

STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
MOTOR FUELS UNDERGROUND STORAGE TANK TRUST
FUND ADVISORY BOARD

The above-entitled meeting was held at the LDEQ, Galvez Building, Conference Center, 602 North 5th Street, Baton Rouge, Louisiana, beginning at 1:37 p.m., on December 3, 2015.

BEFORE:

Lori B. Overland
Certified Court Reporter
In and For the State of
Louisiana

ASSOCIATED REPORTERS, INC.

(225) 216-2036

A P P E A R A N C E S

Kerry Hill
Chairman

Durwood Franklin
Jeff Baker
Gary Fulton
Karyn Andrews
Cy Morin
Frank Marcello
Chris Ratcliff
Nick St. Romain
Steve Burnham

Melissa Vizinat
Ian Kelley
Sam Broussard
Natalie Isaacks
Megan Terrell

* * * * *

I N D E X

EXAMINATION: PAGE(S):

None

EXHIBITS:

None

REPORTER'S PAGE 33

REPORTER'S CERTIFICATE 34

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MR. HILL:

At this time, I'd like to call this meeting to order and welcome everybody for being able to attend this morning. At this time, I'd like to have a roll call and consideration and adoption of the August 20, 2015 board minutes.

MS. VIZINAT:

Melissa Vizinat, Trust Fund.

Mr. MORIN:

Cy Morin, DEQ Audit.

MS. ANDREWS:

Karyn Andrews, DEQ Financial Services.

MR. MARCELLO:

Frank Marcellò, Louisiana Oil Marketers and Convenience Store Association.

MR. ST. ROMAIN:

Nick St. Romain, Louisiana Oil Marketers and Convenience Store Association.

MR. HILL:

Kerry Hill, Louisiana Oil Marketers and Convenience Store Association.

MR. BURNHAM:

Steve Burnham, Engineering Associates,

1 Incorporated.

2 MR. FULTON:

3 Gary Fulton, DEQ Underground Storage
4 Tank Remediation Division.

5 MR. BAKER:

6 Jeff Baker, DEQ Motor Fuel Trust Fund
7 Division.

8 MR. FRANKLIN:

9 Durwood Franklin, DEQ Trust Fund.

10 MR. RATCLIFF:

11 Chris Ratcliff. I'm an attorney with
12 DEQ, and I'm filling in for Perry Theriot.

13 MR. HILL:

14 Okay. Thank you. Do I hear a motion
15 to adopt the minutes from the August 20,
16 2015 board meeting?

17 MR. MARCELLO:

18 So moved, Mr. Chairman.

19 MR. BURNHAM:

20 Second.

21 MR. HILL:

22 Thank you.

23 We'll move to item number three, Audit
24 Status Report. And I'd like to have Cy to
25 bring us up on that.

1 MR. MORIN:

2 Okay. Turn to tab three. The first
3 two pages of this report detail 29 open
4 motor fuel cases initiated since fiscal year
5 '14. 22 of these cases are under review or
6 are awaiting review. Pending final review,
7 these represent one potential credit of
8 approximately \$3,200, five potential
9 assessments, totaling approximately \$1,500,
10 and 16 potential clean audits with no
11 assessment.

12 Six cases are still in progress,
13 representing two potential assessments,
14 totaling approximately \$11,000, of which
15 approximately \$9,700 has been collected.
16 Four potential clean audits with no
17 assessment are still in progress, wrapping
18 up fieldwork.

19 One case, which is the last case on
20 page two, was scheduled during the time I
21 made this report. It has since commenced
22 yesterday and we've added two more cases to
23 the list that -- that are starting next
24 week. That will make eight for fiscal year
25 '16 to date.

1 If you turn to the third page of the
2 report, these are the five cases that are in
3 legal, being pursued legally. For the first
4 case, on October 30 of this year, a new
5 attorney on the case enrolled as additional
6 counsel of record on behalf of DEQ. This
7 attorney is responding to the answer filed
8 on August 14 by the defendant and will be
9 preparing to go to trial. The second case
10 listed, legal sent an Office of Debt
11 Recovery Notice letter, which states that
12 the Department can allow the business to
13 make payments. The owner is currently
14 sending monthly payments of \$300. The third
15 case, on October 14, 2015 was referred to
16 the Office of Debt Recovery. The fourth
17 case on the list was referred to legal just
18 last month, November 12, 2015. And judgment,
19 for the fifth case listed was prepared for
20 signature and placed in the mail on November
21 16, 2015.

22 And that completes my report. Any
23 questions?

24 MR. HILL:

25 Any questions related to his report?

1 MR. BURNHAM:

2 Cy, these were randomly selected
3 audits, is that --

4 MR. MORIN:

5 You can see the reason for the audit
6 column here. These audits -- let's see,
7 never audited. Okay. So we -- we -- the
8 auditor who is doing motor fuel audits keeps
9 track of who we've audited in the past, when
10 we audited them. And there's quite a few
11 that have never been audited --

12 MR. BURNHAM:

13 Okay.

14 MR. MORIN:

15 -- so we are looking at trying to get
16 to everyone --

17 MR. BURNHAM:

18 Yes.

19 MR. MORIN:

20 -- that had not been audited. So
21 you'll see a lot of that on this list.

22 MR. BURNHAM

23 Okay.

24 MR. MORIN:

25 Others, they may have had a missing or

1 late payment, or just the various things you
2 see here. So maybe not completely random,
3 but mainly for these reasons you see here.

4 MR. BURNHAM:

5 Okay. Thank you.

6 MR. MORIN:

7 You're welcome.

8 MR. HILL:

9 Does anybody have any other questions?

10 (No response.)

11 MR. HILL:

12 Do I hear a motion to accept the Audit
13 Status Report?

14 MR. ST. ROMAIN:

15 I motion to accept the Audit Status
16 Report.

17 MR. MARCELLO:

18 Second.

19 MR. HILL:

20 Okay. Thank you.

21 Moving to item number four, Financial
22 Services Report. I'd like to ask Karyn to -

23 -

24 MS. ANDREWS:

25 Thank you. If we could turn to tab

1 four. I'd like to point out that I have
2 changed this report quite a bit from what
3 you are used to seeing. I'm -- I'm trying
4 to do a little bit different here. I --
5 I've heard a lot of comments that it -- it's
6 slightly confusing what we have been -- been
7 showing you in the past. And I'm -- I want
8 to try to make this a little bit more user
9 friendly. And I hope this a little bit more
10 closely resembles what you perhaps are used
11 to seeing as a profit and loss statement.

12 And so what we are reporting is a
13 statement that's on the cash basis. It's
14 similar to what the legislative auditor
15 audits. And hopefully, this will be a
16 little clearer for you to understand. And
17 so we're now reporting for the period July 1
18 to June 30. And what we've put together is
19 a comparative report that we will update
20 each quarter for you that you'll see the
21 year end and then the new update for the new
22 fiscal year.

23 So I'll go through this with you. And
24 if you have any questions, let me know.

25 So we closed the fiscal year '15 with

1 \$87,397,607 in cash. In this current fiscal
2 year to date, as of September 30, 2015,
3 we've deposited \$7,823,385. I would note
4 that \$27,490 of that is interest money that
5 we do keep segregated. And we have
6 disbursed to RACs for sites \$3,543,460.
7 You'll also notice on here that there is a
8 line item for other financing uses. This is
9 the transfer to the Environmental Trust
10 Fund. That's the actual transfer that we
11 reported to you for last year. We do that
12 in August. So since we are now on a cash
13 basis that I'm reporting to you, this is now
14 reported on this new statement in this
15 manner.

16 Next, I'll report to you, the current
17 liabilities on sites are at \$93,251,316.
18 And Jeff is going to go into that a little
19 bit more with you. And what we now have as
20 -- in balance, after obligations of minus
21 \$6,901,030.

22 I would point out that, it's showing
23 negative simply because the inflows are
24 slower at certain times of the year. We
25 haven't collected all the money. This is

1 only one period's report. As you know,
2 collections, we generally receive about
3 \$22,000,000. There's no reason to think
4 that that would not continue. So the -- the
5 minus right now, it's showing that and also
6 a portion of that would be explained in the
7 new obligation balance that Jeff -- that
8 Jeff is going to talk about.

9 Did ya'll have any questions about
10 this report?

11 (No response.)

12 MS. ANDREWS:

13 Does this help you understand the fund
14 a little bit better, I would ask you?

15 MR. HILL:

16 It does.

17 MS. ANDREWS:

18 Okay. Good.

19 MR. BURNHAM

20 Real good.

21 MS. ANDREWS:

22 Okay.

23 All right. If you could turn the
24 page. I'm going to continue to report this
25 for you. This shows you how we -- we

1 calculate our transfer from the Motor Fuel
2 Trust Fund to the Environmental Trust Fund,
3 on the next page.

4 And I did have two things that I did
5 want to point out to you that's not -- that
6 was not handed to you in advance, things
7 that we didn't know about them.

8 The first thing, I did send -- I did
9 hand out to you already. We did get a clean
10 audit that was emailed out to me yesterday.
11 You may have received an email from the --
12 from the Legislative Auditor. It has been
13 released publicly. You do have a copy and
14 there are some more copies in the back, if
15 anyone else would like a copy.

16 And the second thing that I did want
17 to go ahead and notify the board about is
18 that the Joint Legislative Committee on
19 Budget met on November 20. And as they did
20 last year, they have done cash sweeps of all
21 of states statutory dedicated funds and
22 constitutionally protected funds, one of
23 which, the Motor Fuel Trust Fund was one of
24 them, unfortunately.

25 I would like to report that cash and

1 budget for motor fuels was reduced by
2 \$823,657.

3 And that was five percent of the
4 budget.

5 MR. HILL:

6 That's the legal amount that --

7 MS. ANDREWS:

8 That's the maximum legal amount that
9 they are allowed to take. And I would like
10 you to know that they -- they took that out
11 of, I believe, all of the statutory
12 dedicated funds and the constitutionally
13 protected funds, if you go back and listen.
14 So no one was spared.

15 Did ya'll have any questions about
16 anything?

17 MR. HILL:

18 Did you say Jeff was going to finish
19 part of your --

20 MS. ANDREWS:

21 Well, when he does his presentation,
22 he will discuss that.

23 MR. HILL:

24 Okay. Well, good. Well, thank you,
25 Karyn.

1 MR. MARCELLO:

2 I -- I did have a question. And I'm
3 trying -- I'm trying to get it together. My
4 question revolves around the sweep.

