

To: USTCF Task Force Members
From: Markus Niebanck
Re: Our work in progress
Date: November 29, 2009

Greetings Task Force. I hope that this finds you well on the business side of an enjoyable Thanksgiving weekend. I'm sending along an issues enumeration I received from Steve (next page). I was unable to attend the last meeting but expect that I'll catch up to where you are as the Wednesday gathering progresses. I've added a couple of thoughts here for your consideration and our discussion; my apologies if this is ground you covered in my absence.

On our report – to demonstrate our comprehensive treatment of the issues I think it would be helpful to provide perspective on those issues we identified as important but outside our (and the Fund's) ability to productively influence. We could identify, in an opening section of our report, issues such as:

Issues we examined but elected not to pursue due to expected strong resistance:

Our examination of changes that could result in external pressure on a presently depressurized system, including:

- Lowering claim value from 1.5 MM to 1 MM for new (non-MTBE) claims to reflect phasing out of the additive.
- Requiring a percentage holdback from each reimbursement request to motivate owner/funder to complete response actions more expeditiously.
- Paying by completed phase of project activity (preliminary site assessment, comprehensive site assessment, feasibility studies and remedial design – in recognition of practicalities remedial action is appropriately reimbursed on a pay as you go basis).

Issues we identified as under the control of others:

Regulating agency and programmatic considerations that conspire to allow projects (in a depressurized environment) to live longer and cost more than they otherwise might.

On Resources

Unrelated to the above and to the important issue of allocation of staff resources, with Task Force permission I'd like to get a better understanding of the level of effort invested in the initial application – approximately how many hours are required to process the initial application? Approximately how many applications are initially denied? How many of these are ultimately accepted? What might be done to streamline this part of the system and would the streamlining free resources to process claims?

With respect to staff decisions and ensuing appeals, if you haven't discussed this already I'd like to touch on the level of effort presently (when the Fund was still viable) invested in dealing with disagreements. We've previously spoken on changes in protocol that would make the process flow more smoothly (phone calls to consultants or property owners) but I don't believe we quantified the actual level of effort being invested in conflict management.

All this goes to gaining a measure of what additional resources would be available in an environment where the application process was without ambiguity and unnecessary effort and the planning process set in motion an undertaking that wasn't mired in second-guessing and drawn out dialogue on the back-end.

Steve's Summary of Issues Work in Progress:

UST Fund Long Term Issues Report

1. Improve coordination among UST Fund, Regional Boards, LOPs, consultants and owner/operators
 - ◆ Streamline and expand use of pre-approval process
2. Improve responsiveness to State Board directives with oversight, accountability by Regional Boards and LOPs
 - ◆ performance measures/metrics for LOPs have cost implications for UST Fund (closure metric?)
 - ◆ use contracts between the State Board and junior agencies to improve accountability etc. (also potential for reducing administrative costs, approx. \$20 million from UST Fund for staff support)
3. Efficiency and management of claims handling, RRs and processing payments
 - ◆ staff vacancies
 - ◆ evaluate outsourcing for payment processing
4. Update/revise UST Fund guidelines: equipment purchasing v. leasing
 - ◆ should be done in conjunction with LUFT Manual update
5. Increase Technical Review/Support allowance (currently \$3K--increase to \$____)
6. Five year review process: May not be frequent enough for evaluating cost and technical effectiveness; consider \$\$ threshold (e.g. \$500K) for review
7. Unsuspension of "C" claims
8. Site Closures for Low Risk Sites
9. Policy on Setting Appropriate Fund Reserves

Many thanks. Looking forward to seeing you all on Wednesday.

Markus