

**May 26, 2016**

**Board of Directors**

**Iowa Comprehensive Petroleum  
UST Fund Board**



# IOWA UNDERGROUND STORAGE TANK FUND

Douglas M. Beech, *Chairperson*

Dale T. Cira, *Administrator*

*Board Members:* Michael L. Fitzgerald    Joseph D. Barry    Jeff. W. Robinson    Karen E. Andeweg    Chuck Gipp  
   Timothy L. Gartin    Dawn M. Carlson    Patricia J. Beck    N. Kurt Mumm

## NOTICE OF PUBLIC MEETING

A public meeting of the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board has been scheduled for 10:00 A.M., Thursday, May 26, 2016. The meeting will be held at the **State Capitol Building, 1005 East Grand Avenue, Room 15, Des Moines, IA 50319.**

The tentative agenda for the meeting is as follows:

10:00 a.m. Call to Order

1. Approval of Prior Board Minutes
2. Closed Session Discussion of Pending and Imminent Litigation (To adjourn by 10:30 am)
3. Public Comment Period
4. Board Issues
  - A. Legislative Update
  - B. Limited Loss Portfolio Transfer
  - C. Conceptual Plan Update
  - D. DNR Update
5. Approval of Program Billings
6. Monthly Activity Report and Financials Reviewed
7. Attorney General's Report
8. Claim Payment Approval
9. Contracts Entered Into Since April 22, 2016 Board Meeting
10. Other Issues as Presented
11. Correspondence and Attachments

## **Approval of Prior Board Minutes**



# IOWA UNDERGROUND STORAGE TANK FUND

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## MINUTES

### IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND PROGRAM

APRIL 22, 2016

STATE CAPITOL BUILDING  
1005 EAST GRAND AVENUE, ROOM 15  
DES MOINES, IOWA

Doug Beech, Board Chair, called the Iowa UST Fund Board meeting to order at 10:03 A.M. A quorum was present, with the following Board members present:

Karen Andeweg  
Joseph Barry  
Patricia Beck (via telephone)  
Dawn Carlson  
Tim Hall (for Chuck Gipp)  
Adam Phillips (for Michael Fitzgerald)  
Jeff Robinson

Also present were:

Dale Cira, Administrator  
James Gastineau, Deputy Administrator  
Elaine Douskey, Iowa Department of Natural Resources

### APPROVAL OF PRIOR BOARD MINUTES

Mr. Beech inquired if the members had reviewed the minutes and there were any items for discussion. Ms. Carlson moved to approve the minutes of the March 25, 2016, meeting and Mr. Hall seconded the motion. The minutes were approved unanimously.

### CLOSED SESSION

Mr. Beech noted there were no matters dealing with litigation for discussion in closed session pursuant to Iowa Code Chapter 21.

## **PUBLIC COMMENT**

No public comments were presented.

## **BOARD ISSUES**

### **A. Legislative Update**

Mr. Cira provided an update on the progress of the current legislative session. He noted the previously discussed bill, House File 2381, had passed out of the House appropriations committee and commented that the bill had been significantly modified in a successor bill, House File 2464.

Mr. Cira noted as written HF 2464 would extend the EPC collection by six months through December 31, 2016 and provide for continued funding to that date, which means there will be two more quarterly deposits of \$3.5 million after the end of the current fiscal year. Mr. Cira noted the bill eliminates all references to the EPC in Iowa Code and noted that all provisions of the existing Fund program would remain intact. He also noted that unlike the prior bill, HF 2464 does not provide a stop date to the program or to the taking of new claims.

Mr. Cira noted in discussion that the bill would likely be brought forth for a vote in the next week. He noted that if approved, the conceptual plan may need to be altered as there is likely to be more funding than previously anticipated. Following a brief discussion, it was agreed that because the possibility of more funding, that further discussion will be needed on the plan to bring the program to closure and the timeline for doing the same. It was also noted that if the program continues, the Board may need to look at another contract renewal for bidding of the administrator's role as Aon's contract expires at the end of the year.

### **B. FY 2016 Claims Update**

Mr. Cira provided an update on the activities being pursued regarding implementation of the Conceptual Plan as discussed during the October 2015 Board meeting. He noted conversations continue with PMMIC about a limited Loss Portfolio Transfer and indicated that negotiations are continuing to finalize a claim amount for each of the sites under consideration. He also noted that work on the claims continues are reported in the prior months so no significant update was provided on this matter.

Following an inquiry on the LPT status, Mr. Gastineau noted that the parties involved are still waiting for a bid from consultants on one site to be included in the LPT. He noted his hope to have budgetary numbers before the next meeting. He also commented that the budget estimate for this single site is significant in comparison to the overall portfolio concept.

### **C. DNR Update**

Ms. Douskey indicated she had nothing to report.

**APPROVAL OF PROGRAM BILLINGS**

The current monthly billings were presented to the Board for approval:

- 1. Aon Risk Services .....\$101,262.00  
 Consulting Services May 2016 -- \$62,262.00  
 Claims Processing Services May 2016-- \$39,000.00
  
- 2. Iowa Attorney General’s Office .....\$6,282.67  
 Services provided for Underground Storage Tank Program  
 March 2016 (FY 2016) Billing

Mr. Barry moved to approve the billings and Ms. Andeweg seconded the motion. The motion was passed unanimously.

**MONTHLY ACTIVITY REPORT AND FINANCIALS REVIEWED**

Mr. Gastineau commented the March activity report was provided in the packet for review. He noted a decrease in the amount paid on claims at approximately \$544,000 for the month of March and noted the amount would be close to that again in April. He also noted a continuing reduction in the claim numbers, as six innocent landowner and three remedial claims closed in March.

Regarding the financials, Mr. Gastineau commented that the third quarterly installment of \$3.5 million was deposited resulting in a balance over \$10.5 million in the revenue fund. He noted the annual budget year provides for a transfer of \$9 million to the remedial fund and indicated that action would be completed by the end of the current fiscal year.

**ATTORNEY GENERAL’S REPORT**

There was not a report in Mr. Steward’s absence.

**CLAIM PAYMENT AUTHORITY**

The following claim authority requests were presented:

**1. Site Registration 8601879 – Buckner U-Save, Greenfield (3<sup>rd</sup> Board Report)**

Mr. Gastineau noted this site is high risk for the vapor and water line pathways. A dual phase extraction system had operated from 2007 through late 2014. The system succeeded in reducing contaminant levels; however, further action appears to be necessary to close this claim as elevated contaminant levels remain. The consultant is recommending an excavation, as the soil plume

exceeding target levels has been defined to be on-site and, as a result, the excavation may result in claim closure following post-excavation monitoring.

Mr. Gastineau noted the present claim reserve is \$550,000; prior Board approval was granted in September 2012. Additional authority of \$50,000 was requested for total authority to \$600,000.

Ms. Carlson moved to approve the request and Ms. Andeweg seconded the motion. Motion carried unanimously.

### **CONTRACTS ENTERED INTO SINCE MARCH 25, 2016 BOARD MEETING**

Mr. Gastineau reported that the Board signed an amendment to the 28E agreement to modify the duration terms of the agreement for the State Lead Closure Contracts. He noted the contractor agreements would be changed in the upcoming months to reflect the decision made in the March Board meeting.

### **OTHER ISSUES AS PRESENTED**

Mr. Gastineau noted the next Board meeting is scheduled for Thursday, May 26, 2016, and the annual meeting is Tuesday, July 19. He reported one Board member has a potential conflict with the annual meeting date and inquired on possibility of changing the date to Monday, July 18<sup>th</sup>. Mr. Beech requested a note be sent to the Board members asking they check their availability so a date can be set for the meeting. Mr. Gastineau indicated a note would be sent in the upcoming weeks.

### **CORRESPONDENCE AND ATTACHMENTS**

Mr. Beech indicated that the correspondence and attachments could be read after the meeting adjourns.

A motion to adjourn the meeting was made by Mr. Barry and seconded by Ms. Carlson. The meeting adjourned at 10:18 A.M.

Respectfully submitted,



James Gastineau  
Deputy Administrator

## **Closed Session**

### **Discussion of Pending and Imminent Litigation**

## **Public Comment**

## **Board Issues**

## **A. Legislative Update**



# IOWA UNDERGROUND STORAGE TANK FUND

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## MEMORANDUM

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TO:            UST Board Members  
FROM:        Dale T. Cira  
DATE:        May 18, 2016  
SUBJECT:    Legislative Update

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The 2016 Legislative Session adjourned April 29<sup>th</sup>. The session produced one significant change for the UST Board in the enactment of House File 2464. That change is the ending of the quarterly allocation of monies to the Fund, as of December 31, 2016.

The bill also eliminates the collection of the Environmental Protection Charge (EPC) as of December 31, 2016 and removes all references to the EPC from Iowa Code. This includes the requirement for Board rules regarding the implementation and collection of the EPC, as adopted in Iowa Administrative Code 591 – Chapter 5 and 6.



TERRY E. BRANSTAD  
GOVERNOR

**OFFICE OF THE GOVERNOR**

KIM REYNOLDS  
LT. GOVERNOR

May 16, 2016

The Honorable Paul Pate  
Secretary of State of Iowa  
State Capitol Building  
LOCAL

Dear Mr. Secretary:

I hereby transmit:

House File 2464, an Act relating to environmental protection by modifying and eliminating allocations from the statutory allocations fund to the Iowa comprehensive petroleum underground storage tank fund and the renewable fuel infrastructure fund, making related changes, including changes related to the repeal of the environmental protection charge on petroleum diminution, and including effective date provisions.

The above House File is hereby approved this date.

Sincerely,

A handwritten signature in black ink that reads "Terry E. Branstad".

Terry E. Branstad  
Governor

cc: Secretary of the Senate  
Clerk of the House



House File 2464

AN ACT

RELATING TO ENVIRONMENTAL PROTECTION BY MODIFYING AND ELIMINATING ALLOCATIONS FROM THE STATUTORY ALLOCATIONS FUND TO THE IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND AND THE RENEWABLE FUEL INFRASTRUCTURE FUND, MAKING RELATED CHANGES, INCLUDING CHANGES RELATED TO THE REPEAL OF THE ENVIRONMENTAL PROTECTION CHARGE ON PETROLEUM DIMINUTION, AND INCLUDING EFFECTIVE DATE PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

UNDERGROUND STORAGE TANK FUND AND RENEWABLE FUEL INFRASTRUCTURE FUND ALLOCATIONS

Section 1. Section 321.145, subsection 2, paragraph a, Code 2016, as amended by division II of this Act, is amended by striking the paragraph.

Sec. 2. Section 321.145, subsection 2, paragraph b, Code 2016, is amended to read as follows:

b. Moneys ~~remaining after the operation of paragraph "a"~~ shall be credited in order of priority as follows:

(1) An amount equal to four percent of the revenue from the operation of section 321.105A, subsection 2, shall be credited to the department, to be used for purposes of public transit assistance under chapter 324A.

(2) An amount equal to two dollars per year of license validity for each issued or renewed driver's license which is valid for the operation of a motorcycle shall be credited to

the motorcycle rider education fund established under section 321.179.

(3) The amounts required to be transferred pursuant to section 321.34 from revenues available under this subsection shall be transferred and credited as provided in section 321.34, subsections 7, 10, 10A, 11, 11A, 11B, 13, 16, 17, 18, 19, 20, 20A, 20B, 20C, 21, 22, 23, 24, 25, and 26 for the various purposes specified in those subsections.

