

ARIZONA UST POLICY COMMISSION

December 31, 1999

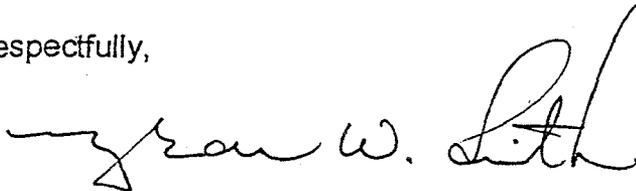
The Honorable Jane Dee Hull, Governor
The Honorable Brenda Burns, President of the Senate
The Honorable Jeff Groscost, Speaker of the House
The Director of Environmental Quality
State of Arizona
1700 West Washington
Phoenix, Arizona 85007

Dear Governor, President of the Senate, Speaker of the House, and Director ADEQ:

Pursuant to the reporting requirements of Arizona Revised Statutes 49-1092, the attached report is being submitted to you by the Underground Storage Tank Policy Commission. This report contains an evaluation of the Arizona Department of Environmental Quality (ADEQ) Underground Storage Tank (UST) Program conducted during the calendar year 1999.

The members of the UST Policy Commission wish to thank you for the opportunity to participate in the Commission. The Commission has worked hard to gather information needed to present a comprehensive and fair evaluation of the UST Program.

Respectfully,

A handwritten signature in cursive script that reads "Myron W. Smith". The signature is written in black ink and is positioned above the typed name.

Myron W. Smith, Chairperson
Arizona UST Policy Commission

ANNUAL REPORT
of the
UNDERGROUND STORAGE TANK
POLICY COMMISSION

Presented to

The Governor
The President of the Senate
The Speaker of the House of Representatives
The Director of the Department of Environmental Quality

December 31, 1999

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EXECUTIVE SUMMARY

The Underground Storage Tank Policy Commission was established by Arizona Revised Statutes (ARS) 49-1092 in 1998, to review and provide recommendations to improve the Arizona underground storage tank (UST) program which is administered by the Arizona Department of Environmental Quality (ADEQ). This is the initial report of the commission as called for in paragraph D.2. of the above statute.

The commission members were selected, and the commission began its work in January of 1999. During this first year of operation, the commission has focussed its attention on those issues and activities that were of current priority. These subjects included the major UST activities being carried out by ADEQ during 1999; the commission also began to address UST issues identified in paragraph D.2. of ARS 49-1092.

Myron Smith was selected as chair of the commission, and Michael O'Hara was selected as vice-chair. The commission also established technical, financial and administrative subcommittees, through which it could more effectively examine and consider the range of issues it would be addressing.

ISSUES ADDRESSED

1. Regarding major ADEQ UST activities during the year, the commission considered and provided recommendations on the following topics:

Corrective Action Plan (CAP) Guidance Document

ADEQ State Assurance Fund (SAF) Cost/Definitions package

Letter of Support for ADEQ UST (Sunset Review)

Proposed UST Corrective Action rules

Proposed UST SAF Rules (under review)

The commission developed and provided comments and recommendations with a view toward carrying out the purposes and objectives of applicable law, and providing the benefit of the knowledge and experience of commission members.

2. The commission established a subcommittee to develop a work statement in preparation for awarding the contract called for in Laws 1999, chapter 193, to conduct a technical study of releases from UST's to groundwater. The work is in progress.

3. In addition to the above, the commission reviewed ADEQ Regulatory Account funding, and discussed options to address the fact that the account is inadequate to cover costs.

The commission also identified priority topics it intends to address in 2000.

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I. INTRODUCTION

This report has been prepared to satisfy the requirements of Arizona Revised Statutes (ARS) 49-1092. The report describes the purpose of the Underground Storage Tank (UST) Policy Commission (the Commission), a summary of past work accomplished by the UST Advisory Committee (1996-1997), the accomplishments of the UST Policy Commission (the Commission) for the calendar year 1999, an evaluation of the Arizona Department of Environmental Quality (ADEQ) UST Program (the Program) and projected Commission priorities for the year 2000.

II. STATEMENT OF PURPOSE

The UST Policy Commission was established to review and provide recommendations to improve the ADEQ's UST Program established pursuant to Chapter Six of the Arizona Revised Statutes. The Commission is tasked by Arizona Revised Statute (ARS) 49-1092 with evaluating the overall effectiveness of the UST Program and submitting a report to the Director of ADEQ, the Speaker of the House of Representatives, the President of the Senate and the Governor at least annually. The Commission consists of the following members:

1. A representative from a city or town government that owns or operates underground storage tanks.
2. A representative of an environmental organization.
3. A representative of the public who has environmental experience.
4. A representative of owners or operators with one hundred or more underground storage tanks in this state.
5. A representative of owners or operators with at least ten but fewer than one hundred underground storage tanks in this state.
6. A representative of owners or operators with fewer than ten underground storage tanks in this state.
7. A representative of environmental consultants who is qualified by the underground storage tank program.
8. A representative of the public who has experience in finance or insurance matters.
9. An environmental attorney not employed by the state.
10. A representative of the attorney general's office.
11. The director or the director's designee.

ARS 49-1092 requires that the reports evaluate the overall effectiveness of the UST Program, including:

1. The adequacy of protection to human health and the environment.
2. The cost-effectiveness of corrective actions.
3. The appropriate use of assurance account monies.
4. The need for additional assurance account monies or other monies to meet the needs of the program.

5. Evaluation and recommendation of dates to phase out the assurance account and transfer responsibility for corrective action costs to the private insurance industry.
6. Ways to reduce future claims to the assurance account and encourage compliance with new tank standards by lowering claim ceilings and increasing co-payments.

III. SUMMARY OF UST ADVISORY COMMITTEE (1996-1997)

The Governor's UST Advisory Committee was created in 1996 to evaluate the prioritization of leaking underground storage tank (LUST) corrective actions and SAF coverage. The Advisory Committee was charged with examining, analyzing and making recommendations on several issues. Final recommendations were submitted to the Governor, the President of the Senate, the Speaker of the House and the Director of ADEQ on December 15, 1997. Those recommendations have been included as Appendix A.

IV. SUMMARY OF ACCOMPLISHMENTS FOR 1999

- A. The UST Policy Commission was formed.
- B. Myron Smith and Michael O'Hara were selected as Chairperson and Vice-Chairperson, respectively.
- C. Technical, administrative and financial subcommittees were formed.
- D. The Commission subcommittees addressed the following issues:
 1. Reviewed and made recommendations on ADEQ's Corrective Action Plan (CAP) Guidance Document.
 2. Reviewed and made recommendations on the ADEQ's SAF Cost Ceilings.

3. Reviewed and made recommendations for adequate funding of the UST Regulatory Account which supports the release prevention portion of the Program.
4. Developed a direction for the \$500,000 UST Technical Groundwater Study.
5. Reviewed and made recommendations on ADEQ's Corrective Action Rules
6. Reviewing ADEQ's SAF rule package

E. The Commission submitted comments to ADEQ on the following issues:

1. The CAP Guidance Document.
2. The SAF Cost Ceiling activity descriptions.
3. The short-term and long-term funding of the UST Regulatory Account.
4. The Corrective Action Rules

V. UST PROGRAM EVALUATION

As described in Section II, the UST Policy Commission is tasked with evaluating the overall effectiveness of the UST Program. Senate Bill 1381 mandated six issues by which the UST Program could be evaluated. Each of those issues will be addressed separately below.

A. MANDATE ANALYSIS

MANDATE 1:

THE ADEQUACY OF PROTECTION TO HUMAN HEALTH AND THE ENVIRONMENT

BACKGROUND

Program oversight by ADEQ consists of meetings with the parties who are conducting corrective actions, review of corrective action reports, site visits and, if necessary, enforcement.

The Program tracks corrective action milestones such as site characterization site remediation and site closures. The following data have been gathered for calendar year 1999.

4,360 LUST sites (58%) have been remediated to levels protective of human health and the environment and the LUST file subsequently closed by the ADEQ.

2,400 LUST sites are undergoing site characterization.

In addition, the UST Program is in the process of plummeting a risk based corrective action (RBCA) process that calculates site-specific contaminant concentrations that are still protective of human health and the environment. The following table describes the three-tiered approach to the RBCA process.

**ADEQ UST Program's
Current Risk Based Corrective Action (RBCA) process**

Medium	Tier 1	Tier 2	Tier 3
Soil	Residential/non-residential soil remediation levels (SRLs)	Department determination for diesel/waste oil sites	Risk assessments
Soil leaching to groundwater	Minimum groundwater protection levels (GPLs)	Limited site specific	Site specific
None (rules required)	None (rules required)		
Surface water	Water quality standards (WQS)	None (rules required)	None (rules required)

ADEQ also proposed Corrective Action Rules as required in ARS 49-1005.F. The Commission reviewed an earlier draft of the rules during the informal comment period, as well as the formally proposed rules, and submitted recommendations to ADEQ.

The above represent ADEQ's continuing efforts to carry out their legislative mandates. The Commission will continue to monitor and evaluate the UST Program's activities and make policy recommendations as appropriate.

MANDATE 2:

THE COST EFFECTIVENESS OF CORRECTIVE ACTIONS

The Commission is currently discussing this topic during 1999. The Commission will continue to consider and make recommendations to this issue as it continues to review and evaluate the UST Program in 2000.

MANDATE 3:

THE APPROPRIATE USE OF STATE ASSURANCE FUND (SAF) MONIES

The Commission is currently working on this topic. The Commission will consider and make recommendations on this issue as it continues to review and evaluate the UST Program, and has identified it as a priority for the year 2000.

MANDATE 4:

THE NEED FOR ADDITIONAL ASSURANCE ACCOUNT MONIES OR OTHER MONIES TO MEET THE NEEDS OF THE PROGRAM

The Commission is evaluating alternatives to this topic during 1999. The Commission will review and make recommendations on this issue as it continues to review and evaluate the UST Program, and has identified it as a priority for the year 2000.

MANDATE 5:

EVALUATION AND RECOMMENDATION OF DATES FOR PHASING OUT THE SAF AND TRANSFER RESPONSIBILITY FOR CORRECTIVE ACTIONS COSTS TO THE PRIVATE INSURANCE INDUSTRY

The Commission is working on this topic during 1999. The Commission will review and make recommendations on this issue as it continues to review and evaluate the UST Program, and has identified it as a priority for the year 2000.

MANDATE 6:

METHODS OF REDUCING FUTURE CLAIMS TO THE ASSURANCE ACCOUNT AND ENCOURAGING COMPLIANCE WITH NEW TANK STANDARDS BY LOWERING CLAIM CEILINGS AND INCREASING CO-PAYMENTS.

Due to the demands of other mandated priorities, the Commission did not devote substantial attention to this topic during 1999. The Commission will consider this issue as it continues to review and evaluate the UST Program in year 2000.

VI. OTHER MANDATED ACTIVITIES

Senate Bill 1381 required ADEQ to propose task-based and incremental descriptions of SAF reimbursable activities to the Commission. In addition, SB1381 appropriated \$500,000 for the Commission to conduct a technical study of releases of regulated substances to groundwater.

1. \$500,000 Technical Study

The Commission evaluated several options for conducting the Technical Study and has developed the following goals and direction: establishment of a subcommittee to produce an RFP to submit to the full UST policy commission for requesting bids through the state procurement system. We estimate this will be completed by June 2000.

2. Task-Based Incremental SAF Cost Ceilings

The Commission worked with the ADEQ UST Program to develop task-based and incremental descriptions of corrective action activities that are reimbursable by the SAF. These descriptions were prepared to reduce confusion about what activities are included in the SAF cost ceilings. Clarification of the cost ceiling descriptions would in turn reduce costs to the SAF by allowing the SAF to be administered more efficiently and cost effectively. The Commission successfully reviewed the cost ceilings and made recommendations to the ADEQ Director who approved those recommendations. The cost ceiling descriptions are included in the Appendix B.

VII. PRIORITIES FOR THE YEAR 2000

In this first year of operation, the Commission has focussed its attention on those issues and activities that were of current priority. During the year 2000 the Commission will continue its review and evaluation of the Arizona UST program. It will focus on those topics, which are high priorities for the year, relating to issues that will be arising during that period. The Commission anticipates that its priorities for 2000 will be:

Continuing with the technical study of releases from UST's to groundwater;

Phasing out the State Assurance Fund and transferring corrective action costs to the private insurance industry;

The need for additional assurance account monies or other monies to meet the needs of the UST program;

Appropriate use of State Assurance Fund monies.

In addition, the Commission will continue to monitor and make recommendations regarding other issues related to Commission functions, which may arise during the year. Examples include other chemicals of concern that may be identified (such as MTBE) and ongoing ADEQ activities.

APPENDIX A

1997 UST Advisory Committee Recommendations

1. Establishment of a permanent oversight commission.
2. The permanent oversight commission gives serious consideration to having an outside independent, third party actuarial study performed on the UST and SAF programs (i.e. - the study of the SAF costs used to administer the UST/SAF programs).
3. The SAF be phased out and the date for phase out be considered by the permanent oversight commission. In considering the phase out, the commission should take into consideration any new regulations, including regulations related to Methyl Tertiary Butyl Ether (MTBE).
4. The legislature return borrowed SAF monies from the source that borrowed the monies and additionally, the legislature adequately fund the SAF so that it may meet its identified liabilities.
5. Remove mandatory pre-approval, make the pre-approval process voluntary and direct ADEQ to readdress the ranking system for SAF payments so that those who do not go through the pre-approval process will not be penalized.
6. ADEQ take whatever steps are necessary to implement a Risk Based Corrective Action (RBCA) mechanism and move forward with implementation of a certified remediation specialist program in conjunction with those efforts.
7. If the permanent oversight commission is established into law it should be adequately staffed.
8. The enforcement policies are periodically reviewed and that these policies should be considered in the next audit of ADEQ and that review of enforcement policies be a proper area of consideration for the commission.

Several speakers representing insurance companies, ADEQ staff, environmental attorneys and consultants contributed to the discussions. During the discussions on phasing out the SAF, there was concern that insurance policies may be canceled once the SAF is phased out because the legislative intent was to place the SAF in the secondary position to the insurance company. Mention was also made that the premium rates may change to some extent once the phase-out occurs. Bonding was discussed, as a mechanism for decreasing the fund's liability, but was tabled after a representative of the Attorney General's office indicated that a constitutional amendment would be necessary to create the authority to authorize bonding.

APPENDIX B

RECOMMENDATIONS for YEAR 2000 COST CEILING and ITEM DESCRIPTIONS

ARIZONA UST POLICY COMMISSION

September 15, 1999

Ms. Jacqueline E. Schafer
Director
Arizona Department of Environmental Quality
3033 North Central Avenue
Phoenix, AZ 85012

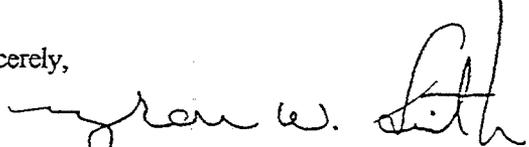
Re: Arizona UST Policy Commission Recommendations for the SAF cost definitions document

Dear Ms. Schafer:

The AZ. Underground Storage Tank (UST) Policy Commission has reviewed and discussed in detail the SAF cost definitions document for the year 2000 cost survey prepared by the Arizona Department of Environmental Quality (ADEQ) SAF Section. The recommendations for changes are submitted for you review and comment in chronological order as they appear in the SAF definition document. The commission voted to recommend concurrence with the SAF definitions including the changes.

If you have any questions or concerns, please contact me at 602-728-6986 or via e-mail at msmith1@tosco.com.

Sincerely,


Myron W. Smith
Chairperson, Arizona UST Policy Commission

Attachment

CC: Az. UST Policy Commission Members



September 15, 1999

Mr. Myron Smith
Chair UST Policy Commission
Tosco Marketing Company
1500 N. Priest Drive
Tempe, AZ 85281

Re: UST Policy Commission Technical Sub-Committee Chairman Comments and
Recommendations for Year 2000 Cost Ceilings Document Dated September 1, 1999
vs. The August 12, 1999 Consensus Document.

Mr. Chairman:

The members of the sub-committee appreciate ADEQ's willingness to work with the stakeholders to develop the best possible cost-ceiling document. However, recent changes to the cost-ceiling item descriptions by ADEQ, have made the process of formulating recommendations more difficult. After considerable efforts by the sub-committee members and ADEQ, we believed a consensus was reached regarding all but two of the items. The consensus document was issued by ADEQ on August 12, 1999, and the two remaining items were discussed and voted on during the September 1, 1999 meeting. In order to facilitate voting on the cost-ceiling item descriptions as a whole, the Commission requested that a redlined document be prepared. Late last week a redlined version was distributed; however, the new document contains numerous changes that are in direct conflict with the earlier consensus document. The new changes were made without notice to, or discussion with, the members of the sub-committee or the stakeholders. ADEQ's reversal of its earlier position creates the need to once again discuss concerns with the document.

Additionally, the recent changes have created uncertainty regarding the full scope of the document before the UST Policy Commission. The September 12, 1999 version of the cost ceiling item descriptions included a cover document entitled General Notes - Item Description Clarifications. Because this document was not included with the final version presented to the Commission, the sub-committee did not formulate recommendations concerning the substance of this document. Therefore, because the document includes additional and conflicting policy, it should not be considered by the Commission. In accordance with the statute governing the Commission, if ADEQ still desires to implement any or all of the policy decisions contained within the document, those policies should be presented to the Commission in a separate document for item review.

Sincerely,
Chair UST Policy Commission Technical Sub Committee

A handwritten signature in dark ink, appearing to read 'Harold E. Gill'.

Harold E. Gill, R.G.; CRS
Vice President/Chief Geologist

INTRODUCTION

After many hours reviewing and comparing the documents mentioned above, the following issues need to be presented to the UST Policy Commission for discussion.

SECTION I - CONCERNS WITH EXISTING TASK DESCRIPTIONS

PROJECT SET-UP AND ADMINISTRATION

Pg. 1 of 34

Previously Assessed Project Review; and Agency Data Analysis Tasks

①
YES
concerns
The previously negotiated language from the 8/12/99 Document was changed for these two tasks to specify "where initial project set-up is not appropriate...". This language basically disallows the use of the Project Set-Up Task with either of the above mentioned tasks except when the site is a brand new site. However, if a site were new to the consultant the Set-Up task would be needed as well. The language is contradictory. **The new language must be removed.**

Pg. 1 of 34

②
NO
concerns
The previously negotiated language from the 8/12/99 Document was changed from "no travel over 60 miles" to "120" miles. This change was made throughout the 9/1/99 Document. **This is unacceptable!**

Once again:

- Why should the consultant eat any mileage?
 - This is not a contract with the State of Arizona.
- If the owner/operator want to enter into a contract with the consultant that will require the consultant to include mileage that is their prerogative not the States.

REMEDIAL WORK PLANS

Pg. 4 of 34

Corrective Action Work Plans

③
YES
New language was added to the item descriptions for the remedial work plans. The language was "include feasibility testing results". It must be made clear in the task description that all the reporting for all the feasibility testing is to be included in the CAP. The language should state something like "include a discussion of feasibility testing results" so there is no confusion.

FIELD ACTIVITIES

Pg. 5 of 34

Consultant Day Rate

④
YES
The task description states that "a consultant must be on-site a minimum of ten (10) hours to claim a day rate". We understand that this was a typo and should have been (8) hours.

What does the consultant claim when they have been on the site greater that 8 hours? This needs to be clarified!

Consultant Half-Day Rate

The task description states that "a consultant must be on-site a minimum of five (4) hours to claim a half-day rate". What does the consultant claim when they have been on the site less that 4 hours or from 5 to 7 hours? This needs to be clarified!

It is recommended that the appropriate day or half-day rate be submitted plus the number of hours in excess of this rate be charged at the appropriate hourly rate for the personnel performing the activity. For example, a staff-level geologist in the field for 7 hours will charge the half-day rate plus 3 hours at the staff level rate.

CONTRACTOR DRILLING-RELATED ACTIVITIES

Pg. 8 of 34

(5) delete
The limited access drilling method Angle Boring was removed from the item descriptions. Removing the angle-boring task for the other drill rigs is understandable but the limited access drill rigs can do angle borings. It is recommended that this task be put back in the item descriptions.

GROUNDWATER MONITORING AND SAMPLING

Pg. 13 of 34

Professional Survey of Groundwater Monitoring Wells

(6) yes
The professional survey portion of the task should be a Cost + Item. The consultant does not perform this activity, therefore, why would the consultant provide a cost for it? However, the consultants' management, coordination and field time should have a cost ceiling.

