

Pollution Liability Insurance Agency

2002 Annual Report



USTCAP grant site Mazama Store, Okanogan County

Working to support a public – private partnership that fosters economic and environmental quality, opportunity and excellence.



**A Message from the Director
Roger R. Dovel**

**To: The Honorable Gary Locke, Governor
The Honorable Members of the Washington State Legislature
The Citizens of Washington**

For the Pollution Liability Insurance Agency (PLIA), 2002 was a year of positive change and solid success. Governor Gary Locke, with a commitment to excellence, appointed new leadership at PLIA. As the new Director, I am proud to share Governor Locke's commitment to excellence and his dedication to efficiency and cost savings.

The Mission of the Pollution Liability Insurance Agency is to ensure that pollution liability insurance is both available and affordable to the thousands of owner/operators of petroleum underground storage tanks. PLIA does this by managing the Pollution Liability Trust Fund and serving as a reinsurance guarantor to front line insurance providers. PLIA also manages the reinsurance resources that provide pollution liability protection for 60,000 homes and businesses throughout Washington that are serviced by oil heat.

Over the past decade PLIA has saved taxpayers, homeowners and businesses millions of dollars in insurance and environmental cleanup costs. Every state in the nation is required by federal law to implement environmental and liability insurance protection requirements for underground storage tanks for petroleum products. Washington State's innovative reinsurance program has proven to be the most efficient and cost effective way in the nation to meet these requirements. Given recent national events and new economic and insurance realities, PLIA's role has become even more important as it works to provide stability and support to our many partners and stakeholders.

The real success here at the Pollution Liability Insurance Agency is due to the talented and energetic staff. They demonstrate a commitment to excellence on a daily basis. It is an honor to provide you this annual report in recognition of their hard work.

Sincerely,

Roger R. Dovel
Director

Executive Summary

The Pollution Liability Insurance Agency (PLIA) makes pollution liability insurance available and affordable to the owners and operators of regulated petroleum underground storage tanks (USTs) and heating oil tanks by offering **reinsurance services** to the insurance industry. PLIA also monitors UST sites that received state grants to upgrade UST systems to meet federal and state requirements in the early 1990s. In 2002:

- The average insurance premium per UST site was \$1,187 compared to \$3,100 in 1990 (prior to PLIA). The lower premiums have saved business and local government over \$21,000,000 since PLIA started;
- PLIA received 2,400 registrations for Heating Oil Pollution Liability Insurance, making the total number of insured homes and businesses over 58,000 statewide;
- PLIA received over 100 claims and paid out over \$1,000,000 in claim costs for insured heating oil sites;
- PLIA conducted 73 inspections with the Department of Ecology (Ecology) at grant sites resulting in 100% compliance; and,
- Over 19,500,000 gallons of fuel was sold at PLIA grant sites.

Historical Overview

In October 1988 the Environmental Protection Agency (EPA) published technical standards and requirements for petroleum USTs in response to serious long-standing environmental problems. These requirements addressed the construction, replacement, and upgrading of USTs, as well as, on-going maintenance such as leak detection, testing, record keeping and other tank management processes. Owners and operators of USTs were also required to demonstrate financial responsibility for corrective action and for compensating third parties for bodily injury and/or property damage, in case of an accidental release of petroleum. EPA estimated at least 40 percent of all petroleum USTs were either leaking or had leaked in the past.

EPA regulations defined a variety of mechanisms for demonstrating financial responsibility. However, for most small businesses and local government entities, the purchase of pollution liability insurance was the only practical alternative. Unfortunately, the pollution liability insurance market had limited acceptance among commercial insurers because of the unknown risk. The result was excessively high premiums for pollution liability insurance and for most small businesses the cost was prohibitive.

In 1988, in response to the possible widespread closure of petroleum USTs throughout Washington State, the Legislature created the Joint Select Committee on Underground Storage Tanks. The committee's task was to study

and recommend legislation to assist owners and operators of USTs in complying with federal financial responsibility regulations. The remedy selected and approved by the Legislature, was to provide available and affordable insurance through a state administered reinsurance program. Reinsurance by the State would enable an insurance company to provide less coverage, therefore, lower premiums, while the UST owner would still have the required coverage.

In September 1989 PLIA began operations with a mandate from the Legislature to provide a plan for implementation of the reinsurance program. The Legislature approved that plan during the 1990 legislative session.

In 1991 the Legislature responded to a serious dilemma facing many rural communities in the state; the community had a single source, or perhaps two, of petroleum. Commerce, emergency vehicles, school buses and similar services depended greatly on these one or two sources. These rural gas stations, however, did not generate the profit necessary to upgrade or replace the UST system as required by federal and state statutes. In response to this problem, PLIA was directed to establish the UST Community Assistance Program (USTCAP), a one time grant program to fund upgrades and cover some cleanup costs.

