



Elaine Douskey

IOWA UNDERGROUND STORAGE TANK Financial Responsibility Program

Susan E. Voss, *Chairperson*

Scott M. Scheidel, *Administrator*

Board Members:

Michael L. Fitzgerald

Jeff W. Robinson

Jacqueline A. Johnson

James M. Holcomb

Richard A. Leopold

Nancy A. Lincoln

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, May 22, 2008. **The meeting will be held at the Iowa Insurance Division located at 330 E Maple St, 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.)
3. Public Comment Period
4. Board Issues
 - A. Legislative Update
 - B. 2004 Bond Issue Defeasance — *Balance \$5 million*
 - C. SIC Model (RBCA) Rule Status
 - D. Loss Portfolio Transfer—PMMIC
 - E. NPDES Permits
 - F. DNR Update
 - G. 28E – DNR Funding FY 08 & FY 09 — *Conference Call to decide Tues. 27th 10:00 am*
5. Approval of Program Billings
6. Monthly Activity Report and Financials Reviewed *July 8th - Strat Plan*
7. Attorney General's Report *- Neil Smith*
8. Claim Payment Approval *prairie city*
9. Contracts Entered Into Since April 25, 2008 Board Meeting
10. Other Issues as Presented
11. Correspondence and Attachments

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 ❖ Jacqueline A. Johnson ❖ James M. Holcomb
Richard Leopold ❖ Nancy A. Lincoln ❖ Douglas M. Beech

MINUTES IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND PROGRAM

April 25, 2008

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

Susan Voss, Chairperson, called the Iowa UST Board meeting to order at 10:02 A.M. A quorum was present. Roll call was taken with the following Board members present:

Jacqueline Johnson (via telephone)
Nancy Lincoln (via telephone)
Tim Hall (for Richard Leopold)
Doug Beech
Jim Holcomb

Also present were:

David Steward, Attorney General's Office
Scott Scheidel, Program Administrator
James Gastineau, Program Administrator's Office
Brian Tormey, Iowa Department of Natural Resources

APPROVAL OF PRIOR BOARD MINUTES

The minutes from the March 27, 2008 Board meeting were reviewed. Mr. Holcomb moved to approve the minutes, Mr. Beech seconded the motion, and by a vote of 6-0, 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.

PUBLIC COMMENT

Ms. Voss requested any comments from the public present. Tom Norris from Petroleum Marketers Management Insurance Company addressed the Board regarding the informal proposal from PMMIC to enter into a loss portfolio transfer with the Board that had been discussed at prior Board meetings. Mr. Norris was aware of the necessary defeasement of bonds issue resulting from recent

legislation; however he hoped the Board would move forward with the issuance of the request for information (RFI) to determine the field of interest among third parties for considering a loss portfolio transfer of Board liabilities. He noted that the Board might consider a loss portfolio transfer as a way to protect Fund monies from future diversion for other State projects.

BOARD ISSUES

A. Legislative Update

Mr. Scheidel provided the Board with a memo regarding legislation passed by the State legislators. He also discussed the effect of legislation on the Iowa UST Fund Program and provided a memo from bond counsel, David Van Sickle of Davis, Brown, Koehn, Shors & Roberts, P.C., regarding the defeasance of bonds.

Mr. Scheidel explained that the appropriations bill was passed, and he didn't see mention of the UST Fund in that one. He reported that another bill (HF 2662), for the Agriculture and Natural Resources budget, did pass and directly affected the Iowa UST Fund. The Senate amended the bill from the House adding in a diversion of \$1,725,000 from the Iowa UST Fund to the Snowmobile Fund and ATV Fund. Mr. Scheidel noted that he could request a line item veto of the diversion from the Governor, based on the effects from the TIME 21 bill on Iowa UST funds, as well as the constitutionality of the wording of the amendment which excluded a provision to "notwithstanding" Iowa Code 455G.3. He requested the Board's guidance in regard to the request. Mr. Steward explained that he had encountered contradictory laws, and most often the later law was more specific and would supercede the earlier law, however in this case, the previous law was more specific and directed to the General Assembly and the later law was less specific and not directed to the General Assembly, therefore creating a construction issue. The will of the Board was to notify the Governor's office regarding the construction problem, as well as, the idea that a diversion from one fund to reimburse a fund that must be reimbursed for past a diversion was ironical at best. Mr. Scheidel also offered to discuss the effects of TIME 21 on the Iowa UST Fund balances. The Board agreed.

HF 2662
2662

Mr. Scheidel explained the TIME 21 bill to the Board, as it affects the Iowa UST Fund. He explained that the legislation changed the way Road Use money was funded. The change included the idea that \$17M of the Environmental Protection Charge collections would be directly deposited into the Iowa UST Funds, rather than into the Road Use fund and then dispensed to Iowa UST from Road Use. The Road Use funds provided the security for the bonds, and now the pool of money from which the Board received its \$17M per year would be much smaller. The bondholders now would have a perception, real or otherwise, that the security for the bonds had changed. The ratings on the bonds specifically referenced the larger pool of money from which the Board received its annual \$17M, therefore the credit rating could change or bondholders could issue lawsuits for the change in security on the bonds they hold.

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Mr. Scheidel advised that to remove the risk the Board could pay off the 1997 bonds and defease the 2004 bonds, which can not be directly paid off. The defeased funds would provide security for the bondholders, as the money to repay the bonds would be set aside and untouchable for reasons other than bond repayment. He referred to the memo from David Van Sickle, bond

counsel, regarding the structure of the defeasance. Also, the Board discussed the effect of the defeasance on Fund balances. Mr. Scheidel advised that the Board would have to make decisions regarding moving money from one UST Fund to another as the balances of some would be depleted. For example, the Innocent Landowner Fund had never been used for anything other than the payment of innocent landowner claims, and that money would have to be moved in part.

Mr. Scheidel also noted that he needed to notify the trustee that the Board intended to redeem the 1997A Series bonds by June 30, 2008. Mr. Holcomb submitted a motion to give the Administrator the authority to move forward with the pay off of the 1997A Series bonds for approximately \$18.3M. Mr. Beech seconded the motion, which was approved by a vote of 6-0.

Mr. Scheidel noted that the Board had a statutory obligation, due to TIME 21 legislation, to defease the 2004A Series bonds by June 30, 2008. He had inquired from the Treasurer's Office about process but had not heard back as of this meeting date. Ms. Voss requested that Mr. Scheidel share any information he received from the Treasurer with the Board members as soon as he hears.

Mr. Scheidel asked the Board how to proceed with regard to the loss portfolio transfer (LPT) proposed by PMMIC, as previously discussed. The Board had planned to issue an RFI to determine interest from third parties. That plan had been on hold while TIME 21 legislation was pending. Now that TIME 21 had passed, the Board felt they should await information regarding the state of the UST Funds after the 1997 bonds are redeemed and the 2004 bonds are defeased. Mr. Hall inquired about the downside to issuing a RFI while working out the details of Fund balances at the same time. Mr. Scheidel and Mr. Steward indicated that the Board had not decided whether or not to enter into a LPT, and soliciting information without intent to move forward with a request for proposal (RFP) might be ill-perceived if the Board chose to do nothing with the information.

After additional discussion, Mr. Scheidel mentioned that 455G.6, which gave the Board authority for bonding, was set to expire at the end of the next fiscal year. Ms. Voss summarized that the Board would await information regarding the Fund balances, and the Board could then discuss their options for RFI for an LPT.

B. SIC Model (RBCA) Rule Status

To recap, Mr. Scheidel explained that the DNR had decided that after 10 years of risk based corrective action assessments of leaking underground storage tank (LUST) sites, the model for classifying sites should be recalibrated. After commissioning the creator of the RBCA model for assistance, a group of stakeholders - the software investigation committee - recommended specific changes to the model. Mr. Hall had noticed the discussion and invited interested parties, including members of the water supply community, to be involved in stakeholder discussions; however no one from the water supply community had chosen to participate in the discussions early on.

Mr. Scheidel explained that when the Department of Natural Resources (DNR) went to file the RBCA change into rule, the resulting rule language submitted to the Environmental Protection Commission (EPC) by DNR staff included additional items beyond the scope of the SIC recommendation. After feedback, the rule was pulled from the EPC agenda, revised and re-filed with EPC and pulled again. The third filing still included ancillary items dealing with the potential for a water supply well outside of the modeled plume to pull in LUST contamination. After additional comment from stakeholders, EPC requested a regulatory analysis from the DNR after working with stakeholders.

Mr. Scheidel noted that the argument from some stakeholders was that the authority being suggested in the rule would be applied to all LUST sites, rather than being used on an exceptional basis, and the DNR had not yet supplied examples where the additional authority would have benefited the assessment and outcome of a site. Mr. Beech inquired about the Board's options for their participation. After a brief discussion, Mr. Scheidel cautioned that the Board would want to be careful and not hurt claimants by not paying for work that the DNR was requiring those claimants to complete.

Brian Tormey of the DNR addressed the Board regarding water supply wells outside of the simulated plume of a LUST site. He explained that the EPC had requested the DNR work with stakeholders to come to a consensus. He also stated that the Administrative Rules Review Committee had requested the DNR complete an informal analysis, without much direction about what that should be.

Mr. Tormey noted that groundwater professionals had the authority to require a RBCA Tier III, which consisted of three-dimensional assessment for sites with a water supply well receptor, to prove to DNR that a well would not be impacted. He explained that DNR should have the same authority in rule to require a Tier III where they think a water well would be impacted. He noted that he thought that all were in agreement that some sites with water well receptors should be investigated to see if they could be impacted. Mr. Tormey stated that in some ways the DNR programs (i.e. water quality and LUST) overlap responsibilities and in some ways these programs leave gaps. He stated that water supply well receptors, even if outside a modeled plume, might be most conveniently addressed by the LUST section in order to fill the gaps. He explained that DNR had proposed the formation of source water protection team, which could have a Tier III completed, without putting the burden on the responsible party, to assess the risk to a water well receptor. Then if the assessment didn't clear the receptor, the resulting work required to address it would fall back to the responsible party.

