

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

**STAFF REPORT FOR REGULAR MEETING OF FEBRUARY 16-17, 2023**

Prepared on January 17, 2023

**ITEM NUMBER:** 9

**SUBJECT:** **Underground Storage Tank Program Update**

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**KEY INFORMATION**

**Key Function:** Remediation of petroleum hydrocarbon discharges polluting soil and groundwater and threatening to pollute water resources.

**Key Roles:** Require site investigation and remediation associated with petroleum discharges. Provide technical review and quality assurance to ensure that proposed plans for investigation and remediation will succeed.

**Number of Cases:** Central Coast Water Board staff manage 30 cases and local agencies (Santa Barbara and Santa Clara Counties) manage 14 additional cases in the Central Coast Region.

**Program Manager:** Greg Bishop, Senior Engineering Geologist

**Program Staff:** 2 Engineering Geologists

**ACTION:** **Informational Item**

**SUMMARY**

Item 9 is an informational item to provide an update on the Central Coast Water Board's Underground Storage Tank (UST) Program. The Central Coast Water Board's UST Program provides technical and regulatory oversight for the investigation and cleanup of sites with leaks from USTs. Leaking USTs are a threat to groundwater and pose a potential threat to human health, safety, and the environment. USTs have a long history of environmental regulation. California has been regulating USTs containing hazardous substances since 1983, applying federal and state laws, regulations, and policies. The State Water Resources Control Board (State Water Board) is the designated lead regulatory agency for the development and implementation of the UST Program, regulations, and associated policies. The State Water Board and the California Environmental Protection Agency (CalEPA) have a memorandum of understanding with

the United States Environmental Protection Agency (USEPA) to implement the statewide UST Program.

The UST Program protects public health and safety and the environment from releases of petroleum and other hazardous substances from USTs through four main program elements: Leak Prevention Program (including tank integrity testing), UST enforcement, UST cleanup, and the UST Cleanup Fund. Various agencies contribute and have jurisdiction over the UST program elements, including the Certified Unified Program Agencies (CUPAs)<sup>1</sup>. A CUPA is a local agency that has been certified by CalEPA to implement six state environmental programs, which include the Hazardous Materials Business Plan/Emergency Response Plan, Hazardous Waste/Tiered Permitting, Underground Storage Tanks, Aboveground Storage Tanks, California Accidental Release Program, and the Uniform Fire Code Hazardous Materials Management Plan. Related to the UST Program, CUPAs are primarily responsible for implementing leak prevention program requirements within the local agency's jurisdiction.

Additionally, the State Water Board certifies local agencies as a local oversight program (LOP) to oversee corrective action for leaking USTs. In the Central Coast Region, the State Water Board has certified Santa Clara and Santa Barbara Counties as qualified to implement a LOP. Santa Barbara County's LOP will terminate on June 30, 2023, due to a shrinking caseload and staff are coordinating with Santa Barbara County Environmental Health staff to ensure a smooth transition of remaining cases to the Central Coast Water Board. Santa Clara County Environmental Health's LOP is certified through June 30, 2025.

The Central Coast Water Board UST Program's highest priority is to protect public health, especially to ensure safe drinking water and to mitigate chemical vapor intrusion into residential and commercial buildings. There are 44 leaking UST (LUST) sites being actively managed in the Central Coast Region. The Central Coast Water Board UST Program manages 30 cases and LOPs manage 14 cases. The pollutants encountered at LUST sites include petroleum hydrocarbons (e.g., gasoline, diesel, heating oils, jet fuels, and waste oils) and their constituents like benzene, toluene, ethylbenzene, xylenes, naphthalene, fuel oxygenates, 1,2-dichloroethane, and other volatile organic compounds (VOCs). Most UST sites are focused on addressing groundwater contamination issues that often take years or decades to clean up. Over time, the number of UST cases is decreasing statewide, with the most complex sites remaining.

## **DISCUSSION**

### **UST Program Process**

The seven basic steps of UST case work include:

1. Identification of known or potential discharges threatening groundwater based on local agency referrals, complaints, review of available water quality data,

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<sup>1</sup> <https://calcupa.org/programs/usts-program.html>

assessment of other cleanup cases (e.g., underground storage tank [UST] sites indicating other sources of contamination), etc.