PILOT AND FEASIBILITY TESTING

Pg. 14 of 34

Soil Vapor Extraction (SVE) Test & SVE/Air Sparge Test

(7) yes
The task descriptions include the testing equipment. However, consultants typically use a portable VES and/or VES/Air Sparge pilot test unit. The size of the unit required depends upon the soil type and number of soil horizons beneath the site and the length of piping runs. Therefore, the cost for the portable unit varies depending upon the size and whether it is carbon or a catalytic unit. If this activity were to be removed from the task description the resulting survey cost would be more representative of the true cost of the pilot test. It was the understanding of the sub committee that this request was accepted by the ADEQ, and as such, was not discussed in the September 1, 1999 recommendations letter to the Policy Commission.

It is recommended that the portable SVE and SVE/Air Sparge pilot test units be removed from this task description and be included in the Equipment Rental Section of the Cost-Ceiling Definitions.

If the language is not changed and the consultant rents a test unit, will the ADEQ reimburse the cost for rental of the unit? Believe me this is a much better and more cost effective approach to SVE/AS testing.

Pg. 14, 15, 16 of 34

Some of these tasks make it clear that the data analysis and reporting are not included in the task and others do not.

(8) yes
IT MUST BE MADE CLEAR THAT DATA ANALYSIS AND REPORTING FOR THESE TASKS ARE TO BE INCLUDED IN THE CAP OR OTHER TASKS.

REMEDIATION ACTIVITIES

Pg. 16 of 34

Bulk soil Transportation

9
yes
Loading should not be part of this task. Loading should be included in the remedial excavation item description.

Pg. 16, 17, 18 of 34

10
delete
There is going to be a lot of problems with the per-drum and per-ton tasks.

comment only

Pg. 18 of 34

11
delete
Why was the SAF Bid Preparation Task removed? There is a cost involved with bid speck preparation and submittal to the contractors. If this is a requirement of the task then it should be reimbursed.

REMEDIAL REPORTS

Pg. 19 & 20 of 34

12
delete
The site conceptual model in the SCR is basically a precursor to the CAP. How do the consultants account for the two to three conceptual models prepared previously? Will the ADEQ balk at consultant time listed under the SCR that was charged prior to the report being written?

Pg. 20 of 34

13
yes
Language for the incremental cost increase for monitor wells must be included after the Task description for the ADEQ-approved Standard SCR report for up to 4 soil borings and 4 groundwater monitor wells. In addition, language for the incremental cost increase for soil borings must be included in this language.

PER DIEM RATES

Pg. 27 of 34

Fieldwork Per Diem Without Overnight Stay

14
yes
The minimum 10-hour field day should be removed from the task description or changed to 8 hours.

to 8 } yes

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY
INTEROFFICE MEMORANDUM

DATE: September 15, 1999
TO: UST Policy Commission
FROM: UST Corrective Action Section
SUBJECT: 2000 Cost Ceilings Edits

The attached copy of the Draft 2000 Cost Ceiling Item Descriptions is identical to the copy distributed September 1, 1999 with the following exceptions:

1. Redline - this copy documents the changes that have been made based upon recommendations from the Technical Sub-committee.
2. All spelling errors should be corrected.
3. The Consultant's Day Rate documents the 8 hours recommended by the Technical Sub-committee. The September 1, 1999 copy erroneously documented 10 hours.
4. A mileage rate for mobile laboratories has been included.
5. The task description for UST removal includes permit acquisition.

↓
consensus

ARIZONA UST POLICY COMMISSION

November 13, 1999

Ms. Jacqueline E. Schafer
Director
Arizona Department of Environmental Quality
3033 North Central Avenue
Phoenix, AZ 85012

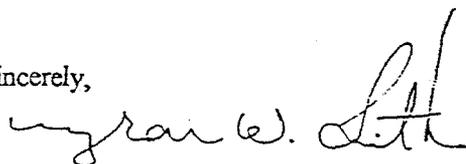
Re: UST Policy Commission Recommendations for UST Regulatory Account and SAF
Cost Ceiling Methodology

Dear Ms. Schafer:

The Underground Storage Tank (UST) Policy Commission has reviewed and discussed in detail the UST Regulatory Account shortfall in monies to adequately run the program, and the SAF cost ceiling methodology prepared by the Arizona Department of Environmental Quality (ADEQ) and the stakeholders. The following recommendations (attached Financial sub-committee letter) represent support by members of the UST Policy Commission present at the meeting held on September 15, 1999. The recommendations are submitted for your review and adoption.

If you have any questions or concerns, please contact me at 602-728-6986 or via e-mail at msmith1@tosco.com.

Sincerely,



Myron W. Smith
Chairperson, Arizona UST Policy Commission

Attachment Financial sub-committee letter

CC: Az. UST Policy Commission Members

November 4, 1999

Mr. Myron Smith
Chair UST Policy Commission
Tosco Marketing Company
1500 N. Priest Dr.
Tempe, AZ 85281

Re: UST Policy Commission Financial Subcommittee Recommendations

Mr. Chairman,

The Financial Subcommittee of the UST Policy Commission has made the following recommendations:

UST Regulatory Account

1. The UST Policy Commission supports the UST Inspections and Compliance Program.
2. The funding shortfall in the UST Regulatory account should be covered by a line item appropriation in ADEQ's annual budget.

Cost Ceiling Methodology

1. The State Assurance Fund Statutes and Rules should be amended so that the annual requirement to revise the cost ceilings should be relaxed to every three years. ADEQ should also consider annual increases to the cost ceiling amounts to cover inflation.
2. For cost ceiling items which have sufficient survey results, ADEQ should set the cost ceiling amount no lower than the mean or median of those results.

Sincerely,



Michael B. O'Hara
Financial Subcommittee Chairman

APPENDIX C

CORRECTIVE ACTION PLAN (CAP) GUIDENCE
DOCUMENT

ARIZONA UST POLICY COMMISSION

May 31, 1999

Ms. Jacqueline E. Schafer
Director
Arizona Department of Environmental Quality
3033 North Central Avenue
Phoenix, AZ 85012

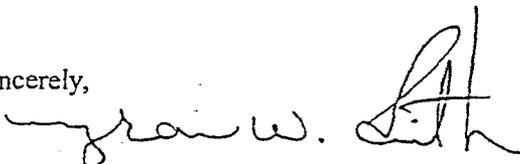
Re: UST Policy Commission Recommendations for Corrective Action Plan Guidance Document

Dear Ms. Schafer:

The Underground Storage Tank (UST) Policy Commission has reviewed and discussed in detail the Corrective Action Plan (CAP) Guidance Document prepared by the Arizona Department of Environmental Quality (ADEQ) UST Section. The following recommendations represent a consensus by members of the UST Policy Commission present at the meeting held on April 15, 1999. The recommendations are submitted for your review and comment in chronological order as they appear in the CAP Guidance Document.

If you have any questions or concerns, please contact me at 602-728-6986 or via e-mail at msmith1@tosco.com.

Sincerely,



Myron W. Smith
Chairperson, Arizona UST Policy Commission

Attachment

CC: Az. UST Policy Commission Members

DISCLAIMER

Remove the last two (2) sentences from the disclaimer.

INTRODUCTION

Pg. 1

Remove the first sentence from the Introduction through "and environment...".

CAP CONCURRENCE

Pg. 2

Some members of the sub committee felt that 120 days for review of the CAP was too long. The ADEQ indicated that currently they were trying to turn around CAPs within 90 days and this has been verified for some recent CAPs submitted. However, until a final time frame for review of a CAP can be established under the Licensing Time Frame Rule, the sub committee recommends that the current time frame allowed for CAP review should be 90 days.

PUBLIC PARTICIPATION

Pg. 2

The ADEQ and stakeholders should work together to develop boiler-plate language for a generic public notice and where applicable the responsible party should be allowed to work with the ADEQ to provide appropriate site-specific language for the public notice;

APPENDIX A: IMPACTED SOIL SITES

Pg. 4

Remove the last sentence in the third paragraph starting with "The ADEQ must approve the.....".

APPENDIX B: EXPOSURE ASSESSMENT

Pg. 6

Eliminate "-95" from "(ASTM) Standard E 1739-95" or include "or most current revision".

APPENDIX C: APPLICABLE CLEANUP LEVELS

Pg. 7; SOIL

Remove from third paragraph, first sentence "encapsulated in the soil or ponded on groundwater"

APPENDIX D: CORRECTIVE ACTION PLAN OUTLINE

Section I: Assessment of Impacts

Pg. 9

The ADEQ needs to develop language for the CAP guidance document or elsewhere (the Site Characterization Manual) that will clarify the current ADEQ policy on groundwater sampling frequency as it relates to the CAP requirements.

Section II: Exposure Assessment

Pg. 10

Remove fourth and fifth bullets "Estimated exposure duration..." and "Estimates of contaminant...", respectively.

The technical sub committee recommends that the ADEQ develop new guidance language and a definition for a "source". An exact definition of the "source" is critical for design of the remedial system.

The technical sub committee recommends that the ADEQ develop new guidance language and a new process for risk assessments that is separate from a CAP.

Section IV: Feasibility Analysis

Pg. 10

The guidance requires evaluation of at least three remediation strategies during the feasibility analysis. The technical sub committee recommends that the following or equivalent language be substituted in this section "provide three viable cost effective methods or justify if three do not exist".

Section VII: Confirmation Sampling and Decommissioning

Pg. 11

Insert a period after ", and wells" and remove "after regulatory closure has been granted."

APPENDIX D

REGULATORY FUNDS RECOMMENDATION

ARIZONA UST POLICY COMMISSION

November 13, 1999

Ms. Jacqueline E. Schafer
Director
Arizona Department of Environmental Quality
3033 North Central Avenue
Phoenix, AZ 85012

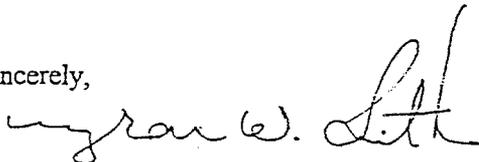
Re: UST Policy Commission Recommendations for UST Regulatory Account and SAF
Cost Ceiling Methodology

Dear Ms. Schafer:

The Underground Storage Tank (UST) Policy Commission has reviewed and discussed in detail the UST Regulatory Account shortfall in monies to adequately run the program, and the SAF cost ceiling methodology prepared by the Arizona Department of Environmental Quality (ADEQ) and the stakeholders. The following recommendations (attached Financial sub-committee letter) represent support by members of the UST Policy Commission present at the meeting held on September 15, 1999. The recommendations are submitted for your review and adoption.

If you have any questions or concerns, please contact me at 602-728-6986 or via e-mail at msmith1@tosco.com.

Sincerely,



Myron W. Smith
Chairperson, Arizona UST Policy Commission

Attachment Financial sub-committee letter

CC: Az. UST Policy Commission Members

November 4, 1999

Mr. Myron Smith
Chair UST Policy Commission
Tosco Marketing Company
1500 N. Priest Dr.
Tempe, AZ 85281

Re: UST Policy Commission Financial Subcommittee Recommendations

Mr. Chairman,

The Financial Subcommittee of the UST Policy Commission has made the following recommendations:

UST Regulatory Account

1. The UST Policy Commission supports the UST Inspections and Compliance Program.
2. The funding shortfall in the UST Regulatory account should be covered by a line item appropriation in ADEQ's annual budget.

Cost Ceiling Methodology

1. The State Assurance Fund Statutes and Rules should be amended so that the annual requirement to revise the cost ceilings should be relaxed to every three years. ADEQ should also consider annual increases to the cost ceiling amounts to cover inflation.
2. For cost ceiling items which have sufficient survey results, ADEQ should set the cost ceiling amount no lower than the mean or median of those results.

Sincerely,



Michael B. O'Hara
Financial Subcommittee Chairman

APPENDIX E

RECOMMENDATION on the CORRECTIVE ACTION RULES

ARIZONA UST POLICY COMMISSION

December 17, 1999

Ms. Jacqueline E. Schafer, Director
Arizona Department of Environmental Quality
3033 N. Central Ave.
Phoenix, Az. 8 512

Re: UST Policy Commission Recommendations for the Corrective Action Rules; Title 18. Environmental Quality ; Chapter 12. Department of Environmental Quality Underground Storage Tanks; Sections R18-12-101, 102, 2 5, 2 5, 260, 260.01, 261, 262, 263, 263.01, 263.02, 264, 280.

Dear Director Schafer:

The Underground Storage Tank (UST) Policy Commission has reviewed and discussed in detail the Corrective action rules, as referenced above. At the Policy meeting held yesterday, the following motions were approved by vote of the commission members:

"The Rules as they are proposed are not acceptable to the Policy Commission."

"We recommend that the director not adopt or submit these Rules to GRRC until stakeholders concerns on the Rules have been addressed."

"We also recommend that the Director institute an intensive stakeholder process including roundtables and public meetings in order to properly address the concerns of the regulated community and other interested parties."

and:

Page 2

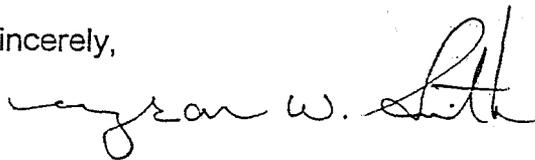
"Given the significance of the Corrective Action Rules package, the December 31, 1999 statutory deadline for submission to the GRRC has been found to be inadequate, and unachievable."

Although the Commission's decision on the two motions is only a recommendation to you, we feel it is an accurate reflection of the regulated community's concerns about this rule and we hope that you will give it due consideration.

Furthermore, if the Corrective Action Rules are not submitted to GRRC, the regulated community is willing to assume responsibility for the statutory deadline not being met.

If you have any questions, please contact me at 602-728-6986 or via e-mail at msmith1@tosco.com.

Sincerely,



Myron W. Smith
Chairperson, Arizona UST Policy Commission

Cc: Commission Members
File

APPENDIX F

LETTER OF SUPPORT FOR ADEQ UST

(SUNSET REVIEW)

ARIZONA UST POLICY COMMISSION

December 29, 1999

Senator Tom Freestone
Representative Carolyn Allen
Arizona State Senate
Arizona State House of Representatives
1700 W. Washington
Phoenix, Arizona 85007

Re: Support for ADEQ UST in Sunset Review

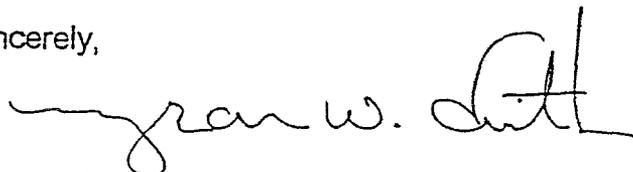
Dear Senator Freestone and Representative Allen:

I am writing you representing the Arizona UST Policy Commission, a broad group representing stakeholders with gasoline underground storage tanks, to voice our support for continuance of the Arizona Department of Environmental Quality's Underground Storage Tank department, for the Sunset Review process.

The policy commission's December 16, 1999 meeting, consensus was given to the chairperson to communicate to the Sunset Review Committee that the UST department has made improvements over the last two years and continues to move towards improving the relationships with the regulated public and protecting the environment of Arizona, with fiscal responsibility.

Thank you for this opportunity to voice our opinion. If you have any questions, please contact me at 602-728-6986 or via e-mail at msmith1@tosco.com.

Sincerely,



Myron W. Smith
Chairperson, Arizona UST Policy Commission

Cc: Commission Members
Jacqueline Schafer, Director ADEQ

APPENDIX G

BUDGETS AND EXPENSES

June 25, 1998

1. The following items were
received from the
State of California
for the period ending
6/30/98:

2. The following items were
received from the
State of California
for the period ending
6/30/98:

3. The following items were
received from the
State of California
for the period ending
6/30/98:

Policy Commission Travel and Outside Services FY 99/00

Travel Beginning Balance FY 99	\$5,000.00
FY 99 Travel	842.74
FY 2000 Travel Claim Roger Beal	431.64
FY 2000 Travel Claim Roger Beal	431.64
FY 2000 Travel Claim Karen Holloway	149.37
Ending Balance	\$3,144.61
*Projected Ending Balance	0.00

*Travel charges for FY 2000 are projected to be approximately \$3200.

Outside Services Beginning Balance FY 99	\$5,000.00
*Encumber funds FY 2000	5,000.00
Ending Balance	0.00

* All funds have been encumbered for the services of a court reporter for the Policy Commission Hearings.

Travel Beginning Balance FY 99	\$5,000.00
FY 99 Travel	842.74
FY 2000 Travel Claim Roger Beal	431.64
FY 2000 Travel Claim Roger Beal	431.64
FY 2000 Travel Claim Karen Holloway	149.37
Ending Balance	\$3,144.61
*Projected Ending Balance	0.00

*Travel charges for FY 2000 are projected to be approximately \$3200.

Outside Services Beginning Balance FY 99	\$5,000.00
*Encumber funds FY 2000	5,000.00
Ending Balance	0.00

APPENDIX H
AGENDAS AND MINUTES

UST Policy Commission Meeting

January 6, 1999, 10:00 am-noon

Location: ADEQ Meeting Room 1709, 3003 N. Central Avenue, Phoenix

AGENDA ITEMS

1. Introductions and Background
2. Open meeting law and Conflicts of Interest
3. Mission and role of UST Policy Commission
4. Elect Chairperson and Vice-Chair
5. Policy Commission administrative issues and protocol
6. Discussions regarding UST issues, policy, rule packages, and statutes, including:
 - a. State Assurance Fund Rule Package
 - b. Corrective Action/Risk-based Rule Package
 - c. Timeframes Rule Package
 - d. increase to one-cent per gallon tax on fuel
 - e. increase tank fees--financial shortfall of UST regulatory account
 - f. SAF review procedures
7. Call to the public
8. Discuss next agenda and meeting date
9. Adjourn

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting Liz Bernal at 207-2205. Requests should be made as early as possible to allow time to arrange the accommodation.

UST Policy Commission Meeting

Commission Meeting Minutes for January 6, 1999

Members Present: Hal Gill, Mike O'Hara, Mike Denby, Matt Ortega, Myron Smith, Ed Truman, Jean Calhoun, Elijah Cardon and Theresa Foster

Members Absent: Roger Beale

- **Welcome and Introduction of Commission Members:**

Board Members introduced themselves providing a brief background of their affiliations and professional experiences.

- **Open Meeting Law and Conflicts of Interest:**

Tamara Huddlestron (Attorney General's Office) presented an overview with handouts to Commission members of the provisions of the Open Meeting Law and Conflicts of Interest.

The Open Meeting Law requires that all meetings of public bodies be conducted openly and that notices and agendas be provided for such meetings and that their official deliberations and proceedings be conducted openly. Additionally, description of the Open Meeting Law and its definitions were given in regards to "Public Body", and the five basic categories of public bodies; identification of "Quorum" meaning the majority of members; and "Agenda" which must be posted 24 hours prior to public meeting and include the day, time and location of meeting.

Multiple meetings may be posted on a single Agenda providing each meeting is held. Non-agenda items will not be discussed but may be included in future agendas for consideration.

A meeting may be called to discuss "emergency items" which must be posted within 24 hours stating that an emergency session has been held.

Minutes of public meeting must be prepared and made available 3 days after the meeting with the exception of Executive Sessions. No minutes are required when an Executive Session is held since this type of meeting does not require that it be open to the public. There are seven instances in which board members may go into executive session.

If a ratification is to take place, the public notice, agenda and written description must be made available at least 72 hours before the meeting.

Violation of the Open Meeting Law may incur penalties, removal, civil penalties, attorney's fees and court fees.

ADEQ/WPD Director asked for clarification of "Quorum". The response was that Quorum does not imply a set number of members but the majority of members of a body.

Conflict of Interest: This law is contained in A.R.S. §38-501 et seq., stating the minimum standards of conduct for public officers or employees and decisions that may affect themselves or their close relatives (spouse, child, parent, siblings, grandchildren, etc). This law requires that persons make an effort to determine if there may be a potential conflict of interest and taking steps to avoid it. The Attorney General's office was asked to provide an opinion on member conflict of interest on an issue by issue basis.

There are 3 elements to determine whether a conflict has occurred, which include: will decision affect positively or negatively an interest of the officer or relative; is the interest a pecuniary or proprietary interest or other words of economic value; and is the interest designated as a direct or indirect interest?

If the majority of the board have conflict, the board can still act. The "Rule of Impossibility" was described, as well as, how to handle all conflicts and what action will occur if there has been a violation of the conflict of interest law.

The board discussed briefly the necessity of taking Ethics Training which is a legislative requirement for all members. This training may be held through ADOA in a 4 hour class or an all day training provided by the Office for Excellence in Government, with emphasis on ethics training in the afternoon. Special training may also be set up expressly for board members. Mark Osborn will follow up on training schedule and apprise board members of dates and times. A schedule for ethics training will be attached to copy of meeting minutes. Ethics training does not have to be completed prior to the next Commission meeting, when polled, four members indicated they have not had ethics training.