Mr. Scheidel brought up the role of the groundwater professionals as the basis of the Program, as they were relied upon for their judgment and expertise, while the DNR had both certification authority and review of their work oversight. Additionally, the RBCA model was created to conservatively screen LUST sites for risk by simulating a plume, thereby creating a line beyond which receptors would not be of concern – because it was an over-predictive line initially. Groundwater professionals had authority to clear a receptor within the plume by using a Tier III model, as well, for the very reason that the RBCA model was over-predictive in scope. However, many stakeholders could not come to terms with why the DNR should authorize the

use of the Tier III to assess receptors that were not modeled at-risk within this over-predictive assessment.

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Mr. Beech agreed that changing the rule would not be fair to the responsible party, especially operating UST owners and operators.

Mr. Scheidel noted that the ability to address the gaps in authority between DNR programs might fall to the LUST section simply for funding reasons only. He referenced an earlier problem between Water Supply and LUST, when Water Supply was granting permits to install plastic water lines through LUST plumes; and any discovery would be handled by the LUST section and paid for by the Iowa UST Fund. The Iowa UST Fund Board took a stance to oppose that practice and refuse to fund such corrective action.

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Mr. Tormey noted that the RBCA model was a two-dimensional screening tool, however not a decision maker. He stated the DNR felt they needed the discretionary authority to make decisions affecting the third dimension created by a high volume pumping water well receptor, and he expected the need to use the authority would occur on a limited basis.

Mr. Hall explained to the Board that the use of the RBCA modeled data was partly scientific, but also partly the art of the interpretation. Mr. Beech replied that the screening was 3 times over-predictive to provide a buffer for those variations in interpretation.)

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Mr. Scheidel noted the DNR was to take the rule back to the ARC on May 13, 2008. Mr. Beech suggested the Board discuss a response to the rule, when it was revealed. Mr. Tormey stated he felt the stakeholder meetings were largely productive with good discussion. Ms. Voss inquired about how other states handle site assessment. Mr. Norris stated that from his experience with other states, he had concluded that Iowa's model was significantly over-predictive by comparison. Mr. Beech opined that the rule should be written based upon what was agreed to by all stakeholders—the model recalibration alone, and then further compromise could be ongoing with regard to water supply interests. The longer the debate continues without the adoption of the new model in rule, the longer the Board pays for work required by a model that is 8 times over-predictive.

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Mr. Scheidel promised to notify the Board when he received a copy of the rule to be noticed.

C. Adoption of UST Removal Rule

Mr. Scheidel presented the Iowa UST Fund Board rule regarding UST removal. He also included a copy of comment submitted from the DNR regarding the rule. More specifically, the DNR objected to the statute language that the rule was pursuant to and wanted the Board to expand the rule language to include UST removal benefits to individuals who are not the UST Fund claimant, which would be contrary to the statute. The DNR comment suggested the Board file the rule in opposition to the statute, because the statute was deemed by DNR to be unconstitutional. Mr. Scheidel responded to the comment stating the Board members didn't think it was their role to oppose statutory language.

Mr. Scheidel noted that the Board had maintained a 28E agreement with the DNR for UST removal on sites with ineligible claimants through the Tank Closure Contracts, and the DNR had the authority to add sites to those projects to complete UST removal on at-risk sites.

Mr. Steward noted that the rule had been adopted already and the filing was for minor amendments to the rule. Mr. Holcomb submitted a motion to adopt the amended rule, and Mr. Beech seconded the motion. Motion passed 6-0. Mr. Scheidel said he would file the adoption.

D. DNR Update

Brian Tormey of DNR reported that three staff members were currently attending the Environmental Protection Agency (EPA) Region VII meeting. He also stated he had attended a meeting for the Association of State and Territorial Solid Waste Management Officials, which included a tanks program, so that he could obtain more shared knowledge from other states regarding tanks. Lastly, he noted that he had a meeting scheduled with the field office bureau chief, legal services staff, Elaine Douskey (LUST) and Tom Collins (UST) to discuss compliance priorities in the tanks area for the next fiscal year in order to set up the budget for the field offices.

Mr. Scheidel stated he had a very positive meeting with the DNR regarding the 28E agreements for tank tag fees and for NFA funding. He explained that he was currently awaiting the drafts from DNR of those agreements based on what was agreed at that meeting.

PROGRAM BILLINGS

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

1. Aon Risk Services \$122,726.00
Consulting Services – May 2008 (\$57,513.00)
Claims Processing Services – May 2008 (\$55,213.00)
2. Attorney General’s Office \$9,896.22
Services provided for March 2008
3. Iowa Department of Revenue \$1,672.80
Environmental Protection Charge collection
Jan – Mar 2008
4. Iowa Department of Inspections & Appeals..... \$105.63
Administrative Hearings on behalf of the Iowa UST Fund Board
Jan – Mar 2008

No additional billings for outside cost recovery counsel were presented by the Attorney General’s office for this meeting. On a motion by Mr. Holcomb and a second by Ms. Johnson, the billings were approved by a vote of 6-0.

MONTHLY ACTIVITY REPORT

Mr. Scheidel noted that the March activity report, financials and opt-in report were in the Board packets for the Board members to review. He highlighted the high number of closed remedial claims resulting from the Coastal Mart settlement.

ATTORNEY GENERAL'S REPORT

Mr. Steward addressed the Board to request an advance, not to exceed \$1,500, for costs for attending the annual tank conference in Charleston, SC in June. He noted that the New England Interstate Water Pollution Control Commission (NEIWPCC) had always reimbursed the Iowa UST Fund in past years for his costs, and he had submitted a request for reimbursement again this year.

Mr. Beech made a motion to approve the advance for Mr. Steward, and Mr. Holcomb seconded the motion, which was approved 6-0.

CLAIM AUTHORITY

Mr. Gastineau presented the following claim authority requests:

1. **Site Registration 8600284 – Lovilia Trading Post, Lovilia**

7LT073

This was a second Board report for this site. Following an earlier excavation, soil contamination was left and all vapor pathways remain high risk at this site. At a corrective action meeting, it was agreed to excavate as much of the remaining contamination as possible in those areas closest to the receptors that render the site high risk. Contaminated soil would be left with buildings and Iowa DOT right-of-way hindering a complete excavation. Additional post-excavation activities would likely be required. Previous authority to \$220,000 had been granted, and \$190,187.54 was incurred to date. Additional authority to \$300,000 as requested for a site monitoring report (SMR), a possible corrective action design report (CADR), and implementation of the excavation.

A motion to approve the claim authority was submitted by Mr. Holcomb and seconded by Mr. Beech. Approved 6-0.

2. **Site Registration 8604171 - Action Auto Sales & Repair LLC, Sioux City**

7LT127

This was a second Board report for this site that was classified low risk, pending the closure of the Sioux City water well field. Once the well field is closed, the site would be no action required (NAR) with free product recovery. Monitoring will not be required. DNR had requested more aggressive free product recovery. A multi-well FAP system of free product recovery had been installed with marginal results to date. Previous authority to \$125,000 had been granted, and \$124,578.94 was incurred to date. Additional authority to \$200,000 was requested for free product recovery (FPR) activities.

Mr. Holcomb submitted a motion to approve the claim authority, and Mr. Beech seconded the motion. Approved 6-0.

3. Site Registration 8608248 – Heartland Coop, Gilman

7LTP02

This site was classified high risk for all soil and groundwater vapor pathways. An excavation budget was approved in 2001 and completed in 2002, but site conditions made it necessary to expand the excavation size from 500 to 750 yards. Free product and monitoring activities had been ongoing, but the groundwater professional had overlooked billing and submitting reports until March 28, 2008. The last monitoring report submitted had recommended reclassification to no action required (NAR). Previous authority to \$75,000 had been granted, and \$77,022.00 was incurred to date. Additional authority to \$135,000 was requested for the SMR's.

Mr. Beech submitted a motion to approve the claim authority, and Mr. Holcomb seconded the motion, which was approved 6-0.

4. Site Registration 8913807 – Karean's Flowers, Guthrie Center

9LTE07

This was the second Board report for a site that was classified high risk. The site specific target levels (SSTL's) for the groundwater ingestion pathway had not been met. An additional two years of system operation and monitoring were expected before the SSTL's will be met or the system will have provided its maximum benefit and other options may then be considered. Previous authority to \$300,000 had been granted, and \$295,168.02 was incurred to date. Additional authority to \$412,500 was requested for SMR's, operation and maintenance, and utilities.

Mr. Holcomb submitted a motion to approve the claim authority, and Mr. Hall seconded the motion, which was approved 6-0.

5. Site Registration 8606246 – Country Stores of Carroll, Coon Rapids

7LT585

This site was classified high risk for a municipal well and low risk for the protected groundwater source, potential to confined space, and potential sanitary source pathways. The plume was merged with an aboveground tank facility adjacent to the site owned by the same party. Costs had been separated. A completed risk based correction action (RBCA) Tier III report recommended the drinking water well be reclassified from high risk to no action required, as a receptor. Previous authority to \$75,000 had been granted, and \$74,328.47 was incurred to date. Additional authority to \$115,000 was requested for a SMR, FPR, and a possible CADR and implementation of the CADR.

Mr. Beech submitted a motion to approve the claim authority, and Mr. Holcomb seconded the motion, which was approved 6-0.

Site Registration 7910394 – ConocoPhillips, Davenport

This site was classified high risk for the soil leaching to groundwater ingestion pathway for the protected groundwater pathway. It appeared that an on-site restrictive covenant prohibiting the installation of water wells could reclassify this pathway to no action required (NAR). The site was also low risk for the groundwater ingestion to protected groundwater source pathway (the restrictive covenant would not reclassify this pathway), and the soil vapor to confined space non-residential pathway. Several more years of low risk monitoring would likely be necessary before the low risk pathways and the site could be reclassified to NAR. Previous authority to \$75,000 had been granted, and \$96,987.95 was incurred to date. Additional authority to \$130,000 was requested for more SMR's.

Mr. Holcomb submitted a motion to approve the claim authority, and Mr. Hall seconded the motion, which was approved 6-0.

Site Registration 8605033 – Pottawattamie County Development Corp, Council Bluffs

This was the third Board report for this high risk site. An excavation was being completed at the site, and higher than expected contaminant concentrations had been encountered along the southern edge of the excavation. Additional excavation beyond what was previously approved was recommended to remove this contamination while the excavator still had the hole open. If not removed, the site would remain high risk for the vapor pathways and additional corrective action might be necessary. Previous authority to \$418,813.11 had been granted, and \$134,022.86 was incurred to date. Additional authority to \$525,000 was requested for a SMR and implementation of the excavation.