2. Preliminary site assessment to confirm a discharge and identify responsible parties (RPs); identify affected or threatened waters of the state and their beneficial uses (e.g., polluted drinking water wells); and develop preliminary information on the nature and extent of a discharge and associated impacts.
3. Implementation of interim corrective actions to address a discharge, remove the primary source of pollutant mass (e.g., soil contamination), and mitigate health threats. Interim corrective actions could include soil excavation or other source area remediation activities to remove pollutant mass and to prevent ongoing migration which may result in increased investigation and cleanup costs if left unabated; the provision of replacement water or treatment for impacted drinking water supply wells; and the mitigation of chemical vapor intrusion into buildings to protect public health.
4. Assessment of soil and groundwater impacts to determine the source, nature, and extent of a discharge more definitively as the basis for selection, design, and implementation of cleanup and abatement actions and ongoing monitoring. Assessment routinely occurs in a phased or stepwise approach. A risk assessment may be conducted to evaluate site-specific receptors and exposure pathways and to determine cleanup goals.
5. Evaluation of feasible cleanup and abatement actions and the proposal and design of a preferred and effective approach and associated implementation schedule to achieve cleanup (i.e., remedial action plan). At low-risk UST sites, ongoing monitoring to confirm containment of contaminants and attenuation may be performed as part of case closure consideration.
6. Implementation and monitoring of selected cleanup and/or abatement actions to confirm the short- and long-term effectiveness of implemented actions.
7. Closure of UST cases when a site meets the Low-Threat Underground Storage Tank Case Closure Policy (Low-Threat Policy) criteria or is otherwise determined to meet closure requirements of the Central Coast Water Board.

### **Applicable Regulations, Plans, Policies, and Procedures**

[Underground Storage of Hazardous Substances](#) (Health and Safety Code, Chapter 6.7.)<sup>2</sup>

Chapter 10 regulations, Corrective Action Requirements in Response to Unauthorized Releases (H&S Code – Section 25296.10), details the responsibilities of responsible

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<sup>2</sup> [https://www.waterboards.ca.gov/water\\_issues/programs/ust/regulatory/docs/hsc\\_6\\_7\\_01\\_2019.pdf](https://www.waterboards.ca.gov/water_issues/programs/ust/regulatory/docs/hsc_6_7_01_2019.pdf)

parties, Regional Water Quality Control Boards (Regional Water Boards), and local agencies related to corrective actions at UST sites.

[UST Regulations](#) (California Code of Regulations, Title 23, Division 3, Chapter 16)<sup>3</sup>

Chapter 16 regulations protect waters of the state from discharges of hazardous substances from USTs. The regulations establish construction requirements for new USTs; monitoring requirements for new and existing USTs; uniform requirements for unauthorized release reporting, and for repair, upgrade, and closure of USTs; and specify variance request procedures.

[UST Cleanup Fund Regulations](#) (California Code of Regulations, Title 23, Division 3, Chapter 18)<sup>4</sup>

In 1989, the Legislature created California's Underground Storage Tank Cleanup Fund Program (Fund). The Fund provides a means for petroleum UST owners and operators to meet federal and state financial responsibility requirements and reimburses eligible owners for corrective actions associated with the cleanup of contaminated soil and groundwater. The Fund also provides some resources to Regional Water Boards and local agencies to implement the UST Program. Additional information is provided in the following section on Funding Mechanisms for UST Sites.

