



# 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

Eric W. Johnson

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, October 29, 2009. **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. Attorney General's Office Reimbursement Agreement
  - B. RBCA Model Calibration Update
  - C. Contractor Selection for NFA Claims
  - D. DNR Update
5. Approval of Program Billings
6. Monthly Activity Report and Financials Reviewed
7. Attorney General's Report
8. Claim Payment Approval
9. Contracts Entered Into Since September 24, 2009 Board Meeting
10. Other Issues as Presented
11. Correspondence and Attachments

*December 10<sup>th</sup> - Next mtg.*



# 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

September 24, 2009

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

Angela Burke-Boston, sitting in for Chairperson Susan Voss, called the Iowa UST Board meeting to order at 10:07 A.M. A quorum was present. Roll call was taken with the following Board members present:

Doug Beech  
Patricia Boddy (for Richard Leopold)  
Nancy Lincoln (via telephone)  
Eric Johnson (via telephone)  
Jeff Robinson

Also present were:

David Steward, Attorney General's Office  
Scott Scheidel, Administrator  
James Gastineau, Program Administrator's Office  
Lacey Skalicky, Program Administrator's Office  
Elaine Douskey, Iowa Department of Natural Resources

Mr. Scheidel introduced and welcomed Eric Johnson as the newest Board member appointed to replace Jim Holcomb. Mr. Johnson stated he practiced real estate and business law in Waterloo and he teaches classes at the University of Northern Iowa.

### APPROVAL OF PRIOR BOARD MINUTES

The minutes from the August 27, 2009 Board meeting were reviewed. Ms. Douskey inquired about the FY 2010 Goals Discussion (Section C.) in the minutes, stating that it wasn't clear that all goals set at the August meeting were "on hold" pending the outcome of the discussion initiated by Mr. Hall during the last meeting. Mr. Scheidel confirmed that all goals were tentatively set, including the numerical goals regarding closed claims and corrective action meetings. Ms. Boddy moved to approve the minutes, including an amendment to add the word "tentatively" to the numerical goals discussion, and Ms. Lincoln seconded the motion, and by a vote of 4-0, the minutes were approved.

constraints of Iowa Law. The previous group of sites for which a transfer was completed had a clear issue which made bidding impracticable—both PMMIC and the UST Fund had open claims at the time of transfer. The group being proposed did not have that characteristic, however Mr. Scheidel pointed out that the group as a whole did have shared liability with the corresponding group of UST Fund claims, it was just not known at which sites that the liability would be realized—he discussed the incurred-but-not-reported (IBNR) concept that insurance companies use in setting their capital levels.

Mr. Scheidel also noted that a draft agreement to transfer shared sites with UST Fund site liabilities to PMMIC one at a time, as needed, was under review with PMMIC.

Mr. Beech stated that it would be difficult to value sites while regulatory changes within the Department of Natural Resources were pending.

After some discussion, Mr. Scheidel explained to the Board members that their options included issuing a request for information (RFI), issuing a RFP, or doing nothing at this time. He noted the Board should weigh the advantages against the disadvantages to decide if it would be in the Board's best interest at this time. Mr. Johnson inquired about the current interest in such a transfer. Mr. Scheidel explained that it was solicited by PMMIC, and the benefits to the Board included that it would close approximately 250 claims and decrease the Board's liabilities. Mr. Johnson inquired if claimants could opt out of the transfer. Mr. Steward explained that all claimants would sign a waiver releasing the Board and the State with regard to all past, present or future claims for the release in question. Mr. Johnson brought up the issue that the Board might be left with the most difficult and most expensive claims. Mr. Beech agreed. Ms. Lincoln noted that many petroleum marketers were gun-shy with regard to a transfer, as they might have more to lose than to gain in a transfer. Mr. Johnson inquired how many claimants might opt out. Mr. Scheidel stated that was unknown, but he reported that 4 of 14 opted out of the first LPT.

Mr. Scheidel stated he would report the discussion to Mr. Robinson and Mr. Larson for their input. He would continue to compile data regarding the subset of 250 sites, which had policies with PMMIC.

## **B. UST Fund/DNR Closure Strategy**

Ms. Boddy reported on the first meeting between stakeholders to discuss the issues brought to discussion by Tim Hall at the August Board meeting. She stated that the idea of this meeting was to discuss goals and processes between the parties in attendance. She felt the discussions were useful, and most attendees felt it was a good meeting that should be repeated to continue progress. Mr. Scheidel agreed stating the facilitator, Tim Hall, was effective at keeping discussion going. He noted that the action items which resulted from the meeting included defining common issues on High Risk sites in which a single concept could be applied to push that group of sites forward, identifying disconnects between DNR, responsible parties (RP's)/consultants, and any funding source that occurred in more than just isolated instances and to internally (mainly in DNR but with assistance) continue to identify groups of Low Risk sites that can be quickly moved to closure.