Mr. Holcomb submitted a motion to approve the claim authority, and Mr. Hall seconded the motion, which was approved 6-0.

CONTRACTS ENTERED INTO SINCE THE MARCH 27, 2008 BOARD MEETING

Mr. Scheidel noted that the Board had entered into two agreements or contracts since the last Board meeting. Both contracts with Array Environmental were extended for one year for two community remediation projects – Sexton & Wesley and College Springs & Coin projects.

OTHER ISSUES

Mr. Scheidel reported to the Board that the Auditor's exit interview was completed, and the Auditor's updated GASB report to legislators would now include the Iowa UST Fund's negative balance projections based on Fund liabilities.

Also, Mr. Scheidel noted that the next Board meeting was scheduled for Friday, May 23rd 10 A.M., however due to the holiday weekend Board members decided to hold the meeting on Thursday, May 22nd at 10AM. Ms. Voss indicated she would be unable to chair the meeting.

CORRESPONDENCE AND ATTACHMENTS

Ms. Voss asked if there was any further business, and there being none, Ms. Johnson moved to adjourn, and Ms. Lincoln seconded the motion. By a vote of 6-0, the Board adjourned at 11:32 A.M.

Respectfully Submitted,

A handwritten signature in black ink that reads "Scott M. Scheidel". The signature is written in a cursive style with a large, prominent initial "S".

Scott M. Scheidel
Administrator

Closed Session

Discussion of Pending and Imminent Litigation

Public Comment

- Have - NPDES permit
- request that board discuss before denying benefits
 - get understanding of when NPDES will be required

Board Issues

A. Legislative Update

35 - Request line-item veto (not exercised)
ATV
- Signal by gov 5/13

B. 2004 Bond Issue Defeasance

Carry - Ins (can't have copies)

- Notice to be given bond holders

~ 18,700 to be paid off

SS - Suspend ILO claims? suggest funding $\frac{1}{4}$

J.R. - Could fund w/ \$17M?

SS - First priority obligation is to fund Remedial claims

C. SIC Model (RBCA) Rule Status

D. Loss Portfolio Transfer – PMMIC

E. NPDES Permits



IOWA UNDERGROUND STORAGE TANK Financial Responsibility Program

Susan E. Voss, *Chairperson*

Scott M. Scheidel, *Administrator*

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Nancy A. Lincoln

Douglas M. Beech

TO: UST Board

FROM: Scott M. Scheidel

SUBJECT: NPDES Permits

DATE: May 12, 2008

The Iowa Department of Natural Resources (DNR) regulates the direct discharge of wastewater to waters of the state through the National Pollutant Discharge Elimination System (NPDES) permit program. Under this program, regulated facilities must receive a NPDES permit before discharging any wastewater (e.g. adequately treated sewage, industrial waste, or other waste) directly into surface water or upon the ground. The permits require compliance with all federal and state standards.

DNR policy has historically exempted leaking underground storage tank sites from the NPDES permit requirements. The policy, created in 1992, is based on the premise that UST Section staff would review remedial treatments to be provided at a site and that any discharge would be limited to the parameters and concentrations provided in the May 1990 DNR position paper regarding "Discharge Standards for Gasoline Cleanup Projects". In cases where contaminants other than gasoline may be present, the DNR has on occasion required responsible parties to secure and to comply with the requirements of a NPDES permit.

Following the provisions provided in the Risk Based Corrective Action (RBCA) evaluation program, it is not uncommon that contamination may remain at a site even after obtaining a No Action Required classification. In rare cases, this contamination may be inadvertently captured and discharged as a wastewater (e.g., sump pumps). In these cases, DNR may require the entity creating the discharge to secure and to comply with the requirements of a NPDES permit, which may also require providing treatment to reduce the contaminant levels.

Recommendation

It is recommended the Board adopt a policy that funding be provided, to an owner or operator who is eligible for benefits, to obtain a NPDES permit as may be required by the DNR for any discharge related to a remediation system installed and operated at a designated High Risk LUST site. In the event DNR approves a low risk or no action required status, or allows the owner or operator to monitor a high risk site in lieu of corrective action, funding for an NPDES permit and associated treatment and/or monitoring shall not be an eligible cost, unless site conditions change such that RBCA standards require the restarting of the associated treatment and discharges.

It is further recommended the Administrator be authorized to enter a final settlement agreement providing any known claimant that has received benefits inconsistent with this policy to a reimbursement of reasonable costs incurred. No further funding for treatment and monitoring costs would be provided unless the associated LUST site were to be designated high risk in accordance with DNR Regulations, 567 Iowa Administrative Code, Chapter 135.

F. DNR Update

G. 28E Agreement – DNR Funding FY08 – FY09

28E AGREEMENT

BETWEEN the IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, and the IOWA DEPARTMENT OF NATURAL RESOURCES for FUNDING AND MANAGEMENT of the UNDERGROUND STORAGE TANK SECTION of the IOWA DEPARTMENT OF NATURAL RESOURCES

This Agreement is entered into by and between the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board (hereinafter "Board"), with its Administrator's office located at 2700 Westown Parkway, Suite 320, W. Des Moines, Iowa 50266, and the Iowa Department of Natural Resources (hereinafter "DNR"), located at 502 E. 9th Street, Des Moines, IA 50319. This Agreement is entered into pursuant to Chapter 28E of the Code of Iowa, and is effective as of the date it is fully executed by all parties.

I. PURPOSE

The purpose of this Agreement is to establish the terms under which the Board will provide funding pursuant Iowa Code section 455G.6(15)"a" to the DNR's Underground Storage Tank ("UST") Section during fiscal years 2008-2009. The Board agrees to provide the DNR with funds in an amount equivalent to the UST tank management fees collected and allocated to the Board pursuant to Iowa Code sections 455B.479 and 455G.8"3". The Parties do not intend to create a separate legal entity under this Agreement.

II. TERM

The term of this Agreement shall begin upon execution hereof by all parties hereto and shall run through June 30, 2009, unless otherwise terminated or extended pursuant to the terms of this Agreement. This Agreement may be renewed for one or more terms not to extend beyond June 30, 2016, by the written agreement of all parties on terms stated therein.

III. ADMINISTRATION

This Agreement shall be administered by the DNR in consultation with the Board and its Administrator. All administrative decisions concerning this Agreement shall be undertaken pursuant to the terms outlined herein.

IV. ACQUIRING AND HOLDING OF PROPERTY UNDER THIS AGREEMENT

All real and personal property used or acquired under the terms of this Agreement shall be held in the name of the DNR.

V. DNR RESPONSIBILITIES

Milestone 1: By June 30, 2008, the DNR shall, at a minimum:

a. Conduct a meeting between representatives of the DNR central office and the DNR field offices to review and document field office accomplishments since July 1, 2007, with respect to UST Section goals and priorities;

b. Prepare a summary report that discusses (1) field office LUST and UST compliance activities and performance, and (2) UST compliance inspection audits for the period from July 1 2007, to June 30, 2008; and

c. Set UST Section goals and priorities for the DNR field offices for the time period from July 1, 2008, to June 30, 2009.

Milestone 2: By June 30, 2009, the DNR shall, at a minimum:

a. Conduct a meeting between representatives of the DNR central office and the DNR field offices to review and document field office accomplishments since July 1, 2008, with respect to UST Section goals and priorities;

b. Prepare a summary report that discusses (1) field office LUST and UST compliance activities and performance, and (2) UST compliance inspection audits for the period from July 1 2008, to June 30, 2009; and

c. Set UST Section goals and priorities for the DNR field offices for the time period from July 1, 2009, to June 30, 2010.

VI. BOARD RESPONSIBILITIES

The Board shall provide the DNR with funds, subject to contingencies stated in this section, in an amount equivalent to the UST tank management fees collected and allocated to the Board from July 1, 2007, to June 30, 2009. The Board shall make three payments pursuant to this Agreement, commencing with an initial payment on July 10, 2008 (representing the actual fees seventy-seven percent of fees received by the Board since July 1, 2007), and thereafter substantially equal estimated semi-annual payments no later than January 10, 2009 (payment shall be an estimate representing the fees collected since July 1, 2008), and July 10, 2009. The July 10, 2009 payment shall provide a reconciliation of the actual fees received since July 1, 2008, such that the payment represents the actual seventy-seven percent of fees received by the Board.

A. Payments Contingent on Completion of Milestones.

Failure by the DNR to meet a Milestone will not be considered a breach of this Agreement by either party; however, any obligation by the Board to make payments pursuant to this Agreement shall be suspended for any period of time for which the DNR fails to timely meet any part of a Milestone to the satisfaction of the Board. Upon successful completion of all outstanding Milestone requirements for which payment was suspended, the Board may pay the DNR the payment(s) suspended, and resume payments pursuant to the schedule in this Section VI of the Agreement.

B. Incentive Payment for LUST Site Closures.

In the event 200 or more LUST sites are (1) classified as "No Action Required" and (2) issued a "No Further Action Certificate" during either the 2008 or 2009 fiscal year (July 1 to June 30), the Board agrees to provide the DNR an additional One Hundred Thousand Dollars (\$100,000) to accompany the January 10, 2009 payment for fiscal year 2008, or the July 10, 2009 payment for fiscal year 2009. The DNR shall not assume any responsibility under this Agreement to achieve these targets; however, the Board will be responsible to provide payment under this Agreement to the DNR should the identified targets be reached. Monies paid under this section shall only be utilized for UST Section activities, with priority given to activities that support the closure of historical LUST sites. Specifically monies may be spent in the direct assessment or corrective action at sites without eligible UST Fund claims.

VII. FINANCING

The Board shall pay all costs associated with the administration of this Agreement in accordance with the terms of paragraph VI of this Agreement. The DNR shall use the funds provided by the Board exclusively for the operation of the DNR's UST Section. Use of the funds for any other DNR sections or programs is not authorized by this Agreement.

VIII. AMENDMENT

This Agreement may be amended from time to time by written agreement of the Parties. All amendments shall be in writing, signed by both Parties, and filed with the Secretary of State and recorded with the Polk County Recorder.

