

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
ACTION AGENDA SUMMARY

DEPT: Environmental Resources

*SWA*

BOARD AGENDA # \*B-4

Urgent

Routine

AGENDA DATE February 12, 2008

CEO Concurs with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Approval to Apply for Grant Funds from the California Environmental Protection Agency for Implementation of the Aboveground Petroleum Storage Tank Act and if Awarded, Accept and Administer the Grant

STAFF RECOMMENDATIONS:

Adopt a Resolution to authorize the Director of the Department of Environmental Resources, or her designee, to apply for grant funds from the California Environmental Protection Agency, and any amendments thereto, for implementation of the Aboveground Petroleum Storage Tank Act and if awarded, accept and administer the grant.

FISCAL IMPACT:

This grant would provide approximately \$119,403 to the Department of Environmental Resources for the expense to establish a mandated Aboveground Petroleum Storage Tank Program during Fiscal Years 2008-1010. The exact amount of the grant is not yet known but is anticipated to not exceed 15% in additional funds above what is estimated, or \$137,313. Furthermore, under this legislation and beginning January 1, 2010, Stanislaus County will be authorized to implement a new fee that will cover the cost of this ongoing, new program.  
(continued on next page)

BOARD ACTION AS FOLLOWS:

No. 2008-102

On motion of Supervisor Grover, Seconded by Supervisor DeMartini  
and approved by the following vote,  
Ayes: Supervisors: O'Brien, Grover, Monteith, DeMartini, and Chairman Mayfield  
Noes: Supervisors: None  
Excused or Absent: Supervisors: None  
Abstaining: Supervisor: None

- 1)  Approved as recommended
- 2)  Denied
- 3)  Approved as amended
- 4)  Other:

MOTION:

*Christine Ferraro*

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

Approval to Apply for Grant Funds from the California Environmental Protection Agency for Implementation of the Aboveground Petroleum Storage Tank Act and if Awarded, Accept and Administer the Grant

Page 2

**FISCAL IMPACT (Continued):**

Once the required analysis has been completed and program costs determined, the Department of Environmental Resources will bring the proposed new Aboveground Petroleum Storage Tank fee to the Board of Supervisors for consideration.

**DISCUSSION:**

Historically, the Aboveground Petroleum Storage Tank Act (APSA, or "Act") Program has been conducted by the State of California. In October 2007, the Governor chaptered Assembly Bill (AB) 1130 which instead vested existing Certified Unified Program Agencies (CUPA) with the responsibility and authority of implementing the Act. The Department of Environmental Resources (Department) became a CUPA for Stanislaus County in 1997. AB 1130 requires each CUPA to implement the APSA and perform triennial inspections of facilities that have aboveground storage tanks with a total storage capacity of 10,000 gallons or more of petroleum. In addition, if a facility has an aggregate aboveground storage capacity of equal or greater than 1,320 gallons, they are required to have a Spill Prevention Control and Countermeasure (SPCC) plan that must be reviewed.

In Stanislaus County, the program would include facilities within the existing CUPA framework that range from bulk oil/gas storage facilities, school districts, trucking companies, and farms or farm-related service providers. Department staff are already visiting these locations but will now be required to evaluate additional items during their inspections.

Grant funds are available through the California Environmental Protection Agency's Environmental Trust Fund for CUPAs to establish an inspection and enforcement program which will include the following elements: training for CUPA employees, reviewing facility SPCC plans, facility inspections, documenting annual facility statements, and reviewing any and all spill notifications. The grant funds available to the Stanislaus County CUPA are currently estimated to be \$119,403 and the grant application is included as Attachment "A." This amount will likely change before the grant is fully awarded because funding is allocated based upon the number of tanks in inventory in each given jurisdictional area, information of which is still being gathered. The deadline for CUPAs to apply for available grant funds is March 1, 2008.

For this initial start-up phase, the Department, as the local CUPA, will use these grant funds to incorporate the implementation of the APSA program into its existing CUPA structure and staffing. The start-up or implementation phase is from January 1, 2008 – December 31, 2009, and the following tasks must be completed during this timeframe:

Approval to Apply for Grant Funds from the California Environmental Protection Agency for Implementation of the Aboveground Petroleum Storage Tank Act and if Awarded, Accept and Administer the Grant

Page 3

1. Incorporate the APSA program into the existing CUPA (single fee/invoice) billing system, amending it to include a line item for the APSA component.
2. Existing staff will be redirected in order to inventory the number and type of aboveground tank facilities within the County. Currently there are an estimated 188 facilities locally.
3. Staff will perform "trial" inspections in order to estimate the actual time that will be required to perform the inspection and enforcement activities.
4. Staff will attend training so as to become certified to perform the inspections in this new program.
5. Develop and Inspection and Compliance Plan.
6. Develop administrative policies and procedures.
7. Develop business outreach materials.

In mid-2009, the Department will have completed its comprehensive analysis of the staffing needs that will be required to fully implement this new program beginning January 1, 2010, as mandated, and will bring that recommendation along with the recommended new fee for this program to the Board for its consideration.

**POLICY ISSUE:**

The Board of Supervisors should determine if applying for, accepting and administering these grant funds is consistent with the Board's priorities of ensuring a safe community, a healthy community and the efficient delivery of public services. Such funding would assist the County in its effort to implement this new program and position the Department to obtain necessary program information that will be utilized to develop the fee structure for capturing the cost of providing this mandated program.

**STAFFING IMPACT:**

There are no staffing impacts at this time. Staffing needs will be evaluated over the next 12-18 months, with the Department returning to the Board of Supervisors with a recommendation in late 2009.

