

**STATE OF NEW MEXICO ENVIRONMENT DEPARTMENT
STORAGE TANK COMMITTEE
HAROLD RUNNELS BUILDING
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**Approved November 15, 2006
Minutes of the September 21, 2006 Meeting**

The meeting of the Storage Tank Committee (STC) was held at the New Mexico State Capitol, Room 321, Corner of Paseo de Peralta and Old Santa Fe Trail, Santa Fe, New Mexico 87501 on September 21, 2006. Chair Jim Norton called the meeting to order at 10:08 A.M.

Members Present:

Jim Norton, Chair
Ryan Briggs, STC Member
Paul Aguilar, STC Member
Ruben Baca, STC Member
Ronnie Pynes, STC Member
Joseph Chavarria, STC Member

Members Absent:

Wilfred Rael, STC Member

Other Representatives Present:

Donna Gary, EPD	Phyllis Martinez, NMED/PSTB
Jim Davis, NMED/PSTB	Cecil Irvin, NMED/PSTB
Steve Reuter, NMED/PSTB	Joe A. Gilmore, Kleinfelder
Kalvin Martin, NMED/PSTB	R J Dally, Thriftway
John Kovacs, NMED/PSTB	Brad Billings, BAI
Cathy Atencio, NMED/PSTB	Pinu Stout, Eight Northern Pueblo Council

Item #1 Roll Call

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

Item #2 Approval of the Agenda

Action: Mr. Chavarria moved to approve the Agenda as presented. Mr. Aguilar seconded. The motion passed unanimously.

Item #3 Update on Corrective Action Fund

Donna Gary, Manager of the Office of Finance and Budget, presented an update on the Corrective Action Fund to the Committee for FY06:

This month reports are a little different than previous months. We were unable to reconcile to DFA because we cannot pull up reports from the General Ledger in the Share System. We can present pieces that make up the addition & deletions to cash to project the un-obligated fund balances. (Handout provided; see www.nmenv.state.nm.us/pstc for entire report).

Preliminary cash for the month of July was \$16,403,163 based on our last available DFA reports. July cash receipts were \$1,693,530 for loading fees. No payments in July are to be posted to the fund. Our first Share issued checks were on August 2nd. A handout shows the annual breakdown by entity for CAF uses per HB19, totaling \$6,127,300.

Operating transfer in 1/12 of the operating budget	\$510,608
CAF Administrative portion:	\$243,050
Department portion:	\$267,559
Cash received due to a settlement	\$2,138
Reserve	\$1,000,000
Work plan liabilities	\$11,607,227
Un-obligated amount	\$4,980,996

The Chair, "Please explain to the audience what Share is?"

Ms. Gary, "Share is the new state wide accounting system with integrated payroll and general accounting in the same data base. Share's goal is to be able to create comprehensive annual financial reports."

Mr. Baca, "By going into Share, are payments being delayed to contractors?"

Ms. Gary, "Yes, definitely in the month of July there were delays. We are still not at our 30-day turn round, but we are having less daily issues."

Mr. Baca, "I have been getting e-mails from contractors complaining about the delays."

Ms. Gary, "We have gotten some calls & e-mails as well. I tell them of the issues for the day or the week. Problems vary & sometimes they go away."

Mr. Baca, "Are there problems with encumbrances?"

Ms. Gary, "We have technical problems but not on the budget."

The Chair, "Have we been able to make all the payments within the statutory 60-day time frame?"

Ms. Gary, "No and I cannot tell you how many were late. They could be anywhere from one day to two weeks late."

Mr. Davis, “Sometime around the first part of December we will sit down & figure out how much budget authority we will need from now until June 30th, & decide if we want to do a BAR increase either before or after the upcoming 60-day legislative session.”

There was a letter sent out a couple of weeks ago to the Tank Owner/Operator’s & Contractor’s, regarding the change in processing payments. There will be a new reimbursement claim cover sheet being sent out to be modified to note the deliverable ID’s, so we can pull reports to see what deliverables were projected for a specific month to help with budget authority & BAR increase decision.

Mr. Baca, “Was every tank owner mailed one of these letters?”

Mr. Davis, “No, they were mailed out to Contractor’s & Tank Owner’s that are having remediation performed on their sites.

The Chair, “Currently people have two years to send us a bill and that is too long for us. We can’t keep our books open for that long period of time. There will be extensive public involvement process to make a change. This will keep a tight track on what bills are out there & what is coming in.”

Item #4 Update on Status on Remedial Action Sites

Steve Reuter to report status on Remedial Action Sites & provided spreadsheets for approved work plans on behalf of Joyce Shearer.

Work plan approvals July 2006;	Work plan approvals August 2006;
42 RP Claims: \$ 605,639.48	43 RP Claims: \$1,166,296.64
14 SL Claims: <u>\$ 115,063.52</u>	15 SL Claims: <u>\$ 118,883.07</u>
Totaling: \$ 720,703.00	Totaling: \$1,285,189.71

Mr. Reuter went through the reports and pin pointed the sites with higher claims.

Mr. Davis indicated that Mr. Reuter has been going to the Federal Energy Policy Act meetings and updating the PST staff with the out comes. EPA is pushing a program known as “ready to re-use” which is a land revitalization effort that. There are numerous sites throughout the state where all the petroleum contamination has been remediated but the sites are still left with groundwater contamination that exceeds WQCC standards. We are interested in using this ready-to-reuse program when the owner of the site wishes to try to get them re-developed. We have met with EPA on this & we are hoping that once we understand this program in more depth we will be able to utilize this approach for some number of these sites where we have completed programmatic activities that have remediated the petroleum contamination.

