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JAN 02 2007

Department of Insurance
State of Idaho

None present

BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE

STATE OF IDAHO

IN THE MATTER OF:)	
)	
Idaho Petroleum Clean Water Trust Fund)	ORDER ADOPTING
)	REPORT OF EXAMINATION
Idaho Certificate of Registration # : 2436)	AS OF DECEMBER 31, 2006
NAIC Company Code: N/A)	
)	Docket No. 18-2438-07
)	
)	
)	
)	

The Report of Examination as of December 31, 2006 (Report) of the Idaho Petroleum Clean Water Trust Fund (Tank Fund) was completed by examiners of the Idaho Department of Insurance (Department), signed the 10th day of December 2007 by the Examiner-in-Charge, David W. Emery, CFE, FLMI and a verified copy was filed

with the Department effective December 10, 2007. A draft copy of the Report was delivered to the Tank Fund previously and the verified Report was transmitted electronically (PDF file, via e-mail) on December 10, 2007 to the Administrator of the Tank Fund, the Idaho State Insurance Fund. The verified Report is attached hereto and incorporated as Exhibit A.

WAIVER

Attached and incorporated herein as Exhibit B, is a Waiver signed by the Idaho State Insurance Fund as Administrator of the Tank Fund, on December 14, 2007 and received by the Department on December 27, 2007 (hand delivery). Based upon the Waiver/Exhibit B, this is a final order, and the Fund has waived its rights to seek reconsideration and judicial review of this order.

NOW THEREFORE, after carefully reviewing the above described Report of Examination, attached hereto as Exhibit A, and good cause appearing therefor, it is hereby ordered that the above described report, which includes the findings, conclusions, comments and recommendations supporting this order, is hereby ADOPTED as the final examination report and as an official record of the Department under Idaho Code § 41-227(5)(a).

DATED and EFFECTIVE at Boise, Idaho this 2ND day of January 2008.



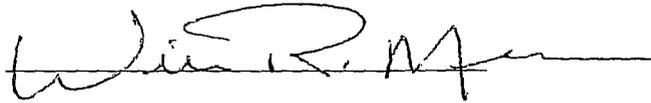
William W. Deal, Director
IDAHO DEPARTMENT OF INSURANCE

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of January 2008, I caused to be served the foregoing document on the following parties in the manner set forth below:

James M. Alcorn	<u> X </u>	certified mail
Fund Manager	<u> </u>	first class mail
Idaho State Insurance Fund	<u> </u>	hand delivery
1215 West State Street	<u> </u>	facsimile
Boise, Idaho 83720-0043	<u> </u>	
e-mail: JamesM.Alcorn@idahosisif.org	<u> X </u>	e-mail

Georgia Siehl, CPA, CFE	<u> </u>	certified mail
Bureau Chief / Chief Examiner	<u> </u>	first class mail
Idaho Department of Insurance	<u> X </u>	hand delivery
700 W. State St., 3 rd Floor	<u> </u>	facsimile
Boise, Idaho 83720-0043	<u> </u>	
e-mail: Georgia.Siehl@doi.idaho.com	<u> X </u>	e-mail



William R. Michels, CPA, CFE
Examination Supervisor
IDAHO DEPARTMENT OF INSURANCE

EXHIBIT
A

DEPARTMENT OF INSURANCE

STATE OF IDAHO



REPORT OF EXAMINATION

of the

IDAHO PETROLEUM CLEAN WATER TRUST FUND

as of

December 31, 2006

FILED	<u>12/10/07</u>	<u>GD</u>
	date	initial
ADOPTED	<u>1/2/08</u>	<u>GD</u>
	date	initial
STATE OF IDAHO Department of Insurance		

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State of Idaho
DEPARTMENT OF INSURANCE

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WILLIAM W. DEAL
Director

Boise, Idaho
December 10, 2007

The Honorable William W. Deal
Director of Insurance
State of Idaho
700 West State Street
P. O. Box 83720
Boise, Idaho 83720-0043

Dear Director:

Pursuant to your instructions, in compliance with Section 41-219(1), Idaho Code, and in accordance with the practices and procedures promulgated by the National Association of Insurance Commissioners (NAIC), we have conducted an examination as of December 31, 2006 of:

IDAHO PETROLEUM CLEAN WATER TRUST FUND

1215 WEST STATE STREET
BOISE, IDAHO 83720

hereinafter referred to as "the Tank Fund" at its offices in Boise, Idaho. Also the Idaho Department of Insurance is hereinafter referred to as the "Department."

The following Report of Examination is respectfully submitted.

SCOPE OF EXAMINATION

This examination covers the period January 1, 2002, through December 31, 2006. The examination was conducted at the Boise, Idaho office of the Tank Fund by examiners from the State of Idaho. The examination was conducted in accordance with Section 41-219(1), Idaho Code, the National Association of Insurance Commissioners (NAIC) *Financial Condition Examiners Handbook*, and the NAIC *Accounting Practices and Procedures Manual*. We performed our testing in order to achieve a confidence level commensurate with the risk assessed through utilization of the NAIC *Examiners Handbook*. Verification and valuation of assets, determination of liabilities and reserves, and an analysis and review of such other accounts and records as appropriate to the examination were also performed.

R. Michael Lamb, FCAS, MAAA, principal of Michael Lamb LLC, engaged for a peer review actuarial examination of the Tank Fund for the State of Idaho.

A Letter of Representation was signed by the Tank Fund attesting to the Tank Fund's ownership of all assets and to the nonexistence of unrecorded liabilities or contingent liabilities.

In addition to the Report of Examination, a Management Letter was issued to the Fund by the Department which covered items that were not included in the Report, due to the materiality threshold or items that were related to proprietary operational issues.

PRIOR EXAMINATION

The prior examination was conducted by the Idaho Department of Insurance, and covered the period January 1, 1999, through December 31, 2001.

There were no significant examination findings that necessitated recommendations; therefore, the unassigned funds (unencumbered surplus) of \$28,969,417, as reported in the Tank Fund's annual statement, remained unchanged.

HISTORY AND DESCRIPTION

The Tank Fund was established by an act of the Idaho Legislature with the passage of the "Idaho Petroleum Clean Water Trust Fund Act", pursuant to the provisions of Idaho Code, Title 41, Chapter 49, which was approved on March 23, 1990. The Tank Fund received a certificate of registration to do business on April 24, 1991.

