

**MINUTES OF THE  
STORAGE TANK ADVISORY COMMITTEE MEETING  
MARCH 3, 2015**

The Storage Tank Advisory Committee (STAC) met on March 3, 2015, at the Rachel Carson State Office Building, 400 Market Street, 14<sup>th</sup> Floor Conference Room, Harrisburg. Eleven (11) voting members were present, which constituted a quorum.

Voting members in attendance were:

Local Government:

Holly Fishel, Pennsylvania State Association of Township Supervisors

Regulated Community:

Judy Brackin, Associated Petroleum Industries of Pennsylvania  
John Arnold, Pennsylvania Petroleum Association  
Scott Nowicki, Pennsylvania Chemical Industry Council  
Stephen Hieber, Tank Installers of Pennsylvania

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, Northwind Engineering, LLC

Hydrogeologist:

Jan Peter Ilves, JPI Associates, Inc.

Non-voting alternates in attendance were:

John Kulik, Pennsylvania Petroleum Association  
Mark Miller, Moody and Associates, Inc.

**CALL MEETING TO ORDER**

John Arnold called the March 3, 2015, meeting of the STAC to order.

## **APPROVAL OF MINUTES FROM SEPTEMBER 9, 2014, MEETING**

The minutes from the September 9, 2014, meeting were approved as submitted, upon motion and seconded.

### **STAC MEMBERSHIP LIST**

Charlie Swokel, DEP, reported that 14 of the 16 positions on the STAC are filled. The two vacant seats are as follows:

1. Local Government
2. Active Commercial Farm Owner/Operator

However, Mr. Swokel stated that the active commercial farm owner/operator vacancy will be filled by Michael Platt, Union County. A representative from the Pennsylvania Farm Bureau will serve as Mr. Platt's alternate.

Mr. Swokel welcomed Charles Frey, Jr., Vice President, Highland Tank & Mfg. Co., Manheim, to his first STAC meeting. Mr. Frey is representing the public.

Lastly, Mr. Swokel noted the following reappointments and appointments:

1. Frank Catherine and Mark Onesky have been appointed to a 2-year term switching their roles. Mr. Catherine is now the member and Mr. Onesky is now the alternate member representing the Registered Professional Engineers.
2. Steve Hieber has been reappointed to a 2-year term as the member representing the Tank Installers of PA. Ben Hieber has been appointed to a 2-year term as the alternate member replacing Walt Rimmer.
3. J.P. Ilves and Mark Miller have been reappointed to 2-year terms as member and alternate member, respectively, representing the Hydrogeologists.

### **USTIF UPDATE**

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

Mr. Harman stated that assets as of June 30, 2014, totaled \$275 million, as compared to \$245 million at the same time last year. Mr. Harman stated that liabilities as of June 30, 2014, stood at \$413 million, as compared to \$441 million at the same time last year. As of June 30, 2014, the USTIF shows an unfunded deficit of \$138 million. The deficit last year was \$195 million and continues to go down. With regards to receipts, for the fiscal year ending June 30, 2014, the fund took in \$82 million as compared to \$78 million for the prior fiscal year. Total disbursements for the fiscal year ending June 30, 2014, totaled \$53.4 million as compared to \$53.7 million for the prior fiscal year. It was noted that net receipts over disbursements for the

fiscal year ending June 30, 2014, were \$29 million as compared to \$24 million for the prior fiscal year.

On the subject of the general fund loan, Mr. Harman stated that the new Memorandum of Understanding (MOU) memorializing how the loan made to the general fund is scheduled to be repaid was signed last year. The first annual payment of \$7 million under the new MOU is due this coming October. The MOU runs through 2029. Mr. Harman stated that \$62.5 million of principal remains to be repaid on the loan.

Next, Mr. Harman reported that work is proceeding under the new contract signed last November to provide claims and other administrative services. Under the new contract, expanded services to the USTIF, including a fee billing system and dedicated website will be developed.

David Gallogy asked about the number of claims. Rick Burgan, USTIF, reported that there are currently 1178 open claims and 30 new claims have been reported so far this year.

Lastly, Mr. Harman stated that he will be retiring a week from this coming Friday.

## **DEP UPDATE**

Mr. Swokel reported on the **Federal UST Regulations**. Mr. Swokel informed the committee that DEP met with our EPA Region 3 counterparts during the second week of December 2014. At that time, DEP was informed by EPA to expect approval of the final regulation in late January with publication in the *Federal Register* anticipated in late February or early March. On February 3, 2015, DEP received an email from EPA Headquarters stating that the rule is still going through interagency review. Upon approval, EPA indicated that it would take about a month to publish the final rule in the *Federal Register*. Aside from this limited communication from EPA, DEP has received no further information with regards to the final rule. Upon publication and DEP's understanding of the final rule, Mr. Swokel stated that the committee will be informed of the changes that will need to be made to Chapter 245 in order to receive state program approval from EPA. Also, Mr. Swokel stated that the program will propose changes to Chapter 245 in addition to those that will be mandated by EPA.

