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Department of Insurance
State of Idaho

Attorneys for Department of Insurance

**BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE
OF THE STATE OF IDAHO**

In the Matter of:

IDAHO PETROLEUM CLEAN WATER
TRUST FUND

Registration No. 2436
NAIC No. 14430

Docket No. 18-2886-13

**ORDER ADOPTING REPORT
OF EXAMINATION AS OF
DECEMBER 31, 2011**

The State of Idaho, Department of Insurance (Department), having conducted an examination of the affairs, transactions, accounts, records, and assets of the Idaho Petroleum Clean Water Trust Fund (the Tank Fund), pursuant to Idaho Code §§ 41-4932 and 41-219(1), hereby alleges the following facts that constitute a basis for issuance of an order, pursuant to Idaho Code §§ 41-4932(3) and 41-227(5)(a), adopting the Report of Examination of the Idaho Petroleum Clean Water Trust Fund as of December 31, 2011 (Report), as filed.

FINDINGS OF FACT

1. The Tank Fund is a liability insurance trust fund, created pursuant to the Petroleum Clean Water Trust Fund Act, Idaho Code § 41-4901 *et seq.*, formed and authorized to operate in Idaho as a non-profit special purpose vehicle that issues contracts of liability insurance

to governmental and private owners and operators of petroleum storage tanks. The Tank Fund operates under Registration No. 2436 issued by the Department Director (Director). Pursuant to Idaho Code § 41-4904(2), the administrator of the Tank Fund is the Idaho State Insurance Fund (State Fund).

2. The Department completed an examination of the Tank Fund pursuant to Idaho Code §§ 41-4932 and 41-219(1) on July 29, 2013. The Department's findings are set forth in the Report. The Report covered the time period between January 1, 2007 and December 31, 2011.

3. Pursuant to Idaho Code § 41-4932(3), a copy of the Report, verified under oath by the Department's examiner-in-charge, was filed with the Department on July 29, 2013, and a copy of such verified Report was transmitted to the State Fund, as administrator of the Tank Fund, on July 30, 2013. A copy of the Report is attached hereto as Exhibit A.

4. On or about August 1, 2013, the Department received a Waiver executed by the State Fund as administrator of the Tank Fund. A copy of such Waiver is attached hereto as Exhibit B. By execution of such Waiver, the Tank Fund acknowledged receipt of the Report and consented to the immediate entry of a final order by the Director adopting the Report without any modifications. Further, such Waiver included the waiver of the Tank Fund's rights to examine the Report for a period of time up to two (2) weeks; to provide a written submission regarding corrections or changes prior to the entry of a final order; to request a hearing concerning the Report; and to seek reconsideration and appeal from the Director's order adopting the report.

CONCLUSIONS OF LAW

5. Idaho Code § 41-4932(3) provides that, after the examination report contemplated by that section has been completed and properly delivered, and the examinee has had the opportunity to exercise the rights set forth in that section, or waive such rights, as in the instant

case, the Director shall file the report with the Department as a document open to public inspection, and shall deliver a copy of the report to the administrator of the Tank Fund.

6. Having fully considered the Report, and the administrator of the Tank Fund having waived the rights set forth in Idaho Code § 41-4932(3), the Director concludes that the Tank Fund is in compliance with the applicable provisions of title 41, Idaho Code, as required by Idaho Code § 41-4930.

ORDER

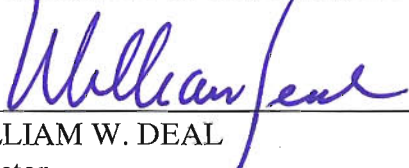
NOW, THEREFORE, based on the foregoing, IT IS HEREBY ORDERED that the Report of Examination of the Idaho Petroleum Clean Water Trust Fund as of December 31, 2011, is hereby ADOPTED as filed, pursuant to Idaho Code § 41-4932(3).

IT IS FURTHER ORDERED, pursuant to Idaho Code § 41-4932(3), that the adopted Report is a public record on file with the Department.

IT IS SO ORDERED.

DATED this 13th day of August, 2013.

