

**State of California  
State Water Resources Control Board  
Division of Clean Water Programs  
Underground Storage Tank Cleanup Fund Program**

# **Legislative Annual Report**

## **BACKGROUND**

Pursuant to Chapter 6.75, Article 9, Section 25299.81(d) of the Health and Safety Code (H&SC), the State Water Resources Control Board (SWRCB) has prepared this Annual Report to the Legislature describing the status of the Underground Storage Tank Cleanup Fund Program (Fund) and setting forth recommendations for legislative changes to improve the efficiency of the program, with special emphasis on expediting environmental cleanup and the distribution of money from the Fund, including alternative methods for the distribution of that money.

## **THE PROGRAM**

### **History**

The Barry Keene Underground Storage Tank Cleanup Fund Act of 1989 created the Underground Storage Tank Cleanup Fund Program to help owners and operators of underground storage tanks (UST) satisfy federal and state financial responsibility requirements and to assist with the costs of cleanup of contaminated soil and groundwater caused by leaking petroleum tanks. The Fund also provides coverage for third-party liability due to releases.

Established by SB 299 in 1989, modified by SB 2004 in 1990, and other subsequent legislation, the Fund requires every owner of a petroleum underground storage tank which is subject to regulation under the H&SC to pay a six mill (\$0.006) per gallon storage fee to the Fund. This fee, which began on January 1, 1991 and ends on January 1, 2005, is generating in excess of \$80 million annually.

To be eligible to file a claim against the Fund, a person must be a current or past owner or operator of a petroleum underground storage tank which has released petroleum and which is subject to state regulation. Owners of small home heating oil tanks which have released petroleum are also eligible. Other eligibility conditions include compliance with applicable state permit requirements and regulatory agency cleanup orders. Claimants may receive reimbursements up to \$990,000. There is a \$10,000 deductible, although the deductible may increase to \$20,000 in some circumstances.

The Fund is administered by the SWRCB. On September 26, 1991, the SWRCB adopted emergency regulations implementing the program, and the regulations became effective on December 2, 1991.

Immediately thereafter, the Fund mailed out applications to more than 10,000 interested parties. Over 6,200 applications were received by January 17, 1992. These initial applications were preliminarily reviewed by April 15, and the SWRCB adopted the initial Priority List and authorized payments on July 16, 1992. The first Letter of Commitment (LOC) was awarded in August of 1992, and the first check was issued approximately one month later.

## Claim Priority System

The implementing legislation sets forth a claim priority system which is based on claimant characteristics. The highest priority, Class A, is given to residential tank owners; the second priority, Class B, is given to small California businesses, governmental agencies and nonprofit organizations with gross receipts below a specified maximum; the third priority, Class C, is given to California businesses, governmental agencies and nonprofit organizations having fewer than 500 employees; and the fourth priority, Class D, is given to all other claimants.

Under statute, the Priority List must be updated at least once a year to include new claims. Since Fall 1993, the Fund has been updating the list monthly. Claims from previous updates retain their relative ranking within their priority class with new claims ranked in their appropriate class below those carried over from the previous list. New claims in a higher priority class must be processed before older claims in a lower priority class.

There is one major exception to the priority system. Legislation passed in 1993 requires the Fund to award approximately 15 percent of its funds annually to any lower priority classes that would not otherwise be funded (i.e., "C" and "D" claimants each receive at least 15 percent of the annual funding).

To date, the Fund has received 122 Priority "A" applications, 2,427 Priority "B" applications, 1,785 Priority "C" applications, and 4,402 Priority "D" applications.

## Letters of Commitment

When a claim is activated from the Priority List, the eligibility requirements are verified with the appropriate regulatory agency, and a Letter of Commitment (LOC) is issued. The LOC is the mechanism by which the program awards or encumbers funds for reimbursement of cleanup costs. A claim is removed from the Priority List when the claimant is issued a LOC. Initial LOCs are issued in an amount adequate to cover the actual eligible costs incurred to date plus additional "seed" money to allow the cleanup to proceed on schedule. However, for the purposes of projecting long term obligations, the Fund uses the median claim amount of \$150,000. As of September 1994, the Fund had issued 1,942 LOCs in the amount of \$182 million. The potential long term obligation of the 1,942 LOCs issued is estimated at \$291 million, or almost \$110 million over what was actually awarded on the LOCs.

It is the Fund's goal to issue 1,000 LOCs during Fiscal Year 1994-95. However, with the large number of active LOCs, a substantial part of the annual appropriation available for awards will be needed for

increases to the existing LOCs. The Fund may only be able to issue 800 new LOCs during Fiscal Year 1994-95.

