

# ICE Picks

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Editor – Shelly Harris, Secretary

## The Year 2000...In Review

By Ken Hilliard, Chairman Emeritus

It's difficult to write about a year that was successful in so many ways, but as required, here is the Chairman's perspective. The 2000 Board of Directors stayed busy, both as board members and in their chosen professions. It was a strange year in that, board meeting attendance, was less than perfect, only 4 of the 11 board meetings had all board members present, yet inspite of this, much was accomplished.

Probably, the board's initial meeting hosted by board member Dick Patyrak at Reliant Energy in Houston set the tone for the year. It was at this meeting, the board voted not only continue the recently completed UST Management & Compliance Seminar as an industry supported seminar, but voted to have ICE continue to take the lead.

Program Planning Chairman John Coll and Secretary Shelly Harris arranged excellent speakers at our ICE membership meetings. The year began with TNRCC Executive Director Jeff Saitas and during the year included such speakers as Commissioner Ralph Marquez, Dan Neal, Larry Smith from the TNRCC, Steve Halasz-Railroad Commissioners office,



Richard Franklin-EPA Region 6, John Howard-Environmental Council from Governor Bush's Office, Derrick Seals from Senator Chisolm's office and others. All of these individuals concentrated on the issues facing Texas, in water quality, air and what the upcoming National election might bring to Texas. Attendance at these meetings were excellent.

As the year progressed, Chairman Robert List, Governmental Relations Committee, under the guidance of board member Diane Combs lined up meetings with various Government agencies and participation from the membership was good.

Under the leadership of Secretary Shelly Harris, ICE again had a booth at the May TNRCC Trade Fair

and many members joined in to assist. In July Treasurer Pete Baldwin and Chairman Bob Pearl announced a membership drive and during the course of this program, members brought guests to the meeting and some joined. In all ICE grew by 6 member companies and showed an over growth despite all of the mergers on-going.

Also during May and again in July, ICE was requested by the TNRCC to participate in the evaluation of the new PST reimbursement application and protest procedures and many members submitted recommendations.

In July the TNRCC requested ICE participate in the PST stakeholders to address concerns about new proposed changes to TAC 334. Board Member Dick Patyrak, Cal Chapman, Scott Fisher, John Willrodt, Steve Morton, and myself along with our attorneys gave much time to the successful re-write. These hearings afforded ICE an opportunity to enhance our relationships with the TNRCC staff and the cooperation of TNRCC Anton Rozsypal and Nathan Weiss was excellent and Anton and Nathan became regular attendees at ICE general meetings.

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Legislative Chairman Bill Martin kept the ICE membership cognizant of up-coming legislative activities that could effect the environment and arranged, with Secretary Shelly Harris to bring speakers to the membership meetings that could discuss these issues.

The year ended with the 2nd UST Management & Compliance Seminar under the direction of board member Dick Patyrak and Co-Chairman Marc Buffkin. Again many members of ICE participated, and a special thanks to Secretary Shelly Harris and Treasurer Pete Baldwin for their un-tiring efforts.

The 2001 Elections were held, and Michelle Cowherd of Chevron will join the 2001 board of directors. The new officers were elected at the January board meeting and congratulations to the new officers:

- Chairman Dick Patyrak
- Vice Chairman Cal Chapman
- Secretary Shelly Harris
- Treasurer Diane Combs
- Board Member Pete Baldwin
- Board Member Michelle Cowherd

It has been my pleasure to serve you as Chairman for both 1999 and 2000. This will end my time as a board member as well as having served 9 of the 12 years, however, I will do my best to attend meeting and offer assistance to the new board. To all the members I have met and worked with, my many "THANKS", and to the board members who have worked with me, I sincerely appreciate your commitment and "THANK YOU" for making the years as chairman rewarding.

**Ken**

*The ICE Air Committee*

*By Pete Baldwin, Board Member*

**A**ir issues have been on the ICE agenda for many years, though they have not risen to the forefront and given focus by a specific committee. The 2001 Board has decided to pay closer attention to air issues and created an Air Committee to monitor current air quality issues in both pending and current legislation, as well as providing information to ICE members on regulations as they apply to air quality. ICE seeks to find a niche that would be helpful to current and new membership. We welcome suggestions from our members that will help the air committee focus on key areas of interest.

ICE has developed a favorable reputation with the TNRCC as being an industry group that manages issues as they are being developed into law and also as they are being implemented as regulations. ICE should expand our presence into air related matters.

ICE members will benefit from the information developed by the Air Committee.

