

COMMONWEALTH OF PENNSYLVANIA
STATE BOARD OF UNDERGRUNDD STORAGE TANK
INDEMNIFICATION BOARD

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IN RE: USTIB QUARTERLY MEETING

PUBLIC MEETING

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BEFORE: J. Andrew Greiner, via telephone

Ted Harris, via telephone

Troy Conrad, ex officio

Laura Slaymaker, ex officio

Greg Perry, via telephone

Scott Hafer, via telephone

William Buckfelder

HEARING: Thursday, June 13, 2024

Capital Associates Building

901 North Seventh

OTHERS PRESENT: Preston Buckman

Ben Lorah

Amy Forbes-Witt

Reporter: Autumn Karper

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BOARD MEMBERS ABSENT:

- 1
- 2 Stephanie Wissman
- 3 Jonathan Lutz
- 4 Kevin Forsythe
- 5 Gauttam Patel
- 6 Nila Manning
- 7 Alex Baloga
- 8 Rep. Greg Vitali
- 9 Andrew McMenamin
- 10 Chris Hartman
- 11 J. Stephen Hieber

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MR. LORAH: Underground Storage Tank Indemnification Boards meeting for the second quarter of 2024. So I'm Ben Lorah, I'm the Executive Director of the Underground Storage Tank Indemnification Fund, and I'll be helping with the meeting this morning. Right now we'll check for quorum, so I'll take a roll call. Stephanie Wissman and Jon Lutz of the American Petroleum Institute of Pennsylvania are at a meeting and can't make it today. So I won't call their names, but Kevin Forsythe? Tom Patel? Andy Greiner?

MR. GREINER: Here. Present.

MR. LORAH: Nila Manning? Ted Harris?

MR. HARRIS: Here.

MR. LORAH: Troy Conrad?

MR. CONRAD: Here.

MR. LORAH: Laura Slaymaker?

MR. SLAYMAKER: Here.

MR. LORAH: Greg Perry?

MR. PERRY: Present.

MR. LORAH: Steve Hieber is also unable to make it today and Scott Hafer is representing the tank installers of Pennsylvania and

1 will be running the meeting today. So I heard you.
2 Scott, you're there?

3 MR. HAFER: Yeah, confirmed.

4 MR. LORAH: Will Buckfelder?

5 MR. BUCKFELDER: Here.

6 MR. LORAH: Alex Baloga? Michael
7 Howells? Representative Vitali? Andrew McMenamin? And
8 Chris Hartman? Okay, so Preston, do we have a quorum?

9 MR. BUCKMAN: Seven. We're one shy of
10 a quorum. Okay, so we can continue with the -.

11 MR. LORAH: Okay, we're one shy of a
12 quorum today, so we can continue with our
13 informational meeting, but we can't take votes on the
14 action item that we have, which the main action item
15 is the amendment to the regulation. So with that,
16 I'll turn it over to Mr. Hafer. And just as a
17 reminder, this is being transcribed. So back to you,
18 Mr. Hafer.

19 MR. HAFER: All right. Like Ben said,
20 I'm Scott Hafer. I'm filling in for Steve Hieber
21 today, and I'd like to thank you all for attending
22 today's second quarter board meeting for the
23 Underground Storage Tank Indemnification Board. Today
24 is Thursday, June 13, 2024. Back to you Ben, for any
25 new business.

1 MR. LORAH: Thanks, Mr. Hafer. The
2 first item is board member updates and term renewals.
3 So at the last meeting we mentioned that Alex Baloga
4 indicated his willingness to continue as a board
5 member, and he will continue as a board member until
6 his application is reviewed and approved by the
7 governor's office. Right now, we haven't heard back
8 on an update for that. The other term, update is Greg
9 Perry. His term expires December 6. So over the next
10 few months we'll be reaching out to coordinate that
11 reappointment if he wishes to continue.