STATE OF IDAHO
DEPARTMENT OF INSURANCE



WILLIAM W. DEAL
Director

CERTIFICATE OF SERVICE

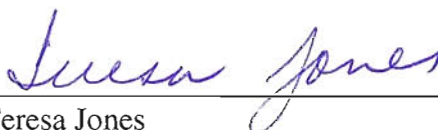
I HEREBY CERTIFY that, on this 14th day of August, 2013, I caused a true and correct copy of the foregoing ORDER ADOPTING REPORT OF EXAMINATION AS OF DECEMBER 31, 2011 to be served upon the following by the designated means:

Idaho Petroleum Clean Water Trust Fund
c/o Idaho State Insurance Fund, Administrator
Attn: James M. Alcorn
1215 West State Street
Boise, ID 83720-0044
JamesM.Alcorn@idahosif.org

- first class mail
- certified mail
- hand delivery
- email

Georgia Siehl, CPA, CFE
Bureau Chief/Chief Examiner
Idaho Department of Insurance
700 W. State Street, 3rd Floor
Boise, ID 83720-0043
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- first class mail
- certified mail
- hand delivery
- email



Teresa Jones
Assistant to the Director

DEPARTMENT OF INSURANCE

STATE OF IDAHO



REPORT OF EXAMINATION

of the

IDAHO PETROLEUM CLEAN WATER TRUST FUND

(NAIC Company Code 14430)

as of

December 31, 2011



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State of Idaho
DEPARTMENT OF INSURANCE

C.L. "BUTCH" OTTER
Governor

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WILLIAM W. DEAL
Director

Boise, Idaho
July 29, 2013

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 Sections 41-219(1) and 41-4932, 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, 2011 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. The following Report of Examination is respectfully submitted.

SCOPE OF EXAMINATION

This examination covered the period January 1, 2007, through December 31, 2011. 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 Sections 41-219(1) and 41-4932, Idaho Code, the National Association of Insurance Commissioners (NAIC) *Financial Condition Examiners Handbook*, and the NAIC *Accounting Practices and Procedures Manual*.

All accounts and activities of the Tank Fund were considered in accordance with the NAIC's risk-focused examination process. The NAIC *Financial Condition Examiners Handbook* requires that we plan and perform the examination to evaluate the financial condition and identify prospective risks of the Tank Fund by obtaining information about the Tank Fund including corporate governance, identifying and assessing inherent risks within the Tank Fund and evaluating system controls and procedures used to mitigate those risks. An examination also includes assessing the principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation, management's compliance with Statutory Accounting Principles and NAIC *Annual Statement Instructions* as governed and prescribed by Idaho Law.

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

The actuarial review of reserves, related liabilities, and other actuarial items was performed by Lewis & Ellis, Inc., consulting actuaries, for the Idaho Department of Insurance. A risk assessment review of the Administrator's information technology systems and controls was performed by Jennan Enterprises, LLC. There was some reliance placed on the 2011 Certified Public Accountants' statutory audit report and workpapers during the examination of the Tank Fund.

In addition to the Report of Examination, a Management Letter was issued to the Tank Fund by the Department which covered items that were not included in the Report, due to the materiality threshold, items that were related to proprietary/operational issues, as well as minor accounting and/or annual statement reporting corrections.

PRIOR EXAMINATION

The prior financial examination was conducted by the Idaho Department of Insurance covering the period January 1, 2002 through December 31, 2006.

A review was made to ascertain what action was taken by the Tank Fund with regard to comments and recommendations made by the Department in the prior examination report. Unless otherwise mentioned in the *Comments and Recommendations* section of this report, the prior report exceptions were adequately addressed by the Tank Fund.

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 in Idaho 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. Owners or operators of farm tanks or residential tanks and heating tanks may also seek insurance from the Tank Fund.

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 is no correlation between the transfer fees collected and the number of policies issued or tanks insured.

Transfer fee 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 Section 41-4909(8), Idaho Code. The Commission shall then promptly submit these fees to the Idaho State Treasurer for deposit in the Tank Fund.

Section 41-4910(5), Idaho Code provided for the transfer fees to be distributed as follows: 77 percent to the highway distribution accounts, 3 percent to the Idaho department of parks and recreation, and the remaining 20 percent 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.

