

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



FINANCIAL STATEMENT AUDIT
ISSUED JULY 20, 2011

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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.

This document is produced by the Legislative Auditor, State of Louisiana, Post Office Box 94397, Baton Rouge, Louisiana 70804-9397 in accordance with Louisiana Revised Statute 24:513. Five copies of this public document were produced at an approximate cost of \$21.55. 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 Web site at www.la.la.gov. When contacting the office, you may refer to Agency ID No. 8777 or Report ID No. 80100119 for additional information.

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Our procedures at the Department of Environmental Quality (DEQ) for the Motor Fuels Underground Storage Tank Trust Fund (MFUSTTF) for the period July 1, 2009, through June 30, 2010, disclosed the following:

- Based on our audit, the financial statement of the MFUSTTF presented fairly, in all material respects, the cash basis financial position of the special revenue fund as of June 30, 2010, and the changes in cash basis financial position thereof for the year then ended in conformity with the cash basis of accounting.
- We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses.
- The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

This report is a public report and has been distributed to state officials. We appreciate the DEQ's assistance in the successful completion of our work



LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

June 9, 2011

Independent Auditor's Report
on the Financial Statement

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

We have audited the accompanying statement of cash basis assets and fund balances and cash receipts, disbursements, and changes in cash basis fund balance of the Motor Fuels Underground Storage Tank Trust Fund, a special revenue fund within the Department of Environmental Quality, as of and for the year ended June 30, 2010, as listed in the 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 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 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 basic financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in note 1, the accompanying financial statement presents only the Motor Fuels Underground Storage Tank Trust Fund and does not purport to, and does not, present fairly the financial position of the Department of Environmental Quality, as of June 30, 2010, 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. Furthermore, the accompanying statement has been prepared on the cash basis, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America.

MOTOR FUELS UNDERGROUND STORAGE TANK TRUST FUND _____

In our opinion, the financial statement referred to previously presents fairly, in all material respects, the cash basis financial position of the special revenue fund as of June 30, 2010, 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.

In accordance with *Government Auditing Standards*, we have also issued a report dated June 9, 2011, on our consideration of the Motor Fuels Underground Storage Tank Trust 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 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 internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

Respectfully submitted,



Daryl G. Purpera, CPA, CFE
Legislative Auditor

APD:ETM:BQD:THC:dl

MFUSTTF 2010

**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 - Special Revenue Fund
As of and for the Year Ended June 30, 2010**

RECEIPTS

Bulk distribution fees	\$22,129,974
Annual assessment fees	29,693
Interest earnings	225,353
Other receipts	27,922
Total receipts	<u>22,412,942</u>

DISBURSEMENTS

Claims for reimbursement	15,982,149
Other disbursements	41,307
Total disbursements	<u>16,023,456</u>

EXCESS OF RECEIPTS OVER DISBURSEMENTS 6,389,486

OTHER FINANCING USES -

Transfer to Environmental Trust Fund (note 4) (2,049,808)

**EXCESS OF RECEIPTS OVER DISBURSEMENTS
AND OTHER FINANCING USES** 4,339,678

CASH BASIS FUND BALANCE - Beginning of Year 45,497,310

CASH BASIS FUND BALANCE - End of Year \$49,836,988

CASH BASIS ASSETS - End of Year

Cash (note 2) \$49,836,988

CASH BASIS FUND BALANCE - End of Year

Unreserved/undesignated \$49,836,988

The accompanying notes are an integral part of this statement.

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INTRODUCTION

The Motor Fuels Underground Storage Tank Trust Fund was established by Louisiana Revised Statutes (R.S.) 30:2194 - 2195.10 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 the department although advice is provided by the Underground Motor Fuels Storage Tank Advisory Board that is composed of eight members: the secretary of DEQ or his designee, two members appointed by the secretary of 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 Motor Fuels Underground Storage Tank Trust 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 clean up of soil, groundwater, and inland surface waters, using cost effective methods that are technologically feasible and reliable, while ensuring 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 department. Approximately 12,000 tanks registered by the permit division participate in the underground storage reimbursement program. The Motor Fuel Trust section administering the program is staffed by eight 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

R.S. 30:2195.5 requires the Motor Fuels Underground Storage Tank Trust Fund, a special revenue fund administered by DEQ, to be audited annually. Accordingly, the accompanying financial statement reflects only the financial activity of the special revenue 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 of DEQ, Office of Management and Finance, are also included in the Comprehensive Annual Financial Report for the State of Louisiana, which is audited annually by the 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 reimbursements for rehabilitation and remediation of sites contaminated by a release from a motor fuel underground storage tank when the owner is an eligible participant, and 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 in said action against an owner who is in substantial compliance with the laws, rules, and regulations at the time the release occurred. R.S. 30:2195.4 provides the procedures for disbursements from the trust fund.

Other disbursements are made for the annual independent audit of the Motor Fuels Underground Storage Tank Trust Fund as per R.S. 30:2195.5 and court reporter services required for the Advisory Board meetings outlined in R.S. 30:2195.8(C).

