

**MINUTES OF THE  
STORAGE TANK ADVISORY COMMITTEE MEETING  
JUNE 2, 2015**

The Storage Tank Advisory Committee (STAC) met on June 2, 2015, at the Rachel Carson State Office Building, 400 Market Street, 14<sup>th</sup> Floor Conference Room, Harrisburg. Thirteen (13) voting members were present, which constituted a quorum.

Voting members in attendance were:

Local Government:

Scott Weaver, Pennsylvania State Association of Boroughs  
Lisa Schaefer, County Commissioners Association of Pennsylvania  
Dennis Hameister, Pennsylvania State Association of Township Supervisors

Regulated Community:

Judy Brackin, Associated Petroleum Industries of Pennsylvania (STAC Vice-Chairperson)  
John Kulik, Pennsylvania Petroleum Association  
Nancy Maricondi, Petroleum Retailers and Auto Repair Association, Inc.  
Scott Nowicki, Pennsylvania Chemical Industry Council

Public:

Robert May, Synergy Environmental Inc.  
Timothy Bytner, Babst Calland  
David Gallogly, Pennsylvania Environmental Council  
Charles Frey, Jr., Highland Tank & Mfg. Co.

Registered Professional Engineer:

Francis Catherine, Affiliated Services International, LLC

Active Commercial Farm Owner or Operator:

Michael Platt, PM Farms, Inc.

**CALL MEETING TO ORDER**

Judy Brackin called the June 2, 2015, meeting of the STAC to order.

**APPROVAL OF MINUTES FROM MARCH 3, 2015, MEETING**

The minutes from the March 3, 2015, meeting were approved as submitted, upon motion and seconded.

## **STAC MEMBERSHIP LIST**

Charlie Swokel, DEP, reported that 15 of the 16 positions on the STAC are filled. The only vacancy is a local government seat.

Mr. Swokel stated that the active commercial farm owner/operator vacancy is now filled and welcomed Michael Platt, PM Farms, Inc., Union County, to his first STAC meeting. William Neilson, Pennsylvania Farm Bureau, will serve as Mr. Platt's alternate.

## **USTIF UPDATE**

Next on the agenda, the Underground Storage Tank Indemnification Fund (**USTIF**) provided an **update** on their program activities. Richard Burgan, Director, Bureau of Special Funds, Department of Insurance, and Acting Executive Director, Underground Storage Tank Indemnification Board (USTIB), attended representing the USTIF.

Mr. Burgan stated that assets as of March 31, 2015, totaled \$294 million, as compared to \$267 million at the same time last year. Mr. Burgan stated that liabilities as of March 31, 2015, stood at \$405 million, as compared to \$434 million at the same time last year. As of March 31, 2015, the USTIF shows an unfunded deficit of \$140 million. The deficit last year was \$175 million and continues to go down. With regards to receipts, as of March 31, 2015, the fund has taken in \$59 million as compared to \$62 million at the same time last year. Total disbursements as of March 31, 2015, totaled \$50 million as compared to \$41 million at the same time last year. It was noted that net receipts over disbursements as of March 31, 2015, were about \$9 million.

Next, Mr. Burgan reported that work is proceeding under the new contract with ICF signed last November to provide a new claim system, a new dedicated website, and a new interactive fee billing system. Mr. Burgan stated that the claim system has been up and running since the first week of May, and work on the website continues. A webinar has been scheduled for June 24 to obtain input from tank owners and distributors with regards to the web-based fee billing system.

Lastly, Mr. Burgan reported that the number of claims filed with the USTIF for 2015, as of this morning, stood at 62.

Dennis Hameister inquired about the status of the general fund loan. Mr. Burgan stated that the new Memorandum of Understanding (MOU) is in place and that the first annual payment of \$7 million is scheduled to be paid in the fiscal year beginning July 1. The MOU runs from 2015 to 2029.

Bob May asked if one can sign-up for the webinars on the website. Mr. Burgan responded that the webinars are targeting the "heavy hitters" (e.g. Sheetz, United Refining, Country Fair). Mr. Burgan stressed that the USTIF needs to have industry involvement, including input from IT representatives, in order to design the fee billing system.

Dave Gallogy asked Mr. Burgan about the personnel changes at the USTIF. Mr. Burgan stated that he has replaced Steve Harman as the Director of the Bureau of Special Funds. The Claims

Manager position is currently vacant and an individual from the DEP has replaced Bobbi Lawyer as the chief revenue manager.