The Tank Fund is a non-profit specialty insurance organization, which was founded for the purpose of providing affordable petroleum liability insurance coverage to pay for corrective and cleanup measures, and third-party property damage and bodily injury related to the storage of petroleum products in aboveground and belowground tank containers.

The major funding for the Tank Fund was provided by the collection of a "transfer fee" of one cent per gallon on all petroleum products delivered or stored within the State of Idaho after April 1, 1990. The "transfer fee" is a charge that is assessed against the licensed distributors, or suppliers based upon the number of gallons of petroleum that are initially delivered into the State of Idaho. The fees were the Tank Fund's primary source of income and served as an alternative to the "premiums" which would be

collected in a conventional insurance operation. However, there was no correlation between the transfer fees collected and the number of policies issued or tanks insured.

Payments must be remitted to the Idaho State Tax Commission with the distributor's monthly report. The Idaho State Tax Commission collects the transfer fees pursuant to Idaho Code Section 41-4909. The Commission shall then promptly submit these fees to the Idaho State Treasurer for deposit in the Tank Fund.

Idaho Code Section 41-4910(5) provided for the transfer fees to be distributed as follows: 77% going to the highway distribution accounts, 3% going to the Idaho department of parks and recreation, and the remaining 20% going to the Tank Fund. This distribution is after allowing for the actual cost of collecting, administering, and enforcing the transfer fee by the Commission and after establishing a refund account.

Effective August 12, 1999, the Tank Fund's unencumbered surplus exceeded \$30,000,000 and the Idaho State Tax Commission was notified to suspend the collection of the transfer fees, which was the benchmark, pursuant to Idaho Code Section 41-4908(10), that was in effect at that time.

The 2000 Idaho Legislature amended Idaho Code Section 41-4909(10) (formerly 41-4908(10)) to reflect that the transfer fees are to be suspended when the unencumbered surplus equals \$25,000,000 and will be reactivated when the surplus balance equals \$15,000,000. As of the examination date the unencumbered surplus was \$22,180,282; therefore, transfer fees were not being collected.

Subsequent to December 31, 2006 and effective July 1, 2007, Idaho Code Section 41-4909(10) was again amended, to reflect that the transfer fees are to be suspended when the unencumbered surplus equals \$35,000,000 and will be reactivated when the surplus balance equals \$25,000,000. On July 26, 2007, the Director of the Department sent a certification to the Idaho State Tax Commission that the unencumbered surplus as of June 30, 2007 was \$21,265,492. This should reinstate the transfer fees beginning with the first day of the second month following this certification.

The Tank Fund also collected application fees of \$25 or \$5 for each tank for which an application for coverage was made and annually thereafter as long as the tanks continued to meet the eligibility provisions of Idaho Code Section 41-4911A. The amount of the application fee was determined by the type of tank and the funds collected were promptly remitted to the state treasurer for deposit into the Tank Fund.

Idaho Insurance Guaranty Association

The Tank Fund was not a member of the Idaho Insurance Guaranty Association. The Tank Fund was exempted from being a member pursuant to Idaho Code Section 41-3603(9).

MANAGEMENT AND CONTROL

The Tank Fund was not a member of a holding company system. The Tank Fund was established by an act of the Idaho Legislature with the passage of the "Idaho Petroleum Clean Water Trust Fund Act", pursuant to the provisions of Idaho Code, Title 41, Chapter 49, which was approved on March 23, 1990.

Trustees and Administrator

In 2003, Idaho Code Section 41-4904 was added and established a Board of Trustees for the Tank Fund. The Governor would appoint seven persons to be the Board. The members of the Board as of December 31, 2006 and whom they represent are as follows:

Brad Little	Senator
Robert P. Nonini	House of Representatives
Forde Johnson, Chairman	Finance/Insurance
Jack Barraclough	Environmental
Dennis DeRoche	Wholesale distributor with less than 5 million gallons in annual sales
Mark Grannis	Wholesale distributor with 5-10 million gallons in annual sales
John Jackson	Wholesale distributor with greater than 10 million gallons in annual sales

Pursuant to Idaho Code Section 41-4904(2), the Idaho State Insurance Fund shall be designated as the administrator of the Tank Fund unless replaced by the board of trustees. Prior to 2003, James M. Alcorn was the trustee of the Tank Fund and Steven Halladay, an employee of the state insurance fund, was the administrator.

The Administrator, after entering a management and administrative contract with the Tank Fund and subject to the approval of the Board, shall have the power to do the following:

- (1) Establish underwriting procedures to issue contracts of insurance
- (2) Establish claims procedures
- (3) Receive and account for all moneys paid into the Tank Fund
- (4) Accept and evaluate applications for insurance coverage
- (5) Issue contracts of insurance
- (6) Investigate and adjust claims made against the Tank Fund
- (7) Make agreements for corrective actions or compensation to third parties for bodily injury or property damage for which they may be legally entitled.
- (8) May sue in all courts of the state

Committees

At December 31, 2006, the Tank Fund did not have any committees. However, two members of the Board of Trustees (Little and Grannis) were assigned to review Tank Fund investment transactions. Subsequent to December 31, 2006, during the April 17, 2007 Board of Trustees meeting, the Board decided to create an audit committee. Mr. Grannis and Mr. Barraclough were appointed by the Chairman to serve on the audit committee.

Conflict of Interest

The Tank Fund did not have any employees of its own. All who perform services for the Tank Fund were actually employees of the Idaho State Insurance Fund, the administrator. Their services were provided for by the Exclusive Management and Administrative Contract. All employees of the Idaho State Insurance Fund were required to verify that they have read and understood its conflict of interest policy. The employees are to report potential conflicts of interest to their supervisor as they occur.

Contracts and Agreements

As of December 31, 2006, the Tank Fund was party to an Exclusive Management and Administrative Contract with the Idaho State Insurance Fund (Fund).

In accordance with Idaho Code Section 41-4905(5), the Tank Fund entered into this management and administrative contract with the Fund. The original contract was executed and approved by the Idaho Department of Insurance on September 17, 1990. During this examination period, this contract was revised once on August 23, 2004 and was approved by the Department of Insurance on August 25, 2004.

