work.

To gain some insight regarding potential impacts from the pandemic, we spoke with the CDTFA management and staff involved in the collection of the UST maintenance fee and had conversations regarding larger economic impacts with two economists. According the CDTFA, UST maintenance fee revenues are likely to decline, at least in the near term as the pandemic and associated lockdown measures led to a significant decrease in transportation demand and by extension, the number of gallons of petroleum products stored in USTs. Those declines could persist past the near term if transportation demand remains low, either because of the direct impacts of the pandemic, indirect effects of the pandemic that result in a fundamental change in behavior (for example, if we see a sustained increase in work-from-home even after the pandemic ends), or because of poor economic conditions continuing post-pandemic.

Additionally, economists we spoke with were hesitant to project the magnitude of the impact of the COVID-19 pandemic until more quarterly economic information is made available. Not only is there significant uncertainty about the impacts of COVID-19 going forward, the economic data currently available covers the time period during which temporary aid was being provided to many Americans through stimulus checks and enhanced unemployment benefits. Together, these factors make it difficult to make projections about the impacts of the COVID-19 pandemic with any degree of certainty.

Absent COVID-19, the cash balance scenarios presented in Exhibit 23 estimate that the current UST maintenance fee amount of $0.020 per gallon has positioned the Fund to be able to meet the remaining demand for reimbursements through January 2026. Given the uncertainty of any impact to fee revenues associated with the COVID-19 pandemic, it would not be prudent to recommend any change to the current maintenance fee amount at this time. However, as the impact on revenues becomes clearer, projections included in this report can provide guidance and insight to Fund management on possible future fee adjustments.

Further, subsequent to the completion of audit fieldwork, we were informed that approximately $551 million was loaned to the State general fund in September 2020 to cover operating shortfalls resulting from the pandemic. Although scheduled to be repaid within two years, the loan comes at a time when the Fund is increasing activity significantly—activating priority list claims, processing reimbursement requests, and closing claims—in order to wind down the program ahead of the 2026 sunset. Prior to the emergence of the pandemic, the Fund planned to activate all remaining claims by September 2021.

Moreover, up to $130 million was also made available to be loaned to the Safe and Affordable Drinking Water Fund offset shortfalls from the Greenhouse Gas Reduction Fund. Unlike the loan to the State general fund which must be paid back, language for this loan only indicates that it "may" be paid back. The Accounting Office noted that $12.8 million was transferred in October 2020 as part of this loan, but was unsure if any additional monies would be transferred in the future.

Combined, these loans could potentially impact the projections described earlier and reduce the Fund's cash balance by up to nearly $681 million until repaid. Although the expectation among Fund management is that the loans will be repaid, the Fund's cash balance will be significantly impacted if the loans are not repaid, which will put the Fund's ability to meet remaining demand for UST reimbursements at risk. If the loans are not repaid, the surplus in Scenario 1 from Exhibit 22 is reduced to roughly $68 million, and changes the result of Scenario 2 to a deficit of roughly $664 million.

While the Fund appeared to be well positioned with sufficient resources to meet near-term demand, the impact of the COVID-19 pandemic on Fund revenues and cash balances presents a significant risk to the Fund's ability to meet remaining demand through the sunset of the Fund.

Improvements Implemented; However, Financial Management Still Inadequate

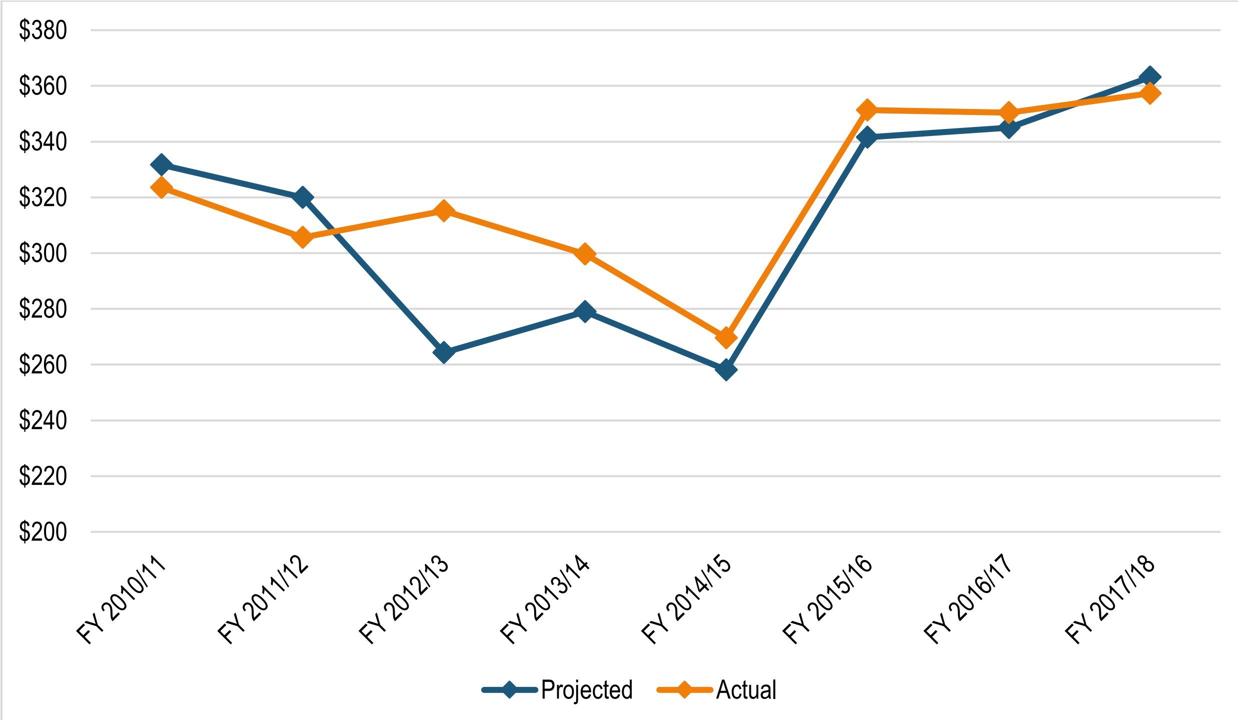
The 2010 audit of the Fund was conducted in response to a cash flow crisis that began in 2008 and the audit noted that the Fund's financial management strategies were inadequate and financial expertise and data was not fully utilized. Since, processes have been implemented to enhance the Fund's financial management, such as multiyear PEPs and budgets to control and contain cleanup costs. In addition, the Fiscal Unit was created in DFA and the Financial and Reporting Unit was created within the Fund to add financial management capability. However, initial efforts to project annual Fund resources have recently been eliminated. We found that additional improvements are warranted, particularly related to expanding Fund management's access to financial information so that it can appropriately manage and plan resources and activities to ensure that remaining demand is met as the Fund is slated to sunset in 2026.

Processes Implemented to Project Fund Resources Recently Eliminated

The 2010 audit of the Fund recommended the implementation of project short, medium, and long-term revenues and demand projections and practices to compare cash inflows against outflows to ensure sufficient resources were available to pay claims. Additionally, Board Resolution 2009-0042 required the creation of a task force comprised of UST owners and operators, environmental consultants, interest group representatives, and Fund staff to review the circumstances that led to the cash flow crisis and to make recommendations for process improvements. To comply, a USTCF Task Force was created and it issued a report in 2010 that found that revenues, expenditures, and reserves were not effectively monitored and recommended that the Fund regularly project revenues and claim payments and closely monitor the financial demands. In response, the Board's Accounting Office began providing Fund revenue and expenditure information to the Fiscal Unit, who used the information to generate annual projections. however, the Accounting Office recently stopped generating the reports. Fund management was unable to describe how the information was used as part of its financial strategy and planning as the projection processes predate their tenure.

Our review of the projections prepared covering Fiscal Years 2010-2011 through 2017-2018 found that the information prepared was reasonably accurate when compared to actual results. Specifically, because the primary source of the Fund's annual revenues come from the maintenance fees paid by underground storage tank owners and collected by CDTFA, anticipated revenues were fairly straightforward to predict and largely tracked closely with actual amounts received. Between Fiscal Years 2010-2011 and 2017-2018, actual revenues tracked very closely with projections, as shown in Exhibit 24.

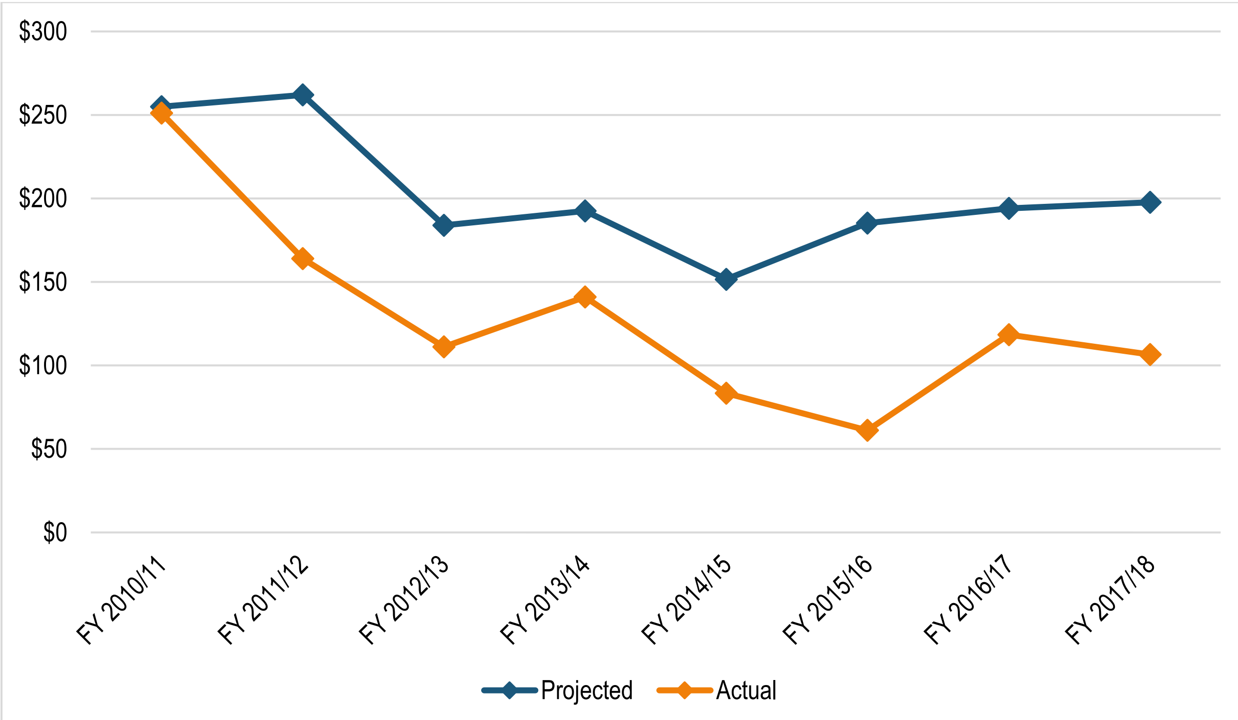
EXHIBIT 24. PROJECTIONS VS. ACTUAL TOTAL REVENUES, FISCAL YEAR 2010-2011 THROUGH 2017-2018 (IN MILLIONS)



Source: Accounting Office Projection Reports, CalSTRS Q16 reports, Cash Status Reports, and other accounting records.

Conversely, expenditure projections were fairly conservative with expenditures typically overestimated due to the difficulty predicting the amount of claim reimbursements submitted in any given year. Between Fiscal Years 2010-2011 and 2017-2018, Priority System reimbursement payments, the largest category of the Fund's expenditures, were consistently less than projections, as shown in Exhibit 25.

EXHIBIT 25. PROJECTIONS VS. ACTUAL PRIORITY SYSTEM REIMBURSEMENTS PAID, FISCAL YEAR 2010-2011 THROUGH 2017-2018 (IN MILLIONS)



Source: Accounting Office Projection Reports, CalSTARS Q16 reports, Cash Status Reports, and other accounting records.

In addition to using a generally conservative approach to estimating expenditures, some of the overestimation is likely due to the fact that some active claimants did not request reimbursements as expected. Specifically, Priority Class D claimants approved to participate in the Fund did not save sufficient records to support reimbursement requests and, as a result, did not seek payments. While a conservative approach to estimating these costs is reasonable, a more accurate projection would help to identify years where there is additional financial capacity; in turn, the Fund could conduct outreach to claimants in response.

According to the Accounting Office, preparing projections were discontinued in 2018 as its focus and resources were consumed with transitioning the Board to the State's new financial system, FI$Cal. Fund management and the Accounting Office also pointed to a perception that the large increases in the Fund's cash balance eliminated the need for close monitoring of resources.

Further, the 2010 audit of the Fund also recommended that the Board work with the Board of Equalization (now referred to as the CDTFA) to develop projections of future revenue based on the data these entities have related to maintenance fee revenues. According to Fund management, there were efforts performed related to this recommendation through 2014. Even though the CDTFA continues to prepare internal projections of UST maintenance fee revenue, it is not clear if the projections previously prepared by the Accounting Office considered this information beyond 2014.

Given the importance of the 2010 audit recommendations and similar requirements resulting from the Board resolution, processes to prepare projections should be re-implemented so that Fund management can actively manage program activities, such as activating claims, and monitor resources to ensure future demand is met.

Fund Management Conducted Survey of Claimants to Estimate Future Demand

In addition to the projections produced by the Accounting Office described earlier, Fund management conducted a survey of Priority Class D claimants in 2018 to develop its own cash flow model and projections of the Fund's ability to meet remaining demand—according to Fund management, the effort resulted in more than 1,300 responses, a roughly 50 percent response rate. Respondents generally provided estimates of costs already incurred, costs to complete project phases, and cumulative costs to close claims. At the time, the cash flow model assumed revenues would remain at the Fiscal Year 2015-2016 level over the remaining life of the Fund and reflected about a $474 million gap between resources totaling $1.349 billion and demands totaling $1.825 billion.

However, the endeavor appears to have been a one-time effort as estimates have not been updated since the initial projection and have not been compared against actual costs paid by the Fund. Fund Management indicated the intention to update the estimates and continue with similar efforts when sufficient information on the Fund's revenues and cash balances is made available.