[Low-Threat Underground Storage Tank Case Closure Policy](#)<sup>5</sup>

In 2009, the State Water Board provided direction in [Resolution 2009-0042](#)<sup>6</sup> to improve the administration of the UST Program and Fund, including the establishment of criteria for the closure of UST cases that present a low threat to human health, safety, and the environment. On November 6, 2012, the State Water Board approved the Plan for Implementation of Low-Threat Underground Storage Tank Case Closure Policy and Additional Program Improvements (Low-Threat Plan) via State Water Board [Resolution No. 2012-0062](#).<sup>7</sup>

The approved Low-Threat Plan: (1) implements the Low-Threat Underground Storage Tank Case Closure Policy (Low-Threat Policy) adopted by the State Water Board under [Resolution No. 2012-0016](#)<sup>8</sup> and (2) summarizes other actions to improve the administration of the UST Program. The Low-Threat Plan is intended to provide consistent application of the Low-Threat Policy and consistent implementation of the UST Program in general, throughout the state. The Low-Threat Plan's major elements related to implementing the Low-Threat Policy are to specify the roles and responsibilities of the agencies implementing the Low-Threat Policy. The Low-Threat Plan's major elements related to UST Program improvement are to provide: (1) focus on high-priority cases (such as impacted drinking water wells, other human health impacts,

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<sup>3</sup> [https://www.waterboards.ca.gov/ust/regulatory/docs/ccr\\_ch16\\_202010.pdf](https://www.waterboards.ca.gov/ust/regulatory/docs/ccr_ch16_202010.pdf)

<sup>4</sup> [https://www.waterboards.ca.gov/water\\_issues/programs/ustcf/docs/regulations/ustcfregs1100.pdf](https://www.waterboards.ca.gov/water_issues/programs/ustcf/docs/regulations/ustcfregs1100.pdf)

<sup>5</sup> [https://www.waterboards.ca.gov/water\\_issues/programs/ust/lt\\_cls\\_plcy.html](https://www.waterboards.ca.gov/water_issues/programs/ust/lt_cls_plcy.html)

<sup>6</sup> [https://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/resolutions/2009/rs2009\\_0042.pdf](https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2009/rs2009_0042.pdf)

<sup>7</sup> [https://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/resolutions/2012/rs2012\\_0062.pdf](https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2012/rs2012_0062.pdf)

<sup>8</sup> [https://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/resolutions/2012/rs2012\\_0016.pdf](https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2012/rs2012_0016.pdf)

and sources of free product still remaining in place) and (2) for development of Path to Case Closure Plans for each open case, including specific milestones and timelines.

Resolution No. 2012-0062 directs State Water Board staff and regulatory agencies (Regional Water Boards, LOPs, and other local agencies) to aggressively implement the Low-Threat Plan and to take additional actions to improve the UST Program. Resolution No. 2012-0062 also directs State Water Board staff to review a regulatory agency's decision when the regulatory agency has denied a request by a responsible party for case closure pursuant to the Low-Threat Policy.

Cases that meet the general and media-specific criteria established in the Low-Threat Policy satisfy the case-closure requirements of Health and Safety Code section 25296.10, including the requirement in State Water Board Resolution 92-49 that requires that cleanup goals and objectives be met within a reasonable time frame. If the case has been determined by the regulatory agency to meet the criteria in the Low-Threat Policy, the regulatory agency must notify responsible parties that they are eligible for case closure and that the following items below must be completed prior to the issuance of a uniform closure letter. After completion of these items, and unless the regulatory agency revises its determination based on comments received on the proposed case closure, the regulatory agency must issue a uniform closure letter within 30 days.

- a. Notification Requirements – Municipal and county water districts water replenishment districts, special act districts with groundwater management authority, agencies with authority to issue building permits land affected by the petroleum release, owners of the property, and the owners and occupants of all adjacent parcels and all parcels that are impacted by the unauthorized release must be notified of the proposed case closure and provided a 30-day period to comment. The regulatory agency must consider any comments received when determining if the case should be closed or if site-specific conditions warrant otherwise.
- b. Monitoring Well Destruction – All wells and borings installed for the purpose of investigating, remediating, or monitoring the unauthorized release must be properly destroyed prior to case closure unless a property owner certifies that they will keep and maintain the wells or borings in accordance with applicable local or state requirements.
- c. Waste Removal – All waste piles, drums, debris and other investigation or remediation derived materials must be removed from the site and properly managed in accordance with regulatory agency requirements.