- **Mission and Role of UST Policy Commission:**

The policy commission members will work together as a team to deal with UST issues associated with the program. Efforts to address SAF issues are underway in regards to funding issues and the phase-out of funding.

Mark Osborn provided a summary in a handout outlining the series of general duties and the requirement for submission of an annual report to legislature. Commission needs to define when report will go to legislature. There are 6 primary issues that need to be addressed in the report.

There was discussion between Commission and Mark Osborn regarding the starting date of review authority of this group in respect to the rules and policies and the statutes governing them. The Commission may look at (guidance documents, etc.) On the Internet, however no rules packages have been finalized.

ADEQ should prepare a presentation for the next meeting to include substantive policies, rules and changes that have taken place since SB 1376 went into effect.

- **Agenda Item to include "Rules Proposed" as a regular feature of the agenda.**

Representatives from the AG's office and ADEQ to give guidance for providing legal basis for discussion. There are currently numerous guidance documents; therefore, can these documents be combined into one (1) to be looked at as a whole.

- **Elect Chairperson and Vice-Chair:**

Jean Calhoun of ADEQ nominated Myron Smith of Tosco for Chairperson. That nomination was seconded by Hal Gill and accepted by Mr. Smith. All commission members voted in favor of that nomination, and Myron Smith was elected as Chairperson. Ms. Calhoun nominated Mike O'Hara for vice-chair; that nomination was seconded by Elijah Cardon and accepted by Mr. O'Hara. All Commission members voted in favor of that nomination, and Mike O'Hara was elected as Vice-Chair.

Commission proceeded with basic protocol according to Open Meeting Law.

- **Policy Commission administrative issues and protocol:**
- **Agenda Item - General Rules to be proposed. Board members to take vote at next meeting.**

Commission members discussed issues of administrative duties. Who will prepare and post Agenda and take minutes for meeting? Mark Osborn stated that his Secretary, Elizabeth Bernal would act in this capacity. Ms. Bernal was introduced to the Commission.

Other issues of interest: How often does the Commission want to meet? Many issues need discussion and meeting in 2 weeks is necessary to address these issues. The Commission meetings will be held on a monthly basis afterwards. Mark Osborn will secure a meeting room and apprise the Commission of the location.

- **Discussion regarding UST issues, policy, rule packages, and statutes, including items a-f in the agenda.**

Commission would like consensus to present SAF issues for potential legislation. The one (1) cent fuel tax is also a critical issue for discussion at next meeting in two (2) weeks. Need to identify the most pressing issues for legislative timeframe.

Commission concurred that the following issues need to be addressed first since these items may need legislative action.

Let the record show that Commission Member Mike Denby took leave at 11:37 a.m.

- Agenda Item for next meeting - Discussion on Quorum

Specific bill on issues needs to happen next week (get file open). The earlier it gets in the higher the probability of success. Mark Osborn will get the drop-dead date to submit issues.

- Call to Public:

John Pearce asked if ADEQ has list of UST Policy or Guidelines implemented by SB 1376. UST and SAF management staff will provide substantial information for next meeting.

Board members are appointed by Governor, therefore no person shall be designated to act in the absence of board members for the purpose of decision making, counted as quorum or be counted as a voting member. Ms. Calhoun however, designated Phil McNeely, Manager of the UST Corrective Action Section to act on her behalf in her absence.

- Discuss next agenda and meeting date:
- Agenda item for next meeting - CAP Guidance and voting on Commission rules of order.
- Agenda item for next meeting - ADEQ presentation on regulatory accounting shortfall.

Next meeting will be conducted on Wednesday, January 20, 1999 at 1:00 P.M. Location to be determined.

Meeting adjourned at 11:55 A.M.

Prepared By:

Darlene Dekle 1/15/99
Darlene Dekle, UST Administrative Assistant

Approved By:

Myron Smith
Myron Smith, Chairperson

1/15/99

UST Policy Commission Meeting

January 20, 1999, 1:00 pm-5:00 pm

Location: Fennemore Craig, 3033 N. Central Avenue, Phoenix
26th Floor Conference Room E1/E2

AGENDA ITEMS

1. Opening Comments
2. Approval of Minutes of previous meeting
3. Administrative Issues and Protocol
 - a. Meeting Place
 - b. Quorum and Voting
 - c. Other Procedures
4. Establish Mission Priorities
5. Presentation by ADEQ on Regulatory Account Shortfall; Discussion
6. Discussion of ADEQ handout on rules and policies underway or promulgated since Policy Commission was created including:
 - a. Distribution of ADEQ's Draft CAP Guidance Document
7. Preliminary Discussions regarding UST issues, policy, rule packages and statutes for future ADEQ presentations and discussion by Commission, including:
 - a. State Assurance Fund Rule Package
 - b. Corrective Action/Risk-based Rule Package
 - c. Time frames Rule Package
 - d. Increase to one-cent per gallon tax on fuel
 - e. SAF review procedures
 - f. Other rules, policies, issues
8. Call to the Public
9. Discuss next agenda and meeting place
10. Adjourn

A.R.S. 49-1092 established the Underground Storage Tank Policy Commission to review and provide recommendations to improve the Underground Storage Tank Program. If you have any questions regarding this meeting, please feel free to give Elizabeth Bernal a call at 207-2205.

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting Darlene Dekle at 207-4324. Requests should be made as early as possible to allow time to arrange the accommodation.

MINUTES OF THE JANUARY 20, 1999 MEETING OF
THE UST POLICY COMMISSION

BOARD MEMBERS IN ATTENDANCE:

Roger Beal
Jean Calhoun
Elijah Cardon
Michael Denby
Theresa Foster
Harold Gill
Myron Smith
Michael O'Hara
Matthew Ortega

BOARD MEMBERS ABSENT:

Edward Truman
Commission Person-Environmental

AGENDA ITEM 1 - OPENING COMMENTS

Chairperson Myron W. Smith commenced the meeting and thanked Fennemore Craig for allowing the Board to be here today, and hopefully, the Board will find a permanent home somewhere where the Board can meet on a regular basis. Myron Smith introduced and welcomed Elizabeth Bernal, who will be taking minutes for the Board from henceforth.

AGENDA ITEM II - APPROVAL OF MINUTES OF PREVIOUS MEETING

Myron Smith asked Marc Osborn whose responsibility it is to expedite and send out the *Minutes* in a timely fashion. It was agreed upon that Myron Smith would be responsible for the above-mentioned.

Jean Calhoun mentioned that Marc Osborn's name had been misspelled. Jean also asked for clarification of a "*Quorum*," and stated that it is generally the majority. Myron Smith stated that under Item No. 3b; Quorum and Voting would be discussed at that point in time.

Elijah Cardon commented that he wished further discussions relative to "*Conflicts of Interest*" and "*Rule and Impossibility*." Discussion took place and Myron Smith informed the Board that he would incorporate the changes to correct the Minutes of the last meeting. Matthew Ortega motioned to adopt the "*Minutes*" from January 6, 1999, and bearing no opposition, the "*Minutes*" were adopted.

AGENDA ITEM III - ADMINISTRATIVE ISSUES AND PROTOCOL

a. Meeting Place

Myron Smith asked Marc Osborn if we currently have a meeting place. Marc Osborn replied that he will plan well in advance for a precise meeting place. Marc Osborn noted that ADEQ needs a definite time frame, so that the meeting place could be booked well in advance.

Myron Smith commented that relative to "frequency," he would like to have a "UST Policy Commission Meeting," to be held the second Thursday of every month, and to meet on a monthly basis for the remainder of 1999. The standard hours will always be from 9:00 A.M. - 12 noon. Myron Smith informed the Board that the next "UST Policy Commission Meeting," will be held on Thursday, February 11, 1999.

b. Quorum and Voting

Elijah Cardon suggested 7 Board members to constitute a Quorum for Board action. Myron Smith adhered to Elijah Cardon's *Quorum* of 7 and the "Voting Majority" of the Quorum. Matthew Ortega motioned to adopt the Quorum and Voting criteria and Michael O'Hara seconded.

c. Other Procedures

- Myron Smith wanted to discuss the *Budget, DOA's Rules* relative to whatever the State allows for the mileage reimbursement for the Commission members, *Parking Reimbursement*, who has *Signing Authority* for the monies that the legislature has given ADEQ, and also a discussion of the handout that everyone was given relative to *Rules* that Myron Smith put together; since at the last meeting, it was not adopted.
- Myron Smith asked Marc Osborn if he would talk about the "Budget Signing Authority," and reimbursement for parking and for mileage. Marc commented that what ADEQ could do, is initiate the processing and fill out the State forms for reimbursement.
- Myron Smith wanted to discuss the 1 page handout relative to the "Commission Rules."
- Myron Smith wants a guidance by which a maximum of 5 minutes per speaker unless the Chairperson elects to extend the time. Myron Smith commented that number B 11 states that the Director or Directors designate. Myron Smith felt comfortable with that definition and fully intends the document to be a "living document" and will be added as #12.
- Michael Denby suggested to Myron Smith the legend should read as such: "Words to be Acknowledged by Chairperson for Public Comment." Myron Smith indicated that he will add the above-mentioned legend to #1, essentially stating in order to be acknowledged to speak, the speaker must fill out a "Speaker Form." Michael O'Hara motioned to adopt the "Arizona UST Policy Commission Rules," as amended, and Harold Gill seconded and bearing no opposition, the "Arizona UST Policy Commission Rules," are in effect.

AGENDA ITEM IV - ESTABLISH MISSION PRIORITIES

- Michael Denby questioned about the making of the "Agenda" and when it will be finalized.

Michael Denby questioned that if there was a way that the "Agenda" could be put together before we finish the meetings, or a way that we can communicate outside, we could determine what "Agenda" items are not necessary since the "Agenda" must be posted 24 hours prior to public meeting and include the day, time and location of the meeting. Members of the Board preferred reviewing the upcoming "Agenda" beforehand.

• Myron Smith suggested the following:

◆ Draft the "Agenda" 2 weeks after the meeting, allow 3 days to review the "Agenda," then feedback any comments or changes. Myron Smith restated the motion that the "Agenda" comes out no later than 2 weeks after the close of the meeting in draft to the members of the Commission. The members of the Commission will have 3 days to review the "Agenda" and return any comments or changes requested to the Chairperson, and on the 4th day, it will be final. Motion to set the "Agenda," bearing no opposition, the "Agenda" was adopted.

• Elijah Cardon wanted to address with respect to "Conflicts of Interest": Because the Governor appointed the individual Commission members, it is assumed that service on the Commission, by any of the members, is not a conflict of interest. If the Attorney General's Office has any feeling to the contrary, it should be made known immediately.

• Myron Smith asked Marc Osborn if there was a training class, open meetings, somebody who was going to look into some dates or go as either individuals or groups. Marc said that he would get back to Myron Smith as soon as possible. Myron wanted Marc to fax any relative information directly to all the members of the Commission, so that they put it on their schedule.

• Myron Smith requested that someone from The Office of The Attorney General attend the "UST Policy Commission's Meeting" to be held on Thursday, February 11, 1999, and give an in-depth presentation on the "Conflicts of Interest Rules and Possibilities."

• Myron Smith stated that "Conflicts of Interest," will definitely be on the next "Agenda" item at the next meeting to be held on Thursday, February 11, 1999, and clarification will be the primary concern.

• Myron Smith announced that Mr. Clark just walked into the meeting at hand and Myron stated that he had a few questions for Mr. Clark.

◆ What is DOA's forms policy for mileage reimbursement for Commission members, parking reimbursement fees, etc. Mr. Clark informed Chairperson, Myron Smith, that he will have to go to the "Advisory Board" for feedback, but generally, the

◆ "Advisory Board" members are authorized mileage, parking fees, etc. Mr. Clark stated that he was going to initiate some research and get a packet together and have it available at the next "UST Policy Commission Meeting" to be held on Thursday, February 11, 1999.

- Myron Smith stated that the above-mentioned subject matter will be incorporated onto the next "Agenda."

AGENDA ITEM V - PRESENTATION BY ADEQ ON REGULATORY ACCOUNT SHORTFALL; DISCUSSION

- Ian Bingham presented a brief update on "Regulatory Account Shortfall," and handed out a packet of information relative to the topic of discussion.
- Ian Bingham stated that he had a series of topics to discuss relative to the "Regulatory Account," which is in need of some assistance in finding additional funds, so that program may continue.
- Ian Bingham stated that the first item in the packet breaks out what the funding system is currently going through fiscal year ending, June, 2003.
- Essentially, what it shows, is the shortfall that the "Regulatory Fund" is going to be having over the next 5 years, which averages approximately \$450,000.00 each year as the "Annual Projected Shortfall." There is approximately \$7 million in the grant at this moment. As of this date, (1/20/99,) there is \$3 million - \$4 million, which has not yet been encumbered because ADEQ is waiting for the deadline; then the issue becomes in some cases; do you move the tanks or upgrade the tanks? For purposes of budgeting, ADEQ always uses the higher figure, which is replacement, and yet, the upgrade may be much less, and then a site assessment will determine at that point which is cheaper.
- Myron Smith was apprised that out of the \$7 million, it is likely that most of those monies will go out in grants and our effort is that ADEQ will be going to get as much out in grants as possible.
- Ian Bingham commented that in terms of ADEQ's closures and installations, it's our Compliance Staff who's heading up the project.
- Ian Bingham stated that currently ADEQ has only 5 inspectors, who are responsible for 3,000 facilities at this time.
- Elijah Cardon commented that when the Rules that the Commission approved earlier referencing the 5 minutes per speaker; was it intended to be applicable to invited guests?
- Myron Smith stated the 5 minutes was applicable for the invited speakers, but that the discussion could go on at the discretion of the Commission.
- Elijah Cardon asked Ian Bingham how many facilities were involved; Ian replied back to Elijah, that he was talking about sites. Ian Bingham informed Elijah Cardon that ADEQ currently is looking at approximately 3,200 facilities. Ian also stated that...

of the 3,200 facilities, we should be having an annual inspection.

- Jean Calhoun wanted to clarify the subject matter dealing with inspections; that is, currently ADEQ can't do annual inspections for 3,200 facilities. ADEQ's average inspection is between two and one-half years to 3 years.
- Theresa Foster commented that "*Inspections Are Good.*" Theresa is concerned that ADEQ is maintaining a program until "*Eternity*" on a problem that has been partially fixed in the sense that as owners and operators, "*we*" are more concerned about release detection than we are aware of. Theresa Foster preceded to comment that she didn't know if maintaining the same level of inspections would be cost beneficial to the program. Theresa also commented that she strongly believed that ADEQ should continue the program at the same level of frequency as ADEQ has done in the past. Theresa felt the problem is behind us.
- Ian Bingham commented that if inspections didn't occur, then releases will continue and will increase as time goes on. Ian also commented that if ADEQ is to provide adequate protection from underground storage tanks, we have to have something out there to maintain this situation.
- Ian Bingham provided Myron Smith with the following information relative to the current amount of staff that reports to him:
 - ◆ 5 Inspectors
 - ◆ 4 Compliance Officers
 - ◆ 1 Team Leader
 - ◆ 3 Administrative Staff
- Myron Smith commented that the "*Regulatory Account Shortfall,*" is a top priority item of the Agency and will soon run out of funding. Myron Smith then excused Ian Bingham.

The UST Policy Commission took a 10 minute break at 2:45 p.m.

**AGENDA ITEM VI: DISCUSSION OF ADEQ
HANDOUT ON RULES AND POLICIES UNDERWAY
OR PROMULGATED SINCE POLICY COMMISSION
WAS CREATED, INCLUDING:**

a. Distribution of ADEQ's Draft CAP Guidance Document

- Phil McNeely presented an update on ADEQ's "*Rules and Policies.*" In May, 1998, Jean Calhoun reorganized the "*UST Program.*" She split the Program up between the "*UST and Program Support Section;*" Ron Kern runs that, and Phil runs the "*UST Corrective Action Section.*"
- ADEQ has gone through all the ground water sites.
- *Customer Assistance:*
- Phil McNeely reported that in August, we worked with the Governor's Office, created a customer survey, and sent out the survey to approximately 2 thousand owners and operators, consultants, labs and contractors. Currently we have the UST Release Reporting the Corrective Action Rules.
- We have the "*State Assurance Fund Rules.*"
- Currently, we are working with the "*State Assurance Fund Rules,*" since we have a few revisions.
- As of this date, (1/20/99,) the first draft of "*The Correction Action Rules*" have been completed and are in the preliminary stages and should be out some time by mid March.
- Myron Smith asked Phil McNeely what is his target date for the "*Cap Guidance.*" Phil McNeely replied that ADEQ has had it on the Webb for over a month now, and should be out by early March.
- There was a question from the audience referencing if someone wants to present a final document or in draft format, how does the process work in having the Commission looking over the material and determining if the documentation can be put onto the Agenda.
- Myron Smith asked for the Agency's support to send the documents to the Commission members directly. Myron Smith also commented in regards to feeding back to the person submitting an Agenda item, Myron felt that the new sub-committees will be formed, and feedback and response will be initiated from that responsible sub-committee.
- Additionally, Myron Smith wants the sub-committees and the Chairperson of those sub-committees, to perform for our Stakeholder groups and to interact with each individual "*Rule Package or Guidance*" document, and set down with ADEQ and come up with changes, additions and modifications that will come back to this Commission, and the Commission's comments as individual members will also be inclusive.

- Each sub-committee will come to us, submit their comments and changes to a particular document we recommend, and that would come to us days or weeks before the next meeting that is on the Agenda and we have time to review it, discuss it, vote on it, and make our recommendations to ADEQ.
- Myron Smith commented that the sub-committees will send out the "Notices" and the Commission members in turn will know about the upcoming meeting. Since there were no other comments, Myron Smith went onto the next Agenda item.

**AGENDA ITEM VII - PRELIMINARY DISCUSSIONS REGARDING
UST ISSUES, POLICY, RULE PACKAGES AND STATUTES
FOR FUTURE ADEQ PRESENTATIONS AND DISCUSSION
BY THE COMMISSION INCLUDING:**

- a. State Assurance Fund Rule Package
 - b. Corrective Action/Risk-based Rule Package
 - c. Time frames Rule Package
 - d. Increase to one-cent per gallon tax on fuel
 - e. SAF review procedures
 - f. Other rules, policies, issues
- Myron Smith commented that he would like to appoint a couple of sub-committees as he alluded to before; partly financial and the other half technical, and get these committees rolling on the road. What I would like to do is appoint Mike O'Hara, who has a broad financial background for the financial side of the guidance and packages and Rules for the State Assurance Rules, which is number a, e, and f.
 - Myron Smith then appointed Hal Gill for his technical knowledge for items b, c and f.
 - Myron Smith then asked if anyone had any comments or thoughts?
 - Myron Smith commented that the duty of the Chairman is to select their members and he hoped that the sub-committees would talk to each other.
 - Myron Smith conveyed that he felt strongly that to add to the establishment of the sub-committees, he thought it should be required by this Commission that there is ADEQ's representation, and The Office of The Attorney General's representation, where appropriate.

- Myron Smith commented that the Commission needs to further discuss this topic and he would have an "Agenda" item pertaining the above.
- Myron Smith commented that if there is no objection, why don't we table the formation of the sub-committees, tackle the issues under Item #7 on the Agenda until the next "UST Policy Commission Meeting," to be held on Thursday, February 11, 1999.
- Myron Smith also suggested that why doesn't the Commission review these 2 packages that are already out there and do need to come out within the next thirty or sixty days, ask 2 of the Commission members to look into them a little more in-depth, and the Commission can bring their comments, come to a consensus on the "Rule Packages" and "Guidance Packages," can go forward, and we can continue to have a discussion on future sub-committees and other packages.
- Myron Smith commented that ADEQ should have everyone's comments, so they have a presentation to do before the meeting.
- Myron Smith asked designated Commission members to submit their comments to ADEQ within 2 weeks, as the Commission is going to do with the Agenda, and that will give Phil McNeely a 1 week time frame.

AGENDA ITEM VIII - CALL TO THE PUBLIC

- Myron Smith asked for a SAF list.

AGENDA ITEM IX - DISCUSS NEXT AGENDA AND MEETING PLACE

- Myron Smith apprised everyone that he has several Agenda items that he will type up in less than 2 weeks. If the Commission gives Myron any other Agenda items that members would like to see on the Agenda, the Commission will definitely draft out a draft and then finalize.
- The next UST Policy Commission Board Meeting will be held on Thursday, February 11, 1999, from 9:00 A.M. until 12 noon; place to be determined at this point in time.

Meeting adjourned at 4:30 p.m.

Prepared by:

Elizabeth Ann Bernal 2/23/99
Elizabeth Ann Bernal, Legislative Administrative Assistant

Approved By:

Myron W. Smith 2/20/99
Myron Smith, Chairperson

UST POLICY COMMISSION MEETING
FEBRUARY 11, 1999 9 am—12 NOON
LOCATION: ADEQ ROOM 1709, 3033 NORTH CENTRAL AVENUE
PHOENIX, AZ.