Project Plans and Budgets Implemented to Control Cleanup Costs

The 2010 audit of the Fund recommended project plans, budgets, and reimbursement schedules be used as the basis for financial planning and management strategies. In response, Fund management began assigning annual budgets to specific cleanup project phases to limit the amount of money a claim can request in reimbursements in a given year. Also, Fund management utilizes multi-year PEPs where claimants must estimate cleanup efforts and their associated costs that are necessary to close the cleanup site. These cost control efforts are described in greater detail in Chapter 2.

Fund Management Lacks Access to Critical Financial Information

While the Fund's Financial and Reporting Unit tracks financial activity related to processing reimbursement payments and encumbering monies for future reimbursements, the Fund generally lacks access to timely financial information required to adequately manage and plan resources. Historically, the Accounting Office has prepared pertinent reports that would be helpful to manage Fund resources, such as quarterly Cash Status Reports detailing Fund revenues, expenditures, and net cash balances; however, the information was not regularly shared with Fund management. The Accounting Office recently stopped preparing the Cash Status Reports due to the difficulties transitioning to the FI$Cal system. Without such information, Fund management does not have a complete and ongoing view of the Fund's financial position needed to make critical decisions, such as the current cash balance and information on trends in direct and shared administrative costs that would be useful in projecting future available resources. According to Fund management, it is unclear why these reports have not regularly been provided although they have repeatedly requested such information.

Additionally, the 2010 audit of the Fund also recommended dedicating a position to act as a financial manager. The Task Force similarly recommended that the Fund add accounting and financial expertise to the screening criteria when hiring Fund management and staff. In response, the Fund hired a Staff Service Manager I to oversee a newly formed Financial and Reporting Unit and indicated it is trying to staff the unit with personnel with financial backgrounds to review program processes and expenditures. The Financial and Reporting Unit is focused on tracking reimbursement payments and ensuring consistency of information between SCUFIIS and FI$Cal. However, according to Fund management, the ability of this unit to adequately perform the envisioned financial analysis duties is hampered by the lack of available financial information provided by the Accounting Office.

Overall, while the Fund has increased cash balances significantly and appeared well-positioned to meet remaining demand prior to the emergence of the COVID-19 pandemic, it did so in spite of insufficient financial management practices. In particular, a lack of information sharing and collaboration between the Fund and the Accounting Office has left the Fund without the types of financial information it needs to make projections and engage in long-term planning to ensure it is able to meet remaining demand. Without improvements in access to complete and timely financial information and processes to regularly project remaining demand and available resources, the Fund will face significant challenges in ensuring the remaining demand is met when the Fund sunsets on January 1, 2026, especially in light of the likely impacts of the COVID-19 pandemic.

Recommendations

To ensure Fund management has access to complete and timely financial information to, the Board should consider directing Fund management and the Accounting Office to work collaboratively to:

1. Resume processes to produce revenues and expenditure projections of the Fund's financial position. At the end of each year, projections should be compared to actual expenditures to (1) ensure that future projections are reasonably accurate and (2) to help ensure that the Fund remains on pace to meet reimbursement demands and close the remaining claims before the sunset of the Fund on January 1, 2026.

Once fully transitioned to the FI$Cal system, the Accounting Office should:

2. Ensure regular, timely reports are provided to Fund management that capture current financial information as well as trends in revenues, expenditures, and cash balances. Work with Fund Management to determine what type of information is necessary and the frequency needed.

To further improve the management of the Fund's financial resources, ensure sufficient resources are available to meet demands on resources, the Board should consider directing Fund Management to:

3. Refine the previous conservative method to project payments (see Exhibit 25) to better identify the Fund's annual financial capacity to process reimbursements requests. Consider working with Fund management to use more accurate estimation methods and factors, such as the proportion of Priority Class D claims in the active pool or the average age of claims in the active pool.

4. Work with the Accounting Office to compare revenue and expenditure projections against actuals to (1) ensure projections are reasonably accurate and (2) identify refinements needed to ensure that the Fund remains able to meet reimbursement demands.

5. Develop a process to regularly update the 2018 cash flow model and/ or the projections included in this chapter to incorporate updated financial information provided by the Accounting Office and account for the potential impacts of COVID-19 on Fund Resources. The process should incorporate insights and lessons learned from the comparisons of projected and actual annual revenues and expenditures.

Chapter 2: Processes Implemented to Contain Cleanup-Costs, but Additional Improvements Needed

Since the 2010 audit of the Fund, in addition to reducing the maximum reimbursement payout to claimants from $1.5 million to $1 million,[4] Fund management has taken action to contain cleanup costs, including reducing the maximum reimbursement that can be paid in a single year, assigning annual budgets to claims by project phase, and updating cost guidelines. Additionally, the Board implemented both the Expedited Claim Account Program (ECAP) in an effort to reduce overall costs for site cleanup and the time to reach closure and the Low-Threat Underground Storage Tank Case Closure Policy (LTCP) to close languishing cases and claims, thereby further reducing project costs and demand on Fund resources. As a result, we found that the Fund's overall claim closure rate has improved. Additionally, the Fund updated its contracting practices with State's nine Local Oversight Programs (LOP) that regulate UST cleanup cases in California to include specific performance goals and requirements.

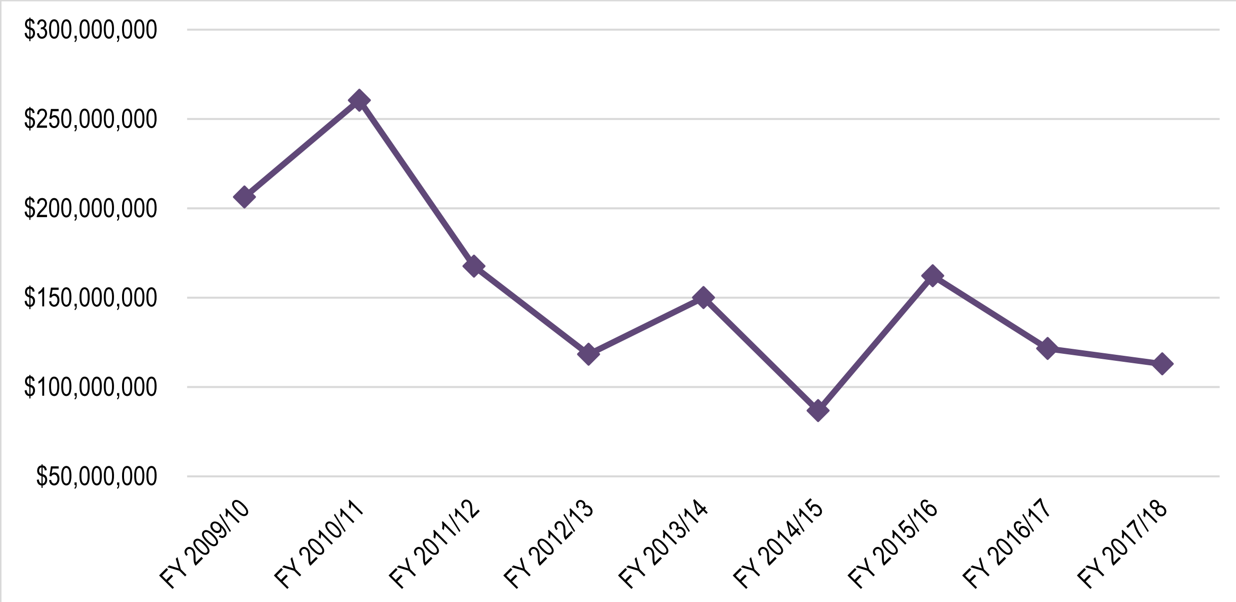
While we found that the Fund has made many improvements to contain cleanup costs, there are still many older claims that are active and continue to incur costs. In fact, these older claims have increased the overall average age and average cost of claims at closure. Although not all older claims receive the statutorily mandated reviews, the Fund has recently increased the number of reviews performed. Lastly, further improvements can be made to tie performance measures directly to LOP compensation and to more fully monitor performance results to ensure goals and requirements are met.

Cleanup Costs have Decreased During the Current Audit Period

Since the inception of the Fund in 1991 through June 30, 2018, the Fund has expended $5.3 billion with priority system reimbursements for the cost of cleanup projects accounting for the vast majority, $3.8 billion, or 62 percent, of the Fund's use of resources, as shown in Exhibit 3 in Chapter 1. The 2010 audit of the Fund found that expenses related to cleanup projects increased consistently starting in Fiscal Year 2000-2001, until Fiscal Year 2008-2009 when reimbursement payments fell due to the funding crisis. However, more recently, Fund's annual expenditures on cleanup reimbursements have decreased significantly over the past decade, as shown in Exhibit 26.

[4] Claimants whose applications were received prior to December 30, 2014 may receive up to $1.5 million in reimbursements; after December 30, 2014, claimants may receive up to $1 million in reimbursements.

EXHIBIT 26: CUMULATIVE ANNUAL CLEANUP REIMBURSEMENTS—JULY 1, 2009 THROUGH JUNE 30, 2019



Source: SCUFIIS data.

Additionally, in an effort to reduce costs, Board Resolution 2009-0042 required local regulatory bodies to reduce quarterly groundwater monitoring requirements to semiannual or less frequent to reduce monitoring costs. In response, starting in 2009, the Fund sent notification to the LOPs to inform UST owners and operators under their jurisdiction that quarterly monitoring was no longer required.

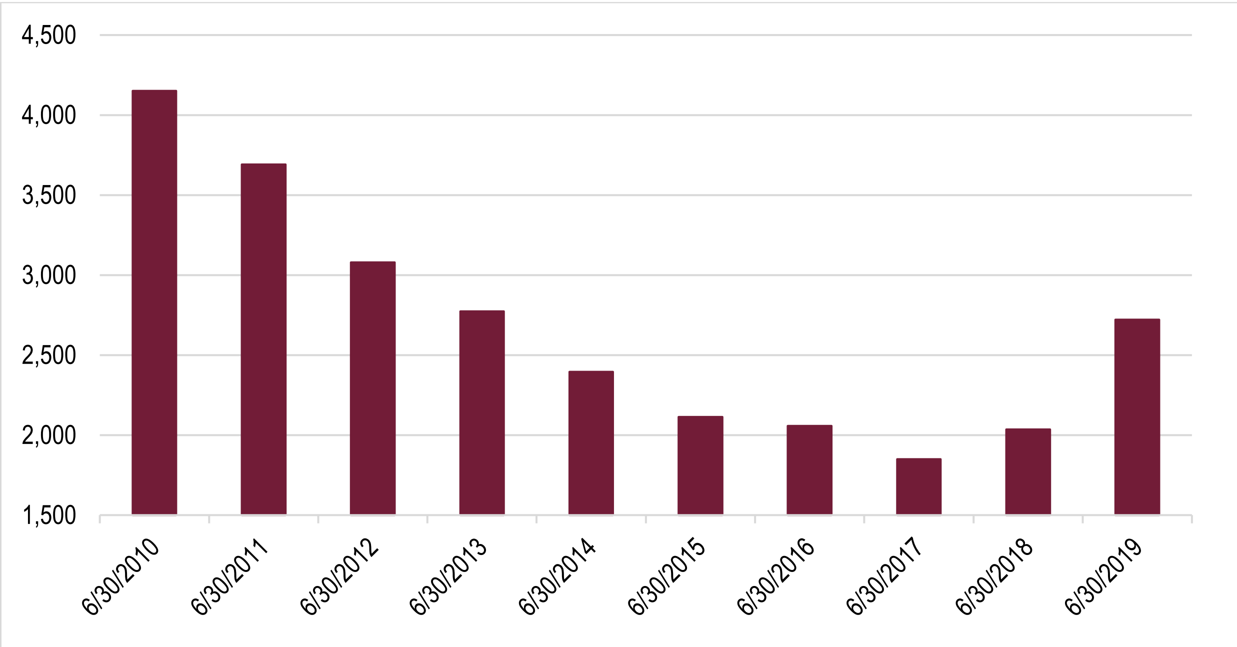
Fewer Active Claims Decreased Demand for Cleanup Reimbursement Payments

Under provisions of the program, once a claimant is determined to be eligible to participate in the Fund and is "activated" from the Priority List, the claimant may request repayment of eligible cleanup activities. The Fund reimburses "reasonable and necessary" corrective action costs paid or incurred for work performed after January 1, 1988 that was the result of an unauthorized release of petroleum from an UST that caused contamination of soil and/or groundwater. Cleanup projects typically involve the following types of activities, but can vary greatly depending on the degree of cleanup required and directed by local regulatory agencies:

- Corrective and Remedial Action Plan Preparation
- Regulatory Report Preparation
- Site Investigation
- Groundwater Monitoring
- Soil Excavation and Remediation
- Waste Transportation and Disposal

One reason for the decrease in cleanup reimbursements during the current audit period is because there have been far fewer active claims. As seen in Exhibit 27, the size of active claimant pool has steadily decreased since Fiscal Year 2009-2010, with increases beginning again in Fiscal Year 2017-2018.