In 1995 the Legislature added pollution liability insurance coverage for heating oil tanks to PLIA's responsibilities (heating oil tanks are not covered under the UST reinsurance program). The program was created in response to the rising number of heating oil tank releases and the significant impact contamination had on property values, as well as, the environment.

In 1997 Governor Locke signed into law legislation authorizing PLIA to implement a program to provide technical assistance to owners of heating oil tanks not covered under the heating oil insurance program.

Statutory Authority

The enabling legislation is contained in:

- **Chapter 70.148 RCW, Underground Petroleum Storage Tanks** – Creates a state financial responsibility (pollution liability insurance) program meeting EPA standards for owners and operators of underground storage tanks.
- **Chapter 70.149 RCW, Heating Oil Pollution Liability Protection Act** – Authorizes PLIA to develop a program that provides pollution liability insurance for home heating oil tanks.
- **Title 374 WAC, Pollution Liability Insurance Agency** – Agency's rules and operating procedures.

King County

The owners of this insured **heating oil tank** discovered that it was leaking when a sewer line was being replaced on their neighbor's property. The owners hired a PLIA approved contractor and cleanup started this past fall. Four hundred and seventy-six tons of petroleum contaminated soil that exceeded state cleanup standards have been excavated from the two properties. A collection system was installed to take care of the remaining contamination. PLIA has paid \$40,011 to date relating to this site.



King County



Thurston County



Clark County

Thurston County

When an underground **heating oil tank** fails, one sign of tank failure is water in the tank, particularly in Western Washington during the rainy season. When the water enters the tank – it can foul the furnace, and the oil heat dealer gets a no-heat call from the homeowner. In this instance, after the dealer determined that the tank failed, the insured tank was removed. PLIA was on site for the tank pull. Holes were viewed in the walls of the rusted tank. Twenty-seven tons of contaminated soil was excavated, a new tank was installed, and the site was restored to its original condition. PLIA paid \$5,207 to remediate this site which took less than 2 weeks.

Around the State



Okanogan County

Walla Walla County



Okanogan County

The Mazama Store, nestled in the North Cascades of Okanogan County, is located sixteen miles from Winthrop, Washington. In 1993 the store owners received an **Underground Storage Tank Community Assistance Program** grant for \$94,654 to assist the store in upgrading the underground storage tank system. The store is located at least 25 miles from an incorporated city or town with a population of 10,000 or more and is the primary source of fuel for Fire District #6 and the US Forest Service. The store has become a vital gathering place which serves as a community and cultural center for the surrounding area. The site was inspected by representatives of PLIA and Ecology in 2002 and was in 100% compliance with all UST regulations and grant requirements.

Clark County

Abandoned heating oil tanks are not eligible for PLIA's insurance but we do provide help through our **Technical Assistance Program**. For a \$350 fee, PLIA will guide property owners through the cleanup process. At this site, PLIA observed the removal of approximately 10-12 feet of contaminated soil. PLIA, the homeowner, the Department of Ecology, and the contractor are currently discussing different strategies to complete the cleanup of the site. A final letter will be issued by PLIA verifying that the cleanup standards have been met and that the site poses no threat to human health or the environment. This letter is critical for the purchase or sale of such properties. To date PLIA has assisted over 40 homeowners through this process.

Walla Walla County

The contamination at this commercial UST site in Walla Walla was discovered when workers noticed that their inventory records showed a loss of more than 8,000 gallons of product from the site's 6000 gallon underground storage tank. A tank inspection revealed a very large crack at the bottom. Both soil and groundwater had been contaminated. All tanks at the site were replaced and the contaminated soil was removed. A system for treating the groundwater was installed and cleanup is on-going. To date the commercial insurance company has incurred over \$75,948 in losses and PLIA has contributed \$462,000 towards the cleanup. This is one of 54 sites currently being cleaned up under PLIA's **Commercial UST Reinsurance Program**.

