

**MINUTES OF THE
STORAGE TANK ADVISORY COMMITTEE MEETING
MARCH 9, 2021**

The Storage Tank Advisory Committee (STAC) met on March 9, 2021, virtually via WebEx at 10:00 a.m. Eleven (11) voting members were present, which constituted a quorum.

VOTING MEMBERS OR ALTERNATES PRESENT

Local Government:

Ronald Grutza, Pennsylvania State Association of Boroughs
Holly Fishel, Pennsylvania State Association of Township Supervisors

Regulated Community:

Brandie Lehman, Associated Petroleum Industries of Pennsylvania
Michael DeBerdine, III, Pennsylvania Petroleum Association
John Kulik, Pennsylvania Petroleum Association
J. Stephen Hieber, Tank Installers of Pennsylvania

Public:

Robert May, Montrose Environmental Group, Inc. (Chair)
Charles Frey, Jr., Highland Tank & Manufacturing Company
Eric Wolfer, Highland Tank & Manufacturing Company
Timothy Bytner, Babst Calland
Daniel Hido, Babst Calland
Scott Nowicki, TTI Environmental, Inc.

Active Commercial Farm Owner/Operator:

John Bell, Pennsylvania Farm Bureau.

Registered Professional Engineer:

Francis Catherine, PE, P. Joseph Lehman, Inc. Consulting Engineers
Mark Onesky, PE, Onesky Engineering, Inc.

CALL MEETING TO ORDER

Robert May called the March 9, 2021, meeting of the STAC to order.

APPROVAL OF MINUTES FROM THE DECEMBER 2, 2020, MEETING

The minutes from the December 2, 2020, meeting were approved as submitted, upon motion and seconded.

STAC MEMBERSHIP LIST

Kris Shiffer, DEP, reported that currently 14 of the 16 positions are filled. Vacancies exist representing local government and the Hydrogeologist. Since the last meeting, there have been several appointments to the committee. They were as follows:

- Joshua Ehrman, member and Ronald Grutza, alternate member, have been reappointed to represent the Pennsylvania State Association of Boroughs.
- J. Stephen Hieber, member and J. Benjamin Hieber, alternate member, have been reappointed to represent the Tank Installers of Pennsylvania.
- Francis Catherine, member and Mark Onesky, alternate member, have been reappointed to represent Pennsylvania Registered Engineers.

Mr. Shiffer reported current members soon expiring include:

- Michael Platt, member, and John Bell alternate member, representing Active Commercial Farm Owners and Operators.

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 Executive Director, Underground Storage Tank Indemnification Board (USTIB), attended representing the USTIF.

Per the Comptroller financial statements for the period ending December 31, 2020, USTIF had assets on hand totaling \$398.9 million. Included in this amount is the loan to the Commonwealth's general fund, which remains unpaid. Total unpaid loan amount, including interest, is currently \$86.4 million. Program receipts at the end of December totaled \$27.7 million from fee revenue and \$25.9 million from investments for total revenue of \$53.6 million for the period July 1, 2020 through December 31, 2020. Last year during this time, USTIF reported \$45.4 million in revenue. Even though throughput revenue is down due to the current pandemic, market investment revenue has increased. Expenditures for this same time period were \$24.1 million compared with \$22.5 million last year. The increase in expenditures is due to an increase in claim payments.

USTIF's unfunded liability amount at the end of the year was \$20.6 million as compared to last year's number of \$41 million, a reduction in the unfunded liability amount of \$20.4 million. USTIF received 204 new claims in 2020, averaging about 17 per month. In 2019, USTIF received 215 new claims. Thus far in 2021, USTIF has received 28 new claims. Currently, USTIF is handling a total of 915 open claims.

Mr. Burgan noted that the USTIB is scheduled to have its quarterly meeting on March 11, 2021 in Harrisburg, PA.