Mr. Chavarria, “Is there a minimal requirement for depth of ground water which can be excluded in this act?”

The Chair, “No, not really, to my understanding, it’s at the determination of the department on a site by site basis that there is no threat associated with the contamination.”

Item #5 Update on Prevention and Inspection Program

Kalvin Martin to present an update on the inspection programs.

Personnel Issues:

Mr. Martin indicated that PST added a new position in the inspection program and that Jennifer Pruett was hired to manage tank fees and registration. She will start on Monday of next week. Ms. Pruett has been actively working with on contract in the delinquent tank fees collection program. Her duties will consist of managing the tank fee registrations and will continue with the delinquent tank fees program, which has been successful for us.

Mr. Baca, "Is Jennifer Pruett's position Nancy's old position?"

Mr. Davis, "No, Nancy's old position was filled by Natalie Benavidez. The position that Jennifer filled was reclassified from another Technical Occupation Group (TOG) to a line manager."

Mr. Martin, "Natalie was hired for Nancy's old position."

Mr. Baca, "So Jennifer's position is going to be for tank fees and bad collections?"

Mr. Davis, "Yes, she will be managing this program and will also be one of the key team members in the re-write of the regulations."

Tank Fees and Registration:

The second round of invoicing for tank registrations will go out tomorrow.

Delinquent Tank Fee Collection Project:

We have sent out reminder letters to the owner's regarding their delinquent tank fees & we have been able to collect around 80 to 100 thousand dollars. In this special project of collecting delinquent tank fees, we have resolved 81 cases & collected \$89,075.84 leaving a balance of \$431,658.35 of uncollected fees.

Mr. Chavarria, "Why is FDIC denying ownership of Morris Oil, in Hobbs?"

Mr. Martin, "This is a really old facility that had not been used for a number of years. It has been through bankruptcy & picked up by the Bank. The Bank says they are not the owner. So we have an abandoned property and no idea what the circumstances of this small bulk plank that has not been used for probably 20 years."

Mr. Baca, "Seems to me that once you file for bankruptcy and the property is taken by the bank, then the bank owns it."

Mr. Davis, "Currently our Office of General Council is working on the ownership of this facility."

“Is this the first case like this?” Mr. Davis, “Yes this is the first case involving FDIC.”

Mr. Martin, “We have a number of cases of where we are still trying to find who the owners are. Some of our inspectors are getting good at going to the “county clerk offices to investigate the properties owners.

Federal Energy Policy Act:

Mr. Martin, “This was passed by the Federal Government about a year ago. It specifies specific provisions with specific deadlines. EPA is not revising the federal regulations; instead they are developing work groups that meet to develop guidance documents for implementing the key provisions. We have reviewed draft guidance documents for delivery prohibition, financial responsibility, secondary containment, and Indian tribal strategy. EPA has issued final draft documents on delivery and prohibition strategy August 8th of this year. This is an on going process with EPA and we should be getting additional draft documents for review and a chance for public comment. We’ll have specific deadlines that we will have to meet according to legislation and the draft documents. EPA has advised us in a recent memo that they will take into account that if states are showing good faith and moving forward to be in compliance with these new requirements, they will not automatically withhold future funding. Current grant funding is about \$800,000.00.

Miscellaneous Matters:

Mr. Davis, “We are currently arranging for our first round of public meetings, which could take place at the end of October maybe the 25th or 26th. We will be in Las Cruces one day and Roswell the next. These will be informational meetings on the new and up coming regulations.

Mr. Pynes, “How many UST and AST’s are in the system now?”

Mr. Martin, “I estimate there are about 3,200 storage tanks of that amount and about 1,700 are AST’s.”

Item #6 Approval of July 19, 2006 meeting minutes.

Action: Mr. Pynes moved to approve the minutes as amended. Mr. Briggs seconded. The motion passed unanimously.

Item #7 Other Business

Mr. Davis introduced John Kovacs as being the delegated person to handle the disposition of PST equipment that they have had at remediation sites throughout the state & that they are getting ready to sell.

Mr. Kovacs, “This equipment currently resides, with the courtesy of the Highway Department, at the West Mesa Patrol Yard in Albuquerque. There are about 50 pieces in Roswell. All this equipment has been gathers since 1993, consisting of meters, plastic pipes, telephone poles to sheds as large as 10 X 20. We found out recently from our legal staff that we can use CAF funds to sell & we can also put what we earn back into the fund. We also found out that we can do something like a state garage sale, which we plan to do under sealed bids. This will allow any

interested parties from either the general public to contractor's to look over the items, make their choice and send their sealed bid to Cathy Sanchez at State Purchasing. We have left will be liquidated probably to a salvage yard. We are hoping that this will all take place at the end of October or early November.

Item #8 Next Meeting is November 15, 2006.

After discussion, the Committee decided the next meeting of the Storage Tank Committee will be held in Santa Fe, New Mexico, on November 15, 2006 at 10:00 a.m.

Item #9 Adjournment

The meeting adjourned at approximately 11:42 am.

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

Petroleum Storage Tank Chairman