Under the terms of the contract, the Fund agreed to provide personnel, services, offices, and other resources necessary to perform and discharge all functions and operations of the Tank Fund, as its exclusive managing and administering agent. The specific services provided by the Fund to the Tank Fund include the following:

Hiring Qualified Personnel	Accounting and Record Keeping	Underwriting
Claims Handling	Auditing and Reporting	Actuarial
Computer and Data Processing	Computer Programming	Legal Services
Management and Administration		

Pursuant to Idaho Code Section 41-4929(2), the Idaho State Insurance Fund, as the administrator of the Tank Fund, is required to furnish to the Director of Insurance a written summary of receipts and disbursements made under the terms of the agreement on an annual basis (within 90 days after the end of each calendar year). It should include emoluments received by principal management personnel of the Fund involved in the affairs of the Tank Fund, and such other detailed information as the Director may require. Such information was included in the annual statements submitted to the Department of Insurance.

The contract may not be amended by either party without written consent of the Director of the Idaho Department of Insurance, except as may be required by duly enacted amendments to Idaho Code, Title 41, Chapter 49.

The Tank Fund shall be administered without liability on the part of the State Insurance Fund or the State of Idaho beyond the amount of said trust fund pursuant to Idaho Code Section 41-4905(6).

CORPORATE RECORDS

Articles of Incorporation

The Tank Fund does not have articles of incorporation; instead, Idaho Code Section 41-4922 required the Tank Fund to provide the Director a Plan of Operations. There have been two amendments to the Plan of Operations. The amendments were approved by the Director of the Idaho Department of Insurance on November 21, 1991 and November 10, 1998, respectively. The first amendment was to postpone the eligibility status for coverage of farm and residential petroleum storage tanks until a later date. The second amendment removed the suspension for these storage tanks. There were no amendments requested or approved during the period covered by this examination.

Bylaws

Idaho Code Section 41-4927 provides that the Board of Trustees shall adopt original Bylaws, subject to the approval of the Director of the Idaho Department of Insurance.

The Tank Fund's bylaws were adopted on April 12, 2005 and approved by the DOI on June 24, 2005. The bylaws were revised once since last examination because of the revision of Idaho Code Section 41-4904 that requires the Tank Fund to have a board of trustees which is composed of seven members.

Minutes of Meetings

As mentioned above under MANAGEMENT AND CONTROL, Idaho Code Section 41-4904, which became effective on July 1, 2003, provided that the Tank Fund establish a board of trustees. It shall be the duty of the board of trustees to direct the policies and operation of the fund to assure that it is run as an efficient insurance company, remains actuarially sound and maintains the public purposes for which it was created. The board of trustees has held quarterly meetings since the date of their first meeting on October 21, 2003. The minutes of the board were reviewed and no unusual issues were noted.

FIDELITY BOND AND OTHER INSURANCE

Insurance coverages for the protection of the Tank Fund have been maintained throughout the period under examination. The Idaho State Office of Insurance Management of the Department of Administration arranged for comprehensive blanket coverages on all agencies of the State of Idaho, including the Tank Fund. The major coverages in effect, as of the examination date, were as follows:

Fidelity Bond: The blanket bond provided for public dishonesty including faithful performance, computer fraud and wire transfer fraud up to maximum \$10,000,000 per loss. Forgery/alteration, robbery/safe burglary, and theft, disappearance and destruction carried maximum limits of \$1,000,000 per loss. Credit card forgery had a limit of \$100,000. All coverages had a deductible of \$100,000, with the exception of the credit card forgery, which had a deductible of \$500. The affected State agency was responsible for the first \$2,000.

As mentioned earlier, all employees working on the Tank Fund are employees of the Idaho State Insurance Fund. Thus, the Tank Fund is covered for acts of the State Insurance Fund employees, which complies with Idaho Code Section 41-4933. The fidelity coverage met the minimum standards suggested by the NAIC Financial Condition Examiners Handbook. A Fidelity Loss Certification was signed by the Tank Fund Administrator indicating no losses resulting from dishonest or fraudulent acts were reported by the Tank Fund during the period covered by the examination.

Liability Insurance: The self-insured Public Liability policy for the State of Idaho covered money damage claims as a result of negligent acts of the State agency or its personnel. The program covered general liability, personal injury liability, errors and omissions liability, auto liability, and medical malpractice. Coverage included protection for most claims allowed under the Idaho Tort Claims Act, up to the cap of \$500,000 set within the Act. An excess Liability policy provides an additional \$10,000,000 above the self-insured liability limit of \$500,000.

The Tank Fund did not have any property coverages, as it did not own any property as of the examination date. All furniture and fixtures, utilized in the operations of the Tank Fund, were owned by the Idaho State Insurance Fund.

PENSION, STOCK OWNERSHIP, AND INSURANCE PLANS

As stated above, all of the employees performing the operations of the Tank Fund were employees of the Idaho State Insurance Fund, as provided by Idaho Code Section 41-4904 and 41-4929. The Tank Fund, therefore, had no employees and provided no employee benefits.

TERRITORY AND PLAN OF OPERATION

Territory

The Tank Fund was authorized to write business only in the State of Idaho. Its basic purpose was to provide affordable liability and cleanup insurance to qualified petroleum storage tank owners/operators in the State of Idaho in order for them to meet the financial responsibility requirements of the Environmental Protection Agency (EPA). The Tank Fund was certified by the EPA as meeting their financial responsibility requirement standards. The Tank Fund did not have any agents or agency force.

Plan of Operation

The operation of the Tank Fund was dependent on the funding provided by the transfer fees, application/renewal fees, and interest income on the Tank Fund's investments. On March 24, 1997, an amendment to Section 41-4909, Idaho Code, provided for the retention of transfer fees and the Tank Fund would be allocated 20% of future transfer fee collections on a monthly basis.

As noted in the HISTORY AND DESCRIPTION section of this report, the appropriation of the transfer fees to the Tank Fund was suspended as of August 12, 1999. The Tank Fund, however, continued to collect application/renewal fees. Subsequent to December 31, 2006, on July 26, 2007, the Director of the Department of Insurance sent a certification to the Idaho State Tax Commission that the unencumbered surplus as of June 30, 2007 was \$21,265,492. This should reinstate the transfer fees beginning with the first day of the second month following this certification.