[Division 7 of the California Water Code \(CWC\)](#)<sup>9</sup> provides the State Water Board and the nine Regional Water Boards, collectively known as the Water Boards, the legal authority to require site investigation and cleanup actions. The Regional Water Boards provide regulatory and technical oversight of dischargers' (i.e., responsible parties') activities

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<sup>9</sup> [https://leginfo.ca.gov/faces/codes\\_displayexpandedbranch.xhtml?tocCode=WAT&division=7](https://leginfo.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=WAT&division=7).

pertaining to the investigation and cleanup of pollution at sites to ensure that the dischargers clean up and abate the effects of discharges in a manner that promotes attainment of either background water quality, or the best water quality that is reasonable if background levels of water quality cannot be restored. Responsible Parties (RPs) include any person(s) who caused or permitted a waste discharge, but also include past or current property owners that were not directly involved in the discharge of waste. Past and current operators and property owners (including interim owners, lessees, successor corporations, and dissolved corporations) are usually identified as RPs.

[CWC Section 13267 Investigations and Inspections](#)<sup>10</sup> – CWC section 13267 authorizes the Water Boards to require dischargers to submit technical or monitoring program reports documenting investigation and cleanup activities.

[CWC Section 13304 Cleanup and Abatement](#)<sup>11</sup> – CWC section 13304 authorizes the Water Boards to require any person who has discharged waste into waters of the state in violation of any waste discharge requirement or other order or prohibition issued by the Water Boards, and creates, or threatens to create, a condition of pollution or nuisance, to clean up and abate the effects of the waste, including the provision of replacement water to affected public water suppliers or private well owners. The Water Boards' regulatory tool to implement CWC section 13304 is a Cleanup and Abatement Order (CAO).

[Resolution 68-16 \(Antidegradation Policy\)](#)<sup>12</sup> – Adopted by the State Water Board on October 28, 1968, Resolution 68-16 describes the Water Boards' policy to maintain high quality waters in California. The resolution protects waterbodies where existing quality is higher than necessary for the protection of beneficial uses. Under the Antidegradation Policy, any actions that can adversely affect high quality waters must (1) be consistent with maximum benefit to the people of the State, (2) not unreasonably affect present and anticipated beneficial use of the water, and (3) not result in water quality less than that prescribed in water quality plans and policies.

[Resolution 92-49 \(Policies and Procedures for Investigation and Cleanup and Abatement\)](#)<sup>13</sup> – Adopted by the State Water Board on June 18, 1992, and later amended in 1994 and 1996, Resolution 92-49 describes the policies and procedures for investigation and cleanup and abatement of discharges described in CWC section 13304.

[Basin Plan](#)<sup>14</sup> – The Water Quality Control Plan for the Central Coastal Basin (Basin Plan) is the master water quality control planning document. The Basin Plan designates

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[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=WAT&sectionNum=13267](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=WAT&sectionNum=13267)

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[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=WAT&sectionNum=13304](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=WAT&sectionNum=13304)

<sup>12</sup> [https://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/resolutions/1968/rs68\\_016.pdf](https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/1968/rs68_016.pdf)

<sup>13</sup> [https://www.waterboards.ca.gov/water\\_issues/programs/site\\_cleanup\\_program/resolution\\_92\\_49.html](https://www.waterboards.ca.gov/water_issues/programs/site_cleanup_program/resolution_92_49.html)

<sup>14</sup> [https://www.waterboards.ca.gov/centralcoast/publications\\_forms/publications/basin\\_plan](https://www.waterboards.ca.gov/centralcoast/publications_forms/publications/basin_plan)



beneficial uses and water quality objectives for waters of the State, including surface waters and groundwater. It also includes implementation programs to achieve water quality objectives and incorporates by reference all applicable Water Board plans and policies and other pertinent water quality policies and regulations.

[Environmental Screening Levels](#)<sup>15</sup> – The San Francisco Bay Regional Water Board developed Environmental Screening Levels (ESLs) to provide conservative site investigation and cleanup screening levels for over 100 chemicals commonly found at sites with contaminated soil and groundwater. The ESLs are not enforceable cleanup levels, nor are they intended to be cleanup goals. The ESLs are intended to help screen for contaminated sites that are a potential environmental concern. ESLs address a range of media (i.e., soil, groundwater, soil gas, and indoor air) and a range of concerns (e.g., impacts to drinking water, vapor intrusion, and impacts to aquatic life). Central Coast Water Board staff also use site-specific risk assessments to guide cleanup activities. For complex risk assessments, staff may request assistance from the Office of Environmental Health Hazard Assessment (OEHHA).