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
STATE OF CALIFORNIA

Date: February 12, 2008

No. 2008-102

On motion of Supervisor Grover and approved by the following vote,  
Seconded by Supervisor DeMartini

Ayes: Supervisors: O'Brien, Grover, Monteith, DeMartini, and Chairman Mayfield

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

Item # \*B-4

THE FOLLOWING RESOLUTION WAS ADOPTED:

**APPROVAL TO APPLY FOR GRANT FUNDS FROM THE CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY FOR IMPLEMENTATION OF THE ABOVEGROUND PETROLEUM STORAGE TANK ACT AND IF AWARDED, ACCEPT AND ADMINISTER THE GRANT**

WHEREAS, The Stanislaus County CUPA shall use these grant funds made available pursuant to California Health and Safety Code, Section 25270.11 and per the grant agreement, and any amendment, with the California Environmental Protection Agency to implement the requirements of the Aboveground Petroleum Storage Tank Act.

WHEREAS, The Stanislaus County CUPA was authorized to apply for grant funds from the California Environmental Protection Agency for implementation of the Aboveground Petroleum Tank Act and if awarded, accept and administer the grant.

NOW, THEREFORE, BE IT RESOLVED: that the Board of Supervisors of the County of Stanislaus, State of California does hereby authorize the Director of the Department of Environmental Resources or her designee to execute and amend the grant agreements with the California Environmental Protection Agency.

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk  
Stanislaus County Board of Supervisors,  
State of California

*Christine Ferraro*

**ABOVEGROUND PETROLEUM STORAGE ACT (APSA) PROGRAM  
GRANT APPLICATION**

**1. Entity Information:**

|   |
|---|
| Name of Grantee: Stanislaus County  |
| Name of Project Director: Sonya K. Harrigfeld, Department of Environmental Resources Director |
| Address: 3800 Cornucopia Way, Suite C   |
| City, Zip: Modesto, 95358   |
| Phone: 209.525.6700   |
| Fax: 209.525.6773   |
| E-Mail: sharrigfeld@envres.org  |
| Name of Grant Contact (if applicable): Robert Riess, Senior Hazardous Materials Specialist    |
| Address: 3800 Cornucopia Way, Suite C   |
| City, Zip: Modesto, 95358   |
| Phone: 209.525.6749   |
| Fax: 209.525.6773   |
| E-Mail: rriess@envres.org   |

**2. Grant Amount: \$119,403.12**

**3. Work plan: (Scope of Work)**

The CUPA shall develop a work plan as part of this grant application. The work plan will describe the CUPA's implementation activities and tasks and a timeline (spreadsheet) that delineates critical and completion dates of the activities and tasks.

The work plan shall include a brief narrative summary for each activity and task that clearly describes the activity or task and depicts the steps that will be taken or the methods to be used for completion. The descriptions should include as much detail as necessary to depict the CUPA's overall implementation efforts through the period of the grant. The narrative summaries shall also include a discussion of the expected completion dates of each activity and task. The list of activities and tasks provided below should be used as a reference to ensure that all applicable implementation activities are addressed.

A timeline (simple spreadsheet format) shall be developed to depict the critical milestones and expected completion dates for each activity and task identified in the work plan

|   |
|---|
| <b>ABOVEGROUND PETROLEUM STORAGE ACT (APSA) PROGRAM<br/>GRANT APPLICATION</b> |
|---|

**4. Projected Budget:**

Direct Program Costs:

|   |                      |
|---|----------------------|
| *Personnel Services   | \$ 100,903.12        |
| Operating Expenses (prorated for project)                   | \$ 15,000.00         |
| Travel Expenses   |                      |
| Supplies/Materials (less than \$5,000 per item)             |                      |
| Equipment (\$5,000 or more per item)                        | \$                   |
| Professional/Consultant Services                            | \$                   |
| Indirect Cost (%) (Rate applied to Personnel Services only) | \$ 3,500.00          |
| <b>TOTAL</b>  | <b>\$ 119,403.12</b> |

\*Salary is based on hourly rate and includes fringe benefits.

**5. CERTIFICATION**

I certify under penalty of perjury that the information I have entered on this application is true and complete to the best of my knowledge and that I am an employee of the applicant authorized to submit the application of behalf of the application. I further understand that any false, incomplete, or incorrect statements may result in the disqualification of this application. By signing this application, I waive any and all rights to privacy and confidentiality of the proposal on behalf of the applicant, to the extent provided in this program.

|                     |
|---------------------|
| Sonya K. Harrigfeld |
|---------------------|

Applicant Signature

Date

|  |
|--|
|  |
|--|

Printed Name of Applicant

## **Stanislaus County APSA Implementation (Work) Plan**

Stanislaus County Certified Unified Program Agency (CUPA) will incorporate the implementation of the Aboveground Petroleum Storage Act (APSA) Program into the existing Unified Program structure. The current activities of verifying preparation of an SPCC and referrals to the Regional Water Quality Control Board will be replaced with full implementation and administration of the APSA, beginning in 2008. The following work plan and associated timelines for completion address all aspects related to Stanislaus County's Planned APSA implementation from January 1, 2008, through December 31, 2009.

### **A. Work Plan**

#### **I. Billing Program**

Stanislaus County CUPA will incorporate the APSA program into the existing CUPA fee system, accounting for the fee schedule, the actual amount billed, and the revenue collected. The billing program is designed to encourage more efficient and cost effective operation of the program for which the single fee is assessed. For the APSA program, the billing system will be incorporated into the single fee system. The Stanislaus County CUPA billing system program includes the following elements:

- Accounting for: the fee schedule, the actual amount billed, and the revenue collected;
- Staff work hours required to implement the APSA program;
- Direct program expenses (including durable and disposable equipment);
- The number of businesses regulated under the APSA program; and
- The quantity and range of services provided, including frequency of inspections.

The incorporation of the APSA Program into the CUPA billing system will be accomplished by January 1, 2010.

#### **II. Unified Program (UP) Single Fee System**

Prior to January 1, 2010, the Stanislaus County Board of Supervisors will adopt the APSA program fee as part of the UP Single Fee system in Stanislaus County CUPA. The APSA Program fee will be established at a level sufficient to pay the necessary and reasonable costs incurred by the CUPA in administering the APSA Program, including, but not limited to, inspections, enforcement, and administrative costs.