12 Mr. Perry represents the Pennsylvania
13 Farm Bureau, Farmers Union. So that's it for term
14 updates. So back to you, Mr. Hafer.

15 MR. HAFER: All right, thanks Mr.
16 Lorah. Next we have administrative items. The first
17 item on the list is the use of claim summary. Amy
18 Forbes-Witt.

19 MS. FORBES-WITT: Thank you. I'm going
20 to throw out a claim summary and payment information
21 for the calendar year to date. So as of May 31, 2024,
22 we've had 63 new claims received and two reopenings.
23 The claims closed that were eligible for payments
24 equal 68 and six closed without a payment. There were
25 four denied claims so far and 15 claims that were

1 withdrawn. For the first five months of the year the
2 program has closed 93 claims.

3 The total pending claim count is
4 currently 761. And last year at this time, our claims
5 count was at 812. So our team is making great
6 progress in their work. The dollars paid thus far
7 related to claims payments equals \$11,403,358.88. The
8 cost per closed claim equates to \$235,186.76 on
9 average.

10 Regarding the TIP program, there are
11 no new claims received so far this year, no claims
12 were closed, and we do have two open TIP claims
13 currently. The reserves are set at 1.2 million and we
14 have not made any TIP payments so far this year. That
15 concludes the claims of payment information if anyone
16 has any questions or comments.

17 MR. HAFER: Okay, thank you, Amy. Next
18 up is the USTIF financial statements. Go ahead,
19 Laura.

20 MS. SLAYMAKER: Thanks. So the USTIF'S
21 financial statements for the first quarter have been
22 released, and I just want to hit a couple highlights
23 of them. The current fund balance is \$443,475,738 as
24 of the close of the first quarter. Our revenues are
25 \$72,388,696. Of that, 30.8 million are from

1 investments, the net increase of investments,
2 dividends and interests, and we've received \$41.5
3 million in fees year to date, fiscal year to date.

4 So as you can see, the general trend
5 of the fund is still upward. So that's good to see.
6 And this gives you an idea of our fee income by
7 source. I'll explain it a little bit, it may be a
8 little small for everyone to see. So the blue is our
9 throughput fees, the orange is the capacity fees, and
10 it's hard to see, but there's a tiny sliver between
11 the blue and the orange, and those are our TIP fees.
12 So as you can see, the bulk of our fees come from
13 throughput.

14 As far as our funds available, our
15 actuarial liability stands at 260 million. And that
16 leaves us an available fund balance of 178 million.
17 So this chart shows the funded or unfunded liability
18 of USTIF. And you can see that from 2017 to 2024,
19 we've been able to produce a net. Yeah, a positive
20 fund flow versus the unfunded liability that we had
21 as recently as 2021. So that's it for the financials.
22 If anyone has any questions, I'm happy to answer.
23 Okay, hearing none.

24 MR. HAFER: Thank you, Mr. Laura. Next
25 up for administrative items, we have the DEP

1 pollution prevention grant program statistics from
2 Troy Conrad. MR. CONRAD: Thanks, Scott.
3 For the current fiscal year that began on July 1,
4 2023, one grant has been approved for \$10,000, and
5 one application is pending for \$2,500. Since the
6 program's inception on January 30, 1998, 1,147 grants
7 have been approved , totaling over 5.9 million.

8 MR. LORAH: Scott, would you like me
9 to move on to the environmental cleanup statistics?

10 MR. HAFER: Ben, that one is that what
11 we call a pump and plug program?

12 MR. LORAH: Yes.

13 MR. HAFER: Okay. Next item is the DEP
14 environmental cleanup program statistics. Troy?

15 MR. CONRAD: For the current fiscal
16 year that began on July 1, 2023, DEP has expended
17 approximately 1,884,000 of the approved allocation.
18 DEP is currently working on 16 sites. To date, 90
19 heating oil reimbursement applications have been
20 approved totaling \$358,000, and 24 applications are
21 currently pending. And that's it for my update,
22 Scott.