The status of the “**Guidelines for the Evaluation of UST Cathodic Protection Systems**” **Draft Technical Guidance** was the next topic of discussion. Kris Shiffer, DEP, reported that the draft document has been reviewed by DEP regional office staff and their comments have been incorporated. At the next STAC meeting, the document will be discussed with the committee in more detail prior to publishing it for public comment. The draft guidance references a form that has been developed to facilitate the recording of cathodic protection results and reporting to DEP.

**UST Operator Training Compliance** was the next topic of discussion. Mr. Shiffer stated that there is about 83% compliance with the UST operator training requirements based upon a review of over 6,000 third-party inspection reports performed since August 9, 2012. Pennsylvania is one of only a few states that is tracking compliance with this particular requirement. As follow-up to questions posed by Dennis Hameister and Bob May at the September 9, 2014, STAC meeting, Mr. Shiffer reported that overall compliance with the Class A and B operator training

requirements stands at 90%. Mr. Shiffer also reported that a third of all non-compliance with the operator training requirements statewide is due to the failure to have designated Class C operators. With regards to municipalities and school districts, half of all non-compliance is due to a lack of designated Class C operators. As a result of these findings and in an attempt to improve overall compliance, Mr. Shiffer reported that the DEP has developed a special notice (on a gold-colored sheet) to better explain the Class C operator requirements. DEP began to send the notice in January with all registration invoices and inspection reminder letters. With regards to the Class C operator requirements, Mr. May questioned whether this is just chasing a piece a paper. Mr. May also stated that Ohio has a form for Class C operators. Mr. Shiffer responded that facilities must have designated Class C operators and receive annual refresher training. This minimal information must be documented. Holly Fishel stated that it might be helpful if the Pennsylvania State Association of Township Supervisors put a reminder pertaining to operator training in their magazine. Mr. Shiffer offered his assistance to Ms. Fishel.

Next on the agenda, Mr. Shiffer reported on **Significant Operational Compliance**. Recently, the Division of Storage Tanks transmitted the Federal Fiscal Year (FFY) 2014 Leaking Underground Storage Tank (LUST) Prevention Grant End-of-Year Performance Measures Report to EPA Region 3. DEP reported a significant operational compliance (SOC) rate of 88.3% with release detection requirements, a SOC rate of 92.0% with release prevention requirements, and an overall (compliance with both release detection and release prevention requirements) SOC rate of 82.7%. Mr. May asked where Pennsylvania ranks nationally in terms of SOC. Mr. Shiffer responded that Pennsylvania ranks about 15<sup>th</sup> of the 56 states and territories.

Mr. Shiffer then discussed **TOS Extension Approvals**. As follow-up to the discussion at the September 9, 2014, STAC meeting, the DEP is now asking for delivery receipts when considering requests for temporarily out-of-use extensions. Since the DEP has begun requesting this information, about half of all requesters have provided delivery receipts. The delivery receipts will be maintained in the facility file along with all other information.

Next, George Hartenstein, DEP, reported on the **USTIB Allocation Requests**. At the December 2014 USTIB meeting, DEP requested and the USTIB approved allocations from the USTIF for the state fiscal year that begins July 1, 2015. First, under the Environmental Cleanup Program allocation that provides funding to address state-lead/special projects and grants to tank owners that have releases from underground heating oil storage tanks 3,000 gallons or less in capacity, DEP received \$3.1 million and \$500,000, respectively. DEP is currently addressing 34 projects. The Catastrophic Release allocation allows DEP to address state-lead projects where the release has resulted in significant contamination and cost. DEP has been addressing three catastrophic release projects. DEP did not request any funding under this allocation as the three projects are almost complete. Third, the DEP did not request funding under the allocation known as Pump and Plug. This allocation provides grants to tank owners who have non-upgraded tanks to clean the tank, dispose of the contents, and render the tank unusable. However, DEP did request and receive approval to expend unspent allocation amounts from prior fiscal years. Lastly, DEP received \$3.0 million under the Investigation and Closure Costs allocation that provides funding to reimburse the DEP for costs incurred in overseeing corrective actions conducted by responsible parties. In total, DEP requested and USTIB approved \$6.6 million. Dave Gallogly asked if the money for the 34 projects was being dispersed through the statewide GTACs. Mr.

Hartenstein responded that most work is accomplished through statewide contracts administered by DEP. However, small procurement contracts can be let on a local or regional level.

