

ORIGINAL

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 1:12 p.m., on November 14, 2013.

**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

Keith Baker  
Chairman

Durwood Franklin  
Tom Harris  
Roger Bright  
Perry Theriot  
Jeff Baker  
Shawn Ivey  
Grady Gaubert  
John Milazzo  
Cy Morin  
Karyn Andrews

Melissa Vizinat  
Jason Efferson  
Kodi Brignac  
T.J. Hebert  
Natalie Isaacks  
Louis Saab  
Jeremy Griffith  
Todd Perry  
Dina Heider  
Vince Sagnibene

\* \* \* \* \*

I N D E X

EXAMINATION:

PAGE (S) :

None

EXHIBITS:

None

REPORTER'S PAGE

28

REPORTER'S CERTIFICATE

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**MR. KEITH BAKER:**

Good afternoon. We'll call the meeting to order. We'll start with the roll call. Perry, you want --

**MR. THERIOT:**

Okay. Perry Theriot, LDEQ Legal.

**MR. FRANKLIN:**

Durwood Franklin, DEQ Trust Fund.

**MR. JEFF BAKER:**

Jeff Baker, DEQ Trust Fund.

**MR. HARRIS:**

Tom Harris, Underground Storage Tanks, DEQ.

**MR. BRIGHT:**

Roger Bright with Jones Environmental.

**MR. IVEY:**

Shawn Ivey, PPM Consultants.

**MR. GAUBERT:**

Grady Gaubert, Louisiana Oil Marketers Association.

**MR. KEITH BAKER:**

Keith Baker, Louisiana Oil Marketers.

**MR. MORIN:**

Cy Morin, LDEQ Audit.

1           **MS. ANDREWS:**

2                   Karyn Andrews, Financial Services  
3           Division, DEQ.

4           **MS. VIZINAT:**

5                   Melissa Vizinat, Trust Fund.

6           **MR. PERRY:**

7                   Todd Perry, PPM Consultants.

8           **MS. ISAACKS:**

9                   Natalie Isaacks, Louisiana Oil  
10          Marketers.

11          **MR. SAAB:**

12                  Louis Saab, Louisiana Oil Marketers.

13          **MR. SAGNIBENE:**

14                  Vince Sagnibene, DEQ.

15          **MS. HEIDER:**

16                  Dina Heider, DEQ.

17          **MR. GRIFFITH:**

18                  Jeremy Griffith, Jones Environmental.

19          **MR. HEBERT:**

20                  T.J. Hebert, Jones Environmental.

21          **MR. EFFERSON:**

22                  Jason Efferson, DEQ Trust Fund.

23          **MR. BRIGNAC:**

24                  Kodi Brignac, DEQ Trust Fund.

25          **MR. KEITH BAKER:**

1 All right. The first order of  
2 business is to approve and adopt the  
3 minutes. Motion?

4 **MR. JEFF BAKER:**

5 There is -- just before you do that,  
6 there is some corrections that I've already  
7 made mention to the court reporter. Vince  
8 had been misquoted in the -- on page 16, it  
9 says that he used the word, "totaling  
10 agreement". It's actually "tolling  
11 agreement". So she's going to make those  
12 corrections.

13 **MR. KEITH BAKER:**

14 Okay.

15 **MR. HARRIS:**

16 Motion to accept.

17 **MR. IVEY:**

18 Second it.

19 **MR. KEITH BAKER:**

20 All right. Cy, you want to give the  
21 audit report?

22 **MR. MORIN:**

23 Yes, sir. We currently have 30 open  
24 case files. Nineteen are active. One is to  
25 be audited. And ten are set to be closed.

DEPARTMENT OF ENVIRONMENTAL QUALITY

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1           For fiscal year '14, we planned 16 audits.  
2           We currently have six open cases. Five are  
3           currently in progress. And one audit is  
4           scheduled for next week. We currently have  
5           no information on finding -- potential  
6           findings or assessments for these cases.  
7           For fiscal year '13, we have ten outstanding  
8           cases. Nine are in progress. One has been  
9           referred to legal. Seven cases are in the  
10          review process with potential assessments of  
11          \$16,000 -- approximately \$16,000. Two are  
12          still a work in progress. Field work is  
13          still being done on those. The one case for  
14          fiscal year '13 that was referred to legal  
15          has had a demand letter sent out for  
16          collections in October. Prior to fiscal  
17          year '13 cases, we have four active cases in  
18          legal at this time. Two cases have signed  
19          and recorded judgments. Legal is  
20          determining the next course of action in  
21          these two cases. One case has a consent  
22          agreement. In this case, they failed to  
23          adhere to the consent agreement. I've  
24          talked to legal, and they're currently  
25          determining the next course of action in

