

MOTOR FUELS UNDERGROUND STORAGE TANK TRUST FUND

DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF LOUISIANA

FINANCIAL AUDIT SERVICES

**Financial Statement Audit for the
Year Ended June 30, 2022
Issued May 10, 2023**

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May 4, 2023

Independent Auditor's Report

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

Report on the Audit of the Financial Statement

Opinion

We have audited the cash basis financial statement 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, 2022, and the related notes to the financial statement, as listed in the table of contents.

In our opinion, the accompanying financial statement referred to above presents fairly, in all material respects, the cash basis financial position of the Fund as of June 30, 2022, and the changes in cash basis financial position thereof for the year then ended in accordance with the cash basis of accounting described in note 1.

Basis for Opinion

We conducted our audit in accordance with auditing standards generally accepted in the United States of America (GAAS) and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States (*Government Auditing Standards*). Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statement section of our report. We are required to be independent of the Fund and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Emphasis of Matter – 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 – Relationship of DEQ to the Fund

As discussed in note 1, the 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, 2022, and the changes in its financial position for the year then ended in accordance with accounting principles generally accepted in the United States of America. Our opinion is not modified with respect to this matter.

Emphasis of Matter – Actuarial Study

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 \$154,824,225. 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.

Responsibilities of Management 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, and for 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 the financial statement that is free from material misstatement, whether due to fraud or error.

Auditor's Responsibilities for the Audit of the Financial Statement

Our objectives are to obtain reasonable assurance about whether the financial statement as a whole is free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS and *Government Auditing Standards* will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statement.

In performing an audit in accordance with GAAS and *Government Auditing Standards*, we:

- exercise professional judgment and maintain professional skepticism throughout the audit.
- identify and assess the risks of material misstatement of the financial statement, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statement.
- obtain an understanding of internal control relevant to the audit 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 Fund's internal control. Accordingly, no such opinion is expressed.
- evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statement.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the Fund's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

Other Reporting Required by *Government Auditing Standards*

In accordance with *Government Auditing Standards*, we have also issued a report dated May 4, 2023, 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

**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, 2022**

RECEIPTS

Bulk distribution fees	\$23,077,422
Annual assessment fees	15,675
Interest earnings	121,161
Other receipts	2,250,244
Total receipts	<u>25,464,502</u>

DISBURSEMENTS

Claims for reimbursement	16,161,002
Other disbursements	380,230
Total disbursements	<u>16,541,232</u>

EXCESS OF RECEIPTS OVER DISBURSEMENTS

8,923,270

OTHER FINANCING SOURCES (USES)

Transfer to Environmental Trust Dedicated Fund Account (note 5)	<u>(6,217,429)</u>
Total other financing uses	<u>(6,217,429)</u>

**EXCESS OF RECEIPTS OVER DISBURSEMENTS
AND OTHER FINANCING USES**

2,705,841

CASH BASIS FUND BALANCE - BEGINNING OF YEAR (restated)
(note 8)130,109,380**CASH BASIS FUND BALANCE - END OF YEAR**\$132,815,221**CASH BASIS ASSETS - END OF YEAR**Cash (note 2) \$132,815,221**CASH BASIS FUND BALANCE - END OF YEAR**Committed \$132,815,221

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, 2022, there were 10,104 tanks registered by the Underground Storage Tank Division which 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 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 2022, DEQ entered into two contracts with certified tank pullers. These contracts have an initial term of one (1) year with the option to extend an additional two (2) years. 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, 2022, cash is comprised of deposits with the State Treasury totaling \$132,815,221. 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 2022, the results of the most recent actuarial study dated January 21, 2022, were initially presented to the Board at the February 17, 2022 meeting. At the June 16, 2022 meeting, additional discussions occurred and a

majority of the Board members voted to recommend adjusting the fee from \$0.008 per gallon to \$0.004 per gallon. The recommendation was formalized with a letter sent to the Secretary on June 22, 2022. 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 July 11, 2022.

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 January 21, 2022. According to the report, the estimated liability as of June 30, 2021, on current sites participating in the Fund is \$154,824,225.

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

The Fund transferred \$6,217,429 to the Environmental Trust Dedicated Fund Account during the fiscal year 2022. 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 \$6,217,429 is reported on Statement A. This amount consists of three separate transfers: \$1,191,348 and \$26,081 transferred in August 2021 for fiscal year 2021 activity and \$5,000,000 transferred in June 2022 for fiscal year 2022 activity. Additional transfers for fiscal year 2022 activity will be reflected on the fiscal year 2023 cash basis financial statement.

6. LITIGATION AND CLAIMS

At June 30, 2022, there are no lawsuits pending against the Fund.

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. Two members of the Board have an ownership interest in a company that received disbursements from the Fund during the 2022 fiscal year. Jesse Hoppes has a 50% ownership interest in LEAAF Environmental, LLC, which received \$448,943 in payments from the Fund and Todd Perry has a 29% ownership interest in PPM Consultants, Inc. which received \$7,088,961 in payments from the fund. Roger Bright

was a member of the Board during fiscal year 2022 and holds a key management position in a company that received disbursements from the Fund during fiscal year 2022. He is the Senior Environmental Specialist for Jones Environmental, LLC, which received \$3,494,878 in payments from the Fund. Disbursements made to LEAAF Environmental, LLC; PPM Consultants, Inc.; and Jones Environmental, LLC were processed using controls that are consistent with disbursements to other contractors providing similar services.

8. RESTATEMENT OF BEGINNING CASH BASIS FUND BALANCE

The beginning cash basis fund balance as reflected on Statement A has been restated as follows:

Cash basis fund balance at June 30, 2021	\$130,081,428
Adjustment for prior-year error	<u>27,952</u>
Cash basis fund balance at June 30, 2021, as restated	<u>\$130,109,380</u>

OTHER REPORT REQUIRED BY GOVERNMENT AUDITING STANDARDS

Exhibit A

The following pages contain our report on internal control over financial reporting and on compliance with laws, regulations, and other matters as required by *Government Auditing Standards*, issued by the Comptroller General of the United States. The 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.

May 4, 2023

Report on Internal Control over Financial Reporting and on Compliance
and Other Matters Based on an Audit of Financial Statement
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 (*Government Auditing Standards*), 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, 2022, and the related notes to the financial statement, and have issued our report thereon dated May 4, 2023.

Report on 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 or significant deficiencies may exist that were not identified.

Report on 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 Fund's internal control and compliance. Accordingly, this communication 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

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