Subsequent to December 31, 2006 and effective July 1, 2007, Section 41-4909(10), Idaho Code was 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 indicating that the unencumbered surplus as of June 30, 2007 was \$21,265,492. This reinstated the transfer fees beginning with the first day of the second month following the certification.

In 2003, a Board of Trustees was established for the Tank Fund under Section 41-4904, Idaho Code. Also in 2003, the Idaho State Insurance Fund (State Fund) was designated as the Administrator of the Tank Fund pursuant to Section 41-4904(2), Idaho Code. Prior to 2003, James M. Alcorn was trustee of the Tank Fund and an employee of the State Fund was the Administrator.

The Tank Fund also collected application fees of \$5 or \$25 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 Section 41-4911A, Idaho Code. 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.

The Tank Fund is exempt from the Idaho Insurance Guaranty Association under Section 41-3603(9), Idaho Code.

MANAGEMENT AND CONTROL

Board of Trustees

At year-end 2011, the following persons were appointed to the Board of Trustees pursuant to Section 41-4904(1), Idaho Code:

<u>Name</u>	<u>Position</u>
Forde Johnson	Chairman of the Board & Financial/Insurance Representative
Dennis DeRoche	Representative of Marketer < 5 million gallons
Robert P. Nonini	Member of State House of Representatives
Jack Barraclough	Environmental Representative
Mark Grannis	Representative of Marketer 5-10 million gallons
John Jackson	Representative of Marketer > 10 million gallons
Melinda Sloviaczek-Smyser	Member of State Senate

Subsequent to the examination date, Melinda Sloviaczek-Smyser resigned effective June 18, 2012. Mr. Nonini was elected State Senator and thus became the member from the State Senate. Gayle Batt was appointed as his replacement as the member from the State House of Representatives. Mr. Barraclough passed away on July 24, 2012. Currently, one Trustee position is open.

Administrator

Pursuant to Section 41-4904(2), Idaho Code, the State Fund is designated as the Administrator of the Tank Fund unless replaced by its Board of Trustees. 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

The Board of Trustees also serves as the Audit Committee. The Tank Fund does not have any other committees.

Conflict of Interest

The Tank Fund adopted a conflict of interest policy on January 22, 2008 that required the Trustees, the State Fund Manager and State Fund key employees to complete a Conflict of Interest Statement annually. The statements completed during the examination period and subsequent thereto appeared to appropriately disclose any possible conflicts of interest.

Contracts and Agreements

The Tank Fund had the following contract in force as of December 31, 2011:

Exclusive Management and Administrative Contract for the Idaho Petroleum Clean Water Trust Fund

As previously reported, the Tank Fund was created by the Idaho Legislature in 1990. Starting in 2003, the Tank Fund became subject to the direction and supervision of its Board of Trustees pursuant to Section 41-4904(3), Idaho Code. The administrator of the Tank Fund is the State Fund unless replaced by the Tank Fund's Board of Trustees with another person, in accordance with Section 41-4904(2), Idaho Code.

Pursuant to Section 41-4905(5), Idaho Code, the Tank Fund entered into an exclusive management and administrative contract with the State Fund. The original contract was executed and approved by the Idaho Department of Insurance on September 17, 1990 in accordance with Section 41-4929(1), Idaho Code.

As noted above, the Board of Trustees became responsible for direction and supervision of the Tank Fund in 2003. In this connection, a modified version of the agreement was submitted to the Idaho Department of Insurance on August 23, 2004. This contract was entered into by the State Fund, through its Manager, and the Tank Fund, through its Board of Trustees. The Idaho Department of Insurance approved this agreement on August 25, 2004.

The State Fund, as Administrator of the Tank Fund, provided the following management and administrative functions to the Tank Fund:

Hiring Qualified Personnel	Accounting and Record Keeping	Underwriting
Claims Handling	Auditing and Reporting	Actuarial
Computer and Data Processing	Computer Programming	Legal Services
All Other Managerial and Administrative Functions.		

The contract also provides a cost allocation/reimbursement that applies to various items, which are shared by the State Fund and the Tank Fund in their working arrangement, such as, equipment, office space, parking space, general office expenses, supplies, electronic data processing equipment and software.