Sec. 3. Section 455B.302, unnumbered paragraph 3, Code 2016, is amended to read as follows:

A city or county which provides closure or postclosure care on the premises of a sanitary landfill owned by a private agency, shall have a lien upon the property to secure payment for the amount of materials and labor expended by the city or county to perform the required closure or postclosure care on the premises. The lien shall be recordable and collectable in the same manner as provided in section 424.11, Code 2016. The lien shall attach at the time the city or county incurs expenses to provide closure or postclosure care on the premises of the sanitary landfill. The lien shall be valid as against subsequent mortgagees, purchasers, or judgment creditors, for value and without notice of the lien, only upon filing a notice of the lien with the recorder of the county in which the property is located. Upon payment, the city or county shall release the lien. If no lien has been recorded at the time the property is sold or transferred, the property shall not be subject to a lien or claim for any closure or postclosure costs incurred by the city or county.

Sec. 4. Section 455B.392, subsection 7, paragraph d, Code 2016, is amended to read as follows:

d. Cleanup expenses incurred by the state or a political subdivision shall be a lien upon the real estate constituting the hazardous condition site, recordable and collectable in the same manner as provided for in section 424.11, Code 2016, subject to the terms of this subsection. The lien shall attach at the time the state or a political subdivision incurs expenses to clean up the hazardous condition site. The lien shall be valid as against subsequent mortgagees, purchasers, or judgment creditors, for value and without notice of the

lien, only when a notice of the lien is filed with the recorder of the county in which the property is located. Upon payment by the person to the state or a political subdivision, of the amount specified in this subsection, the state or a political subdivision shall release the lien. If no lien has been recorded at the time the person sells or transfers the property, then the person shall not be liable for any cleanup costs incurred by the state or a political subdivision.

Sec. 5. Section 455G.1, subsection 2, unnumbered paragraph 1, Code 2016, is amended to read as follows:

This subchapter applies to petroleum underground storage tanks for which an owner or operator is required to maintain proof of financial responsibility under federal or state law, from the effective date of the regulation of the federal environmental protection agency governing that tank, and not from the effective compliance date, unless the effective compliance date of the regulation is the effective date of the regulation. An owner or operator of a petroleum underground storage tank required by federal or state law to maintain proof of financial responsibility for that underground storage tank is subject to this subchapter ~~and chapter 424~~.

Sec. 6. Section 455G.3, subsection 1, Code 2016, is amended to read as follows:

1. The Iowa comprehensive petroleum underground storage tank fund is created as a separate fund in the state treasury, and any funds remaining in the fund at the end of each fiscal year shall not revert to the general fund but shall remain in the Iowa comprehensive petroleum underground storage tank fund. Interest or other income earned by the fund shall be deposited in the fund. The fund shall include moneys credited to the fund under this section, section 321.145, subsection 2, paragraph "a", Code 2016, and sections 455G.8 and 455G.9, and section 455G.11, Code 2003, and other funds which by law may be credited to the fund. The moneys in the fund are appropriated to and for the purposes of the board as provided in this subchapter. Amounts in the fund shall not be subject to appropriation for any other purpose by the general assembly, but shall be used only for the purposes set forth in this subchapter. The treasurer of state shall act as custodian

of the fund and disburse amounts contained in it as directed by the board including automatic disbursements of funds as received pursuant to the terms of bond indentures and documents and security provisions to trustees and custodians. The treasurer of state is authorized to invest the funds deposited in the fund at the direction of the board and subject to any limitations contained in any applicable bond proceedings. The income from such investment shall be credited to and deposited in the fund. The fund shall be administered by the board which shall make expenditures from the fund consistent with the purposes of the programs set out in this subchapter without further appropriation. The fund may be divided into different accounts with different depositories as determined by the board and to fulfill the purposes of this subchapter.

Sec. 7. Section 455G.3, subsection 5, Code 2016, is amended by striking the subsection.

Sec. 8. Section 455G.4, subsection 3, paragraph b, Code 2016, is amended by striking the paragraph.

Sec. 9. Section 455G.5, unnumbered paragraphs 2 and 3, Code 2016, are amended to read as follows:

The board may enter into a contract or an agreement authorized under chapter 28E with a private agency or person, the department of natural resources, the Iowa finance authority, the department of administrative services, the department of revenue, other departments, agencies, or governmental subdivisions of this state, another state, or the United States, in connection with its administration and implementation of this subchapter or chapter ~~424~~ or 455B.

The board may reimburse a contractor, public or private, retained pursuant to this section for expenses incurred in the execution of a contract or agreement. Reimbursable expenses include, by way of example, but not exclusion, the costs of ~~collecting the environmental protection charge~~ or administering specific delegated duties or powers of the board.

Sec. 10. Section 455G.6, subsection 4, Code 2016, is amended to read as follows:

4. Grant a mortgage, lien, pledge, assignment, or other encumbrance on one or more improvements, revenues, asset of right, accounts, or funds established or received in connection

with the fund, including revenues derived from the moneys credited under section 321.145, subsection 2, paragraph "a", Code 2016, and deposited in the fund or an account of the fund.

Sec. 11. Section 455G.8, subsection 2, Code 2016, is amended to read as follows:

2. *Statutory allocations fund.* The moneys credited from the statutory allocations fund under section 321.145, subsection 2, paragraph "a", Code 2016, shall be allocated, consistent with this subchapter, among the fund's accounts, for debt service and other fund expenses, according to the fund budget, resolution, trust agreement, or other instrument prepared or entered into by the board or treasurer of state under direction of the board.

Sec. 12. Section 455G.9, subsection 5, paragraph a, Code 2016, is amended to read as follows:

a. If an owner or operator ceases to own or operate a tank site for which remedial account benefits were received within ten years of the receipt of any account benefit and sells or transfers a property interest in the tank site for an amount which exceeds one hundred twenty percent of the precorrective action value, adjusted for equipment and capital improvements, the owner or operator shall refund to the remedial account an amount equal to ninety percent of the amount in excess of one hundred twenty percent of the precorrective action value up to a maximum of the expenses incurred by the remedial account associated with the tank site plus interest, equal to the interest for the most recent twelve-month period for the most recent bond issue for the fund, on the expenses incurred, compounded annually. An owner or operator under this subsection shall notify the board of the sale or transfer of the property interest in the tank site. Expenses incurred by the fund are a lien upon the property recordable and collectible in the same manner as the lien provided for in section 424.11, Code 2016, at the time of sale or transfer, subject to the terms of this section.

Sec. 13. Section 455G.9, subsections 7 and 10, Code 2016, are amended to read as follows:

7. *Expenses of cleanup not required.* When an owner or operator who is eligible for benefits under this subchapter

is allowed by the department of natural resources to monitor in place, the expenses incurred for cleanup beyond the level required by the department of natural resources may be covered under any of the accounts established under the fund only if approved by the board as cost-effective relative to the department accepted monitoring plan or relative to the repeal date specified in section 424.19, Code 2016. The cleanup expenses incurred for work completed beyond what is required is the responsibility of the person contracting for the excess cleanup. The board shall seek to terminate the responsible party's environmental liabilities at such sites prior to the board ceasing operation.

10. *Expenses incurred by governmental subdivisions and public works utilities.* The board shall adopt rules for reimbursement for reasonable expenses incurred by a governmental subdivision or public works utility for sampling, treating, handling, or disposing, as required by the department, of petroleum-contaminated soil and groundwater encountered in a public right-of-way during installation, maintenance, or repair of a utility or public improvement. The board may seek full recovery from a responsible party liable for the release for such expenses and for all other costs and reasonable attorney fees and costs of litigation for which moneys are expended by the fund. Any expense described in this subsection incurred by the fund constitutes a lien upon the property from which the release occurred. A lien shall be recorded and an expense shall be collected in the same manner as provided in section 424.11, Code 2016.

Sec. 14. Section 455G.13, subsection 5, Code 2016, is amended to read as follows:

5. *Lien on tank site.* Any amount for which an owner or operator is liable to the fund, if not paid when due, by statute, rule, or contract, or determination of liability by the board or department of natural resources after hearing, shall constitute a lien upon the real property where the tank, which was the subject of corrective action, is situated, and the liability shall be collected in the same manner as the environmental protection charge pursuant to section 424.11, Code 2016.

Sec. 15. EFFECTIVE DATE. This division of this Act takes effect December 31, 2016.

DIVISION II

RENEWABLE FUEL INFRASTRUCTURE FUND — ENVIRONMENTAL PROTECTION  
CHARGE ON PETROLEUM DIMINUTION REPEAL

Sec. 16. Section 321.145, subsection 2, paragraph a, subparagraph (2), Code 2016, is amended to read as follows:

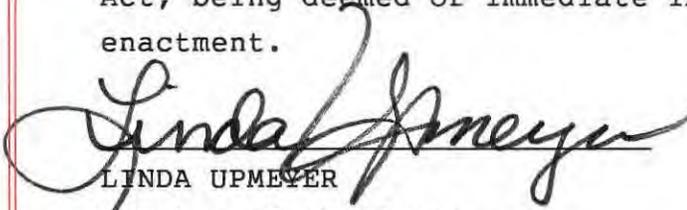
(2) Second, ~~seven~~ one million five hundred fifty thousand dollars per quarter shall be deposited into and credited to the renewable fuel infrastructure fund created in section 159A.16, and the moneys so deposited are a continuing appropriation for expenditure under chapter 159A, subchapter III, and moneys so appropriated shall not be used for other purposes.

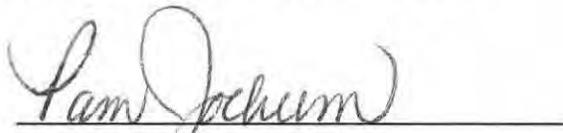
Sec. 17. Section 424.19, Code 2016, is amended to read as follows:

**424.19 Future repeal.**

This chapter is repealed effective ~~June 30~~ December 31, 2016.

Sec. 18. EFFECTIVE UPON ENACTMENT. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

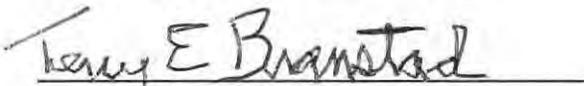
  
LINDA UPMAYER  
Speaker of the House

  
PAM JOCHUM  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2464, Eighty-sixth General Assembly.

  
CARMINE BOAL  
Chief Clerk of the House

Approved May 16, 2016

  
TERRY E. BRANSTAD  
Governor

## **B. Limited Loss Portfolio Transfer**



# IOWA UNDERGROUND STORAGE TANK FUND

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Dale T. Cira, *Administrator*

*Board Members:* Michael L. Fitzgerald      Joseph D. Barry      Jeff. W. Robinson      Karen E. Andeweg      Chuck Gipp  
   Timothy L. Gartin      Dawn M. Carlson      Patricia J. Beck      N. Kurt Mumm

## MEMORANDUM

TO:            UST Board Members  
FROM:        Dale T. Cira  
DATE:        May 18, 2016  
SUBJECT:     Limited Loss Portfolio Transfer

### Background

The Board has twice previously entered into an agreement to transfer liabilities to Petroleum Marketers Management Insurance Company (PMMIC) at sites where the Board had an active open liability and PMMIC also had a separate open active liability (claim). Since that time additional sites have been identified either through a new release or the reevaluation of the legacy contamination relative to risk.

As part of the conceptual plan for terminating program liabilities, the Board approved and delegated authority to the Administrator to commence the process to complete a transfer of existing shared liability claims.

Attached behind this memo is the document signed by the Board and PMMIC for the transfer of claims in 2013. The agreement was established as a master agreement to allow for the transfer of liabilities at sites where both the Board and PMMIC have an open active liability for a one-year period, subject to successive terms. Under the terms of the agreement, the Board retained the future potential payment for tank removal as well as any investigation at the sites pursuant to the No Further Action agreement in place with the Department of Natural Resources.

### Issue

In each of the prior transfers, the claimant was given the express authority to choose whether he/she would agree to the transfer of their claim to PMMIC, inasmuch as the claimant had to complete the attached agreement to release the Board. If the claimant site refused to execute an agreement, the Board liabilities would not be transferred.

