

STATE OF LOUISIANA LEGISLATIVE AUDITOR

Underground Storage Tank Trust Fund
Department of Environmental Quality
State of Louisiana
Baton Rouge, Louisiana

March 19, 1997



Financial and Compliance Audit Division

Daniel G. Kyle, Ph.D., CPA, CFE
Legislative Auditor

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**UNDERGROUND STORAGE TANK TRUST FUND
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF LOUISIANA
Baton Rouge, Louisiana**

**Special Purpose Financial Statement
and Independent Auditor's Reports
For the Year Ended June 30, 1996**

Under the provisions of state law, this report is a public document. A copy of this report has been submitted to the Governor, to the Attorney General, and to other public officials as required by state law. A copy of this report has been made available for public inspection at the Baton Rouge office of the Legislative Auditor.

March 19, 1997

**UNDERGROUND STORAGE TANK TRUST FUND
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF LOUISIANA**

**Special Purpose Financial Statement and
Independent Auditor's Reports
For the Year Ended June 30, 1996**

CONTENTS

	Statement	Page No.
Independent Auditor's Report on the Financial Statement		2
Special Purpose Financial Statement - Statement of Cash Receipts, Disbursements, and Changes in Balance	A	4
Notes to the Financial Statement		5
	Exhibit	
Other Reports Required by <i>Government Auditing Standards</i>:		
Report on Internal Control Structure Based Solely on an Audit of the Special Purpose Financial Statement	A	
Report on Compliance With Laws and Regulations	B	



DANIEL G. KYLE, PH.D., CPA, CFE
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February 14, 1997

Independent Auditor's Report
on the Financial Statement

UNDERGROUND STORAGE TANK TRUST FUND
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF LOUISIANA
Baton Rouge, Louisiana

We have audited the accompanying special purpose financial statement of the Underground Storage Tank Trust Fund for the year ended June 30, 1996, as listed in the foregoing table of contents. This financial statement is the responsibility of management of the Department of Environmental Quality. Our responsibility is to express an opinion on the financial statement based on our audit.

We conducted our audit in accordance with generally accepted auditing standards and *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in note 1 to the financial statement, the accompanying special purpose financial statement was prepared for the purpose of complying with Louisiana Revised Statute (LSA-R.S.) 30:2195.5 and is not intended to be a presentation in conformity with generally accepted accounting principles.

In our opinion, the special purpose financial statement referred to above presents fairly, in all material respects, the cash receipts, disbursements, and changes in balance of the Underground Storage Tank Trust Fund for the year ended June 30, 1996, on the basis of accounting described in note 1.

We have also issued separate reports dated February 14, 1997, on internal control structure and compliance with laws and regulations as required by *Government Auditing Standards*.

**UNDERGROUND STORAGE TANK TRUST FUND
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF LOUISIANA**

**Statement of Cash Receipts, Disbursements,
and Changes in Balance
For the Year Ended June 30, 1996**

RECEIPTS

Bulk distribution fees	\$16,948,067
Annual assessment fees	125,199
Interest earnings	341,212
Total receipts	<u>17,414,478</u>

DISBURSEMENTS

Claims for reimbursement	<u>8,363,331</u>
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EXCESS OF RECEIPTS OVER DISBURSEMENTS

9,051,147

TRANSFER FROM ENVIRONMENTAL TRUST FUND

1,046,980

CASH IN STATE TREASURY AT JULY 1, 19953,428,022**CASH IN STATE TREASURY AT JUNE 30, 1996**\$13,526,149

The accompanying notes are an integral part of this statement.