IX. TERMINATION

A. Termination Upon Mutual Consent. This Agreement may be terminated upon the mutual written consent of the parties.

B. Termination By One Party. Notwithstanding anything in this Agreement to the contrary, and subject to the limitations, conditions, and procedures set forth below, either party to this Agreement shall have the right to terminate this Agreement without penalty by giving sixty (60) days' written notice to the other party to the Agreement as a result of any of the following:

1. There are insufficient funds available to allow a party to fulfill its obligations under this Agreement; or
2. A change in the law prevents or substantially impairs a party's ability to participate in this Agreement.

X. NOTICES

Whenever notices and correspondence are to be given under this Agreement, the notices shall be given by personal delivery to the other party, or sent by mail, postage prepaid, to the other party as follows:

To the Board

Iowa UST Fund Board
2700 Westown Parkway, Suite 320,
W. Des Moines, Iowa 50266

To the DNR

Iowa Department of Natural Resources
UST Section
502 E. 9th Street
Des Moines, IA 50319

XI. APPLICABLE LAW

This Agreement is to be governed by the laws of the State of Iowa.

XII. FILING AND RECORDING

It is agreed the Board will electronically file this Agreement with the Secretary of State, and electronically file any amendment, renewal, or notice of termination of this Agreement within thirty days as provided in Iowa Code section 28E.8 as amended by 2007 Iowa Acts, HF 808.

IN WITNESS WHEREOF, and in consideration of the mutual covenants set forth herein and for other good and valuable consideration, the receipt, adequacy, and legal sufficiency of which are hereby acknowledged, the parties have entered into this 28E Agreement and have caused their duly authorized representatives to execute this 28E Agreement.

**IOWA COMPREHENSIVE PETROLEUM
UNDERGROUND STORAGE TANK
FUND BOARD**

**IOWA DEPARTMENT OF NATURAL
RESOURCES**

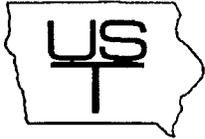
BY: _____
Susan Voss, Chair

BY: _____
Richard Leopold, Director

DATE: _____

DATE: _____

Approval of Program Billings



IOWA UNDERGROUND STORAGE TANK

Financial Responsibility Program

Susan E. Voss, *Chairperson*

Scott M. Scheidel, *Administrator*

Board Members: Michael L. Fitzgerald Jeff W. Robinson Jacqueline A. Johnson James M. Holcomb Richard A. Leopold
Nancy A. Lincoln Douglas M. Beech

MEMORANDUM

TO: UST Board Members
FROM: Scott Scheidel
DATE: May 14, 2008
SUBJECT: Summary of Bills for Payment

NOTICE

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

1. Aon Risk Services..... \$122,726.00
Consulting Services June 2008 - \$67,513.00
Claim Processing Services June 2008 - \$55,213.00

2. Attorney General's Office..... \$9,896.40
Services provided for the Iowa Underground Storage Tank Program
April 2008

Iowa Comprehensive Petroleum

Invoice No. 9500000064647

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

Aon Risk Services Central, Inc.
fka 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	May-01-2008	US DOLLAR	Scott Scheidel

Named Insured	Service Term	Trans. Eff. Date	Description	Amount
Iowa Comprehensive Petroleum	Jan-01-2008 - Jan-01-2009	Jun-01-2008	Renewal - Service Fee	
Comments			Service Fee	62,513.00
Installment 6 of 12			Consulting Expense	5,000.00
TOTAL INVOICE AMOUNT DUE				67,513.00

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	9500000064647	May-01-2008	US DOLLAR	67,513.00

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

Send remittance 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. 9500000064648

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

Aon Risk Services Central, Inc.
fka 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	May-01-2008	US DOLLAR	Scott Scheidel

Named Insured	Service Term	Trans. Eff. Date	Description	Amount
Iowa Comprehensive Petroleum	Jan-01-2008 - Jan-01-2009	Jun-01-2008	Renewal - Service Fee	
Comments			Service Fee	0.00
Installment 6 of 12			Consulting Expense	55,213.00
TOTAL INVOICE AMOUNT DUE				55,213.00

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.

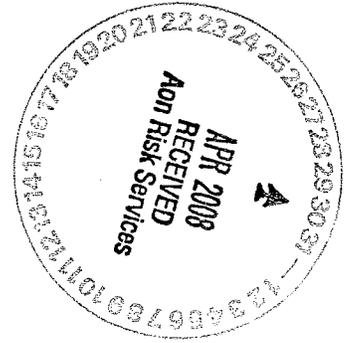
Client Account No.	Invoice No.	Invoice Date	Currency	Amount Due
10756349	9500000064648	May-01-2008	US DOLLAR	55,213.00

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

Send remittance 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: 04/28/08

Buyer: Aon Risk Services
2700 Westown Pkwy, Ste 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: April

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

Document Number	Account Coding				Rev Source	Description	Amount
	Fund	Agency	Org	Sub Org			
112AG119027	0001	112	2301		0285		\$ 9,896.40

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

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

Billing Period:	April
Billing Total:	\$9,896.40
DSS @ 33%	\$1,817.36
TDB @ 25%	\$1,312.60
RCH @25%	\$923.13
CLJ @50%	\$1,524.43
Payroll 4/3/08:	\$5,577.52
DSS @ 33%	\$1,494.74
TDB @ 25%	\$1,123.00
RCH @25%	\$670.94
CLJ @50%	\$1,030.20
Payroll 4/17/08:	\$4,318.88
Workers' Comp FY2008	\$0.00
Total Misc:	\$0.00
	\$9,896.40

DSS = David Steward 33%

Dave is our Asst Attorney General who provides the Board with legal counsel, drafts agreements and settlements with other State agencies and claimants.

TDB = Timothy Benton 25%

Tim is our other Asst Attorney General who provides the Board with the coordination of administrative hearings on UST Fund claim denial appeals, as well as the negotiation of any settlements.

RCH = Richard Heathcote 25%

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 50%

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.

Monthly Activity Report and Financials Reviewed

A. April Activity Report

B. April Financial Report

C. Year to Date Financial Report as of April 30, 2008

D. April Opt-In Report

OPT-IN PROGRAM SUMMARY REPORT
May 22, 2008
For the Period April 1 to April 30, 2008

GENERAL PROGRAM SUMMARY:

Notices to potential claimants:

Eligible claims referred to GAB this period:

Number of 90-Day Notices sent this period:

Settlement Agreements outstanding at major oil company for execution:

Settlement Agreements forwarded to GAB for processing warrants or co-payment credit:

Number of claimants receiving warrants or co-payment credit this period:

Number of 1st Party Affidavits received in lieu of supporting docs (# this month/# Total to date):

WARRANTS MAILED THIS PERIOD SUMMARY:

	Number		Total
First Warrant	1	\$	3,347.75
Additional Warrants	26	\$	12,906.22
Co-Payment Credit	0	\$	-
TOTALS:	27	\$	16,253.97

PROGRAM PAYMENT DISBURSEMENT TO DATE:

Oil Company	Total Claims to Date	New Claims this Period	Payments Made to Date	Payments Made this Period
ARCO	57	1	\$ 430,292.25	\$ 4,018.38
PHILLIPS	264	0	\$ 1,760,016.91	\$ 3,266.76
AMOCO	307	0	\$ 2,278,164.91	\$ 4,511.43
CONOCO	110	0	\$ 692,669.42	\$ 237.86
SOUTHLAND	18	0	\$ 89,901.25	-
FINA	14	0	\$ 110,097.10	\$ 219.63
SUN/SUNOCO	180	0	\$ 1,234,030.07	\$ 3,770.95
TEXACO	156	0	\$ 1,067,289.71	-
CHAMPLIN	23	0	\$ 124,016.74	-
KERR-McGEE	78	0	\$ 528,140.72	\$ 228.96
CHEVRON	24	0	\$ 166,305.64	-
OXY	0	0	-	-
T.P.I. INC.	15	0	\$ 130,836.32	-
TOTAL:	1246	1	\$ 8,611,761.04	\$ 16,253.97

ADDITIONAL WARRANT SUMMARY:

Arco	\$ 670.63	Sunoco	\$ 3,770.95
Phillips	\$ 3,266.76	Texaco	-
Amoco	\$ 4,511.43	Champlin	-
Conoco	\$ 237.86	Chevron	-
Southland	-	Kerr-McGee	\$ 228.96
Fina	\$ 219.63	TPI, Inc.	-

