



North Carolina Department of Environment and Natural Resources

Pat McCrory  
Governor

John E. Skvarla, III  
Secretary

April 1, 2014

**MEMORANDUM**

**TO:** Environmental Review Commission  
The Honorable Brent Jackson, Chair  
The Honorable Ruth Samuelson, Co-Chair  
The Honorable Mike Hager, Co-Chair  
House of Representatives Appropriations Subcommittees on Natural and Economic Resources  
The Honorable Tom Murry, Co-Chair  
The Honorable Roger West, Co-Chair  
Senate Appropriations Subcommittees on Natural and Economic Resources  
The Honorable Brent Jackson, Co-Chair  
The Honorable Andrew C. Brock, Co-Chair  
Fiscal Research Division of the General Assembly  
Jennifer Hoffman  
Timothy Dale

**FROM:** Neal Robbins, Director of Legislative Affairs

**SUBJECT:** Report on the Noncommercial Leaking Petroleum Storage Tank Cleanup Fund

**DATE:** April 1, 2014

Pursuant to S.L. 2013-360, Section 14.15, the Department of Environment and Natural Resources shall study the costs and benefits of the noncommercial underground storage tank program and explore options for continued use of the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund (Fund) and ways to improve the solvency of the Fund and report its findings and recommendations, including any legislative proposals, to the Environmental Review Commission, the Senate Appropriations Committee on Natural and Economic Resources, the House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and the Fiscal Research Division no later than April 1, 2014. Please consider the attached as the formal submission of this report. If you have any questions or need additional information, please contact me by phone at (919) 707-8618 or via e-mail at [neal.robbins@ncdenr.gov](mailto:neal.robbins@ncdenr.gov).

cc: Mitch Gillespie, Assistant Secretary for Environment, NCDENR  
Dexter Matthews, Director, DWM, NCDENR  
Linda Culpepper Deputy Director, DWM, NCDENR  
Cathy Akroyd, DWM, NCDENR  
Art Barnhardt, DWM, NCDENR

## **Division of Waste Management**

### *Underground Storage Tank Section*

#### **Noncommercial Leaking Petroleum Storage Tank Cleanup Fund Program Description**

The North Carolina General Assembly created the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund (the Noncommercial Fund) in 1988 to provide reimbursement to private property owners for the costs of cleanup and third-party damages that may result from release incidents involving noncommercial tanks. Noncommercial underground storage tanks (USTs) are primarily home heating oil tanks, with a typical capacity of 270 to 550 gallons. Although less common, farm or residential motor fuel tanks with volumes of less than 1,100 gallons are also considered Noncommercial USTs.

Noncommercial tank owners are required to report releases and clean up resulting contamination, but because these tanks are exempt from federal regulations, they are not subject to registration or monitoring requirements and owners do not have to provide financial assurance to cover releases of petroleum to the environment. The exact number of noncommercial USTs in North Carolina is unknown because of a lack of registration requirements. However, a survey conducted by the N. C. Petroleum Marketers Association and DENR in the early 1990s suggested that there may be as many as 250,000 statewide.

Home heating oil USTs and releases from these USTs are most often discovered during the due diligence process involved in residential property transfers. Homeowners who clean up releases from heating oil USTs on their property are almost always eligible for reimbursement of reasonable and necessary cleanup costs through the Noncommercial Fund. Currently, for releases discovered or reported to the department prior to Aug. 1, 2013, all cleanup costs up to a maximum of \$1 million are eligible for reimbursement. For those releases discovered or reported to the department on or after Aug. 1, 2013, reimbursement is provided for cleanup costs in excess of two thousand dollars or the sum of the following amounts, whichever is less; a deductible of one thousand dollars per occurrence, and a co-payment equal to ten percent of the costs of the cleanup of environmental damage, per occurrence. Compensation to third parties for bodily injury and property damage in excess of one hundred thousand dollars per occurrence is also reimbursable through the Noncommercial Fund.