[GeoTracker](#)<sup>16</sup> - The State Water Board initially developed GeoTracker in 2000 pursuant to a mandate by the Legislature to investigate the feasibility of establishing a statewide geographic information system (GIS) for LUST sites (AB 592, SB 1189). In its pilot phase, GeoTracker assembled public drinking water well and LUST data from two study areas: Santa Clara and Santa Monica. Originally developed for the UST Program, the GeoTracker database is now used to effectively manage compliance and other data for the Site Cleanup Program (SCP), Department of Defense (DoD), Land Disposal, Irrigated Lands, and Oil and Gas Programs. [Chapter 30 of Division 3 of Title 23 of the California Code of Regulations](#)<sup>17</sup> requires persons responsible for submitting certain reports to the Water Boards or a local agency to submit these reports electronically over the Internet to the State Water Board's GeoTracker database. As the primary case management tool for staff and LOPs, GeoTracker includes electronic copies of correspondence and technical documents, technical data, such as sample location and well coordinates, laboratory analytical results, and groundwater elevations. There is also a [GeoTracker public interface](#)<sup>18</sup> that enables documents and other information to be easily accessible to the public.

### **Underground Storage Tank Program Priorities**

The Central Coast Water Board UST Program's highest priority is to protect public health, especially to ensure safe drinking water and to mitigate chemical vapor intrusion into residential and commercial buildings.

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<sup>15</sup> [https://www.waterboards.ca.gov/sanfranciscobay/water\\_issues/programs/esl.html](https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/esl.html)

<sup>16</sup> [https://www.waterboards.ca.gov/ust/electronic\\_submittal/about.html](https://www.waterboards.ca.gov/ust/electronic_submittal/about.html)

<sup>17</sup> [https://www.waterboards.ca.gov/ust/electronic\\_submittal/docs/text\\_regs.pdf](https://www.waterboards.ca.gov/ust/electronic_submittal/docs/text_regs.pdf)

<sup>18</sup> <https://geotracker.waterboards.ca.gov>

### Drinking Water Protection

The UST Program protects human health by protecting groundwater that is a source of drinking water. Sources of drinking water are impacted when LUST sites and associated contaminant plumes pollute or threaten to pollute nearby municipal or private domestic drinking water supply wells. In cases where impacted drinking water wells exceed the drinking water standard (or maximum contaminant level [MCL]), Water Code section 13304 provides the Water Boards with the authority to require RPs to provide replacement drinking water service, which may include interim bottled water, wellhead treatment or other methods of replacement drinking water, to affected public water suppliers or private well owners.

### Vapor Intrusion

The UST Program protects human health from the effects of vapors from volatile chemicals intruding into commercial and industrial buildings, residences, and other buildings (i.e., vapor intrusion). Vapor intrusion occurs when vapor-forming chemicals from any subsurface source (e.g., polluted soil and/or groundwater) migrate into an overlying building in a gas or vapor form. Recognition of soil vapor intrusion into buildings and other enclosed spaces occurred in the 1980s because of radon intrusion concerns and associated studies. Subsequently, there was an increased awareness that anthropogenic chemicals (e.g., petroleum hydrocarbon and chlorinated solvents) in soil, groundwater, and sewers could also pose threats to indoor air quality via a vapor intrusion pathway. The Water Boards began to regularly evaluate vapor intrusion risks at cleanup sites in 2007 and the science behind the vapor intrusion evaluations is continually evolving. UST staff require RPs to follow specific technical guidelines for sampling soil gas and indoor air and the results are compared to conservative screening levels or to site-specific modeling results to evaluate vapor intrusion risks. Where vapor intrusion is identified as a human health threat, Water Board staff require mitigation measures to reduce vapor intrusion exposure and continued monitoring to confirm indoor air quality is protective of human health based on applicable standards.