STATUTORY AND SPECIAL DEPOSITS

As of December 31, 2006, the Tank Fund had provided the following described deposit in trust for the State of Idaho, through the office of the Director of the Department of Insurance, for the protection of all policyholders and/or creditors of the Tank Fund. Written confirmation from the Idaho Department of Insurance confirmed the holding of the following:

<u>Description</u>	<u>Par Value</u>	<u>Market Value</u>	<u>Statement Value</u>
U.S. Treasury Bond, 7.25%, Due 5/15/2016	\$ 1,000,000	\$ 1,188,710	\$ 1,153,718

The deposit was held by US Bank of Idaho and met the general requirements and provisions of Idaho Code Sections 41-316A, 41-803 and 41-804.

GROWTH OF THE FUND

The following schedule reflects the growth of the Tank Fund, as reported in the Tank Fund's annual statements, for the respective years as indicated in the following schedule:

<u>Year</u>	<u>Net Admitted Assets</u>	<u>Liabilities</u>	<u>Policyholders Surplus</u>	<u>Net Income (Loss)</u>
2002	\$40,295,095	\$7,848,130	\$32,446,965	\$ (603,944)
2003	\$39,327,274	\$7,866,513	\$31,460,761	\$ (993,541)
2004	\$37,168,615	\$6,933,782	\$30,234,833	\$(1,240,166)
2005	\$34,687,838	\$7,273,489	\$27,414,349	\$(2,828,073)
2006 *	\$33,045,793	\$7,750,102	\$25,295,692	\$(2,117,660)

* Per Examination

The net income losses for the above years were mainly caused by the Tank Fund ceasing to collect transfer fees and the decrease in investment income.

LOSS EXPERIENCE

The ratio of claims and underwriting expenses incurred to premiums earned, as reported in the Tank Fund's annual statements are scheduled below:

<u>Year</u>	<u>Transfer & Registration Fees Collected</u>	<u>Losses & LAE Incurred</u>	<u>Underwriting Expenses Incurred</u>	<u>Total Losses, LAE and Expenses</u>	<u>Ratio of Expenses to Fees Collected</u>
2002	\$ 94,982	\$2,608,945	\$ 923,143	\$3,532,088	3,718.7%
2003	\$108,857	\$1,393,934	\$1,025,817	\$2,419,751	2,222.9%
2004	\$ 97,035	\$1,395,142	\$1,073,225	\$2,468,367	2,543.8%
2005	\$ 98,785	\$3,011,273	\$1,064,787	\$4,076,060	4,126.2%
2006*	\$ 97,660	\$2,298,385	\$1,088,649	\$3,387,034	3,468.2%

* Per Examination

Since 1999, the Tank Fund's unencumbered surplus exceeded the limitation set by Idaho Code Section 41-4909(10); therefore, the collection of transfer fees was ceased. This cancellation of receiving transfer fee caused the ratio of expenses to income to increase tremendously as illustrated above. The fees collected during this examination period, represented registration fees and transfer fees due the Tank Fund prior to its ceasing collection of the fees, which were collected during the subsequent years. The Tank Fund's unencumbered surplus was \$22,180,282 as of December 31, 2006. Effective July 1, 2007, the Tank Fund will commence collecting transfer fees when its unencumbered surplus is equal to or less than \$25,000,000. The Tank Fund will be apportioned 20% of the transfer fees collected, which will be distributed to the Tank Fund on a monthly basis thereafter.

REINSURANCE

The Tank Fund was authorized to reinsure any insurance risk, or any part thereof, pursuant to Idaho Code Section 41-4919. However, it did not have any reinsurance agreements in effect as of December 31, 2006.

INSURANCE PRODUCTS AND RELATED PRACTICES

Policy Forms and Underwriting

Policy Forms

The Tank Fund issued insurance coverages for corrective (cleanup) action, bodily injury and property damage resulting from accidental releases, leaks, or spills from petroleum storage tanks. All of these coverages are incorporated into one standard policy form, which was designed specifically for this type of insurance. Idaho Code Section 41-4911A governed the provisions of the policy contract, and indicated that the policy must meet the statutory requirements of Idaho Code, Title 41, Chapter 49, "Idaho Petroleum Clean Water Trust Fund Act", and any other requirements imposed by federal or state law or regulation on any category of petroleum storage tank owners or operators to demonstrate financial responsibility.

The policy was reviewed during the course of the examination, and contained the usual standard language and provisions with regard to coverages, exclusions, conditions, limits, and definitions.

Underwriting Practices

The Tank Fund's underwriting practices and procedures are guided by Idaho Code Sections 41-4912 and 41-4912A, which outlined the criteria necessary for storage tanks to be eligible for insurance. The requirements for insurance coverage were summarized as follows:

- a. The prospective insured must complete and submit the prescribed application for insurance form along with the required application fee.
- b. The tank to be insured (if an Underground Storage Tank (UST)) must be in a condition sufficient to comply with applicable federal and state UST regulations.
- c. The tank must be used only for storage of petroleum products.
- d. The tank (if a UST) must pass a "tank tightness" test.
- e. The tank (if an Aboveground Storage Tank (AST)) must be in compliance with state and federal regulations including the uniform fire code. If an AST is exempt from the regulations and the fire code because it was installed prior to the effective dates of such regulations or code, it must undergo and pass a tank tightness test.
- f. The tank, if a farm tank or residential tank, must be in compliance with any applicable state or federal regulations.

- g. Any contamination must have been cleaned up, or have a plan for cleanup or removal (approved by the Department of Environmental Quality) being implemented; provided that the Tank Fund shall not pay for any costs associated with prior contamination.

After an application has been registered, reviewed, and prioritized, a copy was mailed to a field representative. The field representative visited each site of the applicant for a physical inspection of the facility and perform a "Level I" site assessment in order to determine if the tank(s) are eligible for insurance coverage. The Tank Fund had specific procedures that it used to determine if each of the criteria previously outlined had been met.

A Level I site assessment was performed by a Tank Fund Field Representative and involved a visit to the site of the prospective insured for purposes of verifying the information submitted on the application and a physical evaluation of the site for underwriting purposes. This included an appraisal of the condition of the site and equipment as well as its surrounding area for potential exposure and contamination. A historical background check of the site was also obtained by reviewing the records of various local agencies and conducting interviews. These background checks provided information on the previous use of the land, characteristics and condition of the soil, groundwater, and other geological/environmental data that would be useful in making an underwriting decision.