By January 1, 2010, Stanislaus County's "CUPA Single Fee Invoice" will be amended to include a line item for the APSA Program fee. Fees for non-recurring APSA Program activities of the CUPA such as, but not limited to, the fee for an initial permit or special inspection, may be billed separately from the "CUPA Single Fee Invoice." Beginning in January 2010, each regulated business will be assessed an annual APSA Program fee as part of the single fee invoice.

Stanislaus County's CUPA fee schedule will be available to interested parties on the county Web Site or upon request.

Stanislaus County CUPA dispute resolution procedures will be amended to incorporate the APSA Program, which will guide the resolution of fee disputes that arise between the businesses regulated under the APSA Program element.

### III. Staffing Plan

Staff resources for the initial implementation phase (January 1, 2008 – December 31, 2009) of the APSA Program will involve the redirection of existing CUPA staff. As part of Stanislaus County's CUPA staffing plan and adoption of the single fee for the APSA Program, the adequacy of existing staffing resources will include an analysis of:

1. The number and type of regulated Above Ground tank facilities within Stanislaus County;
2. An estimate of the annual number of compliance and complaint inspections, considering cost of the following activities:
  - (i) Inspections and the related travel, research, analysis of findings, and documentation;
  - (ii) (ii) Inspection and enforcement activities including warnings, notices, meetings, hearings, legal proceedings, and documentation;
  - (iii) (iii) Any permit activities, which may include application reviews, modifications and revisions, and facility evaluations;
  - (iv) (iv) Training, including field, meetings, seminars, workshops, courses and literature reviews; and
  - (v) (v) Management including day-to-day operation scheduling and supervision.



By June 30, 2009, the Stanislaus County CUPA will identify activities associated with implementing the APSA Program. Existing CUPA staff will be temporarily redirected to assist with the start up activities. Once activities associated with implementing the APSA Program are identified, the Stanislaus County will look into hiring permanent APSA Program staff if warranted.

#### IV. Identification of Regulatory Universe

Stanislaus County CUPA will use the AST Tank Facility list provided by Cal/EPA as the starting point for the identification of the regulated tank facilities in Stanislaus County.

The list will be compared with the existing facility data to determine those facilities already regulated under one or more Unified Program elements that handle petroleum materials in amounts that are equal to or in excess of 1,320 gallons. The list will then be segregated based on the following categories:

1. Exempted tank facilities with total tank storage capacity of less than 20,000 gallons
2. Tank facilities w/ storage capacity  $\geq 1,320$  and  $< 10,000$  gallons
3. Tank facilities w/ storage capacity  $\geq 10,000$  and  $< 100,000$  gallons
4. Tank facilities w/ storage capacity  $\geq 100,001$  and  $< 1,000,000$  gallons
5. Tank facilities w/ storage capacity  $\geq 1,000,001$  and  $< 10,000,000$  gallons
6. Tank facilities w/ storage capacity  $\geq 10,000,001$  and  $< 100,000,000$  gallons
7. Tank facilities w/ storage capacity  $\geq 100,000,001$  gallons

The Stanislaus County CUPA will submit the complete list of regulated tank facilities to Cal/EPA by December 1, 2008.

#### V. Staff Training Plan

Stanislaus County CUPA staff will attend the AST Training Program developed by Cal/EPA, which is scheduled to be delivered in July, August, and September of 2008. If any permanent APSA Program staffs are hired, they will go through the California Environmental Protection Agency's APSA Training Program's computer-based training course, including successful completion of the examination for inspectors. The APSA Program standards will be incorporated into the CUPAs ongoing training program and provided to program staff on a regular basis.

## VI. Inspection and Compliance Plan

As part of the Stanislaus County CUPAs Unified Inspection and Enforcement Program, the Stanislaus County CUPA will ensure all regulated businesses subject to the APSA Program are in compliance with all the program requirements, including SPCC Plan preparation and implementation, annual submission of their facility statement, and spill notifications. Exempted tank facilities will be periodically reviewed to verify their total tank capacity. Tank facilities with storage capacity of  $\geq 1,320$  and  $< 10,000$  gallons will be inspected to verify that their total tank capacity is less than 10,000 gallons and to ensure that they have prepared and are implementing an SPCC Plan, are submitting their annual facility statements, and are integrated into the APSA Program fee. Tank facilities with storage capacity of  $\geq 10,000$  gallons will be inspected at least once every three years to ensure that they have prepared and are implementing an SPCC Plan in compliance with U.S. Code of Federal Regulations, Title 40, Part 112. All inspections will include a visual inspections of any Aboveground Storage Tanks at the facility. The inspection and all violations discovered during the inspections will be documented on an inspection report form. Minor violations will be clearly identified to be corrected within 30 days. The owner/operator of the tank facility will be required to certify that all minor violations have been corrected. For more significant or serious violations, Stanislaus County CUPA will require violations to be corrected less than 30 days and/or referred to the Stanislaus County District Attorney for civil enforcement.

## VII. Stanislaus County CUPA Administrative Procedures

Stanislaus County CUPA administrative policy and procedures will be reviewed and updated, as necessary to incorporate all relevant aspects of the APSA Program. All revisions will be completed by December 31, 2009.

## VIII. Regulated Business Outreach Activities

Stanislaus County CUPA will develop educational and guidance materials for those businesses regulated under the APSA Program. The educational and guidance materials will include an updated web page, fact sheets with guidance documents to assist regulated businesses in complying with all requirements of the APSA Program. These materials will be developed prior to 2010.

B. Other Implementation Activities

Stanislaus County CUPA is the only Unified Program Agency within the jurisdictional boundaries of the county.

