

MOTOR FUELS UNDERGROUND  
STORAGE TANK TRUST FUND

DEPARTMENT OF ENVIRONMENTAL QUALITY  
STATE OF LOUISIANA



FINANCIAL STATEMENT AUDIT  
FOR THE YEAR ENDED JUNE 30, 2021  
ISSUED DECEMBER 22, 2021

**LOUISIANA LEGISLATIVE AUDITOR  
1600 NORTH THIRD STREET  
POST OFFICE BOX 94397  
BATON ROUGE, LOUISIANA 70804-9397**

**LEGISLATIVE AUDITOR**  
MICHAEL J. "MIKE" WAGUESPACK, CPA

**FIRST ASSISTANT LEGISLATIVE AUDITOR**  
ERNEST F. SUMMERVILLE, JR., CPA

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 is available for public inspection at the Baton Rouge office of the Louisiana Legislative Auditor and online at [www.la.la.gov](http://www.la.la.gov).

This document is produced by the Louisiana Legislative Auditor, State of Louisiana, Post Office Box 94397, Baton Rouge, Louisiana 70804-9397 in accordance with Louisiana Revised Statute 24:513. One copy of this public document were produced at an approximate cost of \$0.40. This material was produced in accordance with the standards for state agencies established pursuant to R.S. 43:31. This report is available on the Legislative Auditor's website at [www.la.la.gov](http://www.la.la.gov). When contacting the office, you may refer to Agency ID No. 8777 or Report ID No. 80210109 for additional information.

In compliance with the Americans With Disabilities Act, if you need special assistance relative to this document, or any documents of the Legislative Auditor, please contact Jenifer Schaye, General Counsel, at 225-339-3800.

# TABLE OF CONTENTS

---

	Page
Independent Auditor’s Report.....	2
	<b>Statement</b>
Statement of Cash Basis Assets and Fund Balances and Cash Receipts, Disbursements, and Changes in Cash Basis Fund Balance..... A .....	5
Notes to the Financial Statement .....	6
	<b>Exhibit</b>
Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with <i>Government Auditing Standards</i> .....	A





LOUISIANA LEGISLATIVE AUDITOR  
MICHAEL J. "MIKE" WAGUESPACK, CPA

December 20, 2021

## Independent Auditor's Report

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

### **Report on the Financial Statement**

We have audited the accompanying statement of cash basis assets and fund balance and cash receipts, disbursements, and changes in cash basis fund balance of the Motor Fuels Underground Storage Tank Trust Fund (Fund) within the Louisiana Department of Environmental Quality (DEQ) as of and for the year ended June 30, 2021, and the related notes to the financial statement as listed in the table of contents.

### **Management's Responsibility for the Financial Statement**

Management is responsible for the preparation and fair presentation of this financial statement in accordance with the cash basis of accounting described in note 1. This includes determining that the cash basis of accounting is an acceptable basis for the preparation of the financial statement in the circumstances. Management is also responsible for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of a financial statement that is free from material misstatement, whether due to fraud or error.

### **Auditor's Responsibility**

Our responsibility is to express an opinion on this financial statement based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *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 from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statement. The procedures selected depend on the auditor's judgment,

including the assessment of the risks of material misstatement of the financial statement, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statement in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statement.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### **Opinion**

In our opinion, the financial statement referred to above presents fairly, in all material respects, the cash basis financial position of the Fund as of June 30, 2021, and the changes in cash basis financial position thereof for the year then ended in conformity with the basis of accounting described in note 1.

### **Basis of Accounting**

We draw attention to note 1 of the financial statement, which describes the basis of accounting. The financial statement is prepared on the cash basis of accounting, which is a basis of accounting other than accounting principles generally accepted in the United States of America. Our opinion is not modified with respect to this matter.

### **Emphasis of Matter**

As described in note 1, the accompanying financial statement presents only the Fund and does not purport to, and does not, present fairly the financial position of DEQ as of June 30, 2021, and the changes in its financial position for the year then ended in conformity with accounting principles generally accepted in the United States of America. Our opinion is not modified with respect to this matter.

As described in note 4, DEQ contracted with an actuarial firm to perform a study and issue a report on the Fund. According to the report, the estimated liability on current sites participating in the Fund is \$154,040,682. This liability is not reflected in the Fund's financial statement, because it is prepared on the cash basis of accounting. Our opinion is not modified with respect to this matter.

**Other Reporting Required by *Government Auditing Standards***

In accordance with *Government Auditing Standards*, we have also issued a report dated December 20, 2021, on our consideration of the Fund's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, and contracts and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the Fund's internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Fund's internal control over financial reporting and compliance.

