

Supplemental Views of the National Oilheat Research Alliance
On GAO Report 10-583

**“Propane and Heating Oil: Federal Oversight of the Propane Education and
Research Council and that National Oilheat Research Alliance**

John Huber, President, National Oilheat Research Alliance

Overview

Over the past year, the National Oilheat Research Alliance has worked diligently with the General Accountability Office (GAO) in its preparation of the above cited report. We endeavored to ensure that the report was both accurate and complete as it relates to NORA. We have had NORA volunteer leaders travel to Washington at on their own expense to meet with staff from the GAO and answer any questions they had to the best of their ability. In addition, in response to numerous requests by GAO auditors, our accounting firm has generated hundreds of pages of reports for GAO, and I personally have met with GAO on several occasions. During the course of the investigation, GAO would periodically send requests for information every one to two weeks, and we in turn generally responded with complete answers typically within two weeks.

NORA is very proud of the work that it has done on behalf of the oilheating industry, and oilheating consumers. From day one, we treated the funds that NORA received as being in a public trust. As you know, NORA has a number of accomplishments during this time frame, and we will not focus on those accomplishments in this document.

Notwithstanding the time and energy that has put into this report, the delays in its final release, and NORA’s cooperative efforts with the GAO, the final report contains inaccuracies and reaches certain conclusions that are not supported by the record that NORA established. Instead we will attempt to correct several of the mistakes in the GAO document. We would note at the outset, that we spent considerable time attempting to correct GAO’s draft Statement of Facts, by submitting additional documentation, clarifying comments, and meeting with GAO auditors. Further, we would note that this review covered the period from 2001 – 2010. During that time period, like any organization we made a number of changes to vendors, computer systems, and D-Base [database] systems, which made for making it very time consuming and an arduous and time consuming process for NORA to produce all records GAO sought. We never anticipated that there would be a wide ranging investigation of operations that occurred nearly a decade ago.

Comments

P. 8 – GAO characterized the NORA [heating oil tank] insurance program as being outside of our priority area. However, NORA dedicated substantial funds to working to resolve the issue of homeowner tanks and insurance. In several states, homeowners were having difficulty obtaining coverage for their homes if they had an Oilheat system. NORA believed that leaking tanks, or tanks not maintained properly presented both a hazard to the environment, and insurability of homes and clearly presented safety issues. To that end the Board dedicated substantial sums to attempt to

respond to the problems. We conducted research on tanks and why they fail; worked with state environmental commissioners on appropriate cleanup standards for Oilheat tanks that might leak, and we investigated different methods to determine whether an underground tank might leak. NORA also developed educational materials to better train our technicians on how to install tanks properly, to inspect them periodically, and to understand the warning signs that might indicate a tank is leaking. In conjunction with the homeowner's insurance industry we also developed consumer brochures to educate consumers to best practices for tank maintenance and warning signs of leaks. NORA does not believe that these activities are outside the scope of the statute, and certainly they are not an overhead or "administrative" expense.

P. 9,– "NORA reported leaving \$5.8 million unspent". NORA conveyed to GAO that NORA uses an accrual system of accounting. NORA disagrees with this assertion in that the funds which were "unspent" had not yet arrived at NORA headquarters. Thus, NORA had no ability to spend those funds for the purposes described in the act.

P. 9 – As part of the audit process GAO provided a preformatted excel spreadsheet to NORA and requested that NORA's complete and return the spreadsheet in the fall of 2009. NORA returned a completed spreadsheet and accepted GAO's breakdown of expenses. However, the pie chart in Figure 2 does not match the data furnished by and between the GAO and NORA, and includes a new category titled, "general and administrative." During our exit conference on April 6, 2010 with the GAO team we inquired about this new category and percentage breakdown. However, notwithstanding this inquiry NORA never received an answer. In the spreadsheet that NORA received from GAO and approved, the administrative expenses were 5 percent, which is below the statutory maximum of 7 percent.

P. 14 – GAO asserts that there is no quantitative data to evaluate NORA's activities despite NORA providing detailed information on education and training, (*See*, NORA document submission # 000033-#000043). I would also note that NORA's certification program is utilized by the states of Vermont and New Hampshire. Additionally the New York State Energy and Research and Development Authority (NYSERDA) in its contracts for training references NORA's certification and training program, and Underwriters Laboratory (UL) uses it as part of its installation guidelines for tanks. Also, several insurance companies that write policies to Oilheat companies cite the NORA training and certification program and require that it be used by policy holders as part of their risk management programs. .