Dan Neal was recently appointed as Manager, Permits Administrative Review Section of the TNRCC. His group manages the process of reviewing and administering all permits (air, water, and waste) for the agency. A recent meeting with Dan Neal gleaned several facts. Many facilities that maintained "grandfathered" permits are required to submit new applications. There are many permit requirements other than the big refineries or power plants that could impact the operations of ICE members. Air permitting is often accomplished through Permits By Rule (PBR) which can affect emergency

generators, paint booths, kilns, some pipeline operations, and other facilities. PBRs will require detailed monitoring and record keeping in many cases, and can affect many ICE member companies. The State Implementation Plan (SIP) for Houston will bring many changes to industry in Texas. The scope of change in air permitting will continue to broaden, and ICE is pleased to have an Air Committee to monitor these changes.

The Air Committee will become an important group at ICE, but it cannot get started without a chairperson. ICE depends on the expertise and organizational talents of our members to make our committees effective. We would like to ask you to consider someone in your company or even a potential member with experience in air quality, to consider becoming the chairman of the Air Committee.

Many people would benefit from having the opportunity to interact with TNRCC personnel on behalf of ICE, as well as having the opportunity to develop an important committee. We need a leader to develop and grow the air committee into an enduring, and responsive group that meets the need of ICE members. Please consider this opportunity and contact Pete Baldwin with questions at (817) 589-8222 x 115 or pbaldwin@handexmail.com. The experience will be rewarding and the networking will be considerable.

## *Big Shoes to Fill and the Direction of ICE*

By Dick Patyrak – Chairman

**F**irst, I want to express my sincere appreciation to the Board for the confidence they have expressed in choosing me as your Chairman for 2001. I am well aware of the “legacy” that proceeds me and I intend to carry on in the tradition that precedes me and I intend to carry on in the tradition of now “Chairman Emeritus”, Ken Hilliard in carrying forward the mission of ICE to work meaningfully and cooperatively with government and industry. As I have stated at our meetings thus far, a major goal of ICE will be to continue our active participation in the PST arena as well as expand into new areas. This will be a difficult task. We clearly want to continue in our leadership role in PST and expand, but not sacrifice any of the quality that has become the hallmark of ICE.

With the assistance of Doug Hall, your “Board” met several times in recent months and focused a considerable amount of time and energy discussing what ICE is and the direction that it should be traveling. I will not go into all the details of our efforts but I would like to list some of the more important conclusions of our efforts:

1. **Our Strengths include:**

Regulatory interface, networking, involvement in the process, member diversity, and individual development just to name a few.

2. **Our Issues or Weaknesses include:**

We are perceived as having expertise only in the PST arena, our membership growth is too slow, we can do a better job in communications, and we need to formalize some of our processes.

3. **Our Organization Goals include:**

In 2001, we will focus on having 50% of our topics in areas supplementing PST. By 2005, that ratio will change to 20% PST and 80% other. We will upgrade our web-site and use it better. We will increase our membership.

You should already be seeing some changes as a direct result of our planning sessions. The ICE Board has committed to expand into issues involving groundwater, water/wastewater, and air. Some processes that have not been formalized include: development of a communication committee under Board member Shelly Harris, a re-look at our membership committee under Board member Diane Combs, and adjustment and emphasis of PST activities into two areas (PST & Compliance Seminar) under Board member Michelle Cowherd. Cal Chapman will be working with TRRP and Groundwater committees and Ken Hilliard will focus on the Regulatory and Legislative Committees.

It promises to be a very busy year for ICE (not just because of the Legislative Session either).

**Work Effort and Commitment.** As many of you no doubt have observed, a considerable effort can be involved in putting ICE functions together. Some have more time to give than others do and some even want to take on tasks and commitments. My philosophy is and has been “many hands make light work”. We are providing some direction and detail for each ICE position. You, the members, are our real resource. You have the knowledge and information to make a difference. Please consider working on a committee, chairing a committee, or some other form of volunteer activity. The rewards that you reap will be worth the effort. And that effort does not have to be daunting.

In the all-important area of membership expansion, we all are on the line. I challenge each of you to write at least two letters each month to peers, contractors, consultants, or other groups that you work with and tell each some of the benefits of ICE and ICE membership. If each of us were to bring in just two additional members this year, we would have the pleasant task of finding a larger meeting space. Bob Pearl has promised to help facilitate our efforts.

With your help, we can do all this and more!

**Dick**

## TRRP Guidance-We knew it Would Resemble a Rule...Is it Rule?

By Cal Chapman – Vice Chairman

**H**ow does regulatory guidance get used? How does it come into being? Once it exists, does it force you to a certain path and procedure set?

We are oh, so familiar with guidance documents. They get created out of law, leading to regulation, leading to guidance. Must we follow guidance? Can we come up with an alternate approach that meets the rule intent? If we take an alternate approach, do we make enemies of the regulators who must review it, accept it, et cetera?

