

**STATE OF NEW MEXICO ENVIRONMENT DEPARTMENT  
STORAGE TANK COMMITTEE**

**Toney Anaya Building  
Rio Grande Room  
2600 Cerrillos Road  
Santa Fe, NM 87505**

**Minutes of the December 12, 2008 Meeting**

The meeting of the Storage Tank Committee ("Committee") was held at the Toney Anaya Building, Rio Grande Room, second floor, Santa Fe, New Mexico 87505 on Friday, December 12, 2008. Chair Jim Norton called the meeting to order at 10:16 a.m.

**Members Present:**

Jim Norton, Chair  
Ryan Briggs, STC Member  
Paul Aguilar, STC Member  
Ruben Baca, STC Member

**Members Absent:**

Ronnie Pynes, STC Member  
Joseph Chavarria, STC Member

**Other Persons Present:**

Jim Davis, NMED/PSTB	Stewart Faith, FEI
Cathy Atencio, NMED/EPD	Alan Eschenbacher, SMA
Joyce Shearer, NMED/PSTB	Brad Billings, BAI
Marlene Cordova, NMED/PSTB	Bernie Lauctes, TTEMF
Leann Chavez, NMED/EPD	
John Kovacs, NMED/PSTB	
Leann Chavez, NMED/PSTB	

**Item #1      Roll Call**

The PSTC Administrator took the roll and noted a quorum was present.

**Item #2      Approval of the Agenda**

No changes were made to the agenda, except that Jim Davis will be presenting Calvin Martins part as well as Jennifer Pruetts.

**Motion:**

**Mr. Briggs moved to amend the Agenda  
Mr. Aguilar seconded. Motion passed unanimously.**

**Item #3      Approval of Minutes**

The Chair asked if there were any changes in the minutes. Since there were no changes to the minutes, a motion was called.

**Motion:**

**Mr. Baca moved to approve the Minutes  
Mr. Aguilar seconded. Motion passed unanimously**

**Item #4      Update of Corrective Action Fund:**

Ms. Marlene Cordova started with an update for the month of September.

**September**

Beginning Cash - \$ 13,437,473	
Loading Fee - \$ 1,461,465	Reserve - \$ 1,000,000
Payment - \$ (993,956)	Work plan liabilities - \$ 9,212,620
Operating Transfer - \$ (737,117)	Un-obligated - \$ 2,957,145
Ending Cash - \$ 13,169,766	

Ms. Cordova noted that a cash deposit of \$ 1,901 was made by Thriftway.

**October**

Beginning Cash - \$ 13,169,766	
Loading fee - \$ 1,446,987	Reserve - \$ 1,000,000
Payment - \$ (979,320)	Work plan liabilities - \$ 8,615,512
Operating Transfer - \$ (737,117)	Un-obligated - \$ 4,145,785
Ending Cash - \$ 13,761,297	

Ms. Cordova noted that a cash deposit of \$859,080 was due from Fund 064 for expenditures that did not materialize in FY07.

Ms. Cordova noted that a cash deposit of \$ 1,901 was made by Thriftway

The Chair asked if the \$859,080 was HB19 monies

Mr. Davis replied they are HB19 monies that were never used, so the money will go back into the fund.

Mr. Baca wanted to know if the money was obligated to a project and not used or why was it not used.

Mr. Davis replied the money was budgeted to a different program under HB19, not the Petroleum Storage Tank Bureau. He stated the funds could have come from any number of places where the HB19 monies are distributed across the Department.

The Chair explained it like a checking account the Bureaus would draw money from. If the monies were not all used it stayed in the account, then any amount not used each year goes back to the Corrective Action Fund..

**November**

Beginning Cash - \$ 13,761,297

Loading fee - \$ 1,453,981

Payment - \$ (518,484)

Operating Transfer - \$ (737,117)

Ending Cash - \$ 13,961,579

Reserve - \$ 1,000,000

Work plan liabilities - \$ 9,661,946

Un-obligated - \$ 3,299,633

Ms. Cordova noted that a cash deposit of \$ 1,901 was made by Thriftway.

