

**MINUTES OF THE  
STORAGE TANK ADVISORY COMMITTEE MEETING  
DECEMBER 13, 2023**

The Storage Tank Advisory Committee (STAC) met on December 13, 2023, at the Rachel Carson State Office Building, 400 Market Street, 6<sup>th</sup> Floor, Harrisburg and virtually via Microsoft Teams at 10:00 a.m. Fourteen (14) voting members were present, which constituted a quorum.

**VOTING MEMBERS OR ALTERNATES PRESENT**

Local Government:

Joshua Ehrman, Pennsylvania State Association of Boroughs  
Jo Ellen Litz, County Commissioners Association of Pennsylvania  
Dennis Hameister, Pennsylvania State Association of Township Supervisors

Regulated Community:

Brandie Lehman, Associated Petroleum Industries of Pennsylvania  
Andrew Walker, Pennsylvania Petroleum Association  
Ted Harris, Pennsylvania Petroleum Association  
Christine Shorokey, Pennsylvania Chemical Industry Council  
Kevin Leong, Pennsylvania Chemical Industry Council  
J. Stephen Hieber, Tank Installers of Pennsylvania

Public:

Robert May, P.E., Montrose Environmental Group, Inc.  
Timothy Bytner, Babst Calland  
Scott Nowicki, TTI Environmental, Inc.  
Stephen Treschow, P.G., Keystone Environmental, Health, and Safety, Inc.  
Charles Frey, Jr., Highland Tank & Mfg. Co.

Registered Professional Engineer:

Francis Catherine, P.E., P. Joseph Lehman, Inc. Consulting Engineers  
Mark Onesky, P.E., Onesky Engineering, Inc.

Hydrogeologist:

Jennifer O'Reilly, Groundwater & Environmental Services, Inc.  
Mark Miller, P.G., Moody and Associates, Inc.

Active Commercial Farm Owner/Operator:

Michael Platt, PM Farms, Inc.

## **CALL MEETING TO ORDER**

Robert May, Chairperson, called the December 13, 2023, meeting of the STAC to order at 10:00 a.m.

## **APPROVAL OF MINUTES FROM THE SEPTEMBER 9 2023, MEETING**

A motion was made to approve the minutes from the September 9, 2023 meeting as submitted. The motion was seconded and unanimously approved by the Committee.

## **STAC MEMBERSHIP LIST**

Randy Martin, DEP, reported that currently 15 of the 16 positions are filled. The lone vacancy remains the local government position. Mr. Martin reported that Mr. Dennis Hameister, as the member, and Ms. Holly Fishel, as the alternate member, representing the State Association of Township Supervisors, were both reappointed and have new term expiration dates of November 30, 2027.

Mr. Andrew Walker was appointed to replace Mr. Michael DeBerdine III, as the member, and Mr. Ted Harris was appointed to replace Mr. John Kulik, as the alternate member, representing the Pennsylvania Petroleum Association and have term expiration dates of November 30, 2027.

Ms. Christine Shorokey was appointed to replace Mr. David Redman, as the member, and Mr. Kevin Leong was appointed to replace Ms. Abby Foster, as the alternate member, representing the Pennsylvania Chemical Industry Council and have term expiration dates of May 31, 2024.

Terms expiring before the next STAC meeting on March 6, 2024, will be Mr. Timothy Bytner, as a member, representing the public, has a term expiration date of December 31, 2023. Mr. Bytner has expressed an interest in being re-appointed to the position and has also provided the Department with a nominee for the vacant alternate member position. That appointment package is currently going through the approval process.

## **USTIF UPDATE**

Next on the agenda, the Underground Storage Tank Indemnification Fund (USTIF) provided an update on their program activities. Mr. Benjamin Lorah, Director, Bureau of Special Funds, Department of Insurance, and Executive Director, Underground Storage Tank Indemnification Board (USTIB), attended the meeting representing the USTIF. Mr. Lorah announced that he replaced Mr. Richard Burgan, who served the Commonwealth in the capacity of the Executive Director for USTIF for 12 years, retired in September 2023.

Mr. Lorah reported that over the period July 1, 2023 through September 30, 2023, USTIF collected \$12,371,289 in fees (gallon, capacity, and TIIP) which was up 2% from the same period last year. USTIF posted a net decrease in the fair value of investments of \$15,121,304 and \$2,196,865 of interest and dividend income. Administrative costs, including personnel, ICF (USTIF's third party administrator), and professional services totaled \$1,230,506. Claims indemnification payments and legal expenses totaled \$8,153,962. USTIF allocated \$1,125,417

to DEP's Environmental Cleanup Program and \$318,623 in allocations for Investigation and Closure Costs. The USTIF balance was \$393,031,579 at the end of the reporting period which was a net decrease of \$10,396,636. The actuarial liability for future claims was \$27,418,424.

