

**STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION**

STAFF REPORT FOR REGULAR MEETING OF MARCH 19, 2004

Prepared on February 24, 2004

ITEM NUMBER: 22

SUBJECT: Resolution No. R3-2004-0030, Underground Storage Tank Cleanup Fund Emergency, Abandoned, Recalcitrant Account FY 2004-05 Annual Sites List

DISCUSSION

Chapter 6.75 of the Health and Safety Code authorized creation of the Underground Storage Tank Cleanup Fund. The Fund reimburses underground storage tanks (USTs) owners for costs incurred cleaning up the effects of unauthorized USTs releases. In addition to providing for reimbursement of tank owner cleanup costs, Chapter 6.75 of the law authorizes the State Water Resources Control Board (State Board) to provide funds to Regional Boards and local agencies for taking corrective action at petroleum UST sites that have had an unauthorized release and meet the following conditions: (1) where immediate or prompt action is needed to protect human health and safety or the environment, (2) where a responsible party cannot be identified or located, or (3) where the responsible party is either unable or unwilling to take the required corrective action.

The State Board has established administrative procedures for administering the funds in an Emergency, Abandoned, Recalcitrant (EAR) Account. The administrative procedures provide for

establishment of an annual sites list in July and state in part:

The EAR Account is to be used primarily to:

- 1) Provide funding to Regional Boards and local implementing agencies (Local Agencies) to initiate emergency corrective action at petroleum UST sites where immediate action is required to protect human health, safety and the environment and any delay, while awaiting State Board approval of the request, would endanger human health, safety or the environment (emergency sites);
- 2) Provide funding to Regional Boards and Local Agencies to initiate prompt corrective action at petroleum UST sites where such prompt action is required to protect human health, safety and the environment, and the responsible party, if any, has failed to comply with a final order for corrective action (prompt action sites). Prompt action requests shall be limited to those sites where the required prompt corrective action

cannot wait until the next annual EAR Account priority list is developed in accordance with the Annual Schedule for Processing Abandoned and Recalcitrant Site Funding Request section of the State Administrative Procedures Manual;

- 3) Provide funding to Regional Boards and Local Agencies to initiate corrective action at petroleum UST sites where no responsible party has been identified or located (abandoned sites);
- 4) Provide funding to Regional Boards and Local Agencies to initiate corrective action at petroleum UST sites where the responsible party is either unable or unwilling to take the required corrective action in response to a Regional Board or Local Agencies final order for corrective action (recalcitrant sites);
- 5) Pay for administrative, legal, technical, and oversight costs directly associated with the required corrective action; and
- 6) Pay appropriate costs associated with administration of the EAR Account and recovery of costs from the responsible party.

Allowable Activities

- a) Any actions necessary to stop the unauthorized release of petroleum from a UST, including removal of the UST and associated piping;
- b) Any interim remedial actions required to mitigate fire and safety hazards posed by vapors or free product, minimize the spread of contamination, and remedy hazards posed by contaminated soils that are excavated and exposed. Allowable interim remedial actions may include, but are not limited to:

- Removal of free product;
- Enhanced biodegradation;
- Excavation and disposal of contaminated soils;
- Excavation and treatment of contaminated soils;
- Vacuum extraction of contaminants from soil or ground water; and
- Pumping and treatment of ground water.

- c) Any activities required to investigate the site and take the required corrective action to cleanup an unauthorized release from a petroleum UST.

The following agencies may use the EAR Account: State Board, Regional Board, and Local Agencies, which are overseeing corrective action at unauthorized release sites.

The Regional Board has adopted a list annually since 1993. EAR Account funds were used by Regional Board staff to effect cleanup of a site located at 352 Ford Street, Watsonville. EAR Account funds are no longer used at this site because it now has a responsive owner.

Staff sent a letter on January 30, 2004 (Attachment 1) to Local Agencies in the Region reminding them of the need to submit recommendations for additions to the list by March 1, 2004. Attachment 2 is a State Board memorandum sent to Regional Boards and Local Agencies requesting EAR nominations by March 1, 2004. Resolution R3-2004-0030 is proposed for adoption by the Regional Board, including the 2004-2005 EAR Annual Sites List (Attachment 3). As of this writing, Monterey County has renominated the Pajaro Beacon site from the 2003-2004 list. However, since final recommendations will not be received until March

1, 2004, the list to be considered by the Regional Board (referenced in Resolution No. R3-2004-0030, Attachment 3) will be provided via supplemental mailing. If any appropriate additional recommendations are received before the Regional Board meeting, staff will recommend revision to the list.

RECOMMENDATION

Adopt Resolution No. R3-2004-0030 establishing the Region 3 2004-05 EAR Account Annual Sites List and directing the Executive Officer to forward it to the State Water Resources Control Board for inclusion in the statewide list.

ATTACHMENTS

1. January 30, 2004, Regional Board letter sent to Local Agencies
2. January 16, 2004, State Board memorandum from Allan Patton, Section Chief, Division of Clean Water Programs, including 2003/2004 EAR Annual Site List
3. Resolution No. R3-2004-0030 and attached list, Petroleum Underground Storage Tank Cleanup Fund