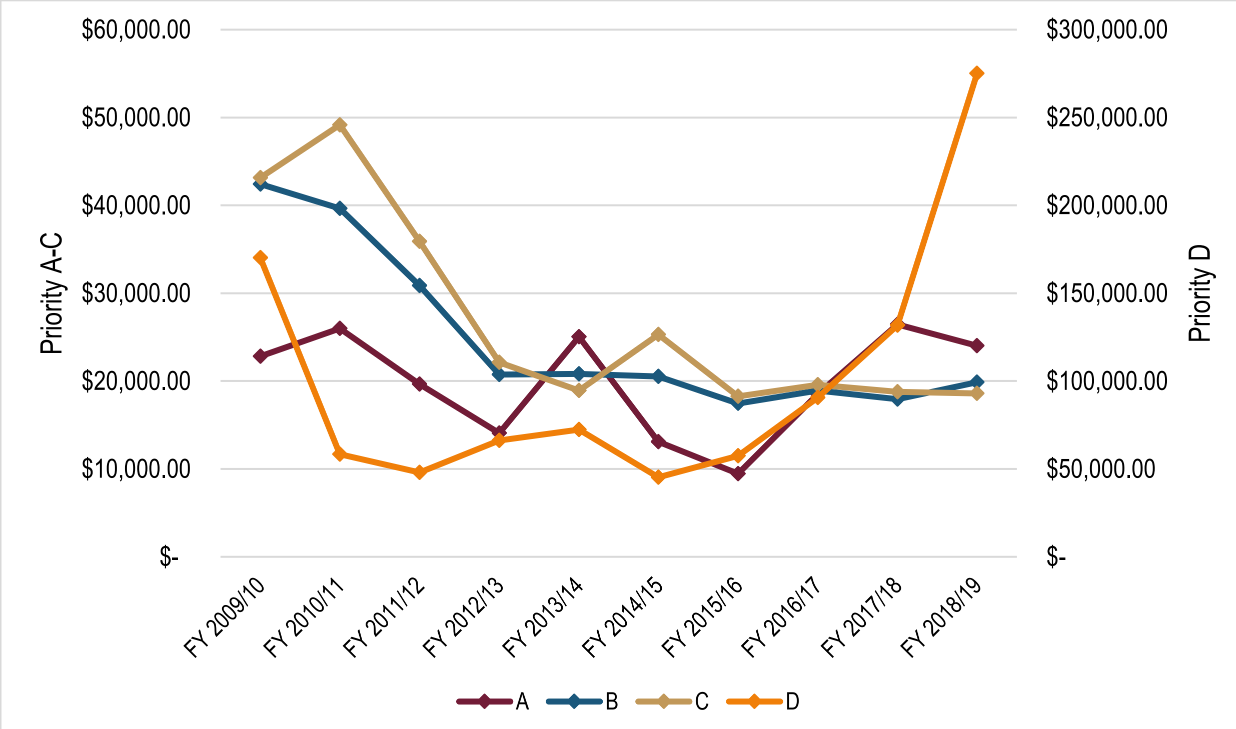
EXHIBIT 27: NUMBER OF ACTIVE CLAIM FROM JUNE 30, 2010, THROUGH JUNE 30, 2019



Source: SCUFIIS data.

However, the decrease in total reimbursements paid annually cannot only be attributed to fewer active claims, but also to a decline in the average reimbursement payment. Specifically, the average reimbursement payment was $46,236 in Fiscal Year 2010-2011, falling to $21,695 by Fiscal Year 2015-2016, and then spiking to $45,000 in Fiscal Year 2018-2019. As shown in Exhibit 28, when looking at the average reimbursement payment requested by claimants in each priority class, Priority A, B, and C reimbursements declined. The sharp increase starting in Fiscal Year 2017-2018 can be explained by the increase in the average payment to Priority D claimants. The average Priority Class D reimbursement payment increased because more of these claims are being activated and a single large reimbursement payment associated with completed projects is typically requested whereas claimants in other priority classes typically submit multiple payment requests on active and ongoing projects.

EXHIBIT 28: AVERAGE REIMBURSEMENT PAYMENT BY PRIORITY CLASS, JULY 1, 2009 THROUGH JUNE 30, 2019



Source: Fund Management.

Expedited Claim Account Program Implemented to Lower Costs

The ECAP, established by SB 445 in 2014, was implemented with the intention of expediting cleanup activities on languishing sites to reduce cleanup project costs through increased coordination with stakeholders. To participate in the ECAP, claimants must have a Letter of Commitment (LOC) and must specifically agree to participate in the program. Claimants can also be referred to ECAP by the Fund's Review Summary Report Unit, other Fund staff, or regulatory agency staff. Claimants participating in the ECAP are required to submit a multi-year Project Execution Plan (PEP), which is a detailed, implementable, and trackable plan of necessary project tasks, schedules, and associated financial resources needed to meet case closure criteria. A Joint Execution Team (JET), made up of project stakeholders (Fund's engineers from the ECAP unit, the claimant's local regulator, and the claimant and their consultant), discuss and obtain consensus on path to regulatory closure under the LTCP, and resolve potential conflicts that may arise related to necessary cleanup steps or costs. Upon agreement, Reimbursement Requests (RRs) submitted for the cleanup work reflected in the PEPs are reviewed by the same ECAP engineers that was on the JET to expedite the payment process.

According to Fund management, an ECAP pilot project began in 2016 with 40 claims, including a claim dating back to 1993 with average claims dating back to 2003. By June 2019, a total of 219 claims were participating in ECAP. Because only a few participating claims were closed by June 30, 2019, we were unable to fully assess the program's overall effectiveness in closing claims and controlling costs.

However, we found timeliness improvement associated with processing reimbursement payments to claimants participating in ECAP, as described in Chapter 3.

A December 2017 ECAP Pilot Project Report prepared by Fund management also noted sufficient data was not available at that time related to costs and timing of closed ECAP claims to fully evaluate the success of the program at that time. However, the Pilot Project Report offered some interim insights related to projected cost and time savings—a comparison of the pre-ECAP scope of work of 40 participating claims to the scope of work agreed upon after JET meetings found the costs were reduced by an average of $95,700. The report also estimated time to case closure would be reduced by an average of almost a year.

According to Fund management, subsequent to the end of the audit period in June 2019, while the total number of ECAP claims closed has been slower than projected, the overall closure rate for ECAP claims has exceeded projections and associated costs were less than projected. Fund management credits the improvements to increased communication and responsiveness with claimants and stakeholders.

While we could not fully evaluate the effectiveness of the ECAP with the information available during the audit period, we found timeliness improvement associated with processing reimbursement payments to claimants participating in ECAP, as described in Chapter 3. Also, by introducing components such as PEPs and JETs, we can see that the program has made efforts intended to contain costs and streamline processes.

Processes Implemented to Assign Phase-Based Project Budgets

The 2010 audit of the Fund noted that specific project plans or budgets were not utilized, which limited insight into the scope or cost of cleanup activities making it difficult to predict and track how much money was spent on reimbursements each year. In an effort to manage claim payments, claimants were assigned an overall project payout amount through the LOC process when claimants were activated from the priority list. However, because claimants regularly surpassed the assigned amounts, new LOCs had to be continually re-issued, and as a result, the Fund stopped utilizing the LOC process.

To more effectively manage and control Fund resources used on reimbursement payments associated with ongoing projects, the Fund began assigning specific annual budgets in Fiscal Year 2011-2012 to all active Priority A, B, and C claims. Priority D claims, which are typically associated with closed projects, are not assigned budgets because the majority of these claimants have completed cleanup activities and are no longer incurring new costs to be reimbursed. Projects are assigned standard budgets for each phase of cleanup projects based on historical cleanup costs and the budgets represent the maximum reimbursement a claimant can receive during a given year. Exhibit 29 reflects the Fiscal Year 2019-2020 standard budgets by project phase.

EXHIBIT 29: FISCAL YEAR 2019-2020 STANDARD PROJECT BUDGETS ASSIGNED TO PRIORITY A, B, AND C CLAIMS

Project Phase	Budget Amount
Soil & Water Investigation	$33,700
Remedial Selection/Interim Remedial Action	$50,500
Corrective Action Plan/Remediation	$78,500
Verification Monitoring	$28,000
Site Closeout	$25,500 (closed projects) $28,000 (open projects)

Our review of 23 reimbursement requests submitted between July 1, 2009 and June 30, 2019 found that all corresponding payments were within the amount budgeted for the year.

If claimants submit expenses for reimbursement that are deemed reasonable and necessary, but exceed the maximum assigned budget for the fiscal year, the excess expenses can be placed on hold and paid in a subsequent fiscal year, until the claim reaches its overall maximum reimbursement cap. Of the 23 reimbursement requests reviewed, four included eligible costs that exceeded the assigned budget, were placed on hold, and paid the following year.

Additionally, if claimants believe the standard budgets assigned are insufficient to cover necessary project expenses, they may submit a Budget Change Request (BCR) to the Fund requesting that additional funding be made available that year rather than waiting for the excess expenses to be paid in a subsequent year. BCRs may be approved, partially approved, or denied. Review is based on a submitted PEP, any Review Summary Reports (RSRs),[5] and historic site info available in GeoTracker, California's online database used to track and archive compliance data from UST cleanup sites. Of the 23 reimbursement requests reviewed, five claimants had submitted a combined eight BCRs at some point in their claim history and only one was denied. However, because the Fund only keeps the decision letter decision in the claimants file rather than the submitted BCR and letters contain little information regarding decision, it was difficult to assess the level of scrutiny BCRs receive before decisions are rendered.

Although project budgets, BCRs, and PEPs do not serve as cost pre-approvals as individual expenses submitted may be denied as unreasonable or unnecessary, using these cost containment mechanisms provide a way for the Fund to limit and control spending during any given year. However, while annual project budgets are assigned and strictly adhered to, Fund management does not use the budgets track project spending or perform comparisons of budgeted expenses to actual. While according to the Fund, comparisons are not currently feasible due to a lack of available resources, such comparisons would

[5] As described in more detail later in Chapter 2, the Fund reviews the status of UST cases with active claims older than five years on an annual basis to determine if the case can be closed.

provide Fund management insight that would help ensure processes to establish annual budgets are effective and reasonable and project costs minimized.

Cost and Remediation Guidelines Utilized and Updated

Per California Health and Safety Code, the Fund is required to “develop a summary of expected costs for common corrective action.” The 2010 audit of the Fund found that cost guidelines were out-of-date and not utilized as staff relied more heavily on their own technical expertise and personal experience to determine if costs were reasonable.

Subsequently, we found that the Fund’s cost guidelines were revised in 2014 and 2018, and are currently undergoing additional revisions. The cost guidelines include detailed project costs for the following areas:

- Personnel labor rates
- Analytical tests (soil, water, air) and drilling
- Supplies and equipment costs
- Corrective Action Workplan, monitoring and update reports, site assessment report
- Investigation, monitoring, and remediation activities
- Expense mark-ups

The 2018 update of the cost guidelines focused on updating labor rates and unit costs by using the Consumer Price Index for all urban consumers (CPI-U). The Fund recognizes that increasing cost guidelines based on the CPI-U may be a blanket escalation that does not leave room for interpretation. Fund management indicated plans to perform another more substantive update to the cost guidelines.

In an effort to augment the cost guidelines, the Fund has recently utilized a more rigorous process to develop a new set of remediation guidelines, which are guidelines that are specific to the remediation phase of cleanup projects. The remediation guidelines were developed by a team of engineers and geologists, discussed with stakeholders during the drafting process, and tested with the Technical Claim Review Units’ staff.

Further, in 2011, the Fund published supplemental cost guidelines via a “Designation of Reasonable and Necessary Reimbursable Costs and Upcoming Changes” letter to notify stakeholders of new changes. The letter updated limitations of what the Fund would approve in reimbursable costs, such as maximum travel time of consultants to travel sites, and limiting lodging and meals to California State government per diem rates. The declaration also banned mark-ups on sales taxes, permitting fees, utility bills, regulatory fees, and per diem costs. Any travel outside of California, airfare and/or car rental, company car and/or truck rentals, and mileage within California over 500 miles round trip are also considered unreasonable and unnecessary. The California Code of Regulations outlines ineligible corrective action and regulatory technical costs, such as attorney fees, concrete replacement, and building repairs.

While Fund staff have discretion in approving necessary and eligible costs that exceed cost guidelines, cost guidelines are useful for both Fund staff as well as claimants and their consultants as they establish cost expectations and standard benchmarks and provide consistency when evaluating corrective action costs. To assess how the cost guidelines are utilized, of the 23 claims selected for review, we also compared expenses submitted and paid associated with labor rates, mileage, and tools/machinery to the amounts reflected in the cost guidelines for 18 of the claims. While we found that the cost guidelines were generally followed and Fund staff clearly scrutinize submitted expenses, we noted the following exceptions:

- 17 claims that included charges for principal engineers or project managers—five reflected labor rates that exceeded the cost guidelines, ranging from $5 to $35 per hour above the guidelines. Although in one case the Reimbursement Analyst noted the labor rate was too high, the labor charge was not excluded or reduced, rather, the claimant was reminded to use lower rates in future submittals.
- Seven claims included charges for clerical, drafting, and technician staff—four reflected labor rates that exceeded the cost guidelines, ranging from $5 to $55 per hour above the guidelines.
- Six claims included charges for mileage rates charged by consultants—three reflected mileage charges that exceeded the cost guidelines, ranging between two and 30 percent above the cost guidelines.

If claimants submit costs with line items that are greater than costs set forth by the cost guidelines, claimants must submit adequate justification that the costs are reasonable and necessary. However, there was no indication that justification was provided and, according to Fund Management, the costs charged outside of the guidelines may have been a result of staff error.

Overall, throughout our review of claim files, we noted many instances that demonstrated in-depth reviews of RRs performed by Fund staff in the Reimbursement and Technical Claim Review Units. We found costs were routinely denied for being excessive, lacking justification and support, or were associated with ineligible activities. In just one example, costs associated with seven hours of travel to a project site were denied because the Reimbursement Analyst found that the site was only thirty minutes from the consultant's office.

Cleanup Projects Continue to Remain Open Longer and Incur More Costs

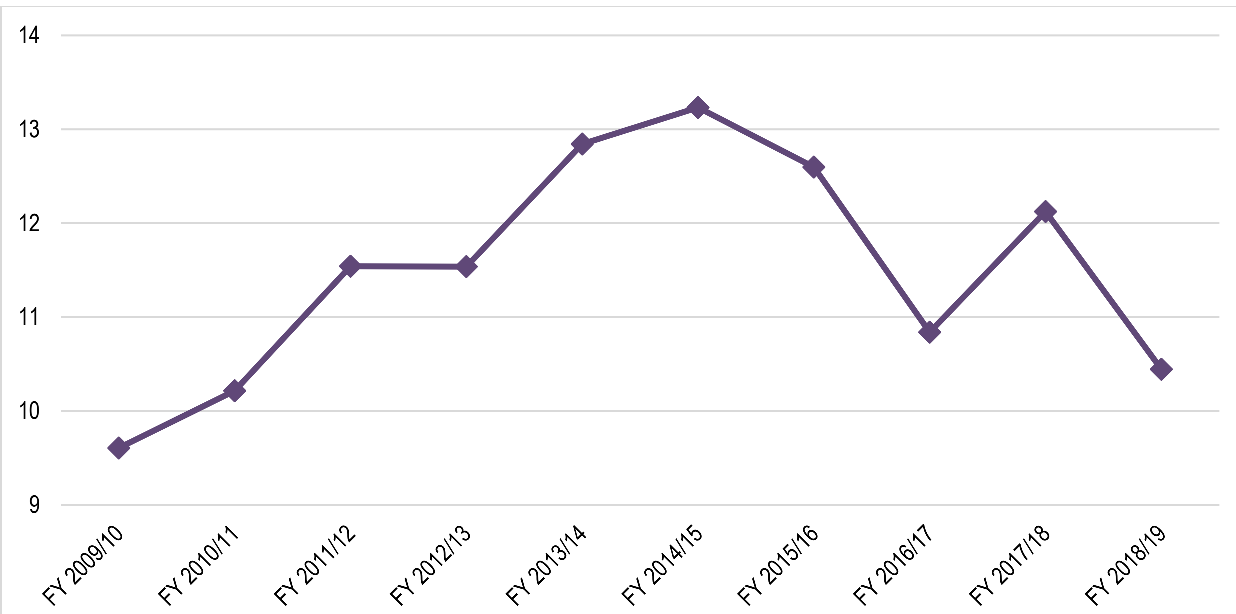
While the earlier sections of this chapter discuss decreases in the cost of individual reimbursement payments to claimants, similar to the 2010 audit of the Fund, we found claims are remaining open longer and are becoming more expensive overall. It remains the case that closing cleanup projects serves not only to reduce the number of active claims and potential demand on Fund resources, but also expedites the accomplishment of health and safety goals and contains costs.

