

**MINUTES**  
**Petroleum Storage Tank Insurance Fund**  
**Board of Trustees Meeting**  
**May 23, 2018**

**Capitol Plaza Hotel, Carnegies Room, Jefferson City, MO**  
**Start Time: 9:31 a.m.**

Chairman Greer called the meeting to order.

**Trustees Present:**

James Greer, Chairman  
Jim Ford, Vice Chairman  
Tom Kolb  
Ski Mariea  
Tracy McGinnis  
Don McNutt  
Katie Jo Wheeler

**Absent:**

John Albert  
Danny Opie  
Tom Pfeiffer

**Staff Present:**

Jeff Blaylock, Ford, Parshall & Baker  
Carol R. Eighmey, Executive Director  
Dan Henry, Williams & Company Consulting  
Craig Jacobs, Assistant Attorney General  
Diane James, Executive Assistant  
Patrick J. Vuchetich, Williams & Company Consulting  
David Walters, Williams & Company Consulting

**Others Present:**

Doug Drouare, U.S. EPA – Region 7  
John Jurgensmeyer, Hazardous Waste Program Director, DNR  
Paul Kirchhoff, Emergency Response Commission, Department of Public Safety  
Ken Koon, Chief, Tanks Section, Hazardous Waste Program, DNR  
Ron Leone, Executive Director, MPCA  
Heather Peters, Compliance/Enforcement Section, Hazardous Waste Program, DNR  
Brian Wiegert, R & A Risk Professionals (formerly Rounds & Associates)

**Review and Approval of Minutes**

Ski Mariea moved that the minutes from the Trustees' January 24, 2018 meeting, with the amendments distributed, be approved. Katie Jo Wheeler seconded. Jim Ford and Tom Kolb abstained; all others voted in the affirmative.

Tom Kolb moved that the minutes from the Trustees' March 19, 2018 meeting be approved. Katie Jo Wheeler seconded. Jim Ford and Tracy McGinnis abstained; all others voted in the affirmative.

### **Monthly Reports and Quarterly MoDNR Report**

The financial statements, activity reports, large-loss claims information, and MoDNR's quarterly report were reviewed without comment or question.

### **Legislative Report**

Ms. Eighmey briefly reviewed a revised legislative report distributed at the meeting, noting multiple bills passed which extend the PSTIF's "sunset date" to December 31, 2025 and authorize appointment of a task force to prepare a report on the PSTIF by the end of 2018.

### **Decision on Whether to Increase Transport Load Fee**

Chairman Greer referenced the summary in the Trustees' notebooks and the Executive Director's recommendation that the fee not be increased at this time. He suggested instead that the decision be tabled until the July meeting, at which time the Board will know whether one or more of the bills extending the sunset date has been signed into law.

Jim Ford moved to table the decision on increasing the transport load fee until the Board's July meeting. Don McNutt seconded. Motion carried.

### **Approve Final Orders of Rulemaking**

Chairman Greer asked Ms. Eighmey to review the final orders of rulemaking for amendments to six of the Board's rules and said the Board would consider and vote on each one individually.

*10 CSR 100-2.010 – Definitions* – Using presentation slides, (filed with Board meeting materials), Ms. Eighmey reviewed the proposed changes, including multiple efforts to address the MoDNR's concerns about the proposed definition of "contamination."

Ski Mariea moved to approve the final order of rulemaking as presented. Tom Kolb seconded. A discussion ensued, during which Ms. Wheeler indicated the Department opposes the proposed definition as too narrow to encompass all of the investigation and corrective actions the Department might require. She expressed concern this risked excluding from PSTIF coverage actions required by the Department. Other Trustees asked the Department what definition it uses for this term; the Department acknowledged it has no single, written definition. Ms. Wheeler asked why staff was recommending a definition for the term be added to the Board's rules; Ms. Eighmey explained it is used in the statute governing the PSTIF, and the Board has used the term in its rules, so the Board's counsel had recommended a definition be added. She also noted the term is not used in the statutes governing the MoDNR's authority for petroleum tanks.

*[Jeff Blaylock arrived at the meeting.]*

After discussion, James Greer, Tom Kolb, and Ski Mariea voted in favor of the motion. Jim Ford, Tracy McGinnis, Don McNutt, and Katie Jo Wheeler voted against. Motion failed.

Katie Jo Wheeler then moved to approve the rule amendment as presented but without a definition for “contamination.” Tracy McGinnis seconded, encouraging the Department to communicate further on this issue with PSTIF staff and opining that since Board counsel recommended adding the term to its Definitions Rule, the Board should do so at a future meeting. All then voted in favor of the motion.

*10 CSR 100-4.010 – Participation Requirements for USTs* – Ms. Eighmey then reviewed the proposed amendments to this rule, noting a change made since publication of the proposed rulemaking in response to a comment from the MoDNR. She reviewed the two optional final orders presented for the Board’s consideration: one incorporates the Advisory Committee’s recommendation to increase the participation fee for USTs 40+ years old, while the other does not change the fee for those tank systems.

Jim Ford moved to approve the final order of rulemaking without increasing the participation fee for older UST systems. Tom Kolb seconded. Voting in favor were: Jim Ford, Tom Kolb, Ski Mariea, Don McNutt, and Katie Jo Wheeler. Voting against were: James Greer and Tracy McGinnis. Motion carried.

*10 CSR 100-4.020 – Participation Requirements for ASTs* – Ms. Eighmey reviewed the proposed amendments to this rule, including a change made since publication of the proposed rulemaking in response to a comment from the MoDNR. Katie Jo Wheeler moved to approve this final order of rulemaking as presented. Ski Mariea seconded. All voted in favor; motion carried.

*10 CSR 100-5.010 – Claims for Cleanup Costs* – Ms. Eighmey briefly reviewed the proposed changes to this rule, noting no comments were received. Jim Ford moved to approve the final order of rulemaking as presented. Tom Kolb seconded. All voted in favor; motion carried.

*10 CSR 100-5.030 – Third-Party Claims* – Ms. Eighmey briefly reviewed the proposed change to this rule, noting no comments were received. Ski Mariea moved to approve the final order of rulemaking as presented. Katie Jo Wheeler seconded. Motion carried.

*10 CSR 100-6.010 – UST Operator Training* – Ms. Eighmey briefly reviewed the proposed change to this rule, noting no comments were received. Katie Jo Wheeler moved to approve the final order of rulemaking as presented. Ski Mariea seconded. Motion carried.