A level II sites assessment is performed if the prospective insured's site did not qualify for insurance after a level I assessment due to a history, evidence or suspicion of prior contamination on the site. The Level II is performed by a third party environmental engineering company and involves the controlled collection of subsoil and or groundwater samples to determine if there is a presence of hydrocarbons. Following established protocols, the soil and ground water samples are collected and submitted to a third party laboratory to test for hydrocarbons according to establish EPA testing procedures which determine the extent and nature of any underground contamination. The managing geologist/hydrologist, from the environmental engineering company, prepares a report to the Tank Fund on the extent of the Level II Site Assessment and the test results. The end results of the tests reveal if there is petroleum contamination, how much fuel is present in the soil or ground water and whether the spill is fresh and from the existing tanks or from an older release. More importantly, the test results indicate if the hydrocarbons present a threat to human health, safety and the environment requiring the insurance applicant to engage with Idaho Department of Environmental Quality to establish a clean up plan prior to the issuance of an insurance policy.

In summary, if a field representative determined through a Level I site assessment, or if it was determined by a Level II site assessment that one or more tanks on a particular site were not eligible for insurance coverage, the underwriter promptly notified the applicant by letter. The letter stated the reasons why the tanks at the site did not qualify for insurance and also outlined the procedures, which must be taken by the applicant to make the tanks eligible for coverage.

Policies were considered for renewal at the end of each annual policy period. The insured was required to submit an additional annual application fee (\$25 for each covered tank), and demonstrate that the storage tanks continued to meet the Tank Fund's eligibility criteria (per Idaho Code Sections 41-4912 and 41-4912A) and all of the underwriting requirements.

If the applicant met the underwriting criteria, and was determined to be insurable, the Tank Fund policy provided for the protection as outlined below:

Coverages

Corrective action (cleanup), bodily injury, and property damage resulting from accidental leaks, releases, or spills from petroleum storage tanks, with the following limits per respective groups / classifications as noted in Idaho Code Sections 41-4906 and 41-4907:

<u>Type of Operators and Tanks</u>	<u>Deductible</u>	<u>Limits of Coverage</u>
Marketers with 100 or less UST tanks	\$10,000	\$1,000,000 per occurrence \$1,000,000 aggregate
Marketers with more than 100 UST tanks	\$10,000	\$1,000,000 per occurrence \$2,000,000 aggregate
Non-marketers with UST and AST tanks *	\$10,000	\$ 500,000 per occurrence \$1,000,000 aggregate
Owners/Operators of AST tanks	\$10,000	\$1,000,000 per occurrence \$1,000,000 aggregate
Owners/Operators of heating tanks	\$100	\$ 100,000 per occurrence \$ 100,000 aggregate
Owners/Operators of farm or residential tanks	\$2,000	\$ 100,000 per occurrence \$ 100,000 aggregate

*Non-marketers with aboveground and underground storage tanks who consume 10,000 gallons or less per month.

Treatment of Policyholders

Claims

A claim or a potential claim may be reported through a number of sources. A claim may be a report of a petroleum release or suspected release by the insured, a field representative, or a third party. A claim may also be established through a notice by another governmental regulatory agency, or the insured's notice of a change in status of a covered tank (i.e. repairs, upgrade, change in use and/or closure).

Once a claim is established, an initial reserve was set-up within five (5) days of notification. All open claims were initially set for an automatic 30-day review for adjustment, and every 6 months thereafter, unless it was determined in the interim that an adjustment was appropriate.

The Tank Fund then arranged for a third party contractor to investigate the release at the site. These site assessment investigations were conducted by a qualified Environmental Engineering or Service Company, and their procedures were performed to determine the severity of the release. Investigations were also directed at coverage determination and subrogation opportunities. When coverage was provided, and the investigation was completed, the environmental company would submit a "Corrective Action Plan" (Plan) to the Tank Fund, which would include a comprehensive summary of recommendations and procedures needed to clean up the site along with time and cost estimates for personnel and equipment. The cost estimates contained in the Plan were the primary basis for adjusting the initial reserves, and for assessing future expenditures on the claim. Before any cleanup

work commenced, the Tank Fund was required to file a "Characterization Report" with the DEQ for its approval. This report was essentially based on the Plan submitted by the investigating environmental company.

A representative sampling of open claims at December 31, 2006 was reviewed during the course of the examination. Based upon the sample, it was determined that the prescribed procedures were followed, and that the payments made to the contractors performing the investigations and cleanups were made within a reasonable time after receipt of their billings. No exceptions were noted.

The loss date on one claim should be 6/13/03 and not 5/1/04 as recorded on the accountant's worksheet. The consulting actuary, Milliman, used the loss date on the accountant's worksheet for its actuarial estimate and projection. The claims manager stated that the 5/1/04 loss date could be the first estimated loss date. The accountant stated that he will check the loss date on all the opened claims with the Fund's claims system (Ingres). He will also notify the actuary of this error and will change the loss date back to 6/13/03. This claim was closed in early part of 2007. The examiner later checked all the loss dates on the accountant's worksheet to the loss dates on the claims report. One more error was found on another claim. It is recommended that the accountant should check the loss date of all the opened claims on his worksheet with the loss dates recorded at the Fund's claims system. It is also recommended that the Fund's claims department notify the accountant if there is any change on the loss date on any claims. An email was later received from the Fund's actuary who stated that the reserve would be increased by \$60,000 as a result of the change on loss date of this claim. Since this amount is immaterial, no adjustment to the financial statements will be made.

Complaints

The Tank Fund maintained a formal complaint register for the period covered by this examination. A review of the complaint register indicated that the Tank Fund had received one complaint regarding a service provider for the Tank Fund. The complaint was promptly responded to and addressed all issues and inquiries.

Advertising and Sales

During this examination period, the Tank Fund did not advertise. The Tank Fund also maintained an internet website, which was reviewed. The review of the website did not disclose any advertising concerns or violations of Idaho Code Sections 41-1303 and 41-1304.

ACCOUNTS AND RECORDS

General Accounting

All of the Tank Fund's accounting and financial reporting was provided by the Idaho State Insurance Fund, pursuant to the Exclusive Management and Administrative Agreement. The Tank Fund did not have any employees and the Idaho State Insurance Fund provided all personnel, equipment and supplies necessary for its operations. The cost of providing these services was allocated to the Tank Fund, with the Tank Fund reimbursing the State Insurance Fund for its portion of the expense.