Expenses for the management services paid to the State Fund during the examination period are set forth below:

<u>Year</u>	<u>Expenses for Management Services</u>	<u>Expenses for Rent and Parking</u>
2007	\$346,878	\$30,120
2008	\$328,556	\$30,120
2009	\$307,223	\$31,520
2010	\$289,194	\$30,920
2011	\$269,621	\$30,920

The terms of the contract and fees paid thereunder appeared to be fair and reasonable.

Pursuant to Section 41-4929(2), Idaho Code, the State 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 State 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, and Chapter 49.

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

CORPORATE RECORDS

Plan of Operations and By-laws

The Tank Fund's records indicated that the Plan of Operations and By-laws were not amended during the period under examination.

Minutes of Meetings

A review of the minutes of the meetings of the Board of Trustees for the period January 1, 2007 through December 31, 2011 indicated that a quorum was present at all meetings held during the examination period.

The minutes of the January 22, 2008 Trustees' meeting indicated the Department of Insurance Report of Examination as of December 31, 2006 and management letter were reviewed.

FIDELITY BOND AND OTHER INSURANCE

Insurance coverages for the protection of the Tank Fund were maintained during the period covered by the examination. The Idaho State Office of Insurance Management of the Department of Administration arranges for comprehensive blanket coverages for all agencies of the State of Idaho, including the Tank Fund. As previously reported, management and administrative services are provided to the Tank Fund by the State Fund through its employees. Coverages in effect as of December 31, 2011 that covered the State Fund and the Tank Fund included employee bond and crime; major property and fine arts; boiler and machinery; comprehensive liability; auto physical damage; inland marine, and notary bonds.

The protection of the financial institution bond met the suggested minimum limits recommended by the NAIC *Financial Condition Examiners Handbook*.

The insurance companies providing coverage to the State Fund were licensed in the State of Idaho. The State of Idaho retained the risk on the comprehensive liability, auto physical damage, inland marine, and notary bonds coverages.

PENSION, STOCK OWNERSHIP AND INSURANCE PLANS

As previously reported, the State Fund provided management and administrative functions to the Tank Fund. The employees performing the operations of the Tank Fund were employees of the State Fund, as provided by Sections 41-4904 and 41-4929, Idaho Code. The Tank Fund, therefore, had no employees and provided no employee benefits.

TERRITORY AND PLAN OF OPERATION

A Certificate of Registration was issued by the Idaho Department of Insurance enabling the Tank Fund to transact business in Idaho. The Tank Fund is authorized by Idaho Code to write business only in the State of Idaho. The Tank Fund's basic purpose is 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 the financial

responsibility requirement standards. The Tank Fund does not have any agents or utilize an agency force.

The operation of the Tank Fund is 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 percent of future transfer fee collections on a monthly basis.

As noted in the *HISTORY AND DESCRIPTION* section of this report, on July 26, 2007, the Director of the Department of Insurance sent a certification to the Idaho State Tax Commission indicating that the Tank Fund's unencumbered surplus as of June 30, 2007 was \$21,265,492. This level of surplus triggered the reinstatement of transfer fees flowing to the Tank Fund, as set forth under Section 41-4909(10), Idaho Code, effective July 1, 2007.

STATUTORY AND SPECIAL DEPOSITS

As of December 31, 2011, the examination confirmed with the Idaho Department of Insurance that the Tank Fund had made provision for the following deposits to be held in trust for the protection of all its policyholders and/or creditors through said office of the Director of Insurance, State of Idaho, in compliance with Sections 41-316A, 41-803, 41-804, and 41-4930, Idaho Code.