C. Implementation Timeline

| Activity             | 2008    |         |          |         | 2009    |         |          |         | 2010    |
|----------------------|---------|---------|----------|---------|---------|---------|----------|---------|---------|
|                      | Jan-Mar | Apr-Jun | Jul-Sept | Oct-Dec | Jan-Mar | Apr-Jun | Jul-Sept | Oct-Dec | Jan-Mar |
| Billing              |         |         |          |         |         |         |          | X       |         |
| Single Fee           |         |         |          |         |         |         |          | X       | X       |
| Staffing             |         |         |          |         |         | X       |          |         |         |
| Regulated Businesses |         |         |          | X       |         |         |          |         |         |
| Training             |         |         | X        |         |         |         |          |         |         |
| Procedures           |         |         |          |         |         |         |          | X       |         |
| Outreach             |         |         |          | X       |         |         |          |         |         |
| Inspections          |         |         |          |         |         | X       |          |         |         |
| Reports              |         |         | X        |         | X       |         | X        |         | X       |



**DEPARTMENT OF ENVIRONMENTAL RESOURCES**

BOARD OF SUPERVISORS 3800 Cornucopia Way, Suite C, Modesto, CA 95358-9492  
Phone: 209.525.6700 Fax: 209.525.6774

2008 APR 23 A 11: 01

April 22, 2008

Christine Ferraro  
Clerk of the Board  
1010 10<sup>th</sup> Street 6<sup>th</sup> Floor  
Modesto, CA 95354

Dear Ms. Ferraro:

Enclosed please find the Aboveground Petroleum Storage Act (APSA) Grant Agreement for Stanislaus County Department of Environmental Resources Certified Unified Program Agency (CUPA).

If you have any questions, please feel free to call me.

Sincerely,

Nicole Damin, Manager  
Hazardous Materials Division  
209-525-6725



# CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



**LINDA S. ADAMS**  
SECRETARY FOR  
ENVIRONMENTAL  
PROTECTION

1001 I STREET, SACRAMENTO, CALIFORNIA 95814 • P.O. BOX 2815, SACRAMENTO, CALIFORNIA 95812-2815  
(916) 323-2514 • (916) 324-0908 FAX • [WWW.CALEPA.CA.GOV](http://WWW.CALEPA.CA.GOV)

**ARNOLD  
SCHWARZENEGGER**  
GOVERNOR

April 14, 2008

Certified Mail: 7003 1680 0000 6167 5905

Ms. Sonya K. Harrigfeld, Director  
Stanislaus County  
Department of Environmental Resources  
3800 Cornucopia Way, Suite C  
Modesto, California 95358



Dear Ms. Harrigfeld:

The California Environmental Protection Agency (Cal/EPA) has received and signed the Aboveground Petroleum Storage Act (APSA) Grant Agreement for Stanislaus County Department of Environmental Resources Certified Unified Program Agency (CUPA). Please find the enclosed copy of the signed APSA Grant Agreement for your records. If you have not already done so, please send your local resolution to Cal/EPA Unified Program Section in order to receive your initial advance allocation of the grant. If a local resolution has already been submitted, your initial advance check should be received in a few weeks.

If you need further assistance or have questions regarding the APSA grant, you may contact John Paine at (916) 327-5092 or [jpaine@calepa.ca.gov](mailto:jpaine@calepa.ca.gov).

Sincerely,

Jim Behon, Manager  
Unified Program  
California Environmental Protection Agency

Enclosure

cc: Mr. Robert Riess (Sent via email)  
Senior Hazardous Materials Specialist  
Stanislaus County  
Department of Environmental Resources  
3800 Cornucopia Way, Suite C  
Modesto, California 95358

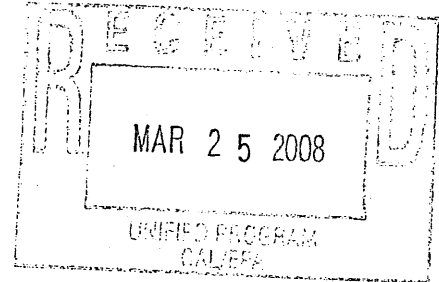
ABOVEGROUND PETROLEUM STORAGE ACT PROGRAM  
GRANT AGREEMENT  
BETWEEN THE  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
AND  
STANISLAUS COUNTY  
CERTIFIED UNIFIED PROGRAM AGENCY

AGREEMENT NO. 07-697-550

State and Grantee hereby agree as follows:

1. PROVISIONS. The following statute authorizes the State to enter into this Grant Agreement:
  - A. California Health and Safety Code, division 20, chapter 6.67, section 25270.11
2. PURPOSE. The State shall provide a grant to and for the benefit of the Grantee for the purpose of allocating moneys from the Environmental Protection Trust Fund (EPTF) to the Certified Unified Program Agencies (CUPAs), in accordance with the formula and process determined by the Secretary for Environmental Protection (Secretary) in consultation with the CUPAs. Up to 80% of the grant is authorized by statute to be paid in advance and will be paid upon approval of the grant. The CUPAs shall expend those funds for the purpose of implementing the Aboveground Petroleum Storage Act (APSA).
3. GRANT AMOUNT. \$119,403.12
4. TERM OF AGREEMENT. The term of the Agreement shall begin on January 1, 2008, and end on March 1, 2010. The grant is for the implementation of the APSA Program from January 1, 2008, through December 31, 2009. ABSOLUTELY NO FUNDS MAY BE REQUESTED AFTER June 1, 2011.
5. REPRESENTATIVES. Either party may change its Representative(s) upon written notice to the other party. The Representatives during the term of this Agreement will be:

|  |
|--|
| California Environmental Protection Agency<br><b>GRANT MANAGER</b> |
| John Paine, Staff Environmental Scientist                          |
| 1001 "I" Street, 4 <sup>th</sup> Floor                             |
| Sacramento, California 95814                                       |
| Phone (916) 327-5092   |
| Fax (916) 322-6555   |
| jpaine@calepa.ca.gov   |



|  |  |
|--|--|
| Stanislaus County CUPA<br><b>GRANTEE</b>                       | <b>GRANT CONTACT</b><br>(if different from Project Director) |
| Name of Project Director, Title: Sonya K. Harrigfeld, Director | Name: Robert Riess   |
| Street Address: 3800 Cornucopia Way, Suite C                   | Street Address: 3800 Cornucopia Way, Suite C                 |
| City, Zip: Modesto, 95358                                      | City, Zip: Modesto, 95358                                    |
| Phone: (209) 525-6700  | Phone: (209) 525-6749  |
| Fax: (209) 525-6773  | Fax: (209) 525-6773  |
| e-mail: sharrigfeld@envres.org                                 | e-mail: rriess@envres.org                                    |