In light of on-going concern regarding the solvency of the Noncommercial Fund, the N. C. General Assembly, as part of Session Law 2013-360, Senate Bill 402, has required DENR to study the cost and benefit of the noncommercial underground storage tank program, to explore options for continued use of the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund and to explore ways to improve the solvency of the fund.

## **Noncommercial Fund Historical Background**

Prior to FY 2012, revenue into the Noncommercial Fund totaled approximately \$6.4 million annually. This included approximately \$2.4 million in excise tax on gasoline and approximately \$4 million in inspection tax on motor fuel and kerosene. However, the Noncommercial Fund has been, and remains, underfunded in that there are insufficient resources to reimburse the costs of cleaning up all releases from all noncommercial USTs discovered during real estate transactions. For that reason, since 2004, the Noncommercial Fund has only been able to reimburse immediately the costs of cleaning up the worst releases and the costs of cleaning up all releases during the emergency response and initial abatement actions. However, because noncommercial UST release detection and cleanups are driven primarily by property transfers (and not by regulation), the amount of work done under the noncommercial UST program has remained relatively constant, with just a slight increase over time. Since on or about July 1, 2011, the Noncommercial Fund has experienced an even greater challenge meeting incoming reimbursement claim requests. Tables 1 and 2 below summarize historical revenues and disbursements from the Noncommercial Fund.

On June 30, 2011, the Noncommercial Fund balance, less pending claims, was \$171,602. Approved claims awaiting reimbursement totaled \$122,591, and approved claims against the Fund were being reimbursed within nine days of claim approval. On July 1, 2011, Session Law 2011-145 amended NCGS 119-18 to redirect the portion of the inspection tax that was going into the Noncommercial Fund to the Highway Fund. This action eliminated approximately 63% of the income into the Noncommercial Fund, or about \$4 million per year. By October 2011, the Noncommercial Fund had insufficient monies to allow reimbursement of all approved claims. A backlog of approved but unreimbursed claims began to build, and the time between claim approval and claim reimbursement began to lengthen. By June 30, 2012, the backlog of approved but unreimbursed claims totaled about \$2.4 million and the potential time between claim approval and reimbursement time was projected at about 47 months and growing.

In the Budget Bill of 2012, the General Assembly approved a non-recurring appropriation of \$4.88 million for the Noncommercial Fund. This money became available in early September 2012 and, by Sept. 30, 2012, all approved claims awaiting reimbursement were paid. The balance of the appropriation, as well as the income from the motor fuels excise tax, continued to be used to reimburse newly approved claims received during the ensuing months. By January 1, 2013, the balance of the one-time appropriation had been expended and, once again, claims for reimbursement began to exceed by far the income into the Noncommercial Fund. By June 30, 2013, 230 approved claims were held, waiting for additional funding.

The General Assembly once again approved a non-recurring appropriation of \$3.5 million in the Budget Bill of 2013. The balance of the appropriation, as well as the income from the motor fuels excise tax, continued to be used to reimburse newly approved claims received during the ensuing months. By October 15, 2013 the balance of the new one-time appropriation had been expended. All 230 held claims were reimbursed along with some additional approved claims reimbursed through the motor fuels excise tax source. Since then, all claims against the Noncommercial Fund approved by November 5, 2013 have been reimbursed. However, a new backlog of approved, but unreimbursed, claims is building, and the projected time between claim approval and claim reimbursement is also growing rapidly.

