

STATE OF LOUISIANA LEGISLATIVE AUDITOR

**Motor Fuels Underground Storage Tank Trust Fund
Department of Environmental Quality
State of Louisiana
Baton Rouge, Louisiana**

March 25, 1998



Financial and Compliance Audit Division

***Daniel G. Kyle, Ph.D., CPA, CFE
Legislative Auditor***

LEGISLATIVE AUDIT ADVISORY COUNCIL

MEMBERS

Senator Ronald C. Bean, Chairman
Representative Francis C. Thompson, Vice Chairman

Senator Robert J. Barham
Senator Wilson E. Fields
Senator Thomas A. Greene
Senator Craig F. Romero
Representative F. Charles McMains, Jr.
Representative Edwin R. Murray
Representative Warren J. Triche, Jr.
Representative David Vitter

LEGISLATIVE AUDITOR

Daniel G. Kyle, Ph.D., CPA, CFE

DIRECTOR OF FINANCIAL AND COMPLIANCE AUDIT

Albert J. Robinson, Jr., CPA

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

**Special Purpose Financial Statement and
Independent Auditor's Reports
For the Year Ended June 30, 1997**

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.

March 25, 1998

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

Special Purpose Financial Statement and
Independent Auditor's Reports
For the Year Ended June 30, 1997

CONTENTS

	Statement	Page No.
Independent Auditor's Report on the Financial Statement		2
Special Purpose Financial Statement - Statement of Cash Receipts, Disbursements, and Changes in Balance	A	4
Notes to the Financial Statement		5
	Exhibit	
Report on Compliance and on Internal Control Over Financial Reporting Based on an Audit of the Special Purpose Financial Statement Performed in Accordance With <i>Government Auditing Standards</i>	A	



DANIEL G. KYLE, PH.D., CPA, CFE
LEGISLATIVE AUDITOR

OFFICE OF
LEGISLATIVE AUDITOR
STATE OF LOUISIANA
BATON ROUGE, LOUISIANA 70804-9397

1600 NORTH THIRD STREET
POST OFFICE BOX 94397
TELEPHONE: (504) 339-3800
FACSIMILE: (504) 339-3870

March 2, 1998

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 special purpose financial statement of the Motor Fuels Underground Storage Tank Trust Fund for the year ended June 30, 1997, as listed in the foregoing 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 generally accepted auditing standards and *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 financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As discussed in note 1 to the financial statements, the accompanying special purpose financial statement was prepared for the purpose of complying with Louisiana Revised Statute (R.S.) 30:2195.5 and is not intended to be a presentation in conformity with generally accepted accounting principles.

In our opinion, the special purpose financial statement referred to above presents fairly, in all material respects, the cash receipts, disbursements, and changes in balance of the Motor Fuels Underground Storage Tank Trust Fund for the year ended June 30, 1997, on the basis of accounting described in note 1.

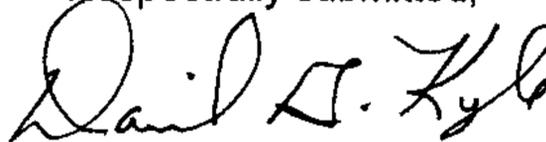
In accordance with *Government Auditing Standards*, we have also issued a report dated March 2, 1998, on the Motor Fuels Underground Storage Tank Trust Fund's compliance with certain provisions of laws and regulations and our consideration of its internal control over financial reporting.

LEGISLATIVE AUDITOR

MOTOR FUELS UNDERGROUND STORAGE
TANK TRUST FUND
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF LOUISIANA
Audit Report, June 30, 1997

This report is intended for the information and use of the department and its management. By provisions of state law, this report is a public document, and it has been distributed to appropriate public officials.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Daniel G. Kyle". The signature is written in a cursive style with a large initial 'D'.

Daniel G. Kyle, CPA, CFE
Legislative Auditor

BMM:WMB:ss

[MF-USTTF]

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

**Statement of Cash Receipts, Disbursements,
and Changes in Balance
For the Year Ended June 30, 1997**

RECEIPTS

Bulk distribution fees	\$19,142,195
Annual assessment fees	131,992
Interest earnings	486,091
Total receipts	<u>19,760,278</u>

DISBURSEMENTS

Claims for reimbursement	<u>24,712,223</u>
--------------------------	-------------------

EXCESS OF DISBURSEMENTS OVER RECEIPTS (4,951,945)

TRANSFER TO ENVIRONMENTAL TRUST FUND (157,770)

CASH IN STATE TREASURY AT JULY 1, 1996 13,526,149

CASH IN STATE TREASURY AT JUNE 30, 1997 \$8,416,434

The accompanying notes are an integral part of this statement.

