

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

**STAFF REPORT FOR REGULAR MEETING OF MARCH 16-17, 2011**  
Prepared February 17, 2011

**ITEM NUMBER:** 7

**SUBJECT:** Emergency, and Abandoned, Recalcitrant (EAR) Annual Account Priority Sites List for Fiscal Year 2011-2012, Underground Storage Tank Cleanup Fund Resolution No. R3-2011-0016

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**KEY INFORMATION** This year's list re-nominates the three sites from last year, to allow continued funding as necessary for investigation and cleanup at two sites, and monitoring well destruction at a third site.

**THIS ACTION** Adopt Resolution R3-2011-0016 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 (Attachment 1), which authorizes the Executive Officer to forward the Central Coast Region's EAR account sites list, containing three sites re-nominated from the previous year, to the State Water Resources Control Board (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 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 the 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 are 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 earmarked for destruction of monitoring wells associated with the former Bear Valley Chevron site, located at 1099 Los Osos Valley Road, Los Osos, San Luis Obispo County. EAR funds are also being used by two Local Agencies: 1) the Monterey County Department of Health, to clean up 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 the Local Agency sites, the

underground tanks and surrounding contaminated soil have been removed, and subsurface conditions are being investigated to characterize the extent of any off-site migration of contaminants and to recommend cleanup options. As of December 2010, Monterey County has been reimbursed \$296,007.35 and Santa Cruz has been reimbursed \$180,013.82.

The State Water Board sent a memorandum dated January 19, 2011 (Attachment 2) to Regional Water Boards and Local Agencies, requesting EAR nominations be forwarded to the Regional Water Boards by March 1, 2011 and that nominations by the Regional Water Boards be forwarded to the State Board by May 1, 2011. Central Coast Water Board staff sent a letter on January 28, 2011 (Attachment 3), to Local Agencies in the Central Coast Region reminding them to submit nominations to Central Coast Water Board staff by February 22, 2011. Staff has provided Resolution R3-2011-016, which includes the 2011-2012 EAR Annual Sites List (Attachments 1 and 4). Following Central Coast Water Board adoption, staff will forward the 2011-2012 EAR Annual Sites List to the State Water Board.

Central Coast Water Board staff received two requests for re-nomination in response to the January 28, 2011 letter. Monterey County has re-nominated the Pajaro site (Attachment 5) and Santa Cruz County has re-nominated the Watsonville site (Attachment 6). 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 from local agencies for this item.

Central Coast Water Board staff also recommends re-nomination of the former Bear Valley Chevron site, located at 1099 Los Osos Valley Road, Los Osos, San Luis Obispo County. Funding will allow complete destruction of monitoring and treatment wells at the site. The site is no longer an active fuel service station. The Central Coast Water Board concurred with Water Board staff's recommendation to close this site subject to monitoring and treatment well destruction. The site property is no longer owned by the responsible party. The Responsible Party is unwilling or unable to complete the destruction due to insufficient funds. This case will be closed upon completion of the well destruction.

## **CONCLUSION**

Staff proposes the Central Coast Water Board adopt Resolution R3-2011-016, which includes the 2011-2012 EAR Annual Sites List (Attachments 1 and 4). This The Resolution proposes continuing funding for two existing UST cleanup sites and providing funding for well destruction and closure at a third site.

## **RECOMMENDATION**

- 1) Adopt Resolution No. R3-2011-0016 establishing the Central Coast Water Board 2011-2012 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. Resolution No. R3-2011-0016 re: Central Coast Region EAR Account nominations
2. January 19, 2011 State Water Board memorandum from Judy Reid, Manager, Emergency, Abandoned, and Recalcitrant Program
3. January 28, 2011 Central Cost Water Board letter to Local Agencies re: EAR nominations
4. 2011 - 2012 Regional EAR Account Annual Sites List for the Central Coast Region
5. Re-nomination letter from Monterey County for Pajaro UST site (53 Porter Drive)
6. Re-nomination letter from Santa Cruz County for Watsonville UST site (950 Beach Street)

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