In consideration of the Conceptual Plan for the Termination of the Program Liabilities as discussed in October 2015, it was noted that the Board does not require authorization to transfer a claim especially if the intent of the transfer is to end the program.

For the purpose of the limited transfer of claims to PMMIC, the matter for discussion is whether a Claimant should be given the duty to enter into an agreement (opt-in) for the

transfer of his/her claim or if the Claimant should be informed a transfer will be completed, unless they choose to opt out of the transfer.

Projection

Following a determination of a claimant's role in the transfer of the Board liabilities, new agreements will be drafted to ensure proper notification of the possible or pending claim transfers. Currently, the following eleven (11) sites are under consideration for a transfer with Board estimated liabilities near \$600,000:

<b>Site #</b>	<b>Name</b>	<b>IUST Claimant</b>	<b>City</b>	<b>Claim Type</b>
8606840	Gene Moeller Oil	Gene Moeller Oil	Ft Dodge	RM
8605883	Hawkeye Johnson	Hawkeye Oil Co.	Cedar Rapids	RM
8604952	Hancock Co Coop	Hancock County Cooperative Oil Assoc.	Klemme	RT
8608757	T&W Boatworks	T&W Boatworks, LLC	Onawa	RM
8913711	Kahlua LLC	Wood Standard / R Wood	Donnellson	RM
8607024	Kum&Go	Bro Oil Co, Inc.	Winterset	RM
8605613	Pump & Pizza	JET Gas	Bonaparte	RM
8607932	Johnson Oil	Quint Cities Petroleum Prop Co.	Bettendorf	RT
8607082	Bumper-to-Bumper	Fauser Oil Co., Inc.	Oelwein	RM
8600474	Farmer's Oil Co.	NFA Re-Op	Wayland	NFA
9117224	Jo-Ro's Service	NFA Re-Op	St. Mary's	NFA

## AGREEMENT, WAIVER AND GENERAL RELEASE

This Agreement, Waiver and General Release (“Agreement”) is entered into by and between the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board (“Board”), an Iowa governmental agency created pursuant to Iowa Code chapter 455G, and [REDACTED], of [REDACTED] (“Claimant”). This Agreement is effective as of the date it is fully executed by all parties.

WHEREAS, Claimant is currently eligible to receive benefits from the Board to reimburse corrective action costs for a site at [REDACTED] [DNR Registration # [REDACTED] and LUST # [REDACTED]], (“Site”);

WHEREAS, Iowa Code section 455G.6(17) authorizes the Board to adopt rules providing for the transfer of all or a portion of the liabilities of the Board under Iowa Code chapter 455G, and the Board has adopted rules contained in 591 Iowa Admin. Code 9 providing for the transfer of the Board’s liabilities to third parties; and

WHEREAS, PMMIC and the Board have entered into a separate Agreement allowing for the transfer of Board liabilities to PMMIC to provide a single source of funding and management for the corrective action activities at the Site;

THEREFORE, in consideration of the commitments made herein, the Board and Claimant agree as follows:

1. **Consent to Transfer of Liabilities.** Claimant hereby consents to the transfer to PMMIC of any and all liabilities of the Board contained in Iowa Code sections 455G.9 and 455G.21 to reimburse Claimant for corrective action costs related to the Site. Claimant acknowledges a copy of Iowa Code 455G.5(17) and 591 Iowa Admin. Code 9 have been provided with this Agreement for reference and review.

a. Claimant understands that upon completion of the transfer of liabilities, PMMIC shall assume any and all responsibilities and activities of the Board related to the liabilities transferred, including but not limited to, project funding and management, claim adjustment, and consultation with Claimant, contractors and the Iowa Department of Natural Resources.

b. Claimant further understands the Board shall cease to maintain any ongoing duty whatsoever to Claimant in relation to the liabilities transferred, and Claimant will become ineligible to again receive benefits from the Board in relation to the Site for benefit claims made pursuant to Iowa Code sections 455G.9 or 455G.21.

c. Notwithstanding language in this Agreement to the contrary, the liabilities transferred to PMMIC do not include reimbursement claims for the permanent closure of an underground storage tank system pursuant to Iowa Code section 455G.9(1)(l), or the assessment and corrective action costs conducted pursuant to an agreement with the Iowa Department of Natural Resources as authorized by Iowa Code section 455G.9(1)(k) after a No Further Action

Certificate has been issued. The Board will retain liability for such claims and activities unless otherwise agreed to by the Board, PMMIC and Claimant in writing.

2. **Waiver of Benefits.** In consideration for the transfer of funds described in paragraph 4 of this Agreement, Claimant hereby voluntarily waives any and all right to receive benefits from the Board pursuant to Iowa Code sections 455G.9 and 455G.21, and 591 Iowa Admin. Code 11 upon signing this Agreement. Claimant understands that by consenting to the transfer of Board liabilities to PMMIC, PMMIC shall assume all duties and liabilities of the Board to provide benefits to Claimant.

3. **Release of Claims.** In consideration for the transfer of funds described in paragraph 4 of this Agreement, Claimant hereby releases, acquits, and forever discharges the Board and its officers, employees, assigns, agents, and successors in interest from any and all claims, rights, demands, actions, obligations, liabilities, and causes of action of any and every kind, nature, and character whatsoever, known or unknown, whether based on federal, state, or local law, or for claims based on tort, contract (implied, oral, or written), or any other theory of recovery, and whether for compensatory or punitive damages, for any matter related to or concerning the liabilities transferred.

4. **Transfer to PMMIC.** In consideration for Claimant's waiver of benefits and release of claims, the Board and PMMIC shall, pursuant to a separate agreement, effectuate the transfer of liabilities and payment of a sum of money to PMMIC.

5. **No Representation of Future Right to Benefits.** With the exception of paragraph 1(c) of this Agreement, Claimant understands and agrees that upon completion of the transfer of Board liabilities to PMMIC, Claimant's continued eligibility to receive benefits pursuant to Iowa Code sections 455G.9 and 455G.21 is a matter to be determined exclusively between the Claimant and PMMIC. Claimant understands and agrees the Board has not made any representation regarding Claimant's future eligibility for, or receipt of, benefits.

6. **No Representation of Protection by Insurance Guaranty Association.** Claimant understands that upon transfer the Board's liabilities to PMMIC, Claimant's reimbursement for corrective action costs is subject to PMMIC's continued ability to pay for such costs. Claimant understands that in the event PMMIC becomes insolvent and is liquidated, Claimant may lose all rights to receive reimbursement. Claimant understands and agrees the Board has not made any representation regarding Claimant's future eligibility for recovery from the Iowa Guaranty Association, under Iowa Code chapter 515B, in the event PMMIC becomes insolvent and is liquidated.

7. **Public Record.** The parties acknowledge this Agreement is a public record under Iowa Code chapter 22, and is available for public inspection and copying.

8. **Titles.** Paragraph titles are provided for the parties' convenience and do not limit the scope or meaning of any paragraph.

9. **Complete Agreement.** This Agreement reflects the parties' entire agreement on this matter and may not be altered or amended except by a subsequent written document signed by all parties to the Agreement.

10. **Authority to Sign.** The parties, and their representatives, by signing below, acknowledge that they have complied with all the legal requirements for approval of this Agreement and that their representatives are authorized to bind their respective agencies or bodies by their signatures to this contract.

11. **Applicable Law.** This Agreement shall be governed by, and construed in accordance with, Iowa law.

12. **Execution.** Claimant is executing this Agreement solely in reliance upon Claimant's own knowledge, belief and judgment and not upon any representations made by the Board or others on the Board's behalf. Furthermore, Claimant acknowledges reading this entire Agreement, understanding the Agreement constitutes a contract, and entering into this Agreement voluntarily only after being advised by the Board of the right to consult with an attorney.

**PLEASE READ CAREFULLY. THIS AGREEMENT INCLUDES A WAIVER OF BENEFITS AND A RELEASE OF ALL KNOWN AND UNKNOWN CLAIMS.**

\_\_\_\_\_  
Claimant's Printed Name

\_\_\_\_\_  
Scott Scheidel, Administrator  
Iowa Comprehensive Petroleum  
Underground Storage Tank Fund Board

\_\_\_\_\_  
Claimant's Signature

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

I, \_\_\_\_\_, a notary public in and for the State of Iowa, do hereby certify that \_\_\_\_\_ personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Subscribed and Sworn to before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for the State of Iowa

My commission expires:

## **C. Conceptual Plan Update**



# IOWA UNDERGROUND STORAGE TANK FUND

Douglas M. Beech, *Chairperson*

Dale T. Cira, *Administrator*

Board Members: Michael L. Fitzgerald Joseph D. Barry Jeff. W. Robinson Karen E. Andeweg Chuck Gipp  
Timothy L. Gartin Dawn M. Carlson Patricia J. Beck N. Kurt Mumm

## MEMORANDUM

TO: UST Board Members  
FROM: Dale Cira  
DATE: May 19, 2016  
SUBJECT: Conceptual Plan Update

In the six months since the Board approved partial implementation of the Conceptual Plan for the Termination of the Program Liabilities, several actions have been initiated and, in light of recent legislation, some actions will be re-examined. The tasks proposed for implementation included:

1. Contacting claimants of inactive and stalled claims
2. Developing a Loss Portfolio Transfer (LPT) with Petroleum Marketers Management Insurance Corp. (PMMIC) for claims with shared liability concerns
3. Identifying and offering settlement agreements to eligible claimants

The Board also requested a review of the claims to determine which are likely to have a certainty for closure. In general, this category is those claims classified No Action Required for which only the final activities and invoicing is needed. As of April 30<sup>th</sup>, 29 of the 418 open claims are for sites now classified No Action Required.

### Claims Update

Stalled Claims: As of April 30<sup>th</sup>, the Department has 705 active LUST sites in comparison to the 418 open claims. Most of the claims are considered active as work is progressing toward attainment of site closure. A few sites remain stalled; however, for many of these same sites work is progressing with the use of the State Closure Contract vendors. As new information is presented on the open claims, occasionally a claim may fall into the classification of stalled and, in those cases, letters are sent seeking a claimant's participation in further site work.

In an effort to assess the lost sites, i.e., the number between active LUSTs and active claims, a review was completed in comparison to claims *closed* since 2000. In this review, 64 LUST sites were identified where Fund eligibility may exist. The sites include those where claims were administratively closed in the last few months but also include claims closed due to inaction, failure to document an eligible release, failure to document continuous financial responsibility, and, in a few cases, due to a claimant declaring bankruptcy.

Shared Liability Claims: Discussions with PMMIC have been initiated on claim sites having shared liabilities. The field of possible transfers has been narrowed from 13 to 11 claims and the estimates for future work are near completion. The estimated Board liability of the 11 claims under consideration is approximately \$600,000. A settlement of these claims is expected to proceed.

Settlements: Following earlier discussions, several claimants were contacted regarding this option. Due to concerns on the proposed terms of the settlement agreement and uncertainty on the program end, no settlements have been completed. Due to the recent legislation, new contacts will be initiated as claimants may be open to reconsider the option knowing finality in the program funding exists. It is possible some settlements may still proceed; however, it is unlikely that this will result in a large number of closures.

### **Future Actions**

With the passage of 2016 legislation and an understanding on the finality of program funding, new consideration of the Conceptual Plan is recommended. If the intent remains to complete a transfer of claims within the next year, discussion will be needed on what is desired in a transfer and what can be established for claims not suitable for transfer.