<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	<u>\$ 1,000,000</u>	<u>\$ 1,282,422</u>	<u>\$ 1,080,854</u>
Total:	<u>\$ 1,000,000</u>	<u>\$ 1,282,422</u>	<u>\$ 1,080,854</u>

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GROWTH OF THE TANK FUND

The Tank Fund's growth for the years indicated, as taken from the prior Annual Statements, is shown in the following schedule:

<u>Year</u>	<u>Admitted Assets</u>	<u>Liabilities</u>	<u>1 Total Surplus</u>	<u>2 Surplus Encumbrances (restricted surplus)</u>	<u>1-2 Unencumbered Surplus</u>	<u>Net Income(Loss)</u>
2007	\$32,299,903	\$8,096,747	\$24,203,156	\$2,814,178	\$21,388,978	\$(1,096,367)
2008	32,388,365	7,524,922	24,863,443	2,579,669	22,283,774	671,285
2009	32,825,799	6,877,194	25,948,605	2,365,419	23,583,186	1,086,362
2010	33,116,762	6,114,108	27,002,654	2,248,166	24,754,488	1,055,249
2011*	33,806,381	5,811,156	27,995,225	2,020,037	25,975,188	979,171

*As determined by Examination.

During 2007 the transfer fee was initiated pursuant to Section 41-4909(10), Idaho Code. As a result, total surplus, unencumbered surplus and net income increased during the period under examination. The decreases in liabilities were attributable mostly to favorable loss experience resulting in fewer claims.

LOSS EXPERIENCE

The ratios of losses and underwriting expenses incurred to transfer and registration fees collected shown in the following schedule were derived from amounts reported in the Tank Fund's Annual Statements:

<u>Year</u>	<u>Transfer and Application Fees Collected</u>	<u>Losses and Loss Adjustment Expenses Incurred</u>	<u>Underwriting Expenses Incurred</u>	<u>Ratio of Expenses to Fees Collected</u>
2007	\$ 876,915	\$2,030,281	\$1,126,379	359.97%
2008	2,199,124	573,479	1,177,048	79.60%
2009	2,163,766	752,107	1,284,345	94.12%
2010	2,210,698	1,165,448	1,130,382	103.85%
2011*	2,157,306	985,199	1,133,289	98.20%

*As determined by Examination.

REINSURANCE

The Tank Fund is authorized to reinsure any insurance risk, or any part thereof, pursuant to Section 41-4919, Idaho Code. However, the Tank Fund did not have any reinsurance agreements in effect as of December 31, 2011; and therefore did not assume or cede any business.

INSURANCE PRODUCTS AND RELATED PRACTICES

A separate, limited scope market conduct examination as of December 31, 2011 was conducted concurrently with the financial examination by the Idaho Department of Insurance.

ACCOUNTS AND RECORDS

General Accounting

All of the Tank Fund's accounting and financial reporting was provided by the State Fund, pursuant to the Exclusive Management and Administrative Contract. The Tank Fund did not have any employees and the State 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 Fund for its portion of the expense. For a discussion of the systems in use by the State Fund, refer to the *ACCOUNTS AND RECORDS, General Accounting* section of the State Fund's Report of Examination as of December 31, 2011.

The State of Idaho's STARS system was used for the payment of benefits and any direct expenses. The Tank Fund used the POSI System to manage its claim payments and policy management.

Independent Accountants

The annual independent audits of the Tank Fund for the years under examination were performed by Deloitte & Touche LLP, Boise, Idaho. For all years under examination, Deloitte & Touche LLP issued unqualified audit opinions.

The financial statements in each report were on a statutory basis. There was some reliance on the 2011 audit reports and workpapers in this examination of the Tank Fund.

Actuarial Opinion

David R. Kennerud, FCAS, MAAA, the Tank Fund's Appointed Actuary, issued a statement of actuarial opinion, regarding the unpaid losses and loss adjustment expenses reported by the Tank Fund in its 2011 annual statement. The opinion stated that Mr. Kennerud is associated with the firm of Milliman, Inc., Seattle Washington, and is a member of the American Academy of Actuaries and a Fellow of the Casualty Actuarial Society.

The Appointed Actuary's analysis underlying the opinion included the use of such actuarial assumptions and methods and such tests of calculations as considered necessary. The opinion stated that the reserve amounts:

- (1) Meet the requirements of the insurance laws of the State of Idaho,
- (2) Are consistent with reserves computed in accordance with Standards of Practice issued by the Actuarial Standards Board (including the Casualty Actuarial Society's Statement of Principles Regarding Property and Casualty Loss and Loss Adjustment Expense Reserves), and
- (3) Make a reasonable provision for all unpaid loss and loss adjustment expense obligations of the Tank Fund under the terms of its contracts and agreements.