#### Current Status

As of March 1, 2014, the Noncommercial Fund staff is holding 159 claims totaling \$1,562,409 due to lack of available funds. The Fund reimburses in strict order of final approval. With the revenues now available from the motor fuels excise tax source alone, after administrative costs, approximately 10 claims per month can be reimbursed. As 25 to 35 claim filings are typically received per month, a backlog is inevitable at the current level of recurring funding. Present recurring income into the Noncommercial Fund of about \$2.36 million is used for program administration (about \$1.55 million) and for reimbursing claims (about \$840,000). The \$4.88 million appropriation of FY 2013 and the \$3.5 million appropriation for FY 2014 each were used exclusively for the reimbursement of claims. Historically, through FY 2011, program administration costs were relatively stable and typically represented approximately 22% of total revenues. Since loss of the recurring funding from the inspection tax in FY 2012, the percentage of revenues used for administrative purposes has been highly variable: 63% in FY 2012, 21% in FY 2013, and 32% (projected) in FY 2014. Money is available from the existing recurring source to reimburse an average of 85 homeowner claims per year. We estimate that, by June 30, 2014, approved but unreimbursed claims against the Noncommercial Fund may total between \$2.7 and \$3.2 million, and the projected time between claim approval and claim reimbursement, without additional funding, will have grown to about 36-to-42 months.

\*It should also be noted that although individual claims average about \$10,000, some incidents require additional cleanup work to bring releases to closure, and the historical average cost to achieve closure over the life of the Fund is approximately \$14,000. The loss of recurring income from the inspection tax source means that closure for about 280 noncommercial UST releases per year may potentially be delayed for months or years in the absence of other funding mechanisms.

**Table 1 – Receipts & Disbursements for Noncommercial Cleanups 7/1/1988 – 3/1/2014**

<b>Fiscal Year</b>	<b>Receipts</b>	<b>Disbursements<sup>1</sup></b>	<b>Program Expenses</b>
FY 1989	\$ 0	\$ 0	\$ 0
FY 1990	2,905,035	0	201,254
FY 1991	2,934,347	564,206	547,595
FY 1992	3,018,344	2,143,155	517,221
FY 1993	7,693,288	4,069,497	601,686
FY 1994	3,404,086	2,012,312	694,423
FY 1995	5,194,725	2,900,368	666,270
FY 1996	5,215,550	5,029,109	783,684
FY 1997	5,587,781	5,924,799	801,143
FY 1998	5,717,592	3,869,091	667,724
FY 1999	5,945,461	2,776,105	620,574
FY 2000	5,636,563	5,028,505	570,738
FY 2001	5,811,666	7,890,618 <sup>2</sup>	733,811
FY 2002	6,620,808 <sup>3</sup>	9,182,320	913,755
FY 2003	7,664,329 <sup>4</sup>	9,898,806	1,166,494
FY 2004	8,060,151	7,756,579	1,244,864
FY 2005	14,885,997 <sup>5</sup>	11,326,318	1,265,079
FY 2006	7,615,613 <sup>6</sup>	5,005,578	1,298,441
FY 2007	6,053,993 <sup>7</sup>	5,099,349	1,349,006
FY 2008	6,030,546 <sup>8</sup>	6,105,295	1,416,685
FY 2009	6,178,730 <sup>9</sup>	5,878,808	1,324,956
FY 2010	6,726,977 <sup>10</sup>	4,371,297	1,451,830
FY 2011	6,388,636	5,922,935 <sup>11</sup>	1,518,243
FY 2012	2,402,783	4,522,671	1,521,606
FY 2013	7,272,018 <sup>12</sup>	5,494,840	1,552,619
FY 2014	4,924,188 <sup>13</sup>	4,367,857	719,003

(3/1/14)			
<b>TOTAL</b>	<b>\$142,617,189</b>	<b>\$121,645,578</b>	<b>\$ 22,596,085</b>