As of September 1994, 72 "A" claimants, 1,432 "B" claimants, 311 "C" claimants, and 127 "D" claimants had received LOCs.

## Reimbursements

Once an LOC is issued, claimants may submit payment requests. Eligible costs include reasonable and necessary corrective action costs incurred after January 1, 1988 and amounts awarded in third party compensation against the claimant. Only costs paid by or on behalf of the claimant may be reimbursed.

As of September 1994, the Fund had received 2,387 reimbursement requests, 1,841 of which had been paid, for a total of \$68.8 million. The average in-house processing time for initial reimbursement requests, from receipt to payment approval, has decreased from 72 days at the end of 1993 to 34 days as of June 30, 1994. The average payment is approximately \$40,000. Monthly payment volume has averaged about \$6.2 million during recent months.

## Financial Responsibility

Federal EPA regulations (Section 280.90, Subpart H-Financial Responsibility, Part 280, 40 CFR) published on October 26, 1988, requires owners and operators of USTs to demonstrate through insurance coverage or other acceptable mechanisms that they can pay for cleanup and third party damages resulting from leaks that may occur from their USTs.

On June 9, 1993, the United States Environmental Protection Agency (EPA) approved California's Fund as a mechanism for meeting the federal financial responsibility requirements for underground storage tanks containing petroleum.

In order for the Fund to be used as a financial responsibility mechanism, the law requires that the claimant must (1) be the owner or operator of a petroleum UST as defined in Section 25281(x) of the H&SC; (2) be in compliance with applicable financial responsibility requirements; and (3) be in compliance with UST laws and regulations. The Fund works closely with local regulatory agencies to determine whether a claimant has made a good faith effort to achieve compliance with the regulations and relies heavily on the recommendation of the regulatory agency when evaluating eligibility.

Chapter 6.75, Article 8, Section 25299.80 of the H&SC requires a long-term study to be submitted to the Legislature which will, in part, address (1) assessment of availability of private insurance for coverage of unauthorized releases from petroleum USTs; and (2) recommendations as to the use of the Fund to provide financial responsibility for tank owners

and operators. A complete review of the financial responsibility program will be contained in that report

to be submitted by January 1, 1995.

## REPORT

### FUND SUB ACCOUNTS

Section 25299.50 of the H&SC provides the SWRCB the statutory authority to modify or create accounts in the Fund, which the SWRCB determines are appropriate or necessary for proper administration of the Fund. Two accounts have been created: (1) the Emergency, Abandoned, Recalcitrant (EAR) Account; and (2) the Circle K Settlement Trust Fund Account.

#### EAR Account

Sections 25299.36 and 25299.37(f) of the H&SC authorizes State Regional Water Quality Control Boards (RWQCB) or a local agency to undertake or contract for corrective action at petroleum underground storage tank sites. The Petroleum Underground Storage Tank Emergency, Abandoned, Recalcitrant (EAR) Account was established to provide funding. The EAR Account may be used to take corrective action at petroleum UST sites which have had an unauthorized release and which require either: (1) immediate or prompt action to protect human health, safety and the environment (emergency or prompt action sites); or (2) where a responsible party cannot be identified or located (abandoned sites); or (3) the responsible party is either unable or unwilling to take the required corrective action (recalcitrant sites). All costs incurred are subject to cost recovery from the responsible party.

The SWRCB manages the EAR Account which is funded by an annual Budget Act appropriation of \$5 million from the Petroleum UST Cleanup Fund.

#### Circle K Settlement Trust Fund

Through bankruptcy proceedings, Circle K Corporation has abandoned numerous petroleum underground storage tank sites in California. Under the July 26, 1993 settlement agreement, executed between the SWRCB and Circle K Corporation, California was awarded approximately \$3.9 million to be provided in annual payments over a seven year period.

The California Circle K Settlement Trust Fund was created based on the authority granted by the court-approved Settlement Agreement and Section 25299.50 of Article 6 of Chapter 6.75, Division 20, H&SC. This Trust Fund is to be used to pay for tank removal and preliminary site assessment costs, up to \$15,000, and a portion of corrective action costs (22%), up to \$200,000 per designated site. Eligible claimants can recover the remaining portion of eligible corrective action costs from the Fund.

The final filing date for inclusion on the initial Priority List was February 15, 1994. Initially, 102 claims were received, with 99 claims accepted and listed on the Priority List for a total claim amount of approximately \$1.1 million. To date, just over \$500,000 in payments have been made.