The actuarial items reported in the 2011 Annual Statement, on which the Appointed Actuary's opinion was rendered, are as follows:

Loss Reserves

Reserves for Unpaid Losses (Page 3, Line 1, Column 1)	\$ 4,021,636
Reserve for Unpaid Loss Adjustment Expenses (Page 3, Line 3, Column 1)	\$ 1,691,278
Reserve for Unpaid Losses – Direct and Assumed (Schedule P, Part 1, Total from Columns 13 and 15, Line 12)	\$ 4,022,000
Reserve for Unpaid Loss Adjustment Expenses – Direct and Assumed (Schedule P, Part 1, Totals from Columns 17, 19, and 21, Line 12)	\$ 1,693,000
Retroactive Reinsurance Reserve Assumed (Page 3, Write-in Item)	\$ 0
Other Loss Reserve items on which the Appointed Actuary is expressing an Opinion.	\$ 0

Premium Reserves

Reserve for Direct and Assumed Unearned Premiums for Long Duration Contracts	\$ 0
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The Tank Fund's opining actuary was appointed pursuant to NAIC *Annual Statement Instructions Property and Casualty*.

See the subsequent *NOTES TO THE FINANCIAL STATEMENTS* section of this report for further information concerning losses and loss adjustment expenses, and the Department's actuarial consultant's review of the loss reserves.

INFORMATION SYSTEMS REVIEW

The State Fund's information systems were reviewed by Information System Specialist, Jenny L. Jeffers, CISA, AES, of Jennan Enterprises, LLC, on behalf of the Idaho Department. The procedures were performed in accordance with the guidelines and procedures set forth in the "Exhibit C, Evaluation of Controls in Information Technology (IT)" contained in the NAIC *Financial Condition Examiners Handbook*. In summary, the areas reviewed by the Information System Specialist included the following:

- Use of Information Technology.
- Information Technology Governance.
- Information Technology Infrastructure.
- Information Technology Audits, Reviews and Risk Assessments.
- Information Technology Security.
- System Development/Change Management.
- Business Continuity.
- Financially Significant Systems.

The results of the IT systems review were discussed with management. There were no recommendations made.

FINANCIAL STATEMENTS

The financial section of this report contains the following statements:

Balance Sheet as of December 31, 2011.

Statement of Income, for the Year Ending December 31, 2011.

Capital and Surplus Account, for the Year Ending December 31, 2011.

Reconciliation of Capital and Surplus Account, December 31, 2006, through December 31, 2011.

Balance Sheet

As of December 31, 2011

ASSETS

	<u>Ledger</u>	Not <u>Admitted</u>	Net <u>Admitted</u>
Bonds	\$32,318,200	\$ 0	\$32,318,200
Cash, cash equivalents and short-term investments	893,005	0	893,005
Investment income due and accrued	224,745	0	224,745
Aggregate write-ins for other than invested assets:			
Transfer Fees Receivable	350,853	0	350,853
Due From State Insurance Fund	<u>19,578</u>	<u>0</u>	<u>19,578</u>
Total Assets	<u>\$33,806,381</u>	<u>\$ 0</u>	<u>\$33,806,381</u>

LIABILITIES, SURPLUS AND OTHER FUNDS

Losses (Note 1)		\$4,021,636
Loss adjustment expenses (Note 1)		1,691,278
Other expenses		<u>98,242</u>
Total Liabilities		<u>\$5,811,156</u>
Aggregate write-ins for surplus encumbrances:		
EBNI - Level II Site Assessments (Note 2)	\$ 465,301	
EBNI Losses and LAE (Note 3)	384,513	
Anticipated Losses - Not Yet Incurred on Insured Tanks (Note 4)	<u>1,170,223</u>	
Total Surplus Encumbrances		\$ 2,020,037
Unencumbered Surplus (Unassigned Funds)		<u>25,975,188</u>
Total Surplus		<u>27,995,225</u>
Total Liabilities and Surplus		<u>\$33,806,381</u>