Active claims are closed for three reasons: a claimant reaches the maximum reimbursement amount of $1.5 million or $1 million; State Water Board, Regional Water Board, or Local Oversight Program (LOP) agency determines that the cleanup project is complete; or Fund management closes the claim for administrative reasons, such as failure to respond once activated or submit reimbursement request. The vast majority of cases are closed because the cleanup project is deemed complete.

We found that, on average, the total cost of claims at closure has steadily increased in the audit period—from just above $300,000 in Fiscal Year 2009-2010 to $630,000 in Fiscal Year 2018-2019, an increase of 109 percent. Priority Class B and C claims appear to be the largest drivers of the increases as the costs associated—Priority Class B closed claims increased, on average, by 131 percent between Fiscal Years 2009-2010 and 2018-2019 and Priority Class C closed claims 234 percent during the same period. Conversely, the cost of Priority Class A claims at closure decreased by 43 percent and Priority Class D claims increased by just 2 percent.

A key reason total claim costs are increasing is because claims are staying open longer before closure, and thus, continuing to incur more costs over longer periods of time. The 2010 audit of the Fund found that number of years claims remained active increased from 3.3 years in Fiscal Year 2000-2001 to an average of 8.1 years in Fiscal Year 2008-2009. More recently, data from SCUFIIS, the Fund's database used to log details and track most claim status and activity, reveals the average number of years claims remained active before closure continued to increase when it peaked at 13.2 years in Fiscal Year 2014-2015, as shown in Exhibit 30. The average age of claims then fell to 10.4 years during Fiscal Year 2018-2019.

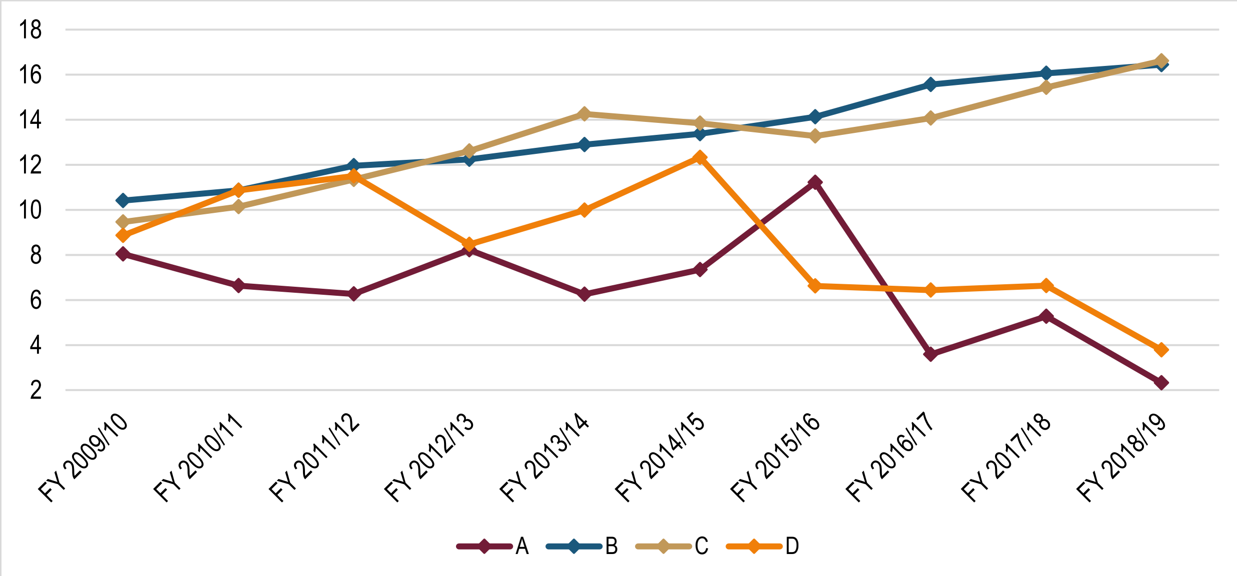
EXHIBIT 30: AVERAGE NUMBER OF YEARS CLAIMS REMAIN ACTIVE BEFORE CLOSURE, JULY 1, 2009 TO JUNE 30, 2019



Source: Fund Management and SCUFIIS data.

Looking at the closure data by Priority Class, the average age of claims at the time of closure increased for Priority Class B and C claims, but decreased for Priority Class A and D claims, as shown in Exhibit 31.

EXHIBIT 31: AVERAGE AGE OF CLAIMS AT TIME OF CLOSURE BY PRIORITY CLASS, JULY 1, 2009 TO JUNE 30, 2019

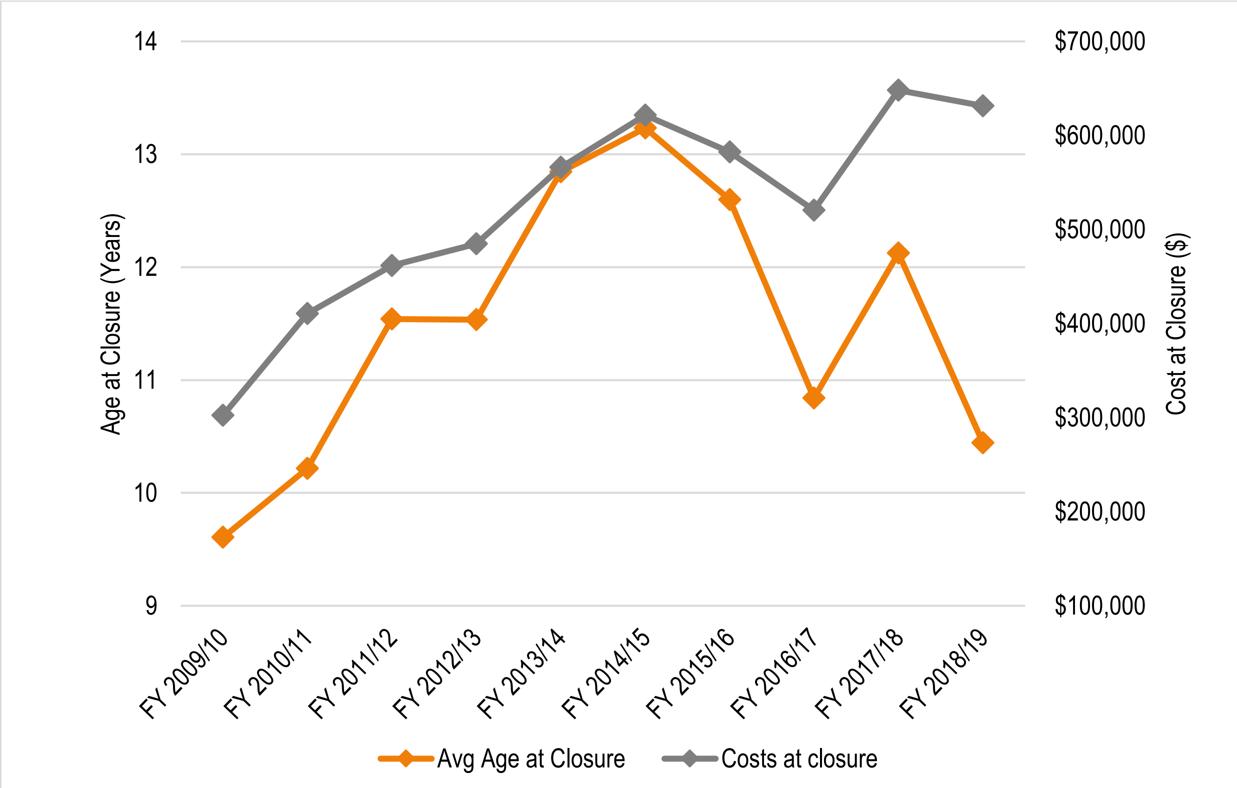


Source: Fund management and SCUFIIS data.

According to the Fund, Priority Class B and C claims are increasingly getting older because these claims tend to be the most technically or logistically difficult to remediate. Related to why Priority Class A and D claims take less time, Priority Class A claims make up the smallest proportion of active claims and typically take less time to complete the work and close the claim. These claimants are often motivated to close claims quickly because the tanks are on residential property. Priority Class D claims have seen a significant decrease in average age at closure because the remediation work associated with these projects is typically already completed prior to claim activation. As such, once payment associated with the completed project work is processed, the claim is closed quickly.

When compared side-by-side, the increasing cost and age of closed claims follow similar trends, as seen in Exhibit 32. This is because as claims stay open longer, they have more opportunities to submit reimbursement requests and incur additional clean-costs whether it be actively remediating or monitoring contaminant levels. As expected, the pattern of increasing claim costs generally follows the pattern of increase age at closure. Older claims may incur more costs because they are particularly difficult cleanup sites requiring both additional time and additional cleanup efforts.

EXHIBIT 32: AVERAGE CLAIM AGE AND COST AT CLOSURE, JULY 1, 2009 TO JUNE 30, 2019



Source: Fund Management and SCUFIIS data.

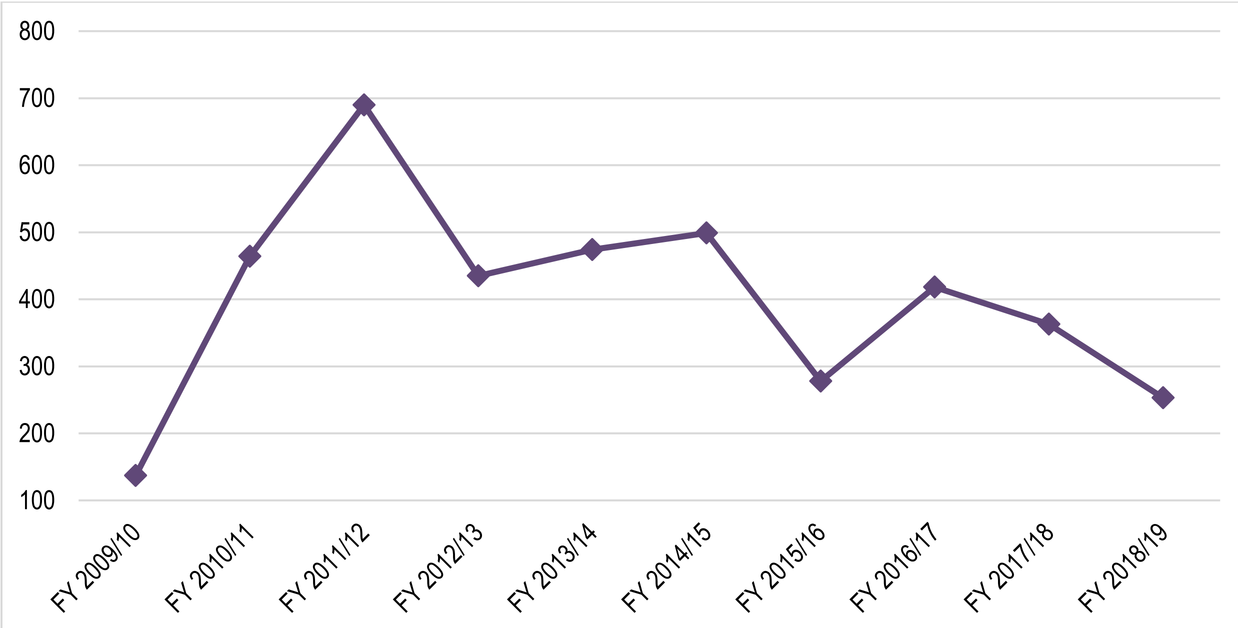
Efforts Implemented to Close Claims Timely and Improve Closure Rates

An important cost control measure is for cleanup cases to close promptly so projects stop incurring cleanup costs and claims close—as cleanup projects close, claims requesting reimbursement also close. To improve closure rates, the Fund and the Board made specific efforts to close more cleanup cases, such developing the LTCP and implementing the ECAP.

We found that the Fund's overall claim closure rate has improved since the 2010 audit of the Fund. Specifically, from Fund inception through June 30, 2019, approximately 13,500 claims were activated, of which, about 10,735 closed, resulting in an overall closure rate of about 80 percent, up from 63 percent reported in the 2010 audit. The claim closure rate tracks closely with national and state UST case closure rates—as of March 31, 2019, the EPA UST case closure rate was 78 percent of all UST cases in the country, and 81 percent in California.

While the Fund's overall claim closure rate has improved, our review found that the raw number of claims closed annually has decreased after an initial spike in closures following the 2010 audit of the Fund, as reflected in Exhibit 33, likely the result of a shrinking pool of active claims to close and the difficulty of the remaining cases.