## **DEP UPDATE**

As the first item, Mr. Swokel showed the committee some charts pertaining to **regulated storage tanks and USTIF claims**. The first chart depicted the number of claims filed each year with the USTIF since the inception of the fund in 1994. Mr. Swokel noted that the most claims were filed in 1997, 1998 and 1999, as a result of the 1998 upgrade requirements. The number of claims filed for the years 2007 through 2014 have leveled off and are below 200 for each of those years. Only 62 claims have been filed to date in 2015. Mr. May questioned if the reduction in the number of claims filed is due to the reduction in the number of regulated underground storage tanks (USTs). Mr. Swokel responded that the reduction in the number of regulated USTs is certainly a factor, but that other factors including the 1998 upgrade requirements and requirement that all new tank systems be double-walled certainly have played a role in the number of claims filed. Mr. Gallogly noted that the trend line shown on the chart indicates that the number of claims filed going forward will go down. Mr. Swokel stated that the trend line is generated by the spreadsheet program and that contrary to what the trend line shows, claims are expected to continue to be filed at the current pace.

The next chart showed the reduction in the number of open USTIF claims from August 2005 through March 2015. During this time, the number of open claims has dropped from around 1,750 to about 1,150.

Mr. Hameister asked what constitutes an open claim and how long a claim remains open. Mr. Burgan responded that an open claim means that reserves have been set aside because further corrective action needs to be accomplished. Mr. Burgan stated that a claim remains open for an average of seven years.

Mr. May asked about the trend in the amount of reserves set aside for open claims. Mr. Burgan stated that \$175,000 is initially reserved for each open claim. However, the average payout for a claim currently stands at approximately \$280,000.

Mr. Swokel then discussed several charts showing the trends in the number of active aboveground storage tanks (ASTs), active USTs, and active ASTs/USTs. Over the past five years, there has been a general upward trend in the number of active ASTs due to an overall increase in the number of tanks with capacities of 50,000 gallons and less. The number of active ASTs with capacities of over 50,000 gallons has been on the decline. Over the last five years, there has been a steady decline in the overall number of active USTs. The only increase in active USTs has been seen with tank capacities over 10,000 gallons. When you look at the overall number of both active ASTs and USTs over the past five years, the overall trend is down.

Next, Kris Shiffer, DEP, reported on the **Federal UST Regulations**. Mr. Shiffer informed the committee that based upon a meeting with our EPA/State Region 3 counterparts in May, publication of the final regulation in the *Federal Register* is anticipated in June. At the meeting, EPA informed the states that webinars with the states will be held along with a meeting at EPA headquarters in late October to go over the rulemaking. Aside from this limited communication

from EPA, DEP has received no further information with regards to the final rule. Mr. Shiffer stated that it is DEP's intention to review the EPA final rulemaking along with the concepts of other potential revisions to Chapter 245 at the September STAC meeting. John Kulik commented that there will likely be opposition to the EPA final rule and asked for clarification as to what DEP will need to incorporate into Chapter 245 in order to be at least as stringent. Mr. Shiffer responded that DEP has already incorporated the secondary containment and operator training requirements, so that primarily leaves operation and maintenance provisions to be addressed. Bob May noted that in states like Tennessee, Florida and Massachusetts that require monthly inspections, the going rate for a third party to conduct the inspection is about \$100.

The status of the **“Guidelines for the Evaluation of UST Cathodic Protection Systems” Draft Technical Guidance** was the next topic of discussion. Mr. Shiffer, via a PowerPoint presentation, discussed with the committee this new draft document. The draft guidance references a form that has been developed to facilitate the recording of cathodic protection results and reporting to DEP. Mr. Shiffer noted that the guidance and form were developed to assist those individuals that are qualified to test cathodic protection systems. Mr. May inquired as to what variation in the voltage or amperage readings required that action be taken. Mr. Shiffer responded that this concerns the rectifier unit for impressed current systems. The guidance document addresses this issue, but does not provide specifics as each system is different. The bottom line is that action needs to be taken if the readings fluctuate by more than a certain percentage as specified by the corrosion expert who designed the system. A question was asked as to why information pertaining to the continuity survey was not addressed in the guidance and included on the form. Mr. Shiffer stated that the DEP has the option to ask the tester for additional information. However, since the survey pertains primarily to impressed current systems and in an effort to keep the form simple, it was not included on the form. Mr. Shiffer stated that the notice of the availability of the draft UST Cathodic Protection guidance for public comment is anticipated to be published in the *Pennsylvania Bulletin* in June. The public comment period will be 30 days. It is anticipated that comments received on the draft guidance will be shared with the committee at the September meeting.

As a timely add-on to the agenda, Jessica Shirley, DEP Policy Office, discussed the topic of **increasing transparency in the policy process**. Ms. Shirley noted that the **interim final “Policy for Development and Publication of Technical Guidance”** was published in the *Pennsylvania Bulletin* on May 30. Public comments on the interim final policy will be accepted through July 14. Ms. Shirley stated that DEP programs have been asked to implement the policy immediately. Under the policy, DEP will publish a non-regulatory agenda in the *Pennsylvania Bulletin* twice each year that lists all of the policies and technical guidance documents the agency plans to introduce or revise. The first non-regulatory agenda will be published at the end of June. In addition, the policy enhances the role of advisory committees by requiring DEP staff to consult with members of the appropriate advisory committee when developing technical guidance documents, including sharing concepts early in the process. Lastly, a lead DEP regional director will be engaged and required to sign off on all policies and documents prior to publication in the *Pennsylvania Bulletin*. DEP will conduct two webinars concerning the policy changes on June 10 and 30. Participants can register for the webinars using the “DEP Webinars” button on the DEP homepage.