Mr. Baca wanted to know if the Thriftway payments were cost recovery, or a settlement agreement.

Mr. Davis answered that these payments are a settlement agreement, monies paid incorrectly from the CAF and these payments are returning that amount.

Mr. Baca wanted to know what this amount will turn out to be.

Mr. Davis replied about \$25,000. It is a two year settlement agreement with this amount every month.

The Chair wanted to know if the Bureau was approving Workplan approvals at the same rate as in FY08 and FY07.

Ms. Shearer answered the Chair by stating the Bureau is approving fewer but, bigger project monies are more focused on clean up than monitoring.

Mr. Davis stated that the Bureau has seen a reduction in revenue as a result of the economic down turn.

The Chair asked Mr. Baca if he has noticed anything in gasoline sales

Mr. Baca replied that the trend for the last six months has been, that the volume has been down on the streets, between 7% to 15% and the volume is not coming up even with the lower gas prices. He stated that people's habits have changed.

The Chair stated that at the last meeting he had requested the Bureau to produce a graph of federal funds match, but the Bureau wanted to run the numbers by Jim Perry, Administrative Services Director, but he was unable to meet with the Bureau due to a surgery he had recently. They will have it at the next meeting.

The Chair asked if there were any other questions, since there were none the Committee moved on.

(Handouts provided; see [www.nmenv.state.nm.us/pstc](http://www.nmenv.state.nm.us/pstc) for entire monthly report)

## **Item # 5                      Update on Remedial Action Sites**

Joyce Shearer, Remedial Action Program Manager, presented a report on Remedial Action Sites and provided spreadsheets for approved work plans.

Work plan approvals for September 2008;

20 RP Workplan approvals:	\$ 694,739.84	4 SL	Workplan approvals:	\$415,890.17
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1 RP Addendums:	<u>\$ 37.50</u>	0 SL	Addendums:	<u>\$ 0.00</u>
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Totaling:	\$ 694,777.34	Totaling:	\$415,890.17
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**Monthly grand total of \$1,110,667.51**

Ms. Shearer stated this included three MSA's on sites that have not yet been assessed. Approval of a year of operation and maintenance plus some system modifications for the Thriftway 220 Site in Farmington. Also approved was an over excavation during a tank pull at the Akins Site in Belen

Work plan approvals for October 2008;

24 RP Workplan approvals:	\$ 461,217.07	2 SL Workplan approvals:	\$ 43,557.90
1 RP Addendums:	\$ 41.59	0 SL Addendums:	\$ 0.00
Totaling:	\$ 461,258.66		\$ 43,557.90

**Monthly grand total of \$504,816.56**

Ms. Shearer stated this included four MSA's, also that monies have been approved for several high priority sites including Paul's place in Tome, J & R Oil Company in Roswell, Sundial Deli Mart in Aztec and Love's Country Store in Gallup. Also operation and maintenance and recovery system was approved at Fina Truck Stop in Albuquerque.

Mr. Briggs had a question on why there were two Graves Sites noted.

Ms. Shearer replied that it was the same site with an approval of the initial work plan and then a change order. The initial workplan was to do some sampling of vapors in the air and testing of soil around the property. The second was to excavate and dispose of contaminated soil.

Ms. Shearer continued and talked about Indian Hills/Canyon Auto, Zuzax where a pump and treat system has been on the site for about four years cleaning up the water. The Bureau has been able to restore use of domestic wells in that area. At this point the Bureau is only supplying water to one household, previously they had eight.

Ms. Shearer stated, what the Bureau is doing now is examining if soil vapor extraction will boost the existing system resulting in faster cleanup.