Underground Storage Tank Reinsurance Program

PLIA makes pollution liability insurance available and affordable to the owners/operators of petroleum USTs by serving as the reinsurer of insurance policies. PLIA has entered into insurance treaties (contracts) with four commercial insurance companies. Those insurers are required to provide pollution liability insurance coverage to owners and operators of petroleum USTs located in Washington State. As the reinsurer, PLIA assumes part of the risk for each loss and insulates the primary insurer in the case of an exceptionally large loss. In the case of a \$1,000,000 policy, PLIA is responsible for settlements over \$75,000. The insurer is responsible for settlement of most claims while protected by the state from severe losses. **This partnership covers 87% of insured tanks and has resulted in over \$14 million spent on cleanups at 266 sites.**

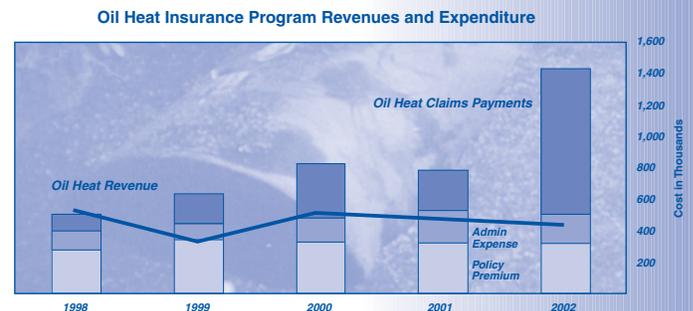
Because PLIA sells reinsurance to the insurance companies at a price below the private market price for similar reinsurance, insurers are required to pass this discount on to owners and operators of petroleum USTs in lower premiums. Prior to the program starting in **December of 1990**, the average annual UST insurance premium was **\$3,100 per site**. The average premium per site in **December of 2002** was **\$1,187**. The **average cost per tank** has gone from **\$930 in 1990 to \$416 in 2002**. Working under the assumption that premiums would have stayed at the 1990 level without PLIA, the **premium savings to over 1,300 Washington State businesses and local governments is over \$21,275,383**. The events of September 11, 2001, and subsequent losses by insurance companies, threaten to raise pollution liability rates across the nation. PLIA and its programs will continue working to contain and/or reduce costs to Washington's business community.



Source: PLIA

Heating Oil Pollution Liability Insurance Program

While heating oil tanks are exempt from federal and state technical requirements, the owner of the tank is not exempt from the liability associated with contamination, should there be a leak or release from the tank. PLIA has been providing coverage for owners of active heating oil tanks since 1996 with the Heating Oil Pollution Liability Insurance Program.



Source: OFM AFRR (Claims Payments provided by PLIA)

The program is a partnership with the heating oil dealers of the state. Heating oil dealers imposed a fee of six-tenths of a cent per gallon of heating oil sold to generate the revenue to help fund the program. The program is the first of its kind in the nation. To be covered for a loss, the homeowner simply registers the tank with PLIA. There is no premium or additional charge to the homeowner. Some insurance companies that write homeowners coverage are now requiring homeowners to have PLIA insurance. There are currently over **58,000** tanks throughout the state registered with PLIA (2,400 new registrations were processed in 2002). The program's insurance provides **\$60,000** coverage for cleanup of contamination from accidental releases of oil from active heating oil tanks that are registered with PLIA. The average cleanup currently costs less than \$12,000. Since the program started, PLIA has processed over 600 claims and paid for cleanups at over 300 sites. **In 2002 PLIA received over 100 claims and paid out \$1,073,080 in claim costs for insured heating oil sites.**

Underground Storage Tank Community Assistance Program

USTCAP grants were provided in the early 1990s to owners of USTs at remote and rural gas stations. Rural and remote was defined as having no more than one other retail source of petroleum located within five miles. Each grant was limited to \$150,000 of which no more than \$75,000 could be spent on cleanup of contamination. **By 1995, USTs at 112 sites were upgraded to meet federal and state standards with cleanups conducted at 70 of those sites.**

Even though new grants are no longer being offered, PLIA is responsible for the oversight of the original grant recipients. Conditions of the grant included remaining as a gas station for 15 years, providing quarterly volume reports to PLIA, and being in compliance with federal and state UST regulations. In 2002 PLIA initiated a cooperative effort with the Department of Ecology to conduct UST inspections, provide education, and review the requirements of the grant agreements with the current facility owner. Currently, 73 sites have been inspected and all sites in Eastern and Central Washington have been evaluated. A majority of the sites were in compliance and still are the main source of petroleum in their communities. The sites that were not in compliance were given a time period to perform the needed activities and to date all sites that have been visited are in compliance.

Financial Assessment

PLIA and its programs are funded from the Pollution Liability Insurance Program Trust Account (Trust Account) and the Heating Oil Pollution Liability Trust Account.

Neither PLIA nor any of its programs receive any State General Fund revenue. The main source of revenue for PLIA and its programs is the Petroleum Products Tax, an excise tax of 0.5 percent (fifty one-hundredths of one percent) on the wholesale value of petroleum on the first introduction into the state. The tax was collected between July 1, 1989 and June 30, 1992, when the Trust Account reached the statutory limit.

Since 1991 interest earned by the Trust Account has been transferred to the State General Fund and has amounted to over \$10,000,000.

