



IOWA DEPARTMENT OF NATURAL RESOURCES

LEADING IOWANS IN CARING FOR OUR NATURAL RESOURCES

Iowa UST Fund

Creating a Safety Net for Site Closure

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Iowa Fund

- 1989 UST Fund Program created
 - *Financial Responsibility*
 - ***Funding of historical releases (remedial program)***
 - *Maintain Iowa's rural network (loan guarantee)*

- 1995 Innocent Landowner Program

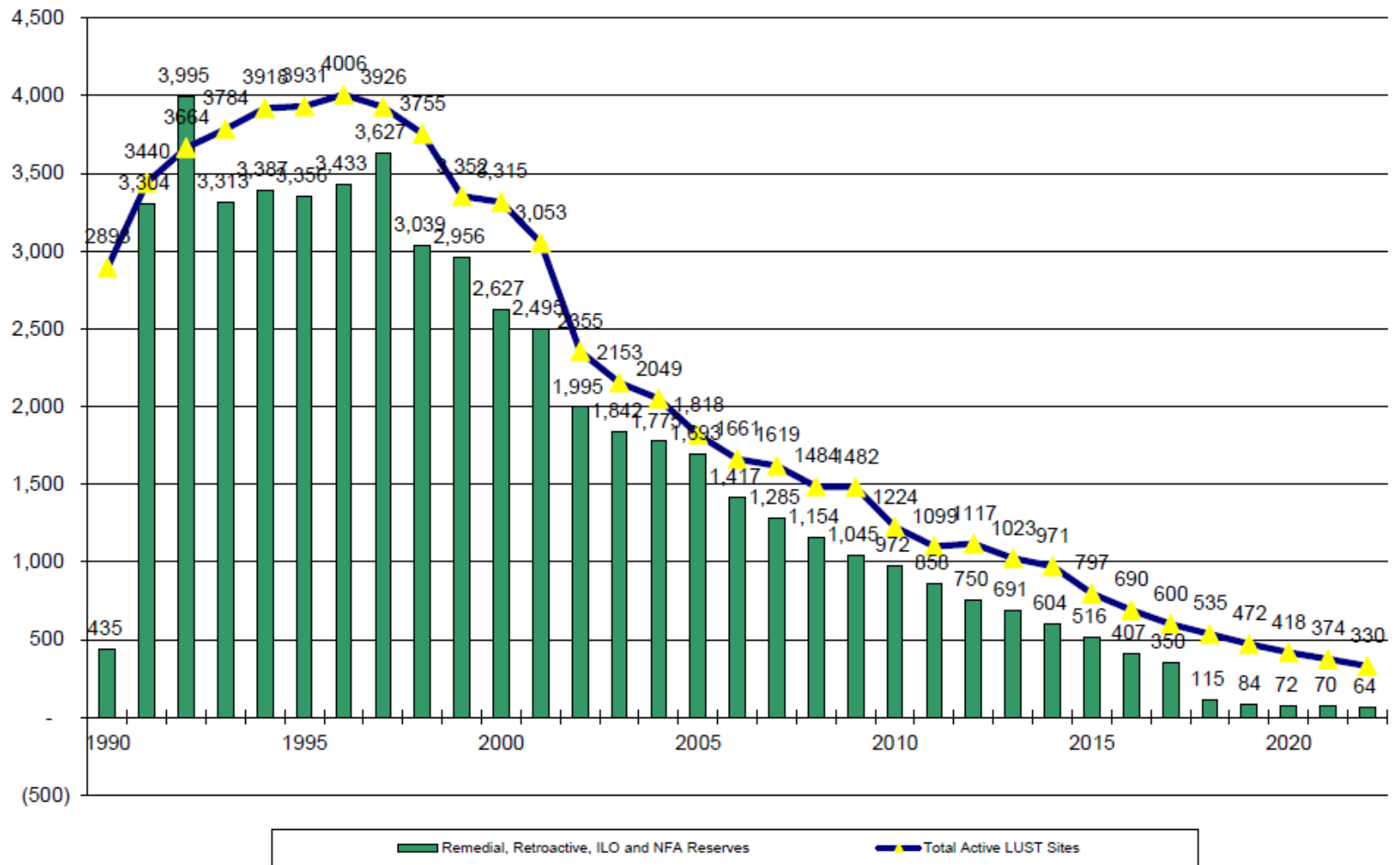
- 2000 Financial responsibility program ceded