Elaine began the process of looking for Low Risk sites and identifying ways to leverage the NFA agreement to achieve closure but maintain a safety net for the marginal potential for future issues due to either unidentified conditions or legally placed new receptors that could cause previously unidentified high risk conditions.

Regarding high risk sites, the tact generally agreed to was to identify a representative sample (20%) and have each of the three parties (DNR, CGWP and Fund) independently characterize the obstacle to the site moving, (ie reluctance to approve funding, regulatory constraints, RP reluctance for business issues, need for enforcement, etc). The independently prepared, obstacle assessments would be consolidated and analyzed for trends, multiple sites with similar issues and the items that should be addressed to move numbers of sites larger than the 150 or so that are closed annually now. Mr. Scheidel also reported that this commitment could mean reimbursing CGWP's up to an hour of time (roughly \$85 per site) to do their portion on the sites.

The agreed to plan was that Mr. Scheidel would consolidate data from the close of the quarter that ended September 30<sup>th</sup> and distribute the lists to the parties. This could be accomplished within a week of receiving DNR data for the applicable period.

The Board expressed interest in future updates.

**C. DNR Update**

Elaine Douskey of the DNR reported that the LUST Section staff was busy with work created by the American Reinvestment Recovery Act. She noted that eight proposals had been reviewed based on technical merit, cost, and ability to create jobs, and the firm selection would happen Friday, September 25<sup>th</sup>, and the Environmental Protection Commission would have to approve at its next meeting on October 20<sup>th</sup>.

She noted that underground storage tank (UST) owner/operator training rules had passed and would be effective October 14<sup>th</sup>, requiring all owners/operators to be trained by December 2011. Also, UST removers' training was scheduled for October 9<sup>th</sup>.

Ms. Lincoln inquired about the status of the recalibrated RBCA model. Ms. Douskey replied that LaDon Jones was working on the model, and was working on a way to program the model to address some under predictions of modeled plumes. She stated that she and Mr. Scheidel were to meet in the next two weeks to discuss the options. Mr. Scheidel stated he would present a follow up of that meeting to the Board.

**PROGRAM BILLINGS**

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

- 1. Aon Risk Services .....\$127,219.00
  - Consulting Services – October 2009 (\$70,639.00)
  - Claims Processing Services – October 2009 (\$56,580.00)

2. Nancy Lincoln .....\$112.32  
Mileage Reimbursement for Travel to Iowa UST Meeting, August 27, 2009

On a motion by Mr. Beech and a second by Ms. Boddy, all billings were approved by a vote of 3-0. Ms. Lincoln abstained from the vote.

### MONTHLY ACTIVITY REPORT

Mr. Scheidel noted that the August activity report and financial reports were provided for the Board members to review.

### ATTORNEY GENERAL'S REPORT

Mr. Steward stated that he had nothing to report to the Board at this time.

### CLAIM AUTHORITY

Mr. Gastineau presented the following claim authority requests:

1. **Site Registration 8606954 – Agriland FS, Inc., Moravia**

This site was classified high risk for the soil leaching to groundwater vapor and soil vapor pathways for three residential sources and low risk for the potential vapor pathways. The site had a history of free product, though the quantities had been minimal for the last couple of years. The first BIOX injection event had been completed in April 2008 was fairly successful. The contamination exceeded the target levels, and a second BIOX event was recommended. Previous authority to \$75,000 had been granted, and \$83,703.22 was incurred to date. Additional authority to \$225,000 was requested for implementation of the second BIOX injection and monitoring.

Mr. Beech submitted a motion to approve the claim authority, and Ms. Boddy seconded the motion. Approved 4-0.

2. **Site Registration 8602882 – City of Waukon**

This site was high risk, and a RBCA assessment was not yet complete. High soil contaminant levels had been discovered. This was a bedrock site and DNR rules require corrective action. An excavation of approximately 500 cubic yards was expected to remove the worst soil contamination. Costs were high as the soil disposal options in northeast Iowa were limited. Previous authority to \$75,000 had been granted, and \$11,620.00 was incurred to date. Additional authority to \$230,000 was requested for excavation, soil disposal, and monitoring.

Mr. Beech submitted a motion to approve the claim authority, and Ms. Boddy seconded the motion. Approved 4-0.

**3. Site Registration 8604780 – Mulgrew Oil Co., Dubuque**

This was the second Board report for a site classified high risk for the groundwater vapor and for the soil leaching to protected groundwater source pathways. The UST systems were removed in December of 2006, and based upon the closure sample results, the soil vapor pathways will also become high risk once the plume is remodeled. An excavation was recommended to remove the soil contamination. Previous authority to \$200,000 had been granted, and \$127,577.27 was incurred to date. Additional authority to \$300,000 was requested for an excavation and monitoring.