Lastly under the DEP update, Troy Conrad, DEP, **Land Recycling Program**, began by reviewing the draft final revisions to the Chapter 250 regulations. First, Mr. Conrad stated that the remediator will now be required to provide a copy of the newspaper notice and letter to the municipality regarding the intent to clean up a particular property. The revised rulemaking will also provide the DEP with the ability to waive report fees when resubmissions occur with minor changes. With regards to Health Advisory Levels (HALs) for carcinogens, the DEP will utilize regulatory equations and calculate a standard, compare that to the EPA HAL, and go with the most conservative number. Mr. Conrad stated that medium-specific concentrations (MSCs) for 35 chemicals are changing. For those 35 chemicals, a total of 290 MSCs have been revised with the overwhelming number of revised MSCs being less conservative. With regards to petroleum products and the short list of constituents, four MSCs will become more conservative by more than 20%. Those chemicals are: benzo[b]fluoranthene, chrysene, ethyl benzene, and naphthalene. Mr. Conrad stated that the draft final rulemaking was discussed with the Cleanup Standards Scientific Advisory Board. The rulemaking has been non-controversial and only three comments were received. Mr. Conrad noted that the DEP was retaining the groundwater standard for MtBE at 20 ppb. Mark Miller asked about implementation of the revised standards. Mr. Conrad responded that if a report is submitted after the effective date of the final rulemaking, the revised standards apply.

Mr. Conrad also stated that the program is in the process of revising the Vapor Intrusion Guidance. The draft guidance will be discussed with the CSSAB in April and a more detailed discussion of the guidance with STAC is planned for June. Mike Maddigan, DEP, discussed the major changes to the guidance in terms of petroleum products. Mr. Maddigan noted that the current guidance treats petroleum products and non-petroleum products the same, setting the exclusion distance at 100 feet from structures. Therefore, if it is determined that contamination exists within the exclusion zone, a vapor intrusion analysis must be performed. One of the proposed revisions to the guidance recognizes the bio-attenuation properties of petroleum, and as a result the exclusion distance has been revised. For petroleum products, if it is determined that contamination exists within 30 horizontal feet, 6 vertical feet, or within 15 vertical feet in the presence of separate phase liquids, a vapor intrusion analysis must be performed.

Mr. Conrad stated that the revised guidance incorporates options and different paths for remediators. One option is to go directly to mitigation. DEP will partner with the Pennsylvania Council of Professional Geologists to provide training on the guidance. The training is planned for later in 2015. Mr. Conrad stated that the revised Vapor Intrusion Guidance will then be incorporated into the Technical Guidance Manual (TGM) at a later date.

Steve Hieber asked for clarification on the proposed exclusion distances for petroleum products, which Mr. Maddigan explained. Mr. Gallogly inquired if the DEP is requiring more aggressive analysis under slabs. Mr. Maddigan responded yes, that there is movement toward near-source or sub-slab sampling, as well as indoor air sampling.

Mr. Arnold asked the committee if there was any **old business** to discuss. There being none, under **new business**, **the Committee Recommendation to Present Chapter 250 to the**

**Environmental Quality Board as Final Rulemaking** was discussed. Mr. Gallogly asked if the CSSAB had modified their position on the rulemaking from proposed to final. Mr. Hartenstein stated that the position of the CSSAB remains the same. The CSSAB is supportive of the Chapter 250 rulemaking with the exception of how the groundwater standard for MtBE is established. Upon a motion by Mr. Hieber, seconded by Timothy Bytner, the committee voted to unanimously approve the Chapter 250 draft final rulemaking as written for presentation to the EQB as final rulemaking, with the exception of the proposed MtBE value in Table 1, Appendix A. The committee did not support using EPA's drinking water advisory as the groundwater MSC for MtBE. The MSC should have been calculated using specific health-based criteria. Mr. Swokel requested John Arnold to provide a letter to the EQB stating the committee's position with regards to the final Chapter 250 rulemaking.

Also **new business**, Ms. Fishel, alternate to Dennis Hameister, gave the report of the Nominating Committee for the **Election of Officers**. The Nominating Committee comprised of Dennis Hameister, Chairperson; Timothy Bytner; and David Gallogly nominates John Arnold as Chairperson and Judy Brackin as Vice-Chairperson to serve another two-year term. Mr. Arnold opened the floor for any further nominations for both positions. There being no additional nominations, on a motion by Mr. May, seconded by Mr. Gallogly, the committee voted unanimously to elect John Arnold, Chairperson, and Judy Brackin, Vice-Chairperson, to serve another two-year term as STAC officers.

Mr. Arnold noted that the **remaining meeting dates for 2015** are as follows: June 2, September 1 and December 8.

The meeting was **adjourned** at 11:12 a.m., upon motion and seconded.