1. Does not include program expenses.
2. \$2 million was transferred from the Noncommercial Fund to the State's General Fund.
3. Includes transfer of \$784,382 from Circle K Settlement Fund.
4. Includes transfer of \$3,418,990 of motor fuel and kerosene tax from Commercial to Noncommercial trust funds due to balance below \$5 million – GS 119.18(b).
5. Includes additional revenue from the 1-year 1.1 cent per gallon excise tax or \$19 million to the Trust Fund.
6. Includes \$1,922,601 transfer to Noncommercial Fund, \$90,000 transfer to the Department of Agriculture and Consumer Services and \$30,016 transfer to repay Federal Trust Fund for State Lead program expenses.
7. Includes transfer to Noncommercial Fund of \$598,935 and disbursement from Commercial Fund to Department of Agriculture and Consumer Services (\$90,000) and Federal LUST Grant (\$108,904).
8. Includes transfer to Noncommercial Fund of \$1,381,848, and disbursement from the Commercial Fund to the Department of Agriculture and Consumer Services (\$90,000), and Federal LUST Grant (\$53,752).
9. Includes transfer to Noncommercial Fund of \$1,004,895, and disbursement from the Comm. fund to Department of Agriculture and Consumer Services (\$90,000).
10. Includes transfer from NC DOT of \$4,283,393.
11. Includes legislatively mandated transfer of interest from the Fund - \$5,520.90
12. Includes legislative appropriation of funds and interest transfer to the receipts for the Fund - \$4,883,796.
13. Includes legislative appropriation of funds and interest transfer to the receipts for the Fund - \$3,500,000.

**Table 2 – Claims Against the Noncommercial Cleanup Fund  
7/1/1988– 3/1/2014**

<b>Claim Action</b>	<b>Claims</b>	<b>Outcome of Claim Actions</b>
Total Claims Paid	14,788	\$ 119,269,439
Incidents Denied Totally <sup>1</sup>	4	\$ 59,845
Claims Denied Partially <sup>2</sup>	5,565	\$ 13,875,224
Total Deductibles Paid	-----	\$ 1,213,106
Claims Pending	159	\$ 1,562,857
Contracted Cleanups <sup>3</sup>	236	\$ 2,376,139

- <sup>1</sup> Ineligible
- <sup>2</sup> Excessive or undocumented costs
- <sup>3</sup> State Lead actions undertaken or completed

### **Noncommercial Fund Study Requirements**

The study outlined by Session Law 2013-360, Senate Bill 402 is to evaluate the following as potential process improvements to provide additional efficiencies and resulting savings to the Noncommercial Fund:

*(1) The usual, average, historic costs of various phases of assessment and cleanup of noncommercial UST releases in order to determine areas of potential costs savings.*

Historic overall costs have been addressed in the discussion and tabulated information presented in the section above. The Division of Waste Management (DWM) controls costs through application of a task-based approach to work, use of a reasonable rate document developed from historical contractor rates, and a required pre-approval of any work beyond the task-defined scope. The majority of costs for noncommercial tank closures and assessments are associated with initial abatement actions reimbursed as lump-sum tasks that, with specific task restrictions, do not require pre-approval. These typically include limited over-excavation, sampling and disposal of contaminated soils, and a limited site assessment (LSA) and receptor survey to facilitate a risk evaluation. All additional work requires pre-approval of both the DENR incident manager and the Trust Fund. Based on the underground storage tank section's experience, it does not appear that significant additional cost controls or efficiencies can be realized in this process other than as described in Item (3), below.

*(2) The feasibility of determining levels of soil and groundwater contamination at noncommercial UST releases earlier in the assessment and cleanup process in order to identify lower risk sites and limit reimbursement of costs of initial abatement actions.*

Determining levels of soil and groundwater contamination at noncommercial UST releases earlier in the assessment and cleanup process would likely involve a drilling event prior to tank removal and initial abatement activities (IAA). Since most IAA sampling is done by hand from open excavation sidewalls, the added driller expense from this approach could actually increase costs if other additional work is required or the process change described in Item (3) is implemented.