1. Opening Comments
2. Approval of Minutes of previous meeting
3. Administrative Issues
 - a) New ADEQ legislative liaison, John Atkins
 - b) Process to re-appoint commission member/term limits
 - c) Reimbursement and expense form for expenses by commission members
 - d) Az. UST Policy Commission Rules
 - e) Correction in Az Administrative Register
 - f) 49-1092, D-3 at least 30 days to review and make written recommendations
 - g) Environmental representative
4. AG discussion on conflicts of interest, rule of impossibilities
 - a) Ethics and conflicts of interest training classes, and other issues
5. Sub-Committee
 - a) Selection of Chairpersons
 - b) Sub-Committee charge/direction
6. BREAK - 15 minutes
7. ADEQ Regulatory/Compliance Unit
 - a) Regulatory account shortfall/Ian Bingham
8. ADEQ Policy/Guidance Packages
 - a) CAP
 - b) Time frames and Licenses
 - c) SAF
 - d) RBCA
 - e) Pre-approval Process
9. Open Topics
 - a) Legislative issues
10. Call to the Public
11. Next Meeting Agenda, Date, Location, and Time
12. Adjourn

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting Darlene Dekle at 207-4324. Requests should be made as early as possible to allow time to arrange the accommodation.

UST POLICY COMMISSION MEETING MINUTES
FEBRUARY 11, 1999

BOARD MEMBERS PRESENT:

Roger Beal
Jean Calhoun
Elijah Cardon
Michael Denby
Theresa Foster
Harold Gill
Myron Smith
Michael O'Hara

BOARD MEMBERS ABSENT:

Matthew Ortega

• **OPENING COMMENTS**

The meeting was called to order at 9:13 a.m. Myron W. Smith welcomed committee members and public to the UST Policy Commission Meeting.

• **APPROVAL OF MINUTES OF PREVIOUS MEETING**

It was noted that Matthew Ortega's name was misspelled and correction was made. Specific language was added on Page 3, Bullet 2 regarding "Conflicts of Interest". Motion was then made by Myron Smith for approval of the January 20, 1999 meeting minutes and seconded by Jean Calhoun with no opposition from commission members.

• **ADMINISTRATIVE ISSUES**

- a) New ADEQ Legislative Liaison, John Atkins - John Atkins, ADEQ Legislative Liaison was introduced. Mr. Atkins comes to us from Wyoming where he spent 20 years as a lobbyist in the mining industry. He has worked both with Federal and State agencies and expressed his pleasure in being asked to serve as Legislative Liaison with ADEQ.
- b) Process to re-appoint commission member/term limits - several members will be coming up soon for re-appointment. Need to determine appropriate process and follow-up with letter to governor's office so the process of re-appointment or appointment may be made. Myron Smith will initiate this process with assistance from Al Johnson, UST Ombudsman. The letter to governor will be joint letter by chairperson and ADEQ Director.

Ed Truman requested an updated list of commission members with phone and fax numbers. Al Johnson has an updated list and will follow-up.

- c) Reimbursement and expense form for expenses by commission members - Parking and mileage will be paid to commission members at state approved rates. Mike

Clark informed members that the mileage allowance will be reduced from 32.5 cents to 31 cents. Uncertain when the new rates are effective, but believes it may be March 1st.

- d) AZ UST Policy Commission Rules - Commission members received a copy of the Arizona UST Policy Commission Rules. These 12 Rules were briefly reviewed and no discussion was pursued. Elijah Cardon thanked the Chairperson for "keeping it simple".
- e) Correction in AZ Administrative Register - Copies of this Register were handed out to commission members. Corrections are needed on the Register and Al Johnson will make corrections and provide members with a corrected handout.
- f) 49-1092, D-3...at least 30 days to review and make written recommendations - There appears to be a difference of opinion as to the meaning of "at least 30 days". It appears uncertain as to whether this applies to a minimum of 30 days or a maximum of 30 days. Myron Smith and ADEQ's Division Director Jean Calhoun agreed that the term "at least" would apply to a minimum period of 30 days with discretion to extend the time frame if warranted.
- g) Environmental representative - It is believed that the process is near completion regarding the selection of an UST Environmental representative. Al Johnson will follow-up with Governor's office to see how far this process has gone.

• **AG discussion on conflicts of interest, rule of impossibilities**

- a) Myron Smith directed questions to Tamara Huddleston regarding "Conflict of Interest" issues. Ms. Huddleston stated that this issue is compared to a "balancing act" in that, if an issue presented to the board called for making a decision, and that decision had a direct bearing on a member of the commission or a member of his family, then it would present a conflict of interest. Refer to explanation of conflict of interest in the minutes of the January 6th meeting.

Summary (provided in WQARF Board Minutes) contents may help to clarify what would constitute "Conflicts of Interest". This topic will be tabled for the next meeting titled "Summary of Conflicts of Interest".

Since the legislature specifically chose the members of the UST Policy Commission, it is understood that those one could make informed input and who have a meaningful understanding of UST process to make recommendations. Discussions should be kept on general terms since it could affect members in the conflict of interest issue.

In the event a conflict should arise, it must be disclosed to the committee before a vote can take place.

Myron distributed copies of SB 1381, drawing attention to pg 7 which contains language that might alleviate the conflict of interest that the board is facing.

Theresa Foster commented that the majority of SAF applications should present no conflict. It was recommended that the commission formally ask AG to look into this issue for formal opinion. Myron Smith will write a letter requesting guidance on this issue.

Training classes are being developed through ADOA. Al Johnson will contact individual members regarding needed training.

- **Sub-Committees**

- a) Selection of chairpersons - As discussed at previous meeting, the commission needs to see all comments for package or rules that are coming out. Myron Smith apologized for faxing the one page document at such a late date.

Myron Smith asks everyone to continue comments and make changes which will in turn be incorporated in next meeting.

Items #1, 2 & 3 were commented on. Chairperson will verify "30 days" in item #1. Item #2; need to add another topic and Item #3 it was mentioned that sub-committee meetings should be more flexible; meet at discretion of chairperson.

Any additional comments should be made and faxed to Myron Smith who will place on Agenda for adoption by committee members for next meeting.

A motion was made by Ed Truman to select chairpersons for the sub-committees and was seconded by Elijah Cardon.

A motion was made by Ed Truman to elect Mike O'Hara to chair the financial sub-committee and Harold Gill to chair the technical sub-committee. The motion was seconded by Elijah Cardon with no opposition. The chairs of the sub-committees may include others on the commission as well as the public, however those not on the commission will not have voting authority.

- b) Sub-Committee charge/direction - Regarding #5: recommend changes (Fax) to Myron by February 18.

A suggestion was made that UST Corrective Action Manager, Phil McNeely participate on the technical sub-committee and Patricia Nowack, Manager SAF provide input into the financial sub-committee.

Sub-chairs may assign members. Commission members should make known to the chairs of their interest in working on sub-committee. Because of many issues, the financial sub-committee should meet once per week.

The purpose of the sub-committees are to get consensus to be presented at commission meeting.

- **ADEQ Regulatory/Compliance Unit**

- a) Regulatory account shortfall/Ian Bingham - Ian Bingham provided handout which outlined the Issue and the Impact of Program Reduction.

Services reduced or eliminated due to lack of funding. There have been no increase over the past 8 year in tank fees. Due to rising costs, additional funding for increasing needs of program. Need to address some other form of funding. A gradual increase of tank fees with no additional funding will carry the program.

Elijah Cardon made a motion to send this issue to sub-committee for immediate discussion, and Michael O'Hara seconded the motion. Once discussed at sub-committee it will go to commission for vote and forwarded to legislation.

Theresa Foster commented that the ones who have and benefit from the program should pay for it.

Elijah Cardon commented that they do have a review of program and that regulated community should provide input. Motion made by Elijah Cardon to assign to sub-committee and report back as soon as practicable on this issue. Michael O'Hara seconded the motion. None opposed. Will report on issue at next meeting.

It was recommended by Ed Truman that *voting issues* be placed on next Agenda. Voting issues should appear for the benefit of the public.

- **ADEQ Policy/Guidance Packages**

- a) CAP - Has been on web for approximately 2 months with few comments. Discuss this issue at technical sub-committee and bring recommendation to commission meeting for vote.
- b) Time frames and licenses - Air permits portion is missing
- c) SAF - Financial sub-committee will discuss SAF issues
- d) RBCA - still in process of being worked and will be further discussed in technical sub-committee
- e) Pre-approval Process - existing policy; to be discussed at technical sub-committee.

Jean Calhoun commented on the SB1381. There are 4 bills that impact the UST program (see handout-SB1381) Some of the issues are: cost of running program; denial of claims and streamlining process. Diagrams (see handout) to provide background and commission members encouraged to read bill because of its impact to the UST program. This bill will be heard at the legislature on Monday, February 15, 1999.

- **Call to Public**

Comments from Deborah Margraf representing the AZ Automotive Trade Organization made several statements as follows:

1. Next meeting - would like to hear discussion of topics of letter sent to Myron.
Place on next agenda
2. There were approximately 4 or 5 visitors from the regulated community attending the commission meeting. Concerned about the proper notification of meetings.
3. How can the public get hold of the meeting minutes?
Comment: (Minutes to be posted on web)
4. Recommendation on Environmental person.
Comment: (Name has been submitted to Governor's office)
5. Letter to Governor's office regarding vacancies.
6. Voting on topic - need public testimony before vote should occur.
7. Regulated Community - How will they know when sub-committees will be meeting.
Community needs to know.

Comments from Scott Burge

1. Vote - Need comments from public before voting occurs.
- Next meeting agenda, date, location, and time - Next meeting will be held on March 18 at 8:30 a.m.
 - Adjourn - Meeting adjourned at 12:19 p.m.

Prepared by:

Darlene Dekle, UST & Program Support Administrative Assistant

Approved by:

Myron Smith, Chairperson

1. Next meeting - would like to hear discussion of topics of letter sent to Myron.
Place on next agenda.
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Prepared by:

Darlene Dekle 3/11/99
Darlene Dekle, UST & Program Support Administrative Assistant

Approved By:

Myron W. Smith 3/11/99
Myron Smith, Chairperson

UST POLICY COMMISSION MEETING
FEBRUARY 11, 1999 9 am—12 NOON
LOCATION: ADEQ ROOM 1709, 3033 NORTH CENTRAL AVENUE
PHOENIX, AZ.

1. Opening Comments
- 2: Approval of Minutes of previous meeting
- 3: Administrative Issues
 - a) New ADEQ legislative liaison, John Atkins
 - b) Process to re-appoint commission member/term limits
 - c) Reimbursement and expense form for expenses by commission members
 - d) AZ. UST Policy Commission Rules
 - e) Correction in Az Administrative Register
 - f) 49-1092, D-3 at least 30 days to review and make written recommendations
 - g) Environmental representative
4. AG discussion on conflicts of interest, rule of impossibilities
 - a) Ethics and conflicts of interest training classes, and other issues
5. Sub-Committee
 - a) Selection of Chairpersons
 - b) Sub-Committee charge/direction
6. BREAK - 15 minutes
7. ADEQ Regulatory/Compliance Unit
 - a) Regulatory account shortfall/Ian Bingham
- 8: ADEQ Policy/Guidance Packages
 - a) CAP
 - b) Time frames and Licenses
 - c) SAF
 - d) RBCA
 - e) Pre-approval Process
- 9: Open Topics
 - a) Legislative issues
- 10: Call to the Public
- 11: Next Meeting Agenda, Date, Location, and Time
- 12: Adjourn

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contracting Darlene Dekle at 207-4324. Requests should be made as early as possible to allow time to arrange the accommodation.

UST POLICY COMMISSION MEETING
MARCH 18, 1999 1:00 pm—4:30 pm
LOCATION: ADEQ ROOM 1710
3033 NORTH CENTRAL AVENUE
PHOENIX, AZ.

1. Opening Comments
2. Approval of Minutes of previous meeting
3. Administrative Issues
4. Financial Subcommittee Report -Regulatory Account Shortfall
 - a) Report, Recommendations and Discussions
 - b) Call to the Public
 - c) Vote on Recommendations
5. Break: 15 Minutes
6. Technical Subcommittee - Corrective Action Plan Guidance Document
 - a) Report and Discussions
7. ADEQ Rule, Policy/Guidance Packages
 - a) Time frames and Licenses
 - b) SAF
 - c) RBCA
 - d) Pre-approval Process
8. Legislative issues
9. Open Topics
 - a) Debra Margraf/Az. Auto Letter
10. Call to the Public
11. Next Meeting Agenda, Date, Location, and Time
12. Adjourn

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting Darlene Dekle at 207-4324. Requests should be made as early as possible to allow time to arrange the accommodation.

UST Policy Commission Meeting
Minutes of March 18, 1999

Committee members present:

Hal Gill
Mike Denby
Mike O'Hara
Jean Calhoun
Ed Truman
Roger Beal

Members absent:

Myron Smith
Theresa Foster
Elijah Cardon
Matthew Ortega
Karen Halloway (Environmental Appointee)

Recorder: Darlene Dckle (UST Program)

• **OPENING COMMENTS**

The meeting was called to order at 9:00 a.m. Mike O'Hara (vice chair) welcomed all in attendance to the UST Policy Commission meeting.

• **APPROVAL OF MINUTES OF PREVIOUS MEETING**

Draft Minutes of previous meeting were distributed to members for review, however were not approved due to lack of quorum.

• **ADMINISTRATIVE ISSUES**

- ▶ Karen Halloway has been selected as the environmental representative for the UST Policy Commission.
- ▶ Ethics training is available and will be conducted on April 23 from 1:00-3:30 p.m. All members of the Policy Commission are encouraged to attend.
- ▶ The UST Policy Commission will hold meetings on the third Thursday of each month.

• **FINANCIAL SUBCOMMITTEE REPORT-REGULATORY ACCOUNT SHORTFALL**

a. **Report, Recommendations and Discussions**

Mike O'Hara provided overview of the two previous Financial Sub-committee meetings.

- ▶ The activities from the Inspections & Compliance unit are important and need to be maintained.
- ▶ Owners and Operators face a tremendous financial burden for future releases as the State Assurance Fund will gradually be phased out. Therefore, more importance should be placed on prevention and early detection of releases. The UST Inspections and compliance activities are an integral part

of the preventative solution.

- ▶ While compliance with Federal upgrade standards is important in preventing releases, a greater emphasis should be placed on operation and maintenance.
 - ▶ Sites are currently inspected every 3-4 years and to maintain that level of frequency would not be possible because of the budget deficit.
 - ▶ Revenues in tank fees have declined due to the reduced number of tanks while the department's budget has increased. In 1990 there were approximately 22,000 tanks and in 1999, there are around 8300 tanks. Owners have removed smaller tanks and replaced them with larger tanks (4-5 small tanks have become 2-3 large tanks).
 - ▶ Need to increase tank fees to maintain the level of program support that currently exists. It is the opinion of the Financial Sub-committee that an adequate level of inspections is somewhere between 1,000 (the current level) and 3,500 (the level necessary to achieve annual inspections).
 - ▶ In order to mend the short-term crises, the UST Regulatory unit needs immediate funding. Longer term solutions will be explored over the next year. A long term solution may include a combination of revenue increases and/or budget cuts. Ian Bingham was asked to continue his internal review of potential program efficiencies and report to the Financial sub-committee in approximately two months.
 - ▶ Ian Bingham discussed several issues of concern and provided a handout (condensed version). A permanent fix is needed for the shortfall and to move the program forward in becoming self supporting. Inspection fees and tank fee increases are necessary to keep the program intact. Extensive issues requiring long-term issues need to be explored in greater detail.
- b) Call to Public - no comments
- c) Vote on recommendations
- ▶ Mike O'Hara phoned Myron Smith for recommendation to meet the current shortfall. Ed Truman made a motion to maintain, at the current level, funding of the regulatory account of the program through the next fiscal year FY'2000. Roger Beal seconded the motion. The 6 members present and Myron Smith (via phone) were in favor. None opposed.

TECHNICAL SUB-COMMITTEE CORRECTIVE ACTION PLAN GUIDANCE DOCUMENT

- a) Report and Discussions: In both the first and second technical sub-committee meetings the Guidance Document was reviewed. The disclaimer was discussed in the first meeting and all remaining portions (exception of last page) were discussed in second meeting. The last page of the document will be discussed at next technical sub-committee meeting scheduled for April 1, 1999. Recommendations to the CAP Guidance Document will be presented

• **TECHNICAL SUB-COMMITTEE CORRECTIVE ACTION PLAN GUIDANCE DOCUMENT
(cont'd)**

to the UST Policy Commission Meeting scheduled for April 15, 1999.

Brief mention of voting authority. Understanding that a governor appointed designee may exercise voting authority at UST Policy Commission Meeting.

• **ADEQ RULES, POLICY/GUIDANCE PACKAGES**

a) Time Frames and Licenses: GRRC staff are not in favor of rule. Tentative GRRC meeting on April 6 (unlikely) Mike Denby has copy of letter from GRCC. Will send copy out to members. Discussion between ADEQ and GRRC on hold. Definition of licenses too broad.

• **ADEQ Rules, Policy/Guidance Packages (cont'd)**

b) SAF: Patricia Nowack has the 4th draft of the SAF Rule package. Should have package by next UST Policy Commission meeting.

c) RBCA: should have information ready for next UST Policy Commission meeting.

d) Pre-approval Process: contained in the SAF rules

• **LEGISLATIVE ISSUES**

Regarding SB 1381 and HB 1196; seeks to reimburse funds borrowed from SAF; working on language to address issues of concern. Bills to be heard in house next week. Should have information on these bills to share at the next UST Policy Commission meeting. Once bills are passed, recommendations may be made.

• **OPEN TOPICS**

a) Debra Margraf/AZ Auto Letter: Debra Margraf not present for discussion regarding letter. This agenda item will be tabled for next meeting. Issues are currently being negotiated.

▶ John Kennedy/Environmental Technology: Evaluate policy and procedures for financial need; evaluate entire liability (draft rule-in senate bill has been negotiated). If legislature does not pass; look at in rule.

▶ Dan Kelley/Consultant: Look at all sites to determine need of eligibility. Does liability of claim get included in eligibility? Eligibility needs have been drafted for legislation. Appears to be a vacuum of misunderstanding. Pat Nowack offered clarification of issue and provided a portion of the rule.

UST Policy Commission Meeting

March 18, 1999

Page 4

*This subject will be placed on agenda for further discussion at the next meeting as well as how to handle issues which are presented to members at the meeting.

▶ Documents should be provided for public when attending meetings or make them available when requested.

• **NEXT MEETING**

▶ Next meeting is scheduled for April 15, 1999 from 1:00-4:00, Rm. 1710

• **ADJOURN** - Meeting adjourned at 10:48 a.m.

Prepared by:

Darlene Delde 6/24/99
Darlene Delde, UST & Program Support Admin. Assistant

Approved By:

Mike O'Hara by msab 6/24/99
Mike O'Hara, Vice Chairperson for Myron Smith, Chairperson

UST POLICY COMMISSION MEETING
MARCH 18, 1999 8:30 a.m. --NOON
LOCATION: PHOENIX CORPORATE CENTER, AUDITORIUM
3003 NORTH CENTRAL AVENUE
PHOENIX, ARIZONA

1. Opening Comments
2. Approval of Minutes of Previous Meeting
3. Administrative Issues
4. Financial Subcommittee Report-Regulatory Account Shortfall
 - a) Report, Recommendations and Discussions
 - b) Call to the Public
 - c) Vote on Recommendations
5. Break: 15 Minutes
6. Technical Subcommittee-Corrective Action Plan Guidance Document
 - a) Report and Discussions
7. ADEQ Rules, Policy/Guidance Packages
 - a) Time Frames and Licenses
 - b) SAF
 - c) RBCA
 - d) Pre-approval Process
8. Legislative Issues
9. Open Topics
 - a) Debra Margraf/ AZ. Auto Letter
10. Call to the Public
11. Next Meeting Agenda, Date, Location, and Time
12. Adjourn

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting Darlene Dekle at 207-4324. Request should be made as early as possible to allow time to arrange the accommodation.

UST POLICY COMMISSION MEETING
APRIL 15, 1999 1:30 pm—4:30 pm
LOCATION: ADEQ ROOM 1709
3033 NORTH CENTRAL AVENUE
PHOENIX, AZ.