Ms. Boddy submitted a motion to approve the claim authority requested, and Ms. Lincoln seconded the motion, which was approved by a vote of 4-0.

**4. Site Registration 8810972 – Seven Kids Corp, Oelwein**

This site was classified high risk for the soil leaching to protected groundwater source and soil vapor to enclosed space pathways. An excavation was recommended to remove the bulk of the soil contamination. A small soil vapor extraction (SVE) system may be installed in the backfill to reduce residual contaminant levels. Previous authority to \$75,000 had been granted, and \$55,743.11 was incurred to date. Additional authority to \$300,000 was requested for an excavation and monitoring.

Ms. Boddy submitted a motion to approve the claim authority, and Mr. Beech seconded the motion, which was approved by a vote of 4-0.

**5. Site Registration 8601925 – MRP Properties Co LLC/Total Petro Inc., Des Moines**

This site was classified high risk for both soil and water vapor pathways. Soil gas testing had failed, and a tank pull with an excavation was proposed. Previous authority to \$75,000 had been granted, and \$54,539.35 was incurred to date. Additional authority to \$200,000 was requested for a tank pull, an excavation, and monitoring.

Mr. Beech submitted a motion to approve the claim authority, and Ms. Boddy seconded the motion, which was approved by a vote of 4-0.

**CONTRACTS ENTERED INTO SINCE THE AUGUST 27, 2009 BOARD MEETING**

Mr. Scheidel noted that the Board had entered into two renewal contracts with GeoTek Engineering & Testing Services for the community remediation project in Walnut and with Apex Companies, LLC for the community remediation project in Rose Hill.

**OTHER ISSUES**

Mr. Scheidel explained that contractors' proposals for the no further action (NFA) claims were currently being evaluated, and a selection recommendation would be presented to the Board at the October meeting. He reported that the next meeting of the Board was set for Thursday,

October 29, 2009 at 10 A.M. at the Iowa Insurance Division.

**CORRESPONDENCE AND ATTACHMENTS**

Ms. Burke-Boston asked if there was any further business, and there being none, Ms. Boddy moved to adjourn, and Mr. Beech seconded the motion. By a vote of 4-0, the Board adjourned at 11:18 P.M.

Respectfully Submitted,

A handwritten signature in black ink, reading "Scott M. Scheidel". The signature is written in a cursive style with a large, stylized initial 'S'.

Scott M. Scheidel  
Administrator

## **Closed Session**

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

## **Public Comment**

## **Board Issues**

**A. Attorney General's Office Reimbursement Agreement**

## AGREEMENT

This Agreement is entered into on this 12th day of October, 2009, by and between the Department of Justice [hereinafter the Department] and the Underground Storage Tank Fund, [hereinafter the Fund], for the fiscal year 2010.

## PARTIES

1. The Department is headed by the Attorney General, a constitutionally created elected official, whose duties are delineated in chapter 13 of the Iowa Code.
2. The Fund is a body created by statute and delegated powers in its enabling act and other related statutes.

## DUTIES

1. The Department shall provide legal services to the Fund pursuant to chapter 13 of the Iowa Code through one or more attorneys within the Department.
2. Attorneys who provide legal services under this Agreement are subject to the supervision and direction of the Attorney General for all purposes.
  - A. The Attorney General shall make all assignments of attorneys to the Fund based on the available resources within the Department.
  - B. The Attorney General shall retain authority to determine compensation, conduct performance evaluations, determine the priority of work assignments and direct the work of all assigned attorneys.

## PAYMENT

1. Payment by the Fund for legal services performed by the Department shall be based on an estimate of the total annual value of the legal services which includes, but is not limited to: the attorney time devoted to the agency; the difficulty of the legal work required; and the provision of support staff in the performance of the legal services.
  - A. The Fund shall pay approximately \$65,000 to the Department for legal services for fiscal year 2010.
  - B. The Department shall bill the Fund for legal services monthly on a IET transfer document.

2. The Fund shall pay all travel and miscellaneous expenses incurred in the performance of legal services in addition to the amount specified for legal services. The Department shall obtain prior approval from the Fund before incurring travel expenses.

A. Travel expenses include all expenses incurred by attorneys in relation to attending agency meetings, prosecuting contested case hearings and prosecuting or defending litigation, excluding tort claim defense.

B. Miscellaneous expenses include expert witness fees and expenses, deposition costs, copying costs, costs of supplies and other costs associated with the provision of legal services to the Fund. The Fund shall pay a maximum of \$500 in Westlaw charges for the fiscal year. The Department shall pay any West law charges in excess of \$500.