The State of Idaho's STARS system was used for the payment of benefits and any direct expenses. The Tank Fund used the INGRES System to manage its claim payments and policy management. For details and descriptions of systems being utilized by the Idaho State Insurance Fund to provide service

to the Tank Fund, refer to the General Accounting caption in the December 31, 2006 examination report of the Idaho State Insurance Fund.

The Tank Fund's 2006 general ledger and non-ledger amounts were reconciled to the 2006 annual statement filed with the Idaho Department of Insurance. An accounting spreadsheet was prepared supporting the reconciliation, and no exceptions were noted.

Independent Accountants

Deloitte & Touche LLP, Boise, Idaho was the Tank Fund's independent auditor for the years 2002 to 2006, which coincides with the period covered by this examination.

The independent auditor's report issued for the year ending December 31, 2006, indicated the accompanying statutory balance sheets and related statements presented fairly, in all material respects, the financial position of the Company on a statutory basis. In compliance with Rule No. 62 (IDAPA 18.01.62) the independent auditors' report for the period under examination was filed with the Idaho Department of Insurance.

The independent auditor's 2006 workpapers and supporting documentation were made available and reliance was placed on these workpapers, when possible, during this examination. When the auditor's workpapers were used, such workpapers were denoted to indicate that utilization.

Actuarial Opinion

David R. Kennerud made a statement of actuarial opinion, regarding the unpaid losses and loss adjustment expenses reported by the Tank Fund in its 2006 annual statement. The opinion stated that Mr. Kennerud was associated with the firm of Milliman, Inc., Seattle Washington, and was a member of the American Academy of Actuaries and a Fellow of the Casualty Actuarial Society.

The opinion further stated his review included the actuarial assumptions, methods, and such test of calculations as deemed necessary to determine the loss and loss adjustment expense reserves. The opinion stated that the reserve amounts:

- (1) met the requirements of the insurance laws of Idaho,
- (2) were computed in accordance with generally accepted loss reserving standards and principles,
- (3) made a reasonable provision for all unpaid loss and loss adjustment expense obligations of the Tank Fund under the terms of its policies and agreements.

In forming the opinion, the actuary relied upon data prepared by a responsible representative of the Tank Fund, and evaluated such data directly in the analysis for reasonableness and consistency. The actuary considered a material adverse deviation to be one in which the actual net outstanding losses and loss adjustment expenses exceeded the Fund's reserves by an amount greater than \$2,529,569 (10% of the Tank Fund's statutory surplus). The actuarial items reported in the 2006 Annual Statement, on which Mr. Kennerud's opinion was rendered, were as follows:

Note: Pages and schedules referenced below pertain to the 2006 Annual Statement.

<u>Loss and Loss Adjustment Expense Reserves</u>		
A.	Reserves for Unpaid Losses (Page 3, Line 1)	\$5,679,337
B.	Reserve for Unpaid Loss Adjustment Expenses (Page 3, Line 3)	\$1,958,488
	Total of A and B	<u>\$7,637,825</u>
C.	Reserve for Unpaid Losses – Direct and Assumed (Schedule P-Part 1, Total of Columns 13 and 15)	\$5,679,000
D.	Reserve for Unpaid Loss Adjustment Expenses – Direct and Assumed (Schedule P-Part 1, Total of Columns 17, 19, and 21)	\$1,958,000
	Total of C and D	<u>\$7,637,000</u>
E.	Retroactive Reinsurance Reserve Assumed (Page 3, Write-in Item)	\$0
F.	Other Loss reserve Items	NA
<u>Premium Reserves</u>		
G.	Reserve for Direct and Assumed Unearned Premiums for Long Duration Contracts	\$0
H.	Reserve for Net Unearned Premiums for Long Duration Contracts	\$0
I.	Other Premium Reserve Items	NA

The following were taken into consideration in determining the above amounts:

1.	Materiality Standard expressed in \$US	\$2,529,569
2.	Statutory Surplus	\$25,295,692
3.	Anticipated net salvage and subrogation included as a reduction to loss reserves as reported in Schedule P	\$0
4.	Discount included as a reduction to loss reserves and loss expense reserves as reported in Schedule P	
	4(a) Nontabular Discount	\$0
	4(b) Tabular discount	\$0
5.	The net reserves for losses and expenses for the company's share of voluntary and involuntary underwriting pools' and associations' unpaid losses and expenses that are included in reserves shown on the Liabilities, Surplus and Other Funds page, Losses and Loss Adjustment Expenses lines.	\$0
6.	The net reserves for losses and loss adjustment expenses that the company carries for the following liabilities on the Liabilities, Surplus and Other Funds page, Losses and Loss Adjustment Expenses lines.	
	6(a) Asbestos as disclosed in the Notes to Financial statements	\$0
	6(b) Environmental, as disclosed in the Notes to Financial Statements	\$0
7.	The total claims made extended loss and expense reserves (Schedule P Interrogatories)	
	7(a) amount reported as loss reserves	\$0
	7(b) amount reported as unearned premium reserves	\$0
8.	Other items	NA

Risk factors that could have a significant effect on the Tank Fund are the long-tailed nature of the Tank Fund's book, the small number of claims per year, and the high per-claim coverage limit.

In evaluating whether the reserves made a reasonable provision for unpaid losses and loss adjustment expenses, it was necessary to project future loss and loss adjustment expense payments. It was certain that actual future losses and loss adjustment expenses would vary significantly from the projections. The estimates for reserves, indicated above, made no provision for extraordinary future emergence of new classes of losses or types of loss not sufficiently represented in the Tank Fund's historical database or which have not been quantifiable.

Evaluation of Controls and Information Systems

As mentioned above under "Contracts and Agreements," the Tank Fund has an Exclusive Management and Administrative Contract with the Idaho State Insurance Fund (Fund). The Fund agreed to provide personnel, services, offices, and other resources necessary to perform and discharge all functions and operations of the Tank Fund, as its exclusive managing and administering agent. For details and descriptions of the controls and systems being utilized by the Idaho State Insurance Fund to provide services to the Tank Fund, refer to the Evaluation of Controls and Information Systems caption in the December 31, 2006 examination report of the Idaho State Insurance Fund.

