

Cleanup Fund Update

**CUPA Conference
February 2016**

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Topics

- Funding Programs Overview:
 - Claims, EAR, OSCF, SCAP, Prop 1 GWS
- Office of Enforcement Update
- UUI Actions
 - Unnecessary, Unreasonable, or Potentially Inconsistent w/ UST Case Closure Policy
- PEP Process
- Claims Program Case Status
- ECAP Pilot Project

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Funding Programs

UST Cases Only

- Claims
- EAR
- OSCF

Groundwater Quality Funding Programs

- SCAP
- Prop 1 Groundwater Sustainability

Funding Program: Claims

UST Cleanup Fund Claims Program (began 1991)

- ~\$180 million available to reimburse claims annually
- Eligibility criteria
- Priority based on ability to pay criteria in law:
A, B, C, D
- Stay on Priority List until funds are available
- Corrective action costs incurred at any time

Funding Program: Claims

Claim Status

- 20,200 claims filed
- 15,900 claims accepted as eligible
- 9,600 claims reimbursed & closed
- 2,200 claims currently being reimbursed
- 4,000 claims on Priority List waiting for reimbursement
- Now activating >200 Priority D claims annually - an increase from ~75 .

Funding Program: Claims

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- Reimbursed ~\$3.5 billion of ~\$5 billion requested.
- Expect ~\$2 billion available for reimbursement over next 10 years until Fund sunset.
- Of the 6,600 claims to be reimbursed, 2,360 have open regulatory cases.
- For ECAP Pilot Project cases, use PEP Process for scope, schedule, costs to meet closure criteria.
- For cases with new or changes in directive, contact Fund to coordinate on plan to meet closure criteria.

Funding Program: Claims

Fund GTO

- Online submittal to GeoTracker of all claim-related docs began October 1, 2014.
- Claim Applications
- Requests for Reimbursement.
 - Now, about 75% of RRs submitted using GTO.
- Expanding to other Fund programs.

Funding Program: Claims

Payments: 4 Factors Lead to Slower Payments

- Uploader education taking time. Learning how to categorize costs & eliminate ineligible costs for successful uploading.
- Glut: 80% RRs in Sept. Reviews continue through April.
- Use GTO data checker for all RRs, so paper RRs keyed in by staff.
- Increase in paper RR #1s with 15+ years of invoices as D claims are funded.

Funding Program: EAR

Emergency, Abandoned or Recalcitrant (began 1991)

- \$5 million available annual appropriation
- Regional Board or CUPA nominate cases & may direct work by Dept of General Services contractors
- ~ 181 projects approved for funding
- ~ 58 sites under contract
- Use PEP Process for contract scope, schedule, costs to meet closure criteria.

Funding Program: OSCF

Orphan Site Cleanup Fund (began 2008)

- \$8.6 million uncommitted from earlier appropriations of \$30 million
- Grants only to non-responsible parties
- ~200 grant applications
- ~185 executed grants
- 67 current grants
- Use PEP Process for grant scope, schedule, costs to meet closure criteria.

Funding Programs: GWQF

Groundwater Quality Funding (began 2015)

- SB 445 Site Cleanup Subaccount Program (SCAP)
- Proposition 1 Groundwater Sustainability

Funding Program: SCAP

Site Cleanup Subaccount Program (began 2015)

- \$19.5 million annual appropriation.
- Responsible party lacks financial resources.
- Project must remediate harm or threat to human health, safety, and the environment from surface or groundwater contamination.
- Grants & Contracts: ~\$18 million annually
 - Like OSCF, grants issued. Grantee can be anyone.
 - Like EAR, Regional Board or CUPA nominate cases & may direct work by contractors work for Dept of General Services.

Funding Program: SCAP

5 Required Considerations

- 💧 Significant threat to human health or the environment
- 💧 Disadvantaged or small community impact
- 💧 Cost and environmental benefit of cleanup
- 💧 No other funding source(s) available other than SCAP
- 💧 Other State Water Board considerations

SCAP: Required Considerations

RB Directive & RP Lacks \$, AND Consider:

Significant
Threat to
HH&E?

