



RHODE ISLAND  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

235 Promenade Street, Providence, RI 02908-5767

TDD 401-222-4462

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The Honorable Donald L. Carcieri  
Governor of the State of Rhode Island  
Executive Chambers  
State House  
Providence, RI 02903

*Re: 2010 RI Underground Storage Tank Financial Responsibility Fund Annual Report*

Dear Governor Carcieri:

In accordance with the provisions of Section 46-12.9-8 of the Rhode Island General Laws, I am pleased to provide you with the 2010 Annual Report for the Rhode Island Underground Storage Tank Financial Responsibility Fund.

The attached report, which was approved by the Review Board on September 16, 2010, provides summaries on the operational and financial activities of the fund for State Fiscal Year 2010. The report will be posted electronically as prescribed in § 42-20-8.2.

The attached document will be posted on the Department of Environmental Management's web site at: <http://www.dem.ri.gov/pubs/index.htm>

Sincerely,

A handwritten signature in black ink, appearing to read "Terrence D. Gray".

Terrence D. Gray, P.E., Chairman  
RI Underground Storage Tank Financial Responsibility Fund Review Board

cc: Speaker Gordon. D. Fox  
Senate President M. Teresa Paiva-Weed  
Senate Majority Leader Daniel P. Connors  
House Majority Leader Nicholas A. Mattiello  
House Minority Leader Robert A. Watson  
Senate Minority Leader Dennis L. Algieri  
RI UST Financial Responsibility Fund Review Board Members

## Rhode Island Underground Storage Tank Financial Responsibility Fund Annual Report- Rhode Island FY 2010

The Rhode Island Underground Storage Tank Financial Responsibility Fund (UST Fund) is overseen by the Department of Environmental Management with input from a Review Board comprised of nine (9) members. The Review Board is responsible for approving, modifying or denying claims to eligible parties. Additionally, the Board provides recommendations to insure that environmental and public health impacts of the underground storage tank (UST) leaks are addressed in an effective and timely manner. Pursuant to Rhode Island General Law 46-12.9-8(e) (3), this annual report was prepared for Rhode Island State fiscal year 2010 (July 1, 2009-June 30, 2010).

Owners and/or operators of certain underground storage tanks (USTs) are required to demonstrate "Financial Responsibility" to clean up any potential release from their USTs, as regulated by the Environmental Protection Agency and adopted by the State of Rhode Island. The UST Fund provides a cost effective mechanism for these owners/operators to meet these requirements. Claims for reimbursement are filed after costs have been incurred in the process of remediating a release from an eligible UST. Claims for reimbursement are filed with the Department of Environmental Management, reviewed, and then presented to the Review Board for decision.

As outlined in the 2009 Annual Report for the Fund, revenue was reduced fifty percent from a one cent (\$0.01) per gallon surcharge on motor fuel to one half cent per gallon in the FY2009 supplemental state budget. These monies are collected and managed by the State of Rhode Island and dispersed by the Review Board. Disbursement of monies is generally conducted on a quarterly basis after a thorough review of the eligibility of each release and of the specific costs contained in each application. Reimbursement of 100% of the eligible costs is made (after demonstrating expenditure of the \$20,000.00 deductible) based on regulations adopted by the State of Rhode Island and availability of funds.

The Review Board made its first payment in 1997 and has since reimbursed over \$55 million directly to the clean-up of Rhode Island's environment.

In FY 2010, the Review Board met five times, September 24, 2009; October 9, 2009; December 10, 2009; March 3, 2010; and June 10, 2010. The main purpose of each meeting was to fulfill the statutory obligations of hearing and approving reimbursement recommendations. Meeting minutes for these meetings are attached. The agenda items for these four Board meetings are recapped in Table 1 below.

Table 1				
September 24, 2009	October 9, 2009	December 10, 2009	March 2, 2010	June 10, 2010
I.Approval of Previous Meeting Minutes II.Chairman's Report III.RRISC Update IV.NatLust Update V.Previous Claims Update VI.Reimbursement Recommendations VII.Old Business VIII.New Business	I. Annual Report	I. .Approval of Previous Meeting Minutes II.Chairman's Report III.RRISC Update II.I.Reimbursement Recommendations IV..Old Business V.New Business	I..Approval of Previous Meeting Minutes II.Chairman's Report III.RRISC Update IV.Election of Officers V.Disbursments 41 & 42 VI.Reimbursement Recommendations for Disbursement #43 VII.Old Business VIII.New Business	I...Approval of Previous Meeting Minutes II.Chairman's Report IIIUpdate on Disbursements 42 & 43 V.I.Reimbursement Recommendations for Disbursement #44 VII.Old Business VIII.New Business

Main action items, number of claims reviewed, total dollar amount of claims filed, and total dollar amount of disbursements are outlined in Table 2.