### **Summary of UST Program Cases in the Central Coast Region**

As of January 4, 2023, there are 44 active UST cases within the Central Coast Region and currently the Central Coast Water Board is the lead oversight agency for 30 UST cases. The remaining 14 UST cases are managed by the LOPs (i.e., Santa Barbara County and Santa Clara County Environmental Health). A map showing all the UST cases is available on GeoTracker.<sup>19</sup>

### **Funding Mechanisms for UST Sites**

There are three general funding mechanisms to pay for UST staff time and for project implementation in the Central Coast region:

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<sup>19</sup> <https://geotracker.waterboards.ca.gov/map/?CMD=runreport&myaddress=San%20Luis%20Obispo>



- Underground Storage Tanks Cleanup Fund (Fund)<sup>20</sup>
- USEPA Leaking Underground Storage Tank (LUST) Trust Fund<sup>21</sup>
- Voluntary cleanups executed and funded by an RP and obligatory cleanups executed and funded by an RP as required by the Health and Safety Code Section 25296.10 or 13267/13304 order under Water Code.

### UST Cleanup Fund

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; CCR, Title 23, Division 3, Chapter 18 UST Cleanup Fund Regulations<sup>22</sup>). The regulations require every owner of a petroleum UST that is subject to regulation under the Health and Safety Code to pay a per gallon fee to the Fund. This fee, which began on January 1, 1991, has increased over time and currently generates in excess of \$180 million annually. The Site Cleanup Subaccount Program (SCAP, Senate Bill 445) extended the Fund sunset date to January 1, 2026.

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

The Fund also provides resources to the Regional Water Boards and local regulatory agencies to abate emergency situations or to cleanup abandoned sites that pose a threat to human health, safety, and the environment, because of a UST petroleum release.

Currently, there are 210 active Fund claims and 26 active open Fund cases in the Central Coast Region. Available Cleanup Fund Accounts for use at underground storage tank sites include:

- Commingled Plume Account (CPA) Program<sup>23</sup>
- Emergency, Abandoned and Recalcitrant (EAR) Account Program<sup>24</sup>
- Orphan Site Cleanup Fund (OSCF)<sup>25</sup>
- Replacing, Removing, or Upgrading Underground Storage Tanks (RUST) Program<sup>26</sup>
- SB 445 Expedited Claim Account Program (ECAP)<sup>27</sup>

<sup>20</sup> [https://www.waterboards.ca.gov/water\\_issues/programs/ustcf/](https://www.waterboards.ca.gov/water_issues/programs/ustcf/)

<sup>21</sup> <https://www.epa.gov/ust/leaking-underground-storage-tank-lust-trust-fund#:~:text=LUST%20Trust%20Fund%3F-.What%20is%20the%20LUST%20Trust%20Fund%3F,the%20Solid%20Waste%20Disposal%20Act>

<sup>22</sup> [https://www.waterboards.ca.gov/water\\_issues/programs/ustcf/docs/regulations/ustcfregs1100.pdf](https://www.waterboards.ca.gov/water_issues/programs/ustcf/docs/regulations/ustcfregs1100.pdf)

<sup>23</sup> [https://www.waterboards.ca.gov/water\\_issues/programs/ustcf/cpa.html](https://www.waterboards.ca.gov/water_issues/programs/ustcf/cpa.html)

<sup>24</sup> [https://www.waterboards.ca.gov/water\\_issues/programs/ustcf/ear.html](https://www.waterboards.ca.gov/water_issues/programs/ustcf/ear.html)

<sup>25</sup> [https://www.waterboards.ca.gov/water\\_issues/programs/ustcf/oscf.html](https://www.waterboards.ca.gov/water_issues/programs/ustcf/oscf.html)

<sup>26</sup> [https://www.waterboards.ca.gov/water\\_issues/programs/ustcf/rust.html](https://www.waterboards.ca.gov/water_issues/programs/ustcf/rust.html)

<sup>27</sup> [https://www.waterboards.ca.gov/water\\_issues/programs/ustcf/ecap.html](https://www.waterboards.ca.gov/water_issues/programs/ustcf/ecap.html)

- SB 445 Site Cleanup Subaccount Program (SCAP)<sup>28</sup>
- School District Account<sup>29</sup>

### Performance Audit of the Underground Storage Tank Cleanup Fund<sup>30</sup> - March 2021

The Fund generates revenue from UST maintenance fees paid by tank owners and 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).