FINANCIAL STATEMENTS

The financial section of this report contains the following statements:

- Assets as of December 31, 2006
- Liabilities, Surplus and Other Funds as of December 31, 2006
- Statement of Income, For the Year Ending December 31, 2006
- Capital and Surplus Account, For the Year Ending December 31, 2006
- Reconciliation of Capital and Surplus, December 31, 2002 through December 31, 2006

ASSETS
As of December 31, 2006

	<u>Ledger</u>	<u>Not Admitted</u>	<u>Net Admitted</u>
Bonds	\$29,290,056	\$ 0	\$29,290,056
Cash and Short term Investments	3,444,841	0	3,444,841
Investment Income Due and Accrued	310,896	0	310,896
Aggregate Write-ins for Other Than Invested Assets:			
Deductible Interest	6	6	0
Deductible	<u>3,827</u>	<u>3,827</u>	<u>0</u>
 Total Assets	 <u>\$33,049,626</u>	 <u>\$3,833</u>	 <u>\$33,045,793</u>

LIABILITIES, SURPLUS AND OTHER FUNDS
As Of December 31, 2006

Losses (Note 1)		\$5,679,337
Loss Adjustment Expenses (Note 1)		1,958,488
Other Expenses		<u>112,276</u>
 Total Liabilities		 <u>\$7,750,101</u>
 Aggregate Write-ins for Special Surplus Funds		
EBNI - Level II Site Assessments (Note 2)	\$ 686,000	
EBNI Losses and LAE (Note 3)	795,962	
Anticipated Losses Not Yet Incurred on Insured Tanks (Note 4)	1,633,448	
Unassigned funds (unencumbered surplus)	<u>22,180,282</u>	
Surplus		<u>25,295,692</u>
 Total Liabilities, Surplus and Other Funds		 <u>\$33,045,793</u>

STATEMENT OF INCOME
For The Year Ending December 31, 2006

<u>Underwriting Income</u>	
Premiums earned	\$ <u> 0</u>
Deduct:	
Losses Incurred	\$ 1,499,083
Loss Expenses Incurred	799,302
Other Underwriting Expenses Incurred	<u>1,088,649</u>
Total Underwriting Deductions	<u>\$ 3,387,034</u>
Net Underwriting Gain (Loss)	<u>\$(3,387,034)</u>
<u>Investment Income</u>	
Net Investment Income Earned	\$ 1,171,516
Net Realized Capital Gains (Losses)	<u> 0</u>
Net Investment Gain (Loss)	<u>\$ 1,171,516</u>
<u>Other Income</u>	
Net Gain from Agents' or Premium Balances Charged Off	\$ 0
Aggregate Write-ins for Miscellaneous Income:	
Application Fees	<u> 97,858</u>
Total Other Income	<u>\$ 97,858</u>
Net Gain (Loss) From Operations Before Divid. & Federal Income Taxes	\$(2,117,660)
Dividends to policyholders	<u> 0</u>
Net Gain (Loss) From Operations After Divid. & Before Federal Income Taxes	\$(2,117,660)
Federal Income Taxes Incurred	<u> 0</u>
Net Income (Loss)	<u>\$(2,117,660)</u>

CAPITAL AND SURPLUS ACCOUNT
For the Year Ending December 31, 2006

Surplus, December 31, 2005	\$27,414,349
Net Income	\$ (2,117,660)
Change in non-admitted assets	<u> (997)</u>
Net change in surplus for the year	<u>\$ (2,118,657)</u>
Surplus, December 31, 2006	<u>\$25,295,692</u>

RECONCILIATION OF CAPITAL AND SURPLUS
December 31, 2002 through December 31, 2006

	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006*</u>
Prior Year Surplus, December 31	\$33,058,216	\$32,446,965	\$31,460,761	\$30,234,833	\$27,414,349
Net Income	\$(603,944)	\$(993,541)	\$(1,240,166)	\$(2,828,073)	\$(2,117,660)
Change in Non Admitted Assets	(10,536)	6,213	13,969	7,589	(997)
Other Adjustments	<u>3,229</u>	<u>1,124</u>	<u>269</u>	<u>0</u>	<u>0</u>
Net Change for the Year	<u>\$ (611,251)</u>	<u>\$ (986,204)</u>	<u>\$ (1,225,928)</u>	<u>\$ (2,820,484)</u>	<u>\$ (2,118,657)</u>
Current Year Surplus, December 31	<u>\$32,446,965</u>	<u>\$31,460,761</u>	<u>\$30,234,833</u>	<u>\$27,414,349</u>	<u>\$25,295,692</u>
* Per Examination					

NOTES TO FINANCIAL STATEMENT

<u>Losses (Note 1)</u>	\$5,679,337
<u>Loss Adjustment Expenses (Note 1)</u>	<u>1,958,488</u>

The reserves established by the Tank Fund's actuary (Milliman, Inc.) were reviewed by the Department actuary, R. Michael Lamb, FCAS, MAAA. Mr. Lamb's conclusion was:

The methods and assumptions used by actuaries from Milliman, Inc., to estimate liabilities and encumbrances for the Fund are based on accepted actuarial principles and standards. I have tested some assumptions as I considered necessary for this review, but have not performed my own independent evaluation of Fund obligations. I recommend that the amounts estimated by Milliman and reported by the Fund as of December 31, 2006, be accepted as reasonable estimates without requiring further actuarial examination.

<u>EBNI - Level II Site Assessments (Note 2)</u>	<u>\$686,000</u>
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This special surplus fund represented a reserve or provision for site assessments to be made after December 31, 2006 to insure the new applications of currently eligible but not insured (EBNI) petroleum storage tanks as estimated based on data from the Department of Environmental Quality. The projected site assessment costs are based upon a selected average charge per site, additional leak detection system inspection costs, extended underwriting investigation, and the total number of new sites possible for registered tanks not already insured or approved for insurance as of the examination date.

<u>EBNI Losses and LAE (Note 3)</u>	<u>\$795,962</u>
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This special surplus fund represented a reserve or provision for future loss and loss adjustment expenses for petroleum storage tanks that existed as of December 31, 2006 and were eligible for insurance, but were not yet insured.