## RUST LOAN PROGRAM

Chapter 8.5 (commencing with Section 15399.10) of Part 6.7, Division 3, Title 2, of the California Government Code created a loan program, to be administered by the California Trade and Commerce Agency, to assist small businesses in upgrading, replacing, or removing tanks to meet applicable local, state or federal standards. The Underground Storage Tank Cleanup Fund appropriates \$4 million each fiscal year for the loan program, known as the Repair/Replace Underground Storage Tank (RUST) Loan Program.

RUST is designed to assist small "Mom and Pop" gas station businesses in adhering to new tank regulations. The loan can be used to repair, remove or replace USTs to meet the regulatory requirements.

The terms are a low fixed interest rate, guided by the State Surplus Money Investment Fund (SMIF) currently at 4½ percent, with a 2 percent loan fee, and a 20 year repayment term. The loans range from \$10,000 as a minimum to \$350,000 as a maximum. Eligible project costs are 100 percent financed. During Fiscal Year 1993-94, 73 loans were processed with \$9.5 million encumbered.

RUST has had a slow beginning due to owners and operators of single walled tanks having been given until 1998 to bring their tanks into compliance with the new regulations. As this deadline approaches, activity in the loan program is increasing. Since the beginning of Fiscal Year 1994-95, applications have been submitted for 16 loans for an amount of \$2.3 million. Since January 1994, a monthly average of 120 inquiries on the RUST Program have been received.

## FUND FINANCIAL MANAGEMENT

Financial management of the Fund occurs at four levels:

### Level I - Storage Fee/Duration of Program

The setting of the underground storage fee by the Legislature is the first level of Fund management. The size of the fee ultimately dictates how quickly money is generated and claims are paid. The current fee is 6 mill/gallon stored. This generates approximately \$66 million for claims payments annually. Currently, the program is authorized through the year 2004. Over the 14 years for which the Fund is currently authorized, at the current fee, approximately \$924 million would be generated for claims payment.

Current best estimates, based on the median claim filed to date, is that the typical claim against the Fund will require an obligation of \$150,000. Approximately 7,500 claims have been funded or are on the Priority List awaiting funding. Existing claims represent a long term demand of about \$1.125 billion.

It appears under current authorization and current in-house demand that the Fund is under- capitalized by approximately \$200 million. This does not account for the fact that new applications are being filed at the

rate of about 1,000 per year.

## Level II - Annual Appropriation

The second point of Fund financial management is the annual appropriation of funds authorized in the Budget. The appropriation limits the amount of money that can be encumbered during a budget year and consequently regulates the number and amount of LOCs that can be issued.

In requesting each year's appropriation, it has been the goal of the SWRCB to have the appropriation set high enough to allow for paying down any large outstanding balance in the Fund as quickly as is reasonably possible, but not to request an appropriation which exceeds actual funds collected and available during the year. When the SWRCB first began issuing LOCs in August 1992, approximately \$100 million was already available for claims. Consequently, for the first full three years of activity (1993-94 through 1995-96), an appropriation of about \$115 million has been requested for LOCs, even though the annual rate of collection for claims is only about \$66 million. Under current funding, the requested appropriation would be reduced in half by Fiscal Year 1996-97.

In developing its staffing plan, the SWRCB was given approval to acquire sufficient staff to accommodate activity at the \$100-120 million level. The current plan is to reduce staff in later years as necessary through attrition to accommodate a \$66 million level of activity.

## Level III - Letters of Commitment (Encumbrances)

The third level of financial control for the Fund is in the issuance of LOCs. The SWRCB seeks to accomplish four objectives in managing LOC activity:

1. Encumber all appropriated funds each year;
2. Activate as many claims as possible from Priority List;
3. Reserve sufficient funds to carry active cases through the current fiscal year;
4. Comply with statutory requirements regarding priority of claims (i.e., pay claims in priority order with exception to the requirement that 15 percent of each year's appropriation must go to "C" claims and 15 percent to "D" claims).

To successfully accomplish these objectives, the SWRCB must develop an encumbrance plan at the start of each fiscal year and must closely monitor the size of each LOC to ensure that funds are only encumbered for 12 to 18 months before liquidation.