Since its inception in 1991 through June 30, 2018, the Fund 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. 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, and building cash balances.

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.

Approximately half of the UST cases are funded through the UST Cleanup Fund. All of the information on funding is publicly available on GeoTracker.

### USEPA LUST Trust Fund

The Federal LUST Trust Fund is financed by a 0.1 cent tax on each gallon of motor fuel (gas/diesel) sold nationwide. Each year, USEPA directs a portion of the LUST Trust Fund, as appropriated by Congress, into assistance agreements with states and territories.

In California, USEPA Region 9 has a five-year LUST grant with the State Water Board that began July 1, 2019 and ends June 30, 2024. A new five-year grant cycle will begin

<sup>28</sup> [https://www.waterboards.ca.gov/water\\_issues/programs/grants\\_loans/scap/](https://www.waterboards.ca.gov/water_issues/programs/grants_loans/scap/)

<sup>29</sup> [https://www.waterboards.ca.gov/water\\_issues/programs/ustcf/schooldistrict\\_account.html](https://www.waterboards.ca.gov/water_issues/programs/ustcf/schooldistrict_account.html)

<sup>30</sup> [https://www.waterboards.ca.gov/water\\_issues/programs/ustcf/docs/audit/ustcf\\_report\\_03\\_08\\_2021.pdf](https://www.waterboards.ca.gov/water_issues/programs/ustcf/docs/audit/ustcf_report_03_08_2021.pdf)

on July 1, 2024. Each spring, USEPA Region 9 and the State Water Board jointly decide how much of the annual LUST grant funding for the next state fiscal year (~\$3.2M) to devote to state employee salaries vs. “in-kind” contractor-supported projects. With state input, USEPA and U.S. Army Corps of Engineers (USACE) work together to fund contracts.

Voluntary & Obligatory Cleanup and Funding from the RP by Issuance of a H&S Code Section 25296.10 or 13267/13304 order under Water Code Requirement

Similar to other cleanup programs, the Central Coast Water Board may issue a Health and Safety Code section 25296.10 or a section 13267/13304 order under Water Code to discharger(s) requiring RPs to cleanup and abate pollution from a leaking UST site.

### **Public Participation**

UST staff provide opportunities for public participation in the regulatory and technical oversight process so that the public is informed, has the opportunity to provide comments, and can participate in the decision-making process. The level of public participation is tailored to site-specific conditions, primarily depending on site complexity, risk, and public interest. The level of public participation for a particular site is based on the potential threat to human health, water quality conditions, surrounding land use and environment; the degree of public concern or interest in site cleanup; and any environmental justice factors associated with the site. Public participation information for each UST case is available in GeoTracker.

### **Human Right to Water**

California Water Code section 106.3, subdivision (a) states that it is the policy of the State of California “that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitation purposes.” On January 26, 2017, the Central Coast Water Board adopted Resolution No. R3-2017-0004, which affirms the realization of the human right to water and the protection of human health as the Central Coast Water Board’s top priorities. Consistent with the Water Boards’ Human Right to Water policy, the UST Program has a long history of prioritizing public health and protection of drinking water beneficial uses. Groundwater beneficial uses and drinking water information related to each UST case are available in GeoTracker.

### **Environmental Justice**

Environmental Justice principles call for the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income in the development, adoption, implementation, and enforcement of all environmental laws, regulations, and policies that affect every community’s natural resources and the places people live, work, play, and learn. The Central Coast Water Board implements regulatory activities and water quality projects in a manner that ensures the fair treatment of all people, including underrepresented communities. Underrepresented communities include but are not limited to Black, Asian, Hispanic/Latino/a/e, California Native American Tribes,

Indigenous and other people of color, disadvantaged communities (DACs), severely disadvantaged communities (SDACs), economically distressed areas (EDAs), environmentally disadvantaged communities (EnvDACs), and members of fringe communities.<sup>31</sup> Furthermore, the Central Coast Water Board is committed to providing all stakeholders the opportunity to participate in the public process and provide meaningful input to decisions that affect their communities.