**UNDERGROUND STORAGE TANK TRUST FUND
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF LOUISIANA**

Notes to the Financial Statement
For the Year Ended June 30, 1996

INTRODUCTION

The Underground Storage Tank Trust Fund was established by Louisiana Revised Statutes (LSA-R.S.) 30:2194-2197 in response to the 1984 Subtitle I amendments to the Resource Conservation and Recovery Act, which provided for the development and implementation of a comprehensive regulatory program for underground storage tanks containing petroleum and hazardous liquids. The underground storage tank program is a section within the Department of Environmental Quality. All disbursements are handled by the department under the guidance of an Underground Motor Fuels Storage Tank Advisory Board that is composed of six members as follows: the secretary of the Department of Environmental Quality or his designee, one member appointed by the secretary of the Department of Environmental Quality to represent the Respond Action Contractor Community, two members appointed by the president of the Louisiana Oil Marketers Association, one member appointed by the Mid-Continent Oil and Gas Association, and one member appointed by the Bayou State Gasoline Retail Dealers Association. The monies in the Underground Storage Tank Trust Fund are used to defray the cost to the State of Louisiana of investigation, testing, containment, control, and clean-up of releases from underground storage tanks containing hazardous substances. There are approximately 23,500 tanks registered by the underground storage tank section. The section is staffed by eight employees.

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. BASIS OF PRESENTATION

The accompanying financial statement has been prepared on the cash basis of accounting, with collections recognized when received and disbursements reflected when paid. As such, the accompanying financial statement does not reflect the receivables and related payables associated with the activities of the trust fund.

B. TRUST FUND

The accompanying Statement of Cash Receipts, Disbursements, and Changes in Balance is a special presentation intended to provide information to comply with LSA-R.S. 30:2195.5. Accordingly, the statement does not necessarily present the financial activities of the trust fund in its entirety.

The trust fund accounts for the proceeds of bulk distribution fees, annual assessment fees, and interest earned on investments that are legally dedicated to the Underground Storage Tank Trust Fund.

**UNDERGROUND STORAGE TANK TRUST FUND
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF LOUISIANA
Notes to the Financial Statement (Continued)**

C. RECEIPTS AND DISBURSEMENTS

Receipts

Bulk distribution fees, annual assessment fees, interest earnings, and transfers are recorded when the receipts are deposited in the depository bank and classified by the state treasurer's office.

Disbursements

Disbursements are made for (1) reimbursements to underground storage tank owners for the rehabilitation and remediation of sites contaminated by a leak from a registered tank and (2) payments to the third party who brings a claim against an owner because of damages sustained by a release into the underground or subsurface soils and who has obtained a final judgment in said action against an owner who is in substantial compliance with the laws, rules, and regulations at the time the release occurred. LSA-R.S. 30:2195.4 provides the procedures for disbursements from the trust fund.

2. CASH

At June 30, 1996, cash is composed of deposits with the state treasury totaling \$13,526,149. Cash balances held and controlled by the state treasurer are secured from risk by the state treasurer through separate custodial agreements, and the risk disclosures required by generally accepted accounting principles are included within the state's general purpose financial statements.

**3. BULK DISTRIBUTION AND
ANNUAL ASSESSMENT FEES**

Act 1014 of 1990 amended LSA-R.S. 30:2195.3, effective September 1, 1990, and required the collection of a bulk distribution fee by the bulk fuel dealer based on a charge for each separate withdrawal of motor fuel at a rate of \$13.50 per 9,000 gallons. Act 176 of 1993, effective August 15, 1993, amended LSA-R.S. 30:2195.3 to increase the bulk distribution fee by the bulk fuel dealer based on a charge for each separate withdrawal of motor fuel at a rate of \$27 per 9,000 gallons. Act 336 of 1995, effective June 15, 1995, amended LSA-R.S. 30:2195.3 to increase the bulk distribution fee by the bulk fuel dealer based on a charge for each separate withdrawal of motor fuel at a rate of \$72 per 9,000 gallons. Fees not received in a timely manner are subject to a late penalty of an additional 5 percent per month of the calculated fee that is not remitted. In addition, a fee not to exceed \$275 per year per eligible underground motor fuel storage tank storing new or used motor oil is assessed to all owners of such tanks in accordance with LSA-R.S. 30:2195.3(B). Fees not received within 30 days after the due date

**UNDERGROUND STORAGE TANK TRUST FUND
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF LOUISIANA
Notes to the Financial Statement (Concluded)**

are subject to a late penalty of an additional 10 percent per month of the assessed fee. The late penalty is calculated from the actual due date of the invoice.

On an annual basis, all owners of registered tanks are assessed a tank registration fee of \$45 for each tank. The revenue collected from tank registration fees is deposited to the Environmental Trust Fund as provided by LSA-R.S. 30:2195(B).

