

I am writing this e-mail to solicit your support for legislation that would expand eligibility to the California Underground Storage Tank Cleanup Fund.

In 2004 the State Water Resources Control Board decided the case *In the Matter of Murray Kelsoe*. Mr. Kelsoe was denied access to the Fund because he failed to get a permit for his tanks in the early 1990's, *even though he paid fines and penalties and interest on back storage fees to resolve his non-compliance*. In addition, the Board decided that permit waivers were only available to address the failure to have a permit before January 1, 1990. In other words, anyone who owned a tank that was in the ground as of January 2, 1990, and who didn't have a permit, is permanently ineligible for the Fund, even if they didn't know of the permit requirement, even if they didn't know the tank was there, or even if they were just late getting in a permit renewal. This reversed over 10 years of the Board's practice of granting permit waivers, and was contrary to the Board's own regulations and forms.

Earlier this year, Assemblymember Aghazarain introduced a bill - AB 1437 - that would have allowed an applicant to access the Fund as long as the applicant obtained a permit before applying to the Fund. This would have reversed the Kelsoe decision. Unfortunately, the bill had to be stripped down to a "spot bill" to get out of the Assembly on time. It is now pending in the Senate Environmental Quality Committee.

Even more unfortunately, it now appears that the Senate committee won't approve the bill unless it contains language acceptable to the Water Board staff. As a result, the most recent version of the bill was essentially written by Water Board staff. While it reinstates a very vague and limited permit waiver, it also says that to be eligible for the Fund, the applicant must have obtained a permit as soon as the local agency started issuing them. This could mean that people who thought that they were eligible to the Fund may now become ineligible because of events over 18 year ago!

As for anyone redeveloping properties (brownfields), the current version of the bill will make it harder to use the Fund to clean up old gas stations or properties with long-abandoned fuel tanks.

Thus, I am asking everyone who might care about this to contact the Chair of the Senate Environmental Quality Committee – Senator Joe Simitian – as well as the committee's consultant, Bruce Jennings, and express their support for the bill AS INTRODUCED IN THE ASSEMBLY. Also, please contact your own State Senator, as well as Assemblymembers Aghazarain and Lieu (a Democratic co-sponsor) to the same effect. **THE BILL IS SET FOR HEARING ON JULY 2, SO TIME IS OF THE ESSENCE!**

Emails are as follows:

[Bruce.jennings@sen.ca.gov](mailto:Bruce.jennings@sen.ca.gov)

[Senator.Simitian@senate.ca.gov](mailto:Senator.Simitian@senate.ca.gov)

[Assemblymember.Lieu@assembly.ca.gov](mailto:Assemblymember.Lieu@assembly.ca.gov)

[Assemblymember.Aghazarian@assembly.ca.gov](mailto:Assemblymember.Aghazarian@assembly.ca.gov)

The main points to make are these:

- The purpose of the Fund is to cleanup the environment, not to punish people for past non-compliance.
- Eligibility to the Fund should not depend on events that occurred more than 18 years ago.
- The current version of the bill is bad for small business.
- The current version of the bill will delay cleanups.
- The Senate should approve AB 1437 as originally introduced in the Assembly.

If you don't know who your State Senator is, go to [www.assembly.ca.gov](http://www.assembly.ca.gov), click on the "Find My District" link, put in your address, and you will get both your Senator and Assemblymember.

Finally, please pass this along to all the dealers you know and real estate developers who do brownfields deals to try to generate as much support for the original bill as possible.

Of course, if you have any questions, or want to know more, please feel free to call or e-mail me.

Thanks for your interest and support!

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