EXHIBIT 33. CLAIMS CLOSED ANNUALLY, JULY 1, 2009 THROUGH JUNE 30, 2019

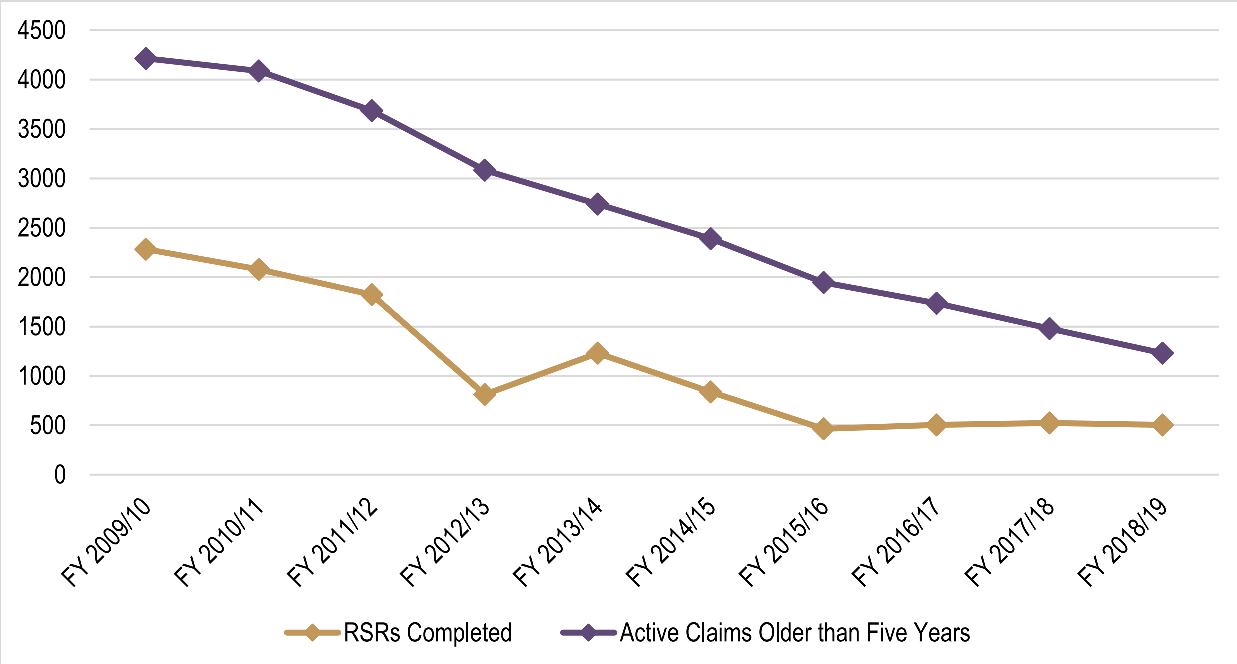


Source: Fund Management.

To facilitate closures, Health and Safety Code Section 25299.39.2 requires the Fund to review the status of all UST cases with active claims older than five years on an annual basis to determine if the case can be closed. As part of the required annual review of older claims and in compliance with Board Resolution 2009-0042, the Fund's RSR Unit prepares a RSR to conur with the local regulatory agengies corrective action plans or recommend case closure—the goal is to recommend case closure wherever possible. If cases are not ready for closure, the RSRs may recommend additional corrective action and describe impediments to closure and benefits for additonal work to be performed on site. RSR procedures require that the Fund Manger elevate cases to the State Board Chief Deputy Director where the regulatory body has denied the closure. Also, each case review is made publicly available on the Board's GeoTracker website upon completion.

We found that the Fund does not always complete RSRs annually for each claim older than five years, which the Fund attributes this to inadequate resources. Specifically, as shown in Exhibit 34, the number of claims each year which have been active for more than five years is consistently higher than the number of RSRs completed. However, the gap narrowed over time as the number of active claims older than five years decreased—in Fiscal Year 2009-2010, 98 percent of active claims were older than five years compared to just 41 percent in Fiscal Year 2018-2019.

EXHIBIT 34: NUMBER OF REVIEW SUMMARY REPORTS COMPLETED COMPARED TO THE NUMBER OF ACTIVE CLAIMS OLDER THAN FIVE YEARS; JULY 1, 2009 THROUGH JUNE 30, 2019



Source: Fund management and SCUFIIS data.

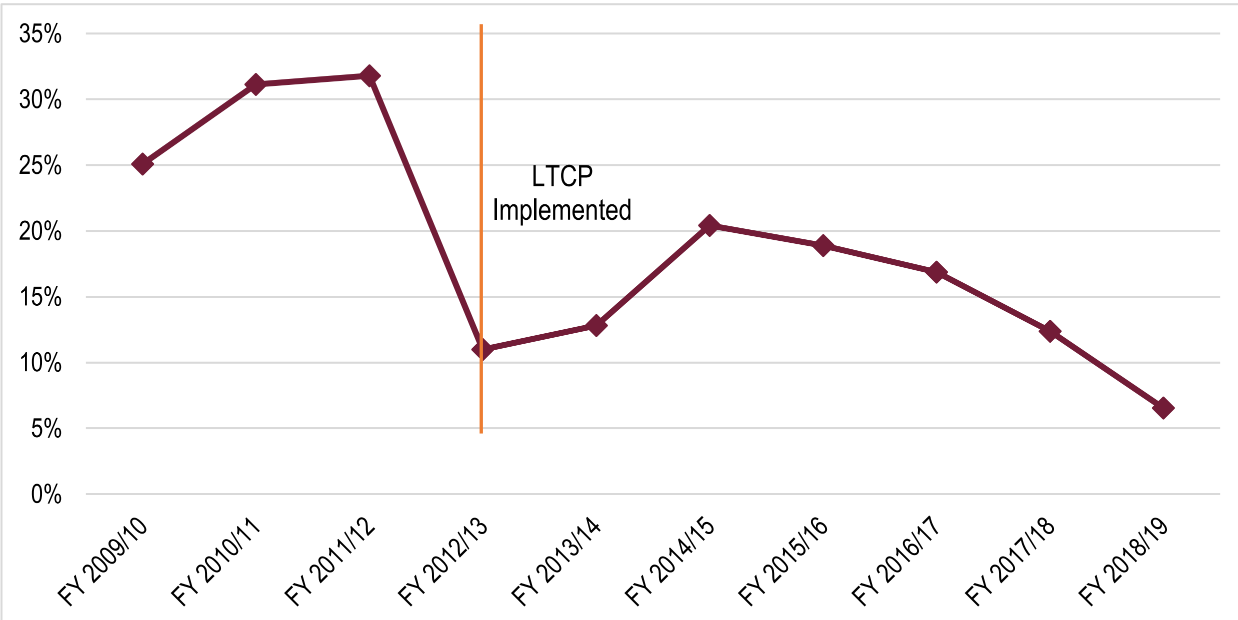
According to the Fund's Technical Claim Review Unit, at the beginning of each year, a custom SCUFIIS report of all active claims over five years that require a RSR is generated. For each claim identified, staff review project activity in SCUFIIS and may determine that some of the projects have been inactive since previous RSRs were prepared, eliminating the need for another review until project activity resumes. Claims without activity for some period of time may be closed under certain circumstances. According to the Fund, written justification is maintained in the claim's SCUFIIS file at the time the decision was made to not complete the required RSR. Our review of five claims older than five years that did not have all required RSRs found that four out of the five claims did not have written justification in SCUFIIS. While staff were able to provide likely reasons why claims did not receive an RSR, it is important that the Fund maintain written justification as the time decisions are made to not complete the required RSR.

Further, because criteria used by the regulatory agencies and the Fund to close cases varied widely, agreeing to recommend closure was often difficult, resulting in cases remaining open and continuing to incur costs. To streamline site closure policies and better define criteria to facilitate and recommend closures, the Board established the LTCP in August 2012. The LTCP specifies general criteria and media-specific criteria that cases must be met in order to be closed:

- General criteria—involves a conceptual site model that has been developed to assess the releases, soil and water tests are in accordance with Health and Safety Code, and the release consists of only petroleum.
- Media specific criteria—covers technical areas related to groundwater, vapor intrusion to indoor air, and direct contact and outdoor air exposure.

Additionally, while the LTCP intended to facilitate case closures through streamlined closure criteria, RSR with recommendations to close cases actually decreased after the LTCP was implemented after an initial spike, as shown in Exhibit 35**.**

EXHIBIT 35: PERCENTAGE OF RSRS WITH RECOMMENDATIONS FOR SITE CLOSURE



Source: Fund Management provided SCUFIIS report.

According to the Fund, the sharp decrease in closure recommendations immediately prior to the implementation of the LTCP is due to earlier efforts by the Fund to close claims as a result of the 2010 audit. Specifically, the Fund made significant efforts to close claims, focusing on easy "low hanging fruit" claims that were already close to closure. By the time the LTCP was implemented, the Fund had already recommended many of the cases that were ready and eligible for closure and, as such, recommendations for closures stalled. As a result, while the LTCP was important in creating standardized claim closure criteria, it is difficult to determine the full effect of the policy because the Fund already had closed the majority of claims whose cases would have likely benefitted the most from the LTCP were already closed by the Fund prior to its implementation.

Another effort implemented to facilitate case closures relates to the ECAP. In addition to containing costs, as described earlier, ECAP was also developed to increase the number of closures by working directly with stakeholders, including regulators, owners, and consultants, to expedite cleanup actions necessary to deem the site eligible for closure. As mentioned earlier, although it is still too early to gauge the effectiveness of the ECAP to contain costs or facilitate closures, the Fund's efforts to work with stakeholders to close claims is evident through the documented Joint Execution Team (JET) meetings.

While Grant Agreements with LOPs Provide the Board with Authority to Determine Closures, Accountability Measures Still Lacking

The Board's Division of Water Quality (DWQ) certifies the Stat's Local Oversight Programs on a triennial basis, and the Fund executes grant agreements with the LOPs. The Fund provides the related financial support to the LOPs to carry out the vast majority of UST cleanup oversight, regardless if the responsible party is eligible to participate in the Fund. We found that grant agreements with the nine LOPs provide the Board with increased authority over case and claim closures and have been updated to include specific performance goals and requirements. However, the performance measures reflected in the agreements are not tied directly to compensation and only some results are validated to ensure goals have been met.

Funding to the LOPs (as well as for Regional Water Quality Boards) has remained fairly consistent, ranging from $6.9 million to $7.4 million between Fiscal Years 2017-2018 through 2019-2020. According to Fund management, annual funding allocated to the LOPs is based on the complexity, number of cleanup cases in the jurisdiction of the LOPs, and the cost of living in the various oversight jurisdictions. As shown in Exhibit 36, Alameda County had the highest dollar per UST case, while having the fewest number of open cleanup cases. It is not clear if Alameda County has especially complex cases that warrant the higher funding allocation.

EXHIBIT 36: LOP BUDGET FOR FISCAL YEAR 2019-2020 AND NUMBER OF UST CASES IN LOP JURISDICTION

LOP	Budget	UST Cases Open as of October 2020	Dollars per UST Case (rounded)
Alameda County	$1,550,916	77	$20,140
San Mateo County	$820,608	140	$5,860
Sacramento County	$574,000	98	$5,860
Orange County	$1,004,107	276	$3,640

Source: LOP Grant Agreements.

According to the grant agreements, the LOPs have to use the funding on certain tasks and activities, including:

- Reviewing cases against the LTCP.
- Participating in development of consensus conceptual site model.
- Maintaining adequate technical expertise to review and approve geologic and technical interpretations, oversee or perform corrective action requirements, and optimize remediation systems.
- Maintaining current and quality data in GeoTracker.

Fund staff review quarterly invoices submitted by the LOPs for their adherence to the grant agreement budget schedule checking that costs were within budget, verifying correct per diem rates were used for travel costs, and ensuring disallowed supplies were not reimbursed. The DWQ established a contract with the California State Controller's Office (SCO) for detailed contract compliance audit services.

Of the 27 LOP grant agreements executed between Fiscal Years 2017-2018 through 2019-2020 with the 9 LOPs, we selected 12 from the four LOPs reflected in Exhibit 36 to review the provisions, in particular if performance measures and goals have been incorporated in the contract requirements. We found that language is fairly boilerplate, with negligible differences across the years and agencies, and generally pertains to the general activities LOPs will perform in regulating sites under their defined jurisdiction. Tasks included in the agreements include confirming unauthorized releases; identifying and notifying responsible parties; providing oversite to site assessment, investigation, corrective action plans, and remediation; and updating case information promptly in GeoTracker. The agreements also include specific provisions required by Board Resolution 2009-0042, including requiring LOPs to issue a notice for public comment within 90 days of case-closure determination. The only differences between the grant agreements relate to the individual budget breakdowns.

Additionally, the 2010 audit of the Fund found that local regulators lacked incentives to close cleanup cases timely because their funding was not tied to performance and recommended linking performance goal results with funding levels. During the current audit period, while the recent LOP grant agreements still do not tie performance results directly to compensation, we found that the agreements have been updated to list ten specific performance goals and requirements, including:

- Responding to all closure requests within 60 days.
- Responding to all work plans submitted for LOP-lead cases within 60 days.
- Closing a minimum of ten percent of Grantee-lead cases.
- Closing regulatory cases timely.
- Enforcing removal of measurable free product in monitoring wells.

Although neither the Fund's invoice review nor the SCO's compliance audits assess if the performance requirements were met, Fund staff work with DWQ to review performance results related to two of the ten goals listed in the grant agreements: completing workplan review and responding to closure requests. Fund management indicated that additional reviews of performance information not specifically detailed in the LOP grant agreements are also conducted, including annual budget reviews and ad-hoc performance discussions related to specific LOPs as needed. According to Fund management, when annual budgets are reviewed, the performance goals and requirements are considered and budgets may be adjusted accordingly. According to Fund management, many of the performance measures in the grant agreements are outdated and are in the process of being updated.

Moreover, while the grant agreements require the LOPs to submit quarterly summaries certifying that all information in GeoTracker for active cases is current and correct, including dates for cleanup action, cleanup action method, and discharge source, the required summaries do not align with the performance measures in the agreement and noted above.

Although limited progress was made to hold LOPs accountable for meeting performance goals, the grant agreements provide the Fund with some authority over the LOPs regarding case closures. Previously, the LOPs were able to keep cases open because there was no set of standardized water quality criteria to measure cases completion by, which led to mismatched goals of water quality and cost containment for regulators and the Fund, respectively. With the introduction of the LTCP, there was an agreed upon set of criteria that encouraged timely closure of cleanup cases. Since the Fund has adopted the LTCP, the LOP grant agreements now require the LOPs to suspend all work and not issue new or enforce existing corrective action at a site that has been recommended for closure through the Fund's RSR process.

Overall, Fund management has made sizeable efforts to reduce reimbursement related expenditures, such implementing project budgets and regularly updating cost guidelines. However, more progress is needed to close older claims that continue to incur cleanup costs and to incorporate additional accountability and monitoring of LOP contract performance.