*will change  
in post copy  
that will need  
approval.*

Julia F. Pottorf  
DEPUTY ATTORNEY GENERAL

\_\_\_\_\_  
UST FUND

10-12-09  
DATE

\_\_\_\_\_  
DATE

## **B. RBCA Model Calibration Update**

*Beta expected out next week.  
Testing to ensue.*

## **C. Contractor Selection for NFA Claims**



# 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      Eric W. Johnson  
 Richard A. Leopold      Nancy A. Lincoln      Douglas M. Beech

TO: Iowa Comprehensive Petroleum Underground Storage Tank Fund Board  
 FROM: Scott Scheidel  
 DATE: October 19, 2009  
 RE: RFP: RBCA 0908-01: Environmental Support Services

*Approved*

**Background**

The Iowa Comprehensive Petroleum Underground Storage Tank Fund Board (Board) in conjunction with the Iowa Dept of Natural Resources (DNR) entered a 28E agreement in October 2008 to fulfill the authority provided to the Board in 2007 legislation. The legislative amendment altered the language in Iowa Code 455G.9(1)(k), which previously allowed the Board to provide funding to those claimants at sites which have been previously issued a No Further Action certificate in accordance with state regulations. The amendment changed the authority from claimant reimbursement to addressing risk directly in accordance with an agreement with the DNR. The purpose of the Request for Proposal (RFP) was to retain the services of two contractors to assist the Board and the DNR in determining if petroleum contamination from a release for which a NFA certificate was issued still presents an unreasonable risk to public health and safety. The tasks to be performed will include assessments, receptor evaluations, and may extend into corrective action activities if deemed warranted.

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**Recommendation**

The RFP for the pending project was issued in August 2009; fifteen bids were submitted in response. The bids were independently reviewed and scored by 3 individuals, with the scores then being averaged. All proposals were determined to be technically sound. For the cost evaluation, an "example" project was presented. Bids for the "example" ranged from a low of \$9,180 to a high of \$31,463. The bid scores and "example" project costs for the top 5 ranking bids are as follows:

Firm Name	Technical Score	Total Score	"Example" Cost
Seneca Environmental	73.3	91.8	\$10,820
Geode Environmental	73.7	91.5	\$10,372
ATC Environmental	70.3	88.9	\$10,760
Barker Lemar Engineering	74.0	88.7	\$12,687
Geotek Engineering & Testing	73.3	87.3	\$15,340

Based on our review of the technical merit and costs, we recommend contracts be awarded to Seneca Environmental Services, Inc. and Geode Environmental, LLC; the two firms evaluated to have the highest overall scores.

*DB Asked about how work would be divided - is "Best interest of crowd" Steve asked about how much total contract could be?*

*Difficult to predict - budget 1.5 - 2.500k for this year.*

## **D. DNR Update**

## **Approval of Program Billings**



# IOWA UNDERGROUND STORAGE TANK

## *Financial Responsibility Program*

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### MEMORANDUM

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TO: UST Board Members  
FROM: Scott Scheidel  
DATE: October 22, 2009  
SUBJECT: Summary of Bills for Payment

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#### **\*NOTICE\***

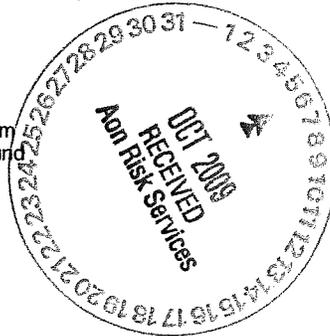
The following is a summary of UST bills requiring Board approval for payment:

1. Aon Risk Services .....\$127,219.00  
Consulting Services November 2009 -- \$70,639.00  
Claims Processing Services November 2009 -- \$56,580.00
  
2. Iowa Department of Revenue .....\$1,310.37  
Environmental Protection Charge Collections – JUL-SEP 2009

**Iowa Comprehensive Petroleum**

Invoice No. 950000077147

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	Account Executive
10756349	Oct-01-2009	US DOLLAR	Scott Scheidel

Named Insured	Service Term	Trans. Eff. Date	Description	Amount
Iowa Comprehensive Petroleum	Jan-01-2009 - Jan-01-2010	Nov-01-2009	Renewal - Service Fee  Service Fee	70,639.00
<b>Comments</b> Installment 11 of 12				
<b>TOTAL INVOICE AMOUNT DUE</b>				<b>70,639.00</b>

**TO AVOID POTENTIAL DISRUPTION IN COVERAGE, PLEASE PAY IMMEDIATELY.**  
For Wire instructions, contact your Account Executive.