Mr. Lorah reported that, as of November 31, 2023, there were 157 new claims. Of those claims, 156 were new claims submitted by tank owners and there was one new TIIP claim. As a comparison, there were 194 new claims during the same time period in 2022. From July 1, 2023 through September 30, 2023, claim payments totaled \$7,868,572. As a comparison, there were \$7,242,923 in claim payments made during the same time period in 2022.

Mr. Lorah stated that organizationally there have been some staffing changes at USTIF. Mr. Steven Travis was hired as a new claim's evaluator and Mr. Robert Sabatini, Management Technician, responsible for overseeing fee collection, has departed the program.

Mr. Lorah reported that, on December 14, 2023, the USTIB quarterly meeting will be held and they will be reviewing their annual actuarial report with the Board. The annual actuarial report provides recommendation on whether to continue USTIF fees at the same level or to change them. The current recommendation in the annual actuarial report is to continue the fees at the same level. The other main agenda item is to discuss a change to the USTIF eligibility regulations. A recent Supreme Court decision regarding Section 503 of the regulations regarding a DEP requirement for storage tank registration and the payment of annual registration fees. USTIF's current position is that DEP storage tank registration fees must be current at the time of the discovery of a release; however, the Supreme Court determined that the DEP storage tank registration fees had to be current at the time that USTIF made their eligibility determination. After discussion, USTIF is revising their regulatory language to state that storage tank registration and fees must be current within 60 days of when the release is confirmed. This revised language is consistent with USTIF's notice requirement for their claims.

Mr. Lorah stated that, as of December 1, 2023, for the first time in the history of their online fee billing system, fewer than 100 facilities owed a capacity fee balance which equated to over 98% of the tank owners paying off their balances on or before the end of the calendar year. On December 5, 2023, USTIF sent out electronically and by mail 7,390 statements for capacity fees due and inventory sheets to every owner of regulated storage tanks and 208 TIIP statements. By December 7, 2023, USTIF already received 465 online payments totaling \$409,083.99.

Mr. Charles Frey asked Mr. Lorah whether the actuary considers the number of single-walled underground storage tanks versus the number of double-walled underground storage tanks in the actuarial report. Mr. Lorah stated he would review that information and get back to Mr. Frey and there is a statutory requirement for USTIF to examine claim experiences based on tank systems and tank types and USTIF is working on gathering that data. Mr. Robert May asked what types of fees are collected by USTIF. Mr. Lorah stated that USTIF collects capacity fees for some substance types and throughput fees for other substance types. The two different types of fees are submitted by the tank owner and/or the distributor to USTIF. Mr. May asked if there has ever been any correlation between USTIF fees, USTIF claims, and tank types and how much was paid by USTIF for TIIP claims. Mr. Lorah said USTIF is working on gathering the data to supply to the actuary to include in the annual actuarial report. Mr. Timothy Bytner asked Mr. Lorah about Section 977.31(2) of the USTIF regulations and how payment of fees located at site

applies to facilities where there are multiple underground storage tank owners at that same site. Mr. Lorah said that Section 977.4 of the proposed USTIF regulations will define the word, “Site” to mean, “the property which includes the storage tank facility.”

