

STATE OF NEW MEXICO ENVIRONMENT DEPARTMENT
STORAGE TANK COMMITTEE MEETING
Porter Hall, Wendell Chino Building, 1220 S. Saint Francis Dr., Santa Fe, NM

May 10, 2017 Minutes

The meeting of the Storage Tank Committee was called to order by Dana Bahar, Acting Chair, at 10:02 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

Member Absent:

Stephen McLin, STC Member

Others Present:

Andy Freeman, Hall Environmental
Jacob Meadows, LANS, LLC
Doug Vetter, Sandia National Labs
David Wagner, Western Technologies
Bill Brown, Brown Environmental
Reggie Roberson, Eaton Sales & Service
Anthony Santana, Eaton Sales & Service
John Casey, Daniel B Stephens & Assoc
Tim Littlewood, Western Refining
Benny Hodges, Hodges Oil Company
Ryan Najar, Bell Gas
Eileen Marcillo, Intera
Michael Gerber, Intera
Sheldon Hitchcock, Talon LPE
John Bunch, Daniel B Stephens & Assoc
Isaac Romero, NM Legislative Finance Committee
Alan Eschenbacher, Souder Miller & Assoc.
Mike McVey, Daniel B Stephens & Assoc.
Adrian Jaramillo, NMED/PSTB
Antonette Cordova, NMED/PSTB
Cathy Velasquez, NMED/PSTB
Bonney Hughes, NMED/PSTB
Tammy Kesler, NMED/PSTB
Sarah McGrath, 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

The Acting Chair, Ms. Dana Bahar, noted that Ms. Sarah McGrath would be giving the Remedial Action Program update in place of Lorena Goerger, and proposed that the Tank Fee and Certification Program update be moved ahead of the Prevention and Inspection Program update. The Chair then called for a motion to approve the agenda with the proposed changes. Mr. Jeff Scarbrough moved to approve the agenda as discussed, and Mr. Brent Neil seconded the motion. Approval of the agenda was passed unanimously.

Item #3 APPROVAL OF THE MINUTES

The Chair called for a motion to approve the September 14, 2016 minutes. Mr. Neil moved to approve the minutes and Mr. Benjamin Hodges seconded the motion. Approval of the minutes was passed unanimously.

Item #4 REMEDIAL ACTION PROGRAM UPDATE

Ms. McGrath of PSTB’s Remedial Action section reported on the **July 2016 through February 2017** workplan spreadsheets. Workplan approvals are summarized below by month.

July 2016

<u>Responsible Party</u>		<u>State Lead</u>	
12	\$ 454,204.32	4	\$ 175,371.42
<u>Addendums</u>		<u>Addendums</u>	
8	\$ 83.58	3	\$ 20.87
Total	\$ 454,287.90	Total	\$ 175,392.29
GRAND TOTAL		\$ 629,680.19	

August 2016

<u>Responsible Party</u>		<u>State Lead</u>	
2	\$ 39,674.43	2	\$ 15,291.49
<u>Addendums</u>		<u>Addendums</u>	
6	\$ 78.05	4	\$ 186.29
Total	\$ 39,752.48	Total	\$ 15,477.78
GRAND TOTAL		\$ 55,230.26	

September 2016

<u>Responsible Party</u>		<u>State Lead</u>	
3	\$ 33,348.28	4	\$ 1,578,348.42
<u>Addendums</u>		<u>Addendums</u>	
11	\$ 126.09	8	\$ 41.13
Total	\$ 33,474.37	Total	\$ 1,578,389.55
GRAND TOTAL		\$ 1,611,863.92	

Ms. McGrath noted that workplan approvals in September included workplans for three of PSTB’s Priority 1 (highest priority) sites.

October 2016

<u>Responsible Party</u>		<u>State Lead</u>	
5	\$ 1,696,581.44	2	\$ 31,946.97
<u>Addendums</u>		<u>Addendums</u>	
10	\$ 120.37	6	\$ 133.38
Total	\$ 1,696,701.81	Total	\$ 32,080.35
GRAND TOTAL		\$ 1,728,782.16	

Ms. McGrath noted that the workplan for the Whiting Bros. site in Tucumcari was for the approval of excavation and disposal of petroleum hydrocarbon contaminated soils.

November 2016

<u>Responsible Party</u>		<u>State Lead</u>	
21	\$ 484,737.30	6	\$ 207,023.03
<u>Addendums</u>		<u>Addendums</u>	
11	\$ 197.93	0	\$ 0.00
Total	\$ 484,935.23	Total	\$ 207,023.03
GRAND TOTAL		\$ 691,958.26	

December 2016

<u>Responsible Party</u>		<u>State Lead</u>	
20	\$ 572,823.13	2	\$ 145,990.74
<u>Addendums</u>		<u>Addendums</u>	
10	\$ 144.00	5	\$ 290.53
Total	\$ 572,967.13	Total	\$ 146,281.27
GRAND TOTAL		\$ 719,248.40	