Collection of the fees cease when the unobligated balance in the trust fund equals or exceeds \$20,000,000. The fees are reinstated when the unobligated balance in the trust fund has fallen below \$10,000,000 as provided by LSA-R.S. 30:2195.3(A)(10).

**4. TRANSFER FROM ENVIRONMENTAL
TRUST FUND TO UNDERGROUND
STORAGE TANK TRUST FUND**

The Environmental Trust Fund transferred \$1,046,980 during the 1995-96 fiscal year, as shown on Statement A, to the Underground Storage Tank Trust Fund. LSA-R.S. 30:2195(C) states that at the end of each fiscal year, all monies that were deposited into the Environmental Trust Fund from fees established by LSA-R.S. 30:2195.3(A)(1)(a) and (B) which remain unspent, including all accrued interest, must be transferred to the Tank Trust Fund.

5. LITIGATION AND CLAIMS

At June 30, 1996, there are five lawsuits pending against the Underground Storage Tank Trust Fund. The attorney for the Department of Environmental Quality has advised that it appears probable that the trust fund will be liable for three of the lawsuits. The outcome of the first lawsuit is less than \$100,000 and the outcome of the other two lawsuits is unknown at this time. In the fourth and the fifth lawsuits, the agency's liability cannot be determined at this time.

**OTHER REPORTS REQUIRED BY
GOVERNMENT AUDITING STANDARDS**

The following pages contain reports on internal control structure and compliance with laws and regulations required by *Government Auditing Standards*, issued by the Comptroller General of the United States. The report on internal control structure is based solely on the audit of the financial statement and includes, where appropriate, any reportable conditions and/or material weaknesses. The report on compliance with laws and regulations is, likewise, based solely on the audit of the presented financial statement and presents, where applicable, compliance matters that would be material to the presented financial statement.



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February 14, 1997

Independent Auditor's Report on Internal Control Structure Based
Solely on an Audit of the Special Purpose Financial Statement

**UNDERGROUND STORAGE TANK TRUST FUND
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF LOUISIANA
Baton Rouge, Louisiana**

We have audited the special purpose financial statement of the Underground Storage Tank Trust Fund, a fund within the Department of Environmental Quality, for the year ended June 30, 1996, and have issued our report thereon dated February 14, 1997.

We conducted our audit in accordance with generally accepted auditing standards and *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement.

Management of the Department of Environmental Quality is responsible for establishing and maintaining an internal control structure. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of internal control structure policies and procedures. The objectives of an internal control structure are to provide management with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition, and that transactions are executed in accordance with management's authorization and recorded properly to permit the preparation of the special purpose financial statement in accordance with legal requirements. Because of the inherent limitations in any internal control structure, errors and/or irregularities may nevertheless occur and not be detected. Also, projection of any evaluation of the structure to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the effectiveness of the design and operation of policies and procedures may deteriorate.

In planning and performing our audit of the special purpose financial statement of the Underground Storage Tank Trust Fund for the year ended June 30, 1996, we obtained an understanding of the internal control structure. With respect to the internal control structure, we obtained an understanding of the design of relevant policies and procedures and whether they have been placed in operation, and we assessed control risk to determine our auditing procedures for the purpose of expressing our opinion on the special purpose financial statement and not to provide assurance on the internal control structure. Accordingly, we do not express such an opinion.

EXHIBIT A

LEGISLATIVE AUDITOR

**UNDERGROUND STORAGE TANK TRUST FUND
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF LOUISIANA
Internal Control Report
February 14, 1997
Page 2**

We noted certain matters involving the internal control structure and its operation that we consider to be reportable conditions under standards established by the American Institute of Certified Public Accountants. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control structure that, in our judgment, could adversely affect the department's ability to record, process, summarize, and report financial data consistent with the assertions of management in the special purpose financial statement.