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	950000077147	Oct-01-2009	US DOLLAR	70,639.00

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. 9500000077148

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	Account Executive
10756349	Oct-01-2009	US DOLLAR	Scott Scheidel

Named Insured	Service Term	Trans. Eff. Date	Description	Amount
Iowa Comprehensive Petroleum	Jan-01-2009 - Jan-01-2010	Nov-01-2009	Renewal - Service Fee	
			Service Fee	0.00
<b>Comments</b> Installment 11 of 12			Consulting Expense	56,580.00
<b>TOTAL INVOICE AMOUNT DUE</b>				<b>56,580.00</b>

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10756349	9500000077148	Oct-01-2009	US DOLLAR	56,580.00

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

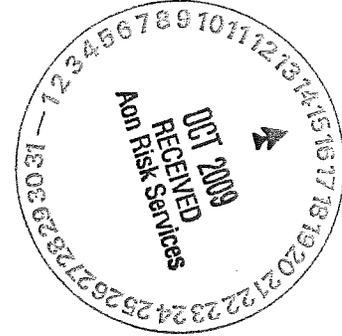


Iowa Department of Revenue

Director: Mark R. Schuling  
Hoover State Office Building  
Des Moines, Iowa 50319  
www.state.ia.us/tax

October 14, 2009

Scott Scheidel  
Underground Storage Tank Program  
2700 Westown Parkway Suite 320  
West Des Moines, IA 50266



Dear Mr. Scheidel:

I am enclosing our 3rd quarter EPC billing. Please direct the billing to the appropriate person for approval and payment.

If you or the board requires more detailed information, please call or write me at anytime.

Your assistance is fully appreciated.

Sincerely,

Roxane Foster  
Accountant 2  
Iowa Department of Revenue  
(515) 281-5228

Enclosures

cc: Stefanie Devin, Treasurer's Office

10/14/2009

ENVIRONMENTAL PROTECTION CHARGE  
COSTS INCURRED BY THE DEPARTMENT OF REVENUE  
JULY - SEPTEMBER FY 2010

**Compliance Division**

Examination Section:

Personnel	\$85.62
Indirect Costs	
	<u>\$85.62</u>

Field Audit Section:

Personnel	\$779.24
Indirect Costs	
	<u>\$779.24</u>

Total Compliance Division

**Revenue Operations Division**

Customer Accounts Section:

Personnel	\$0.00
Postage	\$1.88
	<u>\$1.88</u>

Processing Section:

Personnel	\$85.07
Indirect Costs	
	<u>\$85.07</u>

Total Revenue Operations Division

\$86.95

**Technology & Information Management Division**

Personnel	\$358.56
Postage	
Printing	
Indirect Costs	
	<u>\$358.56</u>

Total Technology & Information Management Div.

**DEPARTMENT TOTAL**

**\$1,310.37**

G:\AD\BUDGET\10 expenditure reports\[10EXPRT-EPC.xls]JUL-SEP

10/14/2009

*Please use the following accounting codes for the Environmental Protection Charges for the 3rd quarter FY 10.*

10-0001-625- EX04 - 0285	\$	85.62
FO04 -		779.24
CA01 -		1.88
PR01 -		85.07
TM03 -		<u>358.56</u>
<i>Total for Revenue</i>	\$	1,310.37

G:\AD\BUDGET\EPC2.xls]Jul-Sept

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

Iowa UST Fund  
Monthly Activities Report

September 2009

	Open Claims	Open & Closed	Open Claims	Open & Closed
Claims	August Ending	Monthly Net Changes	September Ending	Totals since Inception
<b>RETROACTIVE</b>				
number	61	1	62	444
reserve	\$2,829,744.02	(\$64,307.99)	\$2,765,436.03	\$2,765,436.03
paid	\$7,785,755.98	\$56,716.10	\$7,842,472.08	\$15,346,742.33
total	\$10,615,500.00	(\$7,591.89)	\$10,607,908.11	\$18,112,178.36
<b>REMEDIAL</b>				
number	763	(10)	753	4,441
reserve	\$37,634,108.71	(\$113,613.10)	\$37,520,495.61	\$37,520,495.61
paid	\$87,877,063.44	(\$91,784.23)	\$87,785,279.21	\$186,993,194.97
total	\$125,511,172.15	(\$205,397.33)	\$125,305,774.82	\$224,513,690.58
<b>INNOCENT LANDOWNER</b>				
number	217	0	217	1,064
reserve	\$8,006,643.21	\$198,385.25	\$8,205,028.46	\$8,205,028.46
paid	\$11,766,100.35	\$226,104.01	\$11,992,204.36	\$23,845,766.29
total	\$19,772,743.56	\$424,489.26	\$20,197,232.82	\$32,050,794.75
<b>GLOBAL OPT-IN</b>				
number	212	(4)	208	1,284
reserve	\$1,307,123.02	(\$49,972.68)	\$1,257,150.34	\$1,257,150.34
paid	\$1,618,569.80	(\$11,027.32)	\$1,607,542.48	\$9,159,911.46
total	\$2,925,692.82	(\$61,000.00)	\$2,864,692.82	\$10,417,061.80
<b>UNASSIGNED PROJECTS</b>				
number	17	0	17	186
reserve	\$162,852.85	\$0.00	\$162,852.85	\$162,852.85
paid	\$319,437.10	\$0.00	\$319,437.10	\$2,633,350.85
total	\$482,289.95	\$0.00	\$482,289.95	\$2,796,203.70