Respectfully submitted,



Michael J. "Mike" Waguespack, CPA  
Legislative Auditor

AW:CST:BQD:EFS:aa

MFUSTTF 2021





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

**Statement of Cash Basis Assets and Fund Balances and  
Cash Receipts, Disbursements, and Changes in Cash  
Basis Fund Balance  
As of and for the Year Ended June 30, 2021**

**RECEIPTS**

Bulk distribution fees	\$22,009,260
Annual assessment fees	15,566
Interest earnings	38,631
Other receipts	23,220
Total receipts	<u>22,086,677</u>

**DISBURSEMENTS**

Claims for reimbursement	14,608,033
Other disbursements	686,096
Total disbursements	<u>15,294,129</u>

**EXCESS OF RECEIPTS OVER DISBURSEMENTS** 6,792,548

**OTHER FINANCING SOURCES (USES)**

Transfer to Environmental Trust Dedicated Fund Account (note 5)	(10,290,368)
Transfer into Fund due to Cash Sweep Payback (note 8)	5,500,000
Total other financing uses	<u>(4,790,368)</u>

**EXCESS OF RECEIPTS OVER DISBURSEMENTS  
AND OTHER FINANCING USES** 2,002,180

**CASH BASIS FUND BALANCE - BEGINNING OF YEAR** 128,079,248

**CASH BASIS FUND BALANCE - END OF YEAR** \$130,081,428

**CASH BASIS ASSETS - END OF YEAR**

Cash (note 2) \$130,081,428

**CASH BASIS FUND BALANCE - END OF YEAR**

Committed \$130,081,428

The accompanying notes are an integral part of this statement.



# NOTES TO THE FINANCIAL STATEMENT

---

## INTRODUCTION

The Motor Fuels Underground Storage Tank Trust Fund (Fund) was established by Louisiana Revised Statute (La. R.S.) 30:2195 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 motor fuels. The motor fuel underground storage tank reimbursement program is a section within the Louisiana Department of Environmental Quality (DEQ). All disbursements are handled by DEQ, although advice is provided by the Motor Fuels Underground Storage Tank Trust Fund Advisory Board (Board) that is composed of eight members, as follows: the secretary of the DEQ or his designee, two members appointed by the secretary of the DEQ to represent the Response Action Contractor community, four members appointed by the president of the Louisiana Oil Marketers and Convenience Store Association, and one member appointed by the Mid-Continent Oil and Gas Association. The Board members serve without per diem. The monies in the Fund are used to reimburse all necessary and appropriate expenditures for investigation, assessment, and remediation of sites contaminated by a motor fuels release from an underground storage tank. Remediation consists of cleanup of soil, groundwater, and inland surface waters, using cost effective methods that are technologically feasible and reliable, while insuring adequate protection of the public health, safety, and welfare and minimizing environmental damage, in accordance with the site selection and cleanup criteria established by the DEQ. As of September 20, 2021, there were 10,186 tanks registered by the UST Division that are federally regulated and potentially could participate in the program. The Motor Fuel Trust Fund section administering the program is staffed by 10 employees.

## 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

### A. BASIS OF PRESENTATION

The accompanying financial statement has been prepared on a 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 Fund.

### B. REPORTING ENTITY

La. R.S. 30:2195.5 requires the Fund, administered by DEQ, to be audited annually. Accordingly, the accompanying financial statement reflects only the financial activity of the Fund. Amounts included in this financial statement are also included in the annual fiscal report for DEQ, Office of Management and Finance. Amounts included in the annual fiscal report for DEQ, Office of Management and Finance, are also included as part of the General Fund in the Annual Comprehensive Financial Report for the State of Louisiana, which is audited annually by the Louisiana Legislative Auditor.

## **C. RECEIPTS AND DISBURSEMENTS**

### **Receipts**

Bulk distribution fees, annual assessment fees, interest earnings, and other receipts are recorded when the receipts are deposited in the depository bank and classified by the State Treasurer's Office.

### **Disbursements**

Disbursements for claims are made for (1) reimbursements for investigation, assessment, rehabilitation, and remediation of sites contaminated by a release from a motor fuel underground storage tank when the owner is an eligible participant, and (2) payments to the third party who brings a claim against an owner because of damages sustained by a release into the groundwater or subsurface soils and who has obtained a final judgment and/or final settlement in said action against an owner. La. R.S. 30:2195.4 provides the procedures for these disbursements from the trust fund.