Failure to Audit Bulk Operators

During the fiscal year ended June 30, 1996, the Department of Environmental Quality - Underground Storage Tank Trust Fund (department) did not perform audits of the bulk operators' remittance of motor fuel (gasoline, diesel, kerosene, and all aviation fuels) delivery fees. Louisiana Revised Statute (LSA-R.S.) 30:2195.5 requires the department to audit the bulk operators for the remittance of motor fuel delivery fees. Considering the amount collected for motor fuel delivery fees during 1995-96 of \$16.9 million, an audit function is needed to ensure that the appropriate delivery fees are remitted to the department. While the department hired one internal auditor in May 1996, the auditor did not audit any of the bulk operators as of June 30, 1996.

Failure to audit the bulk operators' motor fuel delivery fees may result in loss of revenue to the state and is a violation of Louisiana law requiring such audits.

The department should continue its efforts to establish an effective audit function for the audit of bulk operators' remittance of motor fuel delivery fees. In a letter dated January 30, 1997, Mr. Thomas G. Hagan, Undersecretary of the Department of Environmental Quality, stated that the department agrees with the finding and recommendation and has recently hired three additional internal auditors. The department is currently in the process of establishing audit procedures to audit bulk operators and will dedicate at least one auditor full time to audit bulk facility operators.

Untimely Deposit of Checks

The Department of Environmental Quality - Underground Storage Tank Trust Fund (department) is not depositing checks on a timely basis nor charging a late penalty for delinquent fees. LSA-R.S. 49:308 requires state agencies to deposit all money immediately upon receipt in the State Treasury, and LSA-R.S. 30:2195.3(A)(7) and 30:2195.3(B) requires that fees not received within a certain time after the due date be subject to a late penalty of an additional 5 or 10 percent per month depending on the

LEGISLATIVE AUDITOR

**UNDERGROUND STORAGE TANK TRUST FUND
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF LOUISIANA**

Internal Control Report

February 14, 1997

Page 3

assessed fee. Proper cash management practices and good internal controls also require that receipts be deposited in a timely manner to reduce the risk that the funds could be lost or stolen or that irregularities could occur.

Of 29 checks, totaling \$169,397, examined by us, 20 checks, totaling \$143,148, were deposited between 5 and 44 days after receipt. Also, 5 checks were received between one to seven months after the due date, and no late penalty was charged as required by law. The total penalty that could have been assessed was \$678.

Failure to deposit checks in a timely manner could cause funds to be lost without detection and could result in the loss of interest earnings to the state.

The department should deposit checks received immediately in the State Treasury. The department should also assess a late penalty on fees not remitted in a timely manner as authorized by the statutes. In a letter dated January 30, 1997, Mr. Thomas G. Hagan, Undersecretary of the Department of Environmental Quality, stated that the department agrees with the finding and recommendation. During the audit period, the department had a shortage of personnel, which caused temporary delays. The department has since filled these positions, which will enable the department to comply with state and departmental policies, procedures, and regulations.

A material weakness is a reportable condition in which the design or operation of one or more of the specific internal control structure elements does not reduce to a relatively low level the risk that errors or irregularities, in amounts that would be material in relation to the special purpose financial statement being audited, may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

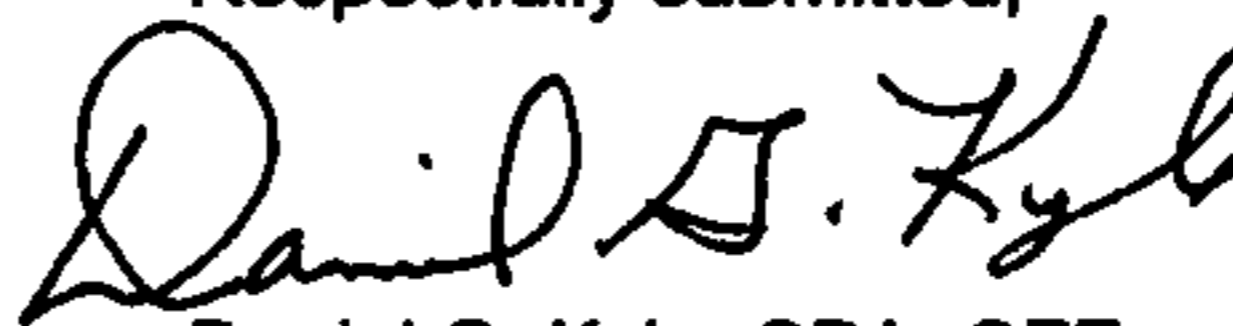
Our consideration of the internal control structure would not necessarily disclose all matters in the internal control structure that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses as defined above. However, we believe that none of the reportable conditions described previously is a material weakness.