Meeting Date	September 24, 2009	October 9, 2009	December 10, 2009	March 2, 2010	June 10, 2010
Main Action items Taken by Board	Approval to remit remaining payment of Disb #40, Approved eligibility of claims for Disb #41	Approval of FY 09 Annual report,	Approval to remit 58% of payment to Disbursement #41 and 100% of monies to those with claims under \$7,000, Approved eligibility of claims pending for Disb# 42	Approval to remit the remainder of claims payments to Disb #41, Approved eligibility of claims for Disb #43	Approval to remit payment to all claimants at 100% for Disb #42, Approved eligibility of claimants for Disb #44
Unpaid, Eligible Claims from Previous Submissions	\$696,514.94	NA	\$1,108,093.40	\$858,274.67	<b>\$1,053,722.05</b>
Number of claims reviewed	56	NA	26	32	43
Total dollar amount of claims filed for this meeting:	<b>\$1,424,265.18</b>	NA	<b>\$420,052.64</b>	<b>\$754,001.69</b>	<b>\$776,136.83</b>
Total dollar amount of claims found eligible for disbursement	<b>\$1,063,137.62</b>	NA	<b>\$391,736.42</b>	<b>\$617,030.64</b>	<b>\$568,689.21</b>
Total dollar amount disbursed	<b>\$651,559.16</b>	NA	<b>\$641,555.15</b>	<b>\$421,582.46</b>	<b>\$391,736.42</b>
Eligible Claims carried forward due to lack of funds	\$1,108,093.40	NA	\$858,274.67	<b>\$1,053,722.05</b>	\$1,230,675.64 <sup>1</sup>

As seen in Table 2, as a result of the revenue reductions enacted in the FY2009 supplemental State budget, the Fund did not have sufficient resources to reimburse all claims found eligible for reimbursement in accordance with rules, regulations, and procedures. In summary, as a result of the revenue reductions the Fund was not able to disburse \$1,185,719.85 for claims that were eligible for reimbursement. This was carried forward into FY 2011.

Financial reporting for FY 10 (July 1, 2009 – June 30, 2010) showed the following:

Opening Balance 7/1/09	\$39,202.00
Revenue from Gas tax	\$2,098,257.41
Compliance applications	\$450.00

<sup>1</sup> This total includes \$44,955.79 in claims voted eligible by the Board. However, the Board also voted to defer payment until outstanding compliance issues were resolved.

10% cost allocation retained by the Department of Administration pursuant to R.I.G.L 35-4-27	(\$152,923.69)
DOA Adjustment	\$426,232.09
Operating Expenses:	
• Salaries and Benefits -	(\$11,808.42) <sup>2</sup>
• Printing/Advertising/Misc	\$32.75
Claims Paid:	\$2,106,433.19

This leaves a year-end cash balance of \$316,560.29 with \$1,230,675.64 in unpaid claims carried over into FY2011 due to lack of funding.


No reconsideration hearings were requested in FY 2010 and no lawsuits were filed by, or against, the UST Fund or the Review Board. Jon Bender was appointed to the Review Board on June 3, 2010 and confirmed by the Senate on June 9, 2010. He was provided with the appropriate training materials pursuant to Rhode Island General Law 46-12.9-8(f) (15).

When Congress amended Subtitle I of the Resource Conservation and Recovery Act in 1986, it directed the U.S. Environmental Protection Agency (EPA) to develop financial responsibility regulations for owners and operators of underground storage tanks. Under 40 CFR Chapter 1 §280.93 most owner/operators must be able to demonstrate financial responsibility in the amount of \$1 million. Should EPA deem the UST Fund to no longer be a viable fund, each owner/operator will be required to find an alternative means to show responsibility or close the site.

Based on the current pace of reimbursement claims being submitted and the decreased revenue, the Fund will not continue to meet its statutory obligations of paying eligible claims in FY 2011 without significantly limiting the criteria for eligible expenses-which may impact the ability of UST owner/operators to demonstrate financial responsibility in compliance with State and federal law- or an increase in revenue.

Continued systematic deficiencies and underfunding of the program may also jeopardize the use of the Fund as a mechanism for RI businesses to meet these financial responsibility requirements if EPA determines that the financial condition of the Fund is not sufficient.

Respectfully Submitted,



September 16, 2010

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Terrence D. Gray, P.E., Chairman

Date

<sup>2</sup> Negative Balance reflects that \$11,808.42 was transferred to a State account IN EXCESS of the total amount of salary and benefits charged to the cost center code used for reporting time charged on UST Fund activities