1. Opening Comments
2. Approval of Minutes of previous meeting
3. Administrative Issues
4. Technical Subcommittee - Corrective Action Plan Guidance Document
 - a) Report, Recommendations and Discussions
 - b) Call to the Public
 - c) Vote on Recommendations
5. Break: 15 Minutes
6. Financial Subcommittee
7. ADEQ Rule, Policy/Guidance Packages
 - a) Time frames and Licenses
 - b) SAF
 - c) RBCA
 - d) others
8. Legislative issues
9. Open Topics
 - a) SRL for MTBE protective of Groundwater
 - b) SW-846 Method 5035, viability and/or necessity of SW-846 Method 5035 in Arizona
10. Call to the Public
11. Next Meeting Agenda, Date, Location, and Time
12. Adjourn

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting Darlene Dekle at 207-4324. Requests should be made as early as possible to allow time to arrange the accommodation.

MINUTES OF THE APRIL 15, 1999 MEETING OF THE UST POLICY COMMISSION

BOARD MEMBERS IN ATTENDANCE:

Roger Beal
Jean Calhoun
Elijah Cardon
Michael Denby
Theresa Foster
Harold Gill
Myron Smith
Matthew Ortega
Ed Truman

BOARD MEMBERS ABSENT:

Mike O'Hara
Karen Holloway-Environmental

OPENING COMMENTS

- Chairperson Myron W. Smith welcomed Policy Commission Members and public to the UST Policy Commission Meeting.

APPROVAL OF MINUTES OF PREVIOUS MEETING

- Approval of the Minutes of the previous meeting (March 8) have been postponed until the next meeting. Mike O'Hara chaired the previous meeting and is not in attendance today.

ADMINISTRATIVE ISSUES

- Patricia Nowack has received 1 reimbursement claim from commission members. Members were asked to submit their claims on a quarterly basis. A W-9 form is required and was distributed to all members and should be returned with their first claim.

Several commission members' terms will expire at the end of May. Do we know the procedure for renewal? Al Johnson (UST Ombudsman) will follow-up on the process to find the proper procedure for reappointment/renomination. A letter will then be sent to the Governor to request reappointment of the terms for those members. Do we need to post member vacancy?

- Need procedures for letters, questions, or items from public. Assume that they should be addressed to UST Policy Commission chairperson. It is advisable that public should submit 2 weeks prior to meeting. Chair will distribute to members. If contributor is not present, items submitted will be tabled for next meeting.

- * Jean Calhoun left the meeting at 2:00 p.m.
- Ethics training may be taken during the tenure of the appointment for the commission member. Office of Excellence in Government will conduct training one week from Friday. Training for Boards and Commissions will be held from 8-12 a.m. and Ethics training from 1-3 p.m. All members are encouraged to take the April 23 training.

A separate Ethics Training class will be held on May 20, 26, and June 17 from 1:00-5:00 p.m. at 1616 W. Adams. You may contact Debbie Shelton at 542-5916 for information or to register for classes.

TECHNICAL SUB-COMMITTEE CORRECTIVE ACTION PLAN GUIDANCE DOCUMENT

Hal Gil submitted letter to Myron Smith regarding *Recommendations* discussed at the UST Technical Sub-committee meetings.

- a) During the course of the three meetings, the Corrective Action Plan Guidance Document was reviewed page by page. Changes made in this document were outlined in the letter to Myron Smith.

Changes were made to the Guidance Document where there was a general disagreement with the language. Other changes were made by moving language around in the document to make it more accurate and eliminating language that was redundant or unnecessary.

Under the section "Public Participation", comments were made regarding soil only sites and CAPS. The CFR requires public notice when the department requires a CAP. Technical sub-committee should discuss a soil-only guidance.

Myron tabled paragraph in first bullet back to the technical sub-committee for further discussion. There was no change in the second and third bullets. The fourth bullet and the 4 sub-bullets should be stricken.

Appendix A: CAP vs RAP is to be removed.

Discussion regarding the GPL for MTBE to be tabled for later discussion.

Appendix D: No change on Section I; Section II-Definition of "Source" *Recommendation* that definition be developed.

Section IV- Recommend that language be changed

Section VII-Recommend that language be changed

- b) Comment from Dan Kelley: GPL for MTBE process takes too long; need to deal with it now.
- c) Myron Smith made motion to accept recommendations as corrected and amended. The motion was seconded by Elijah Cardon. All in favor.

FINANCIAL SUB-COMMITTEE

- SAF phase-out; need to move ahead with further recommendations; determine long term solution.
- * Ed Truman (UST Policy Commission Member) arrived at 3:45 p.m.
- Vote on rules package - go to financial sub-committee
- There will be a meeting on GRRC the first Tuesday of June.

LEGISLATIVE ISSUES

- Money for regulatory account is in SB 1381. Consensus between ADEQ and chamber regarding changes to the bill. Bill could be heard on house floor at any time.
- Legislative session will continue for a few more weeks. The 120 days (regular session) is up today.

OPEN TOPICS

- a) Request from Hal Gill that discussion with ADEQ of SRL to MTBE truly protective of ground water. SRL not necessarily protective of groundwater.

There is a need to find ways to develop a GPL for MTBE; take care of problem while in soil before it reaches ground water.

All members of the commission were encouraged to attend the MTBE meeting in May.

- b) How EPA SW-846 is required. This will be referred as an agenda item to the technical sub-committee. ADEQ is drafting policy on use of this method.

Method 5030 (b) no longer refers to soil in preparation of volatile; 5035 soils for volatile analysis. (Technical sub-committee will work with ADEQ & ADHS)

CALL TO PUBLIC

Policy Commission members unable to attend the May 6, MTBE Stakeholders meeting - please advise.

Sub-committees - who provides information

Minutes of meetings will be placed on website for public when finalized.

Coordination within ADEQ - Need to have Air Quality involved in discussion. Should invite them to meeting. A letter should be sent detailing why they should be involved.

- * Place Air Quality on next agenda. Request that Nancy Wrona and others attend the next UST Policy Commission Meeting.
- * Jean Calhoun returned to meeting at 4:25 p.m.

George Tsiolis distributed handout of Draft SAF Rules.

Meeting Agenda, handouts to be sent to absent commission members.

NEXT MEETING

The next UST Policy Commission Meeting will be held on May 20, from 9:00-12:00 in ADEQ Conference Room 1709

Ed Truman informed Policy Commission that he had a conflict and would be unable to attend.

ADJOURN: 4:30

UST Policy Commission Meeting Minutes
April 15, 1999
Page 4

CALL TO PUBLIC

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NEXT MEETING

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Ed Truman informed Policy Commission that he had a conflict and would be unable to attend.

ADJOURN: 4:30

Recorder:

Marlene Kelle

6/24/99

yan w. [signature]

6/24/99

UST POLICY COMMISSION MEETING
MAY 20, 1999 9:00 am—12:00 noon
LOCATION: ADEQ ROOM 1709
3033 NORTH CENTRAL AVENUE
PHOENIX, AZ.

- 1: Opening Comments
- 2: Approval of Minutes of previous meeting
- 3: Administrative Issues
- 4: Open Topics
- 5: Technical Sub-committee
- 6: BREAK: 15 Minutes
- 7: Financial Sub-committee
- 8: ADEQ Rule, Policy/Guidance Packages
 - a) Time frames and Licenses
 - b) SAF
 - c) RBCA
 - d) others
- 9: Legislative issues and updates
- 10: Call to the Public
- 11: Next Meeting Agenda, Date, Location, and Time
- 12: Adjourn

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting Darlene Dekle at 207-4324. Requests should be made as early as possible to allow time to arrange the accommodation.

MINUTES OF THE MAY 20, 1999 MEETING OF THE UST POLICY COMMISSION

BOARD MEMBERS IN ATTENDANCE:

Roger Beal
Phil McNeely for Jean Calhoun
Elijah Cardon
Harold Gill
Myron Smith
Matthew Ortega

BOARD MEMBERS ABSENT:

Mike O'Hara
Karen Holloway-Environmental
Ed Truman
Theresa Foster
Mike Denby

OPENING COMMENTS

- Chairperson Myron W. Smith welcomed Policy Commission Members and public to the UST Policy Commission Meeting.

APPROVAL OF MINUTES OF PREVIOUS MEETING

- Minutes of the previous meetings (March 18 and April 15) will be submitted for approval at the next meeting. A quorum was not present to vote on approval of minutes. Mike O'Hara chaired the March 18 meeting and is not in attendance today.

ADMINISTRATIVE ISSUES

- Ethics Training is available and encouraged for those members who have not received training. Myron Smith will acquire a training schedule and submit to all board members for training later in the year.

OPEN TOPICS

- During the last couple of months the State Assurance Fund (SAF) has gone through a 3-phase pre approval project completing phases 1 and 2 which has freed up about \$7 million to pay ranked SAF claims. Phase 3 will be completed in the next couple of months. During this time frame, funds will be unencumbered as process goes along.

Approximately 80 claims per month are received which includes both Maricopa and non-Maricopa. No large increases or decreases are anticipated in the next year or two, therefore with about \$4 million/month in claims, about \$2 million/month in revenues come in putting us \$2 million/month further behind in obligations to the fund.

It would take about 4 ½ years to pay off existing claims if no other claims are received from this day forward. Tank owners/operators who have not upgraded their tanks by June 30, 2000 will receive only 50% eligibility to the SAF. This would encourage owners/operators to seek other funding for corrective action on their own.

There is a strong need to re-focus on the 6 commission mandates in ARS §49-1092. A report will be sent to Governor (due by December), and recommendations will be due on these mandate items in the October time frame for the final report. Committee should start working on report and evaluate each item with time frame.

Need to look at cost ceiling in SB 1381 (broad-based cost ceiling). The next meeting will be held on May 25 at 9:00 a.m. in Rm. 1706. All interested persons are invited to come and participate.

TECHNICAL SUB-COMMITTEE

- Completed recommendations to CAP Guidance, Myron will draft a cover letter when submitting recommendations, possible next week.

FINANCIAL SUB-COMMITTEE

- Sub-committee will look at SAF rule package and vote on the recommendations at the next UST Policy Commission Meeting.

Sub-committee will look at the 6 commission mandates in ARS §49-1092.

Need to come up with permanent solution for the Regulatory Account Shortfall.

ADEQ Rule, Policy/Guidance Packages

- Financial Sub-committee should meet to make recommendation to vote on SAF Rule.

RBCA - actually LUST Corrective Action Rules, which include more than just RBCA; available to distribute in June.

Comments on Rules Package - Financial Sub-committee to submit recommendation in draft form one week before the next UST Policy Commission Meeting.

LEGISLATIVE ISSUES AND UPDATES

- SB 1196 - passed at Legislature with some revisions related to appropriations to SAF fund; regulatory account adequately funded for the next fiscal year 2000.
- SB 1381 - UST Bill passed and signed by governor. The amount of \$500,000 was granted to the UST Policy Commission to study characteristics of regulated substances, phases, etc. These funds will

CALL TO THE PUBLIC

- Debra Margraf of the AZ Auto Assoc. was interested in seeing that the UST Policy Commission Meetings and Sub-Committee Meetings get placed in the DEQ Newsletter, so that more people in the regulated community are aware of the meeting dates and times.

Ron Kern responded by stating that we presently have a vacancy within the UST Customer Service area, therefore the newsletter is not currently going out. Once the newsletter goes out, it will contain the information regarding the meetings.

It was recommended that the \$'s allotted for the study be placed on the agenda in all future meetings for discussion and updates.

Sub-committees will vote on recommendations and bring back vote on vendors interested in making a bid to assist in the study. A third sub-committee will be formed to deal specifically with the allotted dollars and to deal with the procurement process for vendor selection for the scope of work and cost for this study.

If it is determined that the study is outside scope of state contractors then a recommendation may be made to procurement to add name of vendors to list.

It would be beneficial to invite the procurement supervisor to the next meeting to give a run down on the process and procedure associated with the bidding process.

Roger Beal asked that he be made aware of issues, particularly problematic ones discussed at the sub-committees (what works, what doesn't, how to make it better).

NEXT MEETING

The next UST Policy Commission Meeting will be held on June 17, from 9:00-12:00 in ADEQ Conference Room 1709

ADJOURN: 10:15 a.m.

Prepared by:

Darlene Dekle 6/24/99
Darlene Dekle, UST & Program Support Administrative Assistant

Approved by:

Myron W. Smith 6/24/99
Myron Smith, Chairperson

UST POLICY COMMISSION MEETING
JUNE 22, 1999 1:00 pm—4:00 pm
LOCATION: ADEQ ROOM 1710
3033 NORTH CENTRAL AVENUE
PHOENIX, AZ.

- 1: Opening Comments
- 2: Approval of Minutes of Previous Meetings
- 3: Administrative Issues
- 4: Open Topics
- 5: Technical Sub-committee
Vote on Interagency Service Agreement with ADEQ
Vote on Conceptual Design for the Technical Study
- 6: BREAK: 15 Minutes
- 7: Financial Sub-committee
- 8: Call to the Public
- 9: Next Meeting Agenda, Date, Location, and Time
- 10: Adjourn

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting Darlene Dekle at 207-4324. Requests should be made as early as possible to allow time to arrange the accommodation.

MINUTES OF THE JUNE 22, 1999 MEETING OF THE UST POLICY COMMISSION

BOARD MEMBERS IN ATTENDANCE:

Roger Beal
Jean Calhoun
Harold Gill
Myron Smith
Theresa Foster
Ed Truman
Mike O'Hara
Mike Denby

BOARD MEMBERS ABSENT:

Matt Ortega
Karen Holloway
Elijah Cardon

OPENING COMMENTS

- Chairperson Myron W. Smith welcomed Policy Commission Members and public to the UST Policy Commission Meeting.

APPROVAL OF MINUTES OF PREVIOUS MEETING

- Members of the Policy Commission reviewed the minutes from the March 18, April 15 and May 20 meetings. These minutes from all three meetings were approved with changes.

ADMINISTRATIVE ISSUES

- No discussion

OPEN TOPICS

- The Technical Sub-committee chairperson will send a letter to Nancy Wrona, (Air Quality) and the AZ. Department of Water Resources (ADWR) to request their attendance at the next UST Policy Commission Meeting.
- A staff member from the Chamber of Commerce asked permission and distributed a handout (decision paper) to UST Policy Commission members. Members would like to receive handouts before hand so they have time to review and make comments at meetings. There is a protocol for distributing handouts which was brought up and agreed (voted) upon at the April meeting.

TECHNICAL SUB-COMMITTEE

- Vote on Interagency Service Agreement with ADEQ - hold for discussion of draft ISA. Kathleen Dougherty of Contracts/Procurement will work with commission to hire consultant(s). (Handout was

distributed). Need to know the purpose of the study in order to give direction to person(s) contracted to complete the study. SB 1381 - Committee may contact most appropriate to do an ISA between commission and procurement; defining roles. Kathleen Dougherty will discuss with Hal Gill and a letter will be sent to state procurement office. *The vote will be tabled for the next meeting.*

- Mike O'Hara requested a copy of the legislation that mandates the study.
- It was recommended that the policy commission members vote on the actual scope of work and the final list of recommendations for hiring the consultant at the July 21 meeting.
- The chairman discussed the hiring of a consultant to oversee the study indicating that more than one contract would be involved. There was a great deal of concern regarding the possibility of two contracts. Specific goals should be defined, without reinventing the wheel. It is necessary to establish goals and purpose before hiring a contractor. The contractor must provide specifics on how to meet our goals. The vendor with the best methodology (part of their response) is the one who should be selected.
- More members need to attend the Technical Sub-committee meeting to provide input for continued development of the program.
- Roger Beal suggested that sub-committee meetings be held on same day as the UST Policy Commission meetings to make it easier for those traveling a further distance to attend.

Fact sheet (Facts about Study) will be brought to the next meeting for discussion.

BREAK - 2:25 p.m.

*Theresa Foster left the meeting during the break

FINANCIAL SUB-COMMITTEE

- SAF Rules Package on table since mid April. Work still in progress; ongoing issues. Comments written and will bring to next Policy Commission meeting.
- There is no deadline - have not gone to public comment.
- Regulatory Account - recommendation for funding for current year only. There is a problem for finding solution for long term funding problem. Within two months we should have recommendations to present to the Policy Commission.
- Cost ceilings - focus on methodology of numbers themselves. *Topic of next Financial Sub-committee; continued discussion.*
- Phase-out of State Assurance Fund - *open discussion for next meeting.* Recommendations to be given to Policy Commission later in the year. Need clear direction as to where state will go. SAF unable to

CALL TO THE PUBLIC

- Handout distributed to members - evaluate RFP's
- Cost Ceilings - statutory deadline (August 15) Commission has 30 day comment period. December 15 deadline. *Need to have recommendations for vote at the July 21 meeting.*
- Tasked based set of guidelines was given to Myron to be distributed to members reflecting on what they want to see. ADEQ held three meeting at which comments were requested (written) as required in statute.
- *Will look at the guideline and make recommendations for the July meeting.*

Ed Truman left the meeting at 3:00 p.m.

NEXT MEETING

The next UST Policy Commission Meeting will be held on July 21, from 9:00-12:00 in ADEQ Conference Room 1710

ADJOURN: 3:05 p.m.

Prepared by:

Darlene Dekle 7/7/99
Darlene Dekle, UST & Program Support Administrative Assistant

Approved by:

Myron W. Smith 7/6/99
Myron Smith, Chairperson

UST POLICY COMMISSION MEETING

JUNE 22, 1999 1:00 pm—4:00 pm

LOCATION: ADEQ ROOM 1710

3033 NORTH CENTRAL AVENUE

PHOENIX, AZ.

- 1: Opening Comments
- 2: Approval of Minutes of Previous Meetings
- 3: Administrative Issues
- 4: Open Topics
- 5: Technical Sub-committee
Vote on Interagency Service Agreement with ADEQ
Vote on Conceptual Design for the Technical Study
- 6: BREAK: 15 Minutes
- 7: Financial Sub-committee
- 8: Call to the Public
- 9: Next Meeting Agenda, Date, Location, and Time
- 10: Adjourn

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting Darlene Dekle at 207-4324. Requests should be made as early as possible to allow time to arrange the accommodation.

UST POLICY COMMISSION MEETING
JULY 21, 1999 1:00 pm—4:00 pm
LOCATION: ADEQ ROOM 1709
3033 NORTH CENTRAL AVENUE
PHOENIX, AZ.

- 1: Opening Comments
- 2: Approval of Minutes of Previous Meetings
- 3: Administrative Issues
 - Administrative Budget
- 4: Procurement process
 - Review of process as it relates to the groundwater study
- 5: Technical Sub-Committee
 - Review groundwater study scope of work
 - Vote on scope of work
- 6: BREAK 15 minutes
- 7: Financial Sub-Committee
 - Review SAF rule package
- 8: ADEQ Rule, Policy/Guidance Packages
 - Time Frames and Licensees
 - RBCA
 - others
- 9: Legislative issues and updates
- 10: Open topics
- 11: Call to the Public
- 12: Next Meeting Agenda, Date, Location, and Time
- 13: Adjourn

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting Darlene Dekle at 207-4324. Requests should be made as early as possible to allow time to arrange the accommodation.

MINUTES OF THE JULY 21, 1999 MEETING OF THE UST POLICY COMMISSION

BOARD MEMBERS IN ATTENDANCE:

Myron Smith
Phil McNeely for Jean Calhoun
Harold Gill
Roger Beal
Mike Denby
Karen Holloway
Elijah Cardon

BOARD MEMBERS ABSENT:

Matt Ortega
Ed Truman
Theresa Foster
Mike O'Hara

Meeting began at 1:12 p.m.

OPENING COMMENTS

- Chairperson Myron W. Smith welcomed Policy Commission Members and public to the UST Policy Commission Meeting.

APPROVAL OF MINUTES OF PREVIOUS MEETING

- Motion was made to approve the minutes of the June 22 Policy Commission Meeting by Myron, and seconded by Roger Beal. These meeting minutes were approved with changes.

ADMINISTRATIVE ISSUES

- **Administrative Budget**

The Legislature allocated \$10,000 for the UST Policy Commission in FY '99. The balance of these funds have rolled over into the new fiscal year 2000. The Commission will request another allotment of funds at the next legislative session, if the legislation feels that the commission needs them.

A portion of these funds may be used to hire a clerical person (or court reporter) to provide the meeting support and clerical responsibilities necessary for the meetings (i.e. minutes of meetings, faxes, agenda, etc). Kathleen Dougherty of Procurement will work with the UST Ombudsman to have someone in place ideally by the next meeting in August. The UST AAI has been providing the clerical support to the commission since its inception.

A copy of the schedule of meetings was distributed to commission members and emphasis was placed on adhering to the meeting arrangement.

- **Procurement Process**

Review of process as it relates to the groundwater study - Governmental Agreement: ISA or IGA (working to resolve). Commission, DEQ and SPO administrator will meet and feedback will be given to commission regarding their ability to issue procurements.