1           this case. And then we have the fourth  
2           case, which is currently in litigation. And  
3           they're looking into the next legal action  
4           on that case. We -- as I said before, we  
5           have ten cases which are set to be closed.  
6           Three of those are bankruptcy cases, which I  
7           mentioned at the last meeting. One case had  
8           no assessment. Four cases had assessments  
9           and were collected in full. Two cases had  
10          credits issued. To date for fiscal year  
11          '14, we've assessed \$6,118.53. And to date  
12          for fiscal year '14, we've collected  
13          \$3,635.45. As I mentioned at the last  
14          meeting, the total outstanding as of the  
15          last meeting was \$430,000 -- approximately  
16          \$430,000. Approximately \$300,000 of that  
17          was related to those bankruptcy cases which  
18          were deemed uncollectible. So we have a  
19          remaining outstanding balance of  
20          approximately \$127,000. All of these are --  
21          the cases are being pursued in legal. Any  
22          questions? Any questions?

23          **MR. KEITH BAKER:**

24                    Any questions?

25                    For the record, I'd like to note that



1 Johnny Milazzo showed up.

2 **MR. MILAZZO:**

3 Johnny Milazzo.

4 **MR. KEITH BAKER:**

5 Any questions on the audit status  
6 report?

7 (No response.)

8 **MR. KEITH BAKER:**

9 All right. Next, Ms. Karyn, would you  
10 give us the financial review?

11 **MS. ANDREWS:**

12 Okay. If we could turn to Tab Four.  
13 I'll just go through these numbers. You'll  
14 notice that we transferred at the beginning  
15 of the fiscal year \$63,207,180.78 into the  
16 trust fund. To date, we've deposited  
17 \$5,429,935.71. And we've paid out in  
18 reimbursements \$2,181,405.11. Current  
19 liabilities on our sites stand at  
20 \$68,607,025. That leaves us with a negative  
21 balance after obligations of \$2,151,313.62.  
22 If you'll go ahead and turn the page. This  
23 is our information report on our interest  
24 revenue from the trust fund. And to date,  
25 interest revenue collected stands at

1           \$6,533,968.58. Expenditures also to date  
2           are \$1,229,930. Towards the bottom of the  
3           report is the details of the expenditures to  
4           date. And so far, in fiscal year '14, we  
5           have expended \$1,600 on one site. And if  
6           you could go ahead and turn the page one  
7           more time. This shows how we calculate the  
8           amount transferred from the motor fuel trust  
9           fund to the environmental trust fund with  
10          the details of our revenues and expenditures  
11          provided. You'll notice towards the middle  
12          of the report, this provides some  
13          information on our indirect costs. Fiscal  
14          year '14, the Department's approved rate is  
15          57.56 percent. So we'll be applying a rate  
16          of 28.78 as agreed. And based on our  
17          estimate, next year's overheard will be  
18          approximately \$935,000. And one other item  
19          I will go ahead and defer until we get to  
20          third party claim status' legal expenses.  
21          Anybody have any questions?

22          (No response.)

23          **MR. KEITH BAKER:**

24                    Thank you. Mr. Baker, give us the  
25          Trust Fund status report.

1           **MR. JEFF BAKER:**

2                   Yes, sir. If ya'll can refer to Tab  
3           Five in your packets. These are the figures  
4           for the first quarter of fiscal year 2014.  
5           During the first quarter of fiscal year  
6           2014, the Trust Fund received 211  
7           applications, totaling \$3,877,095. 178  
8           applications were processed for payment  
9           during the fiscal quarter, totaling  
10          \$2,967,865. And 17 applications were  
11          returned with deficiencies. For sites in  
12          the corrective action phase, the outstanding  
13          liability of the corrective action plan  
14          budget and estimated costs to reach closure  
15          at the end of September 2013 was  
16          \$33,244,715. The additional obligation  
17          recognized for the non-capped sites plus the  
18          projected motor fuel trust fund  
19          environmental trust fund transfers is  
20          \$34,721,357. At the end of June -- of  
21          September 2013, the trust fund had 99  
22          applications pending the process which had  
23          requested amounts totaling \$1,845,728. Of  
24          this amount, the estimated requested  
25          obligations related to capped budgets and

1 closure costs was \$1,204,775. If you'll  
2 note the legal sized page, the last page of  
3 your packets, the number of trust fund sites  
4 that received a "no further action" status  
5 during this period was six. The number of  
6 potential trust fund sites that were  
7 reviewed and made eligible during this  
8 period was four, four new sites.

9 Points of interest. The Department  
10 has continued to work on the revised trust  
11 fund reimbursement application form. Web  
12 links for both the Microsoft Word and Excel  
13 versions were sent to the RAC community on  
14 September 12, 2013. The response has been  
15 very positive, especially with the new Excel  
16 version. This version includes field drop  
17 downs with existing unit prices, and  
18 automatically categorizes and sums the  
19 various portions of the application on the  
20 Part Five summary page. So we've gotten  
21 some real good response on that.