Attorney General's Report

Claim Payment Approval

Claim Payment Authority Reports

	<u>Site #</u>	<u>Site Name</u>	<u>1st Bd Rpt</u>	<u>2nd Bd Rpt</u>	<u>3rd Bd Rpt</u>	<u>4th Bd Rpt</u>	<u>Paid to Date</u>	<u>Recommended Authority</u>	<u>Approved Authority</u>	<u>Pd Since Last Bd Report</u>	<u>Comments</u>
1	8600894	Casey's Marketing Co	08/23/07				\$76,963	\$200,000	\$200,000		
2	9016721	Kutcher Welding	08/23/07				\$88,191	\$120,000	\$120,000		
3	8604079	Bluff Service Center	08/23/07				\$74,357	\$210,000	\$210,000		
4	8607462	Daniel Grothus	08/23/07				\$84,481	\$150,000	\$150,000		dww in Scott Cty
5	8603249	Al's Corner Oil Co	08/23/07				\$82,813	\$75,500	\$75,500		
6	8607406	Messer Oil Co	08/23/07				\$82,763	\$130,000	\$130,000		
7	8608909	Jerry Roney	08/23/07				\$83,068	\$225,000	\$225,000		potential PGS
8	8811292	Robert E Cummings	09/26/07				\$46,834	\$275,000	\$275,000		
9	8606587	Casey's General Store	09/26/07				\$84,451	\$104,000	\$104,000		
10	8601125	Seeley Oil Co	09/26/07				\$74,313	\$350,000	\$350,000		
11	8603897	James Oil Co	01/20/06	09/26/07			\$156,410	\$360,000	\$360,000	\$83,837	2 dww and PGS
12	8609543	Madrid Body Shop	03/22/05	10/25/07			\$78,591	\$221,000	\$221,000	\$10,120	
13	8600044	Krause Gentle Corp	04/06/00	10/25/07			\$319,228	\$700,000	\$700,000	\$254,851	
14	8609078	Wood Oil Co	10/25/07				\$85,216	\$125,000	\$125,000		PGS
15	8605033	Pottawattamie Cty Dev	02/13/01	10/25/07			\$128,681	\$418,813	\$418,813	\$99,868	
16	8609040	Spratt Oil Sales Inc	05/08/02	10/25/07			\$366,747	\$450,000	\$450,000	\$325,736	dww receptors
17	8609394	Moorhead Coop	10/25/07				\$89,252	\$360,000	\$360,000		City dww
18	8601178	Six W. Ampride Inc.	01/25/08				\$81,599	\$115,000	\$115,000		
19	8607914	Louisa County	09/16/03	01/05/06	1/25/2008		\$375,978	\$460,000	\$460,000	\$216,528	Repl City dww install
20	8710744	Seaton's Jack & Jill	01/25/08				\$48,511	\$309,000	\$309,000		
21	8606584	Casey's General Store	02/29/08				\$32,458	\$150,000	\$150,000		
22	8606630	West Branch Oil Co., In	03/24/04	02/29/08			\$145,934	\$185,000	\$185,000	\$90,333	
23	8610198	Koch's 66	02/29/08				\$85,037	\$135,000	\$135,000		4 dww receptors
24	8600610	Casey's General Store	03/27/08				\$77,029	\$250,000	\$250,000		
25	8600268	Bluff View Cafe	03/27/08				\$89,149	\$240,000	\$240,000		Private dww receptors
26	8605366	Sigourney Oil Inc	03/27/08				\$90,672	\$125,000	\$125,000		dww pathway
27	8601874	Associated Milk Produc	11/02/95	02/19/04	3/27/2008		\$187,604	\$325,000	\$325,000	\$59,466	
28	8601923	Total Petroleum	03/27/08				\$78,269	\$290,000	\$290,000		
29	8600284	Lovilia Trading Post	09/21/01	04/25/08			\$190,188	\$300,000	\$300,000	\$168,853	
30	8604171	Action Auto Sales & Re	11/11/2004	4/25/2008			\$124,579	\$200,000	\$200,000	\$48,930	
31	8608248	Heartland Co-op	4/25/2008				\$77,022	\$135,000	\$135,000		
32	8913807	Karean's Flowers	5/25/2004	4/25/2008			\$295,168	\$412,500	\$412,500	\$245,179	
33	8606246	Country Stores of Carro	4/25/2008				\$74,328	\$115,000	\$115,000		municipal dww
34	8606254	Country Stores of Carro	5/22/2008				\$87,031	\$115,000			
35	8608724	Burger's Champlin Serv	5/22/2008				\$39,442	\$175,000			municipal dww

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

**IOWA UNDERGROUND STORAGE TANK PROGRAM
 FIRST BOARD REPORT
 MAY 13, 2008
 BURGER'S CHAMPLIN SERVICE
 BLACKTOP M54
 GILLETT GROVE
 SITE REGISTRATION NUMBER: 8608724
 LUST NUMBER: 8LTE63**

RISK CLASSIFICATION:

HIGH LOW UNDETERMINED

PRESENT CLAIM RESERVE: \$ 165,000.00

ELIGIBILITY: The contamination was discovered during a site check in October 1990 and was immediately reported to the IDNR. A timely claim was filed. This is an eligible remedial claim.

COST INCURRED TO DATE:

1. Tank pull	9,760.00
2. RBCA Tier II report	29,412.50
3. Site monitoring reports	<u>5,292.10</u>
 TOTAL COSTS INCURRED TO DATE:	 \$ 39,441.60

PROJECTED COSTS:

<input type="checkbox"/> Risked Based Corrective Action Tier I & II Report	<input type="checkbox"/> Tank Pull/Up-Grade.
<input checked="" type="checkbox"/> Site Monitoring Report (SMR)	<input type="checkbox"/> Free Product Recovery (FPR)
<input type="checkbox"/> Corrective Action Design Report (CADR)	<input checked="" type="checkbox"/> Implementation of SVE/AS

TOTAL PROJECTED COSTS: \$ 125,000 to 150,000.00 ++

TOTAL AUTHORITY RECOMMENDED:

\$ 175,000.00

COMMENTS: The site is high risk for the groundwater ingestion pathway for a municipal water supply well and low risk for the protected groundwater source pathway. Corrective action is required and the installation of an SVE/AS system is recommended. A used system from another LUST site may be used at this site to help control costs.

RH

Approved ✓

LUST # 8LTE63

Db tracking memo:

07/17/97: TANKS CLOSED. INSURANCE PROBLEM. RP (ROY) DEAD. Put on contractor list.

02/03/98: DNR ACCESS LTR TO RP RE DNR/FUND DOING CLOSURE.

09/22/98: ON FUND CONTRACTORS LIST.

06-04-99: TE for Tier 2 till 8-31-99.

09/12/00: Status report from Geotek - Tier 2 completion target date: 11/30/00 (ka).

07/20/00: Letter mailed to Mrs. Burger from Wornson stating that inconsistencies between income tax returns and data request form have not been resolved.

Determination of ATP cannot be made until inconsistencies are resolved (ka).

05/24/01: On Western Iowa UST Contract April 2001 Status Report, indicates "very extensive plume, drilling required on crop land, waiting for access". Also indicates Tier 2 report completion date of 11/30/00.

08/22/01: REC'D TIER 2 REPORT & DISK. MTBE WORKSHEET & DISK.

08/29/01: FILE TO PEI FOR REVIEW. rc.

09/17/01: Reviewed & ACCEPTED T2 HR. CGWP due 11/17/01. CADR due 1/17/02. se

12/10/01: FUND LTR REQ STATUS OF PROJECT BY 12/30/01. rc.

12/28/01: RP has chosen GeoTek - Sioux Falls to conduct the CADR. Se

02/06/02: APO letter sent.

03/07/03: E-mail James Gastineau regarding update of status of this closure contractor site. rah

03/13/03: E-mail response from Gastineau site is non-fund eligible. As such, no work is planned for site. Rah

11/21/06: Review file. HR for GW and SL GW to the City DWW. Also HR for SL to PGWS and possibly soil to PWL. The site is not Fund eligible so CA work was not pursued after the Tier 2 accepted. However, the City DWW receptor is a shallow alluvial aquifer well (depth less than 50 feet). JS/FO 3 has confirmed that the City (population 67) is still using this well as the sole water source (not on rural water). Recommend discuss w/Fund to see if CA can be completed due to presence of GWI receptors.

11/21/06: Include FO 3 staff (Seivers and Whiting) in invite if a CA teleconference is scheduled. Rah

01/11/07: SP Projects mtg. Decision: Ask Julie Sievers with FO #3 to go on site to conduct further sampling of the City Well, a mon well near the source area, & 3 mon wells located between the City Well & the source area. Samples will be analyzed for MTBE, TBA, BTEX and TEH. If analytical results indicate that site is an imminent risk to the residents of Gillett Grove, then Elaine will discuss this site at the DNR/Fund Meeting (ka).

01/26/07: IUST letter to Genevieve Burger regarding costs for tank removal and assessment. Notes she may be eligible to pay reinstatement fee (insurance lapse) of \$9,832.50 to get back into Fund. Also notes may be eligible for Global(Champlin Oil) so enclosed Global app. However, if she choses not to pay reinstatement fee, Fund will pursue cost recovery.--rah

03/12/07: REC'D COPY OF LETTER TO JASON CARLSTROM FROM JAMES GASTINEAU RE: UST SITE ASSESSMENT. bsg
03/12/07: REC'D COPY OF LETTER TO JAMES CARLSTROM FROM JAMES GASTNEAU RE: UST SITE ASSESSMENT. bsg
4/17/07: FO Work request results received.--rah
5/10/07: FO3 sampling results disussed at the DNR-Fund meeting today. J ok'd adding this site to the new Western Iowa Closure Contract and having Geotek go out and perform more sampling after October 1, 2007.
5/15/07: Per KA e-mail. New access agreement needs to be mailed to Genevieve Burger before work commences on this site under current West IA Closure Contract.--rah
5/16/07: Added to State Closure Contract for gw sampling of existing wells and soil. (ka)
05/17/07: Rec'd Notice of Fund Benefits lien.
05/16/07: Placed on State Closure Contract for gw sampling of existing wells & soil. (ka)
05/18/07: Genevieve Burger signed AA (ka).
05/31/07: Geotek Status Report, "DNR notification 5/16/07." (ka)
06/19/07: Met with Robert Sackett, atty for Genevieve Burger. He stated Genevieve had been receiving bills from Geotek. . . was she to pay them? Explained that site is on State Closure Contract & Genevieve is receiving copies of statements & she is not resp for payment. He also asked if Genevieve died, would property lien pass to her heirs? I referred him to James Gastineau, Fund, re: the lien. Introduced Ruth Hummell to Robert. Ruth discussed the sampling that will take place this fall & environmental issues at the site. (ka)
06/30/07: Geotek Status Report: Right of entry - 6/4/07. Report Target Date - 10/30/07. "DNR requested sampling after 9/26/07." (ka)
10/31/07: Geotek Status Report, "Sampling completed 10/18/07." (ka)
11/20/07: REC'D FROM GEOTEK SUBMITTAL OF LABORATORY DATA. bsg
11/30/07: Geotek Status Report: Report Submittal Date is 11/06/07. "Lab data submitted 11/06/07 to DNR." (ka)
12/31/07: Geotek Status Report, "Lab data submitted 11/06/07 to DNR." (ka)
03/17/08: Letter from Fund to Mr. Sackett - site is not eligible due to release report date. Outlined FR re-instatement process. (ED).
04/15/08: REC'D COPY OF LETTER FROM UST FUND TO ROBERT SACKETT RE: ELIGIBILITY REQUIREMENTS OF A REMEDIAL CLAIM. bsg
05/19/08: REC'D SIGNATURE PAGE FOR MOA SIGNED BY LINDA WATTS, CGWP. bsg

LUST # 7LTS83

Db tracking memo:

03/29/94: PROFS NOTE FROM WORNSON-SITE IS IN CRP. LTR FROM FUND TO FOLLOW.

03/31/94: FORM FROM ICPUF, SITE ADDED TO CRP.