Also on May 30, DEP launched “**eComment,**” a one-stop shop for accessing technical guidance documents and other policy-related proposals open for public comment. With eComment, the public can submit comments online and view the text of all public comments submitted. The name and affiliation of each commentator will be shown. This new online feature can be accessed through the Public Participation Center on the DEP homepage.

Lastly under the DEP update, Troy Conrad, DEP, **Land Recycling Program**, stated that the draft **final rulemaking to revise Chapter 250** is tentatively scheduled for presentation to the Environmental Quality Board (EQB) on August 18. Assuming approval of the rulemaking by the EQB, the Independent Regulatory Review Commission will likely take up the rulemaking in the fall. Mr. Conrad noted that the revised standards will apply to all final reports received after the effective date of the revised final rulemaking.

Mr. Conrad also stated that the program is in the process of revising the **Vapor Intrusion Technical Guidance**. Mike Maddigan, DEP, discussed the major changes to the guidance in terms of petroleum products. A handout summarizing the changes was provided prior to the meeting. Mr. Maddigan noted that the guidance emphasizes mitigation as a cost-effective method to address vapor intrusion. The guidance also recognizes that biodegradation occurs at a quicker pace for petroleum products as opposed to non-petroleum products. Therefore, the application of proximity distances is much shorter for petroleum products. Mr. Gallogly noted that the distance for separate phase liquids is 15 feet while for dissolved phase the distance is only six feet. Mr. Gallogly questioned why the proximity distance is further for separate phase liquids. Mr. Maddigan responded that it takes more time for separate phase liquids to attenuate through the soil than if you have dissolved phase liquids. Mr. Maddigan stated that the sampling requirements for underground storage tank closure still apply. Screening values have been updated for soil, ground water and soil gas, and have been added for indoor air and near-source soil gas. The guidance emphasizes sub-slab or near-source soil gas sampling. Mr. Maddigan noted that guidance is provided with regards to developing a conceptual site model and appendices are provided addressing such topics as development of the screening values, use of modeling, sampling methods and gathering quality data. Notice of the availability of the draft Vapor Intrusion Guidance for public comment is anticipated to be published in the *Pennsylvania Bulletin* in July. The public comment period will be 60 days. Mr. Maddigan stated that the revised Vapor Intrusion Guidance will then be incorporated into the Land Recycling Program Technical Guidance Manual at a later date.

A question was asked if there are any changes in the laboratory methods. Mr. Maddigan responded no and stated that any change would only result if EPA changed a method(s). Another question asked was if any credentials are required for individuals performing vapor intrusion assessment. Mr. Maddigan stated that there is no certification program in Pennsylvania for such activity. A final question on the subject inquired if there are any triggers that would require one to go back and relook at things when performing sub-slab sampling. Mr. Maddigan stated any further analysis needed is not triggered by concentrations, but would be triggered if an exposure changed.

Ms. Brackin asked the committee if there was any **old business** to discuss. There being none, under **new business**, the **Appointment of a Bylaws Subcommittee** was discussed. Mr. Swokel noted that the original bylaws were established in 1990 and that the only revision to the bylaws

occurred in 1995. Therefore, a review of the current bylaws is long overdue and has been requested by DEP's Policy Office. Mr. Swokel requested that the Vice-Chairperson appoint a bylaws subcommittee of three members including a chairperson. In order to facilitate the process, Mr. Swokel will send a draft revision to the subcommittee in two to three weeks. The draft revision will be a little more streamlined than the current version and be organized and formatted similar to other advisory committees (e.g. the Solid Waste Advisory Committee and Cleanup Standards Scientific Advisory Board) within the Waste, Air, Radiation and Remediation Deputate. Mr. Swokel stated that he anticipates the work of the bylaws subcommittee to involve one or two conference calls. Ms. Brackin asked for volunteers to serve on the bylaws subcommittee. The following members volunteering to sit on the bylaws subcommittee are: Dave Gallogly (chairperson), Charles Frey and John Kulik.

Also under **new business**, Mr. Hameister asked about the compliance with the operator training requirements. Mr. Shiffer stated that statewide compliance is running around 85%. Mr. Shiffer reported that compliance with the Class A and B operator training requirements stands at 90%. Mr. Shiffer stated that the failure to have designated Class C operators is the biggest issue. In an attempt to improve overall compliance, DEP has developed a special notice (on a gold-colored sheet) to better explain the Class C operator requirements.

Ms. Brackin noted that the **remaining meeting dates for 2015** are as follows: September 1 and December 8.

The meeting was **adjourned** at 11:41 a.m., upon motion and seconded.