***Voting Approval for next meeting**

- ▶ technical team has done good job
- ▶ next steps - get consensus
- ▶ evaluate offers received
- ▶ conflict of interest issues (integrity of commission and study)
- ▶ committee of approximately 5 persons for contractor selection with at least 1 person from procurement (should be good judge of candidates)
- ▶ should names come to commission to be voted on?
- ▶ procurement codes are confidential, therefore may go into Executive Session for confidentiality

TECHNICAL SUB-COMMITTEE

- Determine mission, goals and scope of study; overall process. First phase will come up with true scope of work. The UST Technical Study Scope of Work (Draft Document) was distributed for review and discussion. As a result, several changes were implemented as follows:

Goals: Three of the four bullet points were revised to read:

- ▶ Compile and summarize characteristics of the LUST groundwater plumes, including but not limited to, size and rate of movement
- ▶ Identify the risk and exposure pathways (including but not limited to threatened or impacted production wells) created by the groundwater plumes
- ▶ Summarize the types of corrective actions performed at Arizona groundwater LUST sites, and assess the cost and effectiveness to date.

Karen Holloway made a motion to accept the goals as revised and Hal seconded the motion.

Scope of Work: Two of the four bullet points were revised as follows:

- ▶ Evaluate the presence of regulated substances at LUST sites with emphasis on benzene, PAHs, MTBE, 1,2-DCA and EDB
- ▶ Maintain lines of communication with UST Policy Commission at least monthly

Myron made motion to approve the changes in the scope of work and Karen seconded the motion. None opposed.

There was discussion regarding the mission statement and it was resolved that there will be two mission statements to read as follows:

- ▶ Commission Groundwater Study - *Research the documented releases of regulated substances from Underground Storage Tanks to groundwater in this state and provide data to make recommendations as appropriate to the study, to the legislature, and ADEQ to modify the existing UST program.*
- ▶ Mission Statement for Study - *To identify and develop technically defensible and statistically significant data on Arizona LUST groundwater sites, to be used by the Arizona UST Policy Commission in the pursuit of the commissions' mission statement.*

Karen Holloway made motion to accept these two mission statements and Roger Beal seconded the motion. There were none opposed.

**A list of names for the selection committee will be brought to the next UST Policy Commission Meeting for vote.*

The next technical sub-committee will be held on July 27, 1999.

Items 7, 8, 9 and 10 will be tabled for discussion at the next UST Policy Commission Meeting due to time constraints.

CALL TO THE PUBLIC

- Pat Nowack commented on the closure on cost ceilings. Financial and Technical need to come up with final definitions for SAF Cost Ceilings policy and given to members one week before the meeting for their review.

Statutory timeline for SAF Cost Ceilings are to take priority over the groundwater study.

NEXT MEETING

The next UST Policy Commission Meeting will be held on August 18, from 9:00-12:00 in ADEQ Conference Room 1706

ADJOURN: 4:05 p.m.

Prepared by:

Darlene Dekle 8/11/99
Darlene Dekle, UST & Program Support Administrative Assistant

Approved by:

Myron Smith 8/11/99
Myron Smith, Chairperson

UST POLICY COMMISSION MEETING
JULY 21, 1999 1:00 pm—4:00 pm
LOCATION: ADEQ ROOM 1709
3033 NORTH CENTRAL AVENUE
PHOENIX, AZ.

- 1: Opening Comments
- 2: Approval of Minutes of Previous Meetings
- 3: Administrative Issues
 - Administrative Budget
- 4: Procurement process
 - Review of process as it relates to the groundwater study
- 5: Technical Sub-Committee
 - Review groundwater study scope of work
 - Vote on scope of work
- 6: BREAK 15 minutes
- 7: Financial Sub-Committee
 - Review SAF rule package
- 8: ADEQ Rule, Policy/Guidance Packages
 - Time Frames and Licensees
 - RBCA
 - others
- 9: Legislative issues and updates
- 10: Open topics
- 11: Call to the Public
- 12: Next Meeting Agenda, Date, Location, and Time
- 13: Adjourn

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UST POLICY COMMISSION MEETING
AUGUST 18, 1999 9AM-12NOON
ADEQ ROOM 1706, 3033 NORTH CENTRAL AVE.
PHOENIX, AZ.

1. Opening Comments
2. Approval of Minutes of previous meeting
3. Administrative Issues
 - Administrative Budget
 - Support to Commission
4. Financial Sub-Committee
 - Review SAF cost/definitions package
 - Call to the Public
 - Vote on SAF cost/definitions
5. BREAK 15 minutes
6. Procurement Process
 - Review of process as it relates to the groundwater study
7. Technical Sub-Committee
 - Review groundwater study scope of work
8. ADEQ Rule, Policy/Guidance Packages
 - Corrective Action
 - SAF
 - Others
9. Legislative issues and updates
 - Policy Commission statute
10. Open Topics
11. Call to the Public
12. Next Meeting Agenda, Date, Location, and Time
13. Adjourn

MINUTES OF THE AUGUST 18, 1999 MEETING OF THE UST POLICY COMMISSION

BOARD MEMBERS IN ATTENDANCE:

Roger Beal
Jean Calhoun
Myron Smith
Theresa Foster
Ed Truman
Mike O'Hara
Mike Denby
Karen Holloway

BOARD MEMBERS ABSENT:

Matt Ortega
Hal Gill

OPENING COMMENTS

- The UST Policy Commission will be discussing a full agenda today and should get through the agenda items within the allotted time.

APPROVAL OF MINUTES OF PREVIOUS MEETING

- A comment was made regarding the "Mission Statement" in the minutes of the previous meeting. It was recommended that the word "to" be changed to "from" in the statement.

ADMINISTRATIVE ISSUES

- SAF Administrator provided update on UST Policy Commission budget of \$10,000. It is anticipated that the remainder of the budget (\$9,157.26 at end of FY' 1999) will be used during this fiscal year, and the Policy Commission chairperson (Myron Smith) will propose to the legislature another \$10,000 budget for next year.

The chairperson will work with Procurement to replace the UST Administrative Assistant who currently provides clerical support for the Commission.

FINANCIAL SUB-COMMITTEE

- Review of the SAF cost/definitions package
- Several comments to DEQ on SAF Rules package, however, no specific recommendations at this time.

The Rules Package continues to be developed with a target date of October for draft completion.

Several concepts to phase out the SAF were presented. Phase-out for new releases. Releases reported prior to a specified date would be grandfathered. Date of phase-out should give sufficient notice for UST owner/operator to take appropriate actions, and to acquire private insurance.

The Financial Sub-committee should have a meeting before the next UST Policy Commission Meeting regarding phasing out the SAF. Commission members would like to have an Insurance representative attend the meeting.

Three general concepts developed in the sub-committee concerning the SAF cost ceilings were:

- a. recommend ADEQ set a ceiling amount closer to the mean
- b. revising statutes and rules to revise cost ceilings less frequently (3 years); currently revised annually
- c. revise statutes and rules to allow owners/operators to have costs reviewed under the new cost ceilings; reduce appeals and administrative time; simplify review process
 - ▶ consensus of committee; guidelines/cost ceilings mechanism/means of having a higher figure potentially set

Commission would like to make recommendation for a 3 year review; get consensus on item "B"; and bring items "A and C" back to the Commission for further discussion. These items need more facts and figures before vote can be made.

There was further discussion regarding the 3 items and additional facts and figures will be discussed in the Financial Sub-committee and voted on at the next commission meeting.

Cost ceiling definitions - There are 2 sets of definitions; ADEQ's and those from the Chamber of Commerce. There will be reconciliation of both documents, and currently the sub-committee is in agreement (95%) with the definitions of the department.

The approximate 5% are unresolved and a meeting is needed to resolve these definitions. The Financial Sub-committee needs to meet one more time to compile the package and vote.

Cost survey's should be out in the next week. Technical Sub-committee needs to meet next week to finalize this issue and bring it to vote. It is critical to conduct the vote to meet the statutory deadline of September 15, 1999.

There will be a special meeting of the UST Policy Commission to discuss and vote on this one issue (Cost Ceilings)

UST Policy Commission Meeting

August 18, 1999

Page 3

- UST Regulatory Account Shortfall - Policy Commission to be proposing resolution for next legislative session.

BREAK at 10:22 a.m.

RECONVENE at 10:42 a.m.

PROCUREMENT PROCESS AND TECHNICAL SUB-COMMITTEE (Concerning Groundwater Study)

Chairperson to set-up time line for Commission vote on Scope of Work by October meeting.

ADEQ RULE, POLICY/GUIDANCE PACKAGES

Draft Corrective Action Rules are available for public comment; SAF Draft Rule Package is out for review. The Corrective Action Rule package should have informal comments (due 8/18) and formal comments due September and October with final draft to Governor's Regulatory Review Council for approval December 31.

Comments submitted after today, August 18, may not be guaranteed for review. There is frustration concerning the short time frame; comments were not solicited until July 30. Rule is available on Website and also available at the UST Reception site.

LEGISLATIVE ISSUES AND UPDATES

The UST Ombudsman distributed handout to Commission members. DEQ would like to offer assistance in developing the commission's report to the legislature.

Possible establishment of Sub-committee to write report to be presented to Legislature, Governor and Director requesting that sub-committee be established for the purpose of starting the report (Administrative Sub-committee)

The chairperson made motion to accept ADEQ's offer of assistance with the report, and Karen Holloway seconded the motion. All in favor.

Next meeting will be held on September 15, 1999 with a meeting to vote on the recommendations regarding SAF cost ceilings and definitions. Both Technical and Financial Sub-committee's need to meet as soon as possible to discuss Cost Ceiling definitions.

Just as clipped + attach - to Jean's copy P.03/03

ADEQ RULE, POLICY/GUIDANCE PACKAGES

Draft CA Rules are out for comment; SAF Draft Rule Package is out for review. The CA Rule package should have informal comments (due 8/18) and formal comments due September and October with final draft to GRCC for approval December 31.

Comments submitted after today, August 18, may not be guaranteed for review. There is frustration of short timeframe; comments were not solicited until July 30. Commission member and WPD Director, Jean Calhoun will respond in detail to comments.

Rule is available on Website and also available at the UST Reception site.

LEGISLATIVE ISSUES AND UPDATES

Policy Commission Statute - need language for this year's legislative session.

The UST Ombudsman distributed handout to Commission members. DEQ would like to offer assistance to the issues mandated with example of report format.

Possible establishment of Sub-committee to write report to be presented to legislature (Director and Governor's office) requesting that sub-committee be established for the purpose of starting the report (Administrative Sub-committee).

The chairperson made motion to accept OUS offer of assistance to set-up sub-committee, and Karen Boreway seconded the motion. All in favor.

Next meeting will be held on September 15, 1999 with a special voting session being held on September 1, 1999. Both Technical and Financial Sub-committee's need to meet ASAP for Cost Ceiling definitions.

Meeting adjourned at 11:27 AM.

Prepared by:

Christine Kabele 9/1/99

Christine Kabele, UST Program Support Administrative Assistant

Approved by:

Myron W. Smith 9/1/99

Myron Smith, Chairperson

ADEQ RULE, POLICY/GUIDANCE PACKAGES

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The chairperson made motion to accept ADEQ's offer of assistance to set-up sub-committee, and Karen Holloway seconded the motion. All in favor.

Next meeting will be held on September 15, 1999 with a special voting session being held on September 1, 1999. Both Technical and Financial Sub-committee's need to meet ASAP for Cost Ceiling definitions.

Meeting adjourned at 11:37 a.m.

Prepared by:

Darlene Dekle, UST & Program Support Administrative Assistant

Approved by:

Myron Smith, Chairperson

UST POLICY COMMISSION MEETING
AUGUST 18, 1999 9AM-12NOON
ADEQ ROOM 1706, 3033 NORTH CENTRAL AVE.
PHOENIX, AZ.

1. Opening Comments
2. Approval of Minutes of previous meeting
3. Administrative Issues
 - Administrative Budget
 - Support to Commission
4. Financial Sub-Committee
 - Review SAF cost/definitions package
 - Call to the Public
 - Vote on SAF cost/definitions
5. BREAK 15 minutes
6. Procurement Process
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11. Call to the Public
12. Next Meeting Agenda, Date, Location, and Time
13. Adjourn

**UST POLICY COMMISSION MEETING
SEPTEMBER 1, 1999 9 AM-10:30 AM.
ADEQ ROOM 1705, 3033 NORTH CENTRAL AVE.
PHOENIX, AZ.**

- 1. Opening Comments**
- 2. Discussion of State Assurance Fund Cost Ceilings**
- 3. Call to the Public**
- 4. Vote on Approval of the State Assurance Fund Cost Ceilings**
- 5. Adjourn**

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting Darlene Dekle at 207-4324. Requests should be made as early as possible to allow time to arrange the accommodation.

MINUTES OF THE SEPTEMBER 1, 1999 MEETING OF THE UST POLICY COMMISSION

BOARD MEMBERS IN ATTENDANCE:

Roger Beal
Jean Calhoun
Myron Smith
Theresa Foster
Ed Truman
Mike O'Hara
Mike Denby

BOARD MEMBERS ABSENT:

Matt Ortega
Karen Holloway

OPENING COMMENTS

- The UST Policy Commission was called to order at 9:10 a.m.

DISCUSSION OF STATE ASSURANCE FUND COST CEILINGS

- Purpose of this special session is to discuss cost definitions for 2000 Cost Ceiling survey to ADEQ and SAF.

A cover letter to Myron Smith from Hal Gill, dated August 31, 1999, outlining the two issues for discussion at this meeting, was distributed to those in attendance. These issues are Hal Gill's recommendations for development of: 1) a task for a conceptual model and; 2) a task for asphalt and concrete repairs to the site due to damage caused by activities undertaken as part of a required activity by the ADEQ.

- Discussion regarding Issue #1 - Conceptual Model needs to be clearly defined. The Conceptual Model is included in the Site Characterization Report and some members felt that it should not be included in the workplan. There was disagreement on whether or not it should become a broader task in the workplan.
- Discussion regarding Issue #2 - All required corrective actions will not have an associated cost ceiling. There were comments regarding repairs at the site when damage occurs. Discussion whether SAF funds should pay for repairs to damage caused by required drilling or if Insurance policies should pay for these damages.

ADEQ SAF does pay "reasonable and necessary" costs associated with these claims that have no cost ceilings (need documentation) "*Just because there is no cost ceiling does not mean that it will not be paid*".

UST Policy Commission Meeting
September 1, 1999
Page 2

A revised narrative for the Draft 2000 Cost Ceilings with item descriptions was distributed to all in attendance.

Motion made by Mike O'Hara to adopt conceptual model and seconded by Hal Gill; 3 in favor, 4 opposed and 1 abstained.

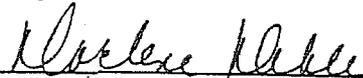
Motion by Hal Gill to include the site repair tasks and seconded by Elijah Cardon; 2 in favor, 6 opposed.

It was voted that these two items (conceptual model and site repair tasks) will not be included in cost ceilings.

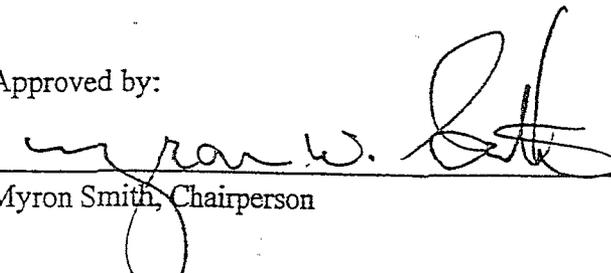
Roger Beal made a motion to vote on inclusion of facilities status meeting task. This was seconded by Elijah Cardon; 3 in favor, 4 opposed and 1 abstained. It was voted that this item will not be included in cost ceilings.

Meeting adjourned at 10:30 a.m.

Prepared by:

 9/15/99
Darlene Dekle, UST & Program Support Administrative Assistant

Approved by:

 9/15/99
Myron Smith, Chairperson

UST POLICY COMMISSION MEETING
September 15, 1999 9AM-12NOON
LOCATION: ADEQ ROOM 1709, 3033 NORTH CENTRAL AVE.
PHOENIX, AZ.

- 1: Opening Comments
- 2: Approval of Minutes of previous meeting
- 3: Administrative Issues
- 4: ADEQ SAF cost/definitions package
 - Discussions
 - Call to the Public
 - Vote on ADEQ SAF cost/definitions package
- 5: Financial Sub-Committee
 - Discussions
 - Call to the Public
 - Vote on Regulatory Account funding
 - Discussions on Cost Ceiling methodology
 - Call to the Public
 - Vote on Cost Ceiling methodology
- 6: BREAK 15 minutes
- 7: Procurement process
 - Review of process as it relates to the groundwater study
 - Selection of commission members for procurement selection/review
- 8: Technical Sub-Committee
 - Update
- 9: ADEQ Rule, Policy/Guidance Packages
 - Corrective Action
 - SAF
 - Others
- 10: Legislative issues and updates
- 11: Open Topics
- 12: Call to the Public
- 13: Next Meeting Agenda, Date, Location, and Time
- 14: Adjourn

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MINUTES OF THE SEPTEMBER 15, 1999 MEETING OF THE UST POLICY COMMISSION

BOARD MEMBERS IN ATTENDANCE:

Roger Beal
Jean Calhoun
Harold Gill
Myron Smith
Theresa Foster
Ed Truman
Mike O'Hara
Mike Denby
Matt Ortega
Karen Holloway
Elijah Cardon

OPENING COMMENTS

- Chairperson Myron W. Smith welcomed Policy Commission Members and public to the UST Policy Commission Meeting.

APPROVAL OF MINUTES OF PREVIOUS MEETING

- Minutes from the September 1, meeting (Special Session) were reviewed and approved with two changes.

ADMINISTRATIVE ISSUES

- There was discussion regarding the hiring of a Court Reporter/Recorder to take minutes of the UST Policy Commission and Sub-Committee. It was recommended by members that the minutes be limited to 2-3 pages and that they be abbreviated with high points taken. Voting issues should be detailed to explain why a vote has taken place.

A working group made up of members of the Policy Commission will meet on Thursday, September 16 to discuss compiling a report to the Legislature. Al Johnson, UST Ombudsman will post a notice of the meeting.

ADEQ SAF COST/DEFINITIONS PACKAGE

- Discussions - Concurrence on vast majority of cost ceiling definitions. Copy of the September 14 version of the Draft 2000 Cost Ceiling Item Descriptions was distributed and discussed. Hal Gil stated that the consensus of opinion from the August 12 Technical Sub-committee meeting was not reflected in the September 1, 1999 document as per his September 15, 1999 letter to Myron Smith. The contents of this letter were discussed and consensus was made on the issues presented.

BREAK - 10:00 a.m.

Reconvene 10:28

ADEQ SAF COST/DEFINITIONS PACKAGE cont'd

Consensus on the following items of the letter were discussed as follows:

Item #1	Consensus
Item #2	No consensus, question on mileage (recommendation; no travel over 60 miles)
Item #3	Consensus
Item #4	Consensus
Item #5	Consensus to not include as recommendation
Item #6	Consensus
Item #7	Consensus (task will be added at day rate)
Item #8	Consensus
Item #9	Consensus
Item #10	Consensus to delete
Item #11	Consensus to delete
Item #12	Consensus to delete
Item #13	Consensus
Item #14	Consensus to change to 8 hours

**Recommendation* that September 14 document and items of September 15 letter be incorporated.

Call to Public - Dan Kelly commented regarding the September 15th letter. Nothing should be redlined other than what is documented.

**Motion was made to accept written revisions of Hal Gil's September 15th letter and seconded by Mike O'Hara. None opposed, accepted as consensus.*

Myron Smith has prepared a letter with package (and changes) for the Director via the Division Director.

***Decision to move Item #5 of the Agenda to the end of the Agenda**

PROCUREMENT PROCESS

**Recommendation* was made for the selection of commission members to become part of the Groundwater Study with Procurement selection committee. Five commission members have agreed to volunteer for the selection committee.

Policy Commission chairperson will draft a letter to Procurement recommending that these five commission members be considered for the selection committee.

TECHNICAL SUB-COMMITTEE UPDATE

The next Technical Sub-committee meeting is scheduled for Thursday, September 23. The UST Study will be on the Agenda.

Changes or additions for the study and how to proceed will be taken to the UST Policy Commission meeting scheduled in October.

ADEQ RULE, POLICY/GUIDANCE PACKAGES

Corrective Action Rules are in circulation; comments to be taken to the Technical Sub-committee for discussion. It is important that those who understand rules be present at the meeting for discussion of the rules.

**Recommendation* that changes be presented 30 days after submittal. Formal comment period lasts until the end of November.

- The draft SAF Rule Package will be given to the Commission on or before November 17 meeting.

LEGISLATIVE ISSUES AND UPDATES

Need to start thinking about the 2000 Legislative Session. What items do we want to take to the Legislature. Letter(s) should be drafted by Commission Chairman to Budget for submission to Legislature to recommend funding to the UST Policy Commission for next year.

