

**Minutes of PSTIF Advisory Committee Meeting via Conference Call  
February 19, 2019**

Chairman Jordan called the meeting via conference call to order at 9:01 a.m. Roll call was initiated to determine attendance on the conference call. Other attendees introduced themselves after roll call was taken.

**Members Present:**

Mark Jordan, Wallis Oil Co., CHAIRMAN  
Sonny Underwood, Mid-South Steel Products, Inc., VICE CHAIRMAN  
Steve Ayers, Ayers Oil Co.  
Gary Bemboom, Bemboom Enterprises d/b/a BeeLine Snack Shops  
Todd Burkhardt, Neumayer Equipment Co.  
Ken Koon, MO DNR/HWP/Tanks Section  
Ron Morton, Town & Country Supermarket  
Cathy Raterman (for Wayne Baker), Warrenton Oil Co.  
Ryan Rowden, Missouri Petroleum Council  
Jason Smith, Environmental Works, Inc.  
Adam Troutwine, Polsinelli  
Curtis Wall, MDA/Weights, Measures, and Consumer Protection Division  
Brian Wiegert, PMMIC Insurance/Rounds & Associates

**Members Absent:**

Mark Abel, Abel Oil Co.  
Ron Bachman, St. Joe Petroleum  
Bruce Barnes, Santie Oil Co.  
Tracy Barth, MFA Petroleum Co.  
Daryl Bowles, DK Environmental, LLC  
Paul Cox, Cox Oil Co.  
Phil Farrell, Double Check Co.  
Ron Leone, MO Petroleum Marketers and Convenience Store Assn.  
Zarar "Bobby" Lodhi, Lion Petroleum  
David Mangelsdorf, Home Service Oil Co.  
Stewart McIntyre, Big River Oil  
Jack Sachs, Hocker Oil Co.

**Staff Present:**

Carol R. Eighmey, Executive Director, PSTIF  
Diane James, PSTIF Executive Assistant  
Dorcee Lauen, PSTIF Compliance/Underwriting Manager

**Others Present:**

John Albert, MDA Weights, Measures, and Consumer Protection Division  
Dru Buntin, Deputy Director for Policy, MO Department of Natural Resources  
Vicki Cason, Wallis Oil Co.  
Theresa Gilmore, Warrenton Oil Co.  
James Greer, PSTIF Board Chairman and MFA Petroleum Co.  
Don McNutt, PSTIF Trustee and Midwest Petroleum Co.  
Doug Potts, Commerce Bank

**Review/Approval of Minutes – November 1, 2018 Meeting**

Sonny Underwood moved that the minutes be approved. Curtis Wall seconded. Chairman Jordan noted a minor correction and motion carried with that correction.

**Discussion of Possible Changes to Participation Fees**

Chairman Jordan asked if there were any questions or comments on the financial statements provided.

Sonny Underwood asked why total revenue from the initial \$100 fees isn't a number divisible by 100; Dorcee Lauen agreed to look into it.

Chairman Jordan suggested the graph showing the fund's cash balance over time will be of interest when the board's action regarding the transport load fee is discussed later in the meeting. He noted the board's auditor had recently completed the annual audit of the trust fund and noted no concerns.

Materials in the members' packets related to fund participation and the declining caseload of claims and cleanups were briefly reviewed.

Carol Eighmey then reviewed highlights from the Board's recent actuarial report, noting its estimate of \$77 million for known liabilities and the projection that a cash balance of \$65 million will be needed at 12/31/25 to pay runout claims; she also reviewed the actuary's claim frequency and severity projections, noting the actuary expects the board to pay about \$10 million per year in claims for the next few years. It was noted there will likely be a spike in claims just before the sunset date, if it occurs, and this was not taken into account in the actuary's projection.

**2018 Legislative Action**

Chairman Jordan reported the legislature had extended the Fund's sunset date from 2020 to 2025 and the bill was signed by the Governor. He said the MPCA

initially asked the legislature to extend the sunset date to 2030, but there was some opposition in the Senate, so a compromise was struck that extended the program for five years and authorized a task force to study the PSTIF. He noted the task force had not yet met and the statutory provision authorizing it expires on December 31, 2018.

A brief discussion about the feasibility of private insurance followed. Ron Morton said his company has only four sites and he would expect commercial insurance to be more expensive than PSTIF coverage. Chairman Jordan opined that larger companies could afford to self-insure some or all of their risk, but small businesses who own only one or a small number of stores would have a difficult time obtaining affordable coverage. Doug Potts remarked on how well the PSTIF has spread risks and noted the data shared publicly by the PSTIF would not be available from private insurers.

### **Board Actions 2017-2018**

Chairman Jordan summarized the status of owners' decisions for sites where old fiberglass USTs are storing ethanol-blended gasoline, noting the Board is implementing a recommendation made by the Advisory Committee several years ago. He reminded Committee members that coverage will be canceled for any PSTIF-insured owner who does not address the compatibility issue by the time his insurance is scheduled to renew in 2019. Carol Eighmey asked Ken Koon whether DNR intends to take action if non-PSTIF-insured UST owners are still storing ethanol-blended fuel in such tanks in 2019; Mr. Koon said the Department is "tracking them closely."