## Level IV - Payments (Liquidation)

The fourth and final point of financial management is actual reimbursement of claimants, or the

liquidation of LOCs. Over the life of the program, payments are expected to consume the most staff time, but to a great degree, payments require the least management from a larger financial perspective. Simply put, if the first three levels of financial management are properly conducted, ample funds should be available for actual payments. The SWRCB's basic objectives for payments are:

1. Process payments within 30 days of receipt;
2. Pay approved costs while questioned costs are decided (i.e., pay what we can immediately);
3. Balance thoroughness of review against duration of review to ensure accountability and detection of fraud;
4. Assist claimant with cost issues prior to the incurrence of such costs.

The greatest management issues related to payments include the determination of cost eligibility and assurance that no double payment occurs.

## PROGRAM ISSUES & ALTERNATIVES

Following is a brief discussion of some of the major issues and alternatives facing the program. Many of these issues are addressed by SB 1764, which was signed by the Governor on September 30, 1994. Where an issue is addressed by SB 1764, no specific recommendation is provided (see discussion on SB 1764 under Legislation).

Issue 1: Should storage fee be increased?

In the long run, the Fund is under-capitalized relative to all claims now filed. Each mill increase would generate approximately \$13.3 million annually for claims payments.

SB 1764 increases the fee in three increments -- 1 mill in January 1995, 2 mills in January 1996, and 3 mills in January 1997. This proposed increase would help address the under-capitalization issue.

Issue 2: Should the annual appropriation be changed?

Any increase in the storage fee would allow an increase in the appropriation for future years. From a positive perspective, the annual appropriation limitation moderates Fund activity and prevents over-commitment of funds. From a negative standpoint, it limits flexibility to Fund management in cases where encumbrances from previous fiscal years are not liquidated as planned. In the latter case, the Fund must wait until a later fiscal year to re-encumber the subject funds.

Recommendation: Close regulation of LOCs should reduce this problem. Otherwise, consideration should be given to a continuous appropriation or some other method which would assure that a large balance does not remain unencumbered.

### Issue 3: Double Payments

Many claims filed with the Fund involve circumstances where claimants have or will receive funds from other sources in consideration of the unauthorized release from the underground storage tanks that caused the contamination. These other funds may be the result of an insurance claim, lawsuit, settlement, judgment, or agreement with other parties (prior tank owners and operators, etc.).

A claimant is not entitled to double payment of any cleanup costs claimed from the Fund. Where the claimant has or will obtain funds from other sources, this must be disclosed to the Fund, and the program must make a determination as to how the monies received impact the claim. Most often, the documentation provided is not specific as to what the money was intended for. In such cases, the claimant often argues that although the cause of action was the contamination discovered on the site, the money received was not for cleanup. Often, the party paying money to the claimant also wants to be reimbursed from the Fund on the basis that they paid for the costs of cleanup as the result of the money paid in a settlement.

These situations were not foreseen by the Fund, and are sometimes difficult to resolve. The Fund has developed a "Non-Recovery From Other Sources Disclosure Certification" to be completed under penalty of perjury by the claimant. The certification is intended to identify all monies received, or to be received, by the claimant from any source and to identify all parties that may be involved in litigation over the contamination on the site. The Fund is addressing this issue on a case-by-case basis.

Recommendation: Continue case-by-case handling of double payment issues at this time.

### Issue 4: Cost Schedules

Claimants, consultants, contractors, and regulatory agencies have suggested that the UST Cleanup Fund establish cost guidelines. The intent would be to: (1) assist claimants in managing corrective action costs; (2) provide claimants and consultants/ contractors with information on how requests for reimbursement are evaluated; and (3) provide for more consistency in processing reimbursement requests. This interest has been reinforced by pending bill SB 1764 which has included language directing the SWRCB to establish cost schedules.

Recommendation: The SWRCB will prepare the suggested cost schedules to aid claimants, consultants, and contractors.

Issue 5: Should Underground Storage Tank Cleanup funding be tied to site priority based on severity of water quality problems?

In the development of the regulations for the Fund, a great deal of thought was given to the priority system. In keeping with the general legislative intent of awarding claims based on financial need, and in



fulfilling the goal of making as many payments to claimants as quickly as possible, it was decided that the placement of claims within each priority class for the initial Priority List should be based on random selection, as opposed to some other criteria, such as water quality. To do otherwise would have created significant delays in the adoption of the Priority List with a commensurate delay in the payment of claims.

