

MINUTES
Petroleum Storage Tank Insurance Fund
Board of Trustees Meeting
January 20, 2021 **

In Person and Via Conference Call
Start Time: 9:32 a.m.

Vice Chairman Ford called the meeting to order, with some Trustees/staff participating in person and the other Trustees/staff/others participating by conference call. Roll was called to confirm Trustees' participation. Vice Chairman Ford then asked all members of the audience to identify themselves for the record. He noted that all votes would be taken by roll call. Vice Chairman Ford recognized Trustee Abbott's passing and commented that he would be missed by all.

Trustees Present In Person:

James Greer, Chairman
Chuck Adamson
Tom Kolb
Ski Mariea
Kristi Naught

Trustees Present by Phone:

Vice Chairman, Jim Ford
Nikki Loethen
Don McNutt

Trustees Absent:

Danny Opie

Staff Present or Participating by Phone:

Pat Eriksen, Williams & Company Consulting (by phone)
Craig Jacobs, Assistant Attorney General (by phone)
Diane James, Executive Assistant
Kelley Ogletree, Executive Director
John Taylor, General Counsel

Others Present or Participating by Phone:

Doug Drouare, U.S. EPA – Region 7 (by phone)
Carol Eighmey, Retired (by phone)
Rich Germinder, MoDNR, Policy and Legislative Affairs
Ken Koon, Tanks Section, MoDNR Environmental Remediation Program
Mike Martin, Tanks Section, MoDNR Environmental Remediation Program (by phone)
Darryl Slade, Tanks Section, MoDNR Environmental Remediation Program (by phone)
Jacob Westen, MoDNR, Deputy General Counsel (by phone)

Approval of Minutes – November 18, 2020 – Open Session

Tom Kolb moved to approve the minutes as presented. Ski Mariea seconded. A roll call vote was taken. Motion carried unanimously with Chairman Greer not present for this vote.

** Due to the COVID-19 pandemic; this meeting was held with some Trustees/staff in person and some Trustees/staff/others via conference call.

Monthly Reports

Vice Chairman Ford directed Trustees' attention to the financial statements; there were no questions on these statements. He then asked Ms. Ogletree to give a brief overview of the large-loss claims summary, which she did. Ms. Ogletree also reviewed graphs regarding the age of open claims included in the meeting materials.

Chairman James Greer arrived at the meeting.

Vice Chairman Ford asked if there were any other questions on any of the other reports provided; there were none.

Chairman Greer thanked Vice Chairman Ford for overseeing the meeting in his absence and took over running the meeting.

Approve CSCAP for FY22

Chairman Greer asked Trustees to turn to this tab regarding expenditures for state services. He reminded them these expenditures are reviewed each year and are costs allocated by the Office of Administration to cover overhead costs incurred by the State for purchasing services, administration of revenue, etc., related to the PSTIF. He said this allocation is based in part on revenue from FY21 and because FY21 is the first complete fiscal year after the transport load fee was raised in 2019, the allocation has increased. He commented that unless something changes in the formula, there should be no significant increases in the future. There were no questions or comments on this item.

Tom Kolb moved to approve the FY22 Central State Services allocation. Ski Mariea seconded. There were no other questions or discussion. A roll call vote was taken. Motion carried unanimously.

DNR Proposed Legislation

Chairman Greer noted the MoDNR asked for time to present language they will be trying to get passed by the Legislature this year. Chairman Greer asked Trustee Chuck Adamson and MoDNR representatives present to explain their proposal.

Trustee Adamson reported that the EPA has expressed concerns regarding the MoDNR Tanks Section funding being approved by the PSTIF Board of Trustees each year rather than being funded directly. The proposed legislation is meant to address that concern. Trustee Adamson explained that the proposed legislation includes \$5 per transport load of the Transport Load Fee going directly to the MoDNR and that number was determined based on the current baseline budget and fringe (by MoDNR's calculations this is approximately \$4.31) projected out over the next several years. The amount deposited to the MoDNR is subject to appropriation and no more than the amount appropriated by the legislature would be deposited. Additionally, any amount not spent would be transferred to PSTIF at the end of the fiscal year.

MoDNR Director of Policy and Legislative Affairs, Rich Germinder, explained the appropriations process stating that when the House of Representatives passes the state budget, and the governor signs the budget, that establishes the “ceiling” that can be collected by MoDNR under this proposed legislation. This ensures that the budget amount includes enough financial resources for the Tanks Section to do its work and any amount not used will be transferred to PSTIF.