6. STANDARD AND SPECIAL PROVISIONS. The following exhibits are attached and made a part of this Agreement by this reference:

- Exhibit A      REPORTING AND INVOICING PROVISIONS
- Exhibit B      SPECIAL AND GENERAL PROVISIONS
- Exhibit C      APSA GRANT APPLICATION

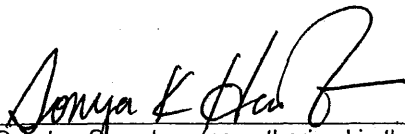
7. GRANTEE REPRESENTATIONS. The Grantee accepts and agrees to comply with all terms, provisions, conditions, and commitments of this Agreement, including all incorporated documents, and to fulfill all assurances, declarations, representations, and commitments made by the Grantee in its application, accompanying documents, and communications filed in support of its request for grant funding.

8. DEFINITIONS. The following defined terms apply throughout this Agreement:

- "APSA" means the Aboveground Petroleum Storage Act;
- "AST" means aboveground storage tank;
- "Cal/EPA" means the California Environmental Protection Agency;
- "CUPA" means the Certified Unified Program Agency;
- "EPTF" means the Environmental Protection Trust Fund;
- "Grantee" means the Stanislaus County CUPA;
- "PA" means the Participating Agency;
- "Project" means the implementation of the Aboveground Petroleum Storage Act;
- "Secretary" means the Secretary of the California Environmental Protection Agency; and
- "State" means the State of California, including Cal/EPA.

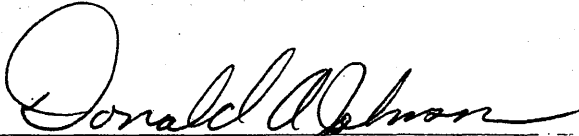
IN WITNESS THEREOF, the parties have executed this Agreement on the dates set forth below.

By:

  
\_\_\_\_\_  
Grantee Signature (as authorized in the resolution)  
Sonya K. Harrigfeld, Department of  
Environmental Resources Director  
\_\_\_\_\_  
Grantee Name, Title (Typed/Printed)

03/13/08  
Date

By:

  
\_\_\_\_\_  
Donald A. Johnson, Assistant Secretary  
California Environmental Protection Agency  
April 4, 2008  
Date

## EXHIBIT A

### REPORTING AND INVOICING PROVISIONS

#### A. REPORTING PROVISIONS

1. The Grantee shall prepare and submit APSA Program Implementation Status Reports, including invoices for documentation of expenditures, and an inventory of aboveground storage tank (AST) facilities to the Cal/EPA Grant Manager at the following address:

California Environmental Protection Agency  
Unified Program Section  
c/o John Paine, Staff Environmental Scientist  
1001 "I" Street, 4<sup>th</sup> Floor  
Sacramento, California 95814

2. Each report shall provide a brief description of all the actions taken and work activities performed during the reporting period. As necessary, the report shall also include a description of any problems encountered or potential issues identified that may affect the terms, conditions, provisions, or commitments contained under this Agreement.
3. Each report shall have a cover letter certified by the Project Director or the Grant Contact.
4. For purposes of the APSA Program Implementation Status Reports, the reporting period is as follows:
  - a. 1<sup>st</sup> Report = January 1, 2008, to June 30, 2008
  - b. 2<sup>nd</sup> Report = July 1, 2008, to December 31, 2008
  - c. 3<sup>rd</sup> Report = January 1, 2009, to June 30, 2009
  - d. Final Report = July 1, 2009, to December 31, 2009
5. Submission of the reports and invoices shall be in accordance with the following schedule:

|                                     |                 |                         |
|-------------------------------------|-----------------|-------------------------|
| a. 1 <sup>st</sup> Report & Invoice | <u>Due Date</u> | <b>August 1, 2008</b>   |
| b. 2 <sup>nd</sup> Report & Invoice | <u>Due Date</u> | <b>February 1, 2009</b> |
| c. 3 <sup>rd</sup> Report & Invoice | <u>Due Date</u> | <b>August 1, 2009</b>   |
| d. Final Report & Invoice           | <u>Due Date</u> | <b>March 1, 2010</b>    |
6. For purposes of the inventory of AST facilities, the Grantee shall submit a revision of the Cal/EPA list of AST facilities for the CUPA's jurisdiction. The revision will serve to determine the final percentage share for each CUPA for any funds remaining from the Environmental Protection Trust Fund. The Grantee shall use the format provided in the Cal/EPA list of AST facilities.
7. The Grantee shall submit the revised inventory of AST facilities to Cal/EPA no later than **December 1, 2008**.

#### B. INVOICING PROVISIONS

1. Invoices shall be used to depict the expenditures incurred by the Grantee in implementation of the APSA Program from January 1, 2008, through December 31, 2009.
2. The invoice shall include all APSA Program implementation expenditures (direct and indirect) incurred by the Grantee during the reporting period.
3. The invoice shall be submitted as an attachment to the "Implementation Status Report," in accordance with the submission schedule provided above.
4. The Grantee shall use the invoice template format provided by Cal/EPA.



