

STATE OF NEW MEXICO ENVIRONMENT DEPARTMENT  
**STORAGE TANK COMMITTEE MEETING**  
Rio Grande Room, Toney Anaya Building, 2550 Cerrillos Rd., Santa Fe, NM

**December 13, 2017 Minutes**

The meeting of the Storage Tank Committee was called to order by Ms. Dana Bahar, Acting Chair, at 10:01 a.m.

**Members Present:**

Dana Bahar, NMED/PSTB, Acting Chair  
Ryan Briggs, STC Member  
Benjamin Hodges, STC Member  
Brent Neil, STC Member  
Jeff Scarbrough, STC Member  
Stephen McLin, STC Member

**Member Absent:** None

**Others Present:**

Ruben Baca, NM Petroleum Marketers Association  
Jacob Meadows, LANS, LLC  
Adrian Jaramillo, NMED/PSTB  
Antonette Cordova, NMED/PSTB  
Martha Juarez, NMED/PSTB  
Bonney Hughes, NMED/PSTB  
Tammy Kesler, NMED/PSTB  
Lorena Goerger, NMED/PSTB

NMED = New Mexico Environment Department; PSTB or “bureau” = Petroleum Storage Tank Bureau

**Item #1      ROLL CALL**

Roll call was taken and it was determined that a quorum was present.

**Item #2      APPROVAL OF THE AGENDA**

Mr. Hodges moved to approve the agenda as discussed, and Mr. Neil seconded the motion. Approval of the agenda was passed unanimously.

**Item #3      APPROVAL OF THE MINUTES**

The Acting Chair, Ms. Bahar, called for a motion to approve the May 10, 2017 minutes. Mr. Scarbrough moved to approve the minutes and Mr. Briggs seconded the motion. Approval of the minutes was passed unanimously. Ms. Bahar noted that as a quorum was not present on August 16, 2018, no minutes were produced and the materials would be presented at this meeting.

**Item #4      REMEDIAL ACTION PROGRAM UPDATE**

Ms. Lorena Goerger, Program Manager of PSTB’s Remedial Action section, reported on the **March through September 2017** workplan spreadsheets. Workplan approvals are summarized below by month.

**March 2017:**

<u>Responsible Party</u>		<u>State Lead</u>	
0	\$ 0.00	2	\$ 20,621.08
<u>Addendums</u>		<u>Addendums</u>	
9	\$ 77.17	8	\$ 40.45
<b>Total</b>	<b>\$ 77.17</b>	<b>Total</b>	<b>\$ 20,661.53</b>
<b>GRAND TOTAL</b>		<b>\$ 20,738.70</b>	

**April 2017:**

<u>Responsible Party</u>		<u>State Lead</u>	
6	\$ 109,619.09	0	\$ 0.00
<u>Addendums</u>		<u>Addendums</u>	
7	\$ 174.42	5	\$ 66.93
<b>Total</b>	<b>\$ 109,793.51</b>	<b>Total</b>	<b>\$ 66.93</b>
<b>GRAND TOTAL</b>		<b>\$ 109,860.44</b>	

Ms. Goerger noted that in April, a workplan for a Minimum Site Assessment was approved for a site in Taos.

**May 2017:**

<u>Responsible Party</u>		<u>State Lead</u>	
9	\$ 412,188.80	0	\$ 0.00
<u>Addendums</u>		<u>Addendums</u>	
4	\$ 100.61	6	\$ 53.72
<b>Total</b>	<b>\$ 412,289.41</b>	<b>Total</b>	<b>\$ 53.72</b>
<b>GRAND TOTAL</b>		<b>\$ 412,343.13</b>	

**June 2017:**

<u>Responsible Party</u>		<u>State Lead</u>	
31	\$ 937,860.74	4	\$ 58,968.23
<u>Addendums</u>		<u>Addendums</u>	
4	\$ 24.64	0	\$ 0.00
<b>Total</b>	<b>\$ 937,885.38</b>	<b>Total</b>	<b>\$ 58,968.23</b>
<b>GRAND TOTAL</b>		<b>\$ 996,853.61</b>	

Ms. Goerger noted that workplans for a couple of pilot tests were approved in June.