If the Board elects to consider a possible transfer, the qualifications of the transferee will be of the utmost importance. The ongoing financial viability of the transferee, whether an insurance company, risk transfer company, or environmental firm, will be a primary consideration for the Board. The transferee's experience with environmental claims will also play an important role in the evaluation of any potential transferee. The transferee will also be expected to have an understanding of the issues and practices that pertain to Iowa Fund claims and the Iowa regulations that pertain to underground storage tank sites.

While it is anticipated that most of the claims would be selected for a transfer, there are situations that may warrant further consideration and possible exclusion assuming an alternate funding mechanism can be established. Claims that could be excluded include those: (a) that have attained a NAR classification; (b) where statutory funding cap of \$1M has been or is likely to be exceeded without attaining a NAR classification; and (c) those sites associated with existing and/or former State Lead projects. Claims that have been closed and special project claims without an identified claimant could also be excluded from such a transfer. Overall, it is anticipated that the number of claims that may be candidates for a transfer will be in the range of 300 - 340 claims with an estimated reserve liability in the range of \$20-23 million.

## **D. DNR Update**

## **Approval of Program Billings**



# IOWA UNDERGROUND STORAGE TANK FUND

Douglas M. Beech, *Chairperson*

Dale T. Cira, *Administrator*

*Board Members:* Michael L. Fitzgerald    Joseph D. Barry    Jeff. W. Robinson    Karen E. Andeweg    Chuck Gipp  
   Timothy L. Gartin    Dawn M. Carlson    Patricia J. Beck    N. Kurt Mumm

## MEMORANDUM

TO:            UST Board Members  
FROM:        James Gastineau  
DATE:        May 19, 2016  
SUBJECT:     Summary of Bills for Payment

### \*NOTICE\*

The following is a summary of UST bills requiring Board approval for payment:

1.     Aon Risk Services ..... \$101,262.00  
      Consulting Services June 2016 -- \$62,262.00  
      Claims Processing Services June 2016-- \$39,000.00
  
2.     Aon Risk Services ..... \$101,262.00  
      Consulting Services July 2016 -- \$62,262.00  
      Claims Processing Services July 2016-- \$39,000.00
  
3.     Iowa Attorney General's Office ..... \$3,501.37  
      Services provided for Underground Storage Tank Program  
      April 2016 (FY 2016) Billing
  
4.     Office of Auditor of State..... \$1,796.13  
      Services provided for Underground Storage Tank Program  
      3<sup>rd</sup> Quarter (FY 2016) Billing

## Iowa Comprehensive Petroleum

Invoice No. 9500000126770

Iowa Comprehensive Petroleum  
Underground Storage Tank Fund  
2700 Westown Pkwy, #320  
West Des Moines IA 50266 USA

Aon Risk Services Central, Inc  
Aon Risk Insurance Services Central, Inc  
West Des Moines IA Office  
CA License # 0D04043  
2700 Westown Parkway, Suite 320  
West Des Moines IA 50266  
(515) 267-9101 FAX (515) 267-9046



**Client Account No.** 10756349      **Invoice Date** Apr-15-2016      **Currency** US DOLLAR      **Account Executive** James Gastineau

Named Insured	Service Term	Trans. Eff. Date	Description	Amount
Iowa Comprehensive Petroleum	Jan-01-2016 - Jan-01-2017	Jun-01-2016	Renewal - Service Fee	
<b>Comments</b>			Service Fee	62,262.00
Installment 6 of 12 Monthly Fee			Consulting Expense	39,000.00
Payment due 21 days after Transaction Effective Date				
Thank you for your business!				
<b>TOTAL INVOICE AMOUNT DUE</b>				<b>101,262.00</b>

**TO AVOID POTENTIAL DISRUPTION IN YOUR COVERAGE, PAYMENT IS DUE UPON RECEIPT.  
Please Make Payable to Aon Risk Services**

*FATCA Notice: Please go to Aon.com/FATCA to obtain the appropriate W-9.*

*Please see reverse side for statement regarding Aon compensation.*

Page 1 of 2

*Please detach here. Top portion is for your records, bottom portion to be returned with your payment.*

Client Account No.	Invoice No.	Invoice Date	Currency	Amount Due
10756349	9500000126770	Apr-15-2016	US DOLLAR	101,262.00

Iowa Comprehensive Petroleum  
Underground Storage Tank Fund  
2700 Westown Pkwy #320  
West Des Moines IA 50266 USA

**Remit to:**

Aon Risk Services Central, Inc  
Aon Risk Services Companies, Inc.  
75 Remittance Drive - Suite 1943  
Chicago IL 60675-1943

## Iowa Comprehensive Petroleum

Invoice No. 9500000127555

Iowa Comprehensive Petroleum  
Underground Storage Tank Fund  
2700 Westown Pkwy, #320  
West Des Moines IA 50266 USA

Aon Risk Services Central, Inc.  
Aon Risk Insurance Services Central, Inc.  
West Des Moines IA Office  
CA License # 0D04043  
2700 Westown Parkway, Suite 320  
West Des Moines IA 50266  
(515) 267-9101 FAX (515) 267-9045



Client Account No. 10756349 Invoice Date May-16-2016 Currency US DOLLAR Account Executive James Gastineau

Named Insured	Service Term	Trans. Eff. Date	Description	Amount
Iowa Comprehensive Petroleum	Jan-01-2016 - Jan-01-2017	Jul-01-2016	Renewal - Service Fee	
<b>Comments</b>			Service Fee	62,262.00
Installment 7 of 12 Monthly Fee			Consulting Expense	39,000.00
Payment due 21 days after Transaction Effective Date				
Thank you for your business!				
			<b>TOTAL INVOICE AMOUNT DUE</b>	<b>101,262.00</b>

TO AVOID POTENTIAL DISRUPTION IN YOUR COVERAGE, PAYMENT IS DUE UPON RECEIPT.  
Please Make Payable to Aon Risk Services

FATCA Notice: Please go to [Aon.com/FATCA](http://Aon.com/FATCA) to obtain the appropriate W-9.

Please see reverse side for statement regarding Aon compensation.

Page 1 of 2

Please detach here. Top portion is for your records, bottom portion to be returned with your payment.

Client Account No.	Invoice No.	Invoice Date	Currency	Amount Due
10756349	9500000127555	May-16-2016	US DOLLAR	101,262.00

Iowa Comprehensive Petroleum  
Underground Storage Tank Fund  
2700 Westown Pkwy, #320  
West Des Moines IA 50266 USA

## Remit to:

Aon Risk Services Central, Inc.  
Aon Risk Services Companies, Inc.  
75 Remittance Drive - Suite 1943  
Chicago IL 60675-1943

IOWA ATTORNEY GENERAL'S OFFICE  
Hoover State Office Bldg - 2nd Floor  
Des Moines, Iowa 50319-0141

Invoice Date: 05/05/16

**Buyer:** Aon Risk Services  
2700 Westown Pkwy, Ste 320  
West Des Moines, IA 50266  
Attn: Dale Cira

**Seller:** Iowa Attorney General's Office  
Hoover State Office Bldg - 2nd Floor  
Des Moines, IA 50319-0141

Services For: Assistant Attorneys General  
Period of Service: April FY16

---

Please use the following accounting information for (IET) transfer/payment:

Document Number	Account Coding				Description	Amount
	Fund	Agency	Org	Sub Org		
112AG050516042	0001	112	2301		0302	\$ 3,501.37

---

Please direct billing questions to Vicki Bahe at 515-281-0853



**Iowa Attorney General's Office  
Invoiced Services**

Billing Period:	<b>APRIL 2016</b>
Billing Total:	<b>\$3,501.37</b>
DSS @ 22%	\$1,161.72
RCH @10%	\$315.19
CLJ @12%	\$285.26
Pay period ending: 4/7/16	\$1,762.17
DSS @ 22%	\$1,151.03
RCH @10%	\$314.73
CLJ @12%	\$283.68
Pay period ending: 4/21/16	\$1,749.44
DSS @ 22%	
RCH @10%	
CLJ @12%	
Pay period ending:	\$0.00
One Call Exp, 1st Qtr CY 2016	(\$10.24)
	<b>\$3,501.37</b>

**DSS = David Steward** 22%  
Dave is our Asst Attorney General who provides the Board with legal

**RCH = Richard Heathcote** 10%  
Rich is a PhD hydrogeologist who consults for the Board by reviewing claim files and DNR records to assist in the determination of technologies used at sites. Rich reviews site files for the usage of RBCA Tier 3 reports; he also reviews proposals for CRP's or special projects.

**CLJ = Cindy Jacobs** 12%  
Cindy is a legal secretary for the Environmental/UST Division of the Attorney General's Office located in the Lucas Building. Cindy completes status reports and maintains appeal files for UST claimants with regard to their UST Fund benefits' eligibility.



OFFICE OF AUDITOR OF STATE  
STATE OF IOWA

Mary Mosiman, CPA  
Auditor of State

State Capitol Building  
Des Moines, Iowa 50319-0004

Telephone (515) 281-5834 Facsimile (515) 242-6134

BILL TO:
Scott M. Scheidel, Administrator Iowa UST Program 2700 Westown Parkway, Suite 320 West Des Moines, IA 50266

INVOICE	
DATE	4/26/2016
NUMBER	23093
AMOUNT DUE	\$ 1,796.13

FOR AUDIT SERVICES PERFORMED DURING FISCAL YEAR 2016

DESCRIPTION	HOURS	PER DIEM	EXPENSE	TOTAL
<b>A. FISCAL YEAR TO DATE:</b>				
Barton, Colton	18.5	\$ 1,290.38	\$ -	\$ 1,290.38
Bormann, Luke	5.5	204.88	-	204.88
Brustkern, Karen	0.5	44.13	-	44.13
Hollingsworth, Tammy	4.0	379.01	-	379.01
Nielsen, Andrew	1.0	104.50	-	104.50
Shipman, Miranda	6.0	433.51	-	433.51
Swanson, Ryan	7.0	505.75	-	505.75
FY16 Estimated total bill \$ 5,800				
<b>TOTAL</b>	<b>42.5</b>	<b>\$ 2,962.16</b>	<b>\$ -</b>	<b>\$ 2,962.16</b>
<b>B. LESS BILLED TO DATE</b>	<b>17.0</b>	<b>\$ 1,166.03</b>	<b>\$ -</b>	<b>\$ 1,166.03</b>
<b>C. 3RD QUARTER BILL</b>	<b>25.5</b>	<b>\$ 1,796.13</b>	<b>\$ -</b>	<b>\$ 1,796.13</b>



OFFICE USE ONLY
Please make payment for the audit bill with the attached Internal Exchange Transaction (IET) to the Office of Auditor of State.
If you have any questions, please contact Susan Fager (515-281-6074)