Chairman Jordan then inquired of DNR what it is doing to enforce the FR requirement, noting non-compliant owners used to be promptly referred to the AGO, but that is no longer happening. Mike Martin responded the Department's goal is to work with owners to get back into compliance and, if that cannot be achieved, to "move them to the AGO."

The next topic of discussion related to the rule amendments previously recommended by the Committee; it was noted the Board had adopted most of the recommended rule changes, but had asked the Committee to re-evaluate its recommendation regarding participation fees.

Chairman Jordan then briefly reviewed the report prepared by the actuary to satisfy the Committee's statutory obligation to study the availability and affordability of private insurance, noting it was distributed to Committee members previously and is posted on the PSTIF website. Sonny Underwood asked why any tank owner would use private insurance instead of a state tank fund. Others responded that some large companies buy commercial coverage on a nationwide basis, some owners in other states buy private insurance because the state fund is insolvent, and some state tank funds have higher deductibles that are difficult for

owners to pay. John Albert reported there are 16 AST sites in Missouri using private insurance.

Chairman Jordan noted the actuary's report identified 2,539 sites insured by the PSTIF where no claim has ever been made and estimated a \$45 million liability for these sites. Ms. Eighmey said if the PSTIF eventually sunsets, many of these would likely make claims, creating the "spike" mentioned previously.

Finally, the chairman pointed out the board's recent decision to increase the transport load fee to \$28 per 8,000 gallons. There were no comments or questions on that.

### **Risk Management Discussion**

Chairman Jordan then initiated discussion on risk management issues and the PSTIF's participation fees.

There was a discussion about new UST installations and DNR's inspection procedures. Mike Martin said the Department's goal is to observe all new UST installations and their inspectors typically visit the site 3 or 4 times, as necessary. He said their inspectors have good working relationships with most of the equipment companies and estimated 50-60 new installations are inspected each year. The goal is to assure new equipment is properly installed and tested.

Chairman Jordan related his experience with a recent installation in Missouri and difficulties he and his equipment contractor encountered with double-wall sumps. He said the problems were so significant he doesn't intend to install them at any other sites. Sonny Underwood and Brian Wiegert concurred that there are problems with that particular piece of equipment. Sonny Underwood also commented that, at some sites, the requirement to install the overfill equipment before fuel is delivered to the tank causes problems. Carol Eighmey asked Ken Koon to take note of this feedback, since Missouri is one of the first states to implement EPA's new UST rules and it's important to know what is working and what is not.

The Chairman then moved to a discussion of the inspections of operational tank systems done every three years by R&A Risk Professionals. Brian Wiegert summarized his company's philosophy and approach, emphasizing their goal is to foster ongoing maintenance and prevent large losses. Ron Morton said he finds the inspections helpful. Ken Koon said DNR is happy with the contract and the work done by R&A; he said EPA will review how DNR administers its UST compliance program next year, and the Department may accompany R&A's inspectors somewhat more frequently in the future. Ms. Eighmey noted the board's current contract with R&A runs through FY20.

Ms. Eighmey then reviewed materials related to the increased risks posed by old tank systems, including the analysis by the board's actuary concluding PSTIF's

claims data indicates risk does increase with age. A discussion followed, during which members noted there are other factors besides age that also increase risk of loss, such as whether the site has under-dispenser containment, type of piping and length of piping runs, etc. Some members suggested consideration should be given to using those factors to adjust participation fees instead of tank age, since it is rarely the tank that leaks.

Several members supported the idea that the Board needs to adjust the fees and “take baby steps” toward a more risk-based fee structure, but noted it is a challenge to move completely toward a more private-like fee model, given that the primary source of funding for the PSTIF is the transport load fee. It was noted that changing the participation fee structure is probably more fair to the large companies that pay the bulk of the transport load fee, and that a conservative transition toward more actuarially-sound participation fees would help Missouri tank owners prepare for a transition from PSTIF to private insurance, if and when that may occur.

Since there seemed to be a general consensus on the concept of changing the participation fees to better reflect various risk factors, Ms. Eighmey offered to prepare one or more specific proposals, then schedule a conference call or another meeting of the Committee to continue its discussion on this issue.

### **New UST Rules**

Chairman Jordan noted eighteen states already have the new UST rules in effect, including two states adjacent to Missouri. He shared experiences his company recently had implementing the new rules at some of its sites, including the fact that drop tubes at relatively new sites had been cut wrong at installation, causing them to fail when tested. Dan Creek opined many sumps will fail when they are tested the first time.

The DNR’s compliance date of January 1, 2020 was discussed, with some noting they expect delays in getting testing and repairs done because the equipment companies will have more work requests than resources to respond. Dorcee Lauen clarified that the PSTIF will not require any documentation of compliance with the new rules until an owner’s participation agreement renews in 2020.

Brian Wiegert then described an effort that is underway to develop a new ASTM standard that might be recognized by regulators as an alternative test method; he said he expects to know the outcome of that effort in about six months. Other Committee members expressed interest in knowing more about that.

DNR was asked what its enforcement position will be if a UST owner is not fully in compliance with the new rules on January 1, 2020; Mike Martin said that decision has not yet been made.