STATEMENT OF INCOME
For The Year Ending December 31, 2011

	Per Examination and Per Tank Fund
Premiums earned	\$ 0
Losses incurred	\$ 774,413
Loss adjustment expenses incurred	210,786
Other underwriting expenses incurred	<u>1,133,289</u>
Total underwriting deductions	<u>\$ 2,118,488</u>
Net underwriting loss	<u>\$(2,118,488)</u>
Net investment income earned	\$ 608,262
Net realized capital gains	<u>331,591</u>
Net investment gain	<u>\$ 939,853</u>
Aggregate write-ins for miscellaneous income:	
Application Fees	\$ 101,155
Transfer Fee	2,056,151
Deductible Interest	<u>500</u>
Total Other Income	<u>\$ 2,157,806</u>
Net Income	<u>\$ 979,171</u>

CAPITAL AND SURPLUS ACCOUNT

For the Year Ending December 31, 2011

	<u>Per Company</u>	<u>Examination Changes</u>	<u>Per Examination</u>
Surplus, December 31, 2010	\$27,002,654	\$ 0	\$27,002,654
GAINS AND (LOSSES) IN SURPLUS			
Net income	\$ 979,171	\$ 0	\$ 979,171
Change in non-admitted assets	<u>13,400</u>	0	<u>13,400</u>
Change in surplus as regards policyholders for the year	<u>\$ 992,571</u>	<u>\$ 0</u>	<u>\$ 992,571</u>
Surplus , December 31, 2011	<u>\$27,995,225</u>	<u>\$ 0</u>	<u>\$27,995,225</u>

RECONCILIATION OF CAPITAL AND SURPLUS ACCOUNT

December 31, 2006 through December 31, 2011

	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>
Capital and surplus, December 31, previous year	<u>*\$25,295,692</u>	<u>\$24,203,156</u>	<u>\$24,863,443</u>	<u>\$25,948,605</u>	<u>\$27,002,654</u>
Net income	\$(1,096,367)	\$ 671,285	\$ 1,086,362	\$ 1,055,249	\$ 979,171
Change in non-admitted assets	<u>3,833</u>	<u>(11,000)</u>	<u>(1,200)</u>	<u>(1,200)</u>	<u>13,400</u>
Change in surplus as regards policyholders for the year	<u>\$(1,092,534)</u>	<u>\$ 660,285</u>	<u>\$ 1,085,162</u>	<u>\$ 1,054,049</u>	<u>\$ 992,571</u>
Rounding	<u>(2)</u>	<u>2</u>	<u>0</u>	<u>0</u>	<u>0</u>
Surplus as regards policyholders, December 31	<u>\$24,203,156</u>	<u>\$24,863,443</u>	<u>\$25,948,605</u>	<u>\$27,002,654</u>	<u>*\$27,995,225</u>

* Determined by examination

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NOTES TO THE FINANCIAL STATEMENTS

Note (1) Losses	\$4,021,636
<u>Loss adjustment expenses</u>	<u>1,691,278</u>

Lewis & Ellis, Inc. was retained by the Department to perform the actuarial portion of the examination. The scope of Lewis & Ellis' duties included a review of the Tank Fund's actuarial report supporting the 2011 Statement of Actuarial Opinion.

Based on its review, Lewis & Ellis concluded that the loss, loss adjustment expense and EBNI reserve computations (see Notes 2, 3 and 4 below) were performed correctly and the selected estimates were reasonable. Lewis & Ellis also reviewed the assumptions and methodology used by the Appointed Actuary and found them to be appropriate.

<u>Note (2) EBNI - Level II Site Assessments</u>	<u>\$465,301</u>
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This special surplus fund represented a reserve or provision for site assessments to be made after December 31, 2011 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>Note (3) EBNI Losses and LAE</u>	<u>\$384,513</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, 2011 and were eligible for insurance, but were not yet insured.

<u>Note (4) Anticipated Losses - Not Yet Incurred on Insured Tanks</u>	<u>\$1,170,223</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. 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/encumbrances were established by Milliman, Inc. (the Tank Fund's actuary). A history of the encumbrance amounts covering the examination period may be found under the GROWTH OF THE TANK FUND section of this report. The special surplus provisions were reported in the Tank Fund's financial statements in accordance with the Idaho Department of Insurance's direction and appear reasonable.