## **Monthly Activity Report and Financials Reviewed**

## **A. April 2016 Activities Report**

Apr-16

	Open Claims		Open Claims	Open & Closed
Claims	March 2016 Ending	Monthly Net Changes	April 2016 Ending	Totals since Inception
<b>RETROACTIVE</b>				
number	22	0	22	447
reserve	\$ 1,232,999.11	(\$64,358.12)	\$ 1,168,640.99	\$1,168,640.99
paid	\$5,757,000.89	\$44,358.12	\$5,801,359.01	\$18,113,410.75
	\$6,990,000.00	(\$20,000.00)	\$6,970,000.00	\$19,282,051.74
<b>REMEDIAL</b>				
number	307	(2)	305	4,460
reserve	\$17,666,555.11	(\$342,795.45)	\$17,323,759.66	\$17,323,759.66
paid	\$67,072,418.29	\$105,296.25	\$67,177,714.54	\$217,853,712.54
total	\$84,738,973.40	(\$237,499.20)	\$84,501,474.20	\$235,177,472.20
<b>INNOCENT LANDOWNER</b>				
number	81	(2)	79	1,133
reserve	\$4,053,568.84	(\$101,981.20)	\$3,951,587.64	\$3,951,587.64
paid	\$10,569,431.16	\$24,081.20	\$10,593,512.36	\$33,129,894.78
total	\$14,623,000.00	(\$77,900.00)	\$14,545,100.00	\$37,081,482.42
<b>GLOBAL OPT-IN</b>				
number	66	(2)	64	1,307
reserve	\$313,825.98	\$2,814.96	\$316,640.94	\$316,640.94
paid	\$577,585.07	(\$26,314.96)	\$551,270.11	\$9,843,568.78
total	\$891,411.05	(\$23,500.00)	\$867,911.05	\$10,160,209.72
<b>UNASSIGNED REVENUE FUND PROJECTS</b>				
number	60	(2)	58	301
reserve	\$1,579,788.66	(\$319,108.50)	\$1,260,680.16	\$1,260,680.16
paid	\$779,702.34	\$17,572.00	\$797,274.34	\$3,331,670.98
total	\$2,359,491.00	(\$301,536.50)	\$2,057,954.50	\$4,592,351.14
<b>NFA RE-EVALUATIONS</b>				
number	13	(1)	12	59
reserve	\$291,945.26	(\$11,673.80)	\$280,271.46	\$280,271.46
paid	\$526,659.74	\$3,068.80	\$529,728.54	\$1,324,058.68
total	\$818,605.00	(\$8,605.00)	\$810,000.00	\$1,604,330.14
<b>TANK PULLS</b>				
number	31	4	35	461
reserve	\$445,615.00	\$60,000.00	\$505,615.00	\$505,615.00
paid	\$9,385.00	\$0.00	\$9,385.00	\$5,059,105.06
total	\$455,000.00	\$60,000.00	\$515,000.00	\$5,564,720.06

Corrective Action Meetings (4/15/16)	
Scheduled:	6
Completed:	1,286
MOA's	488

UST Operator Training	
Class A/B Oper.	3,173
A/B (FY2011-16)	\$304,920

<b>Total Claims</b>	(RM, RT, ILO, NFA)	418
<b>Total Reserve</b>	(inc. Global Opt-In)	\$23,040,900.69

RT Claims	#
New	0
Reopened	0
Closed	0

RM Claims	#
New	1
Reopened	1
Closed	4

ILO Claims	#
New	0
Reopened	0
Closed	2

GS Claims	#
New	2
Reopened	0
Closed	3

USTCA	#
New	1
Reopened	0
Closed	3

NFA Re-Eval	#
New	0
Reopened	0
Closed	1

Tank Pull	#
New	10
Reopened	0
Closed	6

DNR @ 5-4-2016	
Total LUST	6631
OPEN LUST	705
High Risk	403
Low Risk	147
NAR-FP	65
Not Class.	90

Invoice Type Totals	APRIL	FYTD	Program to Date
Aon - Admin	\$ -	\$ 572,880.12	
Aon - Claims	\$ -	\$ 379,493.00	
Government	\$ 18,696.90	\$ 653,612.73	
2004 Tank Pull	\$ -	\$ -	\$ 1,761,823.44
2010 Tank Pull	\$ 69,023.15	\$ 777,880.19	\$ 5,159,861.93
American Soils	\$ -	\$ -	\$ 5,678,422.58
AST Removal	\$ -	\$ -	\$ 3,306,435.24
AST Upgrade	\$ -	\$ -	\$ 7,911,496.87
CADR Charges	\$ -	\$ 87,021.75	\$ 4,680,683.53
Corrective Action	\$ 11,399.56	\$ 11,399.56	\$ 52,434,553.67
Expenses / OT	\$ 1,400.00	\$ 11,900.00	\$ 304,920.00
Free Prod Recover	\$ 54,883.56	\$ 536,767.14	\$ 11,766,282.21
Monitoring	\$ 114,593.84	\$ 1,439,842.30	\$ 32,312,921.66
Operations/Maint	\$ 27,951.66	\$ 249,428.60	\$ 10,441,173.31
Over-excavation	\$ 233,068.99	\$ 2,358,352.83	\$ 34,657,508.37
Water Lines	\$ -	\$ 359,272.22	\$ 2,909,225.43
Post RBCA Evals	\$ 1,467.50	\$ 13,870.42	\$ 244,483.41
RBCA	\$ 12,934.80	\$ 282,015.10	\$ 26,777,546.91
Remed Imp/Const.	\$ 80,215.09	\$ 1,212,319.22	\$ 30,295,489.76
SCR Charges	\$ -	\$ -	\$ 54,217,410.26
Site Check	\$ -	\$ -	\$ 142,486.32
Soil Disposal	\$ -	\$ -	\$ 738,386.66
Tank (UST) Pull	\$ -	\$ -	\$ 3,979,734.25
Tank (UST) Upgrade	\$ -	\$ -	\$ 3,440,849.83
Tier III	\$ 4,246.00	\$ 13,696.25	\$ 1,379,462.65
Utilities	\$ 5,311.63	\$ 85,546.18	\$ 2,180,768.76
Well Closure	\$ 12,343.00	\$ 150,562.08	\$ 4,018,575.91
<b>Total Invoice Types</b>	<b>\$ 628,838.78</b>	<b>\$ 7,589,873.84</b>	<b>\$ 299,790,207</b>

Remediation Budgets Approved to Date		
last month (APR '16)	4	\$153,207
Prior 12 months	50	\$3,999,123
Trailing 12 months	42	\$3,015,170
Total Since Jan 2003	1212	\$52,562,388

Project Contracts	Open	Closed	Pending
CRP's	5	40	0
NFA Re-Opener	2	2	0
Tank Closure	2	5	0
Plastic Water Line	0	2	0

## **B. April 2016 Financial Report**

**IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND  
STATEMENT OF FUND BALANCES  
FOR THE MONTH ENDING APRIL 30, 2016**

**0471 - UST REVENUE FUND (Bonding)**

<hr/>		\$11,048,734.95
<b>Balance of Fund, April 1, 2016</b>		
 <b>Receipts:</b>		
Motor Vehicle Use Tax (IDOT - vehicle registration)	\$0.00	
Intra State Fund Transfers Received	\$0.00	
Interest Income	\$3,247.62	
	<hr/>	\$3,247.62
 <b>Disbursements:</b>		
Bond Interest Payment	\$0.00	
Bond Principal Payment	\$0.00	
EPC Charges	\$0.00	
Adjustments	\$0.00	
Transfer to General Fund	\$0.00	
Transfer to Unassigned Revenue Fund (0450)	\$0.00	
Transfer to Innocent Landowner Fund (0485)	\$0.00	
Transfer to Remedial Non-Bonding Fund (0208)	\$0.00	
	<hr/>	\$0.00
 <b>Balance of Fund, April 30, 2016</b>		<hr/> <b>\$11,051,982.57</b> <hr/>

**0450 - UST UNASSIGNED REVENUE FUND (Non-Bonding)**

<hr/>		\$7,633,923.74
<b>Balance of Fund, April 1, 2016</b>		
 <b>Receipts:</b>		
Copying/Filing Fees	\$0.00	
Fines & Penalties	\$0.00	
Refund/Overpayment	\$0.00	
Transfer From UST Revenue Fund (0471)	\$0.00	
Interest Income	\$10,975.81	
	<hr/>	\$10,975.81
 <b>Disbursements:</b>		
UST Administrator's Fees	\$0.00	
Adjustment	\$0.00	
Attorney General's Fees	\$0.00	
Attorney's Fees: Cost-Recovery Administration	\$0.00	
Cost Recovery Expense (i.e. Lien Filing, Overpayment Refund)	\$12.00	
Actuarial Fees	\$0.00	
Auditor of the State Fees	\$0.00	
Claim Settlement	\$0.00	
Department of Revenue EPC Collection Fees	\$0.00	
Department of Inspection & Appeals Service Fees	\$0.00	
Environmental Protection Charge Refunds	\$0.00	
Iowa Finance Authority Expenses	\$0.00	
Legal and Professional Fees	\$0.00	
Postage / Printing / Miscellaneous	\$0.00	
Professional Services - Owner/Operator Training	\$1,400.00	
Rebate	\$0.00	
Special Project Claims - Closure Contract Project	\$17,572.00	
Travel Expenses-UST Board Members	\$0.00	

**IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND  
STATEMENT OF FUND BALANCES  
FOR THE MONTH ENDING APRIL 30, 2016**

Warrant Float Expense	\$0.00	
28E Agreement - DNR RBCA Model Revision	\$0.00	
Statutory Transfer to DNR (Admin match)	\$0.00	
Statutory Transfer to DNR (tech review - recurring & carry over)	\$0.00	
Statutory Transfer to IDAL (fuel inspections - recurring & carry over)	\$0.00	
Appropriation 2015	\$0.00	
Appropriation 2016	\$18,696.90	
Offset of Funds to/from Innocent Land Owners (0485)	\$0.00	
Offset of Funds to/from Remedial Fund (0208)	\$0.00	
		\$37,680.90
<b>Balance of Fund, April 30, 2016</b>		<b>\$7,607,218.65</b>
 <b>0208 - UST REMEDIAL NON-BONDING FUND</b>		
<b>Balance of Fund, April 1, 2016</b>		\$12,144,060.13
<b>Receipts:</b>		
Remedial Refunds	\$0.00	
Misc. Income (i.e. eligibility settlements)	\$0.00	
Interest Income	\$0.00	
Transfer From UST Revenue Fund (0471)	\$0.00	
		\$0.00
<b>Disbursements:</b>		
Retroactive Claims	\$44,358.12	
Remedial Claims	\$436,515.82	
28E Agreement - NFA Claims	\$4,680.00	
Adjustment	\$0.00	
Offset of Funds to/from ILO/GS Fund	\$0.00	
Offset of Funds to/from Unassigned Revenue Fund (0450)	\$0.00	
Balance of Outdated Warrants & Cancelled Warrants	\$0.00	
		\$485,553.94
<b>Balance of Fund, April 30, 2016</b>		<b>\$11,658,506.19</b>
 <b>0478 - UST MARKETABILITY FUND</b>		
<b>Balance of Fund, April 1, 2016</b>		\$816,659.36
<b>Receipts:</b>		
Interest	\$3,348.47	
Use Tax	\$0.00	
		\$3,348.47
<b>Disbursements:</b>		
Intra State Fund Transfer	\$0.00	
Transfer to Innocent Landowners Fund	\$0.00	
		\$0.00
<b>Balance of Fund, April 30, 2016</b>		<b>\$820,007.83</b>
 <b>0485 - UST INNOCENT LANDOWNERS FUND</b>		
<b>Balance of Fund, April 1, 2016</b>		\$5,209,526.11
<b>Receipts:</b>		
Cost Recovery (i.e. lien settlements)	\$0.00	
ILO Refunds	\$0.00	
Transfer From UST Revenue Fund (0471)	\$0.00	
Transfer From Loan Gaurantee Fund (0238)	\$0.00	

**IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND  
STATEMENT OF FUND BALANCES  
FOR THE MONTH ENDING APRIL 30, 2016**

Outdated Warrants	\$0.00	
Miscellaneous Income	\$0.00	
		\$0.00
<b>Disbursements:</b>		
Cost Recovery Reimbursement	\$0.00	
Cost Recovery Global Settlement	\$0.00	
Adjustment	\$0.00	
Intra State Fund Transfers Paid (to Unassigned Revenue)	\$0.00	
Other Contractual Services	\$0.00	
Global Settlement Claims	\$21,232.97	
Innocent Landowner Claims	\$103,079.87	
Transfer to Remedial Fund (0208)	\$0.00	
Transfer to/from Unassigned Revenue Fund (0450)	\$0.00	
Balance of Outdated Warrants	\$0.00	
		\$124,312.84
<b>Balance of Fund, April 30, 2016</b>		<b>\$5,085,213.27</b>
 <b>0238 - UST LOAN GUARANTEE FUND (Non-Bonding)</b>		
		\$0.00
<b>Balance of Fund, April 30, 2016</b>		<b>\$0.00</b>
 <b>0614 - UST CAPITAL RESERVE FUNDS (Bonding)</b>		
		\$0.00
<b>Balance of Fund, April 30, 2016</b>		<b>\$0.00</b>
 <b>Combined UST Capital Reserve Fund Balances, April 30, 2016</b>		 <b>\$0.00</b>
<b>TOTAL FUND BALANCES, April 30, 2016</b>		<b>\$36,222,928.51</b>

**FOOTNOTES:**

Note 1: Funds labeled "Bonding" were created as a result of the issuance of UST Revenue Bonds. Disbursements from these funds are restricted by the Revenue Bond indenture.  
Funds labeled "Non-Bonding" are funds not restricted as to use by the Revenue Bond indenture.