## EXHIBIT B

### SPECIAL AND GENERAL PROVISIONS

#### A. SPECIAL PROVISIONS

1. **AMENDMENTS:** No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in the Agreement is binding on any of the parties.
2. **DISPUTES:** The Grantee shall continue with the responsibilities under this Agreement during any dispute. Any dispute arising under this Agreement which is not otherwise disposed of by agreement shall be decided by the Cal/EPA Assistant Secretary for Local Programs or an authorized representative. The decision shall be in writing and a copy thereof furnished to the Representatives of this Agreement. The decision of the Assistant Secretary shall be final and conclusive unless, within thirty (30) calendar days after mailing of the decision to the Grantee, the Grantee furnishes a written appeal of the decision to the Secretary for Environmental Protection, with carbon copies furnished to the Cal/EPA Assistant Secretary for Local Programs and the Cal/EPA Grant Manager. The decision of the Secretary shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal under this clause, the Grantee shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Grantee shall continue to fulfill and comply with all the terms, provisions, commitments, and requirements of this Agreement. This clause does not preclude consideration of legal questions, provided that nothing herein shall be construed to make final the decision of the Cal/EPA Assistant Secretary for Local Programs or the Secretary, on any question of law.
3. **FISCAL MANAGEMENT SYSTEMS AND ACCOUNTING STANDARDS:** The Grantee agrees that, at a minimum, its fiscal control and accounting procedures will be sufficient to permit tracing of grant funds to a level of expenditure adequate to establish that such funds have not been used in violation of state law or this Agreement. The Grantee further agrees that it will maintain financial accounts in accordance with generally accepted accounting principles. Without limitation of the requirement to maintain financial management systems and accounting standards in accordance with generally accepted fiscal and accounting principles, the Grantee agrees to:
  - a. Establish a financial account(s) and accounting system(s) that will adequately and accurately depict all EPTF amounts received and expended during the term of this Agreement, including but not limited to:
    - i. EPTF advance allocation amounts, including interest earned;
    - ii. Additional EPTF allocations amounts;
    - iii. All APSA Program implementation expenditures (direct and indirect); and
    - iv. Running balance of EPTF allocations and expenditures.
4. **RECORDS MANAGEMENT:** Maintain all documentation and financial records, as may be necessary, for the state to fulfill federal reporting requirements, including any and all reporting requirements under federal tax statutes or regulations. Establish an official file for the EPTF allocation that shall adequately document all significant activities and actions relative to the Implementation of the APSA Program, including but not limited to:
  - a. Fiscal accounting;
  - b. APSA Implementation Status Reports; and,
  - c. Invoicing and supporting documentation.
5. **TIMELINESS:** Time is of the essence in this Agreement. The Grantee shall proceed with APSA Program implementation in an expeditious manner. The Grantee shall prepare and submit all required reports and invoices as stipulated in this Agreement.

6. WITHHOLDING OF GRANT DISBURSEMENTS: Cal/EPA may withhold all or any portion of the EPTF allocations provided for by this Agreement in the event the Grantee:
  - a. Materially violates, or threatens to materially violate, any term, provision, condition, or commitment of this Agreement; or
  - b. Fails to maintain reasonable progress toward implementation of the APSA Program.

**B. GENERAL PROVISIONS**

1. ASSIGNMENT: This grant is not assignable by the Grantee, either in whole or in part, without the consent of the State.
2. AUDIT: Grantee agrees that the Cal/EPA, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the expenditure of allocated EPTF moneys and performance of this Agreement. The Grantee agrees to maintain such records for a possible audit for a minimum of three (3) years after term of the Agreement, unless a longer period of records retention is stipulated. Grantee agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, the Grantee agrees to include a similar right of the State to audit records and interview staff in any contract related to performance of this Agreement.
3. COMPUTER SOFTWARE: The Grantee certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
4. CONFLICT OF INTEREST: The Grantee certifies that it is in compliance with applicable state and/or federal conflict of interest laws.
5. GOVERNING LAW: This grant is governed by and shall be interpreted in accordance with the laws of the State of California.
6. INDEPENDENT ACTOR: The Grantee, and its agents and employees, if any, in the performance of this Agreement, shall act in an independent capacity and not as officers, employees or agents of the State.
7. NONDISCRIMINATION: During the performance of this Agreement, the Grantee and its contractors shall not unlawfully discriminate against, harass, or allow harassment against any employee or applicant for employment because of sex, race, religion, color, national origin, ancestry, disability, sexual orientation, medical condition, marital status, age (over 40) or denial of family-care leave, medical-care leave, or pregnancy-disability leave. The Grantee and its contractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination and harassment.
8. NO THIRD PARTY RIGHTS: The parties to this grant Agreement do not create rights in, or grant remedies to, any third party as a beneficiary of this grant Agreement, or of any duty, covenant, obligation or undertaking established herein.
9. TERMINATION: The State may terminate this Agreement and be relieved of any payments should the Grantee fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination, the Grantee agrees, upon demand, to immediately return the remaining unused portion, if any, of the Grantee's allocation of the EPTF.
10. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement shall continue to have full force and effect and shall not be affected thereby.