January 2017

<u>Responsible Party</u>		<u>State Lead</u>	
1	\$ 1,287.75	1	\$ 31,446.75
<u>Addendums</u>		<u>Addendums</u>	
10	\$ 158.56	3	\$ 133.23
Total	\$ 1,446.31	Total	\$ 31,579.98
GRAND TOTAL		\$ 33,026.29	

February 2017

<u>Responsible Party</u>	<u>State Lead</u>

4	\$ 122,024.78	0	\$ 0.00
<u>Addendums</u>		<u>Addendums</u>	
11	\$ 152.25	5	\$ 102.70
Total	\$ 122,177.03	Total	\$ 102.70
GRAND TOTAL	\$ 122,279.73		

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

Mr. Hodges asked about the reduced number of workplan approvals in August/September and January/February. Ms. Bahar replied that the bureau was managing the unobligated balance in response to the diversion of \$800,000 from the fund to the state general fund in accordance with Senate Bill 2 of the October 2016 Special Session.

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 **July 2016 through February 2017**.

July 2016:

Beginning Cash	\$ 12,192,450.66	Reserve	\$ 1,000,000.00
Loading Fee	\$ 1,488,142.71	Work plan liabilities	\$ 8,411,228.50
Payments	\$ (828,956.71)	Unobligated balance	\$ 2,646,576.65
Overpayment	\$ 2.49		
Salvage Deposit	\$ 200.00		
Operating Transfers	\$ (794,034.00)	Ending Cash	\$ 12,057,805.15

August 2016:

Beginning Cash	\$ 12,057,805.15	Reserve	\$ 1,000,000.00
Loading Fee	\$ 1,716,565.66	Work plan liabilities	\$ 7,171,505.51
Payments	\$ (1,250,650.56)	Unobligated balance	\$ 3,558,180.74
Operating Transfers	\$ (794,034.00)	Ending Cash	\$ 11,729,686.25

September 2016:

Beginning Cash	\$ 11,729,686.25	Reserve	\$ 1,000,000.00
Loading Fee	\$ 1,622,099.71	Work plan liabilities	\$ 8,187,212.58
Payments	\$ (503,395.08)	Unobligated balance	\$ 2,867,144.30
Operating Transfers	\$ (794,034.00)	Ending Cash	\$ 12,054,356.88

October 2016:

Beginning Cash	\$ 12,054,356.88	Reserve	\$ 1,000,000.00
Loading Fee	\$ 1,658,589.70	Work plan liabilities	\$ 9,387,190.30

Payments	\$ (496,905.54)	Unobligated balance	\$ 2,621,583.17
FY16 Due to/Due from, Audit Adjustment	\$ 586,766.43		
Operating Transfers	\$ (794,034.00)	Ending Cash	\$ 13,008,773.47

November 2016:

Beginning Cash	\$ 13,008,773.47	Reserve	\$ 1,000,000.00
Loading Fee	\$ 1,656,718.87	Work plan liabilities	\$ 9,003,637.23
Payments	\$ (666,466.88)	Unobligated balance	\$ 2,401,354.23
2016 2 nd Special Session SB2	\$ (800,000.00)		
Operating Transfers	\$ (794,034.00)	Ending Cash	\$ 12,404,991.46

December 2016:

Beginning Cash	\$ 12,404,991.46	Reserve	\$ 1,000,000.00
Loading Fee	\$ 1,642,493.04	Work plan liabilities	\$ 7,909,663.48
Payments	\$ (1,770,988.99)	Unobligated balance	\$ 2,572,798.03
Operating Transfers	\$ (794,034.00)	Ending Cash	\$ 11,482,461.51

January 2017:

Beginning Cash	\$ 11,482,461.51	Reserve	\$ 1,000,000.00
Loading Fee	\$ 1,414,081.08	Work plan liabilities	\$ 6,705,637.20
Payments	\$ (1,169,006.01)	Unobligated balance	\$ 2,433,831.38
Operating Transfers**	\$ (1,588,068.00)	Ending Cash	\$ 10,139,468.58

**Operating transfer for two months (January and February) was drawn this month.

February 2017:

Beginning Cash	\$ 10,139,468.58	Reserve	\$ 1,000,000.00
Loading Fee	\$ 1,874,131.05	Work plan liabilities	\$ 5,900,959.29
Payments	\$ (809,058.44)	Unobligated balance	\$ 1,020,881.90
2017 SB113	\$ (3,282,700.00)		
Operating Transfers	\$ (0)	Ending Cash	\$ 7,921,841.19

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

The question, where the money from the Corrective Action Fund was being swept to and what the rationale was for the legislature sweeping money from the fund was asked from the audience. Ms. Bahar stated that the funds were transferred to the state general fund.

Item #6 TANK FEE AND CERTIFICATION PROGRAM UPDATE

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

Tank Registration and Fee Collection:

FY17 Invoicing

Annual invoicing will be mailed out on June 1, 2017, to all owners. Payments are due by July 1, 2017. There are approximately 792 owners of which 229 are delinquent in the payment of their fees.

