

December 6, 2019

Alan W. Bakeberg
Director of Engineering
South Dakota Department of Environment and Natural Resources
Petroleum Release Compensation Fund Program
Foss Building
523 E Capitol Avenue
Pierre, SD 57501

RE: Annual Meeting – Integration of Private Insurance as Primary or Secondary Risktaker

Alan,

Thank you for the opportunity to provide input as you endeavor to integrate private insurance as a primary or secondary risktaker into the petroleum storage tank pollution liability market.

While you have indicated that private insurance is readily available for regulated and non-regulated tanks, you have also expressed concern that owners not required to maintain financial responsibility would most likely not purchase such coverage. In addition, you have expressed concerns with potential problems with dual coverage, risk selection practices and uninsured sites. You have concluded that there was “no advantage to the public or tank owners on going to private insurance”.

If you decide to integrate private insurance as a risktaker, we are interested in working with you to develop an integrated public/private insurance market that will reduce South Dakota’s liabilities and ensure that your petroleum distribution system remains viable throughout South Dakota. With proper planning, a structured integration would ensure that PRCF liabilities are adequately addressed and capped. Tank owners will be better prepared for assimilation in to the private insurance market in the future. The integration of private insurance will not require mandatory soil and groundwater testing and existing liabilities can be capped and transferred to the private market.

While there are many ways to integrate private insurance into the market, you have identified risks that will require special attention.

- Owners who are not required to maintain financial responsibility may not purchase private coverage. These owners may need education on the risks of storing petroleum products in unregulated tanks and the affordability of private insurance to protect them from the financial burden of corrective action and third-party liability if their tanks leak.

- Dual coverage. We assume this refers to the PRCF continuing to be responsible for the IBNR liabilities associated with all tank sites today. Your actuary has estimated that your tank population has between \$15 million and \$32 million in unreported claims (as of June 30, 2018). The PRCF will have to address these liabilities whether the PRCF continues to provide coverage for future liabilities or if private insurance provides coverage for future liabilities. However, if private insurance provides coverage for future liabilities, South Dakota will not be burdened with future IBNR liabilities. The state's liabilities can be capped. If the PRCF continues to provide coverage, IBNR liabilities will continue to be the PRCF's responsibility.
- Risk selection. Today, your best operator and your worst operator are treated the same. Good housekeeping and better tank systems are not rewarded with better rates. While all systems that are in compliance with state and federal laws are insurable, private insurance will encourage better tank management practices and safer tank systems by offering lower rates for owners who are better risks. Rates reflect risk. While we believe promoting better risk management would be a benefit to tank owners and the state of South Dakota, we understand risk-based premiums may present a shock for some owners. Education on risks and liabilities may be necessary.

If the PRCF is not going to integrate private insurance as a risktaker, you could integrate private insurance concepts into your program. For example, promoting better loss control and encouraging the installation of new biofuel compatible equipment to prepare for the risks presented by biofuels can reduce your long-term liabilities. Higher blends of ethanol require systems compatible with those higher blends. PRCF could provide upgrade grants or reduced deductibles for owners who proactively install compatible systems or who comply with the new federal inspections and testing requirements before the federal deadline.

If you decide to consider options to integrate private insurance as a risktaker in some or all of your program liabilities, or if you are interested in promoting private market risk management practices, we are interested in working with you on a process that is best for South Dakota.

If you have any questions, or would like additional information on our insurance products, please contact us.

Sincerely,

A handwritten signature in black ink, appearing to read 'Patrick Rounds', with a long horizontal flourish extending to the right.

Patrick Rounds
Chief Executive Officer