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MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

TO: Regional Water Board Executive Officers

FROM: Judy Reid, Manager *Judy Reid*
Emergency, Abandoned, and Recalcitrant Account
Division of Financial Assistance
State Water Resources Control Board

DATE: January 11, 2013

SUBJECT: REQUEST FOR SITE NOMINATIONS FOR THE EMERGENCY,
ABANDONED, AND RECALCITRANT ACCOUNT
FISCAL YEAR 2013-2014 ANNUAL SITE LIST

The purpose of this memorandum is to request the Regional Water Quality Control Boards (Regional Water Boards) to identify underground storage tank (UST) sites they want considered for corrective action funding by the Emergency, Abandoned, and Recalcitrant (EAR) Account, Fiscal Year (FY) 2013-2014. Chapter 6.75 of the Health and Safety Code (H&SC) authorizes the State Water Resources Control Board (State Water Board) to provide funding to the Regional Water Boards, Local Agencies (LAs), and Local Oversight Program Agencies (LOPs) for initiating direct cleanup of leaking petroleum UST sites requiring corrective action to protect human health, safety, and the environment, and may include removal of the UST and associated piping.

REGIONAL WATER BOARD SUBMITTAL

The Regional Water Boards should submit to the State Water Board, EAR Account Program Manager by May 1, 2013: (1) a prioritized list of proposed sites including the site specific information listed below; and (2) a Regional Water Board resolution authorizing funding. In order to meet the Regional Water Board deadline, LAs and LOPs should contact the appropriate Regional Water Board by March 1, 2013, if they recommend EAR funding for high priority abandoned or recalcitrant UST sites. After evaluation of the sites for eligibility by staff, the State Water Board will public notice and consider the EAR Account Annual Site List (List) at its July 2013 Board meeting. Once the List is approved, EAR Account Program staff will notify all approved oversight agencies with information about how to access the approved EAR Account funding.

CHARLES R. HOPPIN, CHAIRMAN | THOMAS HOWARD, EXECUTIVE DIRECTOR

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Item No. 12 Attachment 2
March 14-15, 2013
Request for EAR Site Nominations

FUNDING

Funding is limited. The FY 2013-2014 budget for the Underground Storage Tank Cleanup Fund (Fund) Program requests a \$5 million appropriation for this function.

COST RECOVERY

Please keep in mind that the State Water Board is required to recover costs. Once EAR Account funding is accessed, the Responsible Parties (RPs) may not be eligible to participate in the Fund reimbursement program, which emphasizes the need to limit use of the EAR Account to a measure of last resort, to protect human health, safety, and the environment.

REQUIREMENTS FOR FUNDING ELIGIBILITY:

Each request for EAR Account funds will be judged on its own merits. **Funding for all newly nominated and re-nominated sites will be considered only if the following requirements are met:**

1. The regulatory agency has confirmed the existence of an unauthorized release from an on-site petroleum UST;
2. The RP is either unable or unwilling to comply with a written order issued by a Regional Water Board or LA pursuant to Health & Safety Code section 25296.10. The order must clearly state the required corrective action directives, time schedule for completion of specific directives, and enforcement actions and liabilities that may be imposed if the RP fails to comply with the corrective action order. Pursuant to H&SC section 25299.53, the State Water Board will not approve EAR Account funding unless the RP has failed or refused to comply with a final order for corrective action, and;
3. The regulatory agency has conducted an evaluation of the case with respect to the Low-Threat UST Case Closure Policy (Policy) and documented the impediments to closure and Path to Case Closure on GeoTracker in accordance with State Water Board Resolution No. 2012-0062.

Policy can be reviewed at the following links:

http://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2012/rs2012_0016.pdf

http://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2012/rs2012_0062.pdf

In addition, the following site-specific information must be provided for each site before consideration can be given for inclusion on the list:

1. Site name and address;
2. Name and address of all identified potential RPs (Verify that current property owner is also identified as an RP and if not, provide a reason why);
3. A copy of the final corrective action order or cleanup and abatement order for each site;
4. The name and address of the oversight agency (the agency requesting the direct site funding and who will oversee cleanup of the site), including the regulatory contact person's name, address, telephone number, and e-mail address;
5. A description of the unauthorized release, petroleum products released, water body affected or threatened, water quality, and the threat to human health, safety, and the environment;
6. Documentation of why recalcitrant or abandoned funds are being requested for the site;
7. A description of why the RP cannot or will not clean up the contamination or abate its effects;
8. Documentation of any disputes between the regulatory agency and the RP;
9. Any actions which have been previously taken to cleanup or abate the effects of the unauthorized release;
10. A description of the proposed cleanup or abatement;
11. The amount of annual funding requested and an estimated total required funding for each nominated site; and
12. A description of the results if funding should be denied.

SITES ON EAR ACCOUNT FY 2012-2013 ANNUAL SITE LIST:

EAR Account funding authorization for sites listed on the 2012-2013 Annual List expires at the end of the FY. Therefore, any site currently listed will have to be re-nominated by the regulatory agency if continued funding is necessary. There are **sixty (60) sites** listed on the EAR Account FY 2012-2013 Annual Site List. The EAR Account FY 2012-2013 Annual Site List is available for review at the following website:

http://www.waterboards.ca.gov/water_issues/programs/ustcf/docs/ear/ear_asl.pdf

If the regulatory agency does not intend to proceed with direct site cleanup for a site on the EAR Account FY 2012-2013 Annual Site List, the site should not be re-nominated.

SITE SELECTION

Only the highest priority sites will be considered for funding: those at which (1) the regulatory agency intends to initiate direct site action because either a RP cannot be located (abandoned site) or (2) the RP is either unable or unwilling to comply with an oversight agency final order for corrective action (recalcitrant site),

If you have any questions regarding the EAR Account Program or the process for site submittal, please call or email me at (916) 341-5760 or e-mail jreid@waterboards.ca.gov.

cc: Regional Water Board Underground Storage Tank Program Managers
Local Agency Underground Storage Tank Program Managers
Local Oversight Program Managers