

MINUTES
Petroleum Storage Tank Insurance Fund
Board of Trustees Meeting
January 25, 2017

The University Club, University of Missouri Campus, Columbia, MO
Start Time: 9:31 a.m.

Chairman McNutt called the meeting to order and introduced Brian Weisel as the Board's new counsel from the Attorney General's Office.

Trustees Present:

Don McNutt, Chairman
Jim Ford, Vice Chairman
John Albert
James Greer
Tom Kolb
Ski Mariea
Marty Miller
Kevin Murphy
Danny Opie
Kristen Paulsmeyer

Absent:

Tom Pfeiffer

Staff Present:

Carol R. Eighmey, Executive Director
Dan Henry, Williams & Company Consulting
Diane James, Executive Assistant
Dorcee Lauen, Williams & Company Consulting (via speakerphone)
Amy Sommers, Williams & Company Consulting
Patrick J. Vuchetich, Williams & Company Consulting
David Walters, Williams & Company Consulting
Brian Weisel, Assistant Attorney General

Others Present:

Doug Drouare, U.S. Environmental Protection Agency
Tim Duggan, Attorney General's Office
Rick Kochuyt, CK 63rd Street, LLC
Ken Koon, Tanks Section, Hazardous Waste Program, DNR
Tina Payton, Magness Oil
Heather Peters, Compliance/Enforcement Section, Hazardous Waste Program, DNR
Doug Quinn, Third Party Testing
Jason Smith, Environmental Works, Inc.
Mikal Thornhill, Neumayer Equipment
Tom Tunncliff, Environmental Works, Inc.

Approval of Minutes – November 30, 2016

Jim Ford moved to approve the minutes from the November 30, 2016 open meeting. James Greer seconded. Motion carried.

Monthly Reports

The Trustees reviewed the financial statements, activity reports, and large-loss claims; there were no questions.

FY18 CSCAP

Ski Mariea moved to approve OA's FY18 expenditure for central state services in the amount of \$83,015. Jim Ford seconded. Motion carried.

Insurance Appeals

Chairman McNutt announced these requests will be handled the same way the Board handles claim appeals, except in these cases, staff will first explain the background situation and present their recommendation, then the applicants will provide any additional information they wish. He said Trustees will have time after each case is presented to ask questions of either party; he explained the Trustees will then discuss each case and make decisions in closed session later that day and their decisions would be communicated in writing by the Fund's Executive Director within a few days of the meeting. He asked if this procedure was agreeable to everyone; there were no objections.

[PSTIF Underwriting and Compliance Manager Dorcee Lauen was contacted and connected via speakerphone.]

Chairman McNutt noted Dorcee Lauen was connected via telephone and Heather Peters was in attendance and both were available to answer questions. He thanked Assistant Attorney General Tim Duggan for attending, noting the AGO had taken actions to enforce DNR's regulations or assess penalties for violations at some of these sites in the past; he also noted Mr. Duggan had served as counsel to the Board for many years and is familiar with the Trustees' regulations and past decisions.

[Tom Kolb arrived at the meeting.]

The Junction II, St. Joseph

Ms. Eighmey reviewed the history of tank operations at the site and summarized the staff recommendation presented in the Trustees' notebooks. Chairman McNutt asked if the applicant or anyone representing him was present and wished to discuss the Board; no one responded.

[Kevin Murphy arrived at the meeting.]

A brief discussion followed, during which Trustees expressed appreciation for Ms. Peters' desire to assist business owners, but asked whether the DNR intends to continue allowing owners to put tanks back into use after they have been empty for five years instead of removing the tanks, as the rules require; Ms. Peters confirmed the Department will no longer allow USTs that have been empty for five years or more to be put back into service.

Chairman McNutt introduced Kevin Murphy, recently appointed by former Governor Nixon to the Board.

Magness Oil #51, Koshkonong

Next, Ms. Eighmey reviewed the information in the Trustees' notebooks about this site and presented the staff's recommendation. Chairman McNutt then invited Tina Payton, representing Magness Oil Company, to make comments. Ms. Payton explained she was only recently given responsibility for UST compliance and has learned a lot. She said Magness Oil did not receive much information on Tank #4 from the prior owner, J&P Flash; she said Magness has put fuel in the previously-empty compartment of Tank #4.