5 MS. ANDREWS:

6 Yes.

7 MR. MARCELLO:

8 And the -- it's -- so our underground
9 trust fund has X dollars in it and X dollars
10 that are allocated to potential cleanup
11 sites. The five percent was based on which
12 number?

13 MS. ANDREWS:

14 Okay. So the way the -- the legislature
15 -- the Commissioner of Administration and
16 the Governor's Office does is, we are
17 appropriated every year with budget
18 authority to expend. Our budget authority
19 in the Motor Fuel Trust Fund this year was
20 \$16,473,142. That was our budgeted
21 appropriation for the Motor Fuel Trust Fund.
22 That is how much we are authorized to
23 disburse.

24 MR. MARCELLO:

25 Yes.

1 MS. ANDREWS:

2 Okay?

3 MR. MARCELLO:

4 Okay.

5 MS. ANDREWS:

6 That has -- that's -- there's -- the
7 correlation to cash is not there. That is
8 how much we are authorized to disburse for
9 RAC Cleanup --

10 MR. MARCELLO:

11 Correct.

12 MS. ANDREWS:

13 -- sites. And so the way the statute
14 is written and how it was utilized is, they
15 can take that appropriated amount and they
16 reduce it by five percent. So five percent
17 of that \$16 million was the eight --

18 MR. MARCELLO:

19 823?

20 MS. ANDREWS:

21 Correct, correct. And as -- with the
22 reduction, they also take the equal amount
23 of the cash.

24 MR. HILL:

25 Anymore questions, Frank?

1 MR. MARCELLO:

2 That's it.

3 MR. HILL:

4 Anybody have anymore questions?

5 (No response.)

6 MR. HILL:

7 Thank you, Karyn. Do I hear a motion
8 to accept the financial report from Karyn?

9 MR. BURNHAM:

10 Motion to accept.

11 MR. ST. ROMAIN:

12 Second.

13 MR. HILL:

14 Thank you.

15 Let's move on to number five, Trust
16 Fund Status Report. Jeff, would you deliver
17 that for us, please.

18 MR. BAKER:

19 Sure will. Good afternoon. If you'll
20 refer to tab number five in the packets.
21 These are the figures for the first quarter
22 of fiscal year 2016.

23 During the first quarter of fiscal
24 year 2016, the Trust Fund received 298
25 applications, totaling \$5,231,529. At the

1 end of September 2015, the Trust Fund had
2 144 pending applications to process, which -
3 - which had requested amounts, totaling
4 \$2,956,917. 249 applications were processed
5 for payment during the fiscal period,
6 totaling \$3,150,617. And 22 applications
7 were returned with deficiencies.

8 If you'll turn to the next page
9 entitled Monthly Motor Fuel Trust Fund
10 Obligation Determination, this is the new
11 worksheet that Karyn was referring too,
12 listing the various component determinations
13 of the potential obligation against the
14 Trust Fund as of the end of September 2015.

15 To kind of give you a breakdown of it,
16 for the sites in the corrective action
17 phase, which means that these are sites that
18 a CAP budget has been proposed and approved
19 by the ROG, the outstanding liability of the
20 corrective action plan budget and estimated
21 cost to reach closure at the end of
22 September 2015 was \$28,575,921. This total
23 includes the CAP budget remaining amounts
24 and the RAC estimated cost to closure
25 amounts.

1 The next section, the fund obligation
2 recognized for sites without ROG approved
3 CAP budgets is \$38,143,288. This is
4 determined by using the three year average
5 site closure cost and applying these costs
6 to that active trust fund sites that don't
7 currently have CAP budgets. A portion -- as
8 you can see, a portion -- when you look at
9 the total, as it relates to the 154 sites
10 times the 327,000, we calculate what the
11 potential obligation would be and then we
12 backout that, the total expenditures that
13 had been applied currently to those sites.

14 The next section, the fund obligation
15 has recognized the sites that had been
16 determined to be trust fund eligible,
17 however, have not submitted a reimbursement
18 application. That obligation is \$9,511,246.
19 This is also determined by using the three
20 year average site closure cost and applying
21 these costs to the sites that have requested
22 eligibility but have yet not submitted a
23 request for reimbursement from the fund.
24 Previously, these sites were being ignored
25 in this calculation.

1 The five year projected fund
2 obligation relating to the Trust Fund to the
3 Environmental Trust Fund transfer is
4 \$17,020,861. This estimate uses the three
5 year average dollars transferred from Motor
6 Fuel Trust Fund to the Environmental Trust
7 Fund and multiplies that average by five
8 years.

9 If you will turn to the legal page,
10 the last page of your document -- of you
11 packet, the number of Trust Fund sites that
12 have received no further action status
13 during the fiscal year 2016 was seven sites.
14 The number of potential Trust Fund sites
15 that were reviewed and made eligible during
16 the current fiscal year was six sites,
17 representing seven active incidents.

18 Points of interests. An update on
19 Senate Bill 244, which was passed by the
20 Legislative and signed by the Governor,
21 becoming ACT 277, this was the Act that
22 increased the maximum dollars available for
23 eligible releases -- release cleanups from
24 one million to one point five million. The
25 Trust Fund has fielded a number of contacts

1 from RACs and owners related to bringing the
2 older sites that have reached their maximum
3 back into the program.

4 We've also seen a number of sites that
5 were approaching the limit that had kind of
6 became stagnant become more active in their
7 remediation activities.

8 Another point. The Trust Fund has
9 been working to develop a more accurate
10 approach to the determination of potential
11 obligation liabilities, which is what we
12 just went over.

13 The -- the -- the September document --
14 -- determination with all the supporting
15 documents were sent out to the board members
16 two to four weeks ago with the preliminary
17 review and comments. No comments or
18 questions were received. We hope and
19 believe that this new methodology is a
20 better representation of the true
21 obligation.

22 Now, in talking to several of the
23 board members, apparently, some of ya'll did
24 not receive this. I will go back and send
25 this -- resend this to the addresses that

1 you gave me and make sure that you have the
2 new numbers, along with all the supporting
3 calculations so ya'll will be able see this.

4 One other point. The revised statutes
5 2195.a.85 and 2195(10).d, the state --
6 states that the Advisory Board shall review
7 the financial responsibility requirements
8 for all sites in and out of compliance on an
9 annual basis. And they recommend to the
10 Secretary adjusting those requirements, if
11 they see fit. At this time, the Trust Fund
12 does not have any recommendations to the
13 board relating to any modifications for the
14 current financial responsibility dollar
15 amounts.

16 MR. FULTON:

17 I propose that we not make any
18 changes.

19 MR. HILL

20 Not make any changes?

21 MR. FULTON:

22 Right.

23 MR. BAKER:

24 This is the five and ten thousand
25 dollar deductibles is what we're talking

1 about.

2 MR. FULTON:

3 Right.

4 MR. BURNHAM

5 Yes. Okay.

6 MR. HILL:

7 We have a proposal not to make any
8 changes. Do we have any other comments, or
9 do we need a second on that?

10 MR. BURNHAM:

11 Second.

12 MR. HILL:

13 We got -- we got a first and a second
14 on not making any other changes to the
15 deductible.

16 All in favor?

17 (All indicated "aye".)

18 MR. BAKER:

19 And that completes my review. If
20 anybody has any -- if ya'll have any
21 questions?

22 MR. HILL:

23 Anybody have any questions for Jeff?

24 MR. BURNHAM:

25 The only -- in observation, Jeff, and

1 -- and just tell me if I'm wrong. But the
2 effect of what you did on these calculations
3 was, you pulled in some things that were
4 previously, possibly slipping through the
5 cracks and it gives us a more conservative
6 look at the balance, at the true balance of
7 the -- the Trust Fund and at the -- or at
8 the true obligations of the Trust Fund?

9 MR. BAKER:

10 Yes, sir.

11 MR. BURNHAM:

12 That's -- that's basically what it
13 does?

14 MR. BAKER:

15 We brought in some sites that were
16 being ignored to make it more -- a -- truly
17 a more conservative, more accurate approach.
18 We also found some mistakes in how it was
19 looking at some numbers. Some numbers
20 weren't being included that should've been
21 included, just because of timing as it
22 relates to -- they -- they were categorizing
23 the -- the different costs and some of
24 those sites were going back beyond when we
25 actually started doing that in the database.

1 So we weren't capturing a lot of those
2 costs. So now, we're doing it on the total
3 expenditure, which is a more accurate
4 approach.

5 MR. BURNHAM:

6 Right. Good.

7 MR. HILL:

8 Any further questions?

9 (No response.)

10 MR. HILL:

11 Thank ya'll. Thank you, Jeff.

12 At this time, we'll go to item number
13 six, Third Party Claim Status. Perry is not
14 going to be here, but we have Chris who's
15 going to --

16 MR. RATCLIFF:

17 Perry tells me there have been no new
18 third party claims since the last meeting.
19 If you need any other information, let me
20 know and I'll try and find out for you.

21 MR. HILL:

22 Okay. Thank you. Does anybody have
23 any questions for Chris?

24 (No response.)

25 MR. HILL:

1 If not then, at this time, we need to
2 go into executive session.

3 MR. MARCELLO:

4 I'll -- if you need it in a motion
5 form, I'll make that motion.

6 MR. HILL:

7 We need a -- hear a motion to go --

8 MR. FULTON:

9 Second.

10 MR. HILL:

11 -- into executive session? Need a
12 second.

13 MR. FULTON:

14 Second.

15 MR. HILL:

16 Okay.

17 (The board went into executive session at
18 this time.)

19 (The meeting reconvened.)

20 MR. HILL:

21 Well, at this time, I'd like to ask,
22 is there any other business that anybody
23 would like to bring up and discuss?

24 MR. BAKER:

25 We would like to look at the dates for

1 the next years meetings and let ya'll
2 approve those.

3 MR. HILL:

4 I missed that. Consideration of
5 tentative dates for board meetings in 2016.
6 We have listed February 18, 2016, May 19,
7 2016, August 18, 2016, November 17, 2016.

8 MR. BURNHAM:

9 Those would all be Thursdays at 1:00
10 o'clock?

11 MR. HILL:

12 They would all be Thursdays at 1:00
13 o'clock?

14 MR. BAKER:

15 Yes, sir.

16 MR. HILL:

17 Does anybody have any conflict or --
18 or reason that we could not possibly
19 consider having these dates that they have
20 listed today?

