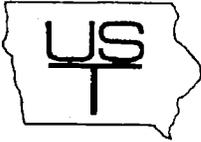


September 2005

Board of Directors

**Iowa Comprehensive Petroleum
UST Fund Board**



IOWA UNDERGROUND STORAGE TANK

Financial Responsibility Program

Susan E. Voss, *Chairperson*

Scott M. Scheidel, *Administrator*

Board Members:

Michael L. Fitzgerald

Jeff W. Robinson

Cathy A. Rottinghaus

James M. Holcomb

Jeffrey R. Vonk

Delia A. Meier

Douglas M. Beech

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, September 22, 2005. **The meeting will be held at the Department of Insurance, 330 E Maple, Des Moines Iowa.**

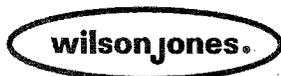
The tentative agenda for the meeting is as follows:

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 a.m., if needed)
3. Public Comment Period
4. Board Issues
 - A. Plastic Water Line Update
 - B. 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 August 25, 2005 Board Meeting
10. Other Issues as Presented
11. Correspondence and Attachments

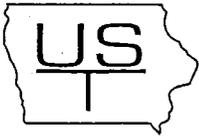


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11	Correspondence and Attachments
12	



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Approval of Prior Board Minutes



IOWA UNDERGROUND STORAGE TANK FUND

Susan E. Voss, Chairperson

Scott M. Scheidel, Administrator

Board Members:

Michael L. Fitzgerald ❖ Jeff W. Robinson ❖ Cathy A. Rottinghaus ❖ James M. Holcomb
Jeffrey R. Vonk ❖ Della A. Meier ❖ Douglas M. Beech

MINUTES IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND PROGRAM

August 25, 2005

COMMISSIONER'S CONFERENCE ROOM IOWA INSURANCE DIVISION, 330 EAST MAPLE STREET DES MOINES, IOWA

Susan Voss called the Iowa UST Board meeting to order at 9:59 A.M. A quorum was present. Roll call was taken with the following Board members present:

Cathy Rottinghaus (via telephone)
Delia Meier (via telephone)
Stephen Larson (for Michael Fitzgerald) (via telephone)
Liz Christiansen (for Jeffrey Vonk) (via telephone)
Douglas Beech
Jeff Robinson

Also present were:

David Steward, Attorney General's Office
Tim Benton, Attorney General's Office
Lacey Skalicky, Program Administrator's Office
James Gastineau, Program Administrator's Office

Ms. Voss introduced the Assistant Insurance Commissioner Angela Burke Boston, who sat in on the Board meeting for a brief period.

APPROVAL OF PRIOR BOARD MINUTES

The minutes from the July 12, 2005 meeting were reviewed. Ms. Christiansen moved to approve the minutes, Mr. Larson seconded the motion, and by a vote of 5-0, the minutes were approved.

CLOSED SESSION

Ms. Voss noted there were no matters dealing with litigation for discussion in closed session pursuant to Iowa Code Chapter 21. Therefore no closed session convened.

PUBLIC COMMENT

Ms. Voss requested any comments from the public present. Morris Preston from Preston Engineering Inc. (PEI) addressed the Board regarding the latest business process improvement "Kaizen" event held by the Department of Natural Resources (DNR). He explained that PEI completed report reviews for the DNR through a contract with the Board. He discussed the topic of report rejection referring to risk based corrective action (RBCA) tier 2 reports and site monitoring reports (SMR). Mr. Preston stated that over the past month, PEI had received 37 reports to review, and of those 37 reports, 32 were reports requesting reclassification of the sites' risk designations. Mr. Preston explained that reports requesting reclassification of a site to a lower risk designation require a higher intensity of review, as well as, more compelling evidence to approve those reclassification reports. He stated that over 50% of the time, the original DNR classification stands, and was not influenced by the reclassification report submitted. He explained that the focus of site closure had moved from the costly remediation of sites to the continuous re-assessment of sites to justify a lower risk classification.

Mr. Preston said that during the latest Kaizen event, the attendees discussed report review within the context of current rules, as the process of changing rules had proved to be difficult in the past. He stated that plastic water lines as a risk receptor was a major focus at LUST sites, and the replacement of plastic water lines was common and sometimes difficult, because some communities were not certain of their water lines' exact composition or location. He then pointed out that many gasoline receptacles were constructed of plastic, and did not leak. So, possibly water lines constructed of plastic would not allow a lesser concentration of a petroleum product to permeate the water lines and contaminate the water supply inside those lines. Therefore, Mr. Preston suggested that the risk of plastic water lines be re-evaluated, and the possibility for a rule change with respect to plastic water lines be considered.

BOARD ISSUES

A. FY 2006 Budget Revision

Ms. Skalicky presented the new fiscal year 2006 budget revision to the Board including actual July 1 beginning balances for each fund, and therefore revised ending balances as projected for each fund. In addition, she stated the Attorney General's fees within the Unassigned Revenue Fund disbursements had been revised based on the Board's vote at the July meeting to split the Board's proposed contract amount of \$100,000 and the Attorney General's counter of \$111,000. Therefore, the revised 2006 budget showed \$105,500 for Attorney General fees. Lastly, Ms. Skalicky pointed out that the Marketability Fund continued to earn interest, after the balance of the fund was transferred to the Aboveground Storage Tank Fund in June.

Mr. Beech moved to approve the revised budget, and Ms. Christiansen seconded the motion. Approved 5-0.

B. Transfer of Funds from Unassigned Revenue Fund to Remedial Fund

Mr. Gastineau presented a memo from the Fund Administrator to the Board regarding the need to transfer funds into the Remedial Fund. He explained that the Remedial Fund balance fell below \$6 million in July, and the 2006 budget projected \$17 million in remedial and retroactive claim

payment disbursements. Therefore the Administrator recommended the Board approve the transfer of \$12 million from the Unassigned Revenue Fund to the Remedial Fund.

Mr. Larson moved to approve the transfer of \$12 million from the Unassigned Revenue Fund to the Remedial Fund, and Ms. Christiansen seconded the motion. Approved 5-0.

C. PMMIC Demutualization Update

Mr. Gastineau presented to the Board a memo of information regarding the demutualization of Petroleum Marketers Mutual Insurance Company (PMMIC). Ms. Voss stated that she could not discuss or listen to a discussion of the demutualization itself, as she was the hearing officer in the demutualization case.

Mr. Gastineau stated the information presented behind the memo was for the Board's information only. He explained the Board no longer had any direct ties to PMMIC. Mr. Robinson distributed to the Board members (other than Ms. Voss) a spreadsheet showing the progression of premiums received, claims paid, and administration costs from the Insurance Program sponsored by the State, as well as, the premiums received, claims paid, and administration costs from the not-for-profit PMMIC run program. Mr. Robinson stated that based on the percentages of premiums used to pay for both claim payments and administration costs, the operation of the programs differed greatly, and something had completely changed, and he suspected that many of the insurance claims paid from the State program had been paid from the Remedial Fund rather than the Insurance Fund. He told the Board that he felt at the time of the transfer of the insurance program, that the \$36 million + paid to PMMIC for the transfer was too much, and he stated that now he felt that he had been correct.

Mr. Steward agreed and believed that many of the Insurance Fund claim payments were paid from the Remedial Fund, as he recalled conversations with Neil Searcy from GAB Robins at the time of the transfer.

Mr. Larson stated that he'd read that PMMIC had 2,100 policies. He inquired how many policies per insured entity existed. Ms. Skalicky explained that PMMIC policy numbers represented registration numbers which represented each UST site. Therefore, one insured entity may have multiple sites and therefore multiple policies with PMMIC. Mr. Larson summarized that 2,100 policies would not translate into 2,100 policyholders; rather there were fewer policyholders than policies.

Mr. Robinson inquired about the Principal demutualization, and how many years of premiums they had used to base their demutualization distribution of surplus. He explained that PMMIC had based a \$36 million surplus on \$6 million of premiums over 3-4 years. Mr. Larson told Mr. Robinson that his office would have information regarding Principal's demutualization on file at the Treasurer's Office.

D. DNR RBCA Staff Assistance Budget Authority

Mr. Gastineau presented a memo from the Administrator to the Board regarding the 28E agreement between the Board and the DNR that allowed for the Board to enter into a contract with Preston Engineering Inc. to provide staff assistance to the DNR by completing RBCA and

SMR report reviews. Mr. Gastineau reminded the Board that last year the Board voted to extend the contract with PEI for one more year with the stipulation that the contract could not be extended beyond 12/31/05. The Board decided to allow the DNR to review their need for staff assistance, and if required, further staff assistance would be sought through another Request for Proposal (RFP) by the end of calendar year 2005. Mr. Gastineau explained to the Board that the current budget authority for the existing contract with PEI had been exhausted and recommended the approval of additional budget authority of \$300,000 to fund the contract through the end of the calendar year.

Mr. Larson moved for approval of the recommendation for an additional budget authorization of \$300,000 for the PEI contract through 12/31/05. Mr. Beech seconded the motion. Ms. Christiansen abstained from the discussion and vote. The motion passed 4-0.

E. DNR Update

Tim Hall from the Department of Natural Resources addressed the Board regarding the progress of the third party inspections schedule. He stated the DNR staff was on track to meet the inspections schedule based on the agreement between the Board and the DNR for fiscal year 2006. He stated that the DNR staff was putting together drafts of administrative rules regarding third party inspections, to be followed by stakeholder meetings in September to discuss those drafted rules. After the meeting the DNR would present the drafted rules, based on the feedback from those meetings, to the commission, hopefully to survive the public comment period of the public hearings.

Mr. Hall received feedback from the field offices regarding the third party inspections, and the staff was well aware of the importance of their responsibilities to complete their 'quota' of inspections by the quarterly deadlines. Also, Mr. Hall told the Board that the new UST/LUST supervisor would begin at DNR on Monday, August 29th. He thanked Elaine Douskey for her solid performance as interim supervisor since Jim Humeston's departure. He stated that Fred Hutson would take over the position, and he had 10-12 years of experience in a similar position working for the State of Missouri.

PROGRAM BILLINGS

Mr. Scheidel presented the current monthly billings to the Board for approval.

