

STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL COAST REGION

STAFF REPORT FOR REGULAR MEETING OF MARCH 18, 2010

Prepared February 22, 2010

ITEM NUMBER: 15

SUBJECT: **Resolution No. R3-2010-0014 Underground Storage Tank Cleanup Fund Emergency, and Abandoned, Recalcitrant (EAR) Account FY 2010-2011 Annual Sites List**

KEY INFORMATION This year's list re-nominates the two Monterey and Santa Cruz County sites from last year to allow continued funding as necessary for investigation and cleanup of previously nominated sites. We also are nominating a new site where the responsible party is unable to fund destruction of remaining monitoring wells as the final step to case closure.

This Action: **Adopt Resolution R3-2010-0014 Approving Staff's Recommended EAR Account List**

#### SUMMARY

This staff report briefly describes the State Water Resources Control Board's Emergency, Abandoned and Recalcitrant (EAR) Account. The report recommends adopting a resolution which authorizes the Executive Officer to forward the Central Coast Region's EAR account sites list, containing two sites re-nominated from the previous year and one new site, to the State Water Board.

#### DISCUSSION

Chapter 6.75 of the Health and Safety Code authorized creation of the Underground Storage Tank Cleanup Fund (Fund). The Fund reimburses underground storage tank (UST) owners for costs incurred cleaning up the effects of unauthorized UST releases. In addition to providing for reimbursement of tank owner cleanup costs, Chapter 6.75 authorizes the State Water Resources Control Board (State Water Board) to provide funds to Regional Water 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 Water Board has established administrative procedures for administering the funds in an EAR Account. The administrative procedures provide for establishment of an annual sites list, and state in part:

The EAR Account is to be used primarily to:

- 1) Provide funding to Regional Water 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 Water Board approval of the request, would endanger human health, safety or the environment (emergency sites);
- 2) Provide funding to Regional Water 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.
- 3) Provide funding to Regional Water 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 Water 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 Water 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 clean up an unauthorized release from a petroleum UST.

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

The Central Coast Water Board has adopted a list annually since 1993. EAR Account funds are currently being used by two Local Agencies 1) the Monterey County Department of Health, to cleanup a site located at 53 Porter Drive in the community of Pajaro, and 2) the Santa Cruz County Department of Health, to clean up a site at 950 West Beach Street in Watsonville. At both sites, the Local Agencies have removed the underground tanks and surrounding contaminated soil and are currently investigating subsurface conditions to characterize the extent of any off-site migration of contaminants. As of August 2009, Monterey County has been reimbursed \$224,650.77 and Santa Cruz has been reimbursed \$180,037.05

The State Water Board sent a memorandum dated January 14, 2010 (Attachment 1) to Regional Water Boards and Local Agencies, requesting EAR nominations to the Regional Water Boards by March 1, 2010 and nominations to the State Board by May 1, 2010. Central Coast Water Board staff sent a letter on January 25, 2010 (Attachment 2), to Local Agencies in the Central Coast Region reminding them to submit recommendations to Central Coast Water Board staff for additions to the list by February 22, 2010. Staff has provided Resolution R3-2010-014, which includes the 2010-2011 EAR Annual Sites List (Attachments 3 and 4). Following Central Coast Water Board adoption, staff will forward the 2010-2011 EAR Annual Sites List to the State Water Board.

In response to the January 25, 2009 letter, Central Coast Water Board staff received two requests for re-nomination. Monterey County has re-nominated the Pajaro site and Santa Cruz County has re-nominated the Watsonville site. Re-nomination of the sites will allow continued reimbursement of funding as necessary for on-going investigation and cleanup at these sites. Water Board staff received no other comments for this item.

Central Coast Water Board staff also recommends a new site for which funding will allow complete destruction of monitoring wells. The responsible party (the Mrs. Hano Burns estate) is unable to complete the destruction due to insufficient funds. This case will be closed upon completion of the well destruction. The case is the former Bear Valley Chevron site, located at 1099 Los Osos Valley Road, Los Osos, San Luis Obispo County. The site is no longer an active fuel service station, but is used for automotive repair and retail sales. The site property is no longer owned by the responsible party. At their February 5, 2009 meeting, the Central Coast Water Board concurred with staff's recommendation to close this case, pending well abandonment. On February 10, 2009, Water Board staff directed the responsible party (Special Administrator for the Estate of Mrs. Hano Burns) to destroy all monitoring and treatment wells at the site.

Consultants removed the remediation equipment and directed the destruction of on-site wells. However, due to the responsible party's lack of funds, and insufficient funds remaining for reimbursement from the UST Cleanup Fund, the off-site monitoring and treatment wells have not been destroyed. Thirty-seven (37) monitoring and treatment wells remain in-place; these are comprised of seven (7) multi-level monitoring wells, two (2) single-level monitoring wells, 12 groundwater extraction/circulation wells, and 16 treatment wells. These remaining wells are located on private property across the street from the former UST site, and within public right-of-ways. While these wells remain in place, they pose a threat to human health, safety and the environment, acting as potential conduits for pollution to the sole source aquifer of the community. There are two municipal supply wells adjacent to the aforementioned private property on which many of these monitoring wells are located.

The consulting firm that installed the wells estimated the total cost for well destruction and site restoration in 2008 to be approximately \$91,000. The remaining UST Cleanup Funds available for this case (\$35,000) are insufficient to complete well destruction activities. The responsible party does not have the additional \$56,000 needed to complete destruction of all remaining monitoring and treatment wells. The remaining UST Cleanup Funds (\$35,000) will no longer be available once EAR funds are allocated, so the entire well destruction cost must be covered by any EAR Account allocation.

Water Board staff is recommending \$175,000 be allocated from the EAR Account to complete destruction of the wells. This recommended amount is significantly greater than the original well abandonment estimate to allow for 1) substantially higher costs associated with abandonment of the multi-level monitoring wells versus traditional wells, 2) potential cost increases since the original estimate, and 3) unforeseen contingencies. The consulting firm that prepared the original estimate also installed the multi-level wells at this site. This firm also has developed the technique to properly destroy these wells, and knows the well construction information details for all the wells, all of which another contractor would have to obtain at some cost. The awarding of a contract for activities funded by the EAR account must include a bidding process through the Office of the State Architect. We do not know who will perform the actual destruction of the wells.

Staff anticipates that the well destruction effort may be considerably more expensive than the original estimate, based on the factors detailed above. Additionally, we anticipate that if the work actually costs more than the request approved by the Water Board, abandonment work will be delayed until the next funding cycle allows for a new proposal to be submitted. Water Board staff will work to keep the well destruction costs to a minimum and any unused funds from this allocation will be returned to the EAR Account.

## CONCLUSION

Staff proposes the Central Coast Water Board adopt Resolution R3-2010-014, which includes the 2010-2011 EAR Annual Sites List (Attachments 3 and 4). This list will continue funding for two existing UST cleanup sites and provide funding for well destruction and closure at a third site.

**RECOMMENDATION**

- 1) Adopt Resolution No. R3-2010-0014 establishing the Central Coast Water Board 2010-2011 EAR Account Annual Sites List, and
- 2) Direct the Executive Officer to forward it to the State Water Board for inclusion in the statewide list.

**ATTACHMENTS**

1. January 14, 2010, State Water Board memorandum from Judy Reid, Manager, Emergency, Abandoned, and Recalcitrant Program
2. January 25, 2010, Central Cost Water Board letter to Local Agencies
3. Resolution No. R3-2010-0014, Petroleum Underground Storage Tank Cleanup Fund
4. 2010 - 2011 Regional EAR Account Annual Sites List