Work plan approvals for November 2008;

26 RP Workplan approvals:	\$ 717,920.27	5 SL Workplan approvals:	\$ 870,833.36
0 RP Addendums:	\$ 0.00	0 SL Addendums:	\$ 0.00
Totaling:	\$ 717,920.27		\$ 870,833.36

**Monthly grand total of \$1,588,753.63**

Ms. Shearer stated this included three MSA's, and an installation of soil vapor extraction system plus operation and maintance at Lee County Electric Coop in Lovington.

Ms. Shearer stated that additional cost in November was for installation of two wells at the OhKay Express Mart, adjacent to A's 7 - 11 Mini Mart in Fairview. The Bureau had to interact with Owkay Owingeh Pueblo to get their approval for access on their land in order to install the wells on Tribal property. These wells were needed to define the extent of the plume at this site and to determine what kind of cleanup was needed.

Ms. Shearer stated the Bureau is continuing cleanup at Cibola Chevron and the former Maverik station, part of the Grants Triple Site. The Bureau did a dig and haul about a year and half ago at the Gil's Shell and it went from a very large contaminate plume with some product to one well just barely above standards. It was a very effective excavation according to the Bureau.

The Chair asked if there were going to be any press releases on the cleanup efforts in Grants, so the Bureau can get the word out about all the good work being done there.

Mr. Davis stated that the Bureau held a public meeting in Milan, concerning the Burrows Site. He stated the Bureau has not held a public meeting specifically for the Triple Site.

Ms. Shearer stated that she expects the first system to be completed in two months at which point the Bureau will be flipping the switch to turn the system on.

The Chair stated this would be a good time for a press release because it is such a big site and this would be good for the public to know.

Mr. Baca wanted to make a comment about the Legislative Session. He believes the Fund will come under fire in this upcoming Legislative Session. He stated that it was to late to do anything this year, but next year his suggestion would be to put a presentation together to go before Heaton's Committee sometime, in regards to what good the Fund is doing.

Mr. Davis stated that he appreciates that suggestion and that they will in fact do this next year. He stated that this year if a Committee did request something then they already had a power point presentation made that they would provide to them if asked.

Mr. Davis stated that all legislative districts in the State are touched in some way by the Bureau.

The Chair stated that another thing that often occurs during the Legislative session is that a Committee will just look at the cash balance and see \$13.9 million in there, and think maybe they can take say \$10 million. He stated the Bureau needs to be quick to point out that there is \$9.6 million in obligations that have to be considered. So in reality the unobligated balance is \$3.2 million. The Chair stated it is in the Bureaus best interest to keep that unobligated balance low, due to tight budget times.

The Chair asked if there were any other questions, since there were none the Committee moved on.

## **Item # 6                      Prevention and Inspection**

Mr. Davis provided an update for Mr. Kalvin Martin Prevention Inspection Program Manager, on the Prevention and Inspection Program.

The Bureau met with EPA Region 6 for end of year meetings. The Program reported that there are approximately 900 UST facilities they have in the state. The Program inspected 73% of these

and issued 61 violations. The most common violation was failure to provide release detection records and failure to adequately provide spill containment records.

Mr. Davis stated he thinks the Program is doing a much better job in the level of detail regarding inspections. This more accurate approach has resulted in a decrease in the compliance rate because the Bureau is doing a better job with documenting things wrong with facilities.

Mr. Davis stated that the Program is largely seeing things like cracked spill buckets and failure to provide records of line tightness and line leak testing.

Mr. Baca wanted to know if violations were being issued for record keeping

Mr. Davis stated yes, but the Program is no longer issuing monetary penalties anymore.

Mr. Baca wanted to know why this was changed.

Mr. Davis stated that an opinion came down from legal counsel stating that the Program did not have the authority to issue a monetary penalty but the Program can issue a violation.

Mr. Davis stated when the Program does issue a monetary penalty it comes under a compliance order signed by the Director.

The Chair asked if the 61 violations were NOV's or non compliance?

Mr. Davis responded that they would have all been NOV's

Mr. Baca asked if the Bureau was up to a complete staff now.