23 MR. HAFER: Okay, thank you, Troy.
24 Next on the agenda is any unfinished business with
25 Chapter 977 regulation revision update. Mr. Preston

1 Buckman.

2 MR. BUCKMAN: Thank you, Scott. I
3 think before I jump in with an update, we're going to
4 do another roll call just to make sure no one joined
5 late, because if one person joined late, that would
6 give us a quorum. So Ben, if you want to run through
7 it again?

8 MR. LORAH: Sure, yeah. I'll just run
9 through the people that I marked absent the first
10 time. So, Kevin Forsyth? Gauttam Patel? Nila Manning?
11 Ted Harris?

12 MR. HARRIS: Here.

13 MR. LORAH: All right. Alex Baloga?
14 Michael Howells? Representative Vitali? Andrew
15 McMenamain? Chris Hartman?

16 Sorry, bear with us one second. Just
17 confirming our numbers. Okay, well, if no one else
18 has joined, we can just do an informational. Yeah,
19 we'll do an informational description of the
20 regulation and then we'll table this for a future
21 date.

22 MR. BUCKMAN: So Ben, you're still at
23 seven attendees and you need eight, is that correct?

24 MR. LORAH: Yeah. A quorum is eight.
25 There's 14 members on the board, so yeah, she's DEP.

1 Okay.

2 MR. BUCKMAN: Good morning everyone.
3 As most people will remember, the Board was presented
4 with some amendments to the underground storage tank
5 regulations at the December meeting, and the Board
6 unanimously voted to approve those amendments, which
7 allowed us to then issue those amendments for public
8 comment to a select group of stakeholders. That was
9 done in the late January early February timeframe.
10 They were issued with a comment deadline in early
11 April. No comments were received from the stakeholder
12 group.

13 However, at the December meeting of
14 the Storage Tank Advisory Committee, which Ben
15 attends as the executive director of USTIF, two
16 comments were made about the draft amendments. They
17 were good comments, and so it made sense to make two
18 further adjustments or amendments to what the Board
19 had approved in December. And those two adjustments
20 are reflected in the packet of materials that Ben
21 sent out last week.

22 And I will briefly describe those two.
23 The first, as you can see, is to the definition
24 section. It changes the word site to UST facility.
25 And the reason stack had suggested that change be

1 made is because on some properties you can have more
2 than one group of tanks.

3 And the example they gave was an
4 airport where in one section of the property, which
5 we all know are huge, you can have one group of
6 tanks, let's say, owned by a rental car company that
7 is operating at the airport. Somewhere else on the
8 property there can be another group of tanks that
9 have no relation to the rental car company. And let's
10 say that second group of tanks might be owned by the
11 airport itself. There may be even a third group of
12 tanks somewhere on a property that large, possibly
13 owned by another rental car company that does
14 business at the airport.

15 So it made sense to change site to UST
16 facility and tie it into the definition that exists
17 already exists in DEP regulations. So that's what you
18 see there in 977.4. That was the first one.

19 The second one is in subparagraph
20 five.

21 MR. HAFER: Hey, Preston?

22 MR. BUCKMAN: Yeah.

23 MR. HAFER: Preston, can you go back
24 one slide, please? I have just one quick question.

25 MR. BUCKMAN: Yeah.

1 MR. HAFER: When you say UST facility,
2 does that mean regulated UST facility?

3 MR. BUCKMAN: Yeah.

4 MR. HAFER: Or are you leaving it UST
5 facility to also include heating oil tanks?

6 MR. BUCKMAN: Well, that's a good
7 question because the definition - let me see, we have
8 the definition.

9 MR. HAFER: Yeah, right there, it says
10 UST facility set aside. I understand that because you
11 could have, on the same property, you could have
12 multiple regulated storage tank owners, operating
13 tanks that are part of the USTIB program. Now I'm
14 pretty sure, though, the USTIB program covers both
15 non-regulated heating oil tanks and also regulated
16 storage tanks, underground storage tanks.