**C. Year-to-Date Financials as of April 30, 2016**

**IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND  
STATEMENT OF FUND BALANCES  
FISCAL YEAR TO DATE ENDING APRIL 30, 2016**

		<b>FISCAL 2016 BUDGET</b>
<b>0471 - UST REVENUE FUND (Bonding)</b>		
<b>Balance of Fund, July 1, 2015</b>	\$538,281.87	<b>\$538,281.87</b>
<b>Receipts:</b>		
Motor Vehicle Use Tax (IDOT - vehicle registration)	\$10,500,000.00	\$14,000,000.00
Intra State Fund Transfers Received	\$0.00	
Interest Income	\$13,700.70	\$50,000.00
	<u>\$10,513,700.70</u>	<u>\$14,050,000.00</u>
<b>Disbursements:</b>		
Bond Interest Payment	\$0.00	\$0.00
Bond Principal Payment	\$0.00	\$0.00
EPC Charges	\$0.00	\$0.00
Adjustments	\$0.00	\$0.00
Transfer to General Fund	\$0.00	\$0.00
Transfer to Unassigned Revenue Fund (0450)	\$0.00	\$0.00
Transfer to Innocent Landowner Fund (0485)	\$0.00	\$0.00
Transfer to Remedial Non-Bonding Fund (0208)	\$0.00	\$9,000,000.00
	<u>\$0.00</u>	<u>\$9,000,000.00</u>
<b>Balance of Fund, April 30, 2016</b>	<b><u>\$11,051,982.57</u></b>	<b><u>\$5,588,281.87</u></b>
<b>0450 - UST UNASSIGNED REVENUE FUND (Non-Bonding)</b>		
<b>Balance of Fund, July 1, 2015</b>	\$9,417,609.04	<b>\$9,417,609.04</b>
<b>Receipts:</b>		
Copying/Filing Fees	\$0.00	\$0.00
Fines & Penalties	\$0.00	\$0.00
Refund/Overpayment	\$0.00	\$0.00
Transfer From UST Revenue Fund (0471)	\$0.00	\$0.00
Interest Income	\$98,686.62	\$50,000.00
	<u>\$98,686.62</u>	<u>\$50,000.00</u>
<b>Disbursements:</b>		
UST Administrator's Fees	\$952,377.12	\$1,100,000.00
Adjustment	\$0.00	\$0.00
Attorney General's Fees	\$37,965.53	\$50,000.00
Attorney's Fees: Cost-Recovery Administration	\$0.00	\$0.00
Cost Recovery Expense (i.e. Lien Filing, Overpayment Refund)	(\$82,896.25)	\$150.00
Actuarial Fees	\$0.00	\$0.00
Auditor of the State Fees	\$6,881.41	\$5,100.00
Claim Settlement	\$0.00	\$0.00
Department of Revenue EPC Collection Fees	\$3,895.65	\$25,000.00
Department of Inspection & Appeals Service Fees	\$0.00	\$500.00
Environmental Protection Charge Refunds	\$0.00	\$0.00
Iowa Finance Authority Expenses	\$0.00	\$0.00
Legal and Professional Fees	\$0.00	\$0.00
Postage / Printing / Miscellaneous	\$0.00	\$500.00
Professional Services - Owner/Operator Training	\$11,900.00	\$50,000.00
Rebate	\$0.00	\$0.00
Special Project Claims - Closure Contract Project	\$420,368.76	\$800,000.00
Travel Expenses-UST Board Members	\$0.00	\$700.00

**IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND  
STATEMENT OF FUND BALANCES  
FISCAL YEAR TO DATE ENDING APRIL 30, 2016**

		<b>FISCAL 2016 BUDGET</b>
Warrant Float Expense	\$0.00	\$0.00
28E Agreement - DNR RBCA Model Revision	\$31,950.00	\$92,000.00
Statutory Transfer to DNR (Admin match)	\$0.00	\$200,000.00
Statutory Transfer to DNR (technical review - recurring & carry over)	\$0.00	\$361,110.00
Statutory Transfer to IDAL (fuel inspections - recurring & carry over)	\$0.00	\$440,382.07
Appropriations Prior Fiscal Year	\$50,684.73	\$30,000.00
Appropriations Current Fiscal Year	\$525,870.06	\$0.00
Offset of Funds to/from Innocent Land Owners (0485)	(\$41,043.00)	(\$150,000.00)
Offset of Funds to/from Remedial Fund (0208)	(\$8,877.00)	(\$150,000.00)
	<u>\$1,909,077.01</u>	<u>\$2,855,442.07</u>
<b>Balance of Fund, April 30, 2016</b>	<b>\$7,607,218.65</b>	<b>\$6,612,166.97</b>
<b>0208 - UST REMEDIAL NON-BONDING FUND</b>		
<b>Balance of Fund, July 1, 2015</b>	\$16,834,687.68	\$16,834,687.68
<b>Receipts:</b>		
Remedial Refunds	\$0.00	\$0.00
Misc. Income (i.e. eligibility settlements)	\$0.00	\$0.00
Interest Income	\$0.00	\$0.00
Transfer From UST Revenue Fund (0471)	\$0.00	\$9,000,000.00
	<u>\$0.00</u>	<u>\$9,000,000.00</u>
<b>Disbursements:</b>		
Retroactive Claims	\$307,080.57	\$700,000.00
Remedial Claims	\$4,689,250.34	\$5,750,000.00
28E Agreement - NFA Claims	\$173,024.69	\$500,000.00
Adjustment		\$0.00
Offset of Funds to/from ILO/GS Fund	\$0.00	\$150,000.00
Offset of Funds to/from Unassigned Revenue Fund (0450)	\$7,462.00	(\$80,000.00)
Balance of Outdated Warrants	(\$636.11)	
	<u>\$5,176,181.49</u>	<u>\$7,020,000.00</u>
<b>Balance of Fund, April 30, 2016</b>	<b>\$11,658,506.19</b>	<b>\$18,814,687.68</b>
<b>0478 - UST MARKETABILITY FUND</b>		
<b>Balance of Fund, July 1, 2015</b>	\$787,669.61	\$787,669.61
<b>Receipts:</b>		
Interest	\$32,338.22	\$35,000.00
Use Tax	\$0.00	
	<u>\$32,338.22</u>	<u>\$35,000.00</u>
<b>Disbursements:</b>		
Intra State Fund Transfer	\$0.00	\$0.00
Transfer to Innocent Landowners Fund	\$0.00	\$0.00
	<u>\$0.00</u>	<u>\$0.00</u>
<b>Balance of Fund, April 30, 2016</b>	<b>\$820,007.83</b>	<b>\$822,669.61</b>
<b>0485 - UST INNOCENT LANDOWNERS FUND</b>		
<b>Balance of Fund, July 1, 2015</b>	\$7,110,415.34	\$7,110,415.34
<b>Receipts:</b>		
Cost Recovery (i.e. lien settlements)	\$1,315.00	\$25,000.00
ILO Refunds	\$0.00	\$0.00
Transfer From UST Revenue Fund (0471)	\$0.00	\$0.00
Transfer From Loan Gaurantee Fund (0238)	\$0.00	\$0.00

**IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND  
STATEMENT OF FUND BALANCES  
FISCAL YEAR TO DATE ENDING APRIL 30, 2016**

		<b>FISCAL 2016 BUDGET</b>
Outdated Warrants	\$0.00	\$0.00
Miscellaneous Income	\$2,888.21	\$0.00
	<u>\$4,203.21</u>	<u>\$25,000.00</u>
<b>Disbursements:</b>		
Cost Recovery Reimbursement	\$0.00	\$0.00
Cost Recovery Global Settlement	\$0.00	\$0.00
Adjustment	\$0.00	\$0.00
Intra State Fund Transfers Paid (to Unassigned Revenue)	\$0.00	\$0.00
Other Contractual Services	\$1,015.00	\$0.00
Global Settlement Claims	\$76,422.95	\$80,000.00
Innocent Landowner Claims	\$1,922,237.53	\$2,000,000.00
Transfer to/from Remedial Fund (0208)	\$0.00	\$0.00
Transfer to/from Unassigned Revenue Fund (0471)	\$41,043.00	\$150,000.00
Balance of Outdated Warrants	(\$11,313.20)	\$0.00
	<u>\$2,029,405.28</u>	<u>\$2,230,000.00</u>
<b>Balance of Fund, April 30, 2016</b>	<u><b>\$5,085,213.27</b></u>	<u><b>\$4,905,415.34</b></u>
<b>0238 - UST LOAN GUARANTEE FUND (Non-Bonding)</b>		
<b>Balance of Fund, April 30, 2016</b>	<u><b>\$0.00</b></u>	<u><b>\$0.00</b></u>
<b>0614 - UST CAPITAL RESERVE FUNDS (Bonding)</b>		
<b>Combined UST Capital Reserve Fund Balances, April 30, 2016</b>	<u><b>\$0.00</b></u>	<u><b>\$0.00</b></u>
<b>TOTAL FUND BALANCES, April 30, 2016</b>	<u><b>\$36,222,928.51</b></u>	<u><b>\$36,743,221.47</b></u>

**FOOTNOTES:**

**Note 1:** Funds labeled "Bonding" were created as a result of the issuance of UST Revenue Bonds. Disbursements from these funds are restricted by the Revenue Bond indenture. Funds labeled "Non-Bonding" are funds not restricted as to use by the Revenue Bond indenture. **All bond funds are \$0.00 8/31/08**

## **Attorney General's Report**

## **Claim Payment Approval**

**IOWA UNDERGROUND STORAGE TANK PROGRAM  
THIRD BOARD REPORT  
MAY 17, 2016  
BOHLEN'S FARM SERVICE  
100 SOUTH STREET  
PERCIVAL  
SITE REGISTRATION NUMBER: 8606703  
LUST NUMBER: 7LTX40**

RISK CLASSIFICATION:

HIGH

LOW

UNDETERMINED

PRESENT CLAIM RESERVE: \$ 800,000.00

PREVIOUS BOARD APPROVAL: \$ 640,000.00  
Number and Date of each previous Board Report: 1st: May 10, 2002; 2<sup>nd</sup>: February 17, 2003

PREVIOUS COSTS INCURRED: \$ 122,067.52

COSTS INCURRED SINCE LAST BOARD APPROVAL:

1. Remediation implementation	274,491.00
2. Operation and maintenance	224,585.00
3. Monitoring	<u>23,232.62</u>

TOTAL COSTS INCURRED TO DATE: \$ 644,376.14

PROJECTED COSTS:

❖ Site Monitoring Report

❖ Completion of over-excavation

TOTAL PROJECTED COSTS: \$ 80,000.00 to 200,000.00+

ADDITIONAL AUTHORITY RECOMMENDED: \$ 160,000.00

TOTAL AUTHORITY:\* \$ 800,000.00

COMMENTS:

The site is high risk for drinking water wells, residential basements, and residential sewers. There is no public water supply source and as a result all properties around the site have private water wells. The site is still an active gas station, limiting the remedial options. The previous remedial effort (low flow air sparging and soil vapor extraction) was unsuccessful in achieving the very low target levels. The current consultant is proposing to excavate the former tank basin area to remove a contaminant source area. The excavation will be limited by the presence of the nearby petroleum dispensers, canopy and the site building. Affected population likely less than 50.