Mr. Davis replied, the Bureau is down two inspectors and one remediation staff out of 51 employees.

The Chair stated that there is a freeze on hiring now and they do not know how long the hiring freeze will be in place.

The Chair had another question and wanted to know the Federal requirement for facility inspections.

Mr. Davis replied once every three years.

The Chair asked if there were any other questions, since there were none the Committee moved on.

## **Item # 7      Update on Regulation Process**

Mr. Davis provided an update for Ms. Jennifer Pruett, Tank Fee Manager, and updated the Committee about the fee collection program.

Mr. Davis stated the Bureau presented a draft bill to Representative Heaton's Interim Committee on December 2<sup>nd</sup>. Mr. Baca was there at the time and did offer support that the Bureau did appreciate. The Committee voted unanimously to move the Bill forward Senator Leavell agreed to carry the bill for the Bureau.

Mr. Davis stated that he thought the Committee understood the need for the Bill.

Mr. Baca stated that they have a very strong Bill carrier.

Mr. Davis stated the draft bill has three main provisions the biggest one being granting authority for delivery prohibition. This is required by federal law. The Bill also changes definitions to correct the exemption for emergency generator tanks and to correct the definition of heating oil tanks both of which are needed to comply with federal law.

Mr. Davis stated in terms of the rules revisions, Stakeholder meetings were held in Farmington, Roswell, Santa Fe Albuquerque in October to discuss the draft operator training rules and installer certification revisions. Attendance was good at the meetings. Ryan Briggs attended the meeting in Farmington and Ruben Baca attended the meeting in Albuquerque.

Mr. Davis stated that the Bureau filed the petition on rule changes with the Environmental Improvement Board, on November 14<sup>th</sup> for operator training and other administrative procedures. The Bureau appeared in front of the Environmental Improvement Board on December 1<sup>st</sup> and asked for a hearing date. The date was set for Monday, April 6<sup>th</sup>. We anticipate the hearing will actually be held on April 7<sup>th</sup>. As the date approaches the program hopes to get a better feeling for the schedule so as to invite Stakeholders.

Mr. Davis stated that the Bureau has scheduled a hearing for part 17 of the rules which are adopted by the Environment Department. Part 17 deals with the administration of the Corrective Action Fund. This hearing is with the Environment Department hearing officer and is scheduled for Wednesday, March 11<sup>th</sup>. The Bureau will file a petition and a statement of reasons by the end of December.

Mr. Davis gave a Delinquent Tank Registration Fee Program update. as of November 15, 2008 the program has completed 236 cases, most of which have resulted in the closing of tanks, files and owners accounts. As of that date the program has collected \$189,632 and declared \$1,126,547 uncollectable. Mr. Davis also informed the Committee that the Certified Installer Program continues under review, and all certifications have been extended another six months.

Mr. Baca wanted to know if the Bureau is still certifying installers in the field.

Mr. Davis responded yes, if there is a field test that needs to occur our inspector will still do that and they will provide a field exam to the installer.

Mr. Baca wanted to know if there are many of these going on.

Mr. Davis stated not too many but could not give a number.

Mr. Davis stated the Bureau's next steps are to stay on top of the Legislation and the hearings they have scheduled.

The Chair asked if there were any other questions, since there were none the Committee moved on.

**Item # 8      Other Business**

The Chair asked the Committee if there was anything else they wanted to discuss today.

Mr. Baca wanted to know who was coming due to come off the Committee.

Trina Page will provide the Committee a list at the next meeting with that information.

**Item #9      Next Meeting is to be determined.**

After discussion, the Committee decided the next meeting of the Storage Tank Committee will be held in Santa Fe, New Mexico, March 27<sup>th</sup> Friday.

**Item #10      Adjournment**

The meeting adjourned at approximately 11:19 pm.

**Action:      Mr. Baca moved to adjourn the Meeting.  
                 Mr. Briggs seconded.  
                 The motion passed unanimously.**

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Petroleum Storage Tank Committee Chairman