The TRRP guidance is coming out into public view at a much faster clip. By and large, I think it is usable and give people a good path to take. But must they take that path? In principle, the answer is no. But in practice, we are – most times, most projects – safer to stick to the “guidance”-approved process. How many responsible parties are willing to spend hard-earned dollars to come up with an alternate process? How many consultants would recommend a set of steps not in the guidance-blessed domain? That’s risky, costly, and probably scares and RP away from the consultant in a hurry.

Yes, we’re setting up guidance to follow the rules. So guidance pretty much becomes part of the rule set. Is this appropriate? I say that if the guidance is a true consensus piece of work, with regulators, industry providers and regulated industry consumers all in agreement, then it is appropriate. That is the way ASTM, the Petroleum Equipment Institute, and a host of other industrial standards-creating bodies work.

But what happens when the guidance-creating process is directly controlled by a regulatory agency? I cannot say – yet – how badly the resulting guidance gets skewed in favor of the regulatory agency, but it is almost certain to happen – whether a little or a lot.

You can tell that industry members’ commitments to this TRRP guidance creation are hugely important. Not to take away from TNRCC staff, who have also worked their hearts out, but to arrive at a balanced, technically and legally defensible guidance document is a herculean task. I can say I’m pleased to be part of it, but the process and the results are still scary, at least a little worrisome in their possible implications, and very much in need of polishing with time and experience.

### 2001 Membership and Board Meeting Schedule

#### Membership Meetings:

January 18th	Jenkens/Gilchrist
February 15th	Jenkens/Gilchrist
March 15th	Jenkens/Gilchrist
April 19th	Embassy-Annual Mtg
May 17th	Jenkens/Gilchrist
June 21st	Jenkens/Gilchrist
July 19th	Jenkens/Gilchrist
August 16th	Jenkens/Gilchrist
September 20th	Jenkens/Gilchrist
October 18th	TBA-Election
November 15th	Jenkens/Gilchrist

#### Board Meetings:

January 16th	Austin
February 13th	Reliant Energy
March 6th	ENSR
April 18th	Austin
May 8th	RMT, Inc.
June 20th	Austin
July 10th	Chevron
August 14th	Handex
September 11th	Chapman Eng.
October 17th	Austin
November 13th	RMT, Inc.
December 11th	ENSR

### EPA Initiative: UST Fields for Abandoned Tanks

By Michelle Cowherd-Board Member

The EPA has endorsed a new UST initiative entitled UST-FIELDS. There are approximately 200,000 abandoned or closed underground storage tanks sites at Brownfields sites alone that may be candidates for cleanup and redevelopment. These candidate sites include those on private property, public property (or state/local property), tribal lands, and Federal facilities. The UST-FIELDS initiative will help to create and foster state and local partnership efforts to assess, cleanup and, as an added benefit, help coordinate the reuse of these tank sites by awarding 50 state/local and EPA Regional/tribal pilot partnership grants for corrective action up to \$100,000 per pilot. Possible uses of the cleaned up sites could be, but are not limited to, ecological (such as wetlands), economic, recreation, or for open space.

To leverage resources, the emphasis will be to select pilots from existing EPA redevelopment projects (such as Brownfields pilot communities,

Brownfields showcase communities, Superfund redevelopment communities, or RCRA redevelopment communities), with a priority for funding underground storage tank pilots that assess for MTBE contamination. The Agency will encourage states to work closely with their local governments to select sites according to their priorities. EPA will work vigorously to ensure the funding of this initiative does not adversely affect existing program activities. This initiative will include:

- The first 10 pilots with abandoned or closed underground storage tank petroleum-release sites in existing EPA redevelopment projects will be announced.
- Planning, in 2001, to competitively solicit bids for the next 40 pilots with abandoned or closed underground storage tank petroleum-release sites emphasizing sites located in existing EPA redevelopment projects

Monthly Conference Calls among USTFIELDS representatives are tentatively planned for the second Tuesday of each month to discuss potential pilot problems and solutions as well as talk over larger issues bearing on USTFIELDS work. You can contact Steve McNeeley (EPA) @ 703-603-7164 for further info.

### February Relations Meeting Wrap Up

Mr. David Howell, newly assigned Manager of the Reimbursement Section, met with the Relations Committee Chairman and other ICE members following the February 15th membership meeting. Although it was David's first day in his new position, he was kind enough to discuss burning issues with the group and provide as many answers as possible.

The discussion began with the TNRCC's current ambitious goal of cleaning out old protests in 18 months. All will be reviewed and responded to. Their overall goal is to have future protests turned around in 90 days. To start the process, they will be separating out all the non-pre-approval appeals right away. They anticipate called "zero pays" and the 30 day turn around will apply to these appeals AES handles. TNRCC estimates that there are approximately 5,000 appeals in house.

Mr. Howell was asked about the TNRCC's stand on the sunset of the reimbursement fund. He does not think that fund will sunset – there is too much still to do and not enough money to do it at this point. The sunset committee recommended the fund be continued. TNRCC was directed to develop 5 and 7 year plans in case the fund was continued. He stated further that Junell, one of the authors of the original, is authoring a bill to continue the fund.

