

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

STAFF SUMMARY REPORT – Cherie McCaulou
MEETING DATE: April 8, 2009

- ITEM: **5.G**
- SUBJECT: **Emergency, Abandoned, and Recalcitrant (EAR) Underground Storage Tank Account** – Adoption of Resolution Supporting Nomination to State Water Resources Control Board’s EAR Account
- CHRONOLOGY: April every year – Board adopted EAR resolution
- DISCUSSION: The Tentative Resolution (Appendix A) re-nominates Panesar Beacon of Fremont for inclusion in the State Board EAR Account for fiscal year 2009-10. The Alameda County Water District (ACWD) provided supporting documentation for this nomination, as required by the State Board (Appendix B).

EAR Program Description

The Health and Safety Code authorizes the State Board to provide limited funding to regional water boards and local oversight programs for initiating direct cleanup of high-priority “emergency” leaking underground fuel tank sites requiring immediate corrective action to protect human health, safety, and the environment. The funding is also available for “abandoned sites” where the discharger cannot be located, or “recalcitrant sites” where the discharger is unable or unwilling to comply with corrective action directives. The State Board has established an EAR Account for this purpose, and requested site nominations in a memorandum dated January 16, 2008.

For the State Board to consider a site for the EAR Account, a regional water board resolution must be passed each fiscal year to nominate or re-nominate the site. The State Board approved \$100,000 in reimbursement funding last fiscal year for ACWD to conduct cleanup at the Panesar Beacon Site. No additional funding is requested for this fiscal year.

EAR Nominations from this Region

Over the past several years, the Board has nominated several leaking underground fuel tank sites in our region to receive EAR funds. All of these sites did in fact receive EAR funds. Investigation and cleanup at all of the sites so far has been overseen by local agencies. Most sites require funding for three to five years to complete investigation and cleanup. The Pensar Beacon Site is being nominated for the second time.

Pansar Beacon (Fremont)

Unauthorized releases of gasoline and diesel were discovered in soil during removal of four underground storage tanks in 2002. On numerous occasions, ACWD has issued written directives to the property owners to conduct investigation to determine if groundwater has also been impacted. The property owners have been unresponsive to the ACWD directives. The Site has been abandoned ever since the tanks were removed. The City of Fremont has taken actions to backfill the excavation that was left open, and has demolished the building. A lien will likely be placed on the property.

Public Comments

We circulated the Tentative Resolution for public comments and received no comments by the comment period deadline. We expect this item to remain uncontested.

RECOMMEN-
DATION:

Adopt the Tentative Resolution

File No.
Appendices:

1121.64 (ccm)
A. Tentative Resolution
B. Alameda County Water District letter dated February 23, 2009

Appendix A

Tentative Resolution

STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

TENTATIVE RESOLUTION

EMERGENCY, ABANDONED, RECALCITRANT (EAR) UNDERGROUND STORAGE TANK ACCOUNT NOMINATION REQUEST FOR:

- PANESAR BEACON, 3740 PERALTA BOULEVARD, FREMONT, ALAMEDA COUNTY

Whereas, Chapter 6.75 of the Health and Safety Code authorizes Regional Water Quality Control Boards (Water Boards) and Local Oversight Programs (LOPs) to take corrective action at petroleum underground storage tank sites where unauthorized releases have occurred; and

Whereas, the State Water Resources Control Board (State Board) has established administrative procedures for providing cleanup funds to Water Boards and LOPs, which include adoption of EAR Account Priority Lists annually every July; and

Whereas, the State Board has requested that the Water Boards ask LOPs to nominate petroleum underground storage tank sites for inclusion on the annual State Board EAR Account Priority List; and

Whereas, the California Regional Water Quality Control Board, San Francisco Bay Region (Board) has identified one site for re-nomination to the Fiscal Year 2009-2010 EAR Account Priority List, for the reason given below:

- a. Panesar Beacon, 3740 Peralta Boulevard, Fremont

The Alameda County Water District (ACWD), by letter dated February 23, 2009, seeks re-nomination of the property located at 3740 Peralta Boulevard, Fremont, for inclusion on the annual Board EAR Account Priority List, to investigate soil and groundwater contamination and to conduct remediation of source areas. ACWD is not requesting additional funding for Fiscal Year 2009-2010, but only that the site remain on the EAR Annual List and eligible to receive the \$100,000 funding approved thus far by the State Board. Unauthorized releases of gasoline and diesel discovered in 2002 during removal of underground storage tank systems have adversely impacted soil and possibly groundwater at the property. The property is located approximately 1,500 feet from ACWD's groundwater recharge facilities, which provides recharge to the Niles Cone Groundwater Basin. The property owners are recalcitrant and have failed to comply with ACWD regulatory directives to take corrective action to determine the lateral and vertical extent of soil and ground water contamination.

Whereas, Board staff used LOP submittals and its own recommendations to propose an annual priority nomination list comprising the property located at 3740 Peralta Boulevard, Fremont, Alameda County.

Therefore, Be It Resolved, the Board requests the State Board to re-nominate the property located at 3740 Peralta Boulevard, Fremont, Alameda County for the Fiscal Year 2009-2010 Annual EAR Account Priority List; and

Be It Further Resolved, the Executive Officer is directed to forward the Board's Fiscal Year 2009-2010 Annual EAR Account Priority List nomination to the State Board for inclusion of the site in the Statewide List.

I, Bruce H. Wolfe, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a resolution adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on _____.

Bruce H. Wolfe
Executive Officer

Appendix B

ACWD Letter



DIRECTORS
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Operations Manager

February 23, 2009

FEB 26 2009

Mr. Stephen Hill
Toxics Cleanup Division
Regional Water Quality Control Board
San Francisco Bay Region
1515 Clay Street, Suite 1400
Oakland, CA 94612

Dear Stephen:

Subject: Case Nomination for the Emergency, Abandoned, Recalcitrant (EAR) Account Fiscal Year 2009/2010 Annual Sites List – Panesar Beacon, 3740 Peralta Boulevard, Fremont (ACWD Site #349)

The Alameda County Water District (ACWD) is requesting the Regional Water Quality Control Board to renominate the subject leaking underground fuel tank site, Panesar Beacon, 3740 Peralta Boulevard, Fremont, to be included on the State Water Resources Control Board's (State Board) EAR Account Annual Site List for the upcoming fiscal year (FY) 2009/2010. For fiscal year 2008/2009, this site was nominated to the EAR Account, and has been approved for funding in the amount of \$100,000. For the upcoming fiscal year 2009/2010, ACWD is not requesting additional funding, but only that the site remain on the EAR Account List and eligible to receive the funding approved thus far.

ACWD's request for funding is due to the severity of the release, the threat to drinking water supplies, and the recalcitrant nature of the owner to perform necessary soil and groundwater investigations and appropriate cleanup activities. ACWD is currently in the process of preparing a scope of work and budget in order to formally enter into a contract with the State Board.

If you have any questions regarding this letter, please contact Ranga Sampath at (510) 668-4411.

Sincerely,

Steven D. Inn
Groundwater Resources Manager

tb/tf

cc: Thomas Berkins, ACWD
Cherie McCaulou, Regional Water Quality Control Board
Judy Reid, State Water Resources Control Board