Other disbursements made directly from the Fund are made for (1) the annual independent audit of the Fund as per La. R.S. 30:2195.5, (2) court reporter services required for the Advisory Board meetings outlined in La. R.S. 30:2195.8(C), and (3) interest-only payments made to vendors performing work on sites declared inactive and abandoned pursuant to La. R.S. 30:2195 (F)(3). These payments are discussed in detail in the next paragraph.

During fiscal year 2019, DEQ entered into two contracts with certified tank pullers. DEQ worked with these vendors to pull tanks on several sites declared inactive and abandoned by the secretary. During fiscal year 2020, DEQ entered into five (5) work agreements with Response Action Contractors to perform assessment and remediation activities on the aforementioned inactive and/or abandoned sites, to be reimbursed in accordance with the guidance governing Trust Fund eligible sites. These agreements have an initial term of three (3) years, with the option to extend for an additional two (2) years. Liens will be placed on these sites once the work is complete, which will allow the department to recoup some or all of its costs when/if the property is sold.

## **D. FUND BALANCE**

The committed fund balance represents the cumulative excess of receipts over disbursements and other financing sources/uses and is dedicated by the Louisiana Legislature, which is the government's highest level of decision-making authority. The fund balance is committed because it is dedicated to the specific purposes established by La. R.S. 30.2195. Changing (modifying or rescinding) fund balance commitments requires legislative approval.

## 2. CASH

At June 30, 2021, cash is composed of deposits with the State Treasury totaling \$130,081,428. 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 accounting principles generally accepted in the United States of America are included within the state's basic financial statements.

## 3. BULK DISTRIBUTION AND ANNUAL ASSESSMENT FEES

The Motor Fuels Underground Storage Tank Trust Fund Program was established with Act No. 1014 of 1990, effective September 1, 1990. The bulk distribution fee was established in the same legislative act at a rate of \$13.50 per 9,000 gallons of fuel. This fee has increased throughout the history of the program with various legislative acts to maintain an appropriate level of funding for the program. The current bulk distribution fee is \$72.00 per 9,000 gallons, which was established in Act No. 336 of 1995. These fees are deposited monthly into the Fund, with allowable uses outlined in La. R.S. 30:2195. Late fees are assessed on fees that are not remitted timely, effective with Act No. 692 of 2004. These late fees are up to 15% of the fee that is not remitted for a particular month. Failure to pay this fee within 90 days of the due date results in enforcement actions against the company, which may include revocation or suspension of applicable permits, licenses, registrations, or variances.

Companies who own registered tanks pay an annual tank registration fee of \$60 for each tank, effective for the registration year beginning July 1, 2017, pursuant to Act No. 451 of 2016. These monies are directly deposited into the Environmental Trust Dedicated Fund Account to be used to investigate, test, contain, control, and clean up the releases from underground storage tanks containing regulated substances. 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 La. R.S. 30:2195.3(B).

The Board shall determine the minimum level of funding of the Fund by conducting an annual review of receipts from the Fund from the previous fiscal year along with the projected amounts expected to be expended in the following fiscal year for purposes of recommending changes to the fee. Prior to the end of each fiscal year, the Board shall meet to determine its recommendation on the setting of the fee for the next fiscal year and shall make such recommendation to the Secretary.

During fiscal year 2021, the results of the most recent actuarial study, dated February 19, 2021, were initially presented to the Board at the February 25, 2021, meeting. At the May 20, 2021, meeting, additional discussions occurred, and a majority of the Board members voted to recommend adjusting the fee from \$0.008 per gallon to \$0.006 per gallon. The recommendation was formalized with a letter sent to the Secretary on June 8, 2021. The Secretary considered the Board's recommendation. After his review of the actuarial study and other financial information, the Secretary determined that reducing the fee was not a prudent decision at that time. A letter outlining this decision was provided to the Board via email on June 22, 2021.

#### **4. ACTUARIAL STUDY**

To ensure the Board had accurate information in order to carry out its responsibility to make a recommendation to the secretary, DEQ entered into a contract with an actuarial firm. Using historical data related to claims from the Fund, and in coordination with DEQ personnel, the firm performed a study and issued a report on February 19, 2021. According to the report, the estimated liability as of June 30, 2020, on current sites participating in the Fund is \$154,040,682.