The status of the Pollution Liability Insurance Program Trust Account as of December 31, 2002 was:

Cash Balance	\$18,106,143
Loss Reserve	\$ 2,352,350
Surplus Reserve	\$ 8,000,000
Unrestricted Trust Account Balance	\$ 7,753,793

The Heating Oil Pollution Liability Trust Account is established through the fee paid yearly by heating oil dealers. In 2002 the fees generated \$426,552 in revenue. This covers the administrative costs of the program and the required insurance policy premium. The claim costs are paid out of the PLIA Trust Account.

Chapter 70.148 RCW requires that when the unrestricted cash balance of the Trust Account is \$7,500,000 or less, the Department of Revenue is notified and the Petroleum Product Tax is again collected. PLIA and its programs have

operated successfully and efficiently since 1992 when the Trust Account reached its legal limit. Since that time, significant environmental cleanup has occurred, while economic support in the way of affordable pollution liability was provided to the owners/operators of petroleum USTs. However, given the number of sites that have been cleaned up and the potential number of future claims, it appears that the statutory requirement to again collect the Petroleum Product Tax may become a reality. On this or any other revenue issues, PLIA will act only after close consultation with all involved parties.

It is important to stress that the PLIA model has operated in a remarkably low cost and efficient manner. In the early 1990's, most states adopted a petroleum tax to address UST issues, and those taxes have remained constantly imposed. Not only has the PLIA model saved millions on insurance premiums, it has saved even more millions by not having the Petroleum Product Tax constantly in effect.

Internal Resource Assessment

PLIA is required by statute to expire by June 1, 2007. During the 2003-05 Biennium, PLIA will begin exploring the future possibilities of the agency with its valued stakeholders. The structure of the Heating Oil Pollution Liability Insurance Program and possible statutory changes will be a major emphasis.

PLIA is a small and efficient agency. There are currently 7 full time equivalent (FTE) positions filled in Olympia. Four of these 7 FTEs, including the Director and Deputy Director, are new to the agency within the past year. Along with updates to the agency's policy manuals, succession planning and operations manuals will receive focused attention during the 2003-05 Biennium. PLIA is committed to improvement in every aspect of its operations. In order to accomplish this, PLIA has begun a process of making major changes in the areas of staff training, information technology, and office management. This initiative will continue throughout the 2003-05 biennium. The expected results of this effort will be a better trained, better equipped, and more efficient public workforce that will conduct agency operations in a manner that reduces the amount of time required to conduct environmental cleanup, speeds up insurance claim processing, and reduces overall costs.

Mission Statement

The mission of the Pollution Liability Insurance Agency (PLIA) is to make pollution liability insurance available and affordable to the owners and operators of regulated petroleum underground storage tanks (USTs) and heating oil tanks by offering **reinsurance services** to the insurance industry.

PLIA is also responsible for:

- Verifying the validity of required declarations of financial responsibility.
- Providing advice and technical assistance regarding liability, cleanup requirements and related matters to the owners and operators of heating oil tanks.
- Managing the Underground Storage Tank Community Assistance Program grants to ensure compliance with contracts and service requirements.

Goals

- In support of the Department of Ecology (Ecology) and the Department of Licensing (DOL), ensure that owners and operators of regulated petroleum USTs meet the state and federal requirements of financial responsibility
- Continuously work to improve risk and site UST evaluation methods and techniques to reduce the liability exposure of the State to unexpected and/or uninsured losses.
- Provide claims management structure to monitor and assist insurance companies in investigating, processing and settling pollution liability insurance claims.
- Investigate and test alternative methods to determine more effective and efficient procedures for remediation of petroleum contamination.
- Develop site assessment and testing protocols to aid in determining the extent of risk associated with and involved in remediation of oil releases from heating oil tanks.

- Maintain effective liaison with and provide support to, federal and state agencies and local jurisdictions dealing with pollution liability insurance and financial responsibility associated with regulated USTs and heating oil tanks.

Guiding Values

- **STAFF:** Our greatest asset is our staff. We are dedicated to their personal and professional development. We support and encourage staff involvement at all levels and in all aspects of our agency.
- **DIVERSITY:** We actively promote the ideals of diversity among our staff, in our contracting, and in our relationships with stakeholders. We acknowledge and celebrate the value gained from a commitment to this ideal.
- **SERVICE, QUALITY, AND PROFESSIONALISM:** As public employees and representatives of the State of Washington, we are committed to the highest standards of ethical behavior, customer service, competency, and excellence.
- **CLEAR AND HONEST COMMUNICATION:** We actively encourage clear and open communication at all levels, with all clients and stakeholders, which promotes honesty, accuracy, unity and productivity.

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