Is there an
Alternate
Fund
Source?

Disadvan-
taged
Community?

Cost vs.
Benefit?

Other
Considera-
tions?

Small
Community?

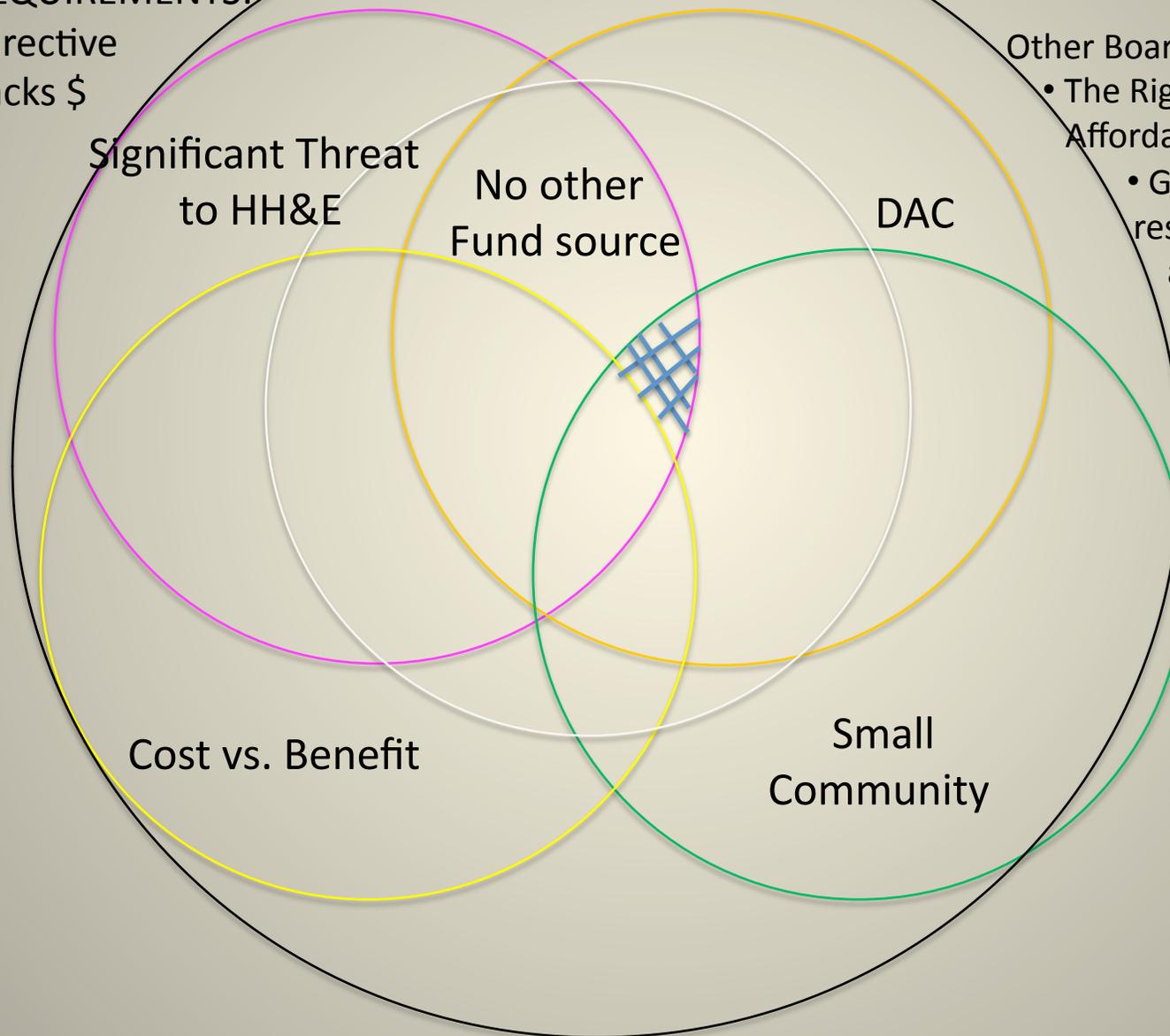
SCAP: Required Considerations

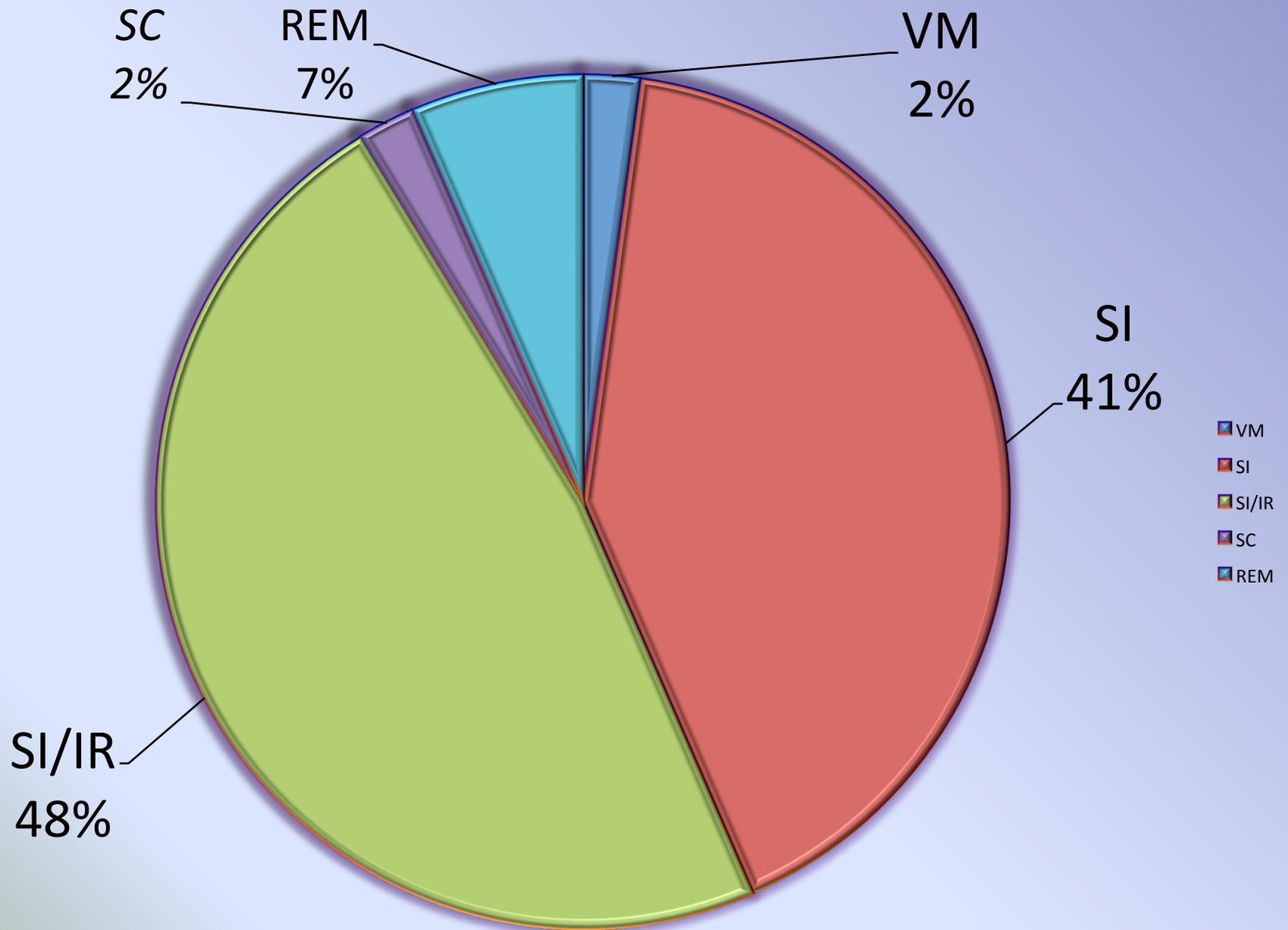
SCAP REQUIREMENTS:

- RB Directive
- RP Lacks \$

Other Board Considerations:

- The Right to Clean, Safe, Affordable Drinking Water
- Grant applicant resources included as alternative funding





2015 SCAP Project Proposals

Funding Program: SCAP

Timeline

- 💧 Pre-Application available in FFAST – Aug 2015
- 💧 First Project List Application Deadline – Nov 2015
- 💧 Request for Financial Information – Feb 2016
- 💧 Review applications – Spring 2016
- 💧 State Water Board Consider 1st Project List – Spring 2016
- 💧 1st Grant Agreements – Fall 2016

Funding Program: Prop 1 GWS

Proposition 1 Groundwater Sustainability Program (Assembly Bill 1471, Chapter 10)

Eligible Applicants

- Public Agencies, Tribes, Public Utilities, Non-Profits, Mutual Water Companies

Eligible Projects

- Prevent or clean up contamination (natural or anthropogenic) of groundwater that serves or has served as a source of drinking water

Priorities based on:

- Threat posed by groundwater contamination to drinking water supply
- Potential for groundwater contamination to spread/impair
- Potential of project to enhance local water supply reliability
- Potential of project to recharge vulnerable, high-use basins
- Projects with no viable responsible party(ies)

Funding Program: Prop 1 GWS

Eligibility Requirements in Draft Guidelines

- Achieve one or more of the following objectives:
 - Prevent the spread of contamination in an aquifer that serves or has served as a source of drinking water;
 - Accelerate the cleanup of contamination in an aquifer that serves or has served as a source of drinking water;
 - Protect an aquifer that serve as a source of drinking water; or
 - **Provide clean drinking water to disadvantaged communities or economically distressed areas.**

Funding Program: Prop 1 GWS

Available Funding in Draft Guidelines - \$800 Million

- \$160 million set aside for projects benefiting disadvantaged communities and economically distressed areas
 - At least \$80 million for projects benefiting severely disadvantaged communities
 - \$10 million set aside for technical assistance
- Up to \$80 million for planning and monitoring projects that lead to implementation

Match Requirements in Draft Guidelines

- Match reduction for disadvantaged communities and economically distressed areas based on ability to pay

Funding Program: Prop 1 GWS

Timeline

- Draft Guidelines – February 2016
- Public Workshops – March 2016
- Board Consideration – May 2016

Groundwater Quality Funding: SCAP & Prop 1 GWS

Further information:

- Website: http://www.waterboards.ca.gov/water_issues/programs/grants_loans/gw_funding/
- Email: gwquality.funding@waterboards.ca.gov
- Subject Line: SCAP **OR** Prop 1 GWS
- Phone: (800) 813-FUND (3863)

Groundwater Quality Funding: SCAP & Prop 1 GWS



- Online single point application tool
- Go to <https://faast.waterboards.ca.gov/> to create a user account
- Taking applications now – continuously accepting applications
 - Pre-Application
 - Supplemental Documents request if invited to submit
- FAAST tutorials available: <http://www.waterboards.ca.gov/videos/faast.shtml>
- If your community has a hardship, technical assistance providers may be available to assist with electronic submittal

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***Actions May Be Unnecessary,
Unreasonable and/or Inconsistent
with UST Case Closure Policy***

UUI Action #1

Operating remediation system long after the petroleum concentrations have met Policy's closure criteria and reached asymptotic concentrations because "it's still removing mass."