22 Another point of information, it's  
23 time to begin the revision process for the  
24 current guidance document. We revised that  
25 last in April of 2012, so it's time to look

1 at it again. The Department has a number of  
2 clarifications and modifications to address,  
3 and would like to also seek the input from  
4 the RAC community. Our goal is to send out  
5 an email to the current active RAC list over  
6 the next couple of weeks, asking for  
7 suggestions. These recommendations will be  
8 compiled into a single document, including  
9 the Department's request for modifications.  
10 This compiled document will be given to the  
11 guidance document review work group, which  
12 will begin as a starting point for  
13 discussions which will most likely begin  
14 sometime early next year.

15 **MR. IVEY:**

16 Who's going to be on that group?

17 **MR. JEFF BAKER:**

18 We're going to send out emails to the  
19 RAC community, asking for volunteers to  
20 participate.

21 **MR. IVEY:**

22 Okay.

23 **MR. JEFF BAKER:**

24 We have -- the last group, we have a  
25 list of those that were on it the last time.

1           So we're going to start with them. But  
2           we're also going to make it available to  
3           whoever would like to participate.

4           **MR. GAUBERT:**

5                     Jeff, is there a particular reason  
6           that the -- that all stakeholders -- that  
7           just the RAC communities involved  
8           (inaudible) the focus group instead of all  
9           stakeholders?

10          **MR. JEFF BAKER:**

11                    Well, we can definitely make it  
12          available to all stakeholders. The RACs are  
13          intimately involved in these applications,  
14          so they were the first ones we thought  
15          about. But we would welcome input from  
16          anybody.

17          **MR. GAUBERT:**

18                    Yes, I would make the suggestion that  
19          all stake -- you know, a representative from  
20          all stakeholders be on that focus group.

21          **MR. JEFF BAKER:**

22                    Okay.

23          **MR. GAUBERT:**

24                    You know, somebody from the regulated  
25          community --

1           **MR. JEFF BAKER:**

2                    Sure.

3           **MR. GAUBERT:**

4                    -- be on the focus group as well.

5           **MR. JEFF BAKER:**

6                    Not a problem.

7           **MR. IVEY:**

8                    Maybe after we get comments back from  
9                    everybody that they --

10          **MR. JEFF BAKER:**

11                    Yes.

12          **MR. IVEY:**

13                    Yes.

14          **MR. JEFF BAKER:**

15                    That would probably be a good starting  
16                    point.

17          **MR. IVEY:**

18                    Yes.

19          **MR. JEFF BAKER:**

20                    Like I said, we're going to try to  
21                    start next year, early next year, with at  
22                    least a starting point from what we get from  
23                    the RAC community. And we have a number --  
24                    a lot of it's clarification with issues that  
25                    we found that -- just points of confusion

1 with the RACs. And we want to try to make  
2 it easier for them and for us. So we've got  
3 quite a few parking lot options to add to  
4 it.

5 **MR. GAUBERT:**

6 But if you could include --

7 **MR. JEFF BAKER:**

8 Not a problem.

9 **MR. GAUBERT:**

10 -- the stakeholder community.

11 **MS. ISAACKS:**

12 Jeff, is that the cost-saving --

13 **MR. GAUBERT:**

14 No, no.

15 **MS. ISAACKS:**

16 That's something else.

17 **MR. GAUBERT:**

18 That's something else. That's a  
19 guidance document --

20 **MS. ISAACKS:**

21 Okay.

22 **MR. IVEY:**

23 Which would kind of be along those  
24 lines.

25 **MR. JEFF BAKER:**



1 Yes, it's a cost saving --

2 **MR. GAUBERT:**

3 Yes.

4 **MR. JEFF BAKER:**

5 Now, would Natalie be our point of  
6 contact to ask for a representative on the  
7 work group?

8 **MR. GAUBERT:**

9 Yes, Natalie could very well be the  
10 contact.

11 **MR. JEFF BAKER:**

12 Okay.

13 **MR. GAUBERT:**

14 In other business, we had -- we were  
15 going to ask if -- at an earlier meeting, we  
16 talked about a focus group on cost saving  
17 issues. And we can wait until later to  
18 discuss that. If you want to discuss it  
19 now, we can discuss that. It's up to you.