Ms. Eighmey noted the records reviewed by her staff indicate Tank #6 is the tank that had been empty for more than five years and is the one Magness Oil now is asking the Board to insure; she asked Ms. Payton if that is correct. Mr. Kolb asked why Flash took Tank #6 out of service.

Ms. Payton said Tank #6 was previously used by Flash Oil to store off-road diesel and Flash did not sell enough of that product to justify continued sales; she said farmers in the area now are using more of that product and Magness Oil is again selling it. She also said Tanks #5 and #6 are manifolded together.

Mr. Albert asked whether Magness Oil had installed blender dispensers, speculating that may be one reason Magness put Tank #6 back into service; Ms. Payton was unsure.

Based on the ATG printouts she has reviewed, Ms. Lauen questioned the number of ATG probes and whether there is a probe in Tank #6; Ms. Payton responded Tank #6 "cannot be hooked up to the Veeder Root" because wiring was not available to do so, but Magness is willing to have that work done. She said Magness had a tank tightness test done on Tank #6 prior to getting private insurance. Ms. Peters confirmed DNR's rules require an ATG probe in Tank #6.

Mr. Greer asked Ms. Payton whether Tanks #5 and #6 are both currently being used to store clear diesel; Ms. Payton responded yes.

Chairman McNutt thanked Ms. Payton for attending and providing information to the Trustees; he reminded her notice of the Board's decision would be sent to Magness Oil in the next few days.

J & J Convenience, Aurora

Ms. Eighmey reviewed the information provided in the Trustees' notebooks and presented the staff's recommendation. Chairman McNutt then invited Mikal Thornhill from Neumayer

Equipment to speak on behalf of the applicant; he was assisted by Doug Quinn of Third Party Testing. Mr. Thornhill said his customer, Mr. Gier, is not interested in selling fuel at this location unless he can use all three tanks. He described various conversations he and others had with the property owner, Mr. Floyd, and with DNR, regarding what would be required to put the tanks back into use.

Tom Kolb asked about the report that 64” of water was in one of the tanks at one time; Mr. Thornhill responded he thinks after the tightness test was done, the testing company left the tank top open and rainfall subsequently got into the tank. He said the tank manufacturer had initially certified the tank but later rescinded its certification. Ms. Peters clarified that water ingress problems had been reported for that tank before the testing technician reportedly left it open; she said the Department had also expressed concern about a crack in the concrete longitudinally above this tank, as this is sometimes indicative of an empty tank “floating” during periods when the water table is high, and if that occurred, the tank could have been damaged.

Mr. Thornhill said a second tightness test had been performed – this time with water by Mr. Quinn – and it passed.

Ms. Eighmey noted the last item in the chronology indicated DNR had not yet concluded whether the Department was willing to allow use of Tank #3; Ms. Peters responded the DNR had received Mr. Quinn’s recent tank tightness test, done with water, and concurs with the conclusion that the tank tested tight.

Mr. Mariaea inquired whether there is any way to get the manufacturer, Containment Solutions, to recertify the tank; Mr. Thornhill replied he has made several such inquiries and does not believe there is.

Mr. Kolb queried Ms. Peters further about DNR’s opinion on whether Tank #3 should be used; Ms. Peters reiterated concerns about reported water ingress. Mr. Miller suggested the owner would have to commit to taking actions if the water ingress problem reoccurs. Mr. Quinn recommended replacing risers and ancillary equipment on top of the tank.

Chairman McNutt thanked Messrs. Thornhill and Quinn for attending and providing information to the Trustees; he reminded them written notice of the Board’s decision would be sent in the next few days.

Speedy Gas, St. Louis

Ms. Eighmey reviewed the information provided in the Trustees’ notebooks and presented the staff’s recommendation. Chairman McNutt inquired whether anyone was present to speak on behalf of the owner and/or applicant; no one responded.