Recommendations

To further improve the Fund's cost containment and claim/case closure measures and practices and increase accountability for oversight agencies, the Board should consider directing Fund management to:

6. Develop procedures specifying the type of justification needed to approve costs above cost guidelines and the documentation required to support such justification.

7. Develop processes to compare claimant provided cost estimates and actual expenditures and determine causes for large discrepancies and adjust planning strategies if needed. Similarly, compare annual claim budgets assigned by the Fund to actual costs. Utilize analysis in conjunction with projection efforts described in Chapter 1.

8. Continue to collect and analyze data sufficient to fully determine ECAP's effectiveness in reducing project costs and closing cases timely.

9. Increase efforts to close old active claims.

10. Develop formal criteria when determining whether or not a claim older than five years requires an RSR and ensure written justification is maintained in SCUFIIS at the time decisions are made to not prepare the required RSRs.

11. Continue efforts to update LOP grant agreements to include relevant performance goals with incentives to meet the performance expectations. Also, establish consistent methods to verify that LOPs performed regulatory services required by the grant agreement, to monitor that LOPs met all performance goals and requirements, and require that performance goals must be met in order for LOPs to receive compensation.

Chapter 3: New Protocols Implemented Aimed at Improving Efficiencies, But Better System Data Needed to Fully Assess Fund's Ability to Meet Required Processing Timelines

Efficient and effective processes are key to ensure constituents receive the services and goods that government programs intend to provide and also help ensure limited resources are spent in a way that achieves maximum benefit. When the Legislature created the Fund, it included requirements to ensure timely and efficient processing of key activities, including determining the eligibility of applicants to participate in the Fund and processing payments for reimbursement of eligible costs associated with cleanup activities. Our review found the Fund has made process changes in the last few years to streamline eligibility and reimbursement processes. These changes have included implementing electronic file reviews, refocusing staff resources, and implementing workload tracking and monitoring. However, we were unable to fully assess the impact that the process improvements had on the required processing times due to insufficient information in SCUFIIS; although, we were able to note improvement to reimbursement request processing timeliness in the last few years.

Lack of Consistent Data Impacts Assessment of the Fund's Ability to Demonstrate Compliance with Eligibility Determination Processing Requirements

According to Health and Safety Code Section 25299.56, "The Board shall determine an applicant's eligibility…within 60 days from the date of the receipt of the fund application." We found that the Board has consistently exceeded the 60-day requirement to determine whether or not a claimant meets eligibility requirements to participate in the Fund, until recent years where timeliness improvements were noted. To be deemed eligible to participate in the Fund, submitted applications must demonstrate that claimants meet specific statutory and regulatory requirements, including:

- Confirmed as the former or current owner or operator of the UST determined to have leaked a petroleum based or otherwise eligible substance;
- Received a directive from a regulatory agency to cleanup (take corrective action) the site;
- Complied with all UST permitting and corrective action requirements (regulatory cleanup orders);
- Paid all required UST storage maintenance fees to the CDTFA; and
- Provided adequate financial responsibility coverage for the UST.

The Board's eligibility review process begins when an application is received. The review consists of a preliminary assessment to evaluate if the application is complete, if the claimant appears to meet eligibility requirements, and if the claimant has been in compliance with regulatory agency permitting requirements. The eligibility review process may involve technical or settlement reviews if the claimant application meets certain criteria, such as involving non-petroleum leak sources, co-payees, or joint claimants. If the application does not require a technical or settlement review, a final determination letter is prepared indicating that claimant does not meet eligibility requirements (rejected) or is deemed fully eligible and placed on the Fund's priority list.

If a technical or settlement review is required, the reviews are generally conducted before a determination letter is prepared, except for Priority Class D claimants where the reviews may be conducted after the determination letter, but prior to the issuance of the LOC, depending on staff workload. If the required reviews are postponed, claimants are *preliminarily* deemed eligible pending the outcome of the technical or settlement reviews before a final determination is made. A final eligibility determination decision must always occur before the claimant is issued a LOC and allowed to submit RRs.

The 2010 audit of the Fund found that the Board's eligibility determination timelines consistently exceeded the 60-day requirement by a significant margin. Specifically, processing times from the date claim applications were received to the date a preliminary acceptance or rejection determination was issued generally increased year to year, ranging from 129 days in Fiscal Year 1999-2000 to 258 days in Fiscal Year 2007-2008. To determine if the Board improved its eligibility processing timeliness associated with preliminary acceptance or rejection determinations, we set out to review processing timelines associated with application submissions and eligibility decisions. However, due to process changes, SCUFIIS does not consistently capture a date that corresponds to "final eligibility determination" to compare against the application received date. As a result, we are unable fully assess the Fund's the ability to comply with the 60-day requirement.

To measure some aspect of the eligibility timeliness, we sought to analyze the number of days between the date an application was submitted and the date an application was deemed not eligible, fully eligible, or preliminarily eligible as captured in the CURSCOMP data field. However, according to the Fund, using the CURSCOMP field does not accurately represent timeliness because of the way the field has been used in past years. Specifically, if a claimant submits an incomplete application that is initially rejected, the rejection date is entered in the CURSCOMP date field and the application is considered "on hold" while awaiting additional information. When new information is submitted by the claimant to complete the application, the rejection date in the CURSCOMP date field is simply over-written with the date the application was re-evaluated. As a result, the processing time between application receipt to the updated CURSCOMP date is stretched further out, creating a perception that application review processes were extremely lengthy.

In one example, a claimant submitted an application in 2010 that was initially rejected in 2012 due to lack of documentation, but deemed eligible eight years later in 2020 after submitting the required information. Because the 2012 rejection date would have been overwritten with the updated 2020 date, the total time from the date the application was received in 2010 to the date the claimant was deemed eligible in 2020 was approximately 3,680 days. Although the 2010 audit of the Fund recommended tracking dates when applications were on hold awaiting additional information, protocols have not been implemented to track interim dates in SCUFIIS, such as when information was requested and received. Tracking such information would provide important context to the application processing timeliness, particularly when the Fund may wait years to receive requested information. As such, there is currently insufficient data in SCUFIIS to provide the appropriate context or to fully evaluate the Board's ability to meet eligibility determination timeline requirements.

Overall, we were unable to fully assess application processing timelines due to insufficient information in SCUFIIS. According to the Fund, SCUFIIS fields have since been added to enable tracking of the entire process from when the claim was determined ineligible, additional documents submitted, and the claim was found eligible; however, current staff availability is not sufficient to enter all of this data retroactively. The Board should continue efforts to implement protocols that ensure consistent and complete information is entered and tracked in the system so that the Fund can more fully monitor its compliance with the mandatory timelines. Specifically, SCUFIIS should capture, at a minimum, the specific dates where claims receive an initial and final eligibility determination as well as the time applications spend waiting for additional information. Without collecting such dates, the Fund will not be able to fully assess its compliance with the 60-day eligibility determination requirement and will not be able to provide the needed context when reporting to the Board and stakeholders.

Fund Implemented Some Changes to the Eligibility Review Process to Improve Processing Times

As noted in the 2010 audit of the Fund, application eligibility determination processes appear fairly streamlined given the complex nature of the information submitted by very a diverse group of potential claimants—ranging from major oil corporations to individual homeowners. However, Fund management has made efforts to improve application efficiency, such as instructing staff to utilize available electronic information to complete compliance reviews. Specifically, the 2010 audit noted the detailed compliance review process accounted for a significant portion of the processing timeline and recommended the Board consider, given the relatively low rate of rejection as a result of the detailed review, reducing the number of detailed field compliance reviews by conducting risk assessments using easily available data and concentrate detailed field reviews on those few applicants indicating a problem. Specifically, much of the detailed compliance review previously involved analysts scheduling, coordinating, and traveling for field site visits to respective regulatory agencies to confirm applicant compliance with regulatory directives and UST permitting requirements and seek “sign-off” by the regulatory agencies acknowledging claimants have been in compliance with directives and requirements. Under current process, Claim Eligibility Analysts no longer travel to conduct field compliance reviews; rather, the analysts utilize data available online through GeoTracker and information submitted electronically by local regulators.

Reimbursement Processing Timeliness Improved in Recent Years

According to Health and Safety Code Section 25299.57 (i), the Fund has 60 days from the date an invoice of expenditures is received to pay all of the eligible cleanup project costs. However, the Fund has struggled to meet the 60-day payment processing time requirement, but made improvements in recent years.

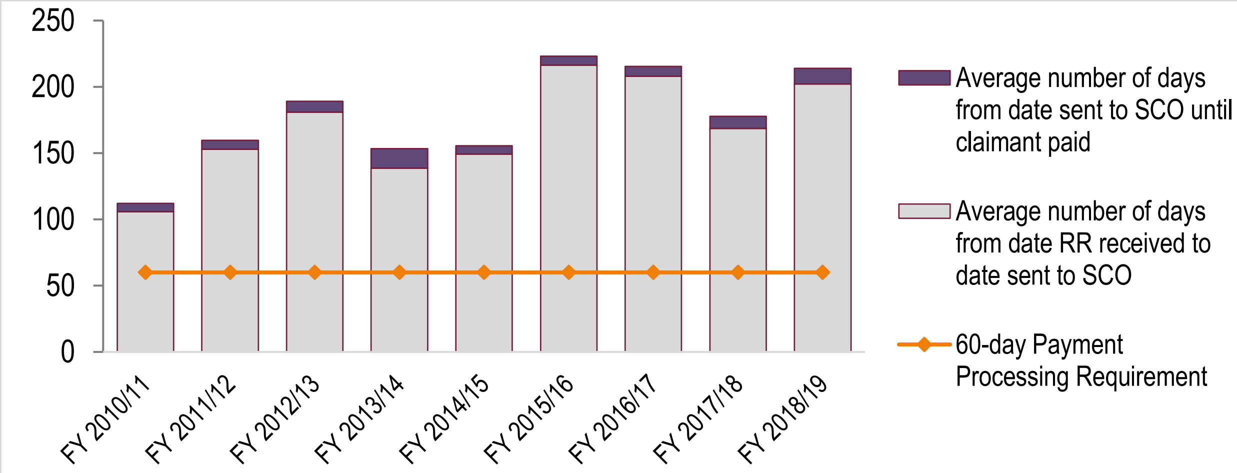
Most RRs for cleanup costs are submitted online through the GeoTracker system, but claimants may also submit hard copies by mail. When RRs are received, an initial “triage” is conducted where analysts verify claimants are in compliance with regulatory agencies directives and determine if the RRs can be accepted or denied based on the completeness of the RR packet—RRs can be accepted if all required documents are present, technical reports are uploaded to GeoTracker, and original signature in file matches RR. For RRs deemed ready for further processing and eligible to be reimbursed by the Fund, Reimbursement Unit supervisors assign Reimbursement Analysts to begin the review and approval process, which involves:

- Ensuring claimants have an active Letter of Commitment (LOC) that allows submission of RRs. According to Fund management, RRs submitted by claimants without an LOC will result in the RR being placed on hold.
- Reviewing associated invoices and billing documentation to ensure amounts requested link to amounts reflected on supporting documentation, date parameters are in chronological order, and reimbursement packets do not contain duplicate invoices.
- Verifying claimants provided proof (i.e., cancelled checks) that previous reimbursement monies received were used to pay contractors—claimants are required to pay vendors within 30 days of receiving reimbursement monies from the Fund.
- Updating payment review and approval processes and dates in SCUFIIS.
- Approving the payment of eligible costs and ensuring the claimant is properly set up in FI$Cal with all required information needed for the State Controller's Office (SCO) to process the payment.
- Forwarding payment documentation to the Division of Financial Assistance's Administrative Unit, Division of Administrative Service's Accounting Office for additional processes before being submitted to the SCO for official payment.

Additionally, if a more complex review is needed, based on specific criteria, Reimbursement Analysts request Engineers and Geologists in the Fund's Technical Claim Review Unit to review the RR packet to ensure requested amounts and associated activities are reasonable and necessary.

The 2010 audit of the Fund found that processing times consistently exceeded the 60-day statutory mandate, ranging from an average of 63 days in Fiscal Year 1999-2000 to 100 days in Fiscal Year 2007-2008. To determine if the Fund improved its RR payment processing timeliness and compliance with the 60-day statutory requirement, we reviewed payment processing timelines 30,446 reimbursement payments issued between July 1, 2010 and June 30, 2019. We found that the average number of processing days from the date an RR was received to the date payment was released continued to exceed the 60-day statutory requirement. As shown in Exhibit 37, the processing times generally increased since the last audit and ranged from taking about 110 days in Fiscal Year 2010-2011 to about 210 days Fiscal Year 2018-2019.

EXHIBIT 37. AVERAGE DAYS FROM SUBMISSION TO CHECK ISSUANCE, JULY 1, 2010 TO JUNE 30, 2019[6]



Source: SCUFIIS extract with SCO dates from GeoTracker; 30,446 payments.

Additionally, as noted in the 2010 audit of the Fund, portions of RR payment processing are out of Fund management's control, such as activities conducted by the Board's Division of Financial Assistance's Administrative Unit, Division of Administrative Service's Accounting Office, and the SCO. To understand the amount of time RRs spend in various functional areas throughout the payment processes, we looked at interim dates associated with payment and technical reviews and dates associated with Administrative Unit and Accounting Office processing. Of the 30,446 RR payments reflected in Exhibit 37, 1,342 did not have complete interim date information and were removed from the following analysis. Timeliness analysis conducted on the remaining 29,104 payments revealed that RRs spent about 123 days in payment review out of 166 days required for the Board to send the approved request to the SCO for payment, or 74 percent of the Board's processing time, as shown in Exhibit 38.

EXHIBIT 38. AVERAGE DAYS BY FUNCTIONAL AREA, FISCAL YEARS 2010-2011 THROUGH 2018-2019

Processing Days at the Board				Days at SCO	Days to Payment Issuance
Payment Review	Technical Review	Administrative Unit	Accounting Office		
123	16	7	20	9	175
166				**9**	**175**

Source: SCUFIIS extract with SCO dates from GeoTracker; 29,104 payment.

The 2010 audit of the Fund noted that the largest roadblock to meeting the 60-day requirement was the lack of funds in which to pay claimants that created a payment backlog crisis; subsequently, the Fund was provided additional funding and since has had sufficient funding to pay reimbursement claims. Further, in response to Board Resolution 2009-0042, the Fund posts payment request queue and approvals on

[6] Based on either the date RR is received or date LOC is issued, whichever is later, and the date the SCO releases payment.