**EXHIBIT C**

**APSA GRANT APPLICATION**

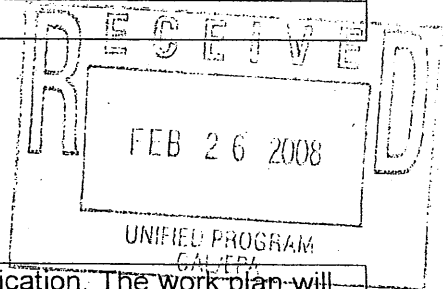
**ABOVEGROUND PETROLEUM STORAGE ACT (APSA) PROGRAM  
GRANT APPLICATION**

**1. Entity Information:**

|   |
|---|
| Name of Grantee: Stanislaus County  |
| Name of Project Director: Sonya K. Harrigfeld, Department of Environmental Resources Director |
| Address: 3800 Cornucopia Way, Suite C   |
| City, Zip: Modesto, 95358   |
| Phone: 209.525.6700   |
| Fax: 209.525.6773   |
| E-Mail: sharrigfeld@envres.org  |
| Name of Grant Contact (if applicable): Robert Riess, Senior Hazardous Materials Specialist    |
| Address: 3800 Cornucopia Way, Suite C   |
| City, Zip: Modesto, 95358   |
| Phone: 209.525.6749   |
| Fax: 209.525.6773   |
| E-Mail: rriess@envres.org   |

**2. Grant Amount: \$119,403.12**

**3. Work plan: (Scope of Work)**



The CUPA shall develop a work plan as part of this grant application. The work plan will describe the CUPA's implementation activities and tasks and a timeline (spreadsheet) that delineates critical and completion dates of the activities and tasks.

The work plan shall include a brief narrative summary for each activity and task that clearly describes the activity or task and depicts the steps that will be taken or the methods to be used for completion. The descriptions should include as much detail as necessary to depict the CUPA's overall implementation efforts through the period of the grant. The narrative summaries shall also include a discussion of the expected completion dates of each activity and task. The list of activities and tasks provided below should be used as a reference to ensure that all applicable implementation activities are addressed.

A timeline (simple spreadsheet format) shall be developed to depict the critical milestones and expected completion dates for each activity and task identified in the work plan.

## Stanislaus County APSA Implementation (Work) Plan

Stanislaus County Certified Unified Program Agency (CUPA) will incorporate the implementation of the Aboveground Petroleum Storage Act (APSA) Program into the existing Unified Program structure. The current activities of verifying preparation of an SPCC and referrals to the Regional Water Quality Control Board will be replaced with full implementation and administration of the APSA, beginning in 2008. The following work plan and associated timelines for completion address all aspects related to Stanislaus County's Planned APSA implementation from January 1, 2008, through December 31, 2009.

### A. Work Plan

#### I. Billing Program

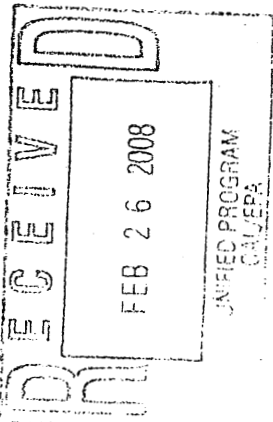
Stanislaus County CUPA will incorporate the APSA program into the existing CUPA fee system, accounting for the fee schedule, the actual amount billed, and the revenue collected. The billing program is designed to encourage more efficient and cost effective operation of the program for which the single fee is assessed. For the APSA program, the billing system will be incorporated into the single fee system. The Stanislaus County CUPA billing system program includes the following elements:

- Accounting for: the fee schedule, the actual amount billed, and the revenue collected;
- Staff work hours required to implement the APSA program;
- Direct program expenses (including durable and disposable equipment);
- The number of businesses regulated under the APSA program; and
- The quantity and range of services provided, including frequency of inspections.

The incorporation of the APSA Program into the CUPA billing system will be accomplished by January 1, 2010.

#### II. Unified Program (UP) Single Fee System

Prior to January 1, 2010, the Stanislaus County Board of Supervisors will adopt the APSA program fee as part of the UP Single Fee system in Stanislaus County CUPA. The APSA Program fee will be established at a level sufficient to pay the necessary and reasonable costs incurred by the CUPA in administering the APSA Program, including, but not limited to, inspections, enforcement, and administrative costs.



By January 1, 2010, Stanislaus County's "CUPA Single Fee Invoice" will be amended to include a line item for the APSA Program fee. Fees for non-recurring APSA Program activities of the CUPA such as, but not limited to, the fee for an initial permit or special inspection, may be billed separately from the "CUPA Single Fee Invoice." Beginning in January 2010, each regulated business will be assessed an annual APSA Program fee as part of the single fee invoice.

Stanislaus County's CUPA fee schedule will be available to interested parties on the county Web Site or upon request.

Stanislaus County CUPA dispute resolution procedures will be amended to incorporate the APSA Program, which will guide the resolution of fee disputes that arise between the businesses regulated under the APSA Program element.

### III. Staffing Plan

Staff resources for the initial implementation phase (January 1, 2008 – December 31, 2009) of the APSA Program will involve the redirection of existing CUPA staff. As part of Stanislaus County's CUPA staffing plan and adoption of the single fee for the APSA Program, the adequacy of existing staffing resources will include an analysis of:

1. The number and type of regulated Above Ground tank facilities within Stanislaus County;
2. An estimate of the annual number of compliance and complaint inspections, considering cost of the following activities:
  - (i) Inspections and the related travel, research, analysis of findings, and documentation;
  - (ii) Inspection and enforcement activities including warnings, notices, meetings, hearings, legal proceedings, and documentation;
  - (iii) Any permit activities, which may include application reviews, modifications and revisions, and facility evaluations;
  - (iv) Training, including field, meetings, seminars, workshops, courses and literature reviews; and
  - (v) Management including day-to-day operation scheduling and supervision.

By June 30, 2009, the Stanislaus County CUPA will identify activities associated with implementing the APSA Program. Existing CUPA staff will be temporarily redirected to assist with the start up activities. Once activities associated with implementing the APSA Program are identified, the Stanislaus County will look into hiring permanent APSA Program staff if warranted.

#### IV. Identification of Regulatory Universe

Stanislaus County CUPA will use the AST Tank Facility list provided by Cal/EPA as the starting point for the identification of the regulated tank facilities in Stanislaus County.