09/15/94: FP RCVR Y LTR SNT. REC'D 9/20. RPT DUE 10/20/94.

10/07/94: RP RSPNS TO FP LTR - GEOTEK HANDLING.

01/16/96: SCR REV LTR SNT. REC'D 1/18. ACC HI. MNTRNG PLN NOT OK. PLN = 2/18/96.

01/30/96: TE LTR SNT RE MNTRNG PLN WELL INSTALLATION & REV SNT. REC'D 2/2. PLN = 5/2/96.

04/30/98: REC'D UNSOLIC T2. (HI RISK).

06/04/98: T2 REV LTR SNT. REC'D 6/6. REJ. RVSD T2 = 9/6/98.

05/11/00: Notific. of FP in MW-2 (made to ED).

05/16/00: 2nd fp assess ltr snt. also noted revised T2 overdue & fp assess ovd. fp assess = 7/10/00.

06/29/00: Received FUND schedule extension form ----- T2 due 11/3/00.

11/27/00: REC'D REVISED TIER 2 REPORT & DISK. MTBE WORKSHEET & DISK.

01/16/01: Revsd T2 rev ltr snt. Rej. Rec'd 1/22. 2nd revision = 4/23/01.

07/13/01: First OD letter sent with due date for T2 of 7/25/01.

07/18/01: REC'D REQUEST FOR EXTENSION OF DUE DATE FOR REVISED TIER 2 REPORT.

02/25/02: Per mtg @ Springbrook - revsd T2 to DNR by 4/15/02.

04/29/02: REC'D REVISED TIER 2 REPORT & DISK.

05/23/02: Revsd T2 rev ltr snt. Ok hi. Rec'd 5/25. CADR = 8/30/02.

06/06/02: FAX from RP. Want Deb Morlan to continue as CGWP.

06/13/02: GAB APPROVES SMR BUDGET TO RECLASSIFY.

06/18/02: Rec'd copy of ltr to RP re: proposal to submit SMR versus CADR (vapor smplng at new gw source).

08/14/02: REC'D COPY OF CHANGE ORDER FOR SMR IN LIEU OF CADR.

12/09/02: SENT OD SMR TO RECLASSIFY LETTER. SMR TO RECLASSIFY = 12/20/02. (GREEN CARD = 12/12/02).

12/24/02: Request for time extension for SMR in lieu of CADR. Will submit by 2/15/03.

01/06/03: E-mail from CGWP. All work on 'hold' re: non-payment.

02/27/03: Final OD letter sent for SMR to reclassify. Due 3/15/03. Green card = 3/5/03.

06/06/03: REC'D SMR & DISKETTE. Request for site re-classif NOT made. GW vapor @ alt pt of compl clears some ASSNR.

06/10/03: Re-instate CADR ltr snt. Rec'd 6/13. CADR = 8/13/03.

07/21/03: REC'D FPR. Reqst to cease FP rcvry/rptng made.

08/01/03: Ok to cease FP rcvry ltr reluctantly snt.

09/04/03: REC'D PRE-CORRECTIVE ACTION DESIGN REPORT PRELIMINARY EXPLORATION. bsg

10/09/03: REC'D FROM SENECA CHANGE ORDER TO 2003 SMR. bsg

11/25/03: SENT FIRST OD CADR LETTER. CADR = 12/12/03. (GREEN CARD DATED 11/28/03)

12/08/03: REC'D LTR FROM SENECA RE: OVERDUE CADR. CADR WILL BE SUBMITTED WITHIN 30 DAYS FOLLOWING FUNDING APPROVAL. @ LEAST 2 PROPOSALS HAVE BEEN REJECTED BY ICPUF. NO DATE PROVIDED.

01/21/04: REC'D SMR, MTBE & DISKETTE. (DID NOT ASK TO RECLASSIFY). 2 wells show great B increase from last SMR.

01/26/04: DNR respns ltr to respns to OVD ltr. CADR = 3/15/04. Rec'd 1/29/04.

05/03/04: REC'D COPY OF PROPOSAL TO RP FOR PRE-CA AND CADR ACTIVITIES FROM SENECA (5 options) . Bsg

07/07/04: REC'D FROM GAB BUDGET APPROVAL FOR SMR BY SENECA. Bsg

10/05/04: Ltr snt 'inviting' scheduling 1st mtg re CA.

12/15/04: IN LIEU OF CADR, REC'D SMR & SMR SOFTWARE. CGWP acknowlds CA reqrd, recomnds Post Accepted -T2 mtg.

02/17/05: SMRs rev ltr snt. Rec'd 2/19. CA mtg = 6/22. Wrksht w/Vapor Plume defined = 6/8.

08/11/05: REC'D FPRR FOR JULY & AUGUST 2005. Bsg

11/23/05: E-mail from CGWP re CA Teleconf - The SG plume definition has not been completed. We do have DOT permission to access the right-of-way, but have not completed the first round of sampling yet. We would appreciate the rescheduling of the meeting. I will notify after the first round of sampling is completed (hopefully next week) with a date in which the results of confirmation sampling may be posted.

11/23/05: DNR E-mail respns - March 8, 2006, about 1:30 PM is the next open date. Please note - This will be the 4th time the CA teleconference has been scheduled. (Wrksheet - 2/22/06)

01/31/06: REC'D FPR.

02/16/06: REC'D SMR. HR: INTERIM. SMR SOFTWARE DISK. bsg

03/07/06: E-mail from RP. New CGWP = Shekar Engineering. Rescheduled CA telecon to 5/16/06.

05/16/06: CA mtg held. (Seneca as CGWP)

05/19/06: MOA snt. Will do gw sampling, new gw vapor well install/smplng, submit SMR (hopefully reclass to LO)

07/19/06: E-mail from CGWP - We just got the data back on the soil gas well installed near the high risk sewer service line for the electronics store/CPA office to the east of the site. The sample passed so we will need to collect a confirmation sample. The soil gas sample collected at SG6 also passed and we will need a change order to collect a confirmation sample. As such, we won't have the data back by the SMR due date of July 31, 2006. Could we extend the SMR due date to August 31, 2006?

07/20/06: DNR E-mail respns - OK. Due date = 8/31/06.

03/08/07: REC'D SMR. SITE RECLASSIFICATION RECOMMENDED FROM HR: INTERIM TO LR. MTBE WORKSHEET & DISK. (DISK ERROR W/TIER 2 SMR SOFTWARE). E-MAILED SUSAN FRETT & REQUESTED IT E-MAILED TO ME. bsg

03/09/07: REC'D TIER 2 SMR SOFTWARE PER E-MAIL. bsg

08/10/07: REC'D COPY OF LETTER FROM GAB TO ROGER KANNE APPROVING THE SITE MONITORING REPORT BUDGET BY SENECA. bsg

12/31/07: REC'D SMR. LR. SMR SOFTWARE DISK. MTBE WORKSHEET & DISK. bsg

3-3-2008: Recd copy of UST Inspection Rpt from FO. Notes 'leaks' at fuel filters for dispensors 5/6 and diesel at dispensor 1.

**Contracts Entered Into
Since April 25, 2008 Board Meeting**



IOWA UNDERGROUND STORAGE TANK

Financial Responsibility Program

Susan E. Voss, *Chairperson*

Scott M. Scheidel, *Administrator*

Board Members: Michael L. Fitzgerald

Jeff W. Robinson

Jacqueline A. Johnson

James M. Holcomb

Richard A. Leopold

Nancy A. Lincoln

Douglas M. Beech

Φ Φ Φ *MEMO* Φ Φ Φ

TO: UST Board

FROM: Scott Scheidel

DATE: May 14, 2008

RE: Contracts Entered Into Since April 25, 2008

Since the April 25, 2008 Board meeting, the Board has not entered into any new agreements or contracts.

Other Issues as Presented

Correspondence and Attachments

51-120P-2A-145

Iowa pollution perils lurk among buried fuel tanks

Hundreds of leaks threaten to taint water; state wants faster cleanup

By **PAULA LAVIGNE**
Register Staff Writer

Leaking underground fuel tanks threaten to contaminate drinking water, lakes, streams and homes across Iowa as environmental officials change rules to speed up detection and cleanup.

There are about 6,200 leaking underground storage tanks in the state — and more than 1,500 are considered ongoing contamination risks. Some of the leaking tanks have been problems for more than 15 years. Almost 820 are labeled high-risk.

State officials say they are try-

ing to devise new rules so that the most hazardous sites, which often take years to clean up because of bureaucratic red tape and legal wrangling, can be addressed faster.

The state's backlog is down about 30 percent from five years ago, according to statistics from the Environmental Protection Agency, but about 20 leaking tanks deemed in need of action are on school property.

"We are taking enforcement action against those who don't fix (leaks)," said Elaine Douskey, who supervises the underground storage tank program with the

Iowa Department of Natural Resources. "We are staying after them."

Left undetected, leaking tanks can cause big problems, as residents in Climbing Hill, an unincorporated town of less than 150 people in Woodbury County in northwest Iowa, discovered.

They learned almost 18 years ago that two underground tanks, including one that belonged to a school, contaminated five residential drinking water wells and one public supply well that belonged

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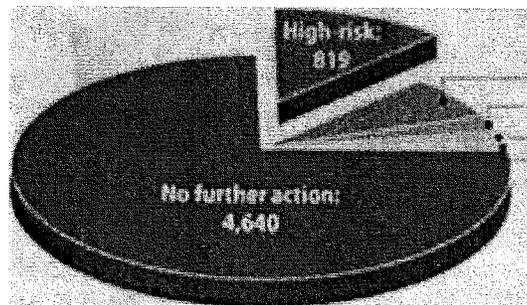


From left, Tom Collins of the Iowa Department of Natural Resources, and Brian Wiegert and Brian Pottabaum of Rounds & Associates, an environmental risk management company, perform an inspection last week at a Gil-N-Go station on Des Moines' southeast side.

Leaking tanks' status

About half of the leaks from underground storage tanks that could pose a hazard to people are considered high-risk.