21 MR. ST. ROMAIN:

22 No conflict.

23 MR. MARCELLO:

24 None.

25 MR. HILL:

1 Okay. We will accept those dates
2 going forward.

3 Is there any other business that
4 anybody would like to bring up before
5 closing?

6 MR. BAKER:

7 We have a public comment. Sam
8 Broussard wanted to bring up a --

9 MR. HILL:

10 Okay. We'd like to have Sam to --

11 MR. BROUSSARD:

12 Thanks, Kerry. I want to give you
13 guys an update on the new federal UST
14 Regulation. I -- I put out a couple of
15 flyers on our website, and I think you guys
16 posted something on LOMA. But I just wanted
17 to give you guys a better update and feel
18 for where we are and where I'm going with
19 it.

20 The regs are final on June 15 -- July
21 15 of this year. Their effective date was
22 90 days after, so October 13 of this year
23 was the effective date of the federal regs.
24 They do not apply to Louisiana and they
25 won't apply to us until we revise our

1 own regulations. And we have until October
2 13, 2018 to get our regs in place and apply
3 for state program authorization. So -- so
4 we're -- they will apply at that point and
5 then we have up to three years to have some
6 implementation dates on some of these items.
7 So it could be in 2021 before some of the
8 things in the new regs are gonna apply in
9 Louisiana. But there are some things that
10 the Trust Fund board at some point is going
11 to have to look at and I wanted to bring
12 those things to your attention.

13 One is, when we apply for state
14 program approval, they're not going to look
15 at just the new regulations that they
16 changed. EPA told me that they're going to
17 go back and look at every regulation that we
18 changed since our original authorization in
19 1992. So every reg we did, every reg change
20 we did is going to get looked at again. So
21 we're going to have to make sure that
22 everything we have is as stringent as the
23 EPA. And I know right now, we have things
24 that are not. So we're going to be doing
25 some more substantial reg changes than

1 what's in the new federal regs. And it --
2 what -- my plan is to have a stakeholder
3 workgroup start meeting. I'm going to be
4 sending out some meeting dates some time in
5 -- in mid-December, late-December and we
6 will probably start meeting in mid to late-
7 January. And then I'll iron out all the
8 details with that stakeholder workgroup and
9 you guys will have membership in there and
10 that way you can get all the -- the details
11 on the specifics.

12 But one other -- well, a couple of
13 other things that are kind of specific that
14 might affect the Trust Fund. One is that
15 things that were deferred in the past,
16 airport hydrants and fuel constructive tanks
17 are now regulated and they're going to have
18 to have financial responsibility. The good
19 thing is, I -- we don't expect to have any
20 of those systems in Louisiana. So that
21 shouldn't effect us. But in the event that
22 we do get a non-government airport hydrant
23 system or fuel constructive tank, you guys
24 will have to make a decision if you want to
25 cover those with Trust Fund or have their

1 own financial responsibility.

2 And one other thing they did change
3 was the definition of accidental release.
4 They actually changed the definition in the
5 federal regs to mean any release from
6 operating an underground storage tank
7 system. And that would include releases
8 above ground from dispenser spills or
9 overfills. And those things are not
10 normally covered by the Trust Fund.
11 Basically, the policy was everything below
12 the shear valve. Now, you'll have to make a
13 decision at some point, either cover those
14 above ground things with the Trust Fund or
15 have tank owners get their own separate
16 financial responsibility for those releases.

17 So I wanted to bring -- there's a lot
18 of other things that are going to effect
19 tank owners that I can get into, but their
20 kind of specific to UST compliance stuff.
21 If you want, I can go over some of those,
22 but I just wanted to bring the things that
23 are going to effect the Trust Fund. Let you
24 guys hear it from me and have you start
25 thinking about it. And -- and again, we

1 will be able to discuss those more in the
2 stakeholder workgroups.

3 MR. HILL:

4 Okay. Thank you, Sam. Does anybody
5 have any questions for Sam?

6 (No response.)

7 MR. HILL:

8 Well, if that's -- if there's no more
9 further questions, I guess we will wish
10 everybody a Merry Christmas and a Happy New
11 Year.

12 Thank you, Sam.

13 MR. MARCELLO:

14 I move that we adjourn.

15 MR. HILL:

16 Did I hear a motion to adjourn?

17 MR. MARCELLO:

18 Move.

19 MR. HILL:

20 Move by Frank. Do I hear a second?

21 MR. FULTON:

22 Second.

23 MR. HILL:

24 Second by Gary. Thank ya'll.

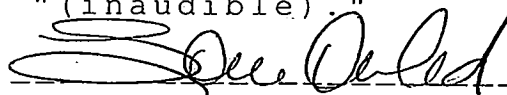
25 THE MEETING ADJOURNED AT 2:23 P.M.

R E P O R T E R ' S P A G E

1
2 I, Lori B. Overland, Certified Court
3 Reporter, in and for the State of Louisiana, the
4 officer, as defined in Rule 28 of the Federal
5 Rules of Civil Procedure and/or Article 1434(b)
6 of the Louisiana code of Civil Procedure, before
7 whom this sworn testimony was taken, do hereby
8 state on the Record

9 That due to the interaction in the
10 spontaneous discourse of this proceeding, dashes
11 (--) have been used to indicate pauses, changes
12 in thought, and/or talk overs; that same is the
13 proper method for a Court Reporters's
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22 # 97083

C E R T I F I C A T I O N

1
2 I, Lori B. Overland, Certified Court Reporter in
3 and for the State of Louisiana, as the officer
4 before whom this testimony was taken, do hereby
5 certify that the above referenced individual to whom
6 oath was administered, after having been duly sworn
7 by me upon authority of R.S. 37:2554, did testify as
8 hereinbefore set forth in the foregoing pages, that
9 this testimony was reported by me in the stenomask
10 reporting method, was prepared and transcribed by me
11 or under my personal direction and supervision, and
12 is a true and correct transcript to the best of my
13 ability and understanding; that the transcript has
14 been prepared in compliance with transcript format
15 guidelines required by statute or by rules of the
16 board, that I have acted in compliance with the
17 prohibition on contractual relationships, as defined
18 by Louisiana Code of Civil Procedure Article 1434
19 and in rules and advisory opinions of the board;
20 that I am not related to counsel or to the parties
21 herein, nor am I otherwise interested in the outcome
22 of this matter.



Lori Overland C.C.R.

97083

In The Matter Of:
DEPARTMENT OF ENVIRONMENTAL QUALITY
FUND ADVISORY BOARD

MEETING
December 3, 2015

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In The Matter Of:
DEPARTMENT OF ENVIRONMENTAL QUALITY
FUND ADVISORY BOARD

MEETING
December 3, 2015

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3 STATE OF LOUISIANA
4 DEPARTMENT OF ENVIRONMENTAL QUALITY
5 MOTOR FUELS UNDERGROUND STORAGE TANK TRUST
6 FUND ADVISORY BOARD
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8
9
10
11
12 The above-entitled meeting was held at the
13 LDEQ, Galvez Building, Conference Center, 602
14 North 5th Street, Baton Rouge, Louisiana,
beginning at 1:37 p.m., on December 3, 2015.
15
16
17
18
19 BEFORE:
20 Lori B. Overland
21 Certified Court Reporter
22 In and For the State of
23 Louisiana
24
25

Page 3

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2
3 EXAMINATION: PAGE (S) :
4 None
5 EXHIBITS:
6 None
7
8 REPORTER'S PAGE 33
9 REPORTER'S CERTIFICATE 34
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Page 2

1 APPEARANCES
2
3 Kerry Hill
Chairman
4 Durwood Franklin
5 Jeff Baker
6 Gary Fulton
7 Karyn Andrews
8 Cy Morin
9 Frank Marcello
10 Chris Ratcliff
11 Nick St. Romain
12 Steve Burnham
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14
15
16
17
18
19 Melissa Vizinat
20 Ian Kelley
21 Sam Broussard
22 Natalie Isaacks
23 Megan Terrell
24
25

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1 * * * * *
2 MR. HILL:
3 At this time, I'd like to call this
4 meeting to order and welcome everybody for
5 being able to attend this morning. At this
6 time, I'd like to have a roll call and
7 consideration and adoption of the August 20,
8 2015 board minutes.
9 MS. VIZINAT:
10 Melissa Vizinat, Trust Fund.
11 Mr. MORIN:
12 Cy Morin, DEQ Audit.
13 MS. ANDREWS:
14 Karyn Andrews, DEQ Financial Services.
15 MR. MARCELLO:
16 Frank Marcello, Louisiana Oil
17 Marketers and Convenience Store Association.
18 MR. ST. ROMAIN:
19 Nick St. Romain, Louisiana Oil
20 Marketers and Convenience Store Association.
21 MR. HILL:
22 Kerry Hill, Louisiana Oil Marketers
23 and Convenience Store Association.
24 MR. BURNHAM:
25 Steve Burnham, Engineering Associates,

1 Incorporated.
2 MR. FULTON:
3 Gary Fulton, DEQ Underground Storage
4 Tank Remediation Division.
5 MR. BAKER:
6 Jeff Baker, DEQ Motor Fuel Trust Fund
7 Division.
8 MR. FRANKLIN:
9 Durwood Franklin, DEQ Trust Fund.
10 MR. RATCLIFF:
11 Chris Ratcliff. I'm an attorney with
12 DEQ, and I'm filling in for Perry Theriot.
13 MR. HILL:
14 Okay. Thank you. Do I hear a motion
15 to adopt the minutes from the August 20,
16 2015 board meeting?
17 MR. MARCELLO:
18 So moved, Mr. Chairman.
19 MR. BURNHAM:
20 Second.
21 MR. HILL:
22 Thank you.
23 We'll move to item number three, Audit
24 Status Report. And I'd like to have Cy to
25 bring us up on that.

1 If you turn to the third page of the
2 report, these are the five cases that are in
3 legal, being pursued legally. For the first
4 case, on October 30 of this year, a new
5 attorney on the case enrolled as additional
6 counsel of record on behalf of DEQ. This
7 attorney is responding to the answer filed
8 on August 14 by the defendant and will be
9 preparing to go to trial. The second case
10 listed, legal sent an Office of Debt
11 Recovery Notice letter, which states that
12 the Department can allow the business to
13 make payments. The owner is currently
14 sending monthly payments of \$300. The third
15 case, on October 14, 2015 was referred to
16 the Office of Debt Recovery. The fourth
17 case on the list was referred to legal just
18 last month, November 12, 2015. And judgment
19 for the fifth case listed was prepared for
20 signature and placed in the mail on November
21 16, 2015.
22 And that completes my report. Any
23 questions?
24 MR. HILL:
25 Any questions related to his report?