Chairman McNutt asked Ms. Lauen to confirm the last time PSTIF coverage was in effect was 2009; she confirmed that fact. He then noted it appears the tanks have been in use since then and asked if the owner was using private insurance as his financial responsibility mechanism.

Ms. Peters responded the Department had referred the owner to the AGO for enforcement and the AGO had directed him to either close the tanks or operate them in compliance with DNR's rules. Mr. McNutt asked why the Department is interested in seeing the tanks put back into service; Ms. Peters said the AGO had given the owner the option of either closing the tanks or getting into compliance and she did not know how long he had operated out of compliance. She said the owner had done extensive testing on the tank systems.

Chairman McNutt inquired whether the Department of Agriculture's inspections show when the tanks were in use; no one knew.

Worlds Liquor #4, Kansas City

Ms. Eighmey summarized the information provided in the Trustees' notebooks and presented the staff's recommendation. Chairman McNutt then invited Rick Kochuyt to comment.

Mr. Kochuyt said he has passing line tightness tests and operability checks on the line leak detectors, and that new dispensers and automatic tank gauges have been installed. He said the store has been remodeled, he currently has pollution liability insurance from a private carrier, and the store opened two weeks ago. However, he said he has three other sites insured by the PSTIF Board of Trustees and wants to insure this one with the PSTIF also. Mr. Miller asked why; Mr. Kochuyt said coverage from the PSTIF is less expensive.

Chairman McNutt thanked Mr. Kochuyt for attending and providing information to the Trustees; he reminded him written notice of the Board's decision would be sent in the next few days.

Legislative Report

Chairman McNutt asked Ms. Eighmey to review legislation of interest. She briefly summarized the information in the Trustees' notebooks.

Mr. Ford asked Mr. Miller if HB222 would affect the DNR's operations; Mr. Miller said it's unclear whether it would or not.

Risk Management and Loss Prevention

Tom Kolb showed a rusted-out fill connector from one of his USTs containing ethanol-blended gasoline and described what his driver had observed and had done. He said the equipment had been replaced and no release to the environment occurred, but he was surprised to see the amount of corrosion on the heavy steel connector.

Pre-1981 Fiberglass USTs – Chairman McNutt reported Williams' staff continues to communicate about every two months with insured owners who are storing ethanol-blended gasoline in old fiberglass tanks and commented he's glad DNR is taking a similar approach with tank owners who are not PSTIF participants.

Update – UST Operator Training – The chairman noted PSTIF and DNR staff continue checking compliance with the operator training requirement and complimented all on the high compliance rate. He invited questions from Trustees; there were none.

Analysis of Recently-Installed USTs – Chairman McNutt invited Trustees to review data provided in their notebooks on new USTs installed in the last five years; Ms. Eighmey noted this analysis had never been done before and provided some interesting insights.

Administrative Issues

Review of PSTIF Board's Rules – Chairman McNutt observed that both state law and Governor Greitens' new executive order require the Board to review its rules; he said Ms. Eighmey would provide more information on how this will be accomplished in the coming months.

New UST Rules – Chairman McNutt asked Marty Miller if he knew whether the Department plans to proceed with publication of the proposed new UST rules; Mr. Miller said no final decision had been made yet and noted state law allows the deadline for publication to be “tolled” for thirty days, which will give the new administration more time to make that decision.

Billings – Chairman McNutt asked if there were any questions on recent billings; there were none.

Chairman McNutt reminded those present that the next Board meeting would be on a different day of the week, Thursday, March 23, 2017 at the Governor Office Building in Jefferson City. He then asked the Trustees to go into closed session to:

- Discuss and make decisions on the insurance appeals heard this morning;
- Approve the minutes from the two closed meetings held on November 30;
- Discuss ongoing and threatened litigation; and
- Discuss one issue relating to a contract.

Jim Ford moved that the Board go into closed session to discuss the matters identified by the Chairman, as authorized by Section 610.021, RSMo. Ski Mariea seconded. A roll call vote was taken; motion carried without dissent.

Chairman McNutt adjourned the open meeting at 11:39 a.m.

Respectfully submitted:

Approved by:

S/
Carol R. Eighmey

S/
Don McNutt, Chairman

3/23/17
Date