UUI Action #2

Adjusting the treatment systems to show some level of contaminated influent and some level of treatment, but leaving the bulk of contaminants untreated.

Inadequate evaluation of treatment system allows inefficient and not cost-effective contaminant removal.

UUI Action #3

Operating petroleum remediation systems (especially SVE/DPE) long after the case meets Policy closure criteria in order to remove chlorinated solvents or petroleum from an off-site source. The Policy only addresses petroleum hydrocarbons - not chlorinated solvents and off-site sources need to be remediated at the source.

UUI Action #4

Treatment of weathered petroleum in the vadose zone although the case now meets Policy closure criteria and will in the future because it's unlikely the contamination will be mobilized.

UUI Action #5

Additional work for a case that meets Policy closure criteria because free product is present in the subsurface. The Policy specifically allows sites to be closed with immobile free product when certain conditions are met (Policy Groundwater-Specific Criteria 3 and Petroleum Vapor Intrusion Scenarios 1 and 2).

UUI Action #6

Performing deep monitoring because “the vertical extent of contamination is not defined.” This is unreasonable for cases where the contaminants are lighter than water and there is no site condition that would provide a vertical gradient or other mechanism that would that would cause downward vertical migration.

UUI Action #7

Additional work for a case that meets Policy closure criteria because one of tens of soil samples results exceeds prescriptive criteria, rather than using Site-Specific Options 2b or 3b of the Policy. Additionally, the site-specific circumstances indicate it's reasonable to conclude there's no threat to human health or the environment.

UUI Action #8

Continued groundwater monitoring of a stable plume because a single well has minor fluctuations in petroleum hydrocarbon concentrations. The Policy requires a stable or decreasing plume rather than in a single monitoring well.

UUI Action #9

Continued groundwater monitoring of monitoring wells that appear to have a sheen. The Policy states a sheen is not free product.

UUI Action #10

Defining the plume with the contaminants' laboratory detection limit, notification levels or action levels instead of the water quality objectives in the appropriate Basin Plan. The Policy states a plume is defined by using the water quality objectives.

UUI Action #11

Reliance on “Screening Levels” to justify remediation rather than Policy-prescribed levels.

UUI Action #12

Lack of adequate conceptual site model and subsequent unchecked interim remedial actions not based on feasibility study to meet closure criteria.

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PEP Process

Project Execution Plan (PEP) Goals

- Explore methods to reduce time and cost for closure
 - Res. 12-62 Requirement
 - SB 445 Requirement for ECAP
- Coordination among regulator, Fund, claimant
- Document CSM, scope, schedule, costs to meet closure criteria agreed to by Regional Board/LOP & Fund to meet closure.
- Address UUIs
- Implement plan to reduce time & cost
- Multi-Year funding plan
- Use for all Fund Programs

PEP Process

JET Actions

- Coordinate among regulatory agencies, Fund staff, and claimants and their consultants: Joint Execution Team (JET)
- Concur on CSM
- Identify closure criteria that have not been met
- Identify tasks needed to meet closure criteria
- Estimate cost to reach closure
- Identify schedule to meet closure
- Document in PEP
- Implement PEP
- Notify JET if changes in execution anticipated or occur

PEP Process

PEP Content

- Site Description
- Aerial Photo of Site
- Site Layout
- Most Recent Review Summary Report (RSR)
- Conceptual Site Model (CSM)
 - Extent of Contamination
 - CSM Summary from GeoTracker
 - Complete Contaminant Pathways
 - Summary of Corrective Actions

PEP Process

PEP Content (cont'd)

- Remedial System Components
 - Analysis of System Effectiveness
- Up-to Date Low-Threat Closure Checklist
- Up-to-Date Path to Closure Plan
- Current & Planned Corrective Actions
- Schedule (to Closure)
- Cost Estimate (to Closure)
- Project Management Report (cost and schedule variances vs. plan)

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Claims Program: Case Status

(2/2016)