1 MR. MORIN:
2 Okay. Turn to tab three. The first
3 two pages of this report detail 29 open
4 motor fuel cases initiated since fiscal year
5 '14. 22 of these cases are under review or
6 are awaiting review. Pending final review,
7 these represent one potential credit of
8 approximately \$3,200, five potential
9 assessments, totaling approximately \$1,500,
10 and 16 potential clean audits with no
11 assessment.
12 Six cases are still in progress,
13 representing two potential assessments,
14 totaling approximately \$11,000, of which
15 approximately \$9,700 has been collected.
16 Four potential clean audits with no
17 assessment are still in progress, wrapping
18 up fieldwork.
19 One case, which is the last case on
20 page two, was scheduled during the time I
21 made this report. It has since commenced
22 yesterday and we've added two more cases to
23 the list that -- that are starting next
24 week. That will make eight for fiscal year
25 '16 to date.

1 MR. BURNHAM:
2 Cy, these were randomly selected
3 audits, is that --
4 MR. MORIN:
5 You can see the reason for the audit
6 column here. These audits -- let's see,
7 never audited. Okay. So we -- we -- the
8 auditor who is doing motor fuel audits keeps
9 track of who we've audited in the past, when
10 we audited them. And there's quite a few
11 that have never been audited --
12 MR. BURNHAM:
13 Okay.
14 MR. MORIN:
15 -- so we are looking at trying to get
16 to everyone --
17 MR. BURNHAM:
18 Yes.
19 MR. MORIN:
20 -- that had not been audited. So
21 you'll see a lot of that on this list.
22 MR. BURNHAM
23 Okay.
24 MR. MORIN:
25 Others, they may have had a missing or

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1 late payment, or just the various things you
2 see here. So maybe not completely random,
3 but mainly for these reasons you see here.
4 MR. BURNHAM:
5 Okay. Thank you.
6 MR. MORIN:
7 You're welcome.
8 MR. HILL:
9 Does anybody have any other questions?
10 (No response.)
11 MR. HILL:
12 Do I hear a motion to accept the Audit
13 Status Report?
14 MR. ST. ROMAIN:
15 I motion to accept the Audit Status
16 Report.
17 MR. MARCELLO:
18 Second.
19 MR. HILL:
20 Okay. Thank you.
21 Moving to item number four, Financial
22 Services Report. I'd like to ask Karyn to -
23 -
24 MS. ANDREWS:
25 Thank you. If we could turn to tab

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1 four. I'd like to point out that I have
2 changed this report quite a bit from what
3 you are used to seeing. I'm -- I'm trying
4 to do a little bit different here. I --
5 I've heard a lot of comments that it -- it's
6 slightly confusing what we have been -- been
7 showing you in the past. And I'm -- I want
8 to try to make this a little bit more user
9 friendly. And I hope this a little bit more
10 closely resembles what you perhaps are used
11 to seeing as a profit and loss statement.
12 And so what we are reporting is a
13 statement that's on the cash basis. It's
14 similar to what the legislative auditor
15 audits. And hopefully, this will be a
16 little clearer for you to understand. And
17 so we're now reporting for the period July 1
18 to June 30. And what we've put together is
19 a comparative report that we will update
20 each quarter for you that you'll see the
21 year end and then the new update for the new
22 fiscal year.
23 So I'll go through this with you. And
24 if you have any questions, let me know.
25 So we closed the fiscal year '15 with

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1 \$87,397,607 in cash. In this current fiscal
2 year to date, as of September 30, 2015,
3 we've deposited \$7,823,385. I would note
4 that \$27,490 of that is interest money that
5 we do keep segregated. And we have
6 disbursed to RACs for sites \$3,543,460.
7 You'll also notice on here that there is a
8 line item for other financing uses. This is
9 the transfer to the Environmental Trust
10 Fund. That's the actual transfer that we
11 reported to you for last year. We do that
12 in August. So since we are now on a cash
13 basis that I'm reporting to you, this is now
14 reported on this new statement in this
15 manner.
16 Next, I'll report to you, the current
17 liabilities on sites are at \$93,251,316.
18 And Jeff is going to go into that a little
19 bit more with you. And what we now have as
20 -- in balance, after obligations of minus
21 \$6,901,030.
22 I would point out that, it's showing
23 negative simply because the inflows are
24 slower at certain times of the year. We
25 haven't collected all the money. This is

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1 only one period's report. As you know,
2 collections, we generally receive about
3 \$22,000,000. There's no reason to think
4 that that would not continue. So the -- the
5 minus right now, it's showing that and also
6 a portion of that would be explained in the
7 new obligation balance that Jeff -- that
8 Jeff is going to talk about.
9 Did ya'll have any questions about
10 this report?
11 (No response.)
12 MS. ANDREWS:
13 Does this help you understand the fund
14 a little bit better, I would ask you?
15 MR. HILL:
16 It does.
17 MS. ANDREWS:
18 Okay. Good.
19 MR. BURNHAM
20 Real good.
21 MS. ANDREWS:
22 Okay.
23 All right. If you could turn the
24 page. I'm going to continue to report this
25 for you. This shows you how we -- we

1 calculate our transfer from the Motor Fuel
2 Trust Fund to the Environmental Trust Fund,
3 on the next page.

4 And I did have two things that I did
5 want to point out to you that's not -- that
6 was not handed to you in advance, things
7 that we didn't know about them.

8 The first thing, I did send -- I did
9 hand out to you already. We did get a clean
10 audit that was emailed out to me yesterday.
11 You may have received an email from the --
12 from the Legislative Auditor. It has been
13 released publicly. You do have a copy and
14 there are some more copies in the back, if
15 anyone else would like a copy.

16 And the second thing that I did want
17 to go ahead and notify the board about is
18 that the Joint Legislative Committee on
19 Budget met on November 20. And as they did
20 last year, they have done cash sweeps of all
21 of states statutory dedicated funds and
22 constitutionally protected funds, one of
23 which, the Motor Fuel Trust Fund was one of
24 them, unfortunately.

25 I would like to report that cash and

1 MR. MARCELLO:

2 I -- I did have a question. And I'm
3 trying -- I'm trying to get it together. My
4 question revolves around the sweep.

5 MS. ANDREWS:

6 Yes.

7 MR. MARCELLO:

8 And the -- it's -- so our underground
9 trust fund has X dollars in it and X dollars
10 that are allocated to potential cleanup
11 sites. The five percent was based on which
12 number?

13 MS. ANDREWS:

14 Okay. So the way the -- the legislate
15 -- the Commissioner of Administration and
16 the Governor's Office does is, we are
17 appropriated every year with budget
18 authority to expend. Our budget authority
19 in the Motor Fuel Trust Fund this year was
20 \$16,473,142. That was our budgeted
21 appropriation for the Motor Fuel Trust Fund.
22 That is how much we are authorized to
23 disburse.

24 MR. MARCELLO:

25 Yes.

1 budget for motor fuels was reduced by
2 \$823,657.

3 And that was five percent of the
4 budget.

5 MR. HILL:

6 That's the legal amount that --

7 MS. ANDREWS:

8 That's the maximum legal amount that
9 they are allowed to take. And I would like
10 you to know that they -- they took that out
11 of, I believe, all of the statutory
12 dedicated funds and the constitutionally
13 protected funds, if you go back and listen.
14 So no one was spared.

15 Did ya'll have any questions about
16 anything?

17 MR. HILL:

18 Did you say Jeff was going to finish
19 part of your --

20 MS. ANDREWS:

21 Well, when he does his presentation,
22 he will discuss that.

23 MR. HILL:

24 Okay. Well, good. Well, thank you,
25 Karyn.

1 MS. ANDREWS:

2 Okay?

3 MR. MARCELLO:

4 Okay.

5 MS. ANDREWS:

6 That has -- that's -- there's -- the
7 correlation to cash is not there. That is
8 how much we are authorized to disburse for
9 RAC Cleanup --

10 MR. MARCELLO:

11 Correct.

12 MS. ANDREWS:

13 -- sites. And so the way the statute
14 is written and how it was utilized is, they
15 can take that appropriated amount and they
16 reduce it by five percent. So five percent
17 of that \$16 million was the eight --

18 MR. MARCELLO:

19 823?

20 MS. ANDREWS:

21 Correct, correct. And as -- with the
22 reduction, they also take the equal amount
23 of the cash.

24 MR. HILL:

25 Anymore questions, Frank?

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1 MR. MARCELLO:
2 That's it.
3 MR. HILL:
4 Anybody have anymore questions?
5 (No response.)
6 MR. HILL:
7 Thank you, Karyn. Do I hear a motion
8 to accept the financial report from Karyn?
9 MR. BURNHAM:
10 Motion to accept.
11 MR. ST. ROMAIN:
12 Second.
13 MR. HILL:
14 Thank you.
15 Let's move on to number five, Trust
16 Fund Status Report. Jeff, would you deliver
17 that for us, please.
18 MR. BAKER:
19 Sure will. Good afternoon. If you'll
20 refer to tab number five in the packets.
21 These are the figures for the first quarter
22 of fiscal year 2016.
23 During the first quarter of fiscal
24 year 2016, the Trust Fund received 298
25 applications, totaling \$5,231,529. At the

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1 end of September 2015, the Trust Fund had
2 144 pending applications to process, which -
3 - which had requested amounts, totaling
4 \$2,956,917. 249 applications were processed
5 for payment during the fiscal period,
6 totaling \$3,150,617. And 22 applications
7 were returned with deficiencies.
8 If you'll turn to the next page
9 entitled Monthly Motor Fuel Trust Fund
10 Obligation Determination, this is the new
11 worksheet that Karyn was referring to,
12 listing the various component determinations
13 of the potential obligation against the
14 Trust Fund as of the end of September 2015.
15 To kind of give you a breakdown of it,
16 for the sites in the corrective action
17 phase, which means that these are sites that
18 a CAP budget has been proposed and approved
19 by the ROG, the outstanding liability of the
20 corrective action plan budget and estimated
21 cost to reach closure at the end of
22 September 2015 was \$28,575,921. This total
23 includes the CAP budget remaining amounts
24 and the RAC estimated cost to closure
25 amounts.