GeoTracker to improve the transparency of the process and allow claimants to better estimate when payments are likely to occur.

Even though lack of funding and payment backlogs are no longer issues, Fund management acknowledges it has continued to struggle meeting the 60-day requirement and attributes it largely to delays caused by incomplete supporting documentation submitted by claimants and staff resource bottlenecks in certain parts of the review. Although detailed information for submitting a reimbursement request is provided on the Fund's website and also provided through correspondence with claimants, RRs are often submitted lacking the necessary supporting documentation. As a result, RRs are often placed on a two-week hold while Fund staff wait for claimants to submit the necessary documentation to remove the hold and complete payment review and approval processing. During the time on hold, the Fund is not actively analyzing or reviewing the RR documents. Additionally, RRs can put on hold for longer periods of time, even years, such as when claims involve litigation.

To understand the impact of RRs holds on processing times, we analyzed payment timeliness with the number of days RRs were on hold excluded from consideration. Of the 29,104 payments reflected in Exhibit 38, 7,893 were excluded from the following analysis because the SCUFIIS did not have complete information related to the dates that RRs were placed and removed from hold. As shown in Exhibit 39, the remaining 21,211 RRs evaluated demonstrated an overall improvement in timeliness when payment holds were excluded from the analysis compared to the timeliness results reflected in Exhibit 38. The average time the 3,814 RRs that were placed on hold was 59 days.

As shown in Exhibit 39, of the 21,211 RRs, 19,730 were paid between Fiscal Years 2010-2011 and 2016-2017 and, on average, spent about 109 days in payment review out of 144 days required for the Board to send the approved request to the SCO for payment, or 76 percent of the payment processing time. However, timeliness improved dramatically for the 1,481 RRs that were paid between July 1, 2017 and June 20, 2019—the average number of days these RRs spent in payment review went down to only 28 days out of a total of 88 days and consumed just 32 percent of the payment processing time.

EXHIBIT 39. AVERAGE DAYS BY FUNCTIONAL AREA EXCLUDING HOLDS, FISCAL YEARS 2010-2011 THROUGH 2018-2019

	Processing Days at the Board				Days at SCO	Days to Payment Issuance
Fiscal Years 2010-2011 Through 2016-2017 (19,730)	Payment Review	Technical Review	Administrative Unit	Accounting Office		
	109	13	6	16	9	153
	144				**9**	**153**
RRs Submitted between Fiscal Years 2017-2018 & 2018-2019 (1,481)	Payment Review	Technical Review	Administrative Unit	Accounting Office	Days at SCO	Days to Payment Issuance
	28	17	8	35	12	100
	88				**12**	**100**

Source: SCUFIIS extract with SCO dates from GeoTracker; 21,211 payments.

According to Fund management, the dramatic decrease in time required to process RRs was the result of increased staff positions. Specifically, the Fund had an average of about 73 full-time equivalents (FTEs) between Fiscal Years 2010-2011 and 2016-2017, which increased to about 89 FTEs in Fiscal Years 2017-2018 and Fiscal Year 2018-2019, reflecting a 23 percent increase in resources. While the Fund's staffing levels were not detailed by unit, such as Reimbursement Unit versus Technical Claim Review Unit, a staffing increase in one area would likely have a positive effect on the processes in another area as the Fund shifts workloads between the units as needed.

Additionally, as described in Chapter 2, the ECAP was intended to streamline and coordinate processes to get cleanup project closed quickly. Of the RR payments reflected in Exhibit 39, we reviewed the timeliness associated with 334 payments made to claimants in Fiscal Years 2015-2016 through 2018-2019 participating in the ECAP. We found that RRs associated with ECAP were processed in fewer days—ECAP RRs spent an average of 35 days in payment review and 7 days in technical review during the four-year period compared to the overall average for priority list claimants where RRs spent 84 days in payment review and 29 in technical review during the same time period.

While these changes resulted in reductions in processing time by the Reimbursement Unit, the number of days RRs are with the Board's Accounting Office before being submitted to the SCO for payment increased, as reflected in Exhibit 39, likely due to the Board's issues with FI$Cal implementation.

Several Improvements Implemented Aimed at Streamlining and Standardizing Payment Processes

Given the Fund's general challenges to meet statutory timeframes, we found some process changes were implemented to improve payment processing efficiencies, such as shifting certain processes between Fund staff, implementing protocols to align RR submissions with project phases and standardize invoicing, and utilizing more informal communication methods with claimants.

Certain Processes Shifted Between Staff to Streamline Payment Review and Approvals

In 2013, Fund management prioritized RR review processing by shifting some of the Reimbursement Analysts non-review tasks to support staff so the analysts could focus more time on performing RR reviews. At the same time, some technical aspects of the RR review processes were shifted to Reimbursement Analysts to reduce backlog of workflow in the Technical Claim Review Unit. Previously, if RRs met certain criteria, such as possible non-petroleum sources of contamination, a full review of the request was required to be conducted by staff in the Technical Claim Review Unit prior to payment approval. Currently, Reimbursement Analysts submit specific questions to the Technical Claim Review Unit and, upon receiving the necessary clarification, Reimbursement Analysts continue processing the remainder of the RR packet. As such, Technical Claim Review Unit staff act as subject matter experts, but on a case-by-case basis, may still perform a full review of a RR packet.

According to Fund management, to support the additional duties assigned to the Reimbursement Analysts, selected analysts received specialized training on technical issues and act as liaisons between the Technical Claim Review and Reimbursement Units to revolve issues quickly. In more recent years, the

Fund has continued efforts to increase staff knowledge through fieldtrips to actual cleanup sites for direct observation of drilling and sampling techniques.

New Protocols Implemented to Align RR Submissions with Project Phases and Standardize Invoicing

The 2010 audit of the Fund found that RR submission intervals led to inefficiencies because apart from the Fund's regulations that claimants may submit only one invoice every 30 days and invoices must be at least $10,000—with the exception of the final invoice—there were no requirements that claimants submit invoices to the Fund at specific project intervals or phases. Instead, invoices were submitted to the Fund at any point during a project that a claimant decided to request reimbursement—a single invoice could cover all phases of an entire project, multiple unrelated phases of a project, or just a single expense, such as purchasing a piece of equipment. The 2010 audit recommended creating RR submission schedules where claimants submit specific project work/activities by a certain date and by a specific project phase. According to Fund Management, annual budgets and PEPs, described in detail in Chapter 2, were implemented to align RR submission intervals with project phases.

The 2010 audit also found that although claimants were required to submit a Fund-developed reimbursement request form, the level of documentation detail required to be submitted was not standard, which significantly increased processing complexity and, in turn, increased processing timelines. The 2010 audit offered several recommendations to improve reimbursement request submission processes to improve efficiency, including standardizing invoicing requirements to ensure reimbursement request documentation and support is provided in a way that is consistent amongst claimants and easy to review by analysts. To improve the standardization of the invoicing submission and review process, the Fund published additional invoicing guidance that describes the minimum information that must accompany vendor invoices, requires separate invoices be submitted for separate scopes of work or time periods, rather than lumping together many months of activity, and mandates costs be broken down by major task categories, such as site investigation, groundwater monitoring, or remediation. The Fund's website provides a checklist for claimants to use to ensure the required documentation is submitted.

Increased Informal Communication with Claimants to Expedite Review Processes

Further, the 2010 audit of the Fund recommended contacting claimants by telephone to obtain needed information or clarification rather than utilizing time consuming formal letters. According to Fund management, Reimbursement Analysts regularly reach out to claimants via phone or email to obtain missing information and allow three working days for the claimant to provide the requested information before continuing to process the RR. Recently, with circumstances related to the COVID-19 pandemic and at the stakeholders' request, the Fund modified the turnaround time to ten working days for claimants to provide additional information. In our review of claims files, we saw evidence of more direct communication from Fund staff with claimants outside of the formal letters through emails and phone calls.

Some Appeal Processes Related to RR Processing were Streamlined

The 2010 audit of the Fund noted that handling appeals consumed a significant portion of staff resources that take away from time staff can spend on other daily activities, such as payment processing. Regulations provide claimants with the ability to appeal most decisions made by the Fund—most often involving claim eligibility and RR cost eligibility decisions. Appeals require staff to prepare responses to appeals that must be reviewed and approved by management and an appeal decision letter must be prepared—depending on the appeal level.

The appeals process has three levels:

- Fund Manager Decision (first level)
- Final Division Decision (second level)
- SWRCB Decision (highest level)

If a claimant is unhappy with the SWRCB's decision, the last step is to file a lawsuit.

During the current audit period, about 1,700 appeals were submitted to the Fund for consideration and the vast majority appeared related to reimbursement requests. We selected 10 appeals found that nine related to costs that were denied, largely because project activities were deemed unreasonable or not eligible for reimbursement or because claimants simply submitted insufficient supporting documentation. As such, some formal appeal processes relate to denied costs that can easily be remedied with the submission of additional information. According to Fund management, in an effort to reduce the number of formal appeals and burden on staff, a process has been implemented to allow claimants denied costs due to lack of documentation to go through an informal process that does not require a formal Fund Manager Decision. Specifically, claimants can provide the additional information and request a Revised Fund Staff Decision, which allows staff to overturn the original decision without the Fund Manager's review. We also noted that the formal decision letters are often vague and do not include specifics, particularly related to why an appeal reversed the previous decisions. According to the Fund, a process improvement was implemented in 2018 that requires staff to document this type of information in support of the appeal decision. The Board should continue protocols that require sufficient descriptions of the reasoning be provided in the decision letters.

Improvements Made to Better Monitor Staff Workload and Performance Efficiency

Tracking and analyzing staff workload and overall workflow data is essential for management to make program decisions to ensure resources are used efficiently and the program is operating effectively. The 2010 audit found that the Fund lacked processes to monitor staff workload and measure performance efficiency and recommended processes be implemented to assign, track, monitor, and manage employee workload as well as set performance goals and regularly measure employee performance against goals. In response, Fund management implemented annual output targets and performance goals for key workstreams are set annually:

- **Letters of Commitment**—950 per year; according SCUFIIS data, staff largely achieved this goal in Fiscal Year 2018-2019. The Fund expects to issue sufficient LOCs to entirely remove all claimants from priority list in 2021.

- **Reimbursement Requests**—fewer than 30 days at the Fund before being sent to Administrative Unit; according to SCUFIIS data, staff achieved this goal in Fiscal Year 2018-2019 even with the implementation of FI$Cal. However, according to Fund management, with the increased issuance of LOCs and large reimbursement request submittals (both in volume and size) by Priority Class D claimants, changes to workflow and staff are necessary to remain below the 30-day processing target.
- **Review Summary Reports**—500 per year; according a SCUFIIS report provided by Fund management, staff achieved this goal by preparing 524 RSRs in Fiscal Year 2017-2018 and 505 in Fiscal Year 2018-2019. However, Fund management lowered the goal to 450 RSRs for Fiscal Year 2019-2020 due to the reassignment of staff resources to prioritize the increasing reimbursement request workload resulting from increased LOC issuance.

Additionally, section managers and unit supervisors use a variety of methods to assign workload and track progress, including GeoTracker, SCUFIIS, FI$Cal, and a variety of Excel spreadsheets, so that any workflow challenges can be identified and addressed.

Overall, the Fund has made process changes in the last few years to streamline eligibility and reimbursement processes, including implementing electronic file reviews, refocusing staff resources, implementing an alternative appeals process; and implementing workload tracking and monitoring in all Fund units. However, were unable to fully assess the impact that the process improvements had on the required processing times due to insufficient information in SCUFIIS. The Board should implement protocols to ensure consistent and complete information is entered and tracked in the system so that the Fund can more fully monitor its compliance with the mandatory timelines.

Recommendations

To further improve the Fund's ability to demonstrate its ability to meet mandated timelines and increase the efficiency of certain processing functions, the Board should consider directing Fund management to:

12. Continue protocols to ensure consistent and complete information is entered and tracked in the SCUFIIS so that the Fund can fully monitor its compliance with the mandatory eligibility determination and RR timelines. Specifically, SCUFIIS should capture, at a minimum, the specific dates where claims receive an initial and final eligibility determination, the time applications spend waiting for additional information, and dates that RRs were placed and removed from hold.

13. Continue to provide sufficient descriptions of reasoning be provided in appeal decision letters.

Chapter 4: Fund's Internal Control Environment Improved, But Additional Strengthening Warranted

Internal control is a system of processes that help organizations run operations efficiently and effectively, report reliable information about its operations, and comply with applicable laws and regulations. Yet, there can be a struggle to find the balance between operating efficiently and effectively to achieve organizational objectives while maintaining a set of strong internal controls with sufficient activities in place to reduce or mitigate risks of fraud, waste, and abuse of public funds. Our review found that the Board and Fund Management has taken specific actions to strengthen its internal control environment, but additional efforts are needed.

Board and Fund Management Actions Strengthened Internal Control Environment

The Fund made several improvements to its control environment, including establishing a Fraud, Waste, and Abuse (Fraud) Prevention Unit in the Office of Enforcement, developing Fund-wide policies and procedures, and implementing some limited reconciliation activities.

Dedicated Fraud, Waste, and Abuse Prevention Unit Established

In January 2010, the Board established a Fraud Prevention Unit within the Office of Enforcement dedicated to deterring, investigating and facilitating prosecutions related to inappropriate Cleanup Fund activity. The types of allegations or complaints typically involve professional negligence and misrepresentation, such as charging the Fund for tasks and positions that were not supported and submitting falsified laboratory reports. The Fraud Prevention Unit receives tips based on investigations from other agencies, industry whistleblowers, and staff in the Fund's Reimbursement Unit referring claims. In addition, all Fund staff and any of the LOPs or Regional boards, as well as members of the public are also able to refer claims to the Office of Enforcement. After investigating allegations or complaints, the Fraud Prevention Unit handles cases internally by imposing disciplinary actions, including penalties of up to $500,000 per violation, or refers cases to the California Attorney General for prosecution on behalf of the Board.