Tank Installer Certification:

Certified installer renewals were due by March 16, 2017:

20 UST Installer Renewals completed
 9 AST Installer Renewals completed

7 UST Installers expired
 6 AST Installers expired

A/B Operator Training:

Summary Statistics

Total Facilities	1762
Facilities with A and B Operator	869
Facilities without A and B Operator	893
% of Facilities Compliant	50.68%
% of Facilities Non-Compliant	49.31%

Item # 7 PREVENTION AND INSPECTION UPDATE

Mr. Adrian Jaramillo, a supervisor in the Prevention and Inspection Program, presented the program summary to the Committee as follows.

Facility/Tank Statistics

UST Facilities	1,170	Active USTs	3,174
AST Facilities	572	Active ASTs	1,296
Facilities with both ASTs & USTs	25		
Total Facilities	1,767	Total Tanks	4,470

Inspection and Compliance Statistics October 1, 2016 – March 31, 2017

	Number of Facilities
UST Inspections	314
AST Inspections	139
Facilities with both UST & AST	5
Total Inspections	458

Delivery Prohibition Statistics from October 1, 2016 – March 31, 2017

	Delivery prohibition cases submitted	Cases fully corrected of those submitted	Cases red tagged during this period

UST cases	61	42	10
AST cases	31	8	2
Total	92	50	12

Federal EPA LUST reporting

Percentage of UST Facilities in Significant Operational Compliance with UST Release Prevention (spill, overflow, and corrosion protection) Requirements. This is the percentage of facilities that were in compliance with SOC release prevention requirements after being inspected within the past 12 months (4/1/2016 to 3/31/2017)	88%
Percentage of UST Facilities in Significant Operational Compliance with UST Release Detection Requirements. This is the percentage of facilities that were in compliance with SOC release prevention requirements after being inspected within the past 12 months (4/1/2016 to 3/31/2017)	84%
Percentage of UST Facilities in Significant Operational Compliance with UST Release Detection and Release Prevention (spill, overflow, and corrosion) Requirements. 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 past 12 months (4/1/2016 to 3/31/2017)	76%

State Reporting Performance Measure

Percent of underground storage tank facilities in significant operational compliance with release prevention and release detection requirements of the petroleum storage tank regulations.	87%
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State performance measures consider facilities that are in compliance at the time of the inspection as well as those that correct violations after they have been identified during an inspection. The compliance rate that is reported to EPA only counts facilities in compliance at the time of inspection.

<u>Common Violations for UST Facilities</u>	<u>Common Violations for AST Facilities</u>
Sump sensor testing	Secondary containment
Positive shutdown	Overflow alarm functionality
Broken spill containers	Line leak detector installation and testing

Mr. Scarbrough asked what percentage of stores have sump sensors. Mr. Jaramillo answered that about 65% have sump sensors.

Inspector Territories

Mr. Jaramillo advised that the inspector territory map has been revised and that it is included as a handout.

Mr. Briggs asked about the prospect of filling vacancies. Ms. Bahar replied that it would be more clear after the special session, but that the bureau plans to fill them if funding is available.

Regulation Revision Process

The state of New Mexico has until October 2018 to adopt the changes in federal underground storage tank regulations and apply for state primacy approval in accordance with the federal regulations that became effective in October 2015. The bureau is working toward petitioning the Environmental Improvement Board (EIB) in September in hopes of meeting the federal deadline to apply for state primacy approval by October 2018

- Proposed changes to parts 4 & 5 are available for review on this page of the PSTB website: <https://www.env.nm.gov/ust/draftregs.html>
- Proposed changes to parts 6 & 7 will be made available for review on the same webpage.
- Stakeholder meetings are planned for mid-June and will be announced and notices will be sent via listserv and posted on the PST regulation revisions webpage referred to above.

Ms. Bahar reminded participants to send comments via e-mail to pst.regulations@state.nm.us and encouraged them to sign up for the bureau's e-mail list through the bureau's website, <https://www.env.nm.gov/ust/ustbttop.html>. Instructions for both of these were provided in a handout that was available at this meeting.

Mr. Ruben Baca of NM Petroleum Marketers Association affirmed from the audience that there will be plenty of chances for the public to comment and provide input on the proposed regulation revisions, including the stakeholder meetings, the public comment period once the proposed revisions are filed with the EIB, and during the EIB hearing.

Item #8 OTHER BUSINESS

Ms. Bahar presented a summary of proposed and enacted legislation pertaining to the bureau.

Members of the audience raised concerns such as the decline in workplan approvals is similar to 1996 when a similar situation led to contamination of drinking water wells. Ms. Bahar replied that bureau is working to prioritize work in accordance with the regulations as well as other considerations to protect public health and prevent imminent threats to public health.

Several members of the audience stressed the importance of the Corrective Action Fund as a financial assurance mechanism and affirmed concerns about their ability to get insurance for their tanks given their recent experience.

Item #9 NEXT MEETING

The next meeting is tentatively scheduled for August 16, 2017.

Item #10 ADJOURNMENT

Mr. Neil moved to adjourn the meeting. Mr. Scarbrough seconded the motion. The motion passed unanimously.

The meeting adjourned at approximately 11:00 a.m.