LEGISLATIVE AUDITOR

UNDERGROUND STORAGE TANK TRUST FUND
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF LOUISIANA
Internal Control Report
February 14, 1997
Page 4

This report is intended for the information and use of the department and its management. By provisions of state law, this report is a public document, and it has been distributed to appropriate public officials.

Respectfully submitted,



Daniel G. Kyle, CPA, CFE
Legislative Auditor

YYD:WMB:dl

[USTTF]

EXHIBIT A



OFFICE OF
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February 14, 1997

Independent Auditor's Report on Compliance With Laws and
Regulations Material to the Special Purpose Financial Statement

UNDERGROUND STORAGE TANK TRUST FUND
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF LOUISIANA
Baton Rouge, Louisiana

We have audited the special purpose financial statement of the Underground Storage Tank Trust Fund, a fund within the Department of Environmental Quality, for the year ended June 30, 1996, and have issued our report thereon dated February 14, 1997.

We conducted our audit in accordance with generally accepted auditing standards and *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement.

Compliance with laws, regulations, and contracts applicable to the Underground Storage Tank Trust Fund is the responsibility of the department's management. As part of obtaining reasonable assurance about whether the financial statement is free of material misstatement, we performed tests of the department's compliance with certain provisions of laws, regulations, and contracts. However, the objective of our audit of the special purpose financial statement was not to provide an opinion on overall compliance with such provisions. Accordingly, we do not express such opinion.

The results of our tests disclosed instances of noncompliance that are reported in Exhibit A of this report concerning the audit of bulk operators and depositing of checks. Although not material to the financial statement, they are required to be reported herein under *Government Auditing Standards*.

We considered these instances of noncompliance in forming our opinion on whether the special purpose financial statement of the Underground Storage Tank Trust Fund, a fund within the Department of Environmental Quality, is presented fairly, in all material respects, in conformity with the cash basis of accounting, and this report does not affect our report dated February 14, 1997, on that special purpose financial statement.

EXHIBIT B

LEGISLATIVE AUDITOR

**UNDERGROUND STORAGE TANK TRUST FUND
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF LOUISIANA**

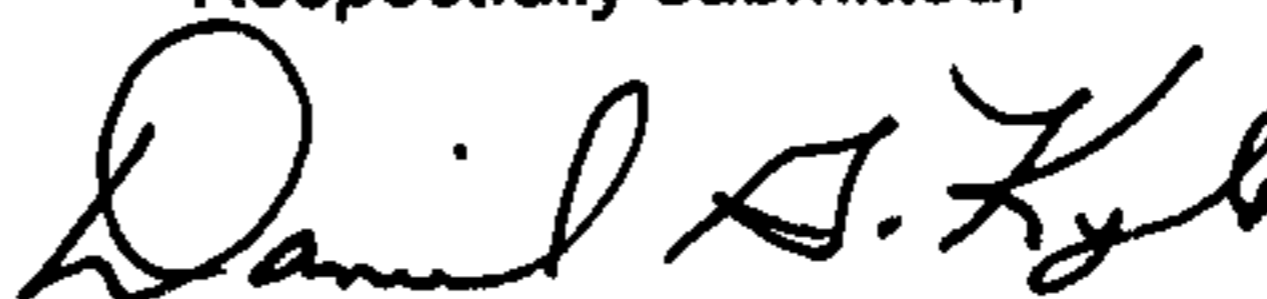
Compliance Report

February 14, 1997

Page 2

This report is intended for the information and use of the department and its management. By provisions of state law, this report is a public document, and it has been distributed to appropriate public officials.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Daniel G. Kyle". The signature is written in a cursive style with a large initial "D".

Daniel G. Kyle, CPA, CFE
Legislative Auditor

YYD:WMB:dl

[USTTF]

EXHIBIT B