UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 Renner Boulevard
Lenexa, Kansas 66219

OFFICE OF THE
REGIONAL
ADMINISTRATOR

MAR 10 2016

Mr. Donald McNutt
Chairman, PSTIF
Chief Executive Officer/President
Midwest Petroleum
6760 Southwest Avenue
St. Louis, Missouri 63143

Mr. James P. Ford
Vice Chairman, PSTIF
W & R Insurance Agency Inc.
200 Southampton Drive, # 2
Columbia, Missouri 65203

Mr. James Greer
Trustee, PSTIF
Vice President of Supply and Distribution
MFA Oil
P.O. Box 519
Columbia, Missouri 65201

Mr. Thomas G. Kolb
Trustee, PSTIF
Jefferson City Oil Co. Inc.
1601 Christy Drive
P.O. Box 576
Jefferson City, Missouri 65102

Mr. Thomas J. Pfeiffer
Trustee, PSTIF
P.O. Box 836
Jefferson City, Missouri 65102

Mr. Danny Opie
Trustee, PSTIF
Opie's Transport
21 Highway FF
P.O. Box 89
Eldon, Missouri 65026

Mr. Schuyler J. Mariea
Trustee, PSTIF
Providence Bank
815 W Stadium Boulevard
Jefferson City, Missouri 65109

Ms. Renee Slusher
Trustee, PSTIF
Missouri Office of Administration
Deputy Commissioner and Chief Counsel
201 W Capitol Avenue, Room 125
Jefferson City, Missouri 65101

Mr. John Albert
Trustee, PSTIF
Missouri Department of Agriculture
1616 Missouri Boulevard
P.O. Box 630
Jefferson City, Missouri 65102

Mr. Marty Miller
Trustee, PSTIF
Missouri Department of Natural Resources
1101 Riverside Drive
P.O. Box 176
Jefferson City, Missouri 65102-0176

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Dear Mesdames and Messrs.:

I am writing to raise the U.S. Environmental Protection Agency's concern about delays in funding investigatory and response actions for underground storage tank releases by Missouri's Petroleum Storage Tank Insurance Fund. Where human exposures to petroleum vapors have been documented, delays in conducting complete investigations and implementing remedies are unacceptable.

These concerns are evidenced by two underground storage tank sites in Kansas City, Missouri: Zill's at 38th and Cleveland, and the Main Street Shell at 31st and Main. Remediation work at these sites, where people have been exposed to petroleum vapors in their homes, has been delayed for months due to arguments about responsible parties and which components of work the PSTIF will cover. In the case of the Zill site, based on a refusal to fund the work, the Missouri Department of Natural Resources is seeking to enforce its cleanup order in state court.

The federal regulations governing the Underground Storage Tank state program approval process require a financial responsibility mechanism because of the need to establish a safety net that finances *immediate and thorough* corrective action and compensation when a release does occur. Missouri's regulations reflect the importance of that need: PSTIF's Board of Trustees approves cleanup costs prior to work beginning on a site, *except in cases involving "costs of necessary first aid or emergency response."* Title 10, Missouri Code of State Regulations, 100-5.010(2)(A). Public exposures are unnecessarily prolonged if PSTIF disregards or diminishes the scope of this exception.

The EPA understands that PSTIF's Board of Trustees is responsible for the fiduciary management of the fund, and that it has the authority to make a determination concerning eligibility issues, including whether costs for products and services were reasonable and whether the costs incurred were necessary to achieve the cleanup required by the MDNR. However, PSTIF is by regulation prohibited from oversight regarding environmental cleanup standards for petroleum storage tanks. Section 319.129(12), Revised Statutes of Missouri.

The EPA and the MDNR have expressed concerns that PSTIF's involvement in specific sites exceeded this statutory prohibition. In the EPA's FY2012 Review of Missouri's Underground Storage Tank Program – Corrective Action Component, the results of which were sent to the Board, the EPA cited concerns that PSTIF's "reasonable cost" review regularly extended beyond pricing issues to technical decisions, effectively changing the scope of work that the MDNR (and in some cases, the responsible party and the consultant) believed to be necessary. It appears that the current process continues to limit the scope and extent of investigations and even prevent appropriate corrective actions from being taken. Delays due to issues like those cited in the report are a detriment to those living in and around these leaking UST sites.

The EPA urges the PSTIF to promptly fund actions required by the MDNR at sites where human health risks are present. If we can be of assistance, please contact John Smith at *smith.john@epa.gov* or 913-551-7845.

Sincerely,

Mark Hague

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