Mr. Germinder reviewed other provisions included in the proposal including 319.107 (clarifying language regarding PSTIF); 319.123 (clarifying language regarding MoDNR’s account allowing for deposits from the Transport Load Fee, General Revenue, other mechanisms); 319.129 (PSTIF sunset extension); 319.131 (previously Board approved language regarding PSTIF legal defense cost coverage); 139.132 (funding language discussed above, a provision regarding a requirement the MoDNR report their spending to the PSTIF Board of Trustees, and a provision containing a mechanism for Tanks Section funding in the event the Transport Load Fee is suspended).

Chairman Greer asked why 319.107 did not include a specification that reimbursements from PSTIF under this section are not exclusive to PSTIF participants. Ms. Ogletree explained the section has not been changed since the PSTIF was created and that results in confusion regarding who has the authority to determine what amounts should be reimbursed and from what fund. MoDNR expressed that they have no appropriated authority to reimburse under this provision.

Referring to 319.123, Chairman Greer asked for clarification regarding what can be done with the Transport Load Fee money that the MoDNR receives. Trustee Adamson stated that the money could be used for all Tanks activities. Mr. Germinder further explained that MoDNR is required to have a regulatory mechanism in order for the EPA to approve the State Program. These activities are currently funded jointly by the EPA and PSTIF. Ms. Ogletree stated that when the legislature created PSTIF it did not replace MoDNR’s regulatory funding, therefore the Board of Trustees provided funds for some of those activities. She also noted that this proposed legislation expands the use of Transport Load Fee monies to include all MoDNR petroleum-related activities, including previously unauthorized activities such as enforcement, overseeing cleanups of non-PSTIF participants, etc. Trustee Adamson concurred with Ms. Ogletree’s synopsis emphasizing that all spending is limited by appropriations.

Trustee Kolb expressed concern about this provision and asked if MoDNR can get separate funding. Mr. Germinder expressed that if this proposed legislation does not pass, that is what will have to happen and that it could cause problems because until funding is secured, the EPA will not be satisfied with the State Program. Trustee Kolb asked if the MoDNR considered utilizing the Tank Registration Fee. Ken Koon, MoDNR Tanks Section, said that because the Transport Load Fee is already being collected the proposal will be less burdensome on tank owners. Further discussion included Mr. Koon stating that it may be possible to eliminate the Tank Registration Fee in the future.

Trustee Adamson further clarified that the projections used to arrive at \$5 per transport load were based on no increases in staff or expansion of petroleum-related activities.

Regarding 319.132, Chairman Greer asked for clarification regarding the mechanism for funding of the collection of the Transport Load Fee. MoDNR confirmed that if the Transport Load Fee is suspended, PSTIF will provide funding until such time that the fee is reinstated.

Ms. Ogletree asked MoDNR if they have confirmation from the EPA that this funding proposal will alleviate their concerns regarding the security of the Tanks Section's Funding. Trustee Adamson said that they have not gotten confirmation about this language specifically but believe, based on EPA's recent correspondence, that this will be a satisfactory solution.

Chairman Greer stated that he does not disagree with the concept of the proposed legislation but that he has concerns regarding the amount MoDNR is suggesting, noting that it is potentially a substantial increase over current funding. Discussion followed regarding how MoDNR arrived at that number and the need to set a "ceiling" in statute that builds in COLA and fringe increases so that the statute does not have to be revised every time those costs go up.

Trustee Kolb stated that he believes the number of tanks will decrease over the years and that will impact the number of staff needed and the work done by the Tanks Section and, therefore, the funding needs of the MoDNR will decrease. He asked the MoDNR about federal funding and Mr. Koon indicated that they receive approximately \$1.4 - \$1.5M in federal money. Trustee Kolb again expressed that as the number of tanks, the number of claims, and the amount of work done by the Tanks Section goes down their funding needs will also go down so they should not be spending the same amount or more. Trustee Adamson expressed that may be the case eventually, but not in the near future. Mr. Germinder reminded trustees that all MoDNR funding is subject to appropriation and that the statute prohibits these funds being spent for anything other than the petroleum-related activities of the Tanks Section.