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

Notes to the Financial Statement
For the Year Ended June 30, 1997

INTRODUCTION

The Motor Fuels Underground Storage Tank Trust Fund was established by R.S. 30:2194-2197 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 petroleum and hazardous liquids. The underground storage tank program is a section within the Department of Environmental Quality. All disbursements are handled by the department under the guidance of an Underground Motor Fuels Storage Tank Advisory Board that is composed of six members as follows: the secretary of the Department of Environmental Quality or his designee, one member appointed by the secretary of the Department of Environmental Quality to represent the Respond Action Contractor Community, two members appointed by the president of the Louisiana Oil Marketers Association, one member appointed by the Mid-Continent Oil and Gas Association, and one member appointed by the Bayou State Gasoline Retail Dealers Association. The monies in the Motor Fuels Underground Storage Tank Trust Fund are used to defray the cost to the State of Louisiana of administering the underground storage tank program and the cost of investigation, testing, containment, control, and clean-up of releases from underground storage tanks containing hazardous substances. There are approximately 23,500 tanks registered by the underground storage tank section. The section is staffed by eight employees.

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. BASIS OF PRESENTATION

The accompanying financial statement has been prepared on the 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 trust fund.

B. TRUST FUND

The accompanying Statement of Cash Receipts, Disbursements, and Changes in Balance is a special presentation intended to provide information to comply with R.S. 30:2195.5. Accordingly, the statement does not necessarily present the financial activities of the trust fund in its entirety.

**MOTOR FUELS UNDERGROUND STORAGE
TANK TRUST FUND
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF LOUISIANA
Notes to the Financial Statement (Continued)**

The trust fund accounts for the proceeds of bulk distribution fees, annual assessment fees, and interest earned on investments that are legally dedicated to the Motor Fuels Underground Storage Tank Trust Fund.

C. RECEIPTS AND DISBURSEMENTS

Receipts

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

Disbursements

Disbursements are made for (1) reimbursements to underground storage tank owners for the rehabilitation and remediation of sites contaminated by a leak from a registered tank and (2) payments to the third party who brings a claim against an owner because of damages sustained by a release into the underground 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.

2. CASH

At June 30, 1997, cash is composed of deposits with the state treasury totaling \$8,416,434. 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 generally accepted accounting principles are included within the state's general purpose 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 FUELS UNDERGROUND STORAGE
TANK TRUST FUND
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF LOUISIANA
Notes to the Financial Statement (Concluded)**

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 five percent 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). Fees not received within 30 days after the due date are subject to a late penalty of an additional 10 percent per month of the assessed fee. The late penalty shall be calculated from the actual due date of the invoice.

On an annual basis, all owners of registered tanks are assessed a tank registration fee of \$45 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 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 \$157,770 during the 1996-97 fiscal year, as shown on Statement A, to the Environmental Trust Fund. R.S. 30:2195.4C(2) states that if the secretary determines that funds deposited into the Environmental Trust Fund pursuant to R.S. 30:2195(B) are insufficient relative to the legislatively approved fiscal appropriation for the Underground Storage Tank Division during a given year, the secretary may order the treasurer to transfer from the Tank Trust Fund to the Environmental Trust Fund only that amount necessary to reach the authorized ceiling.

5. LITIGATION AND CLAIMS

At June 30, 1997, there are five lawsuits pending against the Motor Fuels Underground Storage Tank Trust Fund. The attorney for the Department of Environmental Quality has advised that it appears probable that the trust fund will be liable for three of the lawsuits. The outcome of the first lawsuit is less than \$100,000 and the outcome of the other two lawsuits is unknown at this time. In the fourth and the fifth lawsuits, the agency's liability cannot be determined at this time.

6. RELATED PARTY TRANSACTIONS

During the year ended June 30, 1997, two of the Louisiana Motor Fuels Underground Storage Tank Trust Fund Advisory Board members had interests in businesses that received payments from the trust fund totaling \$149,023.

**OTHER REPORT REQUIRED BY
GOVERNMENT AUDITING STANDARDS**

The following pages contain a report on compliance with laws and regulations and on internal controls 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 reportable conditions and/or material weaknesses in internal control or compliance matters that would be material to the presented financial statement.



OFFICE OF
LEGISLATIVE AUDITOR
STATE OF LOUISIANA
BATON ROUGE, LOUISIANA 70804-9397

DANIEL G. KYLE, PH.D., CPA, CFE
LEGISLATIVE AUDITOR

1600 NORTH THIRD STREET
POST OFFICE BOX 94397
TELEPHONE: (504) 339-3800
FACSIMILE: (504) 339-3870

March 2, 1998

Report on Compliance and on Internal Control Over
Financial Reporting Based on an Audit of the
Special Purpose 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 special purpose financial statement of the Motor Fuels Underground Storage Tank Trust Fund for the year ended June 30, 1997, and have issued our report thereon dated March 2, 1998. We conducted our audit in accordance with generally accepted auditing standards and *Government Auditing Standards*, issued by the Comptroller General of the United States.

Compliance

As part of obtaining reasonable assurance about whether the Motor Fuels Underground Storage Tank Trust Fund's special purpose financial statement is free of material misstatement, we performed tests of its compliance with certain provisions of laws and regulations, 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 an instance of noncompliance that, although not material to the financial statement, is required to be reported herein under *Government Auditing Standards*.