## **DEP UPDATE**

Mr. Martin introduced Justin Dula, Director, Office of Environmental Justice. Mr. Dula provided a presentation titled, “Environmental Justice Policy and PennEnviroScreen.” Mr. Dula provided the committee with information on how to define environmental justice, equity, and equality and provided an overview and summary of DEP’s draft Environmental Justice Policy, a summary of public hearings that were held in order to receive public comments on the draft, and recent updates that were made to the draft policy. Mr. Dula also made committee members aware of useful online mapping tools called, “PennEnviroScreen” available to regulators and the public to help identify environmental justice concerns in communities and provided contact information for regional coordination staff located in the Office of Environmental Justice. Mr. Dennis Hameister asked if DEP is working alongside other state agencies in to assist communities with environmental justice concerns. Mr. Dula stated that DEP been working with the Department of Agriculture, Department of Health, Department of Community and Economic Development, Department of Conservation and Natural Resources from the beginning. Additionally, the Pennsylvania Emergency Management Agency and other agencies have also partnered with DEP. Mr. May asked about storage tank permitting and environmental justice area considerations. Mr. Martin stated that currently there is no environmental justice permitting considerations for underground storage tanks; however, there are environmental justice permitting considerations during aboveground storage tank site-specific installation permit reviews. Mr. Martin then provided an overview of how environmental justice can be incorporated within the storage tank program. Tasks such as providing compliance assistance, targeting inspection and enforcement efforts, improving communication and outreach in areas with environmental justice concerns, and addressing abandoned storage tanks are all examples of activities that can be done. In addition, engaging with other DEP programs such as Brownfields to plan cleanup sites in environmental justice areas can also be accomplished. Ms. Christine Shorokey asked about whether there will be any additional upcoming permitting requirements for existing facilities in environmental justice areas. Mr. Dula stated that new facilities within environmental justice areas should be sure to include public comment periods to ensure that the communities can weigh in on the permit application and provide comments on it to express any concerns. This also provides the facility owner the opportunity to explain how their tank systems will be designed to protect the community and alleviate their concerns during the enhanced public participation process.

Mr. Martin next introduced Timothy Slack, Solid Waste Program Specialist, Site Remediation Division to discuss proposed amendments to the Technical Guidance Document 263-4500-601, Closure Requirements for Underground Storage Tank Systems. Mr. Slack went over a variety of proposed amendments made to the document for better consistency with the storage tank regulations. Proposed revisions consist of minor language updates, resolving formatting issues, updates to the release reporting requirements, additional language to address replacing underground product piping located within a chase pipe and sampling requirements, language updates for classifying and sampling soils, and change in sampling protocol for on-site reuse of material from the obviously contaminated soil pile, new language regarding soil vapor intrusion

screening, and to address the ability to submit documents to the Department through electronic submission. Additionally, the Underground Storage Tank Closure Report Form (2630-FM-BECB0159) was also revised and updated to be consistent with the revised technical guidance document.

Mr. Martin next introduced Alex Eckman, Environmental Group Manager, Division of Storage Tanks to discuss proposed amendments to the Technical Guidance Document 2630-4200-001, Closure Requirements for Aboveground Storage Tank Systems. Mr. Eckman went over a variety of proposed amendments made to the document for better consistency with the storage tank regulations. Proposed revisions consist of minor language updates, resolving formatting issues, updates to the release reporting requirements, language updates for classifying and sampling soils, and change in sampling protocol for on-site reuse of material from the obviously contaminated soil pile, new language regarding soil vapor intrusion screening, and to address the ability to submit documents to the Department through electronic submission. Additionally, the Aboveground Storage Tank Closure Report Form (2630-FM-BECB0514) was also revised and updated to be consistent with the revised technical guidance document.

Mr. Martin then discussed two proposed amendments to the language in Article IV. Membership and in Article V. Voting of the Storage Tank Advisory Committee Bylaws. Article IV. of the STAC Bylaws does not currently have a provision to address membership position vacancies that occur during a four-year term. The proposed amendment would be to update the language in Article IV. to include the statement, “If a member or alternate vacates their position before the expiration of the four-year term, the Secretary shall appoint a replacement to serve until the expiration of that term.” The second proposed amendment would be to update the language in Article V. to allow voting to occur by members who are not physically attending the meeting. The proposed amendment would be to update the language in Article V. to include the statement, “Each member (or alternate member serving in absence of the member) shall be entitled to one vote in person (including by telephone, virtually, or another form of real time attendance), on all matters as shall come before the Committee.”

### **OTHER BUSINESS**

Mr. May asked the committee if there was any old business to discuss. There being none, under new business, Mr. May asked if any STAC member or member of the public in attendance wished to provide public comment. There being no public comments, there being no additional discussion, the meeting dates for 2024 was stated as March 6, June 5, September 4, and December 4.

### **APPROVAL OF THE TWO PROPOSED AMENDMENTS TO THE STAC BYLAWS**

A motion was made to approve the two proposed amendments to the STAC Bylaws as submitted. The motion was seconded and unanimously approved by the Committee.

### **APPROVAL OF THE MEETING DATES FOR 2024**

A motion was made to approve the proposed meeting dates for 2024. The motion was seconded and unanimously approved by the Committee.

## **ADJOURNMENT**

A motion was made to adjourn the meeting at 11:34 a.m. The motion was seconded and unanimously approved by the Committee.