In addition, the Fraud Prevention Unit regularly communicates and meets monthly with Fund staff to raise awareness of fraud risk and provides pertinent presentations and training sessions. For example, a 2018 presentation covered applicable laws, profile of a fraudster, and simple tests staff can perform if reimbursement request documentation seems irregular. The presentation further described types of fraud scenarios, such as costs not incurred (equipment was not physically at the cleanup site), or using false data, and provided real examples of fraudulent reimbursement request documentation sent to the Fund.

Policies and Procedures in Development for all Functional Areas

Documenting control activities in written policies and procedures is an important way that management communicates the policies and procedures so that staff can implement the control activities for their assigned responsibilities. We found that Fund management was in the process of developing a comprehensive set of policies and procedures, which included more than forty detailed procedures, and covered key protocols regarding:

- Review Budget Change Requests
- Execute Project Plan
- Prepare Review Summary Reports
- Process Reimbursement Requests
- Handle Double Payments

After final approval of the procedures, Fund management should regularly review the policies, procedures, and related control activities for continued relevance and effectiveness in achieving the Fund's objectives and addressing related risks.

In addition to the policies and procedures, Fund management has created additional tools to assist staff in executing their duties and responsibilities. For example, an Initial Review Checklist for Claims Eligibility staff was developed that details all the eligibility requirements and prepared a list of 22 ineligible items for Reimbursements and Technical Claim Review Unit staff that provides a listing the types of costs that are not allowable for reimbursement.

Limited Reconciliation Activities Implemented, but More Robust Efforts Needed

Reconciliations are a type of control activity designed to provide reasonable assurance that financial information is accurate and consistent. The 2010 audit of the Fund recommended regular reconciliation processes be developed and implemented between the Accounting Office's official records of claim payments against the Fund's SCUFIIS records of reimbursements approved for payment.

In response, monthly processes to compare Fund activity between several systems are conducted by two units within the Division of Financial Assistance—the Grants and Administration Branch's Administration Unit and Cleanup Fund Branch's new Financial and Reporting Unit. Specifically, the Financial and Reporting Unit creates a receipt in FI$Cal indicating that reimbursement requests reviewed and approved by Fund staff are ready for payment. The requests are submitted to staff in the Administration Unit who compare the reimbursement request information input into FI$Cal and SCUFIIS by staff in the Fund's Reimbursement Unit. If amounts agree, the Administration Unit submits the payment request to the Accounting Office for processing. These processes, along with the Financial and Reporting Unit's ability to see real-time payment information in FI$Cal and changes to SCUFIIS that better align data fields to the business process within FI$Cal, are an improvement over the processes in place during the prior audit. However, while comparisons between several sources of payment information prepared by Fund staff are conducted to ensure accuracy and consistency, there are no processes in place to fully address the 2010 audit recommendation, which was to reconcile the official claim payments processed by the Accounting Office against SCUFIIS records. According to the Fund, the Financial and Reporting Unit has since began performing this type of reconciliation after moving onto FI$Cal and has also reconciled SCUFIIS for some prior years using accounting reports generated from CalSTARS. According to Fund management, some activities currently performed by the Administration Unit may be transitioned to the Financial and Reporting

Unit as the duties and responsibilities of this new unit are further developed and refined to facilitate efficiencies and reduce duplicative efforts.

Fund management improved its internal control environment, particularly with the development of Fund-wide policies and procedures and the establishment of the Fraud Prevention Unit to investigate fraud and seek restitution from the perpetrators. However, the Fund could further improve controls by implementing a complete reconciliation process.

Additional Controls Related to Supervisory Reviews, Data Integrity, and Performance Reporting Needed

While the Board and Fund management made several improvements to its control environment, we found additional work was needed in a few key areas related to secondary review processes, data integrity, and performance reporting.

Lack of Second Review Process Increases Risk that Inappropriate Activity is Undetected

The purpose of a supervisory review or other quality control processes is to provide assurance that processes are consistent, appropriate, and comply with policies and procedures. The 2010 audit of the Fund recommended the implementation of an independent, secondary review process of approved reimbursement requests before payments are made.

While we found a second-level review process was implemented for work produced by the Technical Claims Review Unit, similar review processes have not been established for the Reimbursements and Claim Eligibility Units even though only a single employee is often involved in the associated approval processes. Although, certain criteria trigger when a separate review of claim applications or payments is required to be conducted by the Technical Claims Review Unit, staff in the Reimbursements and Claim Eligibility Units are solely responsible for forwarding items to the Technical Claims Review Unit for review.

Our review of eligibility determinations related to 25 claim applications submitted between July 1, 2009 and June 30, 2018 noted an instance where an eligibility determination was not consistent with Fund's protocols, which may have been caught had a secondary review processes been in place. Specifically, an application was incorrectly rejected twice because the claimant was not the owner or operator of the UST; however, the determination was later overturned through the appeals process because the Fund established that rights to claims are assignable. The rejected application went through multiple processes using staff resources that could have otherwise been used processing other applications.

Our review of $700,000 in cleanup costs related to 15 reimbursement requests submitted between July 1, 2009 and June 30, 2018 found that all material and equipment costs paid had reasonable support. However, as discussed in Chapter 2, we found two instances where the labor rate charged in the RR was higher than the rate published in the Fund's Cost Guidelines. For example, one RR reimbursement allowed $119.49 per hour for a Senior Drafter, but the Cost Guidelines recommend $65 per hour. According to the Fund, the approval of the higher rates may have been a staff error, but also stated that the Cost Guidelines are only baselines for reimbursement staff to consider when evaluating reasonable and necessary costs and many factors, including location, seniority, and complexity of the project can influence reasonable costs. Yet, there was no additional information was provided to justify the higher rates.

While most of the claim files reviewed found that processes were generally executed appropriately, second-level review is an important part of internal control to ensure that established procedures are consistently followed. According to Fund Management, there are several processes in place to mitigate the lack of secondary or supervisory review processes. For example, staff can request peer or unit reviews for assistance; however, staff independently choose to initiate and participate in a peer review. In addition, we were informed there are regular “Team Meetings” where staff discuss complex claims to ensure the team is performing review processes consistently. Field staff attended offsite trainings with technical staff to observe typical field activities including drilling and soil, groundwater and vapor sampling. Also, we were told that supervisors perform spot checks on reimbursement requests to look for consistency in approach and to identify any potential training issues; however, the results of spot-checking processes are not documented, which precluded our ability to understand and assess the effectiveness of such processes. Further, the Fund performs a closeout review of each claim prior to the final reimbursement where analysts use a checklist to perform a detailed review of the claim file, including verifying that there are no concerns with past invoices or reimbursement payments. Our high-level review of the closure review process found it was successful in detecting payment errors, including identifying duplicate invoices and deducting amounts from final payments. However, the closeout review process is performed at the time of the final reimbursement payment, as some claims are active for over ten years, the close out review is not sufficient to catch errors in a timely manner.

Overall, without a secondary review process, staff may not consistently apply requirements, which could allow ineligible claimants to participate in the Fund, reduce efficiency of the processes, or allow ineligible or inappropriate costs be reimbursed. Fund management should implement independent, secondary review processes to ensure staff are performing effectively and efficiently. At a minimum, spot-checks should be documented to ensure the appropriate level of monitoring is occurring and the results are used to improve the program.

SCUFIIS Data Integrity Issues Should be Addressed

It is important that the Fund has reliable information related to program activity, which is needed for internal monitoring and external reporting. The Fund’s database, SCUFIIS, is used to track and maintain key information and dates, such as claimant application determinations, reimbursement requests and payments, letters of commitment, and staff workload. Similar to the 2010 audit of the Fund that described SCUFIIS as antiquated and lacking necessary capabilities to ensure complete data integrity, our current review found SCUFIIS does not maintain sufficient information needed to fully demonstrate compliance with certain requirements and does not have adequate controls to ensure data input is reasonably accurate.

While our limited comparison of SCUFIIS data to hard copy files reviewed as part of audit testing found that much of the information was consistent, we noted several discrepancies related to data input errors, such as dates recorded as “3/16/9921”—a mis-key of the year 1992. Such errors impact Fund management’s ability to analyze performance using information extracted from the database, such as the timeliness of certain processes. It is important to note that our review was limited and did not review all fields for data accuracy, which means there could be additional data entry issues that we did not identify. We also noted some inconsistencies where staff entered complete information on some claims in SCUFIIS, but other times where the same information was missing from a claim record. According to Fund management, the lack of staff resources has prevented a focused effort to amend information in SCUFIIS to ensure that data in the system is accurate and consistent.

Additionally, we noted other data issues that do not appear to be related to data input errors, but created as a result of system design. For example, as noted in Chapter 3, when reimbursement requests are put “on hold”, SCUFIIS created duplicate records to track the hold—our review of reimbursement requests found 1,546 duplicate records. We also noted that SCUFIIS was not designed to maintain certain important data, such as the specific dates where claims receive an initial and final eligibility determination as well as the time applications spend “on hold” while additional information is sought.

Fund management should make it a priority to ensure data stored in SCUFIIS is accurate, including considering implementing application controls that serve as validation checks on data entered in the system to prevent common data entry errors moving forward. Such automatic checks could involve verifying character type, string length, or numerical range inputs are reasonably appropriate for the data field and that all required fields are complete before allowing users to save changes to records.

Fund Status Reporting Was Not Consistent over the Audit Period

A good internal control framework requires effective information and communication, both internally and externally, for an entity to report on its ability to achieve objectives. As described, SCUFIIS tracks and maintains key program activity information and dates, particularly related to claimant applications and reimbursement requests and payments. This information has historically been used by Fund management to report and communicate program performance and statistics to the Board and external stakeholders.

In addition to being part of a good internal control, California’s Health and Safety Code[7] requires the Board to continuously post and update on its website, at least annually, information that describes the status of the Fund and any recommendations, when appropriate, to improve the efficiency of the program. To comply, the Fund has prepared a specific type of report, “Annual Report to the Legislature,” that provided program statistics and narrative on the Funds compliance with processing timelines.[8] While the Fund prepared these reports through 2008, additional reports were not prepared due to constraints on staff resources and lack of financial information as a result of issues with the implementation of FI$Cal, according to Fund management.

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[7] Chapter 6.75, Article 9, Section 25299.81(d) of the Health and Safety Code (H&SC).

[8] Statistics on activity such as number of claims received, approved, LOCs issued, reimbursement requests processed, claims closed, average days taken to process claims applications and reimbursement requests, and financial measures such as total value of reimbursement payments processed.

In contrast to legislatively required reporting, regularly reporting Fund activity and status internally to the Board is an important component of a strong internal control environment. Specifically, the 2010 audit of the Fund recommended the Board be provided with standard financial status reports developed jointly between Fund management and DAS accounting staff. We found the Board was provided with Fund annual activity reports between Fiscal Years 2010-2011 and 2014-2015 that described trends in UST fee revenues and status of current claims, payments, cost control measures, and claims closures. It was unclear why the annual reports were stopped in Fiscal Year 2014-2015.

The 2010 audit also recommended that the Accounting Office provide the Board with a regular and independent assessment of the Fund's current and future financial status. Additionally, it does not appear that an independent assessment of the Fund's current and future financial status performed by the Accounting Office was provided to the Board. The Accounting Office noted that due to the FI$Cal transition, the last year for which complete revenue and expenditure information is available is FY 2016-17. Once FI$Cal has complete and current information, they can provide regular and independent assessment of the Fund's current and future financial status.

Further, Board Resolution 2009-0042 required the DWQ and DFA to report to the Board on the progress toward completion of the resolution activities every six months to ensure accountability in the implementation the measures. The Board was provided progress updates between 2011 and 2019, but, according to Fund Management, the Board requested less frequent updates after the Low-Threat Policy was adopted.

Division of Administrative Services Has Not Initiated Required Annual Fiscal Audits

As another measure to improve the administration of the Cleanup Fund, Board Resolution 2009-0042 mandated the DAS to initiate an independent program and fiscal audit of the Fund. To comply, the Fund contracted a performance audit in 2009 and the report was published on the Board's web site in 2010, as required. However, the resolution also requires a fiscal audit be completed annually; however, the Board has not conducted any annual fiscal audits between the 2010 audit noted above and the current audit.

Recommendations

To further improve the Fund's internal control system, the Board should consider directing Fund management to:

14. Continue regularly reviewing policies, procedures, and related control activities for continued relevance and effectiveness in achieving the Fund's objectives and addressing related risks.

15. Implement independent, secondary or supervisory review processes to ensure each unit is performing effectively and efficiently. At a minimum, spot-checks should be documented to ensure the appropriate level of monitoring is occurring and the results are used to improve the program.

16. Work to implement application controls in SCUFIIS, such as automatic validation checks on data entry for valid syntax and semantics—such as verifying character type, string length, or numerical range inputs match specified definitions for format and content.

To further improve the Fund's internal control system, the Board should consider directing the Accounting Office to:

17. Provide regular independent assessments of the Fund's current and future financial status to the Board.

To further improve the Fund's internal control system, the Board should consider directing the Division of Administrative Services to:

18. Initiate fiscal audits annually in compliance with Board Resolution 2009-0042.

Appendix A: State Water Resources Control Board's Response Letter

State Water Resources Control Board

March 4, 2021

Ms. Lynda McCallum
Sjoberg Evashenk Consulting, Inc.
455 Capitol Mall, Suite 700
Sacramento, California 95814

UNDERGROUND STORAGE TANK (UST) CLEANUP FUND PERFORMANCE AUDIT

Dear Ms. McCallum:

Thank you for the opportunity to review the draft report for the above entitled audit and for your diligence in conducting the audit under the challenging conditions posed by the pandemic. We find the draft report to be a thorough and accurate analysis of the program. We appreciate your recognition of the improvements we have made to nearly every aspect of the program since the last audit, including: containing cleanup costs; streamlining eligibility; establishing policies, processes and electronic procedures; developing workload tracking and monitoring; establishing fiscal and financial reporting units with the Division of Financial Assistance; increasing communication and transparency with our stakeholders; and working with the Office of Enforcement to investigate and seek restitution for fraud. We also appreciate your recognition of improvements we have in progress, such as restructuring the Local Oversight Agency grants and performance metrics and updating our database.

We believe the recommendations, especially in the areas of financial reporting and management, are the results of a fair and honest assessment. We intend to work with the Water Board's other organizations and our external stakeholders toward their implementation. We plan to resume financial reporting to the public and Legislature as soon as the necessary financial information is available.

Thank you again for your work on this project.

Sincerely,

Leslie S. Laudon
Deputy Director
Division of Financial Assistance