**July 2017:**

<u>Responsible Party</u>		<u>State Lead</u>	
13	\$ 231,154.37	0	\$ 0.00
<u>Addendums</u>		<u>Addendums</u>	
0	\$ 0.00	0	\$ 0.00
<b>Total</b>	<b>\$ 231,154.37</b>	<b>Total</b>	<b>\$ 0.00</b>
<b>GRAND TOTAL</b>		<b>\$ 231,154.37</b>	

**August 2017:**

<u>Responsible Party</u>		<u>State Lead</u>	
38	\$ 505,162.57	1	\$ 5,462.56
<u>Addendums</u>		<u>Addendums</u>	
8	\$ 176.97	0	\$ 0.00
<b>Total</b>	<b>\$ 505,339.54</b>	<b>Total</b>	<b>\$ 5,462.56</b>
<b>GRAND TOTAL</b>	<b>\$ 510,802.10</b>		

**September 2017:**

<u>Responsible Party</u>		<u>State Lead</u>	
50	\$ 789,955.26	2	\$ 57,806.78
<u>Addendums</u>		<u>Addendums</u>	
9	\$ 269.32	2	\$ 42.15
<b>Total</b>	<b>\$ 790,224.58</b>	<b>Total</b>	<b>\$ 57,848.93</b>
<b>GRAND TOTAL</b>	<b>\$ 848,073.51</b>		

(The monthly reports are available at [www.env.nm.gov/ust/ustcom.html](http://www.env.nm.gov/ust/ustcom.html), under Attachments.)

Mr. Hodges asked why there were no Responsible Party workplans approved in March. Ms. Goerger responded that the diversions from the Corrective Action Fund (CAF) passed during 2017 regular legislative session reduced the cash balance of the CAF such that the unobligated balance was below \$2 million. The program monitored the CAF balance to ensure sufficient funds were available for approved work and prioritized approval of new work accordingly.

The program is reviewing all release sites to re-initiate corrective action with the intent of expediting corrective action to achieve “no further action” status. During this process, sites were identified where there has been no action, either because the owner is no longer viable or the heirs are not interested in getting involved. Thus, the program is evaluating sites for state-lead designation if the tank owners are unknown, unable, or unwilling to take corrective action, or where an emergency necessitates the state to take action. Similarly, the program is preparing requests for proposals for remedial action for both state lead sites and on responsible party lead sites.

**Item #5      CORRECTIVE ACTION FUND UPDATE**

Ms. Tammy Kesler, Program Manager for the Reimbursement section of PSTB, presented the Corrective Action Fund (CAF) updates for the months of **March through September 2017**.

**March 2017:**

Beginning Cash	\$ 7,921,841.19	Reserve	\$ 1,000,000.00
Loading Fee	\$ 1,564,888.85	Work plan liabilities	\$ 4,900,591.47
Payments	\$ (982,576.30)	Unobligated balance	\$ 1,809,528.27
Operating Transfers	\$ (794,034.00)	Ending Cash	\$ 7,710,119.74

**April 2017:**

Beginning Cash	\$ 7,710,119.74	Reserve	\$ 1,000,000.00
Loading Fee	\$ 1,424,063.55	Work plan liabilities	\$ 4,263,129.92
Payments	\$ (692,019.31)	Unobligated balance	\$ 2,385,000.06
Operating Transfers	\$ (794,034.00)	Ending Cash	\$ 7,648,129.98

**May 2017:**

Beginning Cash	\$ 7,648,129.98	Reserve	\$ 1,000,000.00
Loading Fee	\$ 1,779,332.65	Work plan liabilities	\$ 4,110,750.82
Payments	\$ (547,089.74)	Unobligated balance	\$ 2,975,588.07
Operating Transfers	\$ (794,034.00)	Ending Cash	\$ 8,086,338.89

**June 2017:**

Beginning Cash	\$ 8,086,338.89	Reserve	\$ 1,000,000.00
Loading Fee (April)	\$ 1,667,648.26	Work plan liabilities	\$ 4,493,909.49
Loading Fee (May)	\$ 1,720,698.41		
Payments	\$ (554,380.77)	Unobligated balance	\$ 3,681,218.93
Union settlement funds reverted	\$ 48,849.63		
HB 2 (appropriation for Gold King Mine)	\$ (1,000,000.00)		
Operating Transfers	\$ (794,026.00)	Ending Cash	\$ 9,175,128.42

Ms. Kesler noted that in June, loading fees were deposited for both April and May, unexpended funds that had been allocated from the operating budget for Union settlement were deposited back into CAF; and \$1 million from CAF was appropriated for Gold King mine litigation in accordance with HB 2 as passed during the 2017 special session.