<u>Anticipated Losses Not Yet Incurred on Insured Tanks (Note 4)</u>	<u>\$1,633,448</u>
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This special surplus fund represented a reserve or provision for the Tank Fund to provide for insurance of its existing insureds for the remainder of their unexpired policies. This provision is similar to the unearned premium reserve in the usual property and casualty insurance company situation. This provision allows the Tank Fund to fulfill its obligations to its current policyholders for the remainder of the policy year.

All of the above special surplus fund reserve amounts were established by Milliman Inc, an outside actuarial firm, contracted by the Tank Fund to provide its actuarial opinion. The reserve amounts have been fairly consistent over the past three years. The special surplus provisions were reported in the Tank Fund's financial statements in accordance with the Idaho Department of Insurance direction and appear reasonable.

SUMMARY, COMMENTS, AND RECOMMENDATIONS

Summary

The examination disclosed that as of December 31, 2006, the Tank Fund had admitted assets of \$33,045,793, liabilities of \$7,750,101, EBNI - Level II site assessments of \$686,000, EBNI losses and LAE of \$795,962, reserve for anticipated losses not yet incurred on insured tanks of \$1,633,448, and unassigned funds (unencumbered surplus) of \$22,180,282; for a total surplus as regards policyholders of \$25,295,692. The Tank Fund was in compliance with the minimum capital and surplus requirements of Idaho Code Section 41-313.

Comments and Recommendations

<u>Page</u>	<u>Description</u>
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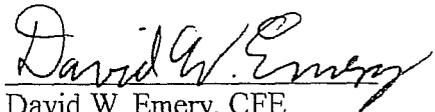
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| 12 | <u>Claims</u> It is recommended that the accountant should check the loss date of all the opened claims on his worksheet with the loss dates recorded at the Fund's claims system. It is also recommended that the Fund's claims department notify the accountant if there is any change on the loss date on any claims. |
|----|--|

CONCLUSION

The courteous assistance and cooperation extended by the Administrator of the Tank Fund (the Idaho State Insurance Fund) during the course of this examination is acknowledged and appreciated.

In addition to the undersigned, Kelvin Ko, CFE, Senior Insurance Examiner, from the Idaho Department of Insurance; and R. Michael Lamb, FCAS, MAAA (actuary) of Michael Lamb, LLC, participated in the examination.

Respectfully submitted,

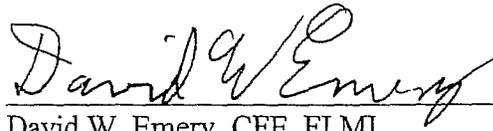


David W. Emery, CFE
Senior Insurance Examiner
Department of Insurance
State of Idaho

AFFIDAVIT OF EXAMINER

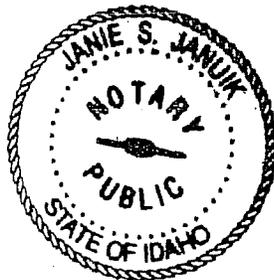
State of Idaho
County of Ada

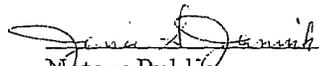
David W. Emery, being duly sworn, deposes and says that he is a duly appointed Examiner for the Department of Insurance of the State of Idaho, that he has made an examination of the affairs and financial condition of the Idaho Petroleum Clean Water Trust Fund for the period from January 1, 2002 through December 31, 2006, including subsequent events, that the information contained in the report consisting of the foregoing pages is true and correct to the best of his knowledge and belief, and that any conclusions and recommendations contained in the report are based on the facts disclosed in the examination.



David W. Emery, CFE, FLMI
Examiner-in-Charge
Department of Insurance
State of Idaho

Subscribed and sworn to before me the 10th day of December, 2007 at Boise, Idaho





Notary Public

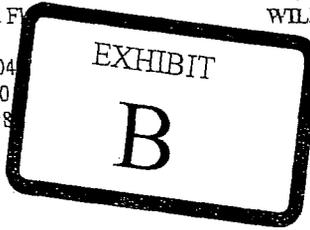
My commission Expires: 8-13-09

C.L. "BUTCH" OTTER
Governor

State of Idaho
DEPARTMENT OF INSURANCE

700 West State Street, 3rd Fl
P.O. Box 83720
Boise, Idaho 83720-004
Phone (208)334-4250
FAX # (208)334-4398

RECEIVED
WILLIAM W. DEAL
Director
AM 11:32
IDaho
INSURANCE



WAIVER

In the matter of the Report of Examination as of December 31, 2006, of:

**IDAHO PETROLEUM CLEAN WATER TRUST FUND
1215 WEST STATE STREET
BOISE, IDAHO 83720**

By executing this Waiver, the Fund hereby acknowledges receipt of the above-described examination report, verified as of the 10th day of December 2007, and by this Waiver hereby consents to the immediate entry of a final order by the Director of the Department of Insurance adopting said report without any modifications.

By executing this Waiver, the Company also hereby waives:

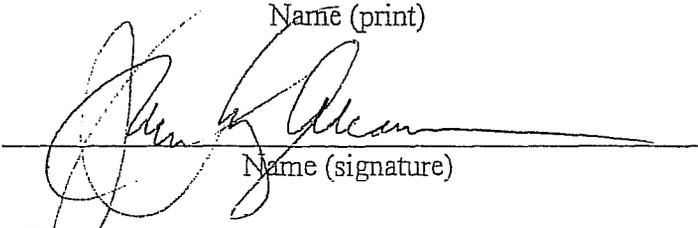
1. its right to examine the report for up to thirty (30) days as provided in Idaho Code section 41-227(4),
2. its right to make a written submission or rebuttal to the report prior to entry of a final order as provided in Idaho Code section 41-227(4) and (5),
3. any right to request a hearing under Idaho Code sections 41-227(5) and (6), 41-232(2)(b), or elsewhere in the Idaho Code, and
4. any right to seek reconsideration and appeal from the Director's order adopting the report as provided by section 41-227(6), Idaho Code, or elsewhere in the Idaho Code.

Dated this 14th day of December, 2007

IDAHO PETROLEUM CLEAN WATER TRUST FUND

James M. Alcorn

Name (print)



Name (signature)

Manager, Idaho State Insurance Fund
Administrator for the Idaho Petroleum
Clean Water Trust Fund

Title