RT Claims	#
New	0
Reopened	1
Closed	0
<b>RM Claims</b>	
New	1
Reopened	3
Closed	14
<b>ILO Claims</b>	
New	1
Reopened	2
Closed	3
<b>GS Claims</b>	
New	1
Reopened	0
Closed	5
<b>PROJ Clms</b>	
New	0
Reopened	1
Closed	1

Invoice Type Totals	September	FYTD	Program to Date
American Soils	0.00	0.00	\$5,678,423
AST Removal	0.00	0.00	\$2,121,490
AST Upgrade	0.00	0.00	\$5,460,479
CADR Charges	0.00	0.00	\$4,137,305
Corrective Action	54,255.36	88,391.95	\$50,317,540
Free Prod Recover	31,536.46	109,426.93	\$7,919,510
Monitoring	113,830.90	369,404.56	\$21,276,462
New UST Pull 2004	56,623.62	141,397.51	\$1,546,578
Operations/Maint	44,382.96	155,049.57	\$7,565,457
Over-excavation	285,213.96	449,972.05	\$23,223,597
Plastic Water Lines	4,639.70	6,605.04	\$1,622,323
Post RBCA Evals	225.00	858.75	\$140,211
RBCA	0.00	45,223.30	\$24,858,697
Remed Imp/Const	75,210.99	267,780.23	\$23,298,893
SCR Charges	0.00	0.00	\$54,168,297
Site Check	0.00	0.00	\$125,396
Soil Disposal	0.00	0.00	\$656,364
Tank (UST) Pull	0.00	31,843.37	\$5,055,047
Tank (UST) Upgrade	0.00	0.00	\$5,880,860
Tier III	0.00	8,800.90	\$1,158,534
Utilities	16,188.45	53,541.72	\$1,109,059
Well Closure	12,749.56	30,068.85	\$2,618,480
<b>Total Invoice Types</b>	<b>694,856.96</b>	<b>1,758,364.73</b>	<b>\$249,939,001</b>

Budgets Approved to Date		
September	5	\$251,152
Trailing 12 mos	45	\$2,285,978
Prev Trail 12 mos	30	\$1,626,965
Total Since Jan 2003	948	\$35,676,206

Corrective Action Meetings	
Scheduled:	105
Completed:	920
MOA's	456

Project Contracts	Open	Closed	Pending
CRP's	19	23	0
Tank Closure	2	3	0
Plastic Water Line	0	2	0

## **A. September Activity Report**

## **B. September Financial Report**

**C. Year-to-Date Financials as of September 30, 2009**

## **Attorney General's Report**

*None*

## **Claim Payment Approval**

	<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>WW Comments</u>
1	7910104	City of Muscatine	07/16/09				\$75,761	\$95,000	\$95,000		PGS
2	8912094	Myers Service	8/12/2003	7/16/2009			\$378,998	\$565,000	\$565,000	\$335,651	
3	8609090	Griffith Oil Corp	10/29/2001	11/18/2004	7/16/2009		\$601,692	\$1,000,000	\$1,000,000	\$182,194	16 dww
4	7910533	James Martin Jr	8/5/2009				\$20,484	\$150,000	\$150,000		4 dww
5	8710742	Ubben Oil Co.	11/18/2004	8/14/2009			\$271,592	\$310,000	\$310,000	\$212,721	
6	8609091	Griffith Oil Corp	6/17/2003	8/20/2009			\$385,398	\$455,000	\$455,000	\$301,531	ndww
7	8606954	Agriland FS Inc.	9/18/2009				\$83,703	\$225,000	\$225,000		
8	8602882	City of Waukon	9/22/2009				\$11,620	\$230,000	\$230,000		
9	8604780	Mulgrew Oil Co	10/11/2006	9/21/2009			\$127,577	\$300,000	\$300,000	\$61,002	PGS
10	8810972	Seven Kids Corp	9/21/2009				\$55,743	\$300,000	\$300,000		PGS
11	8601925	MRP Properties Co	9/23/2009				\$54,539	\$200,000	\$200,000		
12	8605344	Den Rhon LLC	10/14/2009				\$79,228	\$110,000			
13	8610191	JP Scherrman Inc.	4/15/2003	10/12/2009			\$160,379	\$275,000		\$137,629	
14											
15											
16											
17											
18											
19											
20											