The suggestion of awarding Fund monies to claimants based on water quality severity certainly has merit. After all, the protection and cleanup of our water resources is the primary goal of the UST program. However, the implementation of this goal is beset with several practical considerations, especially at this point in the program. Firstly, a system outlining the selection criteria would have to be established. Secondly, a priority would have to be assigned to each claim. Since the Fund is dealing with thousands of claims, it would be very time consuming to develop a Priority List. Claimants who felt they were not prioritized properly would likely appeal and consume considerable staff time which could otherwise be devoted to claims processing. Lastly, the question arises, if we were to change the method of prioritizing, do we apply it to the approximately 5,000 existing claimants on the Priority List? Such action could bring chaos to the Fund. When considered against the progress the Fund has made so far, such a plan may be self-defeating. High priority water quality cases on the current list may actually have to wait for funding while all this is sorted out.

**Recommendation:** No change in the current priority system is recommended. If the Legislature wants to change the system to address water quality needs, such change should not be made retroactive to those claimants already in the Fund. Since most of the claims to the Fund have already been submitted and have been placed on the priority list, any remaining claimants should not represent a large number. Consequently, if the Legislature changes the prioritization system and applies it to future claimants, only a small portion of the entire number of claimants to the Fund would be affected.

**Issue 6:** Should private contractors process claims to the Underground Storage Tank Cleanup Fund Program?

AB 1061 which became law in September 1993 authorizes the SWRCB to contract with private contractors for processing Fund claims if it becomes necessary (Health & Safety Code 25299.52(e)). Specifically, this section states that: "If, at the conclusion of any fiscal year, 25 percent or more of the funds appropriated annually for awards to claimants during that year have not been obligated by the board, the board shall, at its next regularly scheduled meeting, determine, in a public hearing, whether, given the circumstances of the awards backlog, it is appropriate to implement those contracting procedures for some, or all, of the claims filed with the board".

All of the \$115 million appropriated for the 1993-94 fiscal year was awarded by June 1, 1994. The Fund plans to fully award the current year appropriation, as well.

**Recommendation:** There is no need to contract for claims review services at the present time. However, the statutes contain provisions which require the SWRCB to consider private contracting of claims

processing, if the need arises.

#### Issue 7: Should the Fund help claimants with cash flow problems?

A very small group of claimants do not have the financial resources to pay for corrective action invoices prior to reimbursement from the Fund, or to overcome the deductible. This places them in the position of either not proceeding, or having their vendor or other entity carry the short-term financial burden. The Fund has considered a number of options for assisting claimants facing a cash flow problem. These include:

**Option 1: Delay adjustment for the deductible** - If the deductible were deferred for small needy claimants, the claimants would have an additional \$10,000 available for cash flow during the life of their claim. This difference may be sufficient to overcome the cash flow problem. The deductible could be adjusted during the payment cycle in small increments or a final payment of the claim, instead of at the first payment as is the current practice. This option could be made available to all Class A and B claimants upon request.

**Option 2: Modify Letter of Commitment to serve as loan guarantee** - Another option for improving cash flow capabilities for claimants is to structure the LOC to serve as a basis for a short-term loan for the claimant. We have heard from some claimants that the threat of cancellation due to failure to comply with requirements has caused lending institutions to shy away from cash flow loans to claimants. The SWRCB could work closely with lenders to determine if and how the document could be structured to entice them to provide short-term financing.

**Option 3: Pre-approve work and costs so payments can be expedited** - Consultants may be willing to carry the claimant for the time it takes to receive payment from the Fund, if there is assurance that (1) payment will occur within a reasonable time and (2) the bill will be fully paid (i.e., no eligible charges will be disallowed). To accommodate this for Class A and B claimants, the Fund could establish a "pre-approval" program wherein a detailed budget or schedule of charges is approved prior to the work being performed and costs incurred. Payments for "pre-approved work" would receive shortened and speedier review and payment.

The Fund is already shifting its focus to assisting claimants at the "front end" of their project. This is, we are helping claimants identify potential problems before costs are incurred. This option is consistent with that shift in focus. It is easier to adjust costs before they are incurred than after. Claimant is not "caught in the middle".

**Option 4: Advance Funds** - Under this option, the Fund would advance needy claimants the deductible to cover cash flow needs. The advance would be made under terms of the Letter of Commitment (i.e., invoices and checks would have to be submitted after costs incurred and paid). The Fund would then replenish the reserve. An appropriate adjustment would be made at the end of the claim to balance the account. Advancement of funds creates a great risk of non-recovery of funds or misuse of funds through

fraud, waste, or abuse.

**Option 5: Expand California Trade and Commerce Loan Program** - Under this option, statutes could be changed to allow the California Trade and Commerce to extend loans to all Class A and Class B claimants to cover costs not reimbursable from the Fund (deductible, tank removal, etc.)

