

Petroleum Tank Release Compensation Board  
Meeting Minutes  
Wednesday, July 10, 2013

**Present:** Board members – Commissioner of Commerce delegate Jan Ludwigson (Vice-Chair), experience in claims adjustment representative Jeanne Hankerson, petroleum industry representative Vern Kelley, Commissioner of the Minnesota Pollution Control Agency (MPCA) delegate Michael Kanner; and Director of the Petrofund, Joel Fischer.

**Absent:** Public member representative Bonnie Wilhelm, Board counsel Michael Tostengard.

**Location:** Lower Level Room 45, Golden Rule Building, 85 – 7<sup>th</sup> Place East, Saint Paul, Minnesota. Ms. Ludwigson called the meeting to order at 10:05 a.m..

**A. Approval of the May 8, 2013 Board Meeting Minutes**

Ms. Hankerson moved, Mr. Kanner seconded, to approve the May 8, 2013 Board Meeting minutes. The motion carried 4-0.

**B. Recommendation of Board Chair to Governor Dayton**

Ms. Ludwigson noted that Minn. Stat. §115C.07, subd. 1 provides that the Governor designates the Board Chair, and that Governor Dayton had requested that the Board provide him with a recommendation for which current member should serve in that role. Ms. Ludwigson recapped the Board's discussion from their May 8, 2013 meeting, when general support was expressed for continuing to have the petroleum industry representative serve in the Chair position and Mr. Kelley had indicated that he would be willing to serve as Board Chair. Ms. Ludwigson reminded the Board of their decision at that meeting to hold off in making a formal recommendation to the Governor until the July 10, 2013 Board meeting in order to give Mr. Kelley an opportunity to familiarize himself with the Board meeting process, and to give the members an opportunity to get to know Mr. Kelley.

The Board agreed at this meeting that because of atypical agendas at the most recent Board meetings, Mr. Kelley has not had an opportunity to witness and participate in the usual, most important Board decision-making activities. Noting that the September 11, 2013 Board meeting was anticipated to be more representative of typical Board business, the Board directed Mr. Fischer to notify the Governor's Office that the Board would make a Chair recommendation at their November 13, 2013 meeting.

**C. MPCA Staff Report and Fund-Financed Summary Report**

Sarah Larsen (MPCA) reported that of the fund-financed work orders written for fiscal year (FY) 2013, just over 60% had been invoiced. Ms. Larsen also reported that just over \$1.8 million in fund-financed dollars had been encumbered, to date, in FY 2014.

Ms. Larson reported that the MPCA was reviewing reports within the 120-day statutory requirement.

Ms. Larson announced that Jason Moran had replaced Beth Oman as the MPCA Emergency Response Program's contact for the Petrofund Board.

Ms. Larson noted that the MPCA had entered into master contracts with 11 of 12 fund-financed contractors for the next two years, with the option for annual renewals for up to three years.

Mr. Kanner indicated that the MPCA would be conducting a Consultants Day at the University of Minnesota St. Paul campus on October 22, 2013, and that the Board members would be invited to attend.

Ms. Hankerson moved, Mr. Kelley seconded, to approve the MPCA Staff Report and Fund-Financed Summary Report. The motion carried 4-0.

Ms. Larsen introduced Tom Higgins (MPCA), who gave a presentation updating the Board on the MPCA's ongoing Petroleum Remediation Ethanol Project.

#### **D. Petrofund Staff Report and Fund Report**

Mr. Fischer notified the Board that Petrofund staff was meeting its statutory requirement to review initial applications within 60 days and supplemental applications within 120 days. Mr. Fischer noted that applications were being reviewed within 10 days of their receipt. Mr. Fischer reported that 26 applications were received in May and 24 applications were received in June. Mr. Fischer indicated that the total claims approved for payment for FY 2013 was \$7,006,120.76, and for FY 2014, to date, was \$209,428.22.

Mr. Fischer asked the Board to choose the Board Meeting schedule for calendar year 2014. Ms. Hankerson moved, Ms. Ludwigson seconded, to approve the following schedule: January 8, March 12, May 14, July 9, September 10, and November 12, with the meetings held at 10:00 a.m. in Lower Level Room 35 of the Golden Rule Building. The motion carried 4-0.

Mr. Fischer reported that the Department of Employment and Economic Development (DEED) had issued approximately \$2.9 million in Contamination Cleanup and Investigation Grants as part of their May 2013 grant cycle. Mr. Fischer noted that all of the grants used Petrofund dollars. Mr. Fischer indicated that the Office of Brownfields and Redevelopment Director Meredith Udoibok had offered to attend a Board meeting and discuss the program and answer any questions from the Board. The Board directed Mr. Fischer to invite Ms. Udoibok to the September 11, 2013 Board meeting and, to get a better idea of what types of grants are being awarded by DEED using Petrofund dollars, request a copy of a completed grant application for the Board members to review.

Mr. Fischer reported that no significant progress had been made on the rules revision project.

Mr. Fischer indicated that the Department of Commerce, on behalf of the Petrofund Board, had entered into master contracts with two contractors for abandoned underground storage tank removal program services over next two years, with the option for annual renewals for up to three years. The contractors are MSA Professional Services, Inc. and Carlson McCain, Inc..

Mr. Fischer announced that the Petrofund Board and the Department of Commerce had entered into settlement agreements totaling \$7.425 million with Chevron, Exxon Mobil and ConocoPhillips for allegedly obtaining insurance payments from settlements with carriers for corrective action costs for which the Petrofund Board had provided reimbursement, in violation of state statute.

Mr. Fischer presented the Fund Report and informed the Board that the Fund Balance of the Petrofund was \$7,923,902 and the Cash Balance was \$27,042,349. Mr. Fischer noted that the Board does not need to consider imposing the Petrofund fee until the Fund Balance drops below \$4 million. Mr. Fischer reported that the settlement agreement payments from Chevron and Exxon Mobil were included in "Other Revenues" on the Fund Report and that ConocoPhillips' payment would arrive by July 26, 2013.

Mr. Fischer and Colleen Schiltz (Petrofund) gave a presentation explaining the cost recovery process. Mr. Fischer indicated that Petrofund staff would be working with MPCA staff to verify the cost recovery status of all of the projects on the MPCA's Fund-Financed Summary Report.

Ms. Hankerson moved, Mr. Kanner seconded, to approve the Petrofund Staff Report and Fund Report. The motion carried 4-0.

#### **E. Consideration of Appealed Reimbursement Determinations**

There were no appealed reimbursement determinations for Board review at this meeting.

**Adjournment** – The regular meeting adjourned at 11:30 a.m..