31

**IOWA UNDERGROUND STORAGE TANK PROGRAM  
 FIRST BOARD REPORT  
 OCTOBER 14, 2009  
 DEN RHON LLC  
 2501 FLOYD BLVD  
 SIOUX CITY**

**SITE REGISTRATION NUMBER: 8605344  
 LUST NUMBER: 7LTN16**

**RISK CLASSIFICATION:**

HIGH

LOW

NFA

**PRESENT CLAIM RESERVE:**                      \$ 90,000.00

**ELIGIBILITY:** The contamination was discovered with an insurance site check and reported to the IDNR on June 1, 1990. This is a timely filed eligible remedial claim.

**COST INCURRED TO DATE:**

1. Site check and site clean-up report	\$ 33,074.04
2. Tank pull and up-grade	16,730.00
3. RBCA Tier II report	7,904.90
4. Free product recovery	<u>21,519.40</u>
<b>TOTAL COST TO DATE</b>	<b>\$ 79,228.34</b>

**PROJECTED COSTS:**

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

*\$21K spent on FPR for 8 yrs.*

**TOTAL PROJECTED COSTS:**                                      \$15,000.00 to \$ 30,000

**TOTAL AUTHORITY RECOMMENDED:**

**\$ 110,000.00**

**COMMENTS:** This site was classified no further action with free product in 2001. One well continues to have more than an inch of product. This is an operating facility.

*hand-bailing once/month.*

*Approved.*

**IOWA UNDERGROUND STORAGE TANK PROGRAM  
 SECOND BOARD REPORT  
 OCTOBER 12, 2009  
 J. P. SCHERRMAN INC  
 103 1<sup>ST</sup> AVE E  
 FARLEY  
 SITE REGISTRATION NUMBER: 8610191  
 LUST NUMBER: 8LTS87**

RISK CLASSIFICATION:

HIGH       LOW       UNDETERMINED

PRESENT CLAIM RESERVE:      \$ 225,000.00

PREVIOUS BOARD APPROVAL:      \$ 150,000.00

Number and Date of each previous Board Report: 1st: April 15, 2003

PREVIOUS COSTS INCURRED:      \$ 22,749.69

COSTS INCURRED SINCE LAST BOARD APPROVAL:

- |                                    |                 |
|------------------------------------|-----------------|
| 1. Corrective action design report | 13,167.42       |
| 2. Site monitoring reports         | 16,338.90       |
| 3. Free product recovery           | 19,661.25       |
| 4. Remediation implementation      | 61,813.06       |
| 5. Operation and maintenance       | 20,685.79       |
| 6. Utilities                       | <u>5,962.70</u> |

TOTAL COSTS INCURRED TO DATE:      \$ 160,378.81

PROJECTED COSTS:

- |  |   |
|--|---|
| <input type="checkbox"/> Risked Based Corrective Action Tier II Report | <input checked="" type="checkbox"/> Utilities                   |
| <input checked="" type="checkbox"/> Site Monitoring Reports (SMR)      | <input checked="" type="checkbox"/> Free Product Recovery (FPR) |
| <input type="checkbox"/> Corrective Action Design Report (CADR)        | <input checked="" type="checkbox"/> Operation & Maintenance     |

TOTAL PROJECTED COSTS:      \$ 75,000.00 to 175,000.00 ++

ADDITIONAL AUTHORITY RECOMMENDED:      \$ 125,000.00

TOTAL AUTHORITY:\*      \$ 275,000.00

COMMENTS: The contaminant plumes from this site are merged with an adjacent site (reg. # 8609560). Some of the remediation costs are being shared. The system has not yet reduced contaminant levels to achieve SSTLs. A recent modification in the system will hopefully improve results.

\*Previous approval + additional recommended

*Approved*

**Contracts Entered Into  
Since September 24, 2009 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

Eric W. Johnson

Richard A. Leopold

Nancy A. Lincoln

Douglas M. Beech

### ☐☐☐ *MEMO* ☐☐☐

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**TO:** UST Board

**FROM:** Scott Scheidel

**DATE:** October 22, 2009

**RE:** Contracts Entered Into Since September 24, 2009

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Since the September 24, 2009 Board meeting, the Board has not entered into any new agreements or contracts.

## **Other Issues as Presented**

## **Correspondence and Attachments**

By TYLER ELLYSON -CNA staff reporter

# Corning Mini Mart survives 19-year battle with contamination

CORNING — "We'll just wait now for our 'no further action' notice from the state."