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1 The next section, the fund obligation
2 recognized for sites without ROG approved
3 CAP budgets is \$38,143,288. This is
4 determined by using the three year average
5 site closure cost and applying these costs
6 to that active trust fund sites that don't
7 currently have CAP budgets. A portion -- as
8 you can see, a portion -- when you look at
9 the total, as it relates to the 154 sites
10 times the 327,000, we calculate what the
11 potential obligation would be and then we
12 backout that, the total expenditures that
13 had been applied currently to those sites.
14 The next section, the fund obligation
15 has recognized the sites that had been
16 determined to be trust fund eligible,
17 however, have not submitted a reimbursement
18 application. That obligation is \$9,511,246.
19 This is also determined by using the three
20 year average site closure cost and applying
21 these costs to the sites that have requested
22 eligibility but have yet not submitted a
23 request for reimbursement from the fund.
24 Previously, these sites were being ignored
25 in this calculation.

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1 The five year projected fund
2 obligation relating to the Trust Fund to the
3 Environmental Trust Fund transfer is
4 \$17,020,861. This estimate uses the three
5 year average dollars transferred from Motor
6 Fuel Trust Fund to the Environmental Trust
7 Fund and multiplies that average by five
8 years.
9 If you will turn to the legal page,
10 the last page of your document -- of you
11 packet, the number of Trust Fund sites that
12 have received no further action status
13 during the fiscal year 2016 was seven sites.
14 The number of potential Trust Fund sites
15 that were reviewed and made eligible during
16 the current fiscal year was six sites,
17 representing seven active incidents.
18 Points of interests. An update on
19 Senate Bill 244, which was passed by the
20 Legislative and signed by the Governor,
21 becoming ACT 277, this was the Act that
22 increased the maximum dollars available for
23 eligible releases -- release cleanups from
24 one million to one point five million. The
25 Trust Fund has fielded a number of contacts

1 from RACs and owners related to bringing the
2 older sites that have reached their maximum
3 back into the program.

4 We've also seen a number of sites that
5 were approaching the limit that had kind of
6 became stagnant become more active in their
7 remediation activities.

8 Another point. The Trust Fund has
9 been working to develop a more accurate
10 approach to the determination of potential
11 obligation liabilities, which is what we
12 just went over.

13 The -- the -- the September document -
14 - determination with all the supporting
15 documents were sent out to the board members
16 two to four weeks ago with the preliminary
17 review and comments. No comments or
18 questions were received. We hope and
19 believe that this new methodology is a
20 better representation of the true
21 obligation.

22 Now, in talking to several of the
23 board members, apparently, some of ya'll did
24 not receive this. I will go back and send
25 this -- resend this to the addresses that

1 about.

2 MR. FULTON:
3 Right.

4 MR. BURNHAM
5 Yes. Okay.

6 MR. HILL:

7 We have a proposal not to make any
8 changes. Do we have any other comments, or
9 do we need a second on that?

10 MR. BURNHAM:

11 Second.

12 MR. HILL:

13 We got -- we got a first and a second
14 on not making any other changes to the
15 deductible.

16 All in favor?

17 (All indicated "aye".)

18 MR. BAKER:

19 And that completes my review. If
20 anybody has any -- if ya'll have any
21 questions?

22 MR. HILL:

23 Anybody have any questions for Jeff?

24 MR. BURNHAM:

25 The only -- in observation, Jeff, and

1 you gave me and make sure that you have the
2 new numbers, along with all the supporting
3 calculations so ya'll will be able see this.

4 One other point. The revised statutes
5 2195.a.85 and 2195(10).d, the state --
6 states that the Advisory Board shall review
7 the financial responsibility requirements
8 for all sites in and out of compliance on an
9 annual basis. And they recommend to the
10 Secretary adjusting those requirements, if
11 they see fit. At this time, the Trust Fund
12 does not have any recommendations to the
13 board relating to any modifications for the
14 current financial responsibility dollar
15 amounts.

16 MR. FULTON:

17 I propose that we not make any
18 changes.

19 MR. HILL

20 Not make any changes?

21 MR. FULTON:

22 Right.

23 MR. BAKER:

24 This is the five and ten thousand
25 dollar deductibles is what we're talking

1 -- and just tell me if I'm wrong. But the
2 effect of what you did on these calculations
3 was, you pulled in some things that were
4 previously, possibly slipping through the
5 cracks and it gives us a more conservative
6 look at the balance, at the true balance of
7 the -- the Trust Fund and at the -- or at
8 the true obligations of the Trust Fund?

9 MR. BAKER:

10 Yes, sir.

11 MR. BURNHAM:

12 That's -- that's basically what it
13 does?

14 MR. BAKER:

15 We brought in some sites that were
16 being ignored to make it more -- a -- truly
17 a more conservative, more accurate approach.
18 We also found some mistakes in how it was
19 looking at some numbers. Some numbers
20 weren't being included that should've been
21 included, just because of timing as it
22 relates to -- they -- they were categorizing
23 the -- the different costs and some of
24 those sites were going back beyond when we
25 actually started doing that in the database.

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1 So we weren't capturing a lot of those
2 costs. So now, we're doing it on the total
3 expenditure, which is a more accurate
4 approach.
5 MR. BURNHAM:
6 Right. Good.
7 MR. HILL:
8 Any further questions?
9 (No response.)
10 MR. HILL:
11 Thank ya'll. Thank you, Jeff.
12 At this time, we'll go to item number
13 six, Third Party Claim Status. Perry is not
14 going to be here, but we have Chris who's
15 going to --
16 MR. RATCLIFF:
17 Perry tells me there have been no new
18 third party claims since the last meeting.
19 If you need any other information, let me
20 know and I'll try and find out for you.
21 MR. HILL:
22 Okay. Thank you. Does anybody have
23 any questions for Chris?
24 (No response.)
25 MR. HILL:

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1 If not then, at this time, we need to
2 go into executive session.
3 MR. MARCELLO:
4 I'll -- if you need it in a motion
5 form, I'll make that motion.
6 MR. HILL:
7 We need a -- hear a motion to go --
8 MR. FULTON:
9 Second.
10 MR. HILL:
11 -- into executive session? Need a
12 second.
13 MR. FULTON:
14 Second.
15 MR. HILL:
16 Okay.
17 (The board went into executive session at
18 this time.)
19 (The meeting reconvened.)
20 MR. HILL:
21 Well, at this time, I'd like to ask,
22 is there any other business that anybody
23 would like to bring up and discuss?
24 MR. BAKER:
25 We would like to look at the dates for

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1 the next years meetings and let ya'll
2 approve those.
3 MR. HILL:
4 I missed that. Consideration of
5 tentative dates for board meetings in 2016.
6 We have listed February 18, 2016, May 19,
7 2016, August 18, 2016, November 17, 2016.
8 MR. BURNHAM:
9 Those would all be Thursdays at 1:00
10 o'clock?
11 MR. HILL:
12 They would all be Thursdays at 1:00
13 o'clock?
14 MR. BAKER:
15 Yes, sir.
16 MR. HILL:
17 Does anybody have any conflict or --
18 or reason that we could not possibly
19 consider having these dates that they have
20 listed today?
21 MR. ST. ROMAIN:
22 No conflict.
23 MR. MARCELLO:
24 None.
25 MR. HILL:

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1 Okay. We will accept those dates
2 going forward.
3 Is there any other business that
4 anybody would like to bring up before
5 closing?
6 MR. BAKER:
7 We have a public comment. Sam
8 Broussard wanted to bring up a --
9 MR. HILL:
10 Okay. We'd like to have Sam to --
11 MR. BROUSSARD:
12 Thanks, Kerry. I want to give you
13 guys an update on the new federal UST
14 Regulation. I -- I put out a couple of
15 flyers on our website, and I think you guys
16 posted something on LOMA. But I just wanted
17 to give you guys a better update and feel
18 for where we are and where I'm going with
19 it.
20 The regs are final on June 15 -- July
21 15 of this year. Their effective date was
22 90 days after, so October 13 of this year
23 was the effective date of the federal regs.
24 They do not apply to Louisiana and they
25 won't apply to us until we revise our

1 own regulations. And we have until October
2 13, 2018 to get our regs in place and apply
3 for state program authorization. So -- so
4 we're -- they will apply at that point and
5 then we have up to three years to have some
6 implementation dates on some of these items.
7 So it could be in 2021 before some of the
8 things in the new regs are gonna apply in
9 Louisiana. But there are some things that
10 the Trust Fund board at some point is going
11 to have to look at and I wanted to bring
12 those things to your attention.

13 One is, when we apply for state
14 program approval, they're not going to look
15 at just the new regulations that they
16 changed. EPA told me that they're going to
17 go back and look at every regulation that we
18 changed since our original authorization in
19 1992. So every reg we did, every reg change
20 we did is going to get looked at again. So
21 we're going to have to make sure that
22 everything we have is as stringent as the
23 EPA. And I know right now, we have things
24 that are not. So we're going to be doing
25 some more substantial reg changes than

1 own financial responsibility.
2 And one other thing they did change
3 was the definition of accidental release.
4 They actually changed the definition in the
5 federal regs to mean any release from
6 operating an underground storage tank
7 system. And that would include releases
8 above ground from dispenser spills or
9 overfills. And those things are not
10 normally covered by the Trust Fund.

11 Basically, the policy was everything below
12 the shear valve. Now, you'll have to make a
13 decision at some point, either cover those
14 above ground things with the Trust Fund or
15 have tank owners get their own separate
16 financial responsibility for those releases.

17 So I wanted to bring -- there's a lot
18 of other things that are going to effect
19 tank owners that I can get into, but their
20 kind of specific to UST compliance stuff.
21 If you want, I can go over some of those,
22 but I just wanted to bring the things that
23 are going to effect the Trust Fund. Let you
24 guys hear it from me and have you start
25 thinking about it. And -- and again, we

1 what's in the new federal regs. And it --
2 what -- my plan is to have a stakeholder
3 workgroup start meeting. I'm going to be
4 sending out some meeting dates some time in
5 -- in mid-December, late-December and we
6 will probably start meeting in mid to late-
7 January. And then I'll iron out all the
8 details with that stakeholder workgroup and
9 you guys will have membership in there and
10 that way you can get all the -- the details
11 on the specifics.