**July 2017:**

Beginning Cash	\$ 9,175,128.42	Reserve	\$ 1,000,000.00
Loading Fee (none posted 7/17)	\$	Work plan liabilities	\$ 4,448,613.76
Payments	\$ (266,472.99)	Unobligated balance	\$ 3,460,041.67
Operating Transfers (none 7/17)	\$ ()	Ending Cash	\$ 8,908,655.43

Ms. Kesler noted that in July, no loading fees were deposited and no operating transfers were made. The operating transfer for July was made in August.

**August 2017:**

Beginning Cash	\$ 8,908,655.43	Reserve	\$ 1,000,000.00
Loading Fee	\$ 1,680,000.25	Work plan liabilities	\$ 4,731,094.79
Refund deposit	\$ 18.00		
Payments	\$ (203,206.23)	Unobligated balance	\$ 3,125,090.66
Operating Transfers**	\$ (1,529,282.00)	Ending Cash	\$ 8,856,185.45

Ms. Kesler noted that the operating transfer for July and August were drawn this month.

**September 2017:**

Beginning Cash	\$ 8,856,185.45	Reserve	\$ 1,000,000.00
Loading Fee	\$ 1,834,120.62	Work plan liabilities	\$ 5,030,532.86
Payments	\$ (540,063.77)	Unobligated balance	\$ 3,355,068.44
Operating Transfers	\$ (764,641.00)	Ending Cash	\$ 9,385,601.30

(The monthly reports are available at [www.env.nm.gov/ust/ustcom.html](http://www.env.nm.gov/ust/ustcom.html).)

Mr. Briggs noted that there were two deposits in June from the loading fee. Ms. Bahar noted this was a change from past practice. This change is driven by the Department of Finance and Administration's (DFA) initiative to record all transactions in the fiscal year they occurred. In the past, May collections would have been deposited in July and, thus recorded in the new fiscal year.

**Item #6            PREVENTION AND INSPECTION PROGRAM UPDATE**

Mr. Joe Godwin, the manager of the Prevention and Inspection Program, presented the program summary to the Committee as follows.

**Staff Updates:**

New Program Manager, Santa Fe – Joe Godwin  
New Inspector Supervisor, Albuquerque – Bart Butler  
New Inspector, Albuquerque – Neil Dolly  
New Compliance Assistance/Inspector – Casey Stavert

**Facility/Tank Statistics:**

UST Facilities	1,160	USTs	3,147
AST Facilities	571	ASTs	1,271
Facilities with both ASTs & USTs	26		
<b>Total Facilities</b>	<b>1,757</b>	<b>Total Tanks</b>	<b>4,418</b>

**Inspection and Compliance Statistics April 1, 2017 – November 30, 2017:**

	Number of Facilities
UST Inspections	467
AST Inspections	223
Facilities with both UST & AST	10
<b>Total Inspections</b>	<b>700</b>

Mr. Briggs asked if these are tank or facility numbers, and Mr. Godwin confirmed that they are facility numbers.

Mr. McLin asked if we inspect all of the tanks at a facility, and Mr. Godwin replied yes. Mr. McLin commented that this was an impressive percentage for that time frame, and that the program seemed to do a higher percentage of ASTs than USTs. Mr. Godwin replied that that percentage varies over the course of time.

Mr. Adrian Jaramillo, a supervisor in the Prevention and Inspection Program who supervises the compliance assistance staff who administer the Delivery Prohibition program, provided the following information.