Mr. Deberdine asked Mr. Burgan how USTIF funding is invested to ensure future and current financial needs are met. Mr. Burgan replied that USTIF investments are managed both internally by an investment committee and by a third party. Mr. Burgan stated that 65% of USTIF funds are invested in equities and 35% in fixed income, which are long term bonds. The USTIF portfolio is constantly being evaluated based on market conditions. If need be, based on current market conditions, the percentage breakdown of the fund is adjusted. Overall, USTIF funds are invested for the long term.

DEP UPDATE

Mr. Shiffer introduced Ryan Haerer, Emerging Fuels & Infrastructure Specialist, Release Prevention Division, Office of Underground Storage Tanks, U.S. Environmental Protection Agency (EPA). EPA has proposed regulations relating to the sale and distribution of gasoline-ethanol blends containing greater than 10 volume percent ethanol and up to 15 volume percent ethanol (E15) and state program approval regulations published in the Federal Register on January 19, 2021 (86 Fed. Reg. 5094–5104). EPA is co-proposing to either modify the E15 label or remove the label requirement entirely and is seeking comment on whether state and local governments may be preempted from requiring different labels on fuel dispensers. EPA is also proposing to modify the Underground Storage Tank (UST) regulations to grant certain allowances for compatibility demonstration for storage of ethanol blends and proposing compatibility requirements for future UST installations or component replacements that would ensure compatibility with ethanol blends up to and including 100 percent (E100).

Mr. Haerer provided the committee with a summary of the proposed regulations, focusing on the proposal to modify compatibility requirements for both existing and new UST systems. Under EPA's proposed rulemaking, UST systems installed prior to the rule change (and up to 1 year after) would not have to provide compatibility information as long as these systems are secondarily contained and performing interstitial monitoring. This allowance to not being required to provide compatibility information on these systems includes spill prevention equipment, overfill devices, sensors, and other UST components. In addition, any UST system or component installed or replaced 1 year after EPA's proposed rule change, would be required to be compatible with ethanol blends up to and including 100 percent (E100). This E100 compatibility requirement would apply to UST systems used to store motor fuel for over-the-road vehicles, including UST systems used to store diesel fuel.

Mr. Haerer stated the 90-day public comment period ends on April 19, 2021, and members are encouraged to submit comments. Holly Fishel asked Mr. Haerer if EPA has considered any increased cost to the storage tank owner if the proposed requirement to install E100 compatible equipment is enacted. Mr. Haerer responded that meetings with stakeholders have not yet occurred to determine accurate costs, but EPA does believe there will be an increase in costs in UST components, however, in an overall complete UST system installation, the expected cost increase is estimated to be no more than a 5% increase. Mr. Shiffer reminded the committee that if EPA's proposed rulemaking is enacted as currently written, equipment used to monitor for releases would not have to prove compatibility so long as the UST system is secondarily

contained and performing interstitial monitoring. Mr. Shiffer expressed concern that releases would not be detected if equipment used to monitor for loss of product is installed and not compatible with the substance being stored.

Mr. May requested Mr. Haerer to explain why EPA is proposing to change the current warning label required on dispensers that distribute ethanol blended fuels. Mr. Haerer explained that the current label may be serving to discourage ethanol blended fuel use due to its wording and design. EPA's proposed changes would change the wording and design in an effort to encourage an increase in ethanol blended fuel use. Mr. Bell asked Mr. Haerer to clarify the scope of the proposed rulemaking and if the proposed rulemaking would apply to UST systems being used for farm use. Mr. Shiffer commented that it would depend on how EPA would define the term "over-the-road". Many UST systems located on farms do store a motor fuel and are used to fuel the UST owner's vehicle that does go on the road. Mr. Haerer took note of the comment for further consideration by EPA during the rulemaking process.

