

ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

LOCATION - SUBJECT Petroleum Storage
Tank Trust Fund -- Third-Party Claim
-- Spencer v. Magness Oil Co. --
Snappy Mart #3, Lakeview, Arkansas

MINUTE ORDER NO. 95-016

PAGE 1 OF 2

The Petroleum Storage Tank Trust Fund Act, Arkansas Code Annotated §8-7-901 et seq., provides for payments for bodily injury and property damage from the Petroleum Storage Tank Trust (PSTT) Fund to persons who are impacted by releases from certain aboveground or underground storage tanks. Though the Act gives the Director the power to authorize all payments from the PSTT Fund, the Director has requested the Commission's advice on the payment of third-party claims.

A claim was filed in Baxter Circuit Court against Benny and Janie Magness d/b/a Magness Oil Company ("Magness") by Paul, Nancy, and Ruby Spencer, owners of property adjacent to Magness' Snappy Mart #3 in Lakeview, Arkansas, for bodily injury and property damages resulting from an alleged release from underground storage tanks at the Magness facility. A judgment was entered against Magness in the amount of \$150,100.60 for property damages only, and Magness satisfied the judgment. Magness has made a claim against the PSTT Fund for reimbursement of the judgment, plus \$4,071.90 in interest accrued from the date the judgment was entered until the date it was satisfied.

As required by the PSTT Fund Act, at the time of the release Magness was in substantial compliance with the financial responsibility requirements, its tanks were registered, and all tank fees were paid. Department staff, the Attorney General's Office, and the Advisory Committee on Petroleum Storage Tanks have reviewed this claim and determined that its payment is appropriate under the statute. All recommend payment to Magness of the amount of the judgment plus interest, less the \$25,000 deductible, which has been met.

ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

LOCATION - SUBJECT Petroleum Storage
Tank Trust Fund -- Third-Party Claim
-- Spencer v. Magness Oil Co. --
Snappy Mart #3, Lakeview, Arkansas

MINUTE ORDER NO. 95-016

PAGE 2 OF 2

The Commission, after reviewing this claim, hereby recommends to the Director that he authorize payment of \$129,172.50 to Benny and Janie Magness d/b/a Magness Oil Company.

COMMISSIONERS

<u>WB</u>	B. Bush
<u>AC</u>	A. Carter
<u>MC</u>	M. Cooper
<u>BD</u>	B. Davis
<u>DH</u>	D. Hanby
<u>JH</u>	J. Hill
<u>JM</u>	J. Mobley
<u>JP</u>	J. Pascale
<u>JS</u>	J. Shannon
<u>HW</u>	H. Watkins, III
<u>RW</u>	R. Wilbourn
<u>WW</u>	W. Wright
<u>RY</u>	R. Young

Larry Wilson
Chairman

SUBMITTED BY: Larry Wilson

DATE PASSED: April 28, 1995