

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
MICHIGAN UNDERGROUND STORAGE TANK AUTHORITY BOARD
AND THE
MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

July 21, 2015

BACKGROUND

On December 30, 2014, as part of the amendments to Part 215, Underground Storage Tank Corrective Action Funding, of the Natural Resources and Environmental Protection Act, 1994 PA 451, (Part 215), the Underground Storage Tank Cleanup Fund (Fund) was created. The first \$20 million that is collected from the Refined Petroleum Fund on an annual basis is deposited into the Fund. In order to facilitate the implementation of the Fund, Part 215 also created the Underground Storage Tank Fund Authority (Authority), created as a body corporate within the Michigan Department of Environmental Quality (MDEQ). The Authority is governed by the Michigan Underground Storage Tank Authority Board of Directors (MUSTAB) consisting of the Director of the MDEQ and six residents of the state appointed by the Governor. The MUSTAB is required to appoint an Administrator of the Authority and may delegate to the Administrator responsibilities for acting on behalf of the Authority. On July 21, 2015, at a meeting open to the public, the MUSTAB appointed the MDEQ as the Administrator of the Authority.

PARTIES AND PURPOSE

The parties to this Memorandum of Understanding (MOU) are the MDEQ and the MUSTAB. The purpose is to establish the obligations of the respective parties as necessary to implement the Fund and to establish the costs required to implement the Fund.

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY OBLIGATIONS

- 1) Appoint an Administrator and any other staff necessary to implement the requirements of the Fund and provide office space and equipment for the staff.
- 2) Provide for the management and supervision of staff on a daily basis.
- 3) Establish, maintain, and update policies, procedures, forms, and guidance materials.
- 4) Apply for and maintain United States Environmental Protection Agency (USEPA) approval of the Fund as to its acceptance in meeting federal financial responsibility requirements.
- 5) Create and execute a Memorandum of Understanding with the Department of Treasury, the Department of Licensing and Regulatory Affairs, and other entities if necessary to complete the duties required in Part 215.
- 6) Assist in the appointment and reappointments of Board Members if requested by the Governor.
- 7) Complete any reporting requirements for the USEPA, Legislature, and MUSTAB as required by statute or as otherwise requested and provide copies to the MUSTAB.
- 8) Provide information as requested to assist with annual audits by the Office of Auditor General or any other audits conducted.

- 9) Initiate requests for services with the Department of Attorney General as necessary.
- 10) Assess the potential demand for payment of claims and provide the results to the Finance Authority. Work with Finance Authority on the issuance of bonds as directed by the MUSTAB, if necessary.
- 11) Promulgate rules to implement the Fund, as necessary.
- 12) Develop and maintain cost list and bidding procedures on an annual basis.
- 13) Determine whether an owner or operator is eligible to receive funds based on statutory criteria.
- 14) Complete duties required to respond to requests for determinations submitted by owners or operators.
- 15) Deny owner/operator claims, if appropriate.
- 16) Make compliance determinations as to the receipt of funding by an owner or operator.
- 17) Establish and perform duties required to determine whether work performed is reasonable and necessary, considering the conditions at the site of the release.
- 18) Give notice to each owner that is eligible to submit a claim that there is insufficient money available to make payments on all approved claims, if appropriate.
- 19) If appropriate, issue denials of work invoices and give notice to the owner or operator.
- 20) Review and process Requests for Third Party Indemnification.
- 21) Receive, review, and follow-up on appeals received for denied claims and/or costs and Support Administrator as Necessary at Board or Court Proceedings.
- 22) Assist in the Department of Attorney General civil or criminal actions as necessary.
- 23) Receive, post, and track monies received for the buy-down of deductibles.
- 24) Pay invoices within 30 days of receipt of determinations by the Administrator. Withhold payment if appropriate.
- 25) Track the assignment or transfer of approved claims.
- 26) Create, maintain, and update web page containing information regarding the Fund and the MUSTAB.
- 27) Maintain all records related to the implementation of the Fund.
- 28) Establish and maintain records and database systems.
- 29) Create procedures for and fulfill requests for records review or copies of records pursuant to the Freedom of Information Act.
- 30) Assist with the scheduling of MUSTAB meetings, providing public notice, keeping of minutes and any other requirements of the Open Meetings Act.
- 31) Provide administrative support to the MUSTAB.

MICHIGAN UNDERGROUND STORAGE TANK AUTHORITY BOARD OBLIGATIONS

- 1) Establish bylaws deemed appropriate.
- 2) Conduct business at public meetings held in compliance with the Open Meetings Act.
- 3) Hold meetings as it deems appropriate.
- 4) Elect a Chairperson and any other officers that it considers appropriate.
- 5) Establish, maintain, and conduct business according to its bylaws.
- 6) Review and provide comments on policies, procedures, forms, guidance, reports or other documents prepared by the Administrator.
- 7) Hear appeals of denied claims, invoices, and requests for indemnification, and vote as to whether to uphold or reverse the decision(s) of the Administrator.
- 8) Provide input on policy decisions if requested by the Administrator.
- 9) Participate in the appointment of the Administrator and in performance reviews for the Administrator with the DEQ.

10) Review and approve the Authority Budget as presented by the Administrator.

FINANCIAL INFORMATION

The MDEQ shall perform all duties mentioned in this MOU and any other administrative duties as necessary to implement the Fund for a cost not to exceed \$1,400,000 annually per Part 215. This amount shall include the expenses of the MUSTAB. The MDEQ shall provide the MUSTAB with information as to the spending of administrative costs as well as the overall status of the Fund on a quarterly basis or at any other time as requested by the MUSTAB.

REVIEW AND AMENDMENT

The parties agree to review this MOU annually in July of each year and to make changes warranted by operational experience, audits, and available funding to which both parties agree. This MOU may be amended only by written agreement between the MDEQ and the MUSTAB.

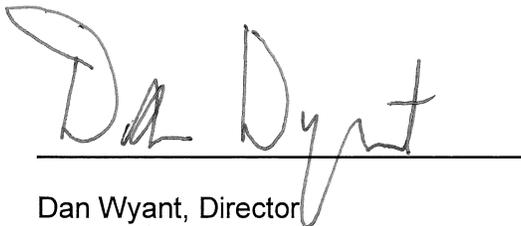
EFFECTIVE DATE

The parties enter into the MOU for an indefinite period of time or other time period as determined by the MUSTAB. If either party wishes to terminate this MOU, they may do so by providing written notice to the other party at least 180 days prior to the date of the termination.

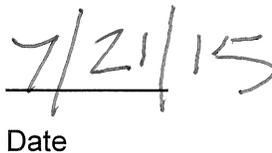
AUTHORIZED SIGNATURES

In witness thereof, the parties sign their names as evidence of their approval of this MOU.

Michigan Department of Environmental Quality:

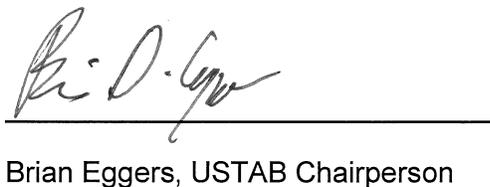


Dan Wyant, Director

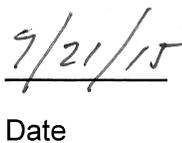


Date

Michigan Underground Storage Tank Authority Board:



Brian Eggers, USTAB Chairperson



Date