Mr. Shiffer next discussed Pennsylvania's current UST population in terms of tank construction and age of UST. Currently, a majority of UST's are greater than 30 years in age. Older USTs are predominately single walled in construction. Based on current data, Pennsylvania has over 7,000 USTs that have been installed beyond the average UST life and are greater than 30 years in age. However, there does not seem to be a conclusive study amongst the states that shows the risk of a release increasing based on age alone. Other factors such as how a UST has been maintained seem to be more of a factor. Mr. Shiffer informed the committee that some states have looked to put an end date on how long a UST remains in the ground. Pennsylvania is not currently in discussions on this concept. Mr. Shiffer stressed that if any deadline to remove a UST based on age is proposed, it should be accompanied by some form of financial assistance mechanism. Otherwise, there may be additional abandoned UST systems across the state.

Mr. Shiffer then provided an update on the Storage Tank Mobile Application. Since September 2019, DEP staff have performed over 2300 mobile inspections and continue to enhance the application based on feedback. Next major development with the application is to incorporate the ability to assign consistently worded requests to observed violations. A mobile application for third party inspectors is also planned.

Mr. Eric Lingle, DEP, provided an update on the storage tank program's epermitting platform. Mr. Lingle stated that to date, \$1.5 million in registration fee revenue has been received through the online fee payment option through epermitting. Mr. Lingle also stated that a soon to be released enhancement to epermitting is the ability to perform contact updates on a larger scale. This will be helpful to facility owners who wish to make updates to contact information, such as responsible official contact or Class A or Class B Operator information for multiple facilities. Mr. Lingle noted that there has been an increased usage of the epermitting system. Currently, there is an overall 10% increase in usage of the system, with some areas of the state seeing higher usage. The program is continuing to look at options to help promote the epermitting platform.

Noreen Wagner, DEP, provided an update on the Environmental Cleanup Program. Ms. Wagner noted that at the December 2020 meeting of the USTIB, a DEP allocation request of \$2.3 million for fiscal year 2020/2021 for the Environmental Cleanup Program was approved. For fiscal year

2020/2021, DEP has expended \$1,285,000 of this allocation. Of these expenditures, \$761,000 has been spent on corrective action at 20 state lead sites. DEP has also approved 134 heating oil cleanup grants for a total of \$530,900. Currently, there are 6 applications pending.

Mr. Lingle provided an update on the Pollution Prevention Grant Program, commonly called Pump and Plug. For the previous fiscal year, July 1, 2019 through June 30, 2020, 8 applications were approved for a total of \$34,000. For the current fiscal year beginning July 1, 2020, 8 applications have been approved for a total of \$40,000. Currently 1 application is pending. Mr. Lingle stated that the Pump and Plug application has now been moved to an electronic process through the Department of Community and Economic Development. Several applications have now been processed through this new system and no problems were encountered. Since the beginning of the Pump and Plug, 1,150 applications have been approved for a total of \$5.9 million.

OTHER BUSINESS

Mr. May asked the committee if there was any old business to discuss. There being none, under new busines, Mr. May asked the committee if a letter should be sent on behalf of the committee to express opposition to any fund extractions from USTIF for non-UST expenditures. Mr. Frey, Mr. Grutza, and Ms. Fishel provided comments in support of the letter. Mr. Grutza suggested to also send the letter to the respective appropriation chairs. The letter was approved, upon motion and seconded, by unanimous consent. Mr. May then asked the committee if a letter commenting on EPA's proposal regarding compatibility and dispenser labeling change should be sent on behalf of the committee. Mr. Bell commented that he did not have sufficient information to make a decision at this time. Mr. Bytner asked Mr. Haerer if all future modification would require E100 compatibility. Mr. Haerer stated that if the UST stores a motor fuel and used for "over-the-road" purposes, then yes, all future replacements of any UST component would require E100 compatibility. Mr. Frey asked Mr. Haerer if the requirement to upgrade to E100 compatibility would possibly discourage a UST owner from replacing the component. Mr. Haerer stated that EPA has heard that concern. After discussion, it was decided to not send any letter on behalf of the committee. Mr. May then asked if any STAC member or member of the public in attendance wished to provide public comment. There being no public comments, remaining meeting dates for 2021 was stated as June 8, September 8 and December 7.

ADJOURNMENT

The meeting was adjourned at 11:33 a.m., upon motion and seconded.