

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION - DIVISION OF FINANCIAL ASSISTANCE
JANUARY 20, 2009**

ITEM 7

SUBJECT

UPDATE ON THE 5-YEAR REVIEW ACTIVITIES BEING CONDUCTED BY THE UNDERGROUND STORAGE TANK (UST) CLEANUP FUND (FUND).

BACKGROUND

The Fund provides reimbursement to individuals and businesses for unexpected and catastrophic expenses associated with the cleanup of soil and groundwater contamination from their leaking petroleum USTs so that public health and water quality are protected consistent with the State and Regional Water Boards' overall mission. The Fund is funded by a storage fee (currently 14 mills or \$0.014) for every gallon of petroleum products placed into USTs, which is collected by the State Board of Equalization (BOE). The fee generates for the Fund about \$240 million per year, with about \$170 million per year for claim reimbursements. Over \$2.5 billion has been reimbursed on site cleanups since the first reimbursement was issued 1992.

Fund Statutes requires the Fund to annually review the case history of all claims having a Letter of Commitment (LOC) active for more than five years, unless the UST owner or operator objects. The purpose of this review is to determine whether a recommendation for case closure is in order. In addition to being required by law, this review is beneficial to small businesses and individuals, because it provides for a third-party check on the progress of the case relative to the expenditure of funds and reduces the chance that the responsible party will run out of funds before the case is cleaned up. It also provides an opportunity for the Fund to detect fraud and abuse if funds are being used at sites that warrant closure.

At the beginning of Fiscal Year (FY) 2008-2009, the Fund had 4,200 active claims within four different priority classes, A through D. The priority classes are based on the claimants' ability to pay corrective action costs, ranging from residential UST owners assigned to Priority Class A through major oil and large municipality UST owners assigned to Priority Class D.

About 3,300 claims (79 percent) have been active for 5 years or more and, of those; about 1,600 (38 percent) have been active for 10 years or more. Because of recent case flow issues; the Fund has had to suspend LOCs for about 1,200 of 1,670 active Priority Class C Claims and for about 125 of 500 active Priority Class D claims. The LOC suspensions are based on priority class and filing date, with that more recently filed claim applications with priority class are suspended first.

This information item will provide an update of the Fund's 5-year review activities since the task was initiated in January 2007. Through December 31, 2008, the Fund had conducted 1,488 initial 5-year reviews, 486 second review, and 15 third reviews. A total of 77 of these cases were closed subsequent to the Fund review.

POLICY ISSUE

None at this time – information item

FISCAL IMPACT

None at this time – information item

ENVIRONMENTAL IMPACT

None at this time – information item

REGIONAL WATER BOARD IMPACT

None at this time – information item

STAFF RECOMMENDATION

None at this time – information item