- 1. Aon Risk Services\$ 107,695.58
 Consulting Services – August 2005 (\$60,000.00)
 Claims Processing Services – August 2005 (\$47,695.58)
- 2. Aon Risk Services\$ 107,695.58
 Consulting Services – September 2005 (\$60,000.00)
 Claims Processing Services – September 2005 (\$47,695.58)
- 3. Attorney General's Office\$984.25
 Services provided for Underground Storage Tank Program
 June 2005 misc. billing

- 4. Office of Auditor of State\$4,189.02
Audit Services performed during FY05
- 5. Iowa Department of Revenue\$1,247.53
3rd Quarter Environmental Protection Charge Collections
- 6. Iowa Department of Revenue\$1,229.32
4th Quarter Environmental Protection Charge Collections

No additional billings for outside cost recovery counsel were presented by the Attorney General's office for this meeting. On a motion by Ms. Christiansen and a second by Mr. Larson, the billings were approved by a vote of 5-0.

MONTHLY ACTIVITY REPORT

Mr. Gastineau told the Board that the July activity report, June and July financials and the July opt-in report were included in the Board packet for their review. He directed the Board to a new section of the activity report that showed claim numbers and paid totals for each claim type since the inception of the program in 1989. He also, explained that the activity report would be revamped for the next meeting, as it was too crowded with data currently.

ATTORNEY GENERAL'S REPORT

Mr. Steward stated that the Attorney General's Office had nothing to report at this meeting.

CLAIM PAYMENTS

Mr. Gastineau presented the following claim payments:

1. Site Registration 8915763 – Easter Enterprises, Bedford

After the replacement of plastic water lines at this site, the site was classified as high risk for a distant non-drinking water well and soil and groundwater vapor. The initial corrective action design report (CADR) pilot testing had indicated the site was too tight for high vacuum dual phase extraction (DPE). A soil excavation would be effective, but that would destroy the business with 30+ days of downtime. The DNR required a soil vapor extraction in a trench system to address the vapor pathways. Previous approval to \$231,648.65 granted, of which \$221,790.43 had been expended to date. Additional authority, in this second Board report, to \$531,648.65 was requested for a site monitoring report (SMR), a corrective action design report (CADR), and implementation of the CADR.

Mr. Beech inquired if the system would really work, or would an excavation be required ultimately years down the road. Mr. Gastineau stated the system should work, however it would take much longer. Mr. Gastineau said the site owner had attended a corrective action meeting, and he was adamant that he did not want to sustain an interruption in his business, regardless of the length of time the system may take to clear the vapor pathway.

Motion to approve the claim payment was submitted by Ms. Christiansen and seconded by Mr. Larson. Approved 5-0.

2. Site Registration 8605829 – West Liberty Oil Co., Traer

This site was high risk for groundwater ingestion for municipal water wells, groundwater to plastic water lines, and soil leaching to both of these pathways. A tier III report, in addition to the plastic water line replacement, may reclassify the groundwater ingestion pathway. Previous approval to \$75,000 granted, of which \$88,499.01 had been expended to date. Additional authority to \$275,000 was requested for a site monitoring report (SMR), possible corrective action design report (CADR), free product recovery (FPR), and implementation of the plastic water line replacement.

Motion to approve the claim payment was submitted by Mr. Larson and seconded by Ms. Meier. Approved 5-0.

3. Site Registration 8606675 – John's 66 Service, Wellman

This site was classified high risk for the groundwater vapor, soil leaching to groundwater vapor, and soil vapor to enclosed space pathways for a number of residential confined spaces and sewer receptors. The plum appeared to be migrating onto a residential property. The DNR would not allow the site to be cleared by soil gas testing, as the groundwater plume was not stable. A soil excavation had been proposed. If the groundwater concentrations would not decline to below target levels following the excavation, the installation of an ozone system was proposed. Previous approval to \$75,000 granted, of which \$41,747.85 had been expended to date. Additional authority to \$350,000 was requested for the site monitoring report (SMR), corrective action design report (CADR), and implementation of the excavation and possible ozone system.

Motion to approve the claim payment was submitted by Ms. Christiansen and seconded by Mr. Larson. Approved 5-0.

4. Site Registration 8607851 – City of Fort Dodge

This site was classified high risk for the soil vapor to enclosed space pathway for a residential sewer receptor. Receptor relocation was not an option nor was a soil excavation. Vapor sampling had failed. An air sparge/SVE system was proposed. Mr. Gastineau explained that the City building sat on top of the contamination. Previous approval to \$75,000 granted, of which \$76,414.42 had been expended to date. Additional authority to \$305,000 was requested for a SMR, CADR, and implementation of the CADR.

Motion to approve the claim payment was submitted by Mr. Larson and seconded by Ms. Rottinghaus. Approved 5-0.

5. Site Registration 8608818 – Donnellson Tire & Service, Donnellson

This site was classified high risk for the groundwater ingestion pathway for one non-drinking water well and two plastic water line receptors. The plastic water lines would be replaced.

The target levels for the non-drinking water well had been met and reclassification of this receptor may be achieved when steady and declining criteria are met. Previous approval to \$75,000 granted, of which \$49,383.37 had been expended to date. Additional authority to \$200,000 was requested for a SMR and implementation of the plastic water line replacement.

Motion to approve the claim payment was submitted by Mr. Larson and seconded by Ms. Christiansen. Approved 5-0.

6. Site Registration 8608856 – Stewart & Sons Ltd, Ainsworth

This site was classified high risk for the groundwater vapor to enclosed space pathway for two residential sanitary sewer receptors and for the groundwater and soil leaching to plastic water line pathway for one plastic water line receptor. The potential vapor pathways were low risk. An excavation would be completed in the source area followed by monitoring and a system if necessary. Previous approval to \$75,000 granted, of which \$33,050.00 had been expended to date. Additional authority to \$220,000 was requested for a SMR, FPR, and implementation of the excavation.

Motion to approve claim payment was submitted by Ms. Rottinghaus and seconded by Mr. Larson. Approved 5-0.

7. Site Registration 8710458 – Holt Gas, Hamburg

This site was classified high risk for soil leaching to groundwater vapor and soil vapor pathways for several residential basement and sewer receptors. Source and/or receptor removal were not possible, and options were limited due to the location of the contamination relative to Hwy 275. A SVE/biosparge system had been recommended for the site. Previous approval to \$75,000 granted, of which \$71,903.07 had been expended to date. Additional authority to \$320,000 was requested for a SMR, FPR, and implementation of the CADR.

Motion to approve claim payment was submitted by Ms. Christiansen and seconded by Ms. Rottinghaus. Approved 5-0.

8. Site Registration 8915573 – Wellman DX Oil Co., Wellman

This site was classified high risk for a plastic water main and service lines only. Plastic water line and main replacement should result in a no action required (NAR) classification. Previous approval to \$75,000 granted, of which \$32,629.00 had been expended to date. Additional authority to \$100,000 was requested for implementation of the plastic water line replacement.

Motion to approve the claim payment was submitted by Mr. Larson and seconded by Ms. Christiansen. Approved 5-0.

9. Site Registration 8600049 – Multi-County Oil, North English

This site was classified high risk for the groundwater ingestion pathway for 5 municipal water wells. The chemicals of concern were benzene, TEH-diesel and TEH-waste oil. The TEH-diesel may have originated from on-site aboveground storage tanks and may not be

eligible. The DNR has accepted an extensive Tier III monitoring approach in lieu of corrective action. If the Tier III indicates that the drinking water well receptors would be at risk, then corrective action would be required. Previous approval to \$75,000 granted, of which \$66,421.18 had been expended to date. Additional authority to \$240,000 was requested for a SMR and FPR.

Motion to approve the claim payment was submitted by Mr. Larson and seconded by Ms. Christiansen. Approved 5-0.

10. Site Registration 8607907 – Sapp Bros. Petro Inc., Council Bluffs

Following a City ordinance, this site was classified high risk for vapor pathways only. There existed tight soil at the site to a depth of 10 feet above sand. A corrective action meeting was held, and neither the DNR nor the Fund representatives were satisfied with the corrective action proposed. DNR and the Fund agreed to solicit additional proposals through DNR's website. Previous authority to \$75,000 granted, of which \$79,116.70 had been expended to date. Additional authority to \$375,000 was requested for a SMR, CADR, implementation of the CADR, and FPR.

Motion to approve the claim payment was submitted by Mr. Larson and seconded by Ms. Christiansen. Approved 5-0.

11. Site Registration 8606755 – Cass County, Atlantic

This was a second Board report for this site which was classified high risk. The costs to install the new rural water main and service lines were greater than estimated. Once all service lines have been completed and the well owners allow for plugging of their wells, this site should reclassify to low risk or no action required (NAR). Previous approval to \$200,000 granted, of which \$151,944.39 had been expended to date. Additional authority to \$375,000 was requested for a SMR, FPR, and implementation of well plugging.

Mr. Robinson pointed out an error on the Board report which showed additional authority requested as \$225,000 with a total of \$375,000. The actual additional authority should have been \$175,000 with a total authority requested of \$375,000.

Motion to approve the claim payment was submitted by Ms. Christiansen and seconded by Mr. Larson. Approved 5-0.

12. Site Registration 8602051– Break Pointe Stores, Inc., LeMars

This site was assigned a no action required (NAR) classification in August of 2002. However, free product was discovered in February of 2003 when the consultant returned to plug the monitoring wells. After completion of a free product assessment, it was determined that the free product was related to the old release. DNR requested a more aggressive free product removal using a SVE system. In addition, DNR may request additional monitoring to ensure that the contaminant levels remain at or below the levels for NAR. There was also the possibility of cost sharing with an adjacent LUST site with free product. Previous approval to \$75,000 granted, of which \$63,900.93 had been expended to date. Additional authority to

\$200,000 was requested for a SMR, FPR, and implementation of the CADR.

Motion to approve the claim payment was submitted by Ms. Rottinghaus and seconded by Mr. Larson. Approved 5-0.

13. CRPCA 0308-31, Chelsea

This community remediation project was contracted in 2003 to address the contamination at one site in Chelsea, Iowa. The scope of work included additional testing, replacement of plastic water lines, and completion of an excavation to remove contamination above the site-specific target levels. The original scope of the project had been completed, however additional activities were necessary due to the presence of contamination that remains following the excavation. Additional activities required at the site were the replacement of an additional plastic water line and use of an environmental covenant on the property to close out the remaining high risk pathways.