Those were the words Leona Westphal spoke in 2004 after finishing what she believed to be the final steps in a diesel-contamination cleanup at Corning Mini Mart.

Five years later, the wait is over. The Westphals received their "no further action" notice from the Iowa Department of Natural Resources (IDNR) April 27 — ending a nearly two-decade long fight to keep their business.

"People don't ever want to give up," said Westphal. "You would think that nothing would ever work right here."

## Purchase

Things weren't always this bleak for Westphal and her husband Verlyne.

Westphal began working in the convenience store at 801 Hull St. in 1983. But, it became apparent the business wasn't going to survive.

"This was a bankrupt store in 1983," said Westphal.

Within six months of Westphal's start there, the store went under and was purchased by First Federal Savings and Loan of Creston at a sheriff's sale. Westphal, who was now helping Verlyne with his real estate business, had no intentions of returning to the store when the bank called.

She did, however, volunteer her time to write a summary on what it would take to get the business back on its feet, "not meaning to be manager or anything."

Inevitably, she would become the manager there, working more than 100 hours per week while getting the store back in operational condition.

"Nobody really wanted it (manager position) because it's a lot of work, it's a lot of hours," Westphal explained.

This hard work led to the Westphals purchasing Corning Mini Mart March 1, 1984. They soon added an 800-square-foot office for Verlyne's real estate business.

Everything was going as planned at the store for a few years, but that would soon change.

## Contamination

As part of the Clean Water Act of 1988, Congress passed rules allowing the Environmental Protection Agency to impose contamination-cleanup costs and regulations at gas stations. These regulations would require owners to replace old underground storage tanks with new ones and clean up contamination if a violation is found on the property.

Iowa was quick to enforce the law.

Still, the Westphals had no knowledge of potential contamination on their land.

"We had no idea until 1990, the rumors started flying," said Westphal. "It was a nightmare."

Corning Mini Mart was supposedly home to two of an estimated 4,900 leaking underground storage tanks in the state in 1990 — a number that reached 6,200 in 2008.

The Westphals were now faced with the daunting and expensive task of alleviating a problem they didn't know existed.

## Cleanup

They had the underground storage tanks removed in 1990, only to find the tanks contained no leaks. It seemed the contamination occurred under the previous owner's watch during the 1970s because of overspill.

Despite the lack of fault, Leona and Verlyne were responsible for the contamination as the current owners of a property purchased "as is."

Between 5,000 and 8,000 gallons of diesel fuel had been spilled on the property.

Benzene levels there tested at 1,437 parts per billion, well above the acceptable 5 parts per billion.

"You could take the soil, lay it down and light a match to it, that's how saturated it was," Westphal said.

Three new tanks were installed and Seneca Corporation was hired to remove the contamination, all at the Westphals' expense. These expenses were expected to fold about 20 percent of Iowa's gas stations during the 1990s.

"A lot of them just walked away from it, but I had too much invested to walk away," said Westphal.

After the first cleanup, the couple even tried to sell their business, but they were told nobody would touch the property until it was deemed clean by the IDNR.

"My husband wanted to say 'let's throw in the towel,' but I've worked hard at this so I decided we're going to fight this through," said Westphal.

## Fight

And fight she did. Westphal worked on an underground contamination task force through Rep. Jim Lightfoot's office. She was also a guest speaker at a state symposium on the issue, addressed the Senate and appeared on television and in newspaper and magazine articles multiple times while battling the contamination.

All the while, some 50 monitoring and testing wells drilled around Corning Mini Mart still showed signs of contamination. In 2004, just 14 years after installing three new storage tanks, the tanks were removed and gasoline sales at the

convenience store were ended. The diesel fuel that had leaked under the roadway and into a creek behind the store was no longer a problem if left undisturbed.

"We were hoping that we were done, but we knew that we weren't," Westphal said.

It would take another five years of monitoring and a total investment of \$270,000, of which the Westphals paid \$14,400 with the Iowa Undergroun Storage Tank Fund providing the remaining money, to finally get the "no further action" notice.

"I paid for this thing many times over, but it's still working," Westphal said of the convenience store. "I felt lucky just to get by with that."

#### Surviving

Westphal says not selling things like gas or Lottery tickets is a hidden blessing because it gives the employees time to focus on customer service, which is what has allowed her store to expand its customer base.

The Westphals also started Corning's only laundry mat four years ago after the community was without one for two years, and run Westside Spirits, which was Iowa's second privately-owned liquor store and the first located inside a convenience store when added in 1997.

"People ask how I get by, and I say I do what nobody else wants," said Westphal.

Now that the contamination issue is in the past, Westphal says she plans to begin work on senior citizen's issues while still running the store she fought so hard for.

"I guess I'm proud of what I've done," said Westphal. "We started this on a shoestring."

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