*(3) The feasibility of assigning risk to noncommercial UST releases earlier in the assessment and cleanup process in order to limit reimbursement of costs of initial abatement actions.*

Assigning risk to noncommercial UST releases earlier in the assessment and cleanup process could lead to cost reductions at some incidents. By amending our process to have the

receptor survey performed as the first step in an assessment, the division might be able to eliminate the need for a well as part of the LSA at incidents where no receptors are present. This might also allow for more 'surgical' tank removals and/or abandonments in place, thus limiting the amount of soil to be removed. This would essentially be a 'ready for reuse' approach for these incidents. It is estimated that this process change could be beneficial at approximately 30% of incidents, at a potential savings of \$3,000 to \$5000 at applicable incidents. Over the last 10 years, on average, 366 initial claims have been received yearly. The calculated number of applicable incidents would be 110, and resulting savings could range from \$330,000 to \$550,000 per year. As a result of the study, the division is implementing this process change through policy revision.

- (4) The feasibility of partial cleanup at lower priority noncommercial UST releases; and,*  
*(5) The feasibility of issuing notices similar to the Notices of No Further Action for partially cleaned up, stabilized, lower priority noncommercial UST sites in order to facilitate property transfers.*

Providing partial cleanup at lower priority sites referenced in Item (4) would be inherent to the 'surgical' tank removals described in Item (3). However, it would almost certainly lead to implementation of institutional controls (Notice of Residual Petroleum) at all sites where applied. Concerns were raised in discussions with representatives of the real estate and banking communities that led the DWM to believe that additional NRPs or restrictions would be viewed as a further impediment in residential real estate transactions, which largely drive the use of the Noncommercial Fund. Even a modified NFA as described in Item (5) would be viewed negatively in their increasingly risk-averse businesses. It might also require changes to N.C.G.S. 143B-279.11 to accomplish.

- (6) Methods to strengthen liability protections for buyers and lenders of residential properties that have known noncommercial UST releases in order to facilitate property transfers.*

The UST program is currently risk-based. Incidents are closed based on risk-based criteria and standards.

- (7) Methods to employ land-use restrictions on residential properties where petroleum contamination remains at lower risk sites in order to limit cleanup at these sites, while still informing the public of risk, and facilitating property transfers.*

Our Notice of Residual Petroleum already allows for this through N.C.G.S. 143B-279.11 by providing the opportunity for subdivision of properties.

- (8) Methods to increase the participation of noncommercial UST owners in the costs of assessments and cleanups.*

Session Law 2013-360, Senate Bill 402 has enacted a deductible and co-pay for the noncommercial claims. At this time it is difficult to evaluate the effect of the maximum

\$2,000 deductible since the majority of claims being filed are still for releases discovered prior to August 1, 2013. In terms of potential savings to the Fund, it may be useful to project forward based upon claims reimbursed over the life of the Fund. During that period, an average 475 new incidents have been reported each year per year. Historically, approximately 77% of those releases result in filing of an average of 366 initial claims per year, with a rough average of \$10,000 per claim. Assuming that it results in the average deductible and co-pay being approximately \$1,900, the ensuing savings to the Fund could be approximately \$695,400 or 19% per year. The DWM believes this deductible and co-pay should remain in place.

*(9) Any other matter the Department deems relevant to improve the solvency of the Fund.*

The DWM believes it is of prime importance to maintain the healthy solvency of the Noncommercial Fund through a stable, recurring source.

**Stakeholder Discussions and Comments**

The DWM has met with representatives of the North Carolina Farm Bureau, the Petroleum and Convenience Marketer Association, the N. C. Board of Realtors, and the N. C. Banking Association to gather their comments and suggestions regarding the future status of the Noncommercial Fund. Their input was positive and they have indicated their interest in seeing the program maintained and in increasing recurring funding to eliminate backlogging of claims. Letters documenting their positions are included as an attachment. Environmental advisory groups, both historically and currently, support the continuance of the Noncommercial Fund.

**Other State Funds**

The DWM has identified 15 other states that reimburse costs for residential (noncommercial) UST cleanups in some form. Thirteen are primarily funded through a portion of the excise tax on motor fuels, one (Idaho) uses an insurance program and, one (New Jersey) has a grant and loan program predicated on financial qualification criteria. Only two of the other state programs (South Dakota and Washington) have provisions or circumstances under which no deductible or owner participation is required. Coverage under these programs varies widely, from \$5,000 to \$1,000,000 per incident.