Unfortunately instead of utilizing the data provided by NORA, GAO instead used a government database that reflected a small number of incidents. NORA and several contractors carefully reviewed the database that GAO used to identify the number of incidents from Oilheat and found that the database produced by the Consumer Product Safety Commission (CPSC) was generated from hospital information, and did not provide detailed information on the incidents. Most of the incidents recorded were related to so-called "puff backs", which allegedly resulted in carbon monoxide problems. NORA provided GAO a detailed memorandum on this issue, which found that all of the incidents originated in one hospital in New York, which may indicate that the data was not being gathered uniformly or accurately; that the "puff backs", which is analogous to a backfire in a car, happen in the furnace or chimney. The exhaust gases would continue to be discharged through the chimney, and thus carbon monoxide poisoning is not likely to be related to this accident. Finally, two of the incidents referenced in the report are from 2008 and were related to

one homeowner rubbing oil in their eyes, and another stumbling over the heating unit while intoxicated. NORA could find no relationship between its training, and these events.

P. 14 – GAO indicated that NORA did not have a strategic plan for its consumer education and education and training. GAO reached that conclusion based on reviewing the strategic plans that were developed for NORA’s research and development program, which did not include consumer education and training and consumer education. As explained to the GAO, NORA developed plans for both of these activities at open meetings of the Alliance, working with experts in these areas. The plans developed were either adopted or modified by the Board of directors. Further, NORA disagrees with the GAO’s assertion that its strategic plan(s) statement “lacked goals.” These program areas are designed, among other things, to ensure that there are qualified technicians; that homeowners know the attributes of oilheat; and that homeowners are aware of both safety issues, and ways to reduce consumption. Section 706 of the National Oilheat Research Alliance Act of 2000 establishes that NORA is to work in these areas and develop programs for each of these areas. NORA developed very successful programs in each of these areas, but did not have a Roadmap as was used for our long term research programs

P. 15 – GAO states that “NORA officials said that NORA has not conducted any studies to ascertain whether its efforts have increased public awareness of oilheat.” This is not an accurate statement. I discussed consumer education with the GAO on more than one occasion during the audit process and explained the limitations of consumer research and its abilities to provide meaningful information. I further indicated that in recent years, NORA had not undertaken in-depth surveys on public awareness and that in the final years of NORA’s authorization, it was difficult to support spending substantial sums of funding on consumer research, and the Board did not believe such expenditures were justified.

In the exit conference on April 6, 2010, the GAO expressed a preference for precise correlative data concerning NORA’s message and how it changed consumer behavior or attitudes. After completing many studies, however, it became apparent to the NORA Board that such correlative data is imprecise, particularly difficult to obtain with a high profile product, and when many of the attributes of the product (e.g. price) change rapidly. GAO also indicated that they were looking for data showing that consumers wanted to use more “Oilheat”. However, that has never been the goal of the organization.

P. 15 – GAO indicates that NORA had not covered the Tank Project in the 2007 strategic plan. Intensive work in this area began in 2003 and most of the expenditures occurred in 2003-2007. Thus, it is unsurprising that NORA did not feature these activities in a 2007 strategic plan. NORA would note that work in this area was guided by consumer groups, insurance companies, tank manufacturers and remediation companies, as well as industry participants. Tanks have been an important part of the oilheating industry for decades, and each step of the work was reviewed by the Board.

Pp. 24-26, 51. – GAO described legislative (or lobbying) activities by independent state associations. As you know, these state associations are independent corporations and fund their government relations advocacy their mission which is paid for through with the private dues of their members and not NORA funds. The discussion of these state associations and their activities is thus unrelated to NORA’s compliance with the law.

P. 27 – GAO states that the “NORA president said that he was going to try to get state senators to support NORA reauthorization.” Regarding this alleged lobbying activity, I was briefing the Executive Committee of NORA. At the conclusion of the meeting I highlighted the steps that were being taken to have NORA’s enabling legislation reauthorized. The Executive Committee in planning NORA’s operations clearly needed to be advised of the legislation affecting the program, and whether they could enter into long term contracts, and whether funds would be available.