**Recommendation:** SB 1764 specifies that claimants may seek assistance from the Fund when selecting consultants and contractors, and may seek preapproval of costs for future work. This is consistent with Option 3, and the Fund has taken steps to implement these activities.

## LEGISLATION

The following is a summary of legislative changes that affect the Fund:

**AB 1699 (Kelley)** - Signed by the Governor 10/14/91: Specifies the type of expenses that SWRCB can reimburse under third party claims, and redefines and clarifies the legislative intent for eligibility of residential tanks.

**SB 1356 (Greene)** - Signed by the Governor 9/12/92: Exempts the multiple bid requirement for tanks owned or operated by a public agency if the prospective costs are for private professional services within the meaning of Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code and those services are procured in accordance with the requirements of that chapter.

**SB 3188 (Hauser)** - Signed by the Governor 9/30/92: Creates the "Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989" and establishes the Fund in the State Treasury rather than the General Fund.

**AB 1061 (Costa)** - Signed by the Governor 9/22/93: Amends the priority ranking for the Fund to include, in the second ranking, a city, county district, or nonprofit organization that has total annual revenues of less than \$7 million, and includes in the third ranking, a city, county, district, or nonprofit organization that employs fewer than 500 full-time and part-time employees, and requires the SWRCB to allocate approximately 15 percent of the amount appropriated to Class C and Class D claimants. Also allows for claimants who meet specific criteria to request a waiver of the permit eligibility requirements.

**AB 2303 (Richter)** - Signed by the Governor 7/11/94: Deletes the provision that tank owners or operators who had completed corrective action with regard to a release from a tank by October 2, 1989, are prohibited from filing a claim to the Fund.

**SB 108 (Kelley)** - Signed by the Governor 7/20/94: Directs the SWRCB to develop cleanup procedures and proposed regulations applicable to unauthorized releases of petroleum from multiple responsible parties which are the result of commingled contamination of groundwater plumes. The Blythe Environmental Remediation Demonstration Project will be established and the City of Blythe is to be

used as the demonstration project for this purpose.

SB 1764 (Thompson) Signed by the Governor 9/30/94: This bill has a major impact on the current operations of the Fund:

1. The bill eliminates the \$10,000 deductible for claimants qualifying for Class A and reduce it to \$5,000 for Class B and Class C claimants. Class D claimants are still required to pay the \$10,000 deductible. The reduction in the deductible is retro-active, except that it does not apply to claims which have been fully paid by January 1, 1995.
2. It requires responsible parties to prepare a work plan in response to all corrective action orders, specifying what work is to be performed. The work plan is to be in accordance with the SWRCB's regulations. Regulatory agencies will be required to approve the work plan and work must be consistent with the approved work plan. Responsible parties must be informed of their option to request a lead agency be designated to oversee the investigation and remediation, and the local agency or SWRCB must assist the responsible party in the preparation and processing of this request, if asked to do so. The responsible party must also be advised by the regulatory agency of the opportunity to seek preapproval of costs from the Fund.
3. The bill also specifies an appeal process wherein staff must yield a decision within 30 days of the receipt of the appeal. The claimant may then file an appeal with the SWRCB, and the appeal must be decided within 60 days from the date of receipt. All approved appeals must be paid by the State Controllors within 10 days.
4. SB 1764 requires the SWRCB to establish a set of reimbursement cost schedules for professional engineering and geological services.
5. It requires the SWRCB to establish a technical advisory committee to review cleanup standards.
6. It also increases the storage fee in three steps; 1 mill on 1/1/95; 2 mill on 1/1/96; and another 3 mill on 1/1/97. Each mill generates about \$3.5 million per calendar quarter for the Fund.
7. The bill deletes "including all affiliates" from the definition of annual revenue for nonprofit organizations, and specifies that only the revenue or employees at the tank site which is the subject of the claim would be counted in determining priority.
8. SB 1764 eliminates the requirement of using the lowest bid for professional services if the claimant obtained multiple estimates, and the selected provider's costs were within the acceptable range as established by the SWRCB. Contracting work will still be subject to multiple (low) bids.
9. It requires SWRCB to pay invoices within 60 days for work required pursuant to an approved work plan or to comply with other regulatory agency directions.

The next Annual Report, due to the Legislature on September 30, 1995, will contain the status of each of the required program changes and will also at that time address any recommendations for future legislation.

## Recommended Legislation

The SWRCB has no recommended legislative actions at this time.