The original agreement was for a 2-year term, with the option of four 1-year extensions. The current agreement was set to expire on 11/9/05. The Administrator's office recommended the extension of the consultant contract for a 1-year period to allow continued activity on the project. The current contract authority was \$120,000, and no additional authority was requested.

Motion to approve the contract extension was submitted by Ms. Christiansen and seconded by Mr. Beech. Approved 5-0.

14. CRPCA 0008-24 Kingston

This community remediation project was contracted in 2000 to address a commingled plume involving two sites in the unincorporated community of Kingston, Iowa. The sites had been classified as high risk due to proximity to plastic water lines and multiple private water wells. In 2002, the DNR approved a Tier III plan that included re-routing the plastic water main, as well as, site monitoring to verify that the contaminant plume was not expanding. Both LUST sites remained high risk due to proximity to several private water wells. The well owners were unwilling to connect to the available public water supply system. Monitoring would continue for several years.

Additional funding authorization up to \$120,000 was requested to allow the consultant to replace several monitoring wells and to continue the site monitoring activities. This represented a 77% increase to the existing contract.

Motion to approve the additional project authorization to \$120,000 was submitted by Mr. Larson and seconded by Ms. Christiansen. Approved 5-0.

15. Site Registration 8603368 – Menke Co., Bancroft

This site was classified high risk for groundwater ingestion for three drinking water wells, for groundwater to plastic water lines for two plastic water lines receptors, and for groundwater vapor to enclosed space for one residential basement and four residential sewers. The soil

leaching to groundwater ingestion pathway was also high risk for one of the drinking water wells. The drinking water wells and plastic water lines would be addressed through a Tier III work plan to be split with an adjacent site, 8606157/8LTM57. The vapor pathways would be addressed by a combination of excavation and alternate point of compliance vapor sampling. Previous approval to \$75,000 granted, of which \$26,230.35 had been expended to date. Additional authority to \$275,000 was requested for a SMR, Tier III, and implementation of the excavation.

Motion to approve the claim payment was submitted by Ms. Christiansen and seconded by Mr. Larson. Approved 5-0.

16. Site Registration 8601445 – Goetz Enterprises, LLC, Tipton

This site was classified high risk for the groundwater vapor to enclosed space pathway for one residential sewer and one residential basement. The receptors were within the actual plume and free product was present in proximity to the receptors. Due to the free product and the appearance that the plume was migrating toward the receptors, vapor sampling could not be used to clear the receptors. An excavation was being recommended for this site. Previous approval to \$75,000 granted, of which \$51,946.07 had been expended to date. Additional authority to \$300,000 was requested for a SMR, FPR, and implementation of the excavation.

Motion to approve the claim payment was submitted by Mr. Beech and seconded by Ms. Christiansen. Approved 5-0.

17. Site Registration 8606840 – Gene Moeller Oil Co., Fort Dodge

This site was classified low risk monitoring and had been revised to high risk for groundwater vapor. One monitoring well next to the tank pit peaked to an all time high and then fell back to far below site specific target levels on the next event. Previous approval to \$75,000 granted, of which \$84,869.61 had been expended to date. Additional authority to \$150,000 was requested for a SMR, FPR, a possible CADR, and implementation of the CADR.

Motion to approve the claim payment was submitted by Mr. Larson and seconded by Ms. Christiansen. Approved 5-0.

Mr. Beech commented that eight of the Board reports involved the replacement of plastic water lines. He suggested that Mr. Preston's comments had brought to the light an issue that may warrant some investigation. Elaine Douskey from the DNR stated these issues were considered by committee when RBCA was adopted by the State in 1995 or 1996, and to her knowledge they had not been re-evaluated since. Mr. Steward suggested that other states, as well as, the Environmental Protection Agency (EPA), could provide information for comparison with regard to the risk to plastic water lines. Ms. Douskey also stated that different types of plastic water lines may be less permeable than other plastic water lines (i.e. PVC). Mr. Gastineau agreed saying that he had read reports stating that the black polybutylene water lines were more permeable than PVC water lines. Mr. Gastineau explained that it may be difficult to determine which type of plastic water line exists at each site, as many cities' representatives don't know what their water lines are composed of or where they are located exactly. Additionally, Mr. Gastineau told the Board that many water companies, including

Regional Water, do not want to release water line location or composition information due to the terror threat, as identified on their vulnerability assessments. Mr. Gastineau explained that such information was required by the DNR to be included in RBCA Tier II reports. The DNR's Geological Survey Bureau required rural water companies to include their vulnerability assessment information in their annual consumer confidence reports. Mr. Gastineau stated that the DNR would have to reconcile those two conflicting requirements between sections.

Ms. Christiansen asked Mr. Gastineau to investigate the risk to plastic water lines and present his findings to the Board at the next meeting.

CONTRACTS ENTERED INTO SINCE THE JULY 12, 2005 BOARD MEETING

The Board had entered into one 28E agreement with the Department of Natural Resources (DNR) to provide financial assistance to the DNR UST section for FY 2006, including the reimbursement of tank management fees (approximately \$400,000) and contingency payments up to an additional \$300,000.

OTHER ISSUES

Mr. Gastineau stated that the next Board meeting was scheduled for Thursday, September 22, 2005.

CORRESPONDENCE AND ATTACHMENTS

Ms. Voss asked if there was any further business, and there being none, Ms. Christiansen moved for adjournment. Ms. Rottinghaus seconded the motion, and on a 5-0 vote, the Board adjourned at 11:05 A.M.

Respectfully Submitted,



Scott M. Scheidel
Administrator

Closed Session

Discussion of Pending and Imminent Litigation



Public Comment



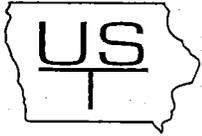
Board Issues

A. Plastic Water Line Update

B. DNR Update



Approval of Program Billings



IOWA UNDERGROUND STORAGE TANK FUND

Susan E. Voss, Chairperson

Scott M. Scheidel, Administrator

Board Members:

Michael L. Fitzgerald ❖ Jeff W. Robinson ❖ Cathy A. Rottinghaus ❖ James M. Holcomb
Jeffrey R. Vonk ❖ Delia A. Meier ❖ Douglas M. Beech

MEMORANDUM

TO: UST Board Members
FROM: Scott Scheidel
DATE: September 15, 2005
SUBJECT: Summary of Bills for Payment

NOTICE

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

1. Aon Risk Services.....\$107,695.58
Consulting Services October 2005 -- \$60,000.00
Claims Processing Services October 2005 -- \$47,695.58
2. Aon Risk Services.....\$522.59
Reimbursement for The Hotel Pattee charges for the
Annual Strategic Planning Session held July 12, 2005
3. Attorney General's Office\$16,489.58
Services provided for Underground Storage Tank Program
July/August 2005 Billing

Iowa Comprehensive Petroleum

Invoice No. 9500000041098

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

Aon Risk Services, Inc. of Nebraska
Insurance Services CA License No OE16975
2700 Westown Parkway
Suite 320
West Des Moines IA 50266
(515) 267-9101 FAX (515) 267-9045

Client Account No.	Invoice Date	Currency	Relationship Manager
10756349	Sep-01-2005	US DOLLAR	Scott Scheidel

Named Insured	Service Term	Trans. Eff. Date	Description	Amount
Iowa Comprehensive Petroleum	Jan-01-2005 - Jan-01-2006	Oct-01-2005	Renewal - Service Fee	
Comments			Service Fee	55,000.00
Installment 10 of 12			Consulting Expense	5,000.00
TOTAL INVOICE AMOUNT DUE				60,000.00

TO AVOID POTENTIAL DISRUPTION IN COVERAGE, PLEASE PAY IMMEDIATELY.
For Wire instructions, contact your Relationship Manager.

Please see reverse side for statement regarding Aon compensation.

Page 1 of 1

▼ 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	9500000041098	Sep-01-2005	US DOLLAR	60,000.00

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

Send remittance to:

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

Iowa Comprehensive Petroleum

Invoice No. 9500000041099

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

Aon Risk Services, Inc. of Nebraska
Insurance Services CA License No OE16975
2700 Westown Parkway
Suite 320
West Des Moines IA 50266
(515) 267-9101 FAX (515) 267-9045

Client Account No.	Invoice Date	Currency	Relationship Manager
10756349	Sep-01-2005	US DOLLAR	Scott Scheidel

Named Insured	Service Term	Trans. Eff. Date	Description	Amount
Iowa Comprehensive Petroleum	Jan-01-2005 - Jan-01-2006	Oct-01-2005	Renewal - Service Fee	
Comments			Service Fee	0.00
Installment 10 of 12			Consulting Expense	47,695.58
TOTAL INVOICE AMOUNT DUE				47,695.58

TO AVOID POTENTIAL DISRUPTION IN COVERAGE, PLEASE PAY IMMEDIATELY.
For Wire instructions, contact your Relationship Manager.

Please see reverse side for statement regarding Aon compensation.

Page 1 of 1

▼ 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	9500000041099	Sep-01-2005	US DOLLAR	47,695.58

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

Send remittance to:

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

Invoice

AON AON Risk Services

Aon Risk Services, Inc. of Nebraska
 Insurance Services CA License No OE16975
 2700 Westown Parkway
 Suite 320
 West Des Moines IA 50266
 (515) 267-9101 FAX (515) 267-9045

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

Account Executive : Scheidel, Scott M

Amount due on receipt of invoice

Invoice Number	Invoice Date	Client Account Number	Currency
9500000040418	Aug-11-2005	10756349	US DOLLAR

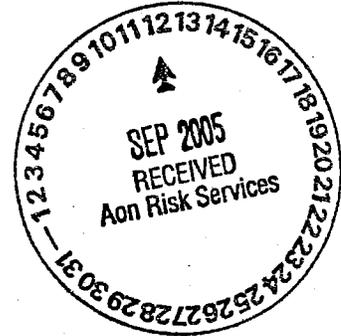
Transaction Effective Date	Policy Number Named Insured	Policy Term	Insurance Company	Description	Amount
Jul-21-2005	Jan-01-2005 - Jan-01-2006			Service Fee Endorsement	
	Iowa Comprehensive Petroleum			Annual Strategic Planning Session	
				Service Fee	522.59
				Total Invoice Amount	522.59

021

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

Invoice Date: 09/08/05

Buyer: Aon Risk Services
 2700 Westown Parkway, Suite 320
 West Des Moines, IA 50266
 Attn: Scott Scheidel



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: July and August

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

Document Number	Account Coding				Rev Source	Description Amount
	Fund	Agency	Org	Sub Org		
112AG251027	0001	112	2301		0285	\$ 16,489.58

Please direct billing questions to Karen Redmond at (515)281-6362.