12 But one other -- well, a couple of
13 other things that are kind of specific that
14 might affect the Trust Fund. One is that
15 things that were deferred in the past,
16 airport hydrants and fuel constructive tanks
17 are now regulated and they're going to have
18 to have financial responsibility. The good
19 thing is, I -- we don't expect to have any
20 of those systems in Louisiana. So that
21 shouldn't effect us. But in the event that
22 we do get a non-government airport hydrant
23 system or fuel constructive tank, you guys
24 will have to make a decision if you want to
25 cover those with Trust Fund or have their

1 will be able to discuss those more in the
2 stakeholder workgroups.

3 MR. HILL:

4 Okay. Thank you, Sam. Does anybody
5 have any questions for Sam?

6 (No response.)

7 MR. HILL:

8 Well, if that's -- if there's no more
9 further questions, I guess we will wish
10 everybody a Merry Christmas and a Happy New
11 Year.

12 Thank you, Sam.

13 MR. MARCELLO:

14 I move that we adjourn.

15 MR. HILL:

16 Did I hear a motion to adjourn?

17 MR. MARCELLO:

18 Move.

19 MR. HILL:

20 Move by Frank. Do I hear a second?

21 MR. FULTON:

22 Second.

23 MR. HILL:

24 Second by Gary. Thank ya'll.

25 THE MEETING ADJOURNED AT 2:23 P.M.

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1 REPORTER'S PAGE

2 I, Lori B. Overland, Certified Court
3 Reporter, in and for the State of Louisiana, the
4 officer, as defined in Rule 28 of the Federal
5 Rules of Civil Procedure and/or Article 1434(b)
6 of the Louisiana code of Civil Procedure, before
7 whom this sworn testimony was taken, do hereby
8 state on the Record

9 That due to the interaction in the
10 spontaneous discourse of this proceeding, dashes
11 (--) have been used to indicate pauses, changes
12 in thought, and/or talk overs; that same is the
13 proper method for a Court Reporters's
14 transcription of proceeding, and that the dashes
15 (--) do not indicated that words or phrases have
16 been left out of this transcript;

17 That any words and/or names which could not
18 be verified through reference material have been
19 denoted with the phrase "(inaudible)."

20

21

Lori Overland, C.C.R.
22 # 97083

23

24

25

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1 C E R T I F I C A T I O N

2 I, Lori B. Overland, Certified Court Reporter in
3 and for the State of Louisiana, as the officer
4 before whom this testimony was taken, do hereby
5 certify that the above referenced individual to whom
6 oath was administered, after having been duly sworn
7 by me upon authority of R.S. 37:2554, did testify as
8 hereinbefore set forth in the foregoing pages, that
9 this testimony was reported by me in the stenomask
10 reporting method, was prepared and transcribed by me
11 or under my personal direction and supervision, and
12 is a true and correct transcript to the best of my
13 ability and understanding; that the transcript has
14 been prepared in compliance with transcript format
15 guidelines required by statute or by rules of the
16 board, that I have acted in compliance with the
17 prohibition on contractual relationships, as defined
18 by Louisiana Code of Civil Procedure Article 1434
19 and in rules and advisory opinions of the board;
20 that I am not related to counsel or to the parties
21 herein, nor am I otherwise interested in the outcome
22 of this matter.

23

24

Lori Overland C.C.R.

25 # 97083

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	2:23 (1) 32:25			

In The Matter Of:
DEPARTMENT OF ENVIRONMENTAL QUALITY
FUND ADVISORY BOARD

MEETING
December 3, 2015

Associated Reporters, Incorporated
225-216-2036

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Page 1

1
 2
 3 STATE OF LOUISIANA
 4 DEPARTMENT OF ENVIRONMENTAL QUALITY
 5 MOTOR FUELS UNDERGROUND STORAGE TANK TRUST
 6 FUND ADVISORY BOARD
 7
 8
 9
 10
 11
 12 The above-entitled meeting was held at the
 13 LDEQ, Galvez Building, Conference Center, 602
 14 North 5th Street, Baton Rouge, Louisiana,
 beginning at 1:37 p.m., on December 3, 2015.
 15
 16
 17
 18
 19 BEFORE:
 20 Lori B. Overland
 21 Certified Court Reporter
 22 In and For the State of
 23 Louisiana
 24
 25

Page 2

1 A P P E A R A N C E S
 2
 3 Kerry Hill
 Chairman
 4
 5 Durwood Franklin
 Jeff Baker
 Gary Fulton
 Karyn Andrews
 6 Cy Morin
 Frank Marcello
 7 Chris Ratcliff
 Nick St. Romain
 8 Steve Burnham
 9
 10 Melissa Vizinat
 Ian Kelley
 Sam Broussard
 11 Natalie Isaacks
 Megan Terrell
 12
 13 * * * * *
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Page 3

1 I N D E X
 2
 3 EXAMINATION: PAGE (S) :
 4 None
 5 EXHIBITS:
 6 None
 7
 8 REPORTER'S PAGE 33
 9 REPORTER'S CERTIFICATE 34
 10
 11 * * * * *
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Page 4

1 * * * * *
 2 MR. HILL:
 3 At this time, I'd like to call this
 4 meeting to order and welcome everybody for
 5 being able to attend this morning. At this
 6 time, I'd like to have a roll call and
 7 consideration and adoption of the August 20,
 8 2015 board minutes.
 9 MS. VIZINAT:
 10 Melissa Vizinat, Trust Fund.
 11 Mr. MORIN:
 12 Cy Morin, DEQ Audit.
 13 MS. ANDREWS:
 14 Karyn Andrews, DEQ Financial Services.
 15 MR. MARCELLO:
 16 Frank Marcello, Louisiana Oil
 17 Marketers and Convenience Store Association.
 18 MR. ST. ROMAIN:
 19 Nick St. Romain, Louisiana Oil
 20 Marketers and Convenience Store Association.
 21 MR. HILL:
 22 Kerry Hill, Louisiana Oil Marketers
 23 and Convenience Store Association.
 24 MR. BURNHAM:
 25 Steve Burnham, Engineering Associates,

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1 Incorporated.
2 MR. FULTON:
3 Gary Fulton, DEQ Underground Storage
4 Tank Remediation Division.
5 MR. BAKER:
6 Jeff Baker, DEQ Motor Fuel Trust Fund
7 Division.
8 MR. FRANKLIN:
9 Durwood Franklin, DEQ Trust Fund.
10 MR. RATCLIFF:
11 Chris Ratcliff. I'm an attorney with
12 DEQ, and I'm filling in for Perry Theriot.
13 MR. HILL:
14 Okay. Thank you. Do I hear a motion
15 to adopt the minutes from the August 20,
16 2015 board meeting?
17 MR. MARCELLO:
18 So moved, Mr. Chairman.
19 MR. BURNHAM:
20 Second.
21 MR. HILL:
22 Thank you.
23 We'll move to item number three, Audit
24 Status Report. And I'd like to have Cy to
25 bring us up on that.

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1 MR. MORIN:
2 Okay. Turn to tab three. The first
3 two pages of this report detail 29 open
4 motor fuel cases initiated since fiscal year
5 '14. 22 of these cases are under review or
6 are awaiting review. Pending final review,
7 these represent one potential credit of
8 approximately \$3,200, five potential
9 assessments, totaling approximately \$1,500,
10 and 16 potential clean audits with no
11 assessment.
12 Six cases are still in progress,
13 representing two potential assessments,
14 totaling approximately \$11,000, of which
15 approximately \$9,700 has been collected.
16 Four potential clean audits with no
17 assessment are still in progress, wrapping
18 up fieldwork.
19 One case, which is the last case on
20 page two, was scheduled during the time I
21 made this report. It has since commenced
22 yesterday and we've added two more cases to
23 the list that -- that are starting next
24 week. That will make eight for fiscal year
25 '16 to date.

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1 If you turn to the third page of the
2 report, these are the five cases that are in
3 legal, being pursued legally. For the first
4 case, on October 30 of this year, a new
5 attorney on the case enrolled as additional
6 counsel of record on behalf of DEQ. This
7 attorney is responding to the answer filed
8 on August 14 by the defendant and will be
9 preparing to go to trial. The second case
10 listed, legal sent an Office of Debt
11 Recovery Notice letter, which states that
12 the Department can allow the business to
13 make payments. The owner is currently
14 sending monthly payments of \$300. The third
15 case, on October 14, 2015 was referred to
16 the Office of Debt Recovery. The fourth
17 case on the list was referred to legal just
18 last month, November 12, 2015. And judgment
19 for the fifth case listed was prepared for
20 signature and placed in the mail on November
21 16, 2015.
22 And that completes my report. Any
23 questions?
24 MR. HILL:
25 Any questions related to his report?

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1 MR. BURNHAM:
2 Cy, these were randomly selected
3 audits, is that --
4 MR. MORIN:
5 You can see the reason for the audit
6 column here. These audits -- let's see,
7 never audited. Okay. So we -- we -- the
8 auditor who is doing motor fuel audits keeps
9 track of who we've audited in the past, when
10 we audited them. And there's quite a few
11 that have never been audited --
12 MR. BURNHAM:
13 Okay.
14 MR. MORIN:
15 -- so we are looking at trying to get
16 to everyone --
17 MR. BURNHAM:
18 Yes.
19 MR. MORIN:
20 -- that had not been audited. So
21 you'll see a lot of that on this list.
22 MR. BURNHAM
23 Okay.
24 MR. MORIN:
25 Others, they may have had a missing or

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1 late payment, or just the various things you
2 see here. So maybe not completely random,
3 but mainly for these reasons you see here.
4 MR. BURNHAM:
5 Okay. Thank you.
6 MR. MORIN:
7 You're welcome.
8 MR. HILL:
9 Does anybody have any other questions?
10 (No response.)
11 MR. HILL:
12 Do I hear a motion to accept the Audit
13 Status Report?
14 MR. ST. ROMAIN:
15 I motion to accept the Audit Status
16 Report.
17 MR. MARCELLO:
18 Second.
19 MR. HILL:
20 Okay. Thank you.
21 Moving to item number four, Financial
22 Services Report. I'd like to ask Karyn to -
23 -
24 MS. ANDREWS:
25 Thank you. If we could turn to tab