**Delivery Prohibition Statistics from April 1, 2017 – November 30, 2017:**

	Delivery prohibition cases submitted	Cases fully corrected of those submitted
UST cases	88	18
AST cases	41	7
<b>Total</b>	<b>129</b>	<b>25</b>

**Federal EPA LUST reporting:**

<b>Percentage of UST Facilities in Significant Operational Compliance with UST Release Prevention (spill, overfill, and corrosion protection) Requirements.</b> This is the percentage of facilities that were in compliance with SOC release prevention requirements after being inspected within the 12 month period (10/1/2016 to 9/30/2017)	93%
<b>Percentage of UST Facilities in Significant Operational Compliance with UST Release Detection Requirements.</b> This is the percentage of facilities that were in compliance with SOC release prevention requirements after being inspected within the 12 month period (10/1/2016 to 9/30/2017)	92%
<b>Percentage of UST Facilities in Significant Operational Compliance with UST Release Detection and Release Prevention (spill, overfill, and corrosion) Requirements.</b> This is the percentage of facilities that were in compliance with SOC release prevention and release detection requirements (both during the same inspection) after being inspected within the 12 month period (10/1/2016 to 9/30/2017)	86%

**Common Violations:**

<u>Common Violations for UST Facilities</u>	<u>Common Violations for AST Facilities</u>
Line tightness testing	Piping release detection
Line leak detector testing	Secondary containment
Maintenance of corrosion protection	Overfill prevention

Mr. Briggs asked whether the 104 delivery prohibition cases that were not fully corrected between April 1 and November 30, 2017 were still in delivery prohibition. Mr. Jaramillo responded that yes, they are in various stages of the delivery prohibition process but are not necessarily red tagged. Mr. Jaramillo clarified that 39 tanks are currently red tagged.

Discussion regarding the distribution of facilities with violations that are subject to delivery prohibition and related compliance rates ensued.

**Item #7 TANK FEE AND CERTIFICATION PROGRAM UPDATE**

Ms. Antonette Cordova, the Tank Fees and Certification Program Manager, provided the following summary.

**FY18 Invoicing:**

Annual invoices that assessed late payment fees were mailed on September 1, 2017 to all delinquent owners. There are approximately 785 owners, of which 231 are delinquent in the payment of their fees. Delinquent owners were reduced by 73, from 304 to 231.

**Tank Installer Certification:**

All Certified Installer renewal applications for those with certifications expiring March 16, 2018, are due by February 16, 2018. Reminder notices will be sent out no later than December 18, 2017. Certifications for approximately 5 Certified Installers are set to expire on March 16, 2018.

Numbers of Certified Installers are as follows:

- 36 Active UST Certified Installers (two new approvals for the month of December 2017), and
- 19 Active AST Certified Installers (one new AST applicant currently under review).

**A/B Operator Training:**

**Summary Statistics (Both tank types)**

<b>Total Facilities</b>	1768
<b>Facilities with A and B Operator</b>	820
<b>Facilities without A and B Operator</b>	937
<b>% of Facilities Compliant</b>	47%
<b>% of Facilities Non-Compliant</b>	53%

Since the last meeting in August 2017 there has been a 2% increase.

Discussion related to efforts to increase compliance rates and training availability ensued.

**Item #8      OTHER BUSINESS**

As the Bureau Chief, Ms. Bahar noted that PSTB staff has done an incredible job, given the vacancies and budget uncertainties over the last 2 years. Some of the major vacancies have now been filled. The major initiative that the Bureau has been taking, which has pulled a lot from the Prevention-Inspection section, is the rule revision effort and meeting the October 13, 2018 deadline to apply to maintain state program approval.

Ms. Bahar reviewed the rule revision timeline to date as follows:

- NMED filed a petition with the Environmental Improvement Board (EIB) with the draft regulations on 10/6/17;
- The EIB set a hearing date for February 21-23, 2018;
- The proposed rules were published on the bureau website shortly thereafter;
- A hearing notice was published in the New Mexico Register and several newspapers statewide on December 12, 2017;
- Due to concerns brought to the bureau's attention, an amended petition will be filed with the EIB in January and notices will be made accordingly.

The petition was submitted to repeal and replace the current regulation as changes in one part often required changes in another part. The bureau also took this opportunity to separate the AST and UST regulations in different parts and the parts were moved around to flow more consistently with the activities of a tank owner. All bureau staff have participated in the process one way or another while also doing their regular duties.

**Item #9      NEXT MEETING**

After discussion, the next meeting was tentatively scheduled for May 2, 2018.

**Item #10      ADJOURNMENT**

Mr. Briggs moved to adjourn the meeting. Mr. Hodges seconded the motion. The motion passed unanimously.

The meeting adjourned at approximately 10:55 a.m.