TOTAL NUMBER OF UNDERGROUND STORAGE TANK LEAKS: 6,224



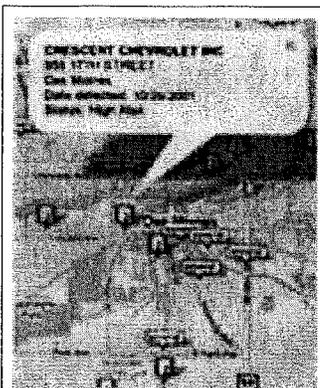
Low-risk: 437
Not classified yet: 157
Other: 97
Cleanup: 74

Source: Des Moines Register analysis of data from the Iowa Department of Natural Resources

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Search our map and database at DesMoinesRegister.com/tanks to find the location of leaking tanks near you. You'll also find links to get a full report on any site from the Iowa Department of Natural Resources. If you want a full report on any site, go to the Iowa Department of Natural Resources Underground Storage Tank Web site at programs.iowadnr.gov/ustlust/pages/advanced.aspx or call (515) 242-5818.



DNR environmental specialist Bill Gross uses a baller while testing around a fuel tank during an inspection at a gas station in West Des Moines last week. JOHN GAPS FOR THE REGISTER

Who's responsible for cleanup?

Newer leaks are the responsibility of site owners, who are required by state law to have insurance or some other financial backing to pay for detection, monitoring and cleanup.

OLDER LEAKS: Leaks detected before Oct. 26, 1990, get help from a state fund that has spent more than \$240 million testing and cleaning up about 2,800 sites. It has about 1,200 open claims, said Scott Scheidel, Iowa's underground storage tank fund administrator. The average cost has been about \$38,045 per site, but that represents a wide range from \$20,000 for sampling and monitoring to almost \$1 million — the claim limit — to clean up contamination or otherwise get people out of harm's way. The Climbing Hill tank leaks cost about \$890,000.

FINANCING THE FUND: As of this summer, there will be \$27 million left in the fund, which collects its revenue from a 1-cent-per-gallon gas tax set to expire in 2016.

OUTLOOK: "There is no reason that there can't be (enough left) if the resources are focused on the sites that present true risk and not spread too thin at sites that pose little or no risk," Scheidel said, adding that the Department of Natural Resources' current plan to reclassify some sites will help prioritize ones that need the most attention.



TANKS

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to a restaurant. State officials provided bottled water for almost nine years and then switched the town to filtration systems before homeowners received new wells around 2004, said Rochelle Cardinale, an environmental coordinator with the DNR.

Routine tests show the new wells are safe, but some residents still question whether lingering contamination will someday taint that water supply, too.

"I'm worried about where that contamination might go," said Gary Little, who works and lives with his family in the Barn, a local cafe.

Longtime residents are also concerned about developing cancer, he said. "They don't know how long they've been drinking that stuff."

People who ingest or breathe high concentrations of chemicals released from a tank could wind up with leukemia, kidney damage, nervous system disorders and other ailments, according to state public health officials.

A report by the Iowa Department of Public Health estimates Climbing Hill residents were exposed to chemicals, including benzene, for a year or two before the leak was detected. That wasn't long enough to put them at greater risk for getting cancer, the report states.

The Climbing Hill leaks are still labeled high-risk; there is still benzene in the soil. In high enough concentrations, benzene can cause leukemia.

The site might be downgraded because the wells have been removed, Cardinale said. The department isn't sure how much longer it will have to monitor the area, she said.

The high-risk designation means a leak could expose people to dangerous chemicals. It doesn't mean contamination has already occurred.

Challenges exist in finding, tracking tanks that leak

DNR officials know how many leaks there are, but say they don't keep track of how many times leaking tanks have tainted drinking water, polluted lakes or streams, or seeped into basements in Iowa.

Douskey said the agency's data on the leaks have that detail, but the only way to tally up that data is to review each file manually.

However, the agency does respond quickly to reports of suspected contamination — either in the water or the air, which sometimes is the first clue there is a leak nearby, Douskey said.

One example is from February 2006, when employees at a day care in Shelby said tap water smelled like gasoline. The likely culprit was a plastic water line running past a gas station. The day care moved and the lines were replaced.

But without evidence of contamination, it's not readily apparent to residents whether a leaking underground storage tank near them poses a hazard because each site is different, Douskey said. Soil composition, the size of the tank, the depth of nearby wells, the age and extent of the leak, and the groundwater table all factor into where pollutants are likely to spread and whether they present a risk to the public.

"If I lived right next door to a gas station, I would be curious whether they have a plume under that site," Douskey said, adding

that anyone can view the agency's records on leaking tanks for more information.

If a leak occurs in clay soil, it could stay on the site forever and never be a problem, but a leak in sandy soil travels farther, she said. But even if it spreads, that doesn't mean it's a risk, she added.

Leaking gasoline tanks can also present the risk of fire and explosion because vapors travel.

When a leak is detected, state officials inform residents and businesses within 100 feet of the affected area, and they take soil, water and air samples if they suspect any contamination, Cardinale said.

Cardinale said it's unusual for a leak to travel much beyond 400 feet, or about a city block. The leak could spread farther if it's near a municipal well that pumps lots of water and can pull contaminants in.

Tracing contamination, cleanup can take years

It took 14 years for officials to figure out how to handle the Climbing Hill contamination. That case was extreme, but cases

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sometimes linger several years while agencies and owners decide what to do, Cardinale said.

The agency and the industry admit it often takes far too long to take action, and both sides are trying to implement new methods to speed up detection and cleanup. Aided by new federal laws, state regulators also have more tools to guarantee that tank owners comply.

Some of the changes include:

- Devising a better way to measure the actual potential spread of contamination, which could downgrade some sites where the current risk might be overstated, although industry officials and the DNR are currently at odds over how to do this.

- Using inspectors from third-party companies to check all tanks every two years. State inspectors had such a backlog that some sites went five years without an inspection.

- Shutting down gas stations or fueling facilities that don't comply by preventing fuel trucks from filling the stations' tanks, in accordance with a federal law that went into effect last year.

- Requiring all new tanks to have enhanced safety measures, leak detection devices and an extra outer shell. Traditional steel tanks, prone to corrosion, have been replaced with specially coated Fiberglas tanks resistant to gasoline, diesel and ethanol.

- Bringing all parties together at once, especially for high-risk sites that need more attention.

"If we know it's high-risk, we decided it'd be best to get everybody at the table at the same time," Douskey said. "That seems to have cut the time down significantly."

Jeff Hove, regulatory affairs manager of the Petroleum Marketers and Convenience Stores of Iowa, agreed. "Especially if it's a newer release, you're going to see it move forward immediately," he said.

But about three-fourths of the remaining cleanup work in Iowa must be funded by taxpayers.

Evaluating a leak requires rounds of monitoring and testing

to figure out how far contamination has spread. It's a problem if pollutants reach private drinking

water wells, city water supplies, sewer lines, lakes or streams, or seep into basements as a chemical vapor.

If the current property owners didn't install the tank — or knew nothing about it when they bought the land — finding out who is responsible adds another hurdle.

Debating whether to excavate the soil, remove the tank, extract vapors or take other action turns into back-and-forth between government agencies and site owners, Hove said.

"It can be a really long process," Hove said. "Sometimes the regulator will say, 'Well, industry's dragging their feet.' And industry says, 'We did our report and sent it in 12 months ago and it hasn't been reviewed by DNR yet.'"

Eastern Iowa school district spends thousands on site

In the meantime, some site owners simply watch and wait. Near an elementary school in Lowden, a town of about 800 residents some 40 miles northwest of Davenport, inspectors test six groundwater samples each year.

Leaks from an old fuel oil tank used to heat the school's boiler are in proximity to a city drinking water well. That means the site has been labeled high-risk, even though the tank was removed in 2004 and the tests show contaminant levels falling within allowable ranges, said Mary Jo Hainstock, superintendent of the North Cedar Community School District.

The district spent about \$14,200 in 2004 to have the tank removed and has been paying \$1,300 to a private company each year since for the tests.

"It's thousands of dollars," she said. "But when you want to do things right, it's really not an option not to do it."

The district hopes the state will reclassify the site soon, although Hainstock is prepared to wait up to a year for her district's applica-



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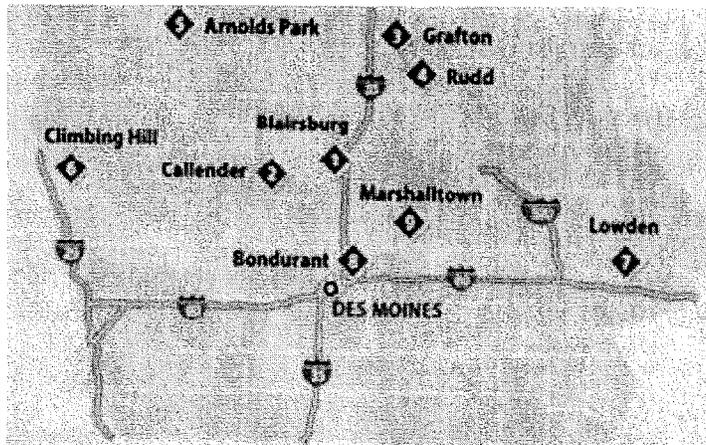
Leaking tanks pose risk

About half of the leaks from underground storage tanks that still could pose a hazard to people are considered high-risk. That means the contamination is within reach of a receptor — a drinking water well, sewer line, plastic pipe, lake, stream, or basement of a home or business. State environmental officials hope recent changes will allow them to resolve more leaks.

TOTAL NUMBER OF UNDERGROUND STORAGE TANK LEAKS	6,224
NO FURTHER ACTION	4,640
The leak has been cleaned up or the leak has been assessed and found not to pose an unreasonable risk based on the site contamination levels and receptors present.	
HIGH-RISK	819
There are drinking water wells, lakes, streams, sanitary sewers, basements or plastic water lines in the area of contamination and the contaminant levels are such that they pose a potential risk to public health. In most cases, the contaminants have not polluted drinking water or surface water, or basements as vapors, but they're close enough to pose a potential risk.	
LOW-RISK	437
There is contamination present above target levels, but no wells, pipes, vulnerable structures, etc., are currently in the contaminated area. There is a potential for one to be installed in the future. These sites are monitored annually for changes.	
NOT CLASSIFIED YET	157
Leaks still undergoing evaluation.	
OTHER	97
Leaks that turned out to be from a source other than an underground tank, or they were a non-petroleum chemical, and were transferred to a different division.	
CLEANUP	74
Leak sites that don't pose a risk but cleanup of fuel or other leaking material is ongoing.	