P. 26 – GAO states that “In his interview and follow-up discussion with the GAO on October 13, 2009, the President of the Massachusetts Oilheat Council (MOC), Michael Ferrante, stated that John Huber attended the meeting with Ron Carlton of Senator Kennedy’s office because in his conversation with Mr. Carlton.” Mr. Carlton had a number of questions regarding NORA’s expenditures and budgeting and the MOC agreed that I should attend the meeting. Responding to Congressional inquiries does not constitute “influencing legislation or elections.” Further, my attendance at the meeting did not utilize any funds collected by NORA and my time was compensated by a third party.

P. 26 – GAO discusses a newsletter reporting on Congressional activities. As you know, the volatility in heating oil prices has been a problem for customers and companies. Independent of NORA, the heating oil retailers initiated an effort to advocate for greater regulation of energy derivatives, which impact heating oil prices. The New York City association in its customer newsletter included an article indicating that Oilheat retailers were working in this area, and Congress was also attempting to pass legislation. There was no call to action, no mention of specific bill numbers, or ways to contact Congress. It should be further noted that the newsletter mostly focused on how to reduce oil consumption, and due to GAO’s continuing focus on this issue, the New York City Association as precaution repaid the funds that were used for this article.

P. 27 – GAO asserts that consumer education was not considered a priority in the legislation, and does a brief review of the Congressional history of the underlying Act. However, they neglect to discuss H.R. 3610 which was passed by the House in the 105th Congress and is the predecessor bill to the bill that was enacted into law. Then Chairman Dan Schaeffer (R-CO) of the Energy and Power Subcommittee conducted a hearing in the spring of 1998, and there was extensive discussion of consumer education by the industry and by competing fuels. Subsequent to that hearing, a discussion with utility representatives was conducted and a better definition of consumer education as well as limits on consumer education was incorporated into the final statute. It is clear from the existing statute and its discussion of consumer education, that it was a priority and was well considered.

P. 29 – GAO asserts that in many cases it was unable to tell whether the expenditures listed in the general ledger of the state associations were for legitimate expenditures. NORA explained to the GAO on several occasions that we collect the general ledger information from states to ensure that funds are being used for NORA activities during the year, and these ledgers serve essentially as a cash flow scrutiny review. Thus, we do not collect detailed information in that report. However, the states provide yearly reports on their activities that are reviewed to determine compliance with the law. We would also note that of all the information gathered for GAO review, it challenged two expenditures during its audit. The first involved funds that were transferred to the United Way of Long Island to conduct energy audits in a pilot study. In the initial application, these funds were characterized as a contribution. In a later letter they were characterized as a donation, and then on the web site they were characterized as a sponsorship. However, from NORA’s perspective, the

funds were used for the intended purpose. GAO also was concerned about a magnet giveaway in Vermont. The magnets provided customers information on what to do if they did not have heat, including when and how to use the reset button.

P. 58 – GAO asserts that the Chairman of NORA, Robert Boltz, who operates a small heating oil company in Pennsylvania. Mr. Boltz also served on PMAA’s Executive Committee. Mr. Boltz indicated that NORA did not do lobbying, and instead PMAA did the lobbying for the industry. Mr. Boltz was explaining the different roles of the two groups to GAO.

P. 60 – GAO raised some questions as to whether NORA had appropriately limited the service of Board members. GAO reviewed annual reports issued by NORA that listed the leadership of NORA. The Executive Committee includes the past Chairman, who is often no longer on the Board. Additionally, several members of the Board had left the Board for personal or financial reasons. GAO identified four of these individuals who appeared to have served more than the statutory maximum of seven consecutive years. NORA provided affidavits from each of these individuals indicating that they had interruption of service on the NORA Board, or were serving on the Executive Committee as past-Chairman with no vote. Additionally, NORA provided minutes for its meetings which indicated that these individuals did not participate in Board meetings during the period where they were not on the Board.

P. 61 – GAO raised a concern that the proposed budget should have been submitted to the Office of Fossil Energy Office and the Office of Energy Efficiency and Renewable Energy Office within in the Department of Energy (DOE). NORA explained to the GAO that the budget was submitted to DOE’s Office of Policy and International Affairs. In earlier years, the budget was submitted to the Secretary, without a sub-office, and comments were never received. In the early 2000’s NORA and the Office of Policy completed several projects together, and thus it seemed appropriate to send the budget to those offices. GAO’s desire to have the budget sent to other offices is not required by the statute. Further, in my twenty years of working with DOE, those offices have had limited interest in the oilheating industry, whereas the Policy Office has had an ongoing and active interest in the industry.