THE RATES USED TO CALCULATE CLIENT CHARGES HAVE BEEN DESIGNATED BY SUBSCRIBER OR ARE BASED ON SUBSCRIBER'S WESTLAW SCHEDULE A
 RA. SUBSCRIBER AGREES NOT TO DISSEMINATE THIS REPORT TO ANY PARTY OR TO REPRESENT THE CHARGES AS ACTUAL WESTLAW CHARGES.

ACCT# 1000083144
 STATE OF IA JUSTICE DEPT
 DES MOINES, IA 50319-0109

USER BY CLIENT DETAIL
 JUL 01, 2005 - JUL 31, 2005

INVOICE # 809459662
 POSTING # 6032132613

PAGE
 30

USER	DATABASE TIME	TRANS	CONNECT/ COMMUNICATION	DOC/LINES	TOTAL CHARGE*
CAT					
SPECIAL PRICING INCLUDED CHARGES()					
STANDARD	38:43				163.95
HOURLY MULTI-SEARCH COMMUNICATIONS	39:07				269.83
HOURLY CONNECT			1:17:50		16.11
TOTAL SPECIAL PRICING INCLUDED CHARGES()	1:17:50I	0I	1:17:50I	0I	449.89I
TOTAL 2288093 TABITHA GARDNER CHARGES	1:17:50S	0S	1:17:50S	0S	449.89S
2288096 DAVID STEWARD					
DNR					
SPECIAL PRICING INCLUDED CHARGES()					
STANDARD COMMUNICATIONS	12:06				51.26
HOURLY CONNECT			12:06		2.55
WESTLAW PUBLIC RECORDS PREMIUM	3:18				0.00
WESTLAW PUBLIC RECORDS SUPER ALLFILES	22:00				20.00
WESTLAW PUBLIC RECORDS SELECT	1:19:42				162.24
WESTLAW PUBLIC RECORDS COMMUNICATIONS					777.29
WESTLAW PUBLIC RECORDS HOURLY CONNECT					21.71
TOTAL SPECIAL PRICING INCLUDED CHARGES()	1:57:06I	0I	1:57:06I	0I	0.00
TOTAL 2288096 DAVID STEWARD CHARGES					1,035.05I
SWCD					
SPECIAL PRICING INCLUDED CHARGES()					
STANDARD ALLFILES COMMUNICATIONS	3:49:45				972.83
HOURLY CONNECT	9:27				61.74
TOTAL SPECIAL PRICING INCLUDED CHARGES()	3:59:12I	0I	3:59:12I	0I	49.32
TOTAL 2288096 DAVID STEWARD CHARGES					0.00
UST					
SPECIAL PRICING INCLUDED CHARGES()					
STANDARD - CODES SUPER ALLFILES COMMUNICATIONS	10:22				43.89
HOURLY CONNECT	4:10				21.14
TOTAL SPECIAL PRICING INCLUDED CHARGES()	7:33				55.67
TOTAL 2288096 DAVID STEWARD CHARGES	22:05I	0I	22:05I	0I	4.56
	6:18:23S	0S	6:18:23S	0S	0.00
					125.26I
					2,244.20S

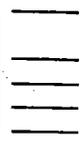
026

* INCLUDES APPLICABLE TAXES

SG

1000656655

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Monthly Activity Report and Financials Reviewed

A. August Activity Report

B. August Financial Report

**IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND
STATEMENT OF FUND BALANCES
FOR THE MONTH ENDING AUGUST 31, 2005**

- UST REVENUE FUND (Bonding)

Balance of Fund, August 1, 2005		\$1,050.00
Receipts:		
Tank Management Fees	\$0.00	
Motor Vehicle Use Tax	\$4,250,000.00	
Intra State Fund Transfers Received	\$0.00	
Interest Income	\$0.00	
Interest Income - Capital Reserve Fund	\$0.00	
		\$4,250,000.00
Disbursements:		
Bond Interest Payment	\$0.00	
Bond Principal Payment	\$0.00	
Transfer to Unassigned Revenue Fund	\$0.00	
		\$0.00
Balance of Fund, August 31, 2005		\$4,251,050.00

0450 - UST UNASSIGNED REVENUE FUND (Non-Bonding)

Balance of Fund, August 1, 2005		\$34,085,992.11
Receipts:		
Installer's License Fees	\$50.00	
Request for Proposal Fees (Filing Fees)	\$0.00	
Copying/Filing Fees	\$0.00	
Fines & Penalties	\$1,000.00	
Refund/Overpayment	\$0.00	
Transfer From UST Revenue Fund 471	\$0.00	
Intra State Fund Transfers Received	\$0.00	
Compensation for Pooled Money Investments	\$0.00	
Amort / Accretion	\$0.00	
Buys/ Sells	\$0.00	
Interest Income	\$31,711.11	
		\$32,761.11
Disbursements:		
UST Administrator's Fees	\$0.00	
Attorney General's Fees	\$984.25	
Attorney's Fees: Cost-Recovery Administration	\$0.00	
Cost Recovery Expense	\$0.00	
Custodial Fees	\$0.00	

**IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND
STATEMENT OF FUND BALANCES
FOR THE MONTH ENDING AUGUST 31, 2005**

Actuarial Fees	\$0.00	
Auditor of the State Fees	\$4,189.02	
Bank Service Charges	\$395.72	
Bond Trustee Fees	\$0.00	
Department of Revenue EPC Collection Fees	\$2,476.85	
Environmental Protection Charge Refunds	\$0.00	
Innovative Technology	\$0.00	
Inspection & Appeals Service Fees	\$0.00	
Installers/Inspectors/ Testers Licensing Refunds	\$0.00	
Iowa Finance Authority Expenses	\$0.00	
Legal and Professional Fees	\$0.00	
Licensing - Contractual Services	\$0.00	
Postage / Printing / Miscellaneous / Lien Filing Fees	\$19.00	
Professional Administrative Services (Investments)	\$15,212.45	
Rebate	\$0.00	
Tank Closure Claims	\$2,498.00	
Travel Expenses-UST Board Members	\$0.00	
Warrant Float Expense	\$323.83	
28E Agreement - RBCA (DNR Staff Training)	\$0.00	
28E Agreement - DNR Staff Assistance (PEI)	\$0.00	
28E Agreement - Univ. of Iowa Water Well Analysis	\$0.00	
Transfer to Remedial Non-Bonding Fund	\$0.00	
Intra State Fund Transfer to Dept. of Natural Resources	\$0.00	
Transfer to Innocent Landowner Fund	\$0.00	
		\$26,099.12
Balance of Fund, August 31, 2005		\$34,092,654.10

0208 - UST REMEDIAL NON-BONDING FUND

Balance of Fund, August 1, 2005		\$5,924,765.00
Receipts:		
Cost Recovery (Remedial Refund)	\$0.00	
Misc. Income (Eligibility Settlements or Lien Settlements)	\$0.00	
CRP Buy-In	\$0.00	
Interest Income	\$0.00	
Intra State Fund Transfers Received	\$0.00	
		\$0.00
Disbursements:		
Retroactive Claims	\$18,770.98	
Remedial Claims	\$969,559.74	
Intra State Fund Transfers Paid	\$0.00	
Refund of CRP Buy-In	\$0.00	
Balance of Outdated Warrants	\$977.50	
		\$989,308.22
Balance of Fund, August 31, 2005		\$4,935,456.78

**IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND
STATEMENT OF FUND BALANCES
FOR THE MONTH ENDING AUGUST 31, 2005**

3 - UST MARKETABILITY FUND

Balance of Fund, August 1, 2005		\$217,450.87
Receipts:		
Interest	\$93,698.76	
Use Tax	\$0.00	
		\$93,698.76
Disbursements:		
Transfer to Agrifutures Revolving Loan Fund	\$0.00	
Transfer to Aboveground Storage Tank Fund	\$0.00	
Transfer to Innocent Landowners Fund	\$0.00	
		\$0.00
Balance of Fund, August 31, 2005		\$311,149.63

0485 - UST INNOCENT LANDOWNERS FUND

Balance of Fund, August 1, 2005		\$26,400,472.38
Receipts:		
Cost Recovery (ILO Refunds)	\$0.00	
Intra State Fund Transfers Received	\$0.00	
Transfer from Marketability Fund	\$0.00	
Miscellaneous Income	\$0.00	
		\$0.00
Disbursements:		
Cost Recovery Reimbursement	\$0.00	
Cost Recovery Global Settlement	\$0.00	
Other Contractual Services	\$0.00	
Attorney's Fees - Global Cost Recovery Settlements	\$0.00	
AG - Cost Recovery Expenses	\$0.00	
Global Settlement Claims	\$56,572.88	
Innocent Landowner Claims	\$166,755.30	
Intra State Fund Transfers Paid (to AST Fund)	\$0.00	
Balance of Outdated Warrants	\$0.00	
		\$223,328.18
Balance of Fund, August 31, 2005		\$26,177,144.20

0455 - ABOVEGROUND STORAGE TANK FUND

Balance of Fund August 1, 2005		\$1,833,849.36
Receipts:		
Interest Income	\$13,784.58	
Corrected Warrant issued	\$0.00	
Transfer from Fund 478 (Marketability Fund)	\$0.00	
Transfer from Fund 485 (ILO Fund)	\$0.00	
		\$13,784.58
Disbursements:		
AST Claims	\$366,354.94	
		\$366,354.94
Balance of Fund on August 31, 2005		\$1,481,279.00

**IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND
STATEMENT OF FUND BALANCES
FOR THE MONTH ENDING AUGUST 31, 2005**

3 - UST LOAN GUARANTEE FUND (Non-Bonding)

Balance of Fund, August 1, 2005		\$1,136,640.57
Receipts:		
Loan Application Fees	\$0.00	
Interest Income	\$3,585.70	
		\$3,585.70
Disbursements:		
Processing of Loan Applications	\$0.00	
Payments on Loan Losses	\$0.00	
		\$0.00
Balance of Fund, August 31, 2005		\$1,140,226.27