State	Funding Source	Deductible/Co-pay
Idaho	Insurance (\$25 annual)	\$2,000
Maine	Motor fuels excise tax	Variable; typically \$500
Maryland	Motor fuels excise tax	\$500
Minnesota	Motor fuels excise tax	10% Co-pay
Montana	Motor fuels excise tax	\$5,000
Nebraska	Petroleum products excise tax	\$5,000+ 25% co-pay up to an additional \$10,000
Nevada	Motor fuels excise tax	\$250

New Hampshire	Motor fuels excise tax	\$100 - \$5000
New Jersey	Grants and loans	\$250 application fee with need-based financial qualifications
Pennsylvania	Motor fuels excise tax	\$1,000
South Dakota	Motor fuels excise tax	Variable; \$0 - \$10,000
Vermont	Motor fuels excise tax	\$250
Virginia	Motor fuels excise tax	\$500 - \$5,000
Washington	Motor fuels excise tax	None
Wisconsin	Motor fuels excise tax	25% Co-pay
<b>North Carolina</b>	<b>Motor fuels excise tax; Non-recurring appropriations</b>	<b>\$1,000 deductible + 10% co-pay up to \$2,000 maximum</b>

### **Findings**

Evaluation of the Noncommercial Fund program has led to the following conclusions:

1. The existing recurring funding source for the Noncommercial Fund is seriously inadequate to meet current and projected future demands.
2. There is at least one process improvement to the program (requiring the receptor survey to be the first step in site assessment) that could result in additional savings to the Noncommercial Fund.
3. Continuation of the Noncommercial Fund and measures to stabilize funding are favored by the primary stakeholder groups.

### **Recommendations**

1. The deductible enacted under Session Law 2103-360, Senate Bill 402 should be continued as is, as a method of requiring more owner participation and reducing overall costs to the Noncommercial Fund.
2. The DWM is implementing a process change through policy revision to require the receptor survey to be completed earlier in the assessment of release incidents.
3. Provide an additional "secure" source of funding. Options for this would require legislative action and may include:
  - a. Restoration of the previously used portion of the excess inspection tax.
  - b. Providing recurring appropriations in the amount of \$4,000,000 per year.
  - c. A statutory change to decrease the portion of the administrative cap allocated to the Noncommercial Fund.
4. Provide an additional one-time appropriation in the amount of \$3,500,000 to return the Noncommercial Fund to solvency: this would require legislative action to accomplish.



The Voice of Real Estate in North Carolina

March 14, 2014

Mr. Dexter Matthews  
Director, Division of Waste Management  
1646 Mail Service Center  
Raleigh, North Carolina 27699-1646

Director Matthews:

On behalf of the over 32,000 members of the North Carolina Association of REALTORS® (“NCAR”), their affiliates, clients, and property owners, I am writing to convey our support for the continued funding of the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund (“the Fund”).

NCAR believes the Fund is vital to the protection of North Carolina’s environment and its property owners. The Fund was established to reimburse property owners for costs incurred during the cleanup of soil and groundwater contamination resulting from the release of petroleum from an underground storage tank. While no hard data exists on the precise number of noncommercial underground storage tanks in North Carolina, a reasonable estimate is approximately 200,000.

In 2013, the General Assembly charged the Department of Environment and Natural Resources with studying the costs and benefits of the Fund and formulating ways to improve the solvency of the Fund. NCAR is grateful to DENR staff for meeting with its members about the study.

NCAR supported the previous funding method for the Fund, and our members were dismayed by the budgetary changes adopted in 2011 that reduced appropriations to the Fund. Decreasing the amount of funding available has led to a significant backlog of unpaid claims. While the state receives 20 to 40 claims per month, the Fund can pay only six to ten per month.