A list of items that the Commission is considering for inclusion in the Legislation should be drafted and brought to the October 20th UST Policy Commission meeting.

Letter will be sent to the Chamber of Commerce requesting that issues be brought and discussed at the UST Policy Commission meeting to get consensus to take to Legislature.

FINANCIAL SUB-COMMITTEE

Handout from Mike O'Hara (Chairperson Financial Sub-committee) was distributed regarding the status of the Financial Sub-committee. Three areas were discussed and a general agreement was made on the following issues. The first item for discussion was: Methodology for determining Cost Ceilings; secondly, UST Regulatory Account Shortfall, and third, Phase Out of SAF and availability of private insurance. Item #1; parts "a" (cost ceilings) & "b" (revision of statutes) were discussed. The Cost Ceilings should be reasonable and be the statistical average of the survey costs. Mike will write a letter to UST Policy Commission Chairperson Myron Smith regarding these issues.

Further review of the handout with call to the public was continued. Mike O'Hara made a motion to adopt, as written, allowing ADEQ to add or update part (b). The motion was seconded by Elijah Cardon. There were 10 approvals and 1 abstained.

Phase-out - A draft letter regarding the SAF Phase-out will be prepared for the October meeting and finalized for the November meeting to get consensus and vote before going to legislation. Phase-out

The Regulatory Account Funding - Discussed 4 funding alternatives; (a) increase fees, (b) funds from SAF revenues, (c) lobby for monies at legislature and (d) add line item in General Fund. Item (d) will be recommended to the Director since it appears this is the best way to fund the program.

***Note: Matt Ortega and Theresa Foster left the meeting.**

Mike O'Hara made a motion to vote that the UST Policy Commission supports the UST Inspections and Compliance Program. Commission supports the motion. *Vote was taken, all in favor.*

Motion was made by Mike O'Hara that ADEQ include a line item to the ADEQ budget to fund the Regulatory Account shortfall, Elijah seconded the motion; *Vote was taken, 8 in favor, 1 abstained.*

CALL TO THE PUBLIC

- No response from public

Meeting was adjourned at 12:00

Prepared by:

Darlene Dekle, UST & Program Support Administrative Assistant

Approved by:

Myron Smith, Chairperson

UST POLICY COMMISSION MEETING
October 20, 1999 9 AM -12 NOON
LOCATION: ADEQ ROOM 1709, 3033 NORTH CENTRAL AVE.
PHOENIX, AZ.

- 1: Opening Comments
- 2: Approval of Minutes of previous meeting
- 3: Administrative Issues
- 4: ADEQ Corrective Action Rules Update -
 - Speaker: Joe Drosendahl of ADEQ
- 5: Groundwater Study -
 - Speakers: John Gustafson of Equilon and Roland Mora of Chevron
 - Discussion: Scope of Work and Procedures for RFP
 - Call to the Public
 - Vote
- 6: BREAK 15 minutes
- 7: UST Policy Commission Annual Report -
 - Review and Discuss Format
 - End of Year Prioritization and Scheduling
 - Call to the Public
 - Vote
- 8: Open Topics
- 9: Call to the Public
- 10: Next Meeting Agenda, Date, Location, and Time
- 11: Adjourn

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UST POLICY COMMISSION MEETING

OCTOBER 20, 1999

9:00 A.M.

ROOM 1709

Members in Attendance:

Theresa Foster	Karen Holloway	Elijah Cardon	Harold Gill
Jean Calhoun	Matt Ortega	Mike Denby	Ed Truman
Roger Beal	Mike O'Hara, Vice Chair		

Members Absent: Myron Smith, Chair

Meeting began at 9:10 a.m.

OPENING COMMENTS:

Welcome by Mike O'Hara to ADEQ Director, Jacqueline Schafer.

Certificates of Appointment were given to members by Director Schafer on behalf of the Governor. Certificates were awarded to Theresa Foster, Elijah Cardon, and Harold Gill.

The MTBE Report went out to the Governor and is now available to the public on the web site.

An October 7, 1999 letter from the Governor was read by Director Schafer concerning MTBE. The Director will develop a plan for the Arizona Department of Environmental Quality (ADEQ) to carry out the Governor's requirements with an action plan addressing cleaner burning gasoline, Arizona's air quality and impact to ground water quality.

APPROVAL OF MINUTES:

The minutes from the September 15, 1999 meeting were approved and adopted.

ADEQ CORRECTIVE ACTION RULE UPDATE:

A presentation was made by Joe Drosendahl of ADEQ on the proposed Corrective Action Rule. Copies of the rule were available at the meeting. ADEQ is waiting on the Secretary of State's office to publish the rule in the Register. Afterwards there will be a formal public comment period. Three dates have been scheduled for oral proceedings the second week of December, 1999.

The rule was revised with the comments that were received during the informal comment period. Comments are in bold and responses are indicated in the handout. Some comments were that due dates for reports were too short. This was changed to give additional time to provide the information. Some comments were that it was unclear how risk based corrective actions (RBCA) would be implemented in rule. A preamble was drafted to explain how to use RBCA in the process

UST Policy Commission Meeting

October 20, 1999

Page 2

and how the rule relates to the process if the rules become effective. A flowchart is included in the process.

Oral proceedings will be held in Flagstaff on December 7, 1999, in Tucson on December 9, 1999 and in Phoenix on December 10, 1999. The close of the public comment period will be on December 13, 1999.

Elijah Cardon had a question on whether a formal discussion has been set for the Corrective Action Rules. He would like the UST Policy Commission to have formal discussion at the next meeting.

Harold Gill and the technical subcommittee was given the task to review the rule and comment. Elijah asked for others to be invited such as John Pearce. Harold Gill and the subcommittee will meet on Tuesday, November 2, 1999 from 9:00 a.m. to noon in room 1710 to review and discuss the rule. Harold Gill to send out invitations to stakeholders to attend.

GROUNDWATER STUDY:

Harold Gill, Al Johnson and Debra Margraf met with Senator Bowers on October 19, 1999 to present the goals and scope of work on the groundwater study to see if this would address the concerns and issues of all reviewers of the study.

Senator Bowers wanted a site specific investigation and information on the risk. Senator Bowers wants to write legislation on risk. Harold Gill needs to get back to the technical subcommittee to decide what type of study could be done to do this. Senator Bowers wants specifics but he is asking for a state wide study. We would need basin studies all over Arizona. Senator Bowers said that the legislators could be given a study on one basin and then another study could be requested for another basin. A general plume study will not say whether or not money is being spent in the right place.

Debra Margraf reiterated that Senator Bowers made it clear that he wants to know if the money is being spent correctly. Can a site wait or does it need to be cleaned up immediately? The legislature wants to know about sites and how the money is spent.

Ed Truman read from session law regarding the study. The guidance the legislature gave was limited.

Mike O'Hara stated that a goal is to look at actual legislation.

John Gustafson from Equilon had comments about RBCA implementation. How to get more bang for the buck. The key is to define what the bang is, clean up and minimize risk to water wells. He thinks that ethanol should be looked at in Arizona.

UST Policy Commission Meeting

October 20, 1999

Page 3

Roland Mora from Chevron stated that his comments parallel others today. He feels that whatever study is done here should add value to the California and Texas studies already done. His suggestion to the UST Policy Commission was:

1. make sure the study goes beyond file review,
2. study the effects of BTEX plumes and the correlation of other substances,
3. look at effects of perched aquifers and other parameters, and
4. defining the scope of the study now could be premature.

Jean Calhoun suggests a task force about this to discuss and meet to figure out the scope of work.

Mike O'Hara said to have the technical subcommittee head it and have the task force go through the subcommittee.

Harold Gill stated that the UST Policy Commission needs to come up with information to present to the legislature. He asked for a show of hands of who is interested on this issue to set up meetings. A sign up sheet was started. A suggestion was made to meet with the legislative staff and invite them to the task force.

Break about 10:10 a.m.

UST POLICY COMMISSION ANNUAL REPORT:

UST Policy Commission Annual Report given by Karen Holloway. She stated that a group looked at mandates required by the legislature. They filled in the gaps of the previous handout to tell the legislature what the UST Policy Commission has done. She hopes the report will open up discussion of things. The plan is fairly simple. The commission has worked well with stakeholders and each other to accomplish things. The group will meet once more before the November commission meeting. A draft report will be received for comments. At the November meeting copies of the report will be put out for final comment. She does not know when the next meeting will be. Give the comments to Al Johnson or Myron Smith. The report will be finalized for the December meeting.

Mike O'Hara requested new draft annual report copies from Al Johnson with comments in three weeks. Copies to be supplied on November 10, 1999.

OPEN TOPICS:

Mike O'Hara called for open topics. There were none.

UST Policy Commission Meeting

October 20, 1999

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CALL TO PUBLIC:

Mike O'Hara asked for a call to the public. Dan Kelley from Tierra Dynamic spoke. He requested that the UST Policy Commission put the 2000 Cost Ceiling Survey on the agenda for the next meeting. Dan Kelley stated that general notes on the survey were actually policy statements that were never presented to the commission for review. He stated that this was a violation of state law.

The commission agreed to put it on the next agenda.

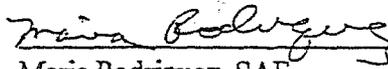
NEXT MEETING AGENDA, DATE, LOCATION, AND TIME:

The next meeting is scheduled for Wednesday, November 17, 1999 at 9:00 a.m. in room 1709.

ADJOURN:

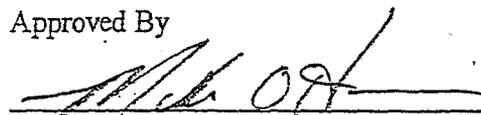
Meeting adjourned at 11:26 a.m.

Prepared By



Maria Rodriguez, SAF

Approved By



Mike O'Hara Co-Chairman (for Myron Smith)

UST POLICY COMMISSION MEETING
November 17, 1999 9 AM -12 NOON
LOCATION: ADEQ ROOM 1709, 3033 NORTH CENTRAL AVE.
PHOENIX, AZ.

- 1: Opening Comments
- 2: Approval of Minutes of previous meeting
- 3: Administrative Issues
- 4: ADEQ Corrective Action Rules Update
 - Speaker: Joe Drosendahl of ADEQ
 - Call to the Public
 - Vote on ADEQ UST Corrective Action Rule Package
- 5: Technical Subcommittee
 - SAF Cost Ceiling Description Discussion
 - * Call to the Public
 - * Vote on Commission Resolution
 - Groundwater Study Update
 - Other
- 6: BREAK 15 minutes
- 7: ADEQ Rule, Policy/Guidance Packages
Distribute Draft SAF Rules
- 8: Financial Subcommittee Update
- 9: UST Policy Commission Annual Report Discussion
- 10: Open Topics
- 11: Call to the Public
- 12: Next Meeting Agenda, Date, Location, and Time
- 13: Adjourn

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UST POLICY COMMISSION MEETING
NOVEMBER 17, 1999
9:00 A.M.
ROOM 1709

Members in Attendance:

Theresa Foster	Karen Holloway	Elijah Cardon	Harold Gill
Phil McNeely	Myron Smith, Chair	Mike Denby	Ed Truman
Roger Beal	Mike O'Hara, Vice Chair		

Members Absent: Matthew Ortega

Meeting began at 9:13 a.m.

OPENING COMMENTS:

Welcome extended to all in attendance.

APPROVAL OF MINUTES:

Myron made motion to approve minutes from the October 20, 1999 meeting. Mike O'Hara seconded the motion. The minutes were approved with corrections.

ADMINISTRATIVE ISSUES:

Letter (handout) from Myron Smith to Director Schafer regarding the Financial Sub-committee and items passed a few meetings ago. Other items mentioned in letter were Cost Ceiling Methodology, funding for Regulatory Account shortfall, etc. This information was distributed for information purposes only, and there was no discussion of this letter.

ADEQ CORRECTIVE ACTION RULES UPDATE:

Joe Drosendahl gave a slide presentation to further explain the Rule and the intent of the Rule. Some of the major topics presented are as follows:

- Mandate for Arizona RBCA
- ARS 49-1005 (portions A, D, E and F)
- What's needed in an AZ RBCA rule
- Proposed UST Rule
 - Reporting Requirements
 - List Site Classification
 - Initial Response
 - Investigations for Risk-based responses to COCs
- Purpose for Site Characterization Report Contents

- How to determine appropriate tier corrective action standard

Jeanene Hanley of ADEQ described the three tiered corrective action standard. Some discussion took place regarding the tier process; Mike Denby wants to know where the numbers in the tiers come from. Elijah Cardon asked who makes determination as to which tier the property falls under, and are each of the tiers available for reimbursement?

Call to Public (CA Rules):

Several public comments are as follows:

- ▶ Concern for required deadlines on sites that are the exception or on difficult sites. Opposition to Rules as written.
- ▶ Many owners/operators have little knowledge of the rules and feel that they are too detailed (155 definitions) and many others are vague. Confusion as to the application of the Rule. An array of reporting requirements now exist that did not previously exist and that there are too many reporting requirements.
- ▶ Urged ADEQ to slow it down. Deadlines can be changed.
- ▶ Regulated community feels overwhelmed because Rules are not simple to comprehend. Not enough time for everyone to digest and comment by the deadline.
- ▶ Rules should have been brought to the UST Policy Commission to have the opportunity to input into the creation of the Rules.

BREAK: 11:20 a.m.

RECONVENED 11:27 a.m.

Ed Truman made a motion to postpone the vote on the Corrective Action Rule until the next meeting. Phil McNeely seconded the motion after commenting that ADEQ is willing to meet with stakeholders and others. He also stated that no written comments have been received during this formal comment period.

Hal Gill commented that all of the detail in the rule is not enforceable. Does not see how all his concerns regarding the rule, can be addressed even if the vote is postponed.

Myron Smith asked that a vote be taken to postpone the vote on the Rules. The vote resulted in 5 (Phil McNeely, Teresa Foster, Mike Denby, Ed Truman, and Karen Holloway) in favor and 5 (Roger Beal, Hal Gill, Myron Smith, Mike O'Hara and Elijah Cardon) against.

Mike Denby and Ed Truman both recapped their reasons for their decisions on the vote. Myron Smith does not want to postpone but rather to see a solution.

Ed Truman rephrased his original motion to postpone the vote on the proposed Corrective Action Rules, pending review of formal comments and ADEQ responses, plus emphasizing that by keeping this as an open agenda item, the Policy Commission could continue its involvement regarding recommendations on the proposed rules.

Roger Beal expressed concern about the rules, feels that there is a need to re-think the rule package.

Elijah Cardon commented that the rules as they exist are not acceptable and asked that a motion be made not to postpone the vote.

An amended vote was taken (vote to amend motion); 9 in favor, 1 opposed (Elijah Cardon).

TECHNICAL SUB-COMMITTEE:

Brief discussion of Phil McNeely's letter, dated November 16, 1999, to Myron Smith. It was recommended to remove the phrase "but are not limited to" from the definition of the Project Management.

Revising the definition of *Project Management* could affect the survey results, therefore, it will be necessary to go out and re-survey the 26 consultants who responded to the survey.

The clarification of the two item descriptions "SAF Bid Process" and "Mark-up on Contracted Work" as presented in the letter were discussed.

Phil McNeely made a motion to redefine "Project Management" and to vote on the recommendations presented in the letter; Hal seconded the motion.

The vote was unanimous (Ed Truman was temporarily out of the room and did not vote) in favor of proposal.

There were no public or additional comments, and the remainder of the Agenda items will be tabled for discussion at the next UST Policy Commission Meeting.

UST Policy Commission Meeting
November 17, 1999
Page 4

NEXT MEETING AGENDA, DATE, LOCATION, AND TIME:

The next meeting will be held on December 15 at 9:00 a.m. in Room 1709.

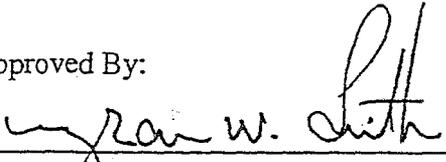
ADJOURN:

Meeting Adjourned at 12:20 p.m.

Prepared By:

Darlene Dekle, UST Administrative Assistant

Approved By:



Myron Smith, Chairperson

UST POLICY COMMISSION MEETING
December 16, 1999 9 AM - 12 NOON
LOCATION: ADEQ ROOM 1710, 3033 NORTH CENTRAL AVE.
PHOENIX, AZ.

- 1: Opening Comments
- 2: Approval of Minutes of previous meeting
- 3: Administrative Issues
 - Annual Report
- 4: ADEQ UST Corrective Action Rule Package
 - Discussions
 - Call to the Public
 - Vote on ADEQ UST Corrective Action Rule package
- 5: Technical Sub-Committee
 - Updates
- 6: BREAK 15 minutes
- 7: Financial Sub-Committee
 - Updates
- 8: ADEQ Rule, Policy/Guidance Packages
 - SAF
 - Others
- 9: Legislative Issues
- 10: Open Topics
- 11: Call to the Public
- 12: Next Meeting Agenda, Date, Location, and Time
- 13: Adjourn

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UST POLICY COMMISSION MEETING
DECEMBER 16, 1999
9:00 A.M.
ROOM 1710

Members in Attendance:

Myron Smith, Chair	Mike O'Hara, Vice Chair	Elijah Cardon	Harold Gill
Theresa Foster	Karen Holloway	Roger Beal	
Matt Ortega	Mike Denby	Phil McNeely (for Jean Calhoun)	

Members Absent:

Jean Calhoun and Ed Truman

Meeting began at 9:15 a.m. with call to order and welcome by Myron Smith.

APPROVAL OF MINUTES:

Approval of minutes from the last meeting was postponed until next meeting in January, 2000. Copies of the UST Policy Commission meeting minutes were not available for review due to the scribe's absence.

ADMINISTRATIVE ISSUES:

Myron distributed copies of the draft Annual Report to commission members with some of his revisions. The Annual Report was also e-mailed to the members. He also asked the members on the e-mail to have comments or changes back to him by Wednesday, December 22, so that he can finalize it and move it on by the end of the year. Thank you to Al Johnson for the work done on the draft report. Comments or questions were requested before the next agenda item.

Theresa Foster commented on draft report Appendix Item #5 regarding preapproval. Pre-approval has never been mandatory.

Myron Smith also commented that on the title UST Advisory Committee Recommendation he added "made in 1997" so that the people who read this are very clear that it is not the current commission.

A brief discussion ensued by Mike Denby, Patricia Nowack, and Theresa Foster as to whether or not preapprovals had ever been mandatory. Al Johnson stated that they can look again at that item. Myron concurred that item #5 would be looked at again and asked for any other comments.

Karen Holloway suggested that language should be in the cover letter complementing the legislature about their selection and how well the composition of the board has worked together. Myron agreed and asked Karen to draft a paragraph for him. Myron agreed and explained that Martha's answer gives them a time line in which to get the rules reviewed and told the commission to be prepared to

UST Policy Commission Meeting
December 16, 1999
Page 2

discuss them at the February meeting.

Mike O'Hara addressed page 6 part 4 subsection E on two recommendations that the financial subcommittee recommended related to cost ceilings. One revision was to change the annual requirement to a tri-annual requirement (i.e. once every 3 years). The other was methodology selection of mean or medium. He requested that the commission continue to look at the report and give him changes and he will get it out on time.

Myron moved on to the next item which was a handout announcing the SAF Rules meetings. He confirmed that the commission members had copies of the rules. He encouraged everyone to attend a meeting. He asked Patricia Nowack if there was a time frame for the rules.

Patricia Nowack answered that she would like the Policy Commission to comment and vote on the rules by February, 2000 before beginning the process.

Myron agreed that the commission would vote on the rule and then asked when they would go out for formal comment. Probably March for formal comment and then to GRRC.

Patricia deferred the answer to rule development. Martha Seaman (ADEC Rule Development) had just stepped in and confirmed the process.

Myron reiterated the steps in the process and asked if it was 30 days for formal comment.

Martha said that there is a minimum of 30 days, but a longer comment period can be established if someone wished. She explained the process again.

Myron agreed and explained that Martha's answer gives them a time line in which to get the rules reviewed and Myron told the commission to be prepared to discuss them at the February meeting.

He suggested that they move on to item #4 which was the Corrective Action Rule package that is currently out. Myron opened it up to discussion to commission members. It was discussed at length at the last meeting, and the commission voted to postpone the vote on how to proceed with the rules; whether to support or not to support them and whether any motions were needed to clarify the commissions' position to GRRC.