2. CASH

At June 30, 2010, cash is composed of deposits with the state treasury totaling \$49,836,988. 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

Act 1014 of 1990 amended 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 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 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% 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 R.S. 30:2195.3(B). New or used motor oil fees not received within 15 days of the due date will be charged a late

payment fee. Any late payment fee is calculated from the due date on the invoice. Payments not received by the department by the fifteenth day from the due date will be assessed a 5% late payment fee on the original assessed fee. Payments not received by the department by the thirtieth day from the due date will be assessed an additional 5% late payment fee on the original assessed fee. Payments not received by the department by the sixtieth day from the due date will be assessed an additional 5% late payment fee on the original assessed fee. Failure to pay the prescribed application fee or annual fee within 90 days after the due date shall constitute a violation and shall subject the person to applicable enforcement actions under the act including, but not limited to, revocation or suspension of the applicable permit, license, registration, or variance.

On July 6, 2004, Act 692 of 2004 became effective and amended R.S. 30:2194-R.S. 2195.11 as follows:

1. R.S. 2195.3(7) - Late penalty charges shall not exceed 15% of the fee that is not remitted for a particular month. Failure to pay the fee in accordance with this provision within 90 days after the due date shall constitute a violation and shall subject the person to applicable enforcement actions under the Louisiana Environmental Quality Act, including but not limited to, revocation or suspension of the applicable permit, license, registration, or variance.
2. R.S. 2195.10 - Releases occurring after August 1, 2001, shall be subject to additional financial responsibility for noncompliance when that noncompliance causes the release or contributed to the magnitude of the release. For a second or subsequent release caused by noncompliance, or the noncompliance contributed to the magnitude of the release, the additional financial responsibility will double. For three or more noncompliance issues that cause a release or contribute to the magnitude of a release, the release will be ineligible for participation in the Tank Trust Fund program.

On an annual basis, all owners of registered tanks are assessed a tank registration fee of \$54 for each tank. The revenue collected from the tank registration fee is deposited to the Environmental Trust Fund as provided by R.S. 30:2195(B).

Collection of the motor fuel delivery fee and new or used motor oil 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 R.S. 30:2195.3(A)(10).

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

The Motor Fuels Underground Storage Tank Trust Fund transferred \$2,154,850 during the 2009-2010 fiscal year to the Environmental Trust Fund (ETF). R.S. 30:2195.4(C)(2) states that if the secretary determines that funds deposited into the ETF pursuant to 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 Tank Trust Fund to the ETF only that amount necessary to reach the authorized ceiling. During the 2009-2010 fiscal year, an error was discovered from the 2008-2009 fiscal year closeout in which the transfer to ETF was overcalculated in the amount of \$105,042. In December 2010 an adjusting entry was made to transfer \$105,042 back into the Motor Fuels Underground Storage Tank Trust Fund from the ETF. The total of transfers from ETF to the Motor Fuels Underground Storage Tank Trust Fund of \$2,049,808 is reported on Statement A.

5. LITIGATION AND CLAIMS

At June 30, 2010, five lawsuits are pending against the Motor Fuels Underground Storage Tank Trust Fund. The attorney for DEQ has advised that it appears probable that the trust fund will be liable for four of these five lawsuits. Of the four lawsuits that are deemed probable that the trust fund will be liable, three of them are still in the discovery phase and the liability to the fund cannot be determined. The outcome of the other suit that is deemed probable that the trust fund will be liable is not expected to exceed \$75,000 in total. These amounts are not accrued in the financial statement, which is prepared on the cash basis of accounting.

6. RELATED PARTY TRANSACTIONS

One member of the Motor Fuels Underground Storage Tank Trust Fund Advisory Board has ownership interests in a company that received disbursements from the Motor Fuels Underground Storage Tank Trust Fund during the 2010 fiscal year. Stephen J. Burnham, who served on the board from July 1, 2009, to December 31, 2009, has a 100% ownership interest in Engineering Associates, Inc., which received \$470,764 in payments from the fund.

OTHER REPORT REQUIRED BY
GOVERNMENT AUDITING STANDARDS

The following pages contain a report on internal control over financial reporting and on compliance and other matters as 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
DARYL G. PURPERA, CPA, CFE

June 9, 2011

Report on Internal Control Over Financial Reporting and on Compliance
and Other Matters Based on an Audit of the Financial Statement
Performed in Accordance With *Government Auditing Standards*

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

We have audited the financial statement of the Motor Fuels Underground Storage Tank Trust Fund, a special revenue fund within the Department of Environmental Quality, as of and for the year ended June 30, 2010, and have issued our report thereon dated June 9, 2011. Our report was modified to include an explanatory paragraph describing the individual fund presentation and an explanatory paragraph describing the use of the cash basis of accounting. 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.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the Motor Fuels Underground Storage Tank Trust Fund's internal control over financial reporting as a basis for designing our auditing procedures 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 Motor Fuels Underground Storage Tank Trust Fund's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Motor Fuels Underground Storage Tank Trust Fund's internal control over financial reporting.

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 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.

MOTOR FUELS UNDERGROUND STORAGE TANK TRUST FUND _____

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be deficiencies, significant deficiencies, or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Motor Fuels Underground Storage Tank Trust Fund's financial statement is free of 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 determination of financial statement amounts. 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*.

This report is intended solely for the information and use of the Motor Fuels Underground Storage Tank Trust Fund, Department of Environmental Quality and its management, others within the entity, and the Louisiana Legislature and is not intended to be, and should not be, used by anyone other than these specified parties. Under Louisiana Revised Statute 24:513, this report is distributed by the Legislative Auditor as a public document.

Respectfully submitted,



Daryl G. Purpera, CPA, CFE
Legislative Auditor

APD:ETM:BQD:THC:dl

MFUSTTF 2010