UST BOND FUND (Bonding)

Series 1990 A

Balance of Fund, August 1, 2005		\$0.00
Receipts:		
Transfer From/(To) UST Revenue Fund	\$0.00	
Transfer From Revenue Refunding Bonds 1997 Series A Escrow	\$0.00	
Interest Income	\$0.00	
		\$0.00
Disbursements:		
Principal Payments to Bondholders	\$0.00	
Interest Payments to Bondholders	\$0.00	
Trustee Fee	\$0.00	
		\$0.00
Balance of Fund, August 31, 2005		\$0.00

Series 1991 A

Balance of Fund, August 1, 2005		\$0.00
Receipts:		
Transfer From/(To) UST Revenue Fund	\$0.00	
Transfer From Revenue Refunding Bonds 1997 Series A Escrow	\$0.00	
Interest Income	\$0.00	
		\$0.00
Disbursements:		
Principal Payments to Bondholders	\$0.00	
Interest Payments to Bondholders	\$0.00	
Trustee Fee	\$0.00	
		\$0.00
Balance of Fund, August 31, 2005		\$0.00

**IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND
STATEMENT OF FUND BALANCES
FOR THE MONTH ENDING AUGUST 31, 2005**

Series 1994 A		
Balance of Fund, August 1, 2005		\$4.66
Receipts:		
Transfer From/(To) UST Revenue Fund	\$0.00	
Accrued Interest From Sale of Bonds	\$0.00	
Interest Income	\$0.00	
		\$0.00
Disbursements:		
Principal Payments to Bondholders	\$0.00	
Interest Payments to Bondholders	\$0.00	
Trustee Fee	\$0.00	
		\$0.00
Balance of Fund, August 31, 2005		\$4.66
Series 1997 A Revenue Refunding Bonds		
Balance of Fund, August 1, 2005		\$0.00
Receipts:		
Transfer From/(To) UST Revenue Fund	\$0.00	
Transfer From/(To) UST Cost of Issuance Fund	\$0.00	
Accrued Interest From Bonds	\$0.00	
Interest Income	\$0.00	
		\$0.00
Disbursements:		
Principal Payments to Bondholders	\$0.00	
Interest Payments to Bondholders	\$0.00	
Trustee Fee	\$0.00	
		\$0.00
Balance of Fund, August 31, 2005		\$0.00
Series 2004 A Revenue Refunding Bonds		
Balance of Fund, August 1, 2005		\$0.00
Receipts:		
Transfer From/(To) UST Revenue Fund	\$0.00	
Transfer From/(To) UST Cost of Issuance Fund	\$0.00	
Accrued Interest From Bonds	\$0.00	
Interest Income	\$0.00	
		\$0.00
Disbursements:		
Principal Payments to Bondholders	\$0.00	
Interest Payments to Bondholders	\$0.00	
Trustee Fee	\$0.00	
		\$0.00
Balance of Fund, August 31, 2005		\$0.00
Combined UST Bond Fund Balances, August 31, 2005		\$4.66

**IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND
STATEMENT OF FUND BALANCES
FOR THE MONTH ENDING AUGUST 31, 2005**

0614 - UST CAPITAL RESERVE FUNDS (Bonding)

Series 1990 A

Balance of Fund, August 1, 2005	\$3,990,710.18
Receipts:	
Proceeds From Issuance of Bonds	\$0.00
Disbursements:	
Transfer Interest to Revenue Fund	\$0.00
Balance of Fund, August 31, 2005	\$3,990,710.18

Series 1991 A

Balance of Fund, August 1, 2005	\$2,641,220.03
Receipts:	
Proceeds From Issuance of Bonds	\$0.00
Disbursements:	
Transfer to Cost of Issuance Fund	\$0.00
Balance of Fund, August 31, 2005	\$2,641,220.03

Series 1994 A

Balance of Fund, August 1, 2005	(\$394,430.21)
Receipts:	
Proceeds From Issuance of Bonds	\$0.00
Disbursements:	
Debt Service for Issuance of Bonds	\$0.00
Balance of Fund, August 31, 2005	(\$394,430.21)

Combined UST Capital Reserve Fund Balances, August 31, 2005	\$6,237,500.00
--	-----------------------

TOTAL FUND BALANCES, August 31, 2005	\$78,626,464.64
---	------------------------

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 Financial Report
as of August 31, 2005**

**IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND
STATEMENT OF FUND BALANCES
FISCAL YEAR TO DATE ENDING AUGUST 31, 2005**

		FISCAL 2006 BUDGET
0471 - UST REVENUE FUND (Bonding)		
Balance of Fund, July 1, 2005		\$8,940,677.84
Receipts:		
Tank Management Fees	\$0.00	\$400,000.00
Motor Vehicle Use Tax	\$4,250,000.00	\$17,000,000.00
Intra State Fund Transfers Received	\$0.00	
Interest Income	\$0.00	
Interest Income - Capital Reserve Fund	\$0.00	
	\$4,250,000.00	\$17,400,000.00
Disbursements:		
Bond Interest Payment	\$2,656,988.89	\$2,426,240.15
Bond Principal Payment	\$5,850,801.88	\$7,170,000.00
Transfer to Unassigned Revenue Fund	\$431,837.07	\$7,803,759.85
	\$8,939,627.84	\$17,400,000.00
Balance of Fund, August 31, 2005		\$4,251,050.00
0450 - UST UNASSIGNED REVENUE FUND (Non-Bonding)		
Balance of Fund, July 1, 2005		\$33,542,834.89
Receipts:		
Installer's License Fees	\$100.00	\$8,000.00
Request for Proposal Fees (Filing Fees)	\$0.00	\$100.00
Copying/Filing Fees	\$0.00	
Fines & Penalties	\$1,000.00	\$25,000.00
Refund/Overpayment	\$949.17	
Transfer From UST Revenue Fund 471	\$431,837.07	\$7,803,759.85
Intra State Fund Transfers Received	\$0.00	
Compensation for Pooled Money Investments	\$0.00	
Amort / Accretion	(\$10,210.55)	(\$200,000.00)
Buys/ Sells	\$0.00	
Interest Income	\$368,841.35	\$1,500,000.00
	\$792,517.04	\$9,136,859.85
Disbursements:		
UST Administrator's Fees	\$107,695.58	\$1,292,346.96
Attorney General's Fees	\$31,846.62	\$105,500.00
Attorney's Fees: Cost-Recovery Administration	\$0.00	
Cost Recovery Expense	\$0.00	
Custodial Fees	\$0.00	
Actuarial Fees	\$0.00	
Auditor of the State Fees	\$4,189.02	\$4,400.00

**IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND
STATEMENT OF FUND BALANCES
FISCAL YEAR TO DATE ENDING AUGUST 31, 2005**

		FISCAL 2006 BUDGET
Bank Service Charges	\$395.72	\$5,000.00
Bond Trustee's Fees	\$750.00	\$6,000.00
Department of Revenue EPC Collection Fees	\$2,476.85	\$5,000.00
Environmental Protection Charge Refunds	\$0.00	
Innovative Technology	\$0.00	
Inspection & Appeals Service Fees	\$0.00	\$5,000.00
Installers/Inspectors/Testers Licensing Refunds	\$0.00	
Iowa Finance Authority Expenses	\$0.00	
Legal and Professional Fees	\$0.00	
Licensing - Contractual Services	\$0.00	
Postage / Printing / Miscellaneous / Lien Filing Fees	\$42.00	\$100.00
Professional Admin Services (Investments)	\$15,212.45	\$25,000.00
Rebate	\$0.00	
Tank Closure Claims	\$33,835.50	\$200,000.00
Travel Expenses-UST Board Members	\$0.00	
Warrant Float Expense	\$1,134.09	
28E Agreement - RBCA (DNR Staff)	\$0.00	
28E Agreement - DNR Staff Assistance (PEI)	\$45,120.00	\$240,000.00
Transfer to Remedial Non-Bonding Fund	\$0.00	\$12,000,000.00
Intra State Fund Transfer to Dept. of Natural Resources	\$0.00	\$700,000.00
Intra State Fund Transfer to Water Quality Initiative	\$0.00	\$5,000,000.00
Transfer to AST Fund	\$0.00	\$5,000,000.00
	\$242,697.83	\$24,588,346.96
Balance of Fund, August 31, 2005	\$34,092,654.10	\$18,091,347.78
0208 - UST REMEDIAL NON-BONDING FUND		
Balance of Fund, July 1, 2005	\$6,788,401.00	\$6,788,401.00
Receipts:		
Cost Recovery (Remedial Refund)	\$0.00	
Misc. Income (Eligibility Settlement or Lien Settlement)	\$0.00	\$20,000.00
CRP Buy-In	\$0.00	
Interest Income	\$0.00	
Transfer Received from Unassigned Revenue	\$0.00	\$12,000,000.00
		\$12,020,000.00
Disbursements:		
Retroactive Claims	\$80,381.20	\$1,000,000.00
Remedial Claims	\$1,771,585.52	\$16,000,000.00
Intra State Fund Transfers Paid	\$0.00	
Refund of CRP Buy-In	\$0.00	
Balance of Outdated Warrants	\$977.50	
	\$1,852,944.22	\$17,000,000.00
Balance of Fund, August 31, 2005	\$4,935,456.78	\$1,808,401.00

**IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND
STATEMENT OF FUND BALANCES
FISCAL YEAR TO DATE ENDING AUGUST 31, 2005**