ADEC UST CORRECTIVE ACTION RULE PACKAGE:

Phil McNeely stated that he distributed a letter from ADEC. The comment period ended December 13. Oral proceedings were held in Flagstaff, Tucson and Phoenix, December 7, 9 and 10 respectively. Oral and written comments were received and looked at. Major issues are the level

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of detail in the rules, the deadlines, reporting requirements, and the actual process of the risk based corrective action. The ADEQ recognized the significant stakeholder interest and interest in the response to the issues raised. The ADEQ still considers it essential to meet statutory obligations of getting the rules to GRRRC by December 31 of this year. ADEQ is proposing to submit the rules to GRRRC by December 31 with a request to GRRRC to delay consideration of the rule package for one month, which means that GRRRC will not review it until the April 4, 2000 meeting. That would allow the Policy Commission to hold special meetings and discuss the rule package. Phil requested that the commission defer taking a vote on the position until after the January and February meetings.

Elijah Cardon commented that there has been significant and intense stakeholder discussion of the rules as they currently exist. He stated that there were others in the room that would like to speak. Elijah made several specific observations. First, it has been felt that there was not sufficient stakeholder involvement in the preparation of the rules as they currently exist; secondly that the rules as they exist, are seriously flawed for many reasons; and third, for the commission to postpone action on taking a position with respect to these rules would simply add support to the concept of the preparation of these rules without stakeholder input. He suggested that the commission consider taking the position of not supporting the rule package and specifically require, in the scope of the commission's authority, that a re-run of the rule be taken from ground zero with stakeholder input in the preparation.

Michael Denby said that he would like to see a recommendation from the commission on Elijah's tone but also giving the department what it needs as well. Mike stated that he would like to see a recommendation that the commission recommend to the department that the department continue to work on the rules versus voting up or down. He would like the department to continue to work on the rules and open them up to stakeholder input such that the department is not caught in a "catch 22" of rejecting the commission's recommendation to be able to continue through the process.

Elijah asked if the process can be reopened once it has gone to the Secretary of State. He then asked if the informal comment period has closed, can the rules be substantially reworked?

Mike Denby stated that the issue was one that the department would have to address. If the rules are reworked and there is a substantial change, the department would have to renounce.

Elijah said that the problem with Mike's input, as he understands it, is that the committee acquiesce with respect to the rules. He takes strong exception to a comment made in the last meeting that by the commission taking a position that they do not support the rule that it would in any way shut off the discussion of the rules or that it modifies any chance that the commission may have to continue with the rules. It would be sad if the commission did not clearly, simply state what the stakeholders position is and support the stakeholders position. Elijah stated that he does

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not know of anyone other than department officials that are not incensed at not having input in the preparation of the rules. He suggests that the commission reject the rules and take exception with the manner in which the rules were prepared. He would like to have input from ground zero.

Mike Denby stated that he does not disagree that the commission should comment on the nature of the rulemaking and whether it is agreed upon that the rulemaking is inadequate. Instead of voting up or down Mike suggests that the commission agree that the rules are a work in progress and that the process needs to continue not recommend whether or not the commission agrees or disagrees with the rule.

Elijah stated that the rules as they exist are flawed. He suggests that the rules be rejected and another rulemaking be requested.

Mike O'Hara asked for clarification if the problem is that there is not enough time to take in all the rule comments, is more time needed to revise them or is it a question of whether there are significant differences in the rules themselves such that more time will not make much difference. Mike asked if it was a question of issue or a question of time.

Elijah then stated that John Pearce was in the room with a written report that would demonstrate that there is a clear basic difference with respect to the rules of what should go into the rules and how.

Phil McNeely commented that nobody knows what the revised rule package looks like right now. Many comments have been received. The rules are being revised based on these comments. To vote down a rule package that has not even been seen does not make much sense. Phil stated that the department is willing to work with the stakeholders to revise the rule package. Allowing January and February to work on the rule package and get the stakeholder involvement does not hurt the Policy Commission. GRRC will not review the rule package until April. There is plenty of time to vote up or down. The department is working on the rule package based on statute and comments. There is no reason to start from scratch. The agency, the regulators and the stakeholders want RBCA in this state. That is what this rule package does. We all want the same thing and January and February will give us the time to go over the issues.

Myron Smith commented that there are two parts to this. Yes, there is a current rule package that has been reviewed by all. Yes, there is a revised edition coming out. The commission can always revise the vote down the line. He saw a combination of possibilities. Voting on the current rule package and making a recommendation from the commission to the Director and GRRC outlining Phil's letter that the rule is a work in progress and please withhold consideration until the April meeting. There will be more stakeholder input and more corrections.

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Elijah responded that he hoped and looked forward to the department would be more responsive to suggestions that have been made and are being made. He believes that the issue is the current rule as it has been promulgated. He believes the stakeholders are not in favor of the way the rule package was promulgated.

Myron asked for any other comments from the commission and recognized Roger Beal.

Roger stated that he thinks it is important that if the commission was going to have a submittal to GRRC on the rules at this time then the commission should have a position be known. I am willing to say that we will revisit the issue after the changes have been made. The commission has an action here rather than not take a position considering Mr. McNeely's letter the commission needs to take a stand. He thinks the commission needs to put some weight behind extending the date and have the rule revisited. Everyone has valid points. The rules are what has been circulating and they are going to be submitted. The commission needs to take a stand even if the rules are being changed substantially and support the changes unless someone gives a reason why the commission should not. A vote would add credibility to the request for more time.

Myron recognized Mike Denby.

Mike Denby thinks Roger's, Elijah's and the department's ideas should be incorporated to say that the commission take a firm position on the rules that the rules are not worthy today and the commission feels that the process needs to continue. Voting to kill the rule is not any different if the process continues. If the process continues the rule will change. Part of the process is to hammer out outstanding issues. His understanding of the Corrective Action rules is that conceptually the rules are there but the specifics are not. It does not seem logical for the commission to say they disagree with the rules and leave it at that versus the commission does not feel that the rules are acceptable at this stage and the commission feels that the process needs to continue.

Elijah said that his comment is an attempt to define more clearly where the commission is coming from. He would feel very comfortable with stating that the rules are unacceptable and define specifically the general nature of the problem and identify the basic flaws. He would like to redo the format.

Myron asked for any other comments and recognized Theresa Foster.

Theresa is concerned that even though the commission is appointed by the Governor it would make a recommendation to the Governor that would make ADEQ not be in full compliance with state statute, but she does not understand how to tell ADEQ not to follow the regulations. The other side is that the rules have problems; all rules have problems. They will never be perfect and will be

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weeded out over time. The groups that have met to go over the rules have an opinion that needs to be heard but the general public needs to be heard too. The commission does not hear a lot of the general public coming forward and disagreeing or agreeing. She also stated that she thinks the general public wants to see some deadlines. The public wants to see something that is enforceable, not policy or guidelines. We as a commission should work not only in our backgrounds but consider what the citizens of the state would like.

Myron asked for any other comments.

Phil McNeely stated that not supporting a vote right now does not do any good for anybody. The department wants to continue to work with the rule package. This package was submitted November 5th. October would have the time to review before submitting it. We could argue you did not have enough time to review it. Doing it now really serves no purpose besides being confrontational with the department. We are trying to work with the commission and be consensus building. That is what we want this rule to be so I see no reason to vote it down. Especially since, the department was advising the commission. You are voting on something that is two months old. The department will have a new rule. Then you can vote it down if you don't like it in February.

Myron acknowledged Mike Denby.

Mike stated that if the commission is going to be in agreement that the rule needs to be reworked or continue to be exposed to the stakeholder process, the commission should establish for the record the reason for that process to continue. Which is the rule, as it stands today, does not do what it should do. It doesn't satisfy the people. Mike Denby thinks there needs to be a two part process. He suggested that yes, the latest rules don't meet the commission's threshold and the commission thinks the process should be continued.

Myron asked for any other comments. Elijah spoke.

Elijah stated that he is a citizen. All the people in the industry are citizens. He believes that the citizens have been represented. He understood that he sat on the board representing the citizens. He believes the citizens voice is being heard.

Myron opened the meeting up for public comment. He acknowledged John Pearce.

John Pearce asked if somebody can stand up and explain what will happen with the rule. He understood that the rule will go through a second thirty days and then be submitted for adoption by the Director of ADEQ. I think someone needs to stand up and outline exactly how the process works.

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Myron acknowledged Martha Seaman.

Martha Seaman identified herself as the manager of the Rules Development Section and explained the process. She explained that the rule comment period had just closed. She stated that comments that were received are evaluated in preparing the package to go to the Governor's Regulatory Review Council (GRRRC). As Phil mentioned, the agency has been mandated to promulgate the rule by December 31. After the rule gets submitted to GRRRC, it is under their jurisdiction for processing. The agency submits all the information to GRRRC including all the comments that have been critical of the agency. The agency is in the midst of considering all the comments and making changes. The agency has a mandate to consider all comments and make changes when appropriate. A notice of supplemental rulemaking can be submitted. Which means that the rule has to be changed enough that a portion or any portion of the rule can be put out for public comment again. This is a work in progress. We are in a stage where there is nothing to respond to yet except for the notice of proposed rulemaking for which we have received critical comments.

John Pearce asked if the Director adopts the rule.

Martha answered that the Director must take an action to submit the rule to GRRRC. She is briefed and the rule is signed and she says this is what the DEQ submits to GRRRC.

John Pearce said that is the problem with what is being discussed. The Policy Commission is charged with making recommendations to the Director. He suggested that the commission must make a comment to the Director before the Director adopts these rules. If the commission does not do it, Mr. Pearce thinks the commission is making a big mistake. There is no time to wait and have another Policy Commission meeting to discuss whatever it is going to recommend. It would be too late. The rule would be adopted by the Director. In doing so the Director would stamp approve the rules and the agency submits them to GRRRC. There would be no further opportunity for the Policy Commission to comment. The time is now for the commission to comment on the rule. John Pearce voiced his appreciation that DEQ recognized the concerns on the rules and that DEQ wants to work on the rules. The issue is whether the commission should adopt Phil McNeely's idea of commenting that the rules are in progress or something more. All that is being looked at are the rules as proposed and what will be adopted and that is how they will be submitted to GRRRC. The commission should make a recommendation to the Director of ADEQ as they are charged by statute of what they think of these rules. He submitted that the commission should submit that the rules are not satisfactory as proposed. However, I agree with Mr. Denby that they should be considered as a work in progress. I think it should be added to recommend that the Director not adopt the rules to GRRRC. The only issue to deal with if that is the recommendation of this body is the December 31 deadline. ADEQ is under obligation to submit something by statute to GRRRC by December 31, 1999. What was talked about in the last policy commission meeting is that the public who has comments against the

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rules would take it upon themselves the burden of going to the legislature and obtaining for ADEQ a dispensation on the December 31, 1999 deadline. He stated that the public is willing to do that. Having said that, John stated that there should not be any issue that should frustrate the Policy Commission about making a recommendation. Who knows what would happen if these rules are submitted to GRRC as they exist. Once the rules go to GRRC they are out of the hands of ADEQ. He stated that the regulated community, mom and pops, large companies, and cities, have spoken out against the rules pretty loud and clear. The comments have not been minor. These are not satisfactory as they exist to the general public. John suggested that it was dangerous for the commission to allow the rules to move on as they are written now. He thinks it is important to make comments on the rules. The commission should make a recommendation that the Director not adopt the rules. The recommendation should say that the rules are not satisfactory as written and should be considered a work in progress.

Myron thanked John for his input and recognized Mike Denby.

Mike asked Martha Seaman what was the ability of the department to hold round tables and workshops and continue to work on the rules once they have been submitted to GRRC. Would they be GRRC meetings.

Martha Seaman mentioned that Mike has identified an area that the Administrative Procedures Act does not speak to explicitly. There is not a whole lot of help from the statute in this regard about what is going on during this time after the rule has been submitted to GRRC. Martha explains that there are changes that frequently go on during that period time. Many of them are prompted by what GRRC says to the department about the changes they want to have made. She said that the public has had suggested changes to GRRC during this time and that the agency has suggested its own changes while the rules have been pending before GRRC. The level of changes the agency submits may cause supplemental rulemaking to be opened up. The department does not know yet. That would put the rules in basically the same phase as they were before December 31.

Myron thanked Martha and recognized Elijah.

Elijah stated his concern that the department was claiming a moral high ground with respect to the department's prosecution of the rules. He said that the department is incorrect. The point is that the department did not submit to the commission the rules for review in a timely basis by the commission. The commission has not had sufficient opportunity to review and comment on the rules except to see that they are seriously flawed. Suggestions have been proposed. The public is willing to go to the legislature and address the time deadlines. The commission should not allow this to go without taking a strong position. The main purpose of this commission is to address these

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very things, rules, policies of the department. If we turn our heads on this matter the commission would be abdicating their primary charge.

Myron asked for any other public comments. Martha Seaman had a comment.

Martha rose to finish the rest of the process. She commented that yes there is another time in which to make views known. That time is at the GRRRC hearing. The rules are up for consideration and the public's views can be made known to the council by way of letters and oral comments at the hearing. At that point the public knows what the GRRRC has forth.

Mike O'Hara asked if in statute it is the commission's authority to make recommendations to the Director.

Myron answered correct.

Mike Denby added the director or the governor.

Phil responded to Mr. Cardon's comment about the department taking the moral high ground. Last year when senate bill 1381 was being negotiated, stakeholders put in the date of December 31, 1999. The department did everything it could to meet that deadline. These rules have to be consistent with the soil rules, with the WQARF rules, the SAF rules, with the state statute and with the CFRs. That was a lot of work to do. It also has to be consistent with internal processes. He mentioned that it is difficult to write a rule package of that magnitude within (that time frame). The department took the deadline as law. The department did not take a moral high ground. They did the best they could in good faith. It did not get out in a timely manner for the commission to review it.

Myron recognized John Pearce.

John commented that enough had been heard about the process. He suggested that the commission speak out now regarding the rules. Otherwise they would not have a voice and the rules would be submitted to GRRRC as they are now. It is not a good idea for the community to wait and comment on the GRRRC process. He suggested that the commission recommend to the Director not to adopt the rules and tell GRRRC to reject the rules when they are submitted and send them back to be reworked so that the community and the department can work together. He said that it is his hope and of those he represents that their considerations be heard.

Myron closed public comment and recognized Hal Gill.

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Hal said that in representing consultants as a consultant he would be glad to work with these rules because he could make a lot of money. But also part of the charge of the commission is to make the program work better. He stated that he was here when the preapproval rules were being written and the program came to a screeching halt. He said that he could not support the rules as they are written at this time.

Myron asked for any other commission member comments. He then asked for a motion.

Mike Denby moved that the rules as they are proposed are not acceptable to the policy commission. He also moved that the commission recommend that the director not adopt or submit these rules to GRRC until stakeholder's concerns on these rules have been addressed. The policy also recommend that the director institute an intensive stakeholder process including round tables and public meetings in order to properly address the concerns of the regulated community and other interested parties.

Myron addressed Phil McNeely who requested to comment.

Phil requested that in order to meet statutory deadlines to change the motion to allow the department to submit the rules and continue to work as a work in progress.

Elijah Cardon stated that he would clearly not support that change in the proposed motion.

Myron suggested breaking issues down into two or three motions rather than all in one motion. Myron stated that the commission had a motion and Elijah seconded the motion. Myron also recognized the amendment to this motion by Phil and asked Mike Denby if he wanted to consider Phil's comment or proceed ahead.

Mike Denby responded that he did not think the two comments could be put together in the same motion. He said that the December 31 deadline was an issue that the department would have to deal with because there was not enough time for the commission to help. The regulated community has offered to help to eliminate any repercussions with the department missing the deadline. He personally believed that the department should try to make the community happy with the rule than try to make the statutory deadline and upset the regulated community. The regulated community again has offered.

Mike O'Hara made a comment that is seemed like the deadline was inappropriate. Maybe the commission would like to make a tentative comment that it is not adequate.

Myron agreed.

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Karen Holloway suggested that these kind of statements could be added in the annual report to the legislature, specifically about this rule. The commission is making a recommendation to the director. At least they would be on record as to how the commission feels.

Myron Smith stated that he did not want it buried in the annual report. He recommends a series of letters regarding the issue. Myron brought up the motion that Mike Denby suggested and announced that it was seconded. He asked Mike to read the motion again.

Phil asked if the deadline being unattainable would be added to the motion.

Mike Denby answered that a second motion could be brought up concerning the deadline that it was unattainable or unreasonable. Mike read the motion again.

Myron stated that the motion has been moved and seconded. He then called for a vote. Seven members were in favor of the motion. Three members opposed the motion. The motion was seven to three so the motion will carry. Myron said he would get the wording from Mike Denby so that a letter can be drafted and sent to the director. Myron brought up the comment about wanting to make a motion concerning the December 31 deadline.

Mike O'Hara moved that given the significance of the Corrective Action rules that the December 31, 1999 deadline was inadequate and unreasonable.

Elijah Cardon seconded the motion.

Myron asked Mike O'Hara to write the motion down.

Mike O'Hara wrote the motion down and repeated it.

Myron asked for any comments.

Elijah had a comment that he hoped that the department and those involved in the drafting of the rules would be sensitive and listen to the modifications and reworks that the public has submitted and will continue to submit. In seconding the motion, he believed that it was important to have the department keep the commission involved in the make up and production of the process.

Myron recognized the motion and the second and asked for any other discussion on it. He stated that the commission would have to write a letter to the legislature.

Mike interjected that the letter would essentially state that this date was inadequate and therefore not

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necessary to submit these rules by the deadline and the reason why they are not.

Myron recognized Roger Beal.

Roger suggested that the motion be softened by stating that the deadline has been found to be inadequate.

Myron asked if Mike O'Hara had that rewording.

Mike made the change to the motion to read that given the significance of the Corrective Action Rules, the December 31, 1999 statutory deadline has been found to be inadequate and unreasonable.

Myron confirmed the motion and Elijah's second and asked for a vote. Nine voted yes and one abstained. The motion passed and Myron said that the commission will write a letter essentially detailing the date for submission should not be taken as a black mark in any way that ADEQ did not meet the date. Myron called for a ten minute break.

Myron reconvened the meeting with item number five on the agenda.

TECHNICAL SUB-COMMITTEE:

Hal Gill gave a brief update of the sub-committee. Three meetings of the work study group have been held. The purpose of the work study group is to determine how the UST study will be conducted and to figure out what the study can do. Hal will present to the legislature in January what the study will accomplish and to bring that information to the January 2000 UST Policy Commission for presentation.

FINANCIAL SUB-COMMITTEE:

SAF Rules Update: Mike O'Hara recommended scheduling a meeting in early January to go over the rules and comments and then bring to February UST Policy Commission meeting for vote.

Mike suggested talking to department to create a comprehensive policy document to coincide with the SAF rules. Would like to discuss at the next policy commission meeting.

Myron asked Mike to look at the annual report mandate items 2-6 and come up with time lines and strategies to address those at the January meeting.

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LEGISLATIVE ISSUES:

The next legislative session will convene in January 10, 2000. It is assumed there will be a UST bill (per Myron Smith). The commission wants a copy of the bill for review and discussion as soon as possible, so as to have a vote of their recommendations at the February meeting.

Myron asked if there was disagreement from members to send a letter of consensus, to the legislature, of the UST Policy Commission meeting supporting the ADEQ and for continuation of the agency for the next five years.

OPEN TOPICS:

None

CALL TO THE PUBLIC:

Steven Edelman of Holguin, Fahan & Associates, Inc., made available copies of a letter he sent to Myron Smith titled "*Redress for Victims of the UST Grant Program*". This letter outlines some of the problems with the current UST Grant Program. Mr. Edelman asked that the UST Policy Commission recommend to ADEQ that an audit or appeal of order be addressed for the financial losses suffered by owners/operators, consultants and contractors.

Myron asked that Mike O'Hara take the letter to Mike Clark so he can review and put together a summary to be further discussed at the January meeting.

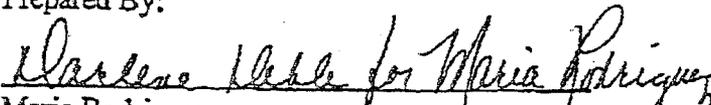
NEXT MEETING AGENDA, DATE, LOCATION, AND TIME:

The next meeting is scheduled for January 19, 1999 at 9:00 - 12:00 (location undetermined)

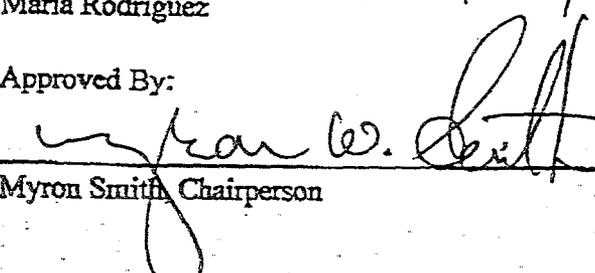
ADJOURN:

Meeting adjourned at 12:00 p.m.

Prepared By:


Maria Rodriguez

Approved By:


Myron Smith, Chairperson