**Untimely Deposit of Checks and Lack
of Assessment of Late Fees**

For the second consecutive year, the Department of Environmental Quality - Motor Fuels Underground Storage Tank Trust Fund (department) did not deposit checks immediately upon receipt nor did it charge a late penalty for delinquent fees on invoices billed owners of underground storage tanks. Louisiana Revised Statute (R.S.) 49:308 requires state agencies to deposit all money immediately upon receipt into the State Treasury. Proper cash management practices and good internal controls also require that receipts be deposited in a timely manner to reduce the risk that the funds could be

LEGISLATIVE AUDITOR

**MOTOR FUELS UNDERGROUND STORAGE
TANK TRUST FUND
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF LOUISIANA
Compliance and Internal Control Report
March 2, 1998
Page 2**

lost or stolen or that fraud could occur. R.S. 30:2195.3(B) requires all owners of motor fuel underground storage tanks storing new or used motor oil to pay to the department a fee not to exceed \$275 per year for each eligible underground motor fuel storage tank. Fees not received within 30 days after receipt of an invoice from the department are subject to a late penalty of an additional 10 percent per month of the assessed fee.

Our test of deposit documentation for one month and a review of fees collected disclosed the following:

1. We examined 28 checks totaling \$111,101, and found that 22 checks, totaling \$86,343, were deposited between 6 to 49 days after receipt.
2. Twelve checks deposited for motor oil registration fees were received between 5 months to 5 years after receipt of an invoice from the department. No late penalty was assessed on these registration fees as required by law. The total penalty that could have been assessed was \$12,078.

The department should deposit checks immediately in the State Treasury and should assess a late penalty on fees not remitted timely as authorized by statute. In a letter dated February 12, 1998, Mr. Thomas G. Hagan, Undersecretary of the Department of Environmental Quality, Office of Management and Finance, concurred with the finding and recommendation. He stated that the department is in the process of obtaining accounts receivable software that will enable the department to properly maintain accounts receivable information. The department will also transfer the accounts receivable billing functions from each division to the Office of Management and Finance.

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 to determine our auditing procedures for the purpose of expressing our opinion on the special purpose financial statement and not to provide assurance on the internal control over financial reporting. However, we noted certain matters involving the internal control over financial reporting and its operation that we consider reportable conditions. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control over financial reporting that, in our judgment, could adversely affect the Motor Fuels Underground Storage Tank Trust Fund's ability to record, process, summarize, and report financial data consistent with the

LEGISLATIVE AUDITOR

MOTOR FUELS UNDERGROUND STORAGE
TANK TRUST FUND
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF LOUISIANA
Compliance and Internal Control Report
March 2, 1998
Page 3

assertions of management in the financial statement. The reportable condition is described in the following paragraphs, in addition to the condition relating to the untimely deposit of checks and lack of assessment of late fees mentioned previously in the compliance section of this report.

**Inadequate Controls Over
Reimbursement Payments**

The Department of Environmental Quality - Motor Fuels Underground Storage Tank Trust Fund (department) did not exercise adequate controls over reimbursement payments to underground tank owners. Good internal controls require an adequate review of reimbursement requests to ensure that payments are accurate, properly supported, and errors are detected in a timely manner.

During the year ended June 30, 1997, the department processed approximately \$24,000,000 in reimbursement payments. In our test of 35 reimbursement payments, totaling \$5,821,805, we determined that three requests were overpaid by \$11,351, two were underpaid by \$1,352, and one request for \$5,797 did not have any documentation on file to support the payment.

Failure to adequately review reimbursement payments resulted in the overpayments/underpayments. The large volume of requests this year and the use of temporary employees contributed to these errors.

The department should adequately review reimbursement requests before issuing the payments to ensure that they are accurate and properly supported. In a letter dated February 13, 1998, Mr. Thomas G. Hagan, Undersecretary of the Department of Environmental Quality, Office of Management and Finance, concurred in part with the finding and recommendation. He stated that the department was unable to locate records for the \$5,797 claim at the time of the audit, but has now located the files. He concurred that errors occurred and stated that the department is in the process of correcting the errors. The department has also changed the application form to simplify the review process and reduce errors.

A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material to the special purpose financial statement being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Our consideration of the internal control

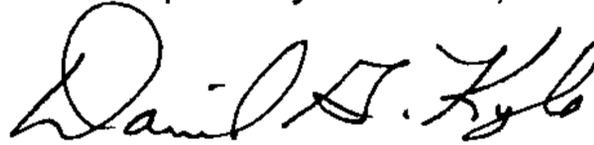
LEGISLATIVE AUDITOR

MOTOR FUELS UNDERGROUND STORAGE
TANK TRUST FUND
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF LOUISIANA
Compliance and Internal Control Report
March 2, 1998
Page 4

over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are considered to be material weaknesses. However, we believe none of the reportable conditions described previously is a material weakness.

This report is intended for the information and use of the department and its management. By provisions of state law, this report is a public document, and it has been distributed to appropriate public officials.

Respectfully submitted,



Daniel G. Kyle, CPA, CFE
Legislative Auditor

BMM:WMB:ss

[MF-USTTF]