SUMMARY, COMMENTS AND RECOMMENDATIONS

Summary

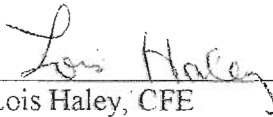
The results of this examination disclosed that as of December 31, 2011, the Tank Fund had admitted assets of \$33,806,381, liabilities of \$5,811,156, encumbered surplus of \$ 2,020,037 and unassigned (unencumbered) surplus funds of \$25,975,188. Therefore, the Tank Fund's unencumbered capital and surplus exceeded the \$2,000,000 minimum prescribed by Sections 41-313 and 41-4930, Idaho Code.

CONCLUSION

The undersigned acknowledges the assistance and cooperation of the Tank Fund's Chairman of the Board of Trustees and employees of the State Fund in conducting the examination.

In addition to the undersigned, Kelvin Ko, CFE, Senior Insurance Examiner, participated in the examination. Gregory Wilson, FCAS, MAAA and Wesley Campbell, FSA, MAAA, of Lewis & Ellis, Inc. conducted the actuarial portion of the examination. The State Fund's information systems were reviewed by Information System Specialist, Jenny L. Jeffers, CISA, AES, of Jennan Enterprises, LLC.

Respectfully submitted,



Lois Haley, CFE
Senior Insurance Examiner
Department of Insurance
State of Idaho

State of Idaho

DEPARTMENT OF INSURANCE

C. L. "BUTCH" OTTER
Governor

700 West State Street, 3rd Floor
P.O. Box 83720
Boise, Idaho 83720-0043
Phone (208)334-4250
FAX # (208)334-4398

WILLIAM W. DEAL
Director

AFFIDAVIT OF EXAMINER

State of Idaho
County of Nez Perce

Lois Haley, being duly sworn, deposes and says that she is a duly appointed Examiner for the Department of Insurance of the State of Idaho, that she has made an examination of the affairs and financial condition of the Idaho Petroleum Clean Water Trust Fund for the period from January 1, 2007 through December 31, 2011, including subsequent events, that the information contained in the report consisting of the foregoing pages is true and correct to the best of her knowledge and belief, and that any conclusions and recommendations contained in the report are based on the facts disclosed in the examination.

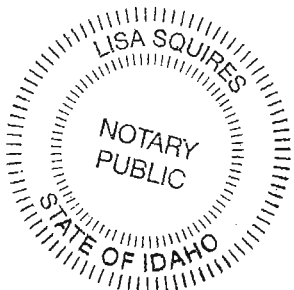
Lois Haley

Lois Haley, CFE
Senior Insurance Examiner
Department of Insurance
State of Idaho

Subscribed and sworn to before me the 29th day of July, 2013 at Lewiston, Idaho

Lisa Squires
Notary Public

My commission expires: 1/3/2018



State of Idaho
DEPARTMENT OF INSURANCE

C.L. "BUTCH" OTTER
Governor

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Phone (208)334-4250
FAX # (208)334-4398

WILLIAM W. DEAL
Director

WAIVER

In the matter of the Report of Examination as of December 31, 2011, 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 29th day of July, 2013 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 Fund also hereby waives:

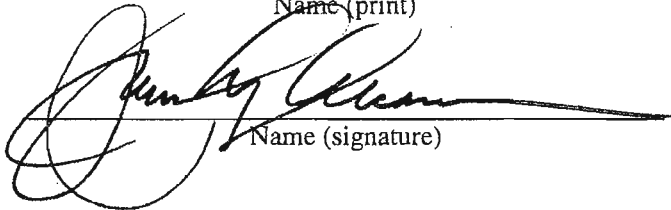
1. its right to examine the report for up to two (2) weeks as provided in Idaho Code section 41-3932(3),
2. its right to make a written submission regarding corrections or changes prior to entry of a final order as provided in Idaho Code sections 41-3932(3),
3. any right to request a hearing under Idaho 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 31st day of July, 2013

IDAHO PETROLEUM CLEAN WATER TRUST FUND

James M. Alcorn

Name (print)



Name (signature)

Manager, Idaho State Insurance Fund

Title

Administrator for the Idaho Petroleum Clean
Water Trust Fund

Equal Opportunity Employer