\*Previous approval + additional recommended

### Site Timeline

- 1987 - Contamination discovered in a neighbors sump pit during a time of high groundwater. The contamination was reported to the DNR and the fire marshall. In response, seven of the nine existing USTs were removed, and four new USTs were installed. A limited excavation was completed during the tank removal.
- 1990 – A benefit claim was filed by Percival Oil, Inc., and determined to be an eligible retro claim.
- 1994 – The two remaining old USTs are removed, leaving four new generation USTs installed in 1987.
- 1996 – An SCR is submitted and accepted as high risk. CADR due in 120 days.
- 1998 and 1999 – A Tier 2 and revised Tier 2 are submitted. DNR issues ‘not accepted’ letters.
- 2000 – A revised Tier 2 is submitted and accepted as high risk. CADR due in 120 days.
- 2002 – An excavation is completed in the former dispenser island/product piping area.
- 2002 – A low flow air sparge and soil vapor extraction (SVE) system is installed and operated at the site thru 2007.
- 2009 – The first corrective action teleconference is held on July 15<sup>th</sup> to discuss future options. Agreed to reassess the soil and groundwater plumes to determine if a monitoring only approach would be acceptable.
- 2010 - DNR agrees to a Tier 3 monitoring approach, though it is unclear when monitoring will be allowed to cease due to water wells and basements in proximity to the contamination.
- 2011 - Missouri River floods town.
- 2014 – Our claimant, Bob Shirley/Percival Oil passed away.
- 2015 – A benefit transfer is taken by the current property owner, Bohlen's Farm Service.



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2070 195 Ave



### Site Timeline

- 1991 – After filing an extension, a site assessment found the site to be contaminated and Archer Coop filed an eligible remedial claim.
- 1994 – An SCR is submitted and accepted as high risk. CADR due in 90 days.
- 2000 – A Tier 2 is submitted and accepted as high risk. CADR due in 120 days.
- 2004 – First board authority request is approved July 13, 2004.
- 2004 – First corrective action teleconference held; agreed to excavate accessible contamination.
- 2004 – Excavation is completed; on-site and adjacent buildings prevent removal of the entire soil plume.
- 2007 – Second corrective action teleconference is held. Consultant to pursue well ordinance, work with the drinking water well owner to see if the well can be plugged, and assess the risk to water lines.
- 2007 - Third corrective action teleconference held. Consultant reports well owner is unwilling to connect to rural water and have their well plugged. Additional excavation and water line replacement may be pursued.
- 2008 - Fourth corrective action teleconference held. Consultant to replace plastic water service lines.
- 2008 - Fifth corrective action teleconference held. The adjacent property owner has agreed to demolish an old garage at their own cost which was preventing the completion of additional excavation.
- 2008 – Second excavation is completed in October.
- 2010 – Water line replacement activities are completed in November.
- 2016 – Tier 3 assessment activities and the documentation of the O’Brien County well ordinance has culminated in the reclassification of all pathways except for the groundwater ingestion pathway for an actual drinking water well.



Imagery ©2016 DigitalGlobe, Map data ©2016 Google 50 ft

Archer

Iowa 51231



Sunny · 62°F  
11:04 AM

**Contracts Entered Into  
Since April 22, 2016 Board Meeting**

## **Other Issues as Presented**

## **Correspondence and Attachments**

Page 8A | Tuesday, May 17, 2016

# Branstad signs law ending tank cleanup program

Measure could mean drivers in Iowa pay less for gasoline in future

**BARBARA RODRIGUEZ**  
ASSOCIATED PRESS

A penny-per-gallon gas tax that for more than a quarter-century has funded efforts to clean up underground petroleum tanks near gas stations will end later this year under a measure Gov. Terry Branstad signed into law Monday.

During a bill signing at the Capitol, Branstad said the program had served its purpose and there is enough money left over to address any future problems that arise related to the storage tanks. The tax expires on Dec. 31.

"This is really a historic day," Branstad said before signing the bill. "We're getting rid of a tax."

The Iowa Legislature created the cleanup program and its tax in 1989 to pay for costs tied to environmental contamination from the underground tanks located near gas stations. Branstad described the "sites" as difficult to address because of insurance coverage issues. The program provided environmental remediation assistance, site insurance and loan financing.

The environmental protection charge has collected 1 cent per gallon of motor fuel and generated roughly \$21 million a year, which was deposited into a road use tax fund.

Iowa Department of Natural Resources Director Chuck Gipp said the law could mean drivers in Iowa pay less for gasoline in the future, noting that gas retailers will be paying less in

taxes. "They certainly should be able to reduce their price at the pump by a penny," he said.

The cleanup fund has about \$36 million in remaining funds, according to the nonpartisan Legislative Services Agency. About \$22 million will be used on outstanding claims linked to sites with underground storage tanks. Gipp said the rest will be available for future issues, which can be uncovered amid construction projects.

Branstad said he felt strongly the tax "needed to go away, especially since we have enough money to take care of any sites that might be discovered in the future," he said.

There was no registered opposition to the legislation, though Gipp said there was interest from some parties to use the money to build more compatible tanks for ethanol blends. Gipp, a former state representative, said such a proposal should go through the channels of state government instead of using money that had a specific designation.

The Iowa Environmental Council, a nonprofit group focused on issues that include clean water, did not take a position on the legislation. Ralph Rosenberg, the council's executive director, said the group did express a concern about depleting the source of funding.

"We are always concerned about underestimating or understating the pool of resources to pay for an environmental leakage," he said.

## **Corrective Action Plan Approvals at LUST Sites**

Recently the UST Section was made aware of corrective action activities involving proposed active treatment of contaminated groundwater at LUST sites for which approval of a corrective action plan (via CADR, CA teleconference plan, or other) was not obtained from the UST Section. The groundwater professionals had proceeded with obtaining either discharge permits or permission from EPA for chemical injections prior to submitting and receiving plan approval from the DNR. While we do encourage proactive planning, active treatment of groundwater at a LUST site is NOT considered an expedited corrective action that can proceed without plan approval of the UST Section. Please review IAC—135.12(11) for activities that qualify as expedited corrective action (primarily soil excavation, and receptor removal / replacement), and note that the DNR must be notified at least 30 days prior to commencing with expedited corrective action.

For LUST sites where remediation other than expedited corrective action will be proposed, a written corrective action plan MUST be submitted to the UST Section for review and approval. These plans may be in the form of a CADR, modified CADR, post-Tier 2 worksheet, or other written plan submitted as part of the corrective action meeting process. It's in everyone's best interest to have an agreed upon plan prior to spending efforts (perhaps needlessly) on obtaining permits, permissions, and funding approval.

Further, regardless of whether corrective action is performed as expedited or as voluntary remediation for low risk sites, the UST Section must be notified of the intent to proceed, and provided an explanation of the planned activities. We particularly want to ensure the applicable discharge permits (air, water), or injection permits have been obtained when active treatment will be conducted. For sites where remedial actions will involve chemical injection or system operation, we also need to know how these actions will be monitored.

Often DNR LUST project managers and DNR Field staff are contacted by the public when atypical activities are occurring in their communities. We need to be informed and prepared to answer their questions.

## Notes of First Corrective Action Conference Iowa Department of Natural Resources (DNR)

**Held:** Tuesday, April 26, 2016 at 2:00 pm in room 5W of the Wallace building  
**Site:** Former Denny's 66/Grimm Oil, Kalona  
**LUST No.** 7LTY57  
**Status:** First conference; no further meetings are scheduled.  
**Synopsis:** The site is high risk for soil and groundwater to enclosed spaces (basements and sewers), water lines, and soil leaching to protected groundwater source. A water main likely runs through the area of soil contamination and free product. Free product is sometimes found in three monitoring wells. The site is not in the Iowa UST Fund or other insurance program. The certified groundwater professional (CGP) will provide a Tier 3 Work Plan by 6/17/16 to conduct sampling and to propose methods to evaluate the risk to receptors. A Tier 3 site monitoring report (SMR) will be provided by 10/30/16.

### Participating

**RP:** Dennis Grimm of former Grimm Oil (by phone)  
Kurt Spurgeon (attorney) of Lane & Waterman (by phone)  
**CGP:** James Goodrich of VJ Engineering (by phone)  
**DNR:** Jeff White, Project Manager, & Tammy Vander Bloemen, Facilitator (in person)

### Background and Recommendations by James Goodrich, CGP

- This site started in 1987 with groundwater investigation.
- I got the site in 2012. There are multiple high risk vapor and water line receptors for groundwater, soil and soil leaching.
- We have been doing free product recovery since 2012. It might be worthwhile to run a LIF (laser induced fluorescence) survey to find the extent of free product.
- Soil gas sampling failed on the west side of the site.
- We need to delineate the soil contamination and do some source removal. Options would include over-excavation, in situ chemical oxidation using BIOX, and bioremediation.

### Discussion

DNR: I agree that we need to conduct soil, groundwater, and soil gas sampling. The soil sampling is more than 10 years old and the most recent groundwater is three years old.

Attorney: We are looking for resolution, but as we said in a prior email, cost is a primary issue. Dennis is unable to pay for these expensive solutions; he is retired on a fixed income.

DNR: I recommend you contact our DNR attorney, David Scott, regarding evaluating his ability to pay. This is a procedure where the state confidentially looks at tax returns to determine ability to pay. David's phone is 515-725-8239 and his email is [David.Scott@dnr.iowa.gov](mailto:David.Scott@dnr.iowa.gov).

Attorney: Dennis has spent a significant amount of money on this and he was the owner for only one year. At some point we have to stop spending money on this.

DNR: The 1990 Delta report seemed to say most of the petroleum release happened before you operated the station. Are there previous owners/operators of the station still in town? We might be able to get multiple responsible parties (RPs) to help pay for this.

Attorney: Some are in Kalona, but there may be issues with family relationships.

DNR: We have some more options that might reduce the costs. I would like to do some source removal, but that's expensive. An alternative would be to evaluate the site in Tier 3 by looking at high risk and low risk pathways and receptors to see if they might be impacted. The groundwater contamination does not appear to be expanding, although concentrations fluctuate within the plume. The Tier 2 model is not appropriate and we are in Tier 3. Instead of cleaning up the contamination, we can remove as many receptors as possible and evaluate the risk to the remaining ones.

We will likely have to replace some water main that is in the soil and groundwater and free product plumes, but we might not have to do much or any actual cleanup.

RP: The site owner likely doesn't want a big excavation.

DNR: The place to start is with the county. There is a city ordinance prohibiting water wells. If the county will send a letter backing it up, the protected groundwater source pathways will be cleared and the target levels raised a lot.

CGP: I have talked with Washington County Environmental Health. Scott Behrends of GeoSource told me that the county signed a certification for one of his sites.

DNR: The next highest target level is for basements. Petroleum odors were reported in the basement of the house to the west in 1987. Free product and high benzene concentrations are still found in MW3R between the site and that house. That house is the greatest concern; it may have an actual risk. Has the basement, drain tile, or sump been checked with a PID?

CGP: I think we checked the basement with an explosimeter in 2012 and found nothing.

RP: Years ago we dug a trench 10 to 15 feet deep parallel to the road and pumped out water and old, smelly gasoline. We had to burn our clothes.