UST cases are data-driven with priority given to projects that have the highest risk to human health and threat to groundwater quality. If there are impacts to drinking water supply wells or unsafe vapor intrusion conditions from an UST site, UST staff are assigned, and priority is given to these cases. Currently, the Central Coast Water Board does not have any UST sites with drinking water supply well or vapor intrusion impacts in a disadvantaged community where there is not an identified and viable RP or an RP working cooperatively with UST Cleanup Fund funding. Environmental justice and CalEnviroScreen data for each UST case is available in GeoTracker.

### **Climate Change**

The Central Coast region faces the threat and the effects of climate change for the foreseeable and distant future. To proactively prepare and respond, the Central Coast Water Board has launched the Central Coast Water Board's Climate Action Initiative, which identifies how the Central Coast Water Board's work relates to climate change and prioritizes actions that improve water supply resiliency through water conservation and wastewater reuse and recycling; mitigate for and adapt to sea level rise and increased flooding; improve energy efficiency; and reduce greenhouse gas production. The Climate Action Initiative is consistent with the Governor's Executive Order B-30-15 and the State Water Board's Climate Change Resolution No. 2017-0012.

UST Program staff consider carbon impacts from proposed investigation and remediation projects against the benefits that those proposed projects will provide relative to the carbon impacts. For example, if an excavation project will have a substantial number of trucks transporting contaminated soil offsite, the emissions from

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<sup>31</sup> Disadvantaged Community: a community with an annual median household income that is less than 80% of the statewide annual median household income (Public Resources Code section 80002(e)); Severely Disadvantaged Community: a community with a median household income of less than 60% of the statewide average. (Public Resources Code section 80002(n)); Economically Distressed Area: a municipality with a population of 20,000 persons or less, a rural county, or a reasonably isolated and divisible segment of a larger municipality where the segment of the population is 20,000 persons or less with an annual median household income that is less than 85% of the statewide median household income and with one or more of the following conditions as determined by the department: (1) financial hardship, (2) unemployment rate at least 2% higher than the statewide average, or (3) low population density. (Water Code section 79702(k)); Tribes: federally recognized Indian Tribes and California State Indian Tribes listed on the Native American Heritage Commission's California Tribal Consultation List; EnvDACs: CalEPA designates the top 25 percent scoring census tracts as DACs. Census tracts that score the highest five percent of pollution burden scores but do not have an overall CalEnviroScreen score because of unreliable socioeconomic or health data are also designated as DACs (refer to the CalEnviroScreen 3.0 Mapping Tool or Results Excel Sheet); Fringe Community: communities that do not meet the established DAC, SDAC, and EDA definitions but can show that they score in the top 25 percent of either the Pollution Burden or Population Characteristics score using the CalEnviroScreen 3.0.

the trucks would be considered as one of many factors as part of a “cost”-benefit analysis before approving the project. Sites that are in areas that are susceptible to flooding or sea level rise effects of climate change are also being evaluated to determine if changes in investigation or remediation approaches or schedule are warranted.

## **CONCLUSION**

The Central Coast Water Board UST Program’s highest priority is to protect public health, especially to ensure safe drinking water and to mitigate chemical vapor intrusion into residential and commercial buildings. The goal of the UST program is to reduce risk through the assessment and cleanup of UST cases in an effective, collaborative, financially responsible, and expedited manner. UST staff will continue to prioritize resources to focus on the highest priority sites with the objective of achieving cleanup goals and closure, while also identifying and evaluating new sites. UST staff will continue to develop creative strategies and collaborative relationships with partners, stay up to date with new investigative and cleanup technologies to move cases toward closure in the most expedited and effective manner possible. The UST goal for the 2022-23 fiscal year is to move two sites from the investigative phase to the remediation phase and to bring seven sites to case closure.