

Attachment

Item c3

**Proposal to Amend Site Cleanup Subaccount Program Legislation
To Promote Cleanup of
Properties for Affordable Housing and Other Projects Conveying Significant Public Benefits**

Proposed Action: Amend Health and Safety Code section 25299.50.6 to more clearly make affordable housing projects and other projects conveying significant public benefits that remediate environmental conditions eligible Site Cleanup Subaccount Program remediation grants. *Please see "Proposed Amendments", attached as Exhibit "A".* The amendments would be consistent with the existing statute's express priorities, which include:

- Improve human health, safety, and the environment threatened by contamination;
- Remediate environmental conditions in small or financially disadvantaged communities;
- Fund investigation or remedial efforts having high potential for environmental benefits;
- Reserve funding for remedial or investigation efforts where other funding is unavailable; and
- Other factors the board identifies as necessary for consideration.

Background: In 2014, SB 445 (Hill) established the Site Cleanup Subaccount Program (Subaccount), administered by the Regional Water Quality Control Boards (Regional Board). Among other things, the Regional Board may use the Subaccount to fund grants to "remediate the harm or threat of harm to human health, safety, and the environment caused by existing or threatened surface or groundwater contamination." Remedial projects are eligible for funding provided: (1) a Regional Board or a local agency requires or approves the investigation or remediation activity; and (2) the responsible parties lack sufficient financial resources to pay for the required response actions. Condition "1" may be waived based on certain findings.

Grant funds are generated through an annual \$.003 per gallon levy on stored petroleum. Amounts are appropriated to fund the Subaccount on an annual basis. The legislature appropriated \$23,000,000 for Subaccount grants and administration in 2016. To date, annual appropriations of \$19.5 million are available in grant funding.

Issue: SB 445 may inadvertently make ineligible (or complicate funding opportunities for) affordable housing and other projects providing significant public benefits (e.g., development of parks) that remediate environmental conditions as part of site redevelopment. Environmental conditions remediated through such projects are frequently longstanding and would not be addressed but for the property's redevelopment. In addition to achieving site remediation under agency oversight and improving environmental health, these projects safely transform impaired properties into community assets and place the properties to beneficial use.

Exclusion from Subaccount eligibility can occur because the project applicant may appear to have financial resources on its balance sheet, even though the applicant may be a cash-strapped organization that is funded through donations and other subsidies. For example, an applicant may be perceived to have resources, and therefore be deemed ineligible, because:

- the applicant is a municipal entity, larger nonprofit organization, public-private partnership, or non-profit/commercial joint venture;
- funds appearing on balance sheets may be restricted for only limited purposes (e.g., backbone utility construction, provision of services), and do not include site remediation; and
- funds may exist for remediation purposes, but their use would result in undesirable reallocations of resources (e.g., reductions in affordable housing depth and percentages).

Therefore, affordable housing projects and other projects conveying significant public benefits can remediate environmental threats, but they may nonetheless be found ineligible for Subaccount funding. Modest amendments to the Subaccount legislation would clarify that such project applicants are eligible for funding, while maintaining consistency with the statute's purposes.