- 2016 State allocations ended; run-off begins

Why a Safety Net

- Early 1990's Cleanup to MCLs
 - Cleanup unachievable
- Mid 1990's Cleanup based on TPH levels
 - Achievable, but costly
- Late 1990's Adopted RBCA standards
 - Reasonable standards; "common-sense" approach

Open Claims and Total Active LUST Sites



Why a Safety Net

- ❖ Cleanups no longer mandated
 - ❖ Site specific risk based standards
 - ❖ Creative data collection & analysis
 - ❖ Local institutional controls (ordinances)
 - ❖ Site restrictions (environmental covenants)

Concerned Parties

UST Owners / Property Owners
Municipalities / Utility Companies

- ❖ Long – term monitoring
- ❖ Delays (owner's, consultants, Fund, DNR)
- ❖ Contamination left in place

Creating a Safety Net

No Further Action certificate

- O/O wants to know someone will pay for historical releases
- DNR wants to know someone will pay for new releases
- Fund wants to know sites would not be for new regulations

NFA re-opener program must be funded

Safety Net #1

- Legislature allocated \$10M for Fund
- Create a No Further Action (NFA) Fund
 - Limited to eligible UST Fund claims & \$100K
 - NFA cert issued after January 31, 1997
 - Required verification of a high risk condition
 - Does not apply to 'new' releases
 - Fund dissolved in 2000
 - No claims presented;
 - \$\$ transferred to the State's technology account

Safety Net # 2

Unfunded program - - dissolution of original NFA Fund did not remove liabilities

- Four claims presented b/w 2001 – 2005
- Same limitations – no new release, high risk condition, tied to a prior Fund eligible claim, and limited to \$100,000 per claim
- Claims paid totaled \$183,656

Safety Net # 3

- 2007 legislation - allows claims for any site which received a NFA certificate when DNR determines a high risk condition exists
- 2010 legislation - allow sites to be re-opened when higher levels of contaminants were found.
- Joint DNR // Fund program pays for work

The Safety Net

- DNR guidance for determining conditions warranting re-opening of a sites classified as No Further Action
- Guidance document (still in draft form) is the basis of current program

The Safety Net

- Program must provide finality
- Protect RPs / landowners from uncertainty
- Allows closure when reasonable conditions exist

New vs Old Releases

- ❖ Common concern – is it old or new
- ❖ Certificates apply to a specific release
- ❖ Not intended to cover a new release
- ❖ Who decides what is old vs a new release

UST removal



Old or New Release



New vs Old Releases

- DNR will decide if a NFA cert site is to be reopened using their guidance.
- Most cases, uncertainty rules
- DNR decides who will pay for assessments

New vs Old

- Joint program is discern liability
- Uses mutually – agreed upon consultant to evaluate conditions; provide an opinion to determine allocation of liability
- Forensic analysis, MTBE, Lead in soil, hydrogeology, soils, likely causes

Outside Review

- Fund and PMMIC will generally accept allocation for division of costs
- Reviews may lead to a claim transfer
- Owners must be apprised of decisions

Allocation of Liability

- Allocation of liability not limited to PMMIC insured sites
- Partial denial of benefits; subject to legal appeal and review
- Owner initiated, subject to our review

Summary

- Iowa's early decisions on FR & funding created need for post-closure funding
- Insurance policies not intended to cover historical releases
- Goal is to protect Iowa's petroleum network and assist owner's in meeting State requirements

Summary

- Long-term stewardship
 - Funding ceased 2016
 - Balance \$8.9M; annual pays \$2.1M
 - Project 4-6 years
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- Iowa's next challenge is Prioritization

Questions

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