School sites with leaks

About 180 leaking underground storage tanks are on school property. Many tanks were used to hold diesel fuel or gasoline for school buses, other vehicles or boilers. Some schools also had underground heating oil tanks. These nine sites are considered high-risk.



SCHOOL		DATE DETECTED
◆ Northeast Hamilton Community Schools	Blairsburg	8/30/00
◆ Prairie Valley Elementary School	Callender	9/27/00
◆ Grafton Middle School*	Grafton	12/8/00
◆ Rudd Community Schools*	Rudd	12/12/00
◆ Okoboji Middle School	Arnolds Park	4/19/01
◆ Woodbury Central Schools*	Climbing Hill	10/16/01
◆ North Cedar Lowden Elementary Center	Lowden	4/19/05
◆ Bondurant Farrar Jr. Sr. High School	Bondurant	10/5/06
◆ Marshalltown School Warehouse*	Marshalltown	12/1/06

*Indicates the site of a former school
 the Register

Source: Des Moines Register analysis of data from
 the Iowa Department of Natural Resources



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Repayment of ATV, snowmobile funds - a tough vote!

By State Rep. Lance Horbach



During the FY 2002 legislative session, with revenues in the tank, the Iowa Legislature robbed the Snowmobile fund and ATV fund to balance their statewide budget. The legislature took \$950,000 from the Snowmobile fund and \$775,000 from the ATV fund. In the last two years, I've voted three times on amendments to repay both funds. I voted twice in favor of the amendments paying the funds back in full, and I voted against the last amendment, because it took the money from a pollution control fund (Underground Storage Tank Fund - UST). I support repay-

ment 100%!!! I am opposed of taking money from one fund, especially a pollution control fund and use that money to repay another fund that was robbed earlier. Here is my real life example:

If you used your car payment money to buy groceries, then later you took your house payment money to repay your car payment shortfall, at the same time you just got a raise and had money in your checking account??? Well...this amendment is like the example above, it's taking money from an essential fund to repay the ATV and Snowmobile fund. Plus, the legislature has never experienced higher revenue...EVER...and a few weeks ago we found out that the 2008 budget will have \$79.8 million dollars left over. With all this NEW money, why

wouldn't we repay these robbed funds with money from the General Fund (the State's checking account) instead of robbing a pollution fund that's funded by our local gas stations, co-ops, contractors, etc...

What makes this vote so difficult is that I represent members of both the Snowmobile and ATV Association, plus we have a wonderful ATV trail south of Tama. After days of thought, here is my compromise...I will hold my vote until everyone has voted, if my ATV and Snowmobile members need my vote to pass the amendment, I'll make a vote in their favor. I've always supported the repayment, I've just been opposed to the accounting trick being used to provide the funds. I've tried to do it right three times, the legislature is not interested...



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51-120P
Capitol comments



Top public safety priorities stalled

by **dwayne alons**

April 17, 2008

As we enter the final week of session, the top priorities of the public safety committee are being stopped from being debated in either the House or Senate.

House File 2381, the "Michael Vick" bill, has been held up by an amendment that Rep. Rick Olson filed to kill the bill. This is the bill that increases the penalties for being a spectator at an illegal animal fight.

House File 2613, the concealed carry weapons permit bill, has been sent to ways and means, presumably to keep it alive. However, the bill is not scheduled for debate and appears to be running out of time. Even if the bill is approved by the committee and the full House, the odds are not good that it will be debated by the full Senate.

House File 2265, the anti-smurfing pseudoephedrine bill, passed the House March 10 on a 97-0 vote. The bill was sent to the Senate judiciary committee where it looks like it will die for the year.

Finally, the majority party would not even debate the sex offender safe zones bill or the merits of the 2,000-foot rule. The bottom line is that the majority party of both chambers has made it clear that the important bills and issues regarding public safety are just not a high priority.

Senate reinserts repayment of ATV, snowmobile funds

On Tuesday, the Senate passed House File 2662 that deals with FY-09 appropriations for agriculture and natural resources. In doing so, the Senate unanimously adopted an amendment (S-5352) that was earlier rejected by the House. The Senate amendment repays both the snowmobile fund (\$950,000) and ATV fund (\$775,000) for monies that were transferred from those funds in the 2002 budget crisis, with unassigned revenues that would be deposited into the underground storage tank fund. This is the only change the Senate made to that appropriation bill, and it returns to the House with virtual certainty that the House will concur with the Senate.

While it is a good thing to repay these funds, it would have been more appropriate not to take funds from another environmental purpose, particularly when state revenue growth has been near record levels.

Finally a balance sheet

On April 15, the majority party finally released a balance sheet for the general fund. While it spends significantly less than the governor's recommendations, it still sets the state up for a fiscal train wreck in future fiscal years.

They portray the spending increase as only 4 percent, but real numbers from Fiscal Services counts an additional \$140 million in FY 07 supplemental spending and general fund spending moved into the Infrastructure Fund. Therefore, total spending before final negotiations with the governor is \$831 million or a 15.6 percent

increase during the Culver administration.

A large part of the budget is unknown yet. The Standings Bill will spend \$2.78 billion and include the power fund (\$25 million), allowable growth for education (\$100 million), and state employee salary increases (\$90 million). The Democrat target will force them to make reductions if we were given a true target of \$6.1 billion in total spending.

The good news is that the majority party is at least \$200 million below the governor's recommendation.

Also, they aren't yet raising corporate income taxes or the bottle tax nor using one-time bonding proceeds to balance the general fund budget. Furthermore, they aren't doing excessive supplemental spending like FY 07. The only supplemental is \$7.5 million for Medicaid.

Under the current assumptions, they repay \$52.6 million to the Senior Living Trust Fund with current revenues.

Despite that good news, the bottom line is that the Democrats and the governor are arguing whether the massive increase in spending should be \$800 million or \$1 billion. Whatever level is eventually agreed upon will be problematic and could cause a huge tax increase or budget cuts in the future.

(State Representative Dwayne Alons may be contacted at the state capitol, phone 515-281-3221, or by e-mail dwayne.alons@legis.state.ia.us)





3-120P
From the desk of Representative Betty De Boef: April 10, 2008

State-wide "SILO" Bill Passes Out of House

HF 2663 is a bill that has been in the discussion phase for several years. The history of this bill is the passage of a bill in 1998 that allowed passage of a school infrastructure local option sales tax ("SILO"), which would permit people to vote to raise sales tax on themselves one penny and apply the resulting revenue toward school infrastructure expenditures and if that is not necessary, toward property tax relief. In 2003, the legislature passed a bill that put all counties that pass it in the future into a state-wide pool, with each county receiving \$575 per student equally. After that we began hearing talk of the need to go to a state-wide tax to replace the local option sales tax now passed by all 99 counties. The main impetus for this is a concern that retail-rich counties such as Polk County may choose to not vote to extend their SILO tax. This is because they stand to lose revenue, when most counties would gain.

After serving in the legislature for eight years, one thing I can say for sure around this place. No money is safe from being scooped unless it is protected by a constitutional amendment. There are numerous examples of this happening. It has happened when Republicans were in control and has happened now with Democrats in control. The Senior Living Trust Fund is currently slated to be spent down to \$30,000 - that money is not going toward keeping Seniors in their homes, but toward other uses. Just this week there was an amendment defeated on the House floor which would have transferred \$1.73 million from the Underground Storage Tank Fund to the Snowmobile and ATV Fund.

For that reason, Rep. Forristall offered a constitutional amendment which would assure Iowans that the State-wide SILO tax would truly be spent only on school infrastructure expenses. Because this constitutional amendment failed on a 55-41 vote, I could not in good conscience vote for the bill without a constitutional amendment protecting the use of it.

Another reason I believe it is necessary to pass a constitutional amendment is it gives the public one more opportunity to vote on this issue. By "changing the rules in the middle of the game" the legislature took the control of this revenue away from local communities, after we had told them they could vote in a local option tax that would expire after ten years. The constitutional amendment would provide one more opportunity for people to vote on this before changes are made. The second concern I have with it is it creates an additional one cent tax on businesses who make out-of-state purchases for items delivered to or used in Iowa. This language creates a \$32 million

tax on Iowa businesses. To say this bill merely does the same thing as has currently been approved by all ninety-nine counties is not true. I wish it were. As it is, it passed unprotected by the constitution, and without my vote.

Two Bills Make Hunting for Therapy Easier

The House has passed two bills this year both aimed at allowing nonresidents to come into the state and hunt for therapeutic purposes. Both the bills passed with overwhelming support in the House, and impact small groups of people who can truly benefit from Iowa's natural resources.

HF 2440 allows certain members of the military to come into the state for hunting without having to complete a hunters education course. In the past, efforts have been made to bring groups of veterans and military personnel to Iowa to hunt as part of their rehabilitation. Those involved with the program were running into obstacles and clarification was required to make the process easy to navigate.

SF 2230 also allows individuals to hunt without all the typical requirements such as hunter's safety courses. It applies to people under 21 who are severely disabled or have a terminal illness. Like the veterans rehabilitation, there have been individuals who have wanted to experience hunting in Iowa as they cope with diseases.

SF 2330 passed the House on April 1st and will be sent to the Governor to be signed. HF 2440 for the veterans is on the calendar in the Senate. The passage

of both these bills reflects the legislature's commitment to making sure that all individuals can enjoy the natural resources in Iowa.

Visitors to the Capitol

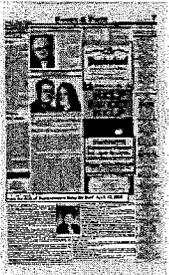
Crystal Gingerich and her children, Andrew & Danielle from Kinross, another home-school mother, Cheryl Hentrich from North English and student Eleya Raim from Oxford were here on behalf of the Home School Assistance Program.

Question of the Week...

There have been several attempts to pass constitutional amendments this session. One was the amendment to protect school infrastructure revenue. Another one is SJR 2002, which says that 3/8 of 1% of future state tax will go toward natural resources. Do you feel it is wise to amend the constitution for these types of purposes?

I would appreciate your input. My phone number at the Capitol is 515-281-3221, or e-mail me at betty.deboef@legis.state.ia.us. I would welcome visitors at the Capitol, too!

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