The list will be compared with the existing facility data to determine those facilities already regulated under one or more Unified Program elements that handle petroleum materials in amounts that are equal to or in excess of 1,320 gallons. The list will then be segregated based on the following categories:

1. Exempted tank facilities with total tank storage capacity of less than 20,000 gallons
2. Tank facilities w/ storage capacity  $\geq 1,320$  and  $< 10,000$  gallons
3. Tank facilities w/ storage capacity  $\geq 10,000$  and  $< 100,000$  gallons
4. Tank facilities w/ storage capacity  $\geq 100,001$  and  $< 1,000,000$  gallons
5. Tank facilities w/ storage capacity  $\geq 1,000,001$  and  $< 10,000,000$  gallons
6. Tank facilities w/ storage capacity  $\geq 10,000,001$  and  $< 100,000,000$  gallons
7. Tank facilities w/ storage capacity  $\geq 100,000,001$  gallons

The Stanislaus County CUPA will submit the complete list of regulated tank facilities to Cal/EPA by December 1, 2008.

#### V. Staff Training Plan

Stanislaus County CUPA staff will attend the AST Training Program developed by Cal/EPA, which is scheduled to be delivered in July, August, and September of 2008. If any permanent APSA Program staffs are hired, they will go through the California Environmental Protection Agency's APSA Training Program's computer-based training course, including successful completion of the examination for inspectors. The APSA Program standards will be incorporated into the CUPAs ongoing training program and provided to program staff on a regular basis.

## VI. Inspection and Compliance Plan

As part of the Stanislaus County CUPAs Unified Inspection and Enforcement Program, the Stanislaus County CUPA will ensure all regulated businesses subject to the APSA Program are in compliance with all the program requirements, including SPCC Plan preparation and implementation, annual submission of their facility statement, and spill notifications. Exempted tank facilities will be periodically reviewed to verify their total tank capacity. Tank facilities with storage capacity of  $\geq 1,320$  and  $< 10,000$  gallons will be inspected to verify that their total tank capacity is less than 10,000 gallons and to ensure that they have prepared and are implementing an SPCC Plan, are submitting their annual facility statements, and are integrated into the APSA Program fee. Tank facilities with storage capacity of  $\geq 10,000$  gallons will be inspected at least once every three years to ensure that they have prepared and are implementing an SPCC Plan in compliance with U.S. Code of Federal Regulations, Title 40, Part 112. All inspections will include a visual inspections of any Aboveground Storage Tanks at the facility. The inspection and all violations discovered during the inspections will be documented on an inspection report form. Minor violations will be clearly identified to be corrected within 30 days. The owner/operator of the tank facility will be required to certify that all minor violations have been corrected. For more significant or serious violations, Stanislaus County CUPA will require violations to be corrected less than 30 days and/or referred to the Stanislaus County District Attorney for civil enforcement.

## VII. Stanislaus County CUPA Administrative Procedures

Stanislaus County CUPA administrative policy and procedures will be reviewed and updated, as necessary to incorporate all relevant aspects of the APSA Program. All revisions will be completed by December 31, 2009.

## VIII. Regulated Business Outreach Activities

Stanislaus County CUPA will develop educational and guidance materials for those businesses regulated under the APSA Program. The educational and guidance materials will include an updated web page, fact sheets with guidance documents to assist regulated businesses in complying with all requirements of the APSA Program. These materials will be developed prior to 2010.



B. Other Implementation Activities

Stanislaus County CUPA is the only Unified Program Agency within the jurisdictional boundaries of the county.

C. Implementation Timeline

| Activity             | 2008    |         |          |         | 2009    |         |          |         | 2010    |
|----------------------|---------|---------|----------|---------|---------|---------|----------|---------|---------|
|                      | Jan-Mar | Apr-Jun | Jul-Sept | Oct-Dec | Jan-Mar | Apr-Jun | Jul-Sept | Oct-Dec | Jan-Mar |
| Billing              |         |         |          |         |         |         |          | X       |         |
| Single Fee           |         |         |          |         |         |         |          | X       | X       |
| Staffing             |         |         |          |         |         | X       |          |         |         |
| Regulated Businesses |         |         |          | X       |         |         |          |         |         |
| Training             |         |         | X        |         |         |         |          |         |         |
| Procedures           |         |         |          |         |         |         |          | X       |         |
| Outreach             |         |         |          | X       |         |         |          |         |         |
| Inspections          |         |         |          |         |         | X       |          |         |         |
| Reports              |         |         | X        |         | X       |         | X        |         | X       |

**ABOVEGROUND PETROLEUM STORAGE ACT (APSA) PROGRAM  
GRANT APPLICATION**

**4. Projected Budget:**

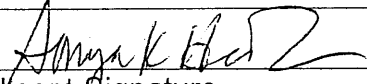
Direct Program Costs:

|   |                      |
|---|----------------------|
| *Personnel Services   | \$ 100,903.12        |
| Operating Expenses (prorated for project)                   | \$ 15,000.00         |
| Travel Expenses   |                      |
| Supplies/Materials (less than \$5,000 per item)             |                      |
| Equipment (\$5,000 or more per item)                        | \$                   |
| Professional/Consultant Services                            | \$                   |
| Indirect Cost (%) (Rate applied to Personnel Services only) | \$ 3,500.00          |
| <b>TOTAL</b>  | <b>\$ 119,403.12</b> |

\*Salary is based on hourly rate and includes fringe benefits.

**5. CERTIFICATION**

I certify under penalty of perjury that the information I have entered on this application is true and complete to the best of my knowledge and that I am an employee of the applicant authorized to submit the application of behalf of the application. I further understand that any false, incomplete, or incorrect statements may result in the disqualification of this application. By signing this application, I waive any and all rights to privacy and confidentiality of the proposal on behalf of the applicant, to the extent provided in this program.

|   |         |
|---|---------|
|  | 2/13/08 |
| Applicant Signature   | Date    |

|                           |
|---------------------------|
| Sonya K. Harrigfeld       |
| Printed Name of Applicant |

