

March 7, 2012

Memorandum:

To: House Energy and Utilities Committee
From: Thomas M. Palace
Re: Testimony Supporting SB 406

Mr. Chairman and Members of the House Energy and Utilities Committee:

My name is Tom Palace. I am the Executive Director of the Petroleum Marketers and Convenience Store Association of Kansas (PMCA of Kansas), a statewide trade association representing over 300 independent Kansas petroleum distribution companies and convenience store owners throughout Kansas.

We stand before you as a proponent of SB 406.

Components of SB 406:

- Senate Bill 406 will extend the Kansas Underground and Aboveground Storage Tank Trust Fund that will sunset on July 1, 2014. The bill extends the fund 10 years to 2024.
- The bill establishes the UST Redevelopment Fund that will be used to fund the removal of abandoned underground storage tanks.
- Abandoned underground storage tanks means an underground storage tank that exhibits one or more of the following conditions: is not in use for more than three months; does not have a current tank permit issued by the department; or has been temporarily closed, in accordance with the department guidelines for more than 12 months.
- The department will reimburse an applicant for 90% of the approved costs up to \$25,000.

The Kansas Underground and Aboveground Storage Tank Fund is extremely important to Kansas motor fuel distributors and retailers. The fund offers a pollution insurance policy that is vital to the petroleum industry due to pollution exclusions that are in most, if not all, insurance policies. Kansas has one of the best run UST programs in the country. PMCA enjoys a close working relationship with KDHE and we both have the same goal in mind...keeping Kansas environmentally safe.

Extension of the trust fund:

The proposed amendments to the Storage Tank Act extend the life of the underground and aboveground funds. The UST fund was developed to satisfy the pollution liability insurance requirements established by the federal Environmental Protection Agency

(EPA) regulations affecting underground storage tanks (USTs). The provisions for the third party insurance coverage were assigned to a program within the Insurance Department. The act was amended in 1992 to include a reimbursement fund for aboveground tanks.

In addition to satisfying insurance requirements, the funds provide real financial relief to owners of petroleum tanks for the cost of corrective action at their facilities. The funds reimburse applicants for approved costs of remedial action after payment of the appropriate deductible. Without this mechanism to comply with the insurance requirements, many UST owners would be forced out of business.

Since the inception of the funds, owners of 2412 petroleum storage tank facilities have participated in the underground and aboveground trust fund. Averages of 30 new facilities apply for assistance each year. Currently many of the facility owners continue to rely on these reimbursement funds to pay for ongoing cleanups.

The programs operate within the established funding mechanism and have facilitated a good working relationship between the state regulatory agency and the petroleum marketers. The programs have been a success due to the very well thought out design of the statutes. The credit for that success goes to those who had the forethought to include adequate funding and provisions for cost control which allowed the agency to operate well within the established budget.

The UST Redevelopment Fund:

The UST Redevelopment Fund replaces the Kansas Essential Fuels Supply Trust fund that was established in 2007. The fund was formed when the federal government required all Aboveground Storage Tank owners to upgrade their facilities. There was great speculation that many AST owners would not be able to comply with the mandate, that potentially could have caused major fuel outages in the rural areas of the state.

The Kansas Essential Fuels Supply Trust Fund will sunset July 1, 2012.

There are approximately 1000 orphan tanks that KDHE can identify. These are tanks where the original owner of the tank has either died or filed for bankruptcy. The tanks could be owned by a bank, a trust or a church for example. The benefits of what we are proposing include:

- Encourages reuse of abandoned gas station as other businesses
- Assist cities with property redevelopment
- Encourages real estate transaction of properties that were once a detriment to the city and county
- Reduce or remove environmental liabilities from properties with UST's

Bill amendment; include a 10 year deed restriction so that the sites cannot be used as a fueling location in the immediate future.

The UST sites in question are normally a detriment and a hazard to the local community and the restriction is to insure that once these locations are remediated by KDHE that we don't repeat the process a second time. After KDHE sends the letter of closure this provides a viable site for the community that is environmentally safe.

Mr. Chairman, I appreciate the opportunity to comment on SB 406 ask the committee to adopt this legislation.

Thank You