17 So by just saying UST facility, it's
18 kind of an open-ended term because you're not
19 specifying regulated or unregulated. Is that the
20 intent?

21 MR. BUCKMAN: I think that's a good -
22 I think that's a good comment because I'm looking at
23 the definition of storage tank facility, and it does
24 not specify heating oil tanks. So maybe it's good we
25 didn't have a quorum.

1 MR. HAFER: But I don't mean to, you
2 know, stir the pot here.

3 MR. BUCKMAN: No, no, no. That's a
4 very good observation. And that's why we go through
5 these exercises. That's an easy fix. And so maybe
6 what we can do is make that adjustment. I think you
7 agree that makes sense. And Ben is shaking his head.

8 MR. HAFER: Are you saying that it is
9 in the intention that it is only regulated
10 underground storage tank facilities?

11 MR. BUCKMAN: No, we would want to
12 encompass the heating oil tanks as well.

13 MR. LORAH: Yes, we'll just confirm
14 that that is actually done there. And if it's not,
15 we'll make adjustments accordingly.

16 MR. BUCKMAN: Yeah. So why don't you
17 let us go back and check that with that comment in
18 mind, and then since we're going to have, or
19 hopefully we can have a, quote, unquote, special
20 meeting before September, we can float a draft to the
21 Board to accommodate that comment. Thank you. That's
22 a good observation.

23 MR. HAFER: Sorry, Preston.

24 MR. BUCKMAN: No, thank you. That was
25 a great observation. And so the second tweet, that ,

1 tack the Storage Tank Advisory Committee had
2 suggested is found in subsection five of the
3 eligibility requirement provision. And that was
4 simply to eliminate the reference to February 1,
5 1994.

6 And the reason for that, which kind of
7 ties into your comment, is that the startup date for
8 the heating oil tanks and for the tank installer
9 program is part different than the startup for USTIB
10 itself. And the claims that arise, the traditional,
11 if you will, USTIB claims, which would be applicable
12 in February 1, 1994.

13 So the suggestion was take out the
14 reference to February 1, 1994 and make it generic, so
15 that we're accommodating all three claims, types of
16 claims. And that was it. That was it from stack. That
17 was, those were the only comments received from
18 anyone or any group that was exposed to the draft
19 amendments.

20 Since we cannot take a vote, since we
21 don't have a plan, we will go back to the drawing
22 board. We will make the appropriate change to the
23 definition. Circulate that change to the Board and
24 hopefully we will reconvene to take a formal vote
25 sometime before the September meeting.

1 MR. LORAH: Okay. Back to you, Mr.
2 Hafer.

3 MR. HAFER: All right, thank you,
4 Preston. Next up in unfinished business is the
5 remaining meeting dates for 2024. Mr. Lorah?

6 MR. LORAH: Okay, yeah. So there's a
7 change to the September meeting date due to the
8 Office of General Counsel's annual conference. It was
9 originally scheduled for September 12, but we're
10 moving it September 19 to accommodate that change.
11 And as Preston mentioned, we'll explore the options
12 of potentially having a meeting between now and
13 September to approve the amended regulations. But
14 you'll be hearing more about that in the future.

15 So that's all for the upcoming
16 meetings. So back to you, Mr. Hafer.

17 MR. HAFER: All right. Do I have any
18 other comments, suggestions from anybody else in
19 today's meeting? All right. Meeting adjourn. Thanks,
20 everybody, for attending.

21 MR. BUCKMAN: Thank you.

22 * * * * *

23 MEETING CONCLUDED AT 10:25 A.M.

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CERTIFICATE

I hereby certify, as the stenographic reporter, that the foregoing proceedings were taken stenographically by me, and thereafter reduced to typewriting by me or under my direction; and that this transcript is a true and accurate record to the best of my ability.



Autumn Karper,
Court Reporter