NCAR is concerned that further reductions to the Fund will have a deleterious impact on the ability of DENR to respond to the need for cleanup on affected properties. Elimination of the Fund would be catastrophic to the noncommercial real estate market, with profound negative effects on the marketability and insurability of properties where a release has occurred.

Without the Fund, there may be financing and title issues which could halt the market in many areas of our state where underground storage tanks are abundant. The real estate economies of places like

*President*  
Tomp Litchfield  
CSSS

*President-Elect*  
Tony Smith  
ABR, ABRM, CRS, GRI

*Treasurer*  
Treasure A. Faircloth  
GRI, e-PRO, CRS

*Immediate Past President*  
Patrice Willetts  
ABR, GRI, Green

*Executive Vice President*  
Andrea Bushnell, Esq.  
CIPS, RCE



the Triad are just starting to recover and do not need further setbacks which will ultimately hurt the economy overall.

Thank you for the opportunity to provide input on this important policy matter. If you have any questions, please contact Cady Thomas, our Director of Government Affairs, at [CThomas@ncrealtors.org](mailto:CThomas@ncrealtors.org) or 919-573-0996.

Sincerely,

A handwritten signature in black ink, appearing to read "Tomp Litchfield". The signature is fluid and cursive, with a large initial "T" and "L".

Tomp Litchfield  
2014 President  
North Carolina Association of REALTORS®



**NORTH CAROLINA  
FARM BUREAU FEDERATION, INC.**

PO Box 27766, Raleigh, NC 27611 Phone: 919-782-1705 Fax: 919-783-3593 www.ncfb.org

February 28, 2014

Mr. Dexter Matthews  
Director, Division of Waste Management  
1646 Mail Service Center  
Raleigh, NC 27699-1646

Dear Mr. Matthews:

The North Carolina Farm Bureau Federation (NCFBF) is the state's largest general farm organization, representing the interests of farm and rural people. We are writing to strongly support the continuation of the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund (fund).

NCFBF has supported the noncommercial underground tank fund since its inception. Among the list of tank types covered by the fund are farm tanks with a capacity of 1,100 gallons or less, all heating oil tanks with a capacity of 1,100 gallons or less, and all residential heating oil tanks serving four or fewer households. Our members are among the owners of these types of tanks, particularly in rural areas where access to other fuel sources, such as natural gas, is not as prevalent.

The noncommercial fund has been and continues to be an important aspect of environmental protection in North Carolina. The fund pays for cleanup costs and third party damage claims that result from a petroleum spill or leak from a noncommercial underground storage tank. Therefore the noncommercial fund helps protect the state's groundwater resources for its citizens, now and for future generations.

The 2013 General Assembly charged DENR with studying the noncommercial fund and recommending ways to address fund solvency. Thank you for meeting with us about the study.

NCFBF supported the previous method of funding the noncommercial fund and is disappointed that the 2011 budget changes reduced funding to the fund by approximately sixty percent. This significant decrease has led to severe funding shortages for cleanup at noncommercial sites, and to the need for general fund appropriations to help fill the gap created by this lost revenue.

In the 2013 General Assembly, legislation passed that imposed a \$ 2000 deductible charge per cleanup on noncommercial tank cleanups. This \$ 2000 deductible has not been in place long enough to determine if, or how much, the deductible will relieve some of the pressure on the fund. We feel more time is needed to determine the effect of the deductible.

NCFBF supports reversing the changes that were made in 2011 in order to address fund solvency issues. The noncommercial fund is important to the state's citizens and restoration of those funding sources should be a DENR priority. If those methods of funding the noncommercial fund cannot be restored, DENR should request additional funding, and request time to work with stakeholders to devise acceptable and affordable methods to address fund solvency between now and the 2015 General Assembly.

Thank you for the opportunity to provide input on the importance of the noncommercial underground tank fund. If you have questions, please let us know.

Sincerely,

Arne Coan, Director of Environmental Affairs

*Farm Bureau and Agriculture...  
We keep North Carolina growing!*