Trustee McNutt expressed concern that this equates to a funding increase of 15% - 20%. Discussion ensued regarding the various methods for setting the amount in the statute and that what is contained in the proposed legislation was the only way MoDNR staff could determine that would ensure adequate funding and a mechanism to avoid over-collection. Trustee McNutt again expressed concern that the MoDNR will simply go to the legislature and bypass the Board of Trustees, who also receive Transport Load Fee monies. Ms. Ogletree explained that the requirement included in the language that the MoDNR report annually to the Board of Trustees regarding how their portion of the Transport Load Fee is meant to address this concern by giving the Board the opportunity to weigh in before the appropriation process begins.

Trustee Naught moved to formally support the proposed legislation presented by MoDNR. Jim Ford seconded.

Discussion ensued regarding supporting the concept of the legislation, but not the amount of funding proposed by MoDNR, the appropriations process, and how state budgets are funded.

Trustee Adamson moved to amend the pending motion to allow PSTIF's Executive Director to represent the Board of Trustees's position to support the proposed legislation in concept. Tom Kolb seconded. Chairman Greer asked if there was any discussion. Discussion ensued regarding including a need for reference to trustees not supporting the proposed dollar amount. Trustee Adamson withdrew his amendment to the motion.

Trustee Kolb moved to amend the pending motion to allow PSTIF's Executive Director to represent the Board of Trustees's position to support the proposed legislation in concept, but not the proposed dollar amount. Ski Mariea seconded. There was no further discussion. A roll call vote was taken. Motion carried unanimously.

Note: Trustee Naught exited the room momentarily and returned during this discussion.

Legislative Report

Chairman Greer noted a spreadsheet for PSTIF bills of interest had been provided/handed out for those present at the meeting as well as having been emailed to Trustees before the meeting and posted on the PSTIF website. He asked Ms. Ogletree to review the PSTIF bill and any others of interest to them.

Ms. Ogletree commented she would be meeting with the SB310 sponsor the next day to get a timeline and engage her assistance with House sponsorship of the PSTIF bill.

Chairman Greer asked if there were any other questions or comments regarding the PSTIF bill or any other bills of interest; there were none.

Other Information and Administrative Items

Board Vacancies – Chairman Greer commented that it takes quite some time for the Governor to make appointments to boards and commissions and noted Ms. Ogletree is working hard to make appointments to the PSTIF Board of Trustees a priority for the governor's staff. He asked if any Trustees know of someone who would be a good addition to the Board to reach out to them and/or refer them to Ms. Ogletree who can explain the application process to them if they are interested. He said it had been suggested the Board contact the Governor directly by letter.

Tom Kolb moved to direct PSTIF staff to draft a letter to Governor Parson for the Chairman's signature on behalf of the Board of Trustees urging him to appoint trustees to fill the vacancies on the PSTIF Board. Ski Mariea seconded. After clarification that the Governor's boards and commissions director had been contacted previously, a roll call vote was taken. Motion carried unanimously.

EPA Proposed Rule Change Regarding E-15 – Chairman Greer said this item is regarding the EPA's proposed rules modifying the labeling requirements of E-15 and also the requirements regarding demonstrating tank system compatibility. He said the proposed rules language was just issued a few days ago so a summary has been

provided if you're here in person and was also sent to Trustees by email otherwise and posted on the PSTIF website. There were no questions from trustees on this item.

Billings – Chairman Greer asked if there were any questions or comments on any of the billings provided to them. Ms. Ogletree commented that Spencer Fane provided three months of billings all at once due to end of year processing at their firm. She expressed to trustees PSTIF staff are looking at legal expenses very closely without compromising representation for the Board. There were no other questions or comments on any of the billings.

Chairman Greer thanked everyone for attending and announced the next meeting is scheduled for Wednesday, March 17, 2021 at the Hampton Inn & Suites Hotel in Columbia.

Chairman Greer then asked for a motion to go into closed session to:

- Approve the minutes from our previous closed sessions;
- Discuss ongoing and threatened litigation; and
- Discuss a personnel matter.

Tom Kolb moved to go into closed session to discuss matters authorized by Subsections (1), (3), and (13) of Section 610.021, RSMo. Ski Mariea seconded. A roll call vote was taken; motion carried unanimously.

Chairman Greer asked that Trustees participating by phone please hang up and dial back in using the closed session meeting number provided and said the closed session would reconvene in ten minutes or at 11:30 a.m.

The open meeting was adjourned at 11:19 a.m.

Respectfully submitted:

Approved by:

/S/
Kelley J. Ogletree

/S/
James Greer, Chairman

03/17/2021
Date