		FISCAL 2006 BUDGET
0478 - UST MARKETABILITY FUND		
<u>Balance of Fund, July 1, 2005</u>		\$88,722.94
Receipts:		
Interest	\$222,426.69	
Use Tax	\$0.00	
	<u>\$222,426.69</u>	\$0.00
Disbursements:		
Transfer to AST Fund	\$0.00	
Transfer to Innocent Landowners Fund	\$0.00	
	<u>\$0.00</u>	\$0.00
Balance of Fund, August 31, 2005		<u>\$311,149.63</u>
		\$88,722.94
0485 - UST INNOCENT LANDOWNERS FUND		
<u>Balance of Fund, July 1, 2005</u>		\$26,562,368.39
Receipts:		
Cost Recovery (ILO Refunds)	\$0.00	
Intra State Fund Transfers Received (from Unassigned Rev)	\$0.00	\$1,000.00
Transfer from Marketability Fund	\$0.00	
Miscellaneous Income	\$0.00	
	<u>\$0.00</u>	\$1,000.00
Disbursements:		
Cost Recovery Reimbursement	\$0.00	
Cost Recovery Global Settlement	\$0.00	
Other Contractual Services	\$0.00	
Attorney's Fees - Global Cost Recovery Settlements	\$0.00	
AG - Cost Recovery Expenses	\$0.00	
Global Settlement Claims	\$98,887.25	\$700,000.00
Innocent Landowner Claims	\$286,336.94	\$1,000,000.00
Intra State Fund Transfers Paid	\$0.00	
Balance of Outdated Warrants	\$0.00	
	<u>\$385,224.19</u>	\$1,700,000.00
Balance of Fund, August 31, 2005		<u>\$26,177,144.20</u>
		\$24,863,368.39
0455 - ABOVEGROUND STORAGE TANK FUND		
<u>Balance of Fund July 1, 2005</u>		\$2,196,230.36
Receipts:		
Interest Income	\$36,263.11	
Canceled warrants/Corrected warrants	\$0.00	
Transfer from other UST Funds	\$0.00	
	<u>\$36,263.11</u>	\$5,000,000.00
Disbursements:		
AST Claims	\$751,214.47	
	<u>\$751,214.47</u>	\$7,000,000.00
Balance of Fund on August 31, 2005		<u>\$1,481,279.00</u>
		\$196,230.36

**IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND
STATEMENT OF FUND BALANCES
FISCAL YEAR TO DATE ENDING AUGUST 31, 2005**

		FISCAL 2006 BUDGET
0238 - UST LOAN GUARANTEE FUND (Non-Bonding)		
Balance of Fund, July 1, 2005	\$1,131,743.27	\$1,131,743.27
Receipts:		
Loan Application Fees	\$0.00	
Interest Income	\$8,483.00	\$20,000.00
	\$8,483.00	\$20,000.00
Disbursements:		
Processing of Loan Applications	\$0.00	
Interest Rate Buydown	\$0.00	
Payments on Loan Losses	\$0.00	
	\$0.00	\$0.00
Balance of Fund, August 31, 2005	\$1,140,226.27	\$1,151,743.27
UST BOND FUND (Bonding)		
Series 1990 A		
Balance of Fund, July 1, 2005	\$0.00	\$0.00
Receipts:		
Transfer From/(To) UST Revenue Fund	\$0.00	
Transfer From Revenue Refunding Bonds 1997 Series A Escrow	\$0.00	
Interest Income	\$0.00	
	\$0.00	
Disbursements:		
Principal Payments to Bondholders	\$0.00	
Interest Payments to Bondholders	\$0.00	
Trustee Fee	\$0.00	
	\$0.00	
Balance of Fund, August 31, 2005	\$0.00	\$0.00
Series 1991 A		
Balance of Fund, July 1, 2005	\$0.00	\$0.00
Receipts:		
Transfer From/(To) UST Revenue Fund	\$0.00	
Transfer From Revenue Refunding Bonds 1997 Series A Escrow	\$0.00	
Interest Income	\$0.00	
	\$0.00	
Disbursements:		
Principal Payments to Bondholders	\$0.00	
Interest Payments to Bondholders	\$0.00	
Trustee Fee	\$0.00	
	\$0.00	
Balance of Fund, August 31, 2005	\$0.00	\$0.00

**IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND
STATEMENT OF FUND BALANCES
FISCAL YEAR TO DATE ENDING AUGUST 31, 2005**

		FISCAL 2006 BUDGET
Series 1994 A		
Balance of Fund, July 1, 2005	\$4.66	\$4.66
Receipts:		
Transfer From/(To) UST Revenue Fund	\$0.00	
Accrued Interest From Sale of Bonds	\$0.00	
Interest Income	\$0.00	
	\$0.00	
Disbursements:		
Principal Payments to Bondholders	\$0.00	
Interest Payments to Bondholders	\$0.00	
Trustee Fee	\$0.00	
	\$0.00	
Balance of Fund, August 31, 2005	\$4.66	\$4.66
Series 1997 A Revenue Refunding Bonds		
Balance of Fund, July 1, 2005	\$0.00	\$0.00
Receipts:		
Transfer From/(To) UST Revenue Fund	\$0.00	
Transfer From/(To) UST Cost of Issuance Fund	\$0.00	
Accrued Interest From Bonds	\$0.00	
Interest Income	\$0.00	
	\$0.00	
Disbursements:		
Principal Payments to Bondholders	\$0.00	
Interest Payments to Bondholders	\$0.00	
Trustee Fee	\$0.00	
	\$0.00	
Balance of Fund, August 31, 2005	\$0.00	\$0.00
Series 2004 A Revenue Refunding Bonds		
Balance of Fund, July 1, 2005	\$0.00	\$0.00
Receipts:		
Transfer From/(To) UST Revenue Fund	\$0.00	
Transfer From/(To) UST Cost of Issuance Fund	\$0.00	
Accrued Interest From Bonds	\$0.00	
Interest Income	\$0.00	
	\$0.00	
Disbursements:		
Principal Payments to Bondholders	\$0.00	
Interest Payments to Bondholders	\$0.00	
Trustee Fee	\$0.00	
	\$0.00	
Balance of Fund, August 31, 2005	\$0.00	\$0.00
Combined UST Bond Fund Balances, August 31, 2005	\$4.66	\$4.66

**IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND
STATEMENT OF FUND BALANCES
FISCAL YEAR TO DATE ENDING AUGUST 31, 2005**

		FISCAL 2006 BUDGET
0614 - UST CAPITAL RESERVE FUNDS (Bonding)		
Series 1990 A		
Balance of Fund, July 1, 2005	\$3,990,710.18	\$3,990,710.18
Receipts:		
Proceeds From Issuance of Bonds	\$0.00	
Disbursements:		
Transfer Interest to Revenue Fund	\$0.00	
Balance of Fund, August 31, 2005	\$3,990,710.18	\$3,990,710.18
Series 1991 A		
Balance of Fund, July 1, 2005	\$2,641,220.03	\$2,641,220.03
Receipts:		
Proceeds From Issuance of Bonds	\$0.00	
Disbursements:		
Transfer to Cost of Issuance Fund	\$0.00	
Balance of Fund, August 31, 2005	\$2,641,220.03	\$2,641,220.03
Series 1994 A		
Balance of Fund, July 1, 2005	(\$394,430.21)	(\$394,430.21)
Receipts:		
Proceeds From Issuance of Bonds	\$0.00	
Disbursements:		
Debt Service for Issuance of Bonds	\$0.00	
Balance of Fund, August 31, 2005	(\$394,430.21)	(\$394,430.21)
Combined UST Capital Reserve Fund Balances, August 31, 2005	\$6,237,500.00	\$6,237,500.00
TOTAL FUND BALANCES, August 31, 2005	\$78,626,464.64	\$61,377,996.24

FOOTNOTES:

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

D. August Opt-In Report

OPT-IN PROGRAM SUMMARY REPORT
September 22, 2005
For the Period August 1 - August 31, 2005

GENERAL PROGRAM SUMMARY:

Notices to potential claimants:	12
Eligible claims referred to GAB this period:	6
Number of 90-Day Notices sent this period:	12
Settlement Agreements outstanding at major oil company for execution:	5
Settlement Agreements forwarded to GAB for processing warrants or co-payment credit:	3
Number of claimants receiving warrants or co-payment credit this period:	34
Number of 1st Party Affidavits received in lieu of supporting docs (# this month/# Total to date):	2/68

WARRANTS MAILED THIS PERIOD SUMMARY:

	Number	Total
First Warrant	4	\$ 20,739.95
Additional Warrants	30	\$ 34,814.37
Co-Payment Credit	0	\$ -
TOTALS:	34	\$ 55,554.32

PROGRAM PAYMENT DISBURSEMENT TO DATE:

Oil Company	Total Claims to Date	New Claims this Period	Payments Made to Date	Payments Made this Period
ARCO	51	0	\$ 347,150.02	\$ -
PHILLIPS	244	0	\$ 1,443,572.97	\$ 13,007.89
AMOCO	298	1	\$ 1,949,086.63	\$ 13,711.03
CONOCO	105	0	\$ 605,068.75	\$ 2,617.28
SOUTHLAND	17	0	\$ 87,387.42	\$ 338.76
FINA	12	0	\$ 92,179.48	\$ 148.50
SUN/SUNOCO	169	0	\$ 1,024,345.22	\$ 715.50
TEXACO	146	1	\$ 898,844.53	\$ 5,859.95
CHAMPLIN	19	0	\$ 83,454.50	\$ -
KERR-McGEE	76	0	\$ 448,062.66	\$ 3,127.46
CHEVRON	22	2	\$ 141,700.58	\$ 15,739.95
OXY	0	0	\$ -	\$ -
T.P.I. INC.	14	0	\$ 113,821.62	\$ 288.00
TOTAL:	1173	4	\$ 7,234,674.38	\$ 55,554.32

ADDITIONAL WARRANT SUMMARY:

Arco	\$ -	Sunoco	\$ 715.50
Phillips	\$ 13,007.89	Texaco	\$ 3,359.95
Amoco	\$ 11,211.03	Champlin	\$ -
Conoco	\$ 2,617.28	Chevron	\$ -
Southland	\$ 338.76	Kerr-McGee	\$ 3,127.46
Fina	\$ 148.50	TPI, Inc.	\$ 288.00