2,360 Open Fund cases

Open-Eligible for Closure:	379	16%
Open-Site Assessment:	568	24%
Open-Assmmt & Interim Rem. Action:	150	6%
Open-Remediation:	933	39%
Open-Verification Monitoring:	279	12%
Open-Inactive:	50	2%
Open-No Status:	1	0%

Claims Program: Case Status

(2/2016)

Of the 2,360 open cases in Fund, ~70% meet one or more of the following:

- ~52 may have impacted a supply well
- Additional ~660 may have potential vapor intrusion
- Additional ~300 reimbursed over \$1M to date
- Additional ~200 reimbursed between \$750 & \$1M to date
- Additional ~500 in same work phase > 5 yrs
- Additional cases have free product not effectively being addressed to meet Closure Criteria

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ECAP

Expedited Cleanup Account Program:

Pilot Project (SB 445, 2014)

- Explore methods to reduce time and cost for closure
- Coordinate among regulatory agencies, Fund staff, and claimants and their consultants as a Joint Execution Team: JET
- Prepare report by January 1, 2018

ECAP Pilot Project

Develop Program

- ✓ Meet with stakeholders
- ✓ Develop criteria for Pilot Project sites
- ✓ Develop metrics to evaluate Pilot Project site progress
- ✓ Develop Joint Execution Team concept (JET)
- ✓ Develop Project Execution Plan concept (PEP) to focus discussion & document plan & track progress
- ✓ Develop template for PEP documents
- ✓ Develop process for monitoring Pilot Project progress

ECAP Pilot Project

➤ Stakeholder Input

- Regional Board & LOP Roundtables
- Fund Interest Group
- Public Meetings/Web-Exs

ECAP Pilot Project

Draft Selection Criteria

Three listed in the Statute

- 1. Claims that pose a significant threat to human health, safety, or the environment:
 - » May have impacted a drinking water well or pose a significant risk of vapor intrusion.
- 2 Claims in all priority ranks:
 - » Representative of the proportion A, B, C & D active claims.
- 3. Claims with cases showing little cleanup progress:
 - » Claims in the same status code in GeoTracker for over five years or without substantive regulator action for more than one year.

ECAP Pilot Project

Draft Selection Criteria

Three developed by Fund staff

- 4. Claims that have expended more than the average, and might exceed the cap:
 - » Cases with claims reimbursed to date over \$750K.
- 5. Cases where claimant perceives corrective action progress is limited due to inadequate annual site budget:
 - » Claims with unapproved budget change requests.
- 6. Claims that can test the goal of meeting case closure criteria within five years and less than \$500K after a Report of Unauthorized Release.

ECAP Pilot Project

Selection of Potential Participating Claims

- 1,700 potential claims meeting at least one draft criterion.
- General invitation via Lyris.
- Narrowed candidates by polling RBs & LOPs for subsets of sites meeting potential criteria: “Top Ten Lists”.
- 1st round of letters to subset of claimants on “Top Ten Lists” requesting indication of interest in participating.
- Includes Fund claimants from all priority rankings: A (1%), B (38%), C (23%), & D (39%).

ECAP Pilot Project

Next Steps

- ✓ State Water Board consider ECAP Implementation Plan: Spring 2016
- ✓ Upon Plan approval, formal selection of 1st round of participants
- ✓ Implement PEP process
- ✓ Select 2nd round of participants, etc.
- ✓ Evaluate progress of Pilot Progress
- ✓ Report in Annual Reports & 2018 Pilot Project Report

ECAP Pilot Project

Next Steps for Selected Claims

- » Identify JET members
- » Orientation of JET and agreement to Pilot Project process & ground rules.
- » Fund staff compile draft PEP
- » Regulatory agency review, discuss draft, & Fund & agency staff prepare further develop PEP
- » Full JET meets to review, discuss, finalize PEP
- » Implement PEP
- » Monitor progress of PEP implementation