#### **5. TRANSFER FROM MOTOR FUELS UNDERGROUND STORAGE TANK TRUST FUND TO ENVIRONMENTAL TRUST DEDICATED FUND ACCOUNT**

The Fund transferred \$10,290,368 to the Environmental Trust Dedicated Fund Account during fiscal year 2021. La. R.S. 30:2195.4(C)(2) states that if the Secretary determines that funds deposited into the Environmental Trust Dedicated Fund Account pursuant to La. R.S. 30:2195(B) are insufficient relative to the legislatively approved fiscal appropriation for the Underground Storage Tank activities during a given year, the Secretary may order the Treasurer to transfer from the Fund to the Environmental Trust Dedicated Fund Account only that amount necessary to reach the authorized ceiling. The transfer of \$10,290,368 is reported on Statement A. This amount consists of two separate transfers: \$5,290,368 transferred in August 2020 for fiscal year 2020 activity and \$5,000,000 transferred in June 2021 for fiscal year 2021 activity. Additional transfers for fiscal year 2021 activity will be reflected on the fiscal year 2022 cash basis financial statement.

#### **6. LITIGATION AND CLAIMS**

At June 30, 2021, one lawsuit is pending against the Fund. The attorney for DEQ has advised that it appears remote that the trust fund will be liable for the suit based on the fact that the plaintiff's case has been abandoned by operation of law.

#### **7. RELATED PARTY TRANSACTIONS**

As discussed in the introduction to the notes to the financial statements, all disbursements are handled by DEQ, although advice is provided by the Board. One member of the Board has an ownership interest in a company that received disbursements from the Fund during the 2021 fiscal year. Jesse Hoppes has a 33% ownership interest in LEAAF Environmental, LLC, which received \$159,561 in payments from the Fund. Roger Bright is a member of the Motor Fuels Underground Storage Tank Trust Fund Advisory Board and holds a key management position in a company that received disbursements from the Fund during fiscal year 2021. He is the Senior Environmental Specialist for Jones Environmental, LLC, which received \$5,280,774 in payments from the Fund. Disbursements made to LEAAF Environmental, LLC and Jones Environmental, LLC were processed using controls that are consistent with disbursements to other contractors providing similar services.

**8. TRANSFER FROM GENERAL FUND  
TO MOTOR FUELS UNDERGROUND  
STORAGE TANK TRUST FUND**

During the 2016 Regular Legislative Session, Act No. 601 was signed by the governor. Section 10 of this measure provided for the transfer of \$7,028,196 from the Attorney General's Consumer Support Escrow Account to the State Treasurer. These funds were identified as settlement funds held in that escrow account on behalf of the Fund. Act No. 362 of the 2019 Regular Legislative Session authorized \$1,500,000 of the \$7,028,196 to be paid back in fiscal year 2019 and Act No. 114 of the 2021 Regular Legislative Session authorized \$5,500,000 to be paid back in fiscal year 2021. The fiscal year 2021 transfer of \$5.5 million is reported on Statement A.





OTHER REPORT REQUIRED BY  
*GOVERNMENT AUDITING STANDARDS*

---

Exhibit A

The following pages contain a report on internal control over financial reporting and on compliance with laws and regulations and other matters required by *Government Auditing Standards*, issued by the Comptroller General of the United States. This report is based solely on the audit of the financial statement and includes, where appropriate, any significant deficiencies and/or material weaknesses in internal control or compliance and other matters that would be material to the presented financial statement.





LOUISIANA LEGISLATIVE AUDITOR  
MICHAEL J. "MIKE" WAGUESPACK, CPA

December 20, 2021

Report on Internal Control over Financial Reporting and on Compliance  
and Other Matters Based on an Audit of Financial Statements  
Performed in Accordance with *Government Auditing Standards*

Independent Auditor's Report

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

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the cash basis financial statement of the Motor Fuels Underground Storage Tank Trust Fund (Fund) within the Louisiana Department of Environmental Quality, as of and for the year ended June 30, 2021, and the related notes to the financial statement, and have issued our report thereon dated December 20, 2021.

**Internal Control over Financial Reporting**

In planning and performing our audit of the financial statement, we considered the Fund's internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statement, but not for the purpose of expressing an opinion on the effectiveness of the Fund's internal control. Accordingly, we do not express an opinion on the effectiveness of the Fund's internal control.

*A deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. *A material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statement will not be prevented, or detected and corrected, on a timely basis. *A significant deficiency* is a deficiency, or a combination of

deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

### **Compliance and Other Matters**

As part of obtaining reasonable assurance about whether the Fund's financial statement is free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, and contracts, noncompliance with which could have a direct and material effect on the financial statement. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

### **Purpose of this Report**

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this report is not suitable for any other purpose. Under Louisiana Revised Statute 24:513, this report is distributed by the Legislative Auditor as a public document.

Respectfully submitted,



Michael J. "Mike" Waguespack, CPA  
Legislative Auditor

AW:CST:BQD:EFS:aa

MFUSTTF 2021