Attorney General's Report



Claim Payment Approval

Claim Payment Authority Reports

	Site #	Site Name	1st Bd Rpt	2nd Bd Rpt	3rd Bd Rpt	4th Bd Rpt	Paid to Date	Recommended Authority	Approved Authority	Comments
1	8605242	Brooklyn Service Center	07/12/05				\$43,693	\$310,000	\$310,000	
2	8606604	Raven Corp	09/23/04	02/15/05	07/12/2005		\$488,467	\$700,000	\$700,000	
3	8608762	Smithland Country Store	07/12/05				\$68,721	\$455,000	\$455,000	
4	8608860	Winchell Property	07/12/05				\$47,116	\$300,000	\$300,000	1 dww + 1 ndww
5	8609417	Sport Wade Inc.	07/12/05				\$42,157	\$140,000	\$140,000	
6	8607453	Lloyd Roundy Trust	07/12/05				\$72,711	\$225,000	\$225,000	
7	8603183	Emmet County	07/12/05				\$85,851	\$235,000	\$235,000	
8	8606317	Kum & Go LC	09/21/93	08/16/94	07/12/2005		\$154,634	\$305,000	\$305,000	
9	8915763	Easter Enterprises	07/26/95	08/25/05			\$221,790	\$531,649	\$531,649	ndww
10	8605829	West Liberty Oil Co	08/25/05				\$88,499	\$275,000	\$275,000	
11	8606675	John's 66 Service	08/25/05				\$41,748	\$350,000	\$350,000	
12	8607851	City of Fort Dodge	08/25/05				\$76,414	\$305,000	\$305,000	
13	8608818	Donnellson Tire & Service	08/25/05				\$49,383	\$200,000	\$200,000	ndww
14	8608856	Stewart & Sons LTD	08/25/05				\$33,050	\$220,000	\$220,000	
15	8710458	Holt Gas	08/25/05				\$71,903	\$320,000	\$320,000	
16	8915573	Wellman DX Oil Co.	08/25/05				\$32,629	\$100,000	\$100,000	
17	8600049	Multi-County Oil	08/25/05				\$66,421	\$240,000	\$240,000	5 municipal dww
18	8606755	Cass County	03/23/04	08/25/05			\$151,944	\$375,000	\$375,000	Well owners connecting to rural water.
19	8607907	Sapp Bros. Petro Inc.	08/25/05				\$79,117	\$375,000	\$375,000	City ordinance
20	8602051	Break Pointe Stores Inc.	08/25/05				\$63,901	\$200,000	\$200,000	
21	8603368	Menke Co	08/25/05				\$26,230	\$275,000	\$275,000	dww
22	8601445	Goetz Enterprises LLC	08/25/05				\$51,946	\$300,000	\$300,000	
23	8606840	Gene Moeller Oil Co	08/25/05				\$84,870	\$150,000	\$150,000	
24	7910293	ChevronTexaco Co	01/12/04	09/22/05			\$82,998	\$470,000		
25	8916239	City of Council Bluffs	09/13/04	09/22/05			\$95,705	\$800,000		
26	8605336	MT & TE Nelson LTC	05/16/03	09/22/05			\$252,352	\$350,000		3 dww receptors (2 plugged)
27										
28										
29										

047

dww=drinking water well
 ndww=non drinking water well
 PGS=protected groundwater source
 SOL=State owned lake

Board Report for 7910293

September 9, 2005

Page 2

The costs were impacted by:

1. I-235 work and related street construction in Des Moines
2. Requirements by both the City of Des Moines and Des Moines Water for the construction to proceed on a major thoroughfare.
3. Major oil company with East coast engineering firm and cost to minimize the legal liability exposure of a target defendant.

This is a major oil company global settlement file subject to a 35% co-payment on costs in excess of \$173,142.86 (\$40,000.00 co-pay waiver).

Some negotiation for engineering design cost and very expensive health and safety measures needs to be done.

*Total costs incurred + projected costs - previous approval

**Previous approval + additional recommended



IOWA UNDERGROUND STORAGE TANK

Financial Responsibility Program

Susan E. Voss, Chairperson

Scott M. Scheidel, Administrator

Board Members: Michael L. Fitzgerald Jeff W. Robinson Cathy A. Rottinghaus James M. Holcomb Jeffrey R. Vonk
Douglas M. Beech Delia A. Meier

TO: UST Board

FROM: Scott M. Scheidel

**SUBJECT: Contract No. CRPCA 0309-33: Ballard Service, Bentley (Neola)
Contract Extension Request**

DATE: September 13, 2005

This project was awarded to Barker Lemar Engineering Consultants on December 20, 2003. The scope of work for the project included additional testing and evaluation of corrective action options. Due to proximity of multiple private water wells and the lack of a public water supply system, corrective action has been deemed necessary. However site conditions are such that corrective action will be difficult. The first pilot test for a corrective action response failed. A second alternative is currently being evaluated. Implementation of a corrective action response is anticipated in 2006.

The original agreement for this project was written as a 2-year agreement, with the option of four 1-year extensions. The current Agreement term will expire on December 20, 2005. It is requested that the Board authorize the extension of the consultant agreement for a one-year period to allow continued activity on the project.

Funding

The site is eligible for UST Fund benefits based on a settlement agreement with the prior owner's estate.

Original Contract (11/10/03)	\$21,935.00
Current Contract \$97,067.00	
Current Contract / Authorization (April 1, 2005)	\$100,000.00

It is requested the Board provide the Administrator with funding authorization for expenses up to \$125,000.00 at this time.

c: Sandi Porter, GAB Robins

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IOWA UNDERGROUND STORAGE TANK

Financial Responsibility Program

Susan E. Voss, *Chairperson*

Scott M. Scheidel, *Administrator*

Board Members: Michael L. Fitzgerald Jeff W. Robinson Cathy A. Rottinghaus James M. Holcomb Jeffrey R. Vonk
Douglas M. Beech Della A. Meier

TO: UST Board

FROM: Scott M. Scheidel

SUBJECT: Contract No. CRPCA 0309-34: Former Service Station, Conesville
Contract Extension Request

DATE: September 13, 2005

This project was awarded to Seneca Environmental Services, Inc. on December 20, 2003. The scope of work for the project included additional testing and evaluation of corrective action options. Due to low contaminant levels the Department approved the installation of a carbon filter on the on-site water well combined with continued monitoring in lieu of invasive corrective actions. The filter was installed in 2004 and continues to operate efficiently. Long-term monitoring is anticipated.

The original agreement for this project was written as a 2-year agreement, with the option of four 1-year extensions. The current Agreement term will expire on December 20, 2005. It is requested that the Board authorize the extension of the consultant agreement for a one-year period to allow continued activity on the project.

Funding

The site is not eligible for UST Fund benefits due to the date contamination was discovered and the inability to document a pre-October 1990 release. A lien has been filed on the site for costs associated with prior site assessment activities.

Original Contract (11/10/03)	\$8,500.00
Total Invoiced / Paid	\$4,638.30
Current Contract / Authorization	\$36,222.70

No change to the Board's funding authorization is recommended at this time.

c: Sandi Porter, GAB Robins

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**Contracts Entered Into
Since August 25, 2005 Board Meeting**



Other Issues as Presented



Correspondence and Attachments



Siouxland Press
Hospers, IA
Circ. 1717
From Page:
22B
8/10/2005
45835



1200

DNR NAMES NEW UNDERGROUND TANKS SECTION SUPERVISOR

DES MOINES - Fred Huston has been named supervisor of the DNR's underground storage tanks (UST) program.

Huston has worked for 20 years on UST issues with the Missouri Department of Natural Resources. He holds a bachelor of science degree in geology and geophysics, and a master of science degree in geology.

"I am confident that Fred's knowledge of USTs and his regulatory experience will serve us well in continuing to move the UST program forward, and to meet the needs of Iowa stakeholders," said Tim Hall, head of the DNR's Iowa Geological Survey and land quality bureau.

Huston will join the Iowa DNR August 29.



Siouxland Press
Hospers, IA
Circ. 1717
From Page:
22B
8/10/2005
45835



1208

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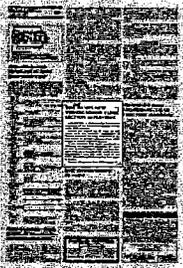
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Siouxland Press
Hospers, IA
Circ. 1717
From Page:
22B
8/10/2005
45835



1208

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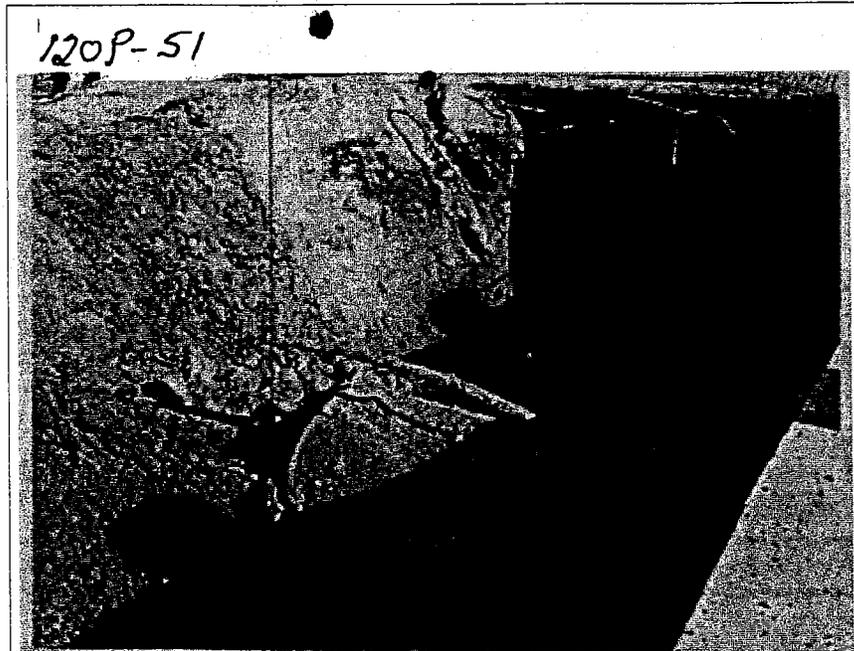
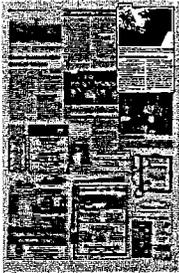
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Grundy Register
Grundy
Center, IA
Circ. 2750
From Page:
2
8/4/2005
43792



A 500 GALLON gasoline tank was discovered this past week under the parking area at Kirk's Service. No one knew the tank was there, but authorities were aware that contamination was coming from an unknown source.

State Mandates Contamination Clean Up

by Joyce Wardall

Officials were present at Kirk's Service last week as contaminated soil was removed from the sight.

Over 10 years ago, tanks were removed from the old gas station site. However, state mandated tests of the area, continued to reveal contamination of soil and water.

Last week the parking area was dug up revealing a 500 gallon gasoline tank that no one knew was there. "It was under the old building and has probably been there for over 70 years," says Kirk Weichers, owner of Kirk's Service.