DNR: The sump pump likely acted as a pumping well, pulling contamination to the basement.

RP: There was also a fuel tank to the south of that house, across the alley.

DNR: There are several water lines that could be in areas of contamination and free product. If so, they will have to be moved or modified to protect them. The water main in 5<sup>th</sup> Street is one that could have more than 100 feet of it in a plume.

CGP: I can have a Tier 3 Work Plan out by June 17. This will give me time to talk and do a budget with my client.

DNR: I will review the work plan before the end of June. We will need a Tier 3 SMR by the end of October with your progress to date.

Will the new owners give us access to the site for drilling and sampling? What about an environmental covenant prohibiting basements and sewers in the area of contamination?

CGP: I think they will; I will check.

DNR: We could hold another conference after we get more information or hit problems.

### **Selected Actions and Schedule**

- DNR sends out conference notes by 5/3/16.
- CGP provides a Tier 3 Work Plan by 6/17/16, including:
  - Provide city ordinance and county letter regarding water wells in Kalona.
  - Define contaminant plumes with soil, groundwater, and soil gas sampling in relation to actual and potential receptors.
  - Continue free product recovery and reporting.
  - Conduct vapor survey at the Kron residential basement to the west.
  - Discuss environmental covenants on property with new property owners.
  - Provide Tier 3 site monitoring reports (SMRs).
- DNR reviews the Tier 3 Work Plan by 6/30/16 and provides feedback.
- CGP provides a Tier 3 Site Monitoring Report (Tier 3 SMR) by 10/30/16.
- Another corrective action conference could be held after some sampling and risk assessment has been conducted.

Everyone agreed to this approach and schedule.

Jeff White, DNR Project Manager

Note: These notes are generalizations of ideas and comments made by participants in the meeting. They were not recorded verbatim or transcribed. If you have any questions or suggestions, please contact me at the UST Section of the DNR.

## Notes of Second Corrective Action Conference

Iowa Department of Natural Resources (DNR)

**Held:** Thursday, May 5, 2016 at 9:30 AM in room 5W of the Wallace Building  
**Site:** Former North Pine Service in Davenport, Iowa  
**LUST No.** 8LTD26  
**Status:** Second meeting; no further meetings scheduled. First one was in 2006.  
**Synopsis:** The site is low risk for groundwater to protected groundwater source, potential confined space, and potential sanitary sewers. The lowest target level is 290 ppb benzene. The CGP will install and sample monitoring wells as necessary to delineate the existing groundwater contamination plume and provide a letter report by 6/20/16. Scott County will then contact property owners within the area of the plume to obtain institutional control prohibiting water wells and other relevant receptors; this could result in the reclassification of the site to No Action Required.

### Participating

**RP:** Timothy Huey, Al Sabat; and Bob Buck of Scott County Planning & Development (by phone)  
**Funding:** Steve Reinders of Cunningham Lindsey (by phone)  
**CGP:** Todd Felderman of Seneca Environmental (by phone)  
**DNR:** Kate Meyer, Project Manager, & Jeff White, Facilitator (in person)

### Funding Report by Steve Reinders of Cunningham Lindsey (CL)

- \$396,503 spent to date.
- County tax deed site, so there is 100% coverage to a max of \$1,000,000.
- The UST Fund Board has authorized spending to \$500,000.

### Concerns by Kate Meyer, DNR Project Manager

- Has the water well south of the site building been properly plugged and abandoned? We do not have a plugging report.
- Where is the sanitary septic system or the sewer line? These are not on the maps.
- The groundwater contamination plume is based on sample data from some inappropriate sources and many different years. For example, the sample location named Tank 1 is actually from water from inside a tank during closure. Sample BH-2 is from 1992.

### Background and Addressing DNR Concerns by Todd Felderman of Seneca

- Two over-excavations removed most soil contamination so all soil and soil leaching pathways are cleared.
- The site is low risk for groundwater pathways.
- I don't know about the drinking water well or the sanitary sewer.
- Do you want me to resample BH-2?

### Discussion

DNR: We need a plugging report for the water well and the location of the septic system or sanitary sewer service line on a map. Yes, collect a groundwater sample from the location of BH-2. MW-14 is only about 20 feet away and it had low concentrations, but we need current analytical results for BH-2. You may ignore the old sample results.

We also need to get new and appropriate groundwater data to locate the current extent of the groundwater contamination plume to 290 ppb benzene. If the plume is not growing, we can use the actual plume extent in Tier 3 to control the installation of drinking water wells.

County: If we can get an institutional control on the Pizza Hut property to the south, could that get us a new classification within the next 18 to 24 months?

DNR: We would need to determine the extent of the plume and get institutional controls prohibiting water wells for all properties that have groundwater over 290 ppb benzene. That would have to include all properties where water wells could be installed. Do the monitoring wells still exist?

CGP: Most of the monitoring wells are still there.

County: I can approach the property owners. Will the Fund pay for sampling the monitoring wells?

CL: Yes, we will pay for sampling the wells and installing or replacing some. I have an invoice from 1997 for plugging a drinking water well.

CGP: I can propose locations for monitoring wells.

County: I will try to find a copy of the plugging report for the water well.

CGP: I can have the sampling completed and a report ready in about six weeks.

DNR: Please provide all the data in a letter report with the sampling results in the SMR software. You only need to analyze samples by method OA1.

#### **Selected Corrective Actions and Schedule**

- DNR will send out conference notes by 5/10/16.
- CGP will provide a proposal and estimated budget by 5/12/16 for:
  - Sampling existing monitoring wells.
  - Replacing or installing new monitoring wells as necessary to define/update the existing benzene plume to 290 ppb benzene.
  - Providing a map showing the location of the sanitary sewer service line or septic sewer service.
  - Providing a plugging report for the water well.
  - Providing a letter report of sampling results with the analytical results and the site sanitary sewer in the SMR software table.
- By 6/20/16, the letter report will be submitted to all parties.

Everyone agreed to this approach and this schedule.

Kate Meyer, DNR Project Manager

Jeff White, Conference Facilitator

Note: These notes are generalizations of ideas and comments made by participants in the meeting. They were not recorded verbatim or transcribed. If you have any questions or suggestions, please contact Kate Meyer at the UST Section of the DNR.

# Notes of Third Corrective Action Conference

## Iowa Department of Natural Resources (DNR)

**Held:** Tuesday, May 10, 2016 at 1:30 in Room 5E of the Wallace Building  
**Site:** Casey's General Store in Morning Sun  
**LUST No.** 7LTP15  
**Status:** Third meeting; no further scheduled at this time  
**Synopsis:** The site is high risk for soil vapor and soil leaching to groundwater vapor for a sanitary sewer main and a service line. In Tier 3 the certified groundwater professional (CGP) will investigate receptor submergence, install soil gas wells to evaluate the soil gas plume, and provide a site monitoring report (SMR) by 9/30/16.

### Participating:

**RP:** Jill Reams-Widder of Casey's Stores (by phone)  
**Funding:** Steve Reinders of Cunningham Lindsey (by phone)  
**CGP:** Leah Calvert of Barker-Lemar (in person)  
**DNR:** Kate Meyer, Project Manager, and Jeff White, Facilitator (in person)

### Funding Report by Steve Reinders of Cunningham Lindsey (CL):

- \$89,496 spent to date.
- RP has a 35% copay.
- The site has spending authority to \$175,000 from the UST Fund Board.

### Background and recommendations by Leah Calvert, CGP

- This is an active gas station with two gasoline tanks: 10,000 and 6,000 gallon.
- The site is high risk for soil vapor to sanitary sewer non-residential (ASSNR) and for soil leaching to groundwater vapor to ASSNR. One segment of sewer main and two segments of service line are inside the simulated plumes.
- The site is low risk for groundwater vapor, soil vapor, and soil leaching to groundwater vapor to potential confined space.
- The latest groundwater sampling was from three monitoring wells in August 2015.
- Across the street is another LUST site that is now no action required. At one time they were addressed as commingled.
- Recommendation: we can evaluate the site in Tier 3 for submergence of sewer receptors and conduct soil gas sampling to evaluate the exposed sewers.

### Discussion:

**CGP:** Over-excavation (OE) of the contaminated soil is not a good idea because the area of soil contamination is so large and there are active tanks in the plume.

**DNR:** Could the tanks be ready for an upgrade so they might be removed for an OE?

**RP:** The UST system was installed in 1981 but I know of no plans to replace it. The product piping was replaced in 2004.

**CGP:** The city utility man told us the sanitary sewer main in Church Street is 10 feet deep and the service lines are typically 8 feet deep. The sewer main would be always submerged and so not considered a receptor. We could do soil gas sampling at the source and at alternative points of compliance to evaluate the soil gas plume.

**DNR:** You need to measure the depth to the sewer main at the nearest manway. If the service line has a cleanout near the store, you could measure the depth there too. The problem with soil gas sampling is the partial submergence of the soil contamination plume; if it is under the water table, it can't be sampled. Not a problem at the soil source location (MW5/5MW); the soil source is only at four feet deep. There isn't enough water level data to justify

continual submergence of sanitary sewers. You need to identify a period of time when water levels are the lowest and soil plume is exposed to the maximum. This will require multiple water level measurements.

CGP: The soil contamination plume is deeper toward the sanitary sewers, but the water table is deeper too.

DNR: There are two high risk sanitary sewer lines: a deep main and a shallower sewer service line from the site building. You should do soil gas sampling between the source and ASSNR-1 and ASSNR-3. Try to get water levels as deep into the soil plume as possible. Late summer might be the best bet.

CGP: Water levels are high now with all this rain. We should start measuring water levels monthly in July. We will do groundwater sampling then too for the site monitoring report (SMR). If water levels don't drop, we could continue monthly checking through next winter.

DNR: What monitoring wells still exist at the site? You will want to check them all, but only sample 5MW, 2MW, 3MW, and MW1A. If 2MW has been destroyed, re-install it. Don't bother to re-install 3MW if it is gone. Analyze for OA1. Have there been any reports of odors or vapors?

RP: I know of no records of vapors in the building or the sewer.

DNR: If the high risk receptors are cleared, how could we address the low risk pathways so we can get the site to NAR? Could we get an environmental covenant (EC) on the property prohibiting sewer lines and basements in the area of contamination? We can also think about starting groundwater sampling to verify the actual plume is not migrating and then use actual plume for EC. Right now there isn't enough data because only three wells were monitored.

CGP: We could likely get an on-site EC, but since the soil contamination extends to the property to the west, I doubt we could get an EC off-site.

DNR: That depends upon who owns it. (Note: The Louisa County Assessor's office website indicates the Mediapolis Savings Bank is the owner of the property to the west.)

CL: This plan is okay with me.

CGP: We will have an SMR by the end of September.

### **Selected Corrective Actions and Schedule**

- DNR sends out conference notes by 5/12/16.
- CGP sends out a proposal to:
  - Measure depths to sanitary sewer main and service line.
  - Install soil gas wells at 5MW and between 5MW and the sewer main and the service line.
  - Starting in July, measure water levels at least monthly to find low water levels for soil gas sampling at three locations.
  - Check locations of all monitoring wells to determine how many of the wells still exist; destroyed wells should be noted on maps.
  - In the third quarter 2016, sample groundwater in four monitoring wells (5MW, 2MW, 3MW, MW1A) and re-install 2MW if necessary.
  - Provide an SMR by 9/30/16. If soil gas is not sampled by then, delay SMR submittal until all groundwater and soil gas data are collected.

Everyone agreed to this approach and schedule.

Kate Meyer, DNR Project Manager  
Jeff White, Conference Facilitator

Note: These notes are generalizations of ideas and comments made by participants in the meeting. They were not recorded verbatim or transcribed. If you have any questions or suggestions, please contact Kate Meyer at the UST Section of the DNR.