When asked if there was any way RP's could help speed up the process (group appeals with common problems), the response was no. The response was also "no" with regard to protest settlements being negotiated with the TNRCC.

Current TNRCC RMB staff consists of 15 FTE, AES has 6 FTE's. Dan Neal is continuing to work with staff and emphasizing "pick up the phone and call" for little items. They have had a big turnover and are training current staff.

# Key Web-sites to Check out.....

**Industry Associations:**

Petroleum Marketers Association of America (PMAA)  
[Www.pmaa.org](http://www.pmaa.org)

American Petroleum Institute (API)  
[Www.api.org](http://www.api.org)

Petroleum Equipment Institute (PEI)  
[Www.peinet.org](http://www.peinet.org)

National Association of Convenience Stores (NACS)  
[Www.cstorecentral.com](http://www.cstorecentral.com)

**Industry News/Information:**

Petroretail News, National Petroleum News, Fuel Oil News  
[Www.petroretail.net](http://www.petroretail.net)

**Environmental Protection Agency:**

Office of Underground Storage Tanks  
[Www.epa.gov/oust](http://www.epa.gov/oust)

**State Internet Pages:**

- Alaska [www.state.ak.us](http://www.state.ak.us)
- Alabama [www.adem.state.al.us](http://www.adem.state.al.us)
- Arkansas [www.adeq.state.ar.us](http://www.adeq.state.ar.us)
- Arizona [www.adeq.state.az.us](http://www.adeq.state.az.us)
- California [www.swreb.ca.gov](http://www.swreb.ca.gov)
- Colorado [www.oil.cdle.state.co.us](http://www.oil.cdle.state.co.us)
- Connecticut [www.dep.state.ct.us](http://www.dep.state.ct.us)
- D.C. [www.viron.state.dc.us](http://www.environ.state.dc.us)
- Delaware [www.dnrec.state.de.us](http://www.dnrec.state.de.us)
- Florida [www.dep.state.fl.us](http://www.dep.state.fl.us)
- Georgia [www.dnr.state.ga.us](http://www.dnr.state.ga.us)

**State Internet Pages (Cont.):**

- Hawaii [www.state.hi.us](http://www.state.hi.us)
- Iowa [www.state.ia.us](http://www.state.ia.us)
- Idaho [www.state.id.us](http://www.state.id.us)
- Illinois [www.epa.state.il.us](http://www.epa.state.il.us)
- Kentucky [www.nr.state.ky.us](http://www.nr.state.ky.us)
- Louisiana [www.deq.state.la.us](http://www.deq.state.la.us)
- Massachusetts [www.magnet.state.net.us](http://www.magnet.state.net.us)
- Maryland [www.mde.state.md.us](http://www.mde.state.md.us)
- Michigan [www.deq.state.mi.us](http://www.deq.state.mi.us)
- Minnesota [www.pca.state.mn.us](http://www.pca.state.mn.us)
- Missouri [www.dnr.state.mo.us](http://www.dnr.state.mo.us)
- Mississippi [www.deq.state.ms.us](http://www.deq.state.ms.us)
- Montana [www.deq.state.mt.us](http://www.deq.state.mt.us)
- North Carolina [ust.enr.state.nc.us](http://ust.enr.state.nc.us)
- North Dakota [www.ehs.health.state.nd.us](http://www.ehs.health.state.nd.us)
- Nebraska [www.deq.state.ne.us](http://www.deq.state.ne.us)
- New Hampshire [www.state.nh.us](http://www.state.nh.us)
- New Jersey [www.state.nj.us](http://www.state.nj.us)
- New Mexico [www.nmenv.state.nm.us](http://www.nmenv.state.nm.us)
- Nevada [www.state.nv.us](http://www.state.nv.us)
- Ohio [www.com.state.oh.us](http://www.com.state.oh.us)
- Oklahoma [www.occ.state.ok.us](http://www.occ.state.ok.us)
- Oregon [www.deq.state.or.us](http://www.deq.state.or.us)
- Pennsylvania [www.dep.state.pa.us](http://www.dep.state.pa.us)
- South Carolina [www.state.sc.us](http://www.state.sc.us)
- South Dakota [www.state.sd.us](http://www.state.sd.us)
- Tennessee [www.state.tn.us](http://www.state.tn.us)
- Texas [www.tnrcc.state.tx.us](http://www.tnrcc.state.tx.us)
- Utah [www.eq.state.ut.us](http://www.eq.state.ut.us)
- Virginia [www.deq.state.va.us](http://www.deq.state.va.us)
- Washington [www.wa.gov](http://www.wa.gov)
- Wisconsin [www.dnr.state.wi.us](http://www.dnr.state.wi.us)

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