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1 four. I'd like to point out that I have
2 changed this report quite a bit from what
3 you are used to seeing. I'm -- I'm trying
4 to do a little bit different here. I --
5 I've heard a lot of comments that it -- it's
6 slightly confusing what we have been -- been
7 showing you in the past. And I'm -- I want
8 to try to make this a little bit more user
9 friendly. And I hope this a little bit more
10 closely resembles what you perhaps are used
11 to seeing as a profit and loss statement.
12 And so what we are reporting is a
13 statement that's on the cash basis. It's
14 similar to what the legislative auditor
15 audits. And hopefully, this will be a
16 little clearer for you to understand. And
17 so we're now reporting for the period July 1
18 to June 30. And what we've put together is
19 a comparative report that we will update
20 each quarter for you that you'll see the
21 year end and then the new update for the new
22 fiscal year.
23 So I'll go through this with you. And
24 if you have any questions, let me know.
25 So we closed the fiscal year '15 with

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1 \$87,397,607 in cash. In this current fiscal
2 year to date, as of September 30, 2015,
3 we've deposited \$7,823,385. I would note
4 that \$27,490 of that is interest money that
5 we do keep segregated. And we have
6 disbursed to RACs for sites \$3,543,460.
7 You'll also notice on here that there is a
8 line item for other financing uses. This is
9 the transfer to the Environmental Trust
10 Fund. That's the actual transfer that we
11 reported to you for last year. We do that
12 in August. So since we are now on a cash
13 basis that I'm reporting to you, this is now
14 reported on this new statement in this
15 manner.
16 Next, I'll report to you, the current
17 liabilities on sites are at \$93,251,316.
18 And Jeff is going to go into that a little
19 bit more with you. And what we now have as
20 -- in balance, after obligations of minus
21 \$6,901,030.
22 I would point out that, it's showing
23 negative simply because the inflows are
24 slower at certain times of the year. We
25 haven't collected all the money. This is

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1 only one period's report. As you know,
2 collections, we generally receive about
3 \$22,000,000. There's no reason to think
4 that that would not continue. So the -- the
5 minus right now, it's showing that and also
6 a portion of that would be explained in the
7 new obligation balance that Jeff -- that
8 Jeff is going to talk about.
9 Did ya'll have any questions about
10 this report?
11 (No response.)
12 MS. ANDREWS:
13 Does this help you understand the fund
14 a little bit better, I would ask you?
15 MR. HILL:
16 It does.
17 MS. ANDREWS:
18 Okay. Good.
19 MR. BURNHAM:
20 Real good.
21 MS. ANDREWS:
22 Okay.
23 All right. If you could turn the
24 page. I'm going to continue to report this
25 for you. This shows you how we -- we

1 calculate our transfer from the Motor Fuel
2 Trust Fund to the Environmental Trust Fund,
3 on the next page.

4 And I did have two things that I did
5 want to point out to you that's not -- that
6 was not handed to you in advance, things
7 that we didn't know about them.

8 The first thing, I did send -- I did
9 hand out to you already. We did get a clean
10 audit that was emailed out to me yesterday.
11 You may have received an email from the --
12 from the Legislative Auditor. It has been
13 released publicly. You do have a copy and
14 there are some more copies in the back, if
15 anyone else would like a copy.

16 And the second thing that I did want
17 to go ahead and notify the board about is
18 that the Joint Legislative Committee on
19 Budget met on November 20. And as they did
20 last year, they have done cash sweeps of all
21 of states statutory dedicated funds and
22 constitutionally protected funds, one of
23 which, the Motor Fuel Trust Fund was one of
24 them, unfortunately.

25 I would like to report that cash and

1 MR. MARCELLO:

2 I -- I did have a question. And I'm
3 trying -- I'm trying to get it together. My
4 question revolves around the sweep.

5 MS. ANDREWS:

6 Yes.

7 MR. MARCELLO:

8 And the -- it's -- so our underground
9 trust fund has X dollars in it and X dollars
10 that are allocated to potential cleanup
11 sites. The five percent was based on which
12 number?

13 MS. ANDREWS:

14 Okay. So the way the -- the legislate
15 -- the Commissioner of Administration and
16 the Governor's Office does is, we are
17 appropriated every year with budget
18 authority to expend. Our budget authority
19 in the Motor Fuel Trust Fund this year was
20 \$16,473,142. That was our budgeted
21 appropriation for the Motor Fuel Trust Fund.
22 That is how much we are authorized to
23 disburse.

24 MR. MARCELLO:

25 Yes.

1 budget for motor fuels was reduced by
2 \$823,657.

3 And that was five percent of the
4 budget.

5 MR. HILL:

6 That's the legal amount that --

7 MS. ANDREWS:

8 That's the maximum legal amount that
9 they are allowed to take. And I would like
10 you to know that they -- they took that out
11 of, I believe, all of the statutory
12 dedicated funds and the constitutionally
13 protected funds, if you go back and listen.
14 So no one was spared.

15 Did ya'll have any questions about
16 anything?

17 MR. HILL:

18 Did you say Jeff was going to finish
19 part of your --

20 MS. ANDREWS:

21 Well, when he does his presentation,
22 he will discuss that.

23 MR. HILL:

24 Okay. Well, good. Well, thank you,
25 Karyn.

1 MS. ANDREWS:

2 Okay?

3 MR. MARCELLO:

4 Okay.

5 MS. ANDREWS:

6 That has -- that's -- there's -- the
7 correlation to cash is not there. That is
8 how much we are authorized to disburse for
9 RAC Cleanup --

10 MR. MARCELLO:

11 Correct.

12 MS. ANDREWS:

13 -- sites. And so the way the statute
14 is written and how it was utilized is, they
15 can take that appropriated amount and they
16 reduce it by five percent. So five percent
17 of that \$16 million was the eight --

18 MR. MARCELLO:

19 823?

20 MS. ANDREWS:

21 Correct, correct. And as -- with the
22 reduction, they also take the equal amount
23 of the cash.

24 MR. HILL:

25 Any more questions, Frank?

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1 MR. MARCELLO:
2 That's it.
3 MR. HILL:
4 Anybody have anymore questions?
5 (No response.)
6 MR. HILL:
7 Thank you, Karyn. Do I hear a motion
8 to accept the financial report from Karyn?
9 MR. BURNHAM:
10 Motion to accept.
11 MR. ST. ROMAIN:
12 Second.
13 MR. HILL:
14 Thank you.
15 Let's move on to number five, Trust
16 Fund Status Report. Jeff, would you deliver
17 that for us, please.
18 MR. BAKER:
19 Sure will. Good afternoon. If you'll
20 refer to tab number five in the packets.
21 These are the figures for the first quarter
22 of fiscal year 2016.
23 During the first quarter of fiscal
24 year 2016, the Trust Fund received 298
25 applications, totaling \$5,231,529. At the

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1 end of September 2015, the Trust Fund had
2 144 pending applications to process, which -
3 - which had requested amounts, totaling
4 \$2,956,917. 249 applications were processed
5 for payment during the fiscal period,
6 totaling \$3,150,617. And 22 applications
7 were returned with deficiencies.
8 If you'll turn to the next page
9 entitled Monthly Motor Fuel Trust Fund
10 Obligation Determination, this is the new
11 worksheet that Karyn was referring to,
12 listing the various component determinations
13 of the potential obligation against the
14 Trust Fund as of the end of September 2015.
15 To kind of give you a breakdown of it,
16 for the sites in the corrective action
17 phase, which means that these are sites that
18 a CAP budget has been proposed and approved
19 by the ROG, the outstanding liability of the
20 corrective action plan budget and estimated
21 cost to reach closure at the end of
22 September 2015 was \$28,575,921. This total
23 includes the CAP budget remaining amounts
24 and the RAC estimated cost to closure
25 amounts.

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1 The next section, the fund obligation
2 recognized for sites without ROG approved
3 CAP budgets is \$38,143,288. This is
4 determined by using the three year average
5 site closure cost and applying these costs
6 to that active trust fund sites that don't
7 currently have CAP budgets. A portion -- as
8 you can see, a portion -- when you look at
9 the total, as it relates to the 154 sites
10 times the 327,000, we calculate what the
11 potential obligation would be and then we
12 backout that, the total expenditures that
13 had been applied currently to those sites.
14 The next section, the fund obligation
15 has recognized the sites that had been
16 determined to be trust fund eligible,
17 however, have not submitted a reimbursement
18 application. That obligation is \$9,511,246.
19 This is also determined by using the three
20 year average site closure cost and applying
21 these costs to the sites that have requested
22 eligibility but have yet not submitted a
23 request for reimbursement from the fund.
24 Previously, these sites were being ignored
25 in this calculation.

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1 The five year projected fund
2 obligation relating to the Trust Fund to the
3 Environmental Trust Fund transfer is
4 \$17,020,861. This estimate uses the three
5 year average dollars transferred from Motor
6 Fuel Trust Fund to the Environmental Trust
7 Fund and multiplies that average by five
8 years.
9 If you will turn to the legal page,
10 the last page of your document -- of you
11 packet, the number of Trust Fund sites that
12 have received no further action status
13 during the fiscal year 2016 was seven sites.
14 The number of potential Trust Fund sites
15 that were reviewed and made eligible during
16 the current fiscal year was six sites,
17 representing seven active incidents.
18 Points of interests. An update on
19 Senate Bill 244, which was passed by the
20 Legislative and signed by the Governor,
21 becoming ACT 277, this was the Act that
22 increased the maximum dollars available for
23 eligible releases -- release cleanups from
24 one million to one point five million. The
25 Trust Fund has fielded a number of contacts

1 from RACs and owners related to bringing the
2 older sites that have reached their maximum
3 back into the program.

4 We've also seen a number of sites that
5 were approaching the limit that had kind of
6 became stagnant become more active in their
7 remediation activities.

8 Another point. The Trust Fund has
9 been working to develop a more accurate
10 approach to the determination of potential
11 obligation liabilities, which is what we
12 just went over.

13 The -- the -- the September document -
14 - determination with all the supporting
15 documents were sent out to the board members
16 two to four weeks ago with the preliminary
17 review and comments. No comments or
18 questions were received. We hope and
19 believe that this new methodology is a
20 better representation of the true
21 obligation.

22 Now, in talking to several of the
23 board members, apparently, some of ya'll did
24 not receive this. I will go back and send
25 this -- resend this to the addresses that

1 about.

2 MR. FULTON:
3 Right.

4 MR. BURNHAM

5 Yes. Okay.

6 MR. HILL:

7 We have a proposal not to make any
8 changes. Do we have any other comments, or
9 do we need a second on that?

10 MR. BURNHAM:

11 Second.

12 MR. HILL:

13 We got -- we got a first and a second
14 on not making any other changes to the
15 deductible.

16 All in favor?

17 (All indicated "aye".)