The tank and contaminated soil

have been removed. Because the soil is not so contaminated as to be considered highly hazardous, it has been taken to a farm south of Grundy Center and will become part of a "land farming" program.

In this program, the soil is spread on a field that will not be planted with crops this year. The farmer, paid for this type of farming, is required to turn over the soil at least once a month. This allows it to aerate and the contaminating gasoline to evaporate. After six months, the soil is sampled. The farmer can return the soil to production after it has tested clean for six months.

Elgin Echo
Elgin, IA
Circ. 1203
From Page:
4
8/3/2005
41704



134-2A-36-120P-33



Legislative Update by State Representative

Roger Thomas District 24

Statehouse, Des Moines, IA 50319

Ph. 515.281.3221 email: roger.thomas@legis.state.ia.us

Phase-In Period for Upgrading Systems to E85

The Department of Natural Resources has approved a two-year phase-in period for upgrading existing gas dispensing equipment to be compatible with 85 percent ethanol (E85) fuel at Iowa service stations.

This phase-in period allows gas retailers wanting to sell E85 to begin doing so, but requires that dispensers and components that are not certified as compatible be upgraded within the two-year period. These upgrades are to prevent leakage that may occur from systems that are not compatible with the product.

Tax on Non-Ethanol Fuel Increased by 0.2 Cents

The state tax on conventional gas increased from 20.5¢ to 20.7¢ per gallon on July 1st. This rate remains in effect until July 1, 2006. The tax on ethanol blended gas will remain at 19¢ per gallon.

Legislation was passed in 2001 to encourage ethanol use and provided the following two incentives.

1. It granted income tax credits to gas station owners who sell more than 60% ethanol at their stations.
2. It also changed how fuel is taxed in a way to encourage ethanol use while being revenue neutral to the Road Use Tax Fund.

Thirty-Nine States Increased

Cigarette Tax Since 2002

The Campaign for Tobacco Free Kids (CTFC), an anti-smoking group, says that thirty-nine states have increased their cigarette taxes since 2002.

According to the CTFC, all the states that passed a large cigarette tax increase saw a significant decline in smoking.

According to the Federation of Tax Administrators, as of January 1, 2005, the median U.S. tax was 69.5¢. Iowa's 36¢ per pack rate ranked 40th and is lower than any surrounding state, except Missouri, which is 17¢ per pack.

DNR Proposes Emergency Rules for Cattle Feedlots

The Environmental Protection Commission is being asked by the Department of Natural Resources to adopt emergency rules for open feedlot permitting at their July meeting in Des Moines.

The department said the new rules will mean cattlemen with open feedlots do not have to meet the same design standards that confinements must meet. The department is proposing these rules on an emergency basis because they have some feedlot operators, particularly those using alternative technologies, who want to know what standards they have to meet during construction.

If you have any questions on these issues or others, please call me at 563-245-1084 or email roger.thomas@legis.state.ia.us.

Holland+Knight

United States: Landlord May Recover Loss of Use Damages for Uncertainty

16 August 2005

By Bonni Kaufman (Washington, D.C.)

Originally published 3rd Quarter 2005

On June 28, 2005, the United States Court of Appeals for the Third Circuit decided *Jaasma v. Shell Oil Company*, (No. 02-CV-4677), a case with important implications for owners and lessees of environmentally impacted properties. The Court determined that a landlord could recover loss of use damages from its tenant during the time period after the property was cleaned up but before the issuance of a final No Further Action (NFA) letter from the regulatory agency. In this case, it took the State of New Jersey over two years after sampling was conducted to approve a cleanup and issue a No Further Action letter for the property. During that time period, the landlord claimed that it could not sell or rent the property at its fair market value. The Court found that the landlord could recover damages for the "period of uncertainty which may occur after the cleanup is physically completed, but before the property has been certified as compliant with all environmental regulations." Slip Opinion at 14.

Facts

The landlord, Alice Jaasma, owned a 1.3 acre parcel in West Paterson, New Jersey, which she leased to Shell Oil in 1988. The lease contained provisions requiring Shell and its assignee to remove all gasoline, waste oil and fuel oil tanks from the premises upon termination and restore the property to its original state. In addition, the lease required Shell to comply with all applicable environmental laws and indemnify the lessor against any claims arising out of violations of environmental laws or any contamination attributable to Shell.

In October 2001, one week before the end of the lease, Shell removed its underground storage tanks and discovered petroleum contamination adjacent to the tanks. Three months after the lease terminated, Shell prepared an Underground Storage Tank Closure Remedial Action Investigation Report that indicated that the tanks had been removed and that 6,500 tons of soil was removed and replaced with clean fill.

In April 2002, the New Jersey Department of Environmental Protection (NJDEP) acknowledged receipt of the report but requested re-sampling of the property due to technical deficiencies in the sampling. The sampling was not completed until September 2003. NJDEP issued a final NFA letter in February 2004, almost three years after the original cleanup, stating that the groundwater and soil met the applicable environmental standards and no further action was required.

Legal Analysis

In its claim, the landlord did not dispute that the contaminant levels were actually compliant with environmental standards as of October 31, 2001. However, she alleged that due to the ongoing NJDEP review and the uncertainty surrounding the environmental status of the property, she was not able to sell or rent the property at fair market value for the 28-month period from the termination of the lease until NJDEP issued the No Further Action letter. In support of the claim, she presented evidence that three different realtors advised her that she would not receive fair market value for the property during that period, as she could not warrant the condition of the property to prospective purchasers without an NFA.

The Third Circuit found that Shell had breached the lease agreement by failing to comply with all environmental laws and by failing to return the property to its original state. The Court held that a reasonable fact finder could determine that compliance with "all applicable environmental laws" includes the obligation to produce reports and evidence necessary for NJDEP to issue an NFA. The Court did not decide whether an NFA is *per se* required, but that the duty to return the property to its "original state" encompasses the duty to leave the property free from the kind of impediments that would render it unmarketable. Based on Jaasma's proffer that three realtors told her that she could not sell the property at market price without an NFA and that several prospective buyers had made the NFA a condition for sale, the Court believed that a fact finder could reasonably find that the property was not fully marketable prior to the issuance of the NFA.

In addition, the Court found that the language of the lease and the parties' course of dealing presented jury questions as to whether the defendants had a duty under the lease to obtain an NFA following the discharge of contaminants from the tanks.

Loss of Use as the Measure of Damages

Once the Court established that the landlord had a claim for breach of contract, it had to determine whether "loss of use" could be used as a measure of damages. It found that under both New Jersey law and the common law of property "loss of use or lost rental value [is] the proper measure of damages when land is temporarily unusable, but then later returned to its original state." Slip Opinion at 14, *citing* 8 Thompson on Real Property §67.06(a) (2) at 119-20 (David A. Thomas ed. 1994).

However, the more difficult question was whether damages for loss of use are available during the period of uncertainty which may occur after the cleanup is physically complete, but before the property has been certified as compliant with all environmental regulations.

Relying in part on a decision by the United States Court of Appeals for the Seventh Circuit in *NRC Corp. v. Amoco Oil Co.*, 205 F.3d 1007 (2000), the Court reasoned that the District Court had erred below when it limited its assessment of damages to diminution of value or cost of remediation, ignoring damages for temporary loss of use. (In the Seventh Circuit case, the Court had allowed recovery of loss of use damages during the time period after state approval of the corrective action plan but before remediation was completed, reasoning that lenders would not loan on the property without guarantees that the remediation was working.) The Third Circuit held that even in the absence of actual pollution, a claim for loss of use is cognizable "for the period of uncertainty following a pollution incident, particularly where that uncertainty is due to ongoing investigation by the state environmental agency." Slip Opinion at 16.

The Future

The *Jaasma* opinion will likely be followed by other state and federal courts as it relies not only on New Jersey law, but the common law of property and federal common law. Given the often lengthy time period required for state and federal approval of NFA or site closure letters, tenants can expect to be liable for damages during the period of regulatory approval of a cleanup, no matter how long that period may be. On the other hand, landlords should find comfort in the fact that they can recover their property's fair market rental value during the lengthy regulatory approval process.



4A

IOWA UNDERGROUND STORAGE TANK

Financial Responsibility Program

Susan E. Voss, Chairperson

Scott M. Scheidel, Administrator

Board Members:

Michael L. Fitzgerald

Jeff W. Robinson
Douglas M. Beech

Cathy A. Rottinghaus

James M. Holcomb
Delia A. Meier

Jeffrey R. Vonk

TO: UST Board

FROM: James Gastineau

SUBJECT: Plastic Water Lines Update

DATE: September 21, 2005

The consideration of plastic water lines as a specific receptor has been an issue in Iowa since the early 1990's. Plastic water lines were considered a receptor under the site cleanup report (SCR) process and were retained as a receptor type in the development of the Iowa Risk Based Corrective Action (RBCA) evaluation process.

To identify how other states address this same pathway, a request for information was made to other states through the Association of State and Territorial Solid Waste Management Officials. Based on responses, the evaluation of plastic water lines as a receptor appears to be almost unique to Iowa. Only two other states, Montana and South Dakota, have established numerical limits to determine when water lines must be considered impacted.

However several other states, including Missouri, Nebraska, South Carolina, Utah, and Vermont, have encountered the problem and determine a response on a case-by-case basis. The policy in most cases is to replace impacted plastic water lines for the entire length of the plastic water pipe in contact with soil contamination, plus an additional amount as a buffer zone for safety.

Iowa RBCA Program

Under the RBCA program, a site is assessed using a DNR computer model. The model interpolates data to generate a projection of the "actual" contaminant plume and to generate a receptor identification (RID) plume to estimate the extent that contamination might impact. If a receptor is within a RID plume, whether or not in the actual plume, it is considered a receptor of concern.

Plastic water lines in the RID plume are considered high risk. To abate the risk, the choices are to remove the contamination or to re-route, remove, or replace the water lines. In some instances, DNR has allowed replacement to be limited to that segment of pipe within the actual contaminant plume plus the addition of a buffer zone for safety. The water lines left within the RID plume however remain as high-risk receptors and must be addressed using other methods. If water lines exist solely in the RID plume, i.e. not within actual contaminant plumes, the Iowa DNR guidance says that risk still exists and must be addressed accordingly. In most cases, replacement is still pursued as the most expedient method to eliminate the designated risk.