18 MR. BAKER:

19 And that completes my review. If
20 anybody has any -- if ya'll have any
21 questions?

22 MR. HILL:

23 Anybody have any questions for Jeff?

24 MR. BURNHAM:

25 The only -- in observation, Jeff, and

1 you gave me and make sure that you have the
2 new numbers, along with all the supporting
3 calculations so ya'll will be able see this.

4 One other point. The revised statutes
5 2195.a.85 and 2195(10).d, the state --
6 states that the Advisory Board shall review
7 the financial responsibility requirements
8 for all sites in and out of compliance on an
9 annual basis. And they recommend to the
10 Secretary adjusting those requirements, if
11 they see fit. At this time, the Trust Fund
12 does not have any recommendations to the
13 board relating to any modifications for the
14 current financial responsibility dollar
15 amounts.

16 MR. FULTON:

17 I propose that we not make any
18 changes.

19 MR. HILL

20 Not make any changes?

21 MR. FULTON:

22 Right.

23 MR. BAKER:

24 This is the five and ten thousand
25 dollar deductibles is what we're talking

1 -- and just tell me if I'm wrong. But the
2 effect of what you did on these calculations
3 was, you pulled in some things that were
4 previously, possibly slipping through the
5 cracks and it gives us a more conservative
6 look at the balance, at the true balance of
7 the -- the Trust Fund and at the -- or at
8 the true obligations of the Trust Fund?

9 MR. BAKER:

10 Yes, sir.

11 MR. BURNHAM:

12 That's -- that's basically what it
13 does?

14 MR. BAKER:

15 We brought in some sites that were
16 being ignored to make it more -- a -- truly
17 a more conservative, more accurate approach.
18 We also found some mistakes in how it was
19 looking at some numbers. Some numbers
20 weren't being included that should've been
21 included, just because of timing as it
22 relates to -- they -- they were categorizing
23 the -- the different costs and some of
24 those sites were going back beyond when we
25 actually started doing that in the database.

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1 So we weren't capturing a lot of those
2 costs. So now, we're doing it on the total
3 expenditure, which is a more accurate
4 approach.
5 MR. BURNHAM:
6 Right. Good.
7 MR. HILL:
8 Any further questions?
9 (No response.)
10 MR. HILL:
11 Thank ya'll. Thank you, Jeff.
12 At this time, we'll go to item number
13 six, Third Party Claim Status. Perry is not
14 going to be here, but we have Chris who's
15 going to --
16 MR. RATCLIFF:
17 Perry tells me there have been no new
18 third party claims since the last meeting.
19 If you need any other information, let me
20 know and I'll try and find out for you.
21 MR. HILL:
22 Okay. Thank you. Does anybody have
23 any questions for Chris?
24 (No response.)
25 MR. HILL:

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1 If not then, at this time, we need to
2 go into executive session.
3 MR. MARCELLO:
4 I'll -- if you need it in a motion
5 form, I'll make that motion.
6 MR. HILL:
7 We need a -- hear a motion to go --
8 MR. FULTON:
9 Second.
10 MR. HILL:
11 -- into executive session? Need a
12 second.
13 MR. FULTON:
14 Second.
15 MR. HILL:
16 Okay.
17 (The board went into executive session at
18 this time.)
19 (The meeting reconvened.)
20 MR. HILL:
21 Well, at this time, I'd like to ask,
22 is there any other business that anybody
23 would like to bring up and discuss?
24 MR. BAKER:
25 We would like to look at the dates for

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1 the next years meetings and let ya'll
2 approve those.
3 MR. HILL:
4 I missed that. Consideration of
5 tentative dates for board meetings in 2016.
6 We have listed February 18, 2016, May 19,
7 2016, August 18, 2016, November 17, 2016.
8 MR. BURNHAM:
9 Those would all be Thursdays at 1:00
10 o'clock?
11 MR. HILL:
12 They would all be Thursdays at 1:00
13 o'clock?
14 MR. BAKER:
15 Yes, sir.
16 MR. HILL:
17 Does anybody have any conflict or --
18 or reason that we could not possibly
19 consider having these dates that they have
20 listed today?
21 MR. ST. ROMAIN:
22 No conflict.
23 MR. MARCELLO:
24 None.
25 MR. HILL:

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1 Okay. We will accept those dates
2 going forward.
3 Is there any other business that
4 anybody would like to bring up before
5 closing?
6 MR. BAKER:
7 We have a public comment. Sam
8 Broussard wanted to bring up a --
9 MR. HILL:
10 Okay. We'd like to have Sam to --
11 MR. BROUSSARD:
12 Thanks, Kerry. I want to give you
13 guys an update on the new federal UST
14 Regulation. I -- I put out a couple of
15 flyers on our website, and I think you guys
16 posted something on LOMA. But I just wanted
17 to give you guys a better update and feel
18 for where we are and where I'm going with
19 it.
20 The regs are final on June 15 -- July
21 15 of this year. Their effective date was
22 90 days after, so October 13 of this year
23 was the effective date of the federal regs.
24 They do not apply to Louisiana and they
25 won't apply to us until we revise our

1 own regulations. And we have until October
2 13, 2018 to get our regs in place and apply
3 for state program authorization. So -- so
4 we're -- they will apply at that point and
5 then we have up to three years to have some
6 implementation dates on some of these items.
7 So it could be in 2021 before some of the
8 things in the new regs are gonna apply in
9 Louisiana. But there are some things that
10 the Trust Fund board at some point is going
11 to have to look at and I wanted to bring
12 those things to your attention.

13 One is, when we apply for state
14 program approval, they're not going to look
15 at just the new regulations that they
16 changed. EPA told me that they're going to
17 go back and look at every regulation that we
18 changed since our original authorization in
19 1992. So every reg we did, every reg change
20 we did is going to get looked at again. So
21 we're going to have to make sure that
22 everything we have is as stringent as the
23 EPA. And I know right now, we have things
24 that are not. So we're going to be doing
25 some more substantial reg changes than

1 own financial responsibility.
2 And one other thing they did change
3 was the definition of accidental release.
4 They actually changed the definition in the
5 federal regs to mean any release from
6 operating an underground storage tank
7 system. And that would include releases
8 above ground from dispenser spills or
9 overfills. And those things are not
10 normally covered by the Trust Fund.
11 Basically, the policy was everything below
12 the shear valve. Now, you'll have to make a
13 decision at some point, either cover those
14 above ground things with the Trust Fund or
15 have tank owners get their own separate
16 financial responsibility for those releases.
17 So I wanted to bring -- there's a lot
18 of other things that are going to effect
19 tank owners that I can get into, but their
20 kind of specific to UST compliance stuff.
21 If you want, I can go over some of those,
22 but I just wanted to bring the things that
23 are going to effect the Trust Fund. Let you
24 guys hear it from me and have you start
25 thinking about it. And -- and again, we

1 what's in the new federal regs. And it --
2 what -- my plan is to have a stakeholder
3 workgroup start meeting. I'm going to be
4 sending out some meeting dates some time in
5 -- in mid-December, late-December and we
6 will probably start meeting in mid to late-
7 January. And then I'll iron out all the
8 details with that stakeholder workgroup and
9 you guys will have membership in there and
10 that way you can get all the -- the details
11 on the specifics.

12 But one other -- well, a couple of
13 other things that are kind of specific that
14 might affect the Trust Fund. One is that
15 things that were deferred in the past,
16 airport hydrants and fuel constructive tanks
17 are now regulated and they're going to have
18 to have financial responsibility. The good
19 thing is, I -- we don't expect to have any
20 of those systems in Louisiana. So that
21 shouldn't effect us. But in the event that
22 we do get a non-government airport hydrant
23 system or fuel constructive tank, you guys
24 will have to make a decision if you want to
25 cover those with Trust Fund or have their

1 will be able to discuss those more in the
2 stakeholder workgroups.
3 MR. HILL:
4 Okay. Thank you, Sam. Does anybody
5 have any questions for Sam?
6 (No response.)
7 MR. HILL:
8 Well, if that's -- if there's no more
9 further questions, I guess we will wish
10 everybody a Merry Christmas and a Happy New
11 Year.
12 Thank you, Sam.
13 MR. MARCELLO:
14 I move that we adjourn.
15 MR. HILL:
16 Did I hear a motion to adjourn?
17 MR. MARCELLO:
18 Move.
19 MR. HILL:
20 Move by Frank. Do I hear a second?
21 MR. FULTON:
22 Second.
23 MR. HILL:
24 Second by Gary. Thank ya'll.
25 THE MEETING ADJOURNED AT 2:23 P.M.

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1 REPORTER'S PAGE

2 I, Lori B. Overland, Certified Court
3 Reporter, in and for the State of Louisiana, the
4 officer, as defined in Rule 28 of the Federal
5 Rules of Civil Procedure and/or Article 1434(b)
6 of the Louisiana code of Civil Procedure, before
7 whom this sworn testimony was taken, do hereby
8 state on the Record
9 That due to the interaction in the
10 spontaneous discourse of this proceeding, dashes
11 (--) have been used to indicate pauses, changes
12 in thought, and/or talk overs; that same is the
13 proper method for a Court Reporters's
14 transcription of proceeding, and that the dashes
15 (--) do not indicated that words or phrases have
16 been left out of this transcript;
17 That any words and/or names which could not
18 be verified through reference material have been
19 denoted with the phrase "(inaudible)."

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1 C E R T I F I C A T I O N

2 I, Lori B. Overland, Certified Court Reporter in
3 and for the State of Louisiana, as the officer
4 before whom this testimony was taken, do hereby
5 certify that the above referenced individual to whom
6 oath was administered, after having been duly sworn
7 by me upon authority of R.S. 37:2554, did testify as
8 hereinbefore set forth in the foregoing pages, that
9 this testimony was reported by me in the stenomask
10 reporting method, was prepared and transcribed by me
11 or under my personal direction and supervision, and
12 is a true and correct transcript to the best of my
13 ability and understanding; that the transcript has
14 been prepared in compliance with transcript format
15 guidelines required by statute or by rules of the
16 board, that I have acted in compliance with the
17 prohibition on contractual relationships, as defined
18 by Louisiana Code of Civil Procedure Article 1434
19 and in rules and advisory opinions of the board;
20 that I am not related to counsel or to the parties
21 herein, nor am I otherwise interested in the outcome
22 of this matter.

23
24
25

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