20 **MR. KEITH BAKER:**

21 I'm fine if ya'll go ahead with that.  
22 Certainly.

23 **MR. GAUBERT:**

24 We had -- part of an agreement we had  
25 earlier was to have a focus group set up to

1 look at cost saving measures for the trust  
2 fund. And I don't know -- you know, Vince  
3 was involved with that. I think we talked  
4 about it when, you know, the Department had  
5 asked for some additional revenue that we  
6 were going to do a focus group at that time  
7 to, you know, look at cost saving measures  
8 that we thought could possibly help long-  
9 term. And to date, we hadn't done that yet.  
10 So I don't know if this focus group could,  
11 you know, piggy-back on that idea or if it  
12 needs to be two separate focus groups.

13 **MR. JEFF BAKER:**

14 They could. Those are -- personally,  
15 I would probably recommend two separate  
16 ones. This one is going to be truly focused  
17 on the guidance document. And albeit, the  
18 changes in the guidance document will create  
19 cost savings, I don't think that's the  
20 direction that you're -- what you're talking  
21 about.

22 **MR. GAUBERT:**

23 Right. It's two different issues.  
24 It's two different issues. So we -- you  
25 know, we can discuss that other issue a

1 little bit later.

2 **MR. SAGNIBENE:**

3 But if you have any suggestions, I  
4 mean, mail them to Jeff, on the cost savings  
5 measures. I mean, we don't have to have a  
6 focus group just to implement stuff. If  
7 it's a good idea, we're going to do it.

8 **MR. GAUBERT:**

9 Okay.

10 **MR. SAGNIBENE:**

11 But if you want a focus group, then we  
12 have to do that.

13 **MR. GAUBERT:**

14 Okay. We can possibly discuss that  
15 amongst ourselves at a later time and come  
16 up with the recommendations.

17 **MR. SAGNIBENE:**

18 Come up with a list of --

19 **MR. GAUBERT:**

20 Yes. LOMA has an environmental group.  
21 We could possibly discuss it within that  
22 group and see what the consensus is, and  
23 then forward that to Jeff and go from there.

24 **MR. KEITH BAKER:**

25 That's it?

1           **MR. JEFF BAKER:**

2                   Unless ya'll have any other questions.

3           **MR. KEITH BAKER:**

4                   Any other questions for Jeff?

5                   (No response.)

6           **MR. KEITH BAKER:**

7                   Okay. Perry, you have any third party  
8                   claims?

9           **MR. THERIOT:**

10                   Okay. Before we go into executive  
11                   session, I can go on the record and say  
12                   we've received no new third party claims  
13                   since our last meeting. So there's been no  
14                   change in -- other than we were able to  
15                   settle one outstanding case. And that one  
16                   will be removed from our list. We're down  
17                   to only one active case, I believe. So  
18                   we're doing quite well on third party  
19                   claims.

20                   With that, we have some additional  
21                   items we have to discuss on the legal scene.  
22                   And I would ask that the chair make a motion  
23                   -- someone make a motion to go into  
24                   executive session.

25           **MR. KEITH BAKER:**

1                   Sure. Motion to go into executive  
2 session.

3                   **MR. HARRIS:**

4                   I do have one thing.

5                   **MR. KEITH BAKER:**

6                   Yes, sir.

7                   **MR. HARRIS:**

8                   I want to just take about two minutes  
9 to give you an update on where we are with  
10 the recap revisions, the proposed revisions.  
11 We've been working on it for several -- for  
12 a better part of a year. We -- right now,  
13 we have two of the appendices with the  
14 greatest concentration of technical changes  
15 up on the website. We've got some real good  
16 feedback. We've actually changed the --  
17 made some changes based on that input. So  
18 what we started doing is putting a date next  
19 to the version that's posted so you can tell  
20 when there have been changes made. Right  
21 now, we've already scheduled for January  
22 21st kind of a -- well, not kind of, a  
23 three-hour presentation for anyone who's  
24 interested in coming here. I believe it's  
25 in this room, certainly in the conference

1 center, from 8:30 to 11:30. It'll probably  
2 take about two hours to go over, you know,  
3 the changes one by one. And we wanted to  
4 leave about an hour for discussion, you  
5 know, to listen to people's feedback or  
6 ideas. Between now and then, we're going to  
7 have the entire document, including tables,  
8 posted on the website for your review, you  
9 know, at least two or three weeks prior to  
10 the January 21st meeting. Again, you know,  
11 this is not a replacement to the rule making  
12 process. It's an addition to. We really  
13 wanted to reach out to the regulated  
14 community. Give you a chance to see what  
15 we're working on. You know, we took the  
16 first shot at it, but hey, if you've got  
17 some issues, some concerns, some good ideas,  
18 you know, come to us now. And it's a whole  
19 lot easier to really work those concerns in  
20 and those ideas in before we start the rule  
21 making process. You know, once we publish  
22 the draft document, the draft regulation, in  
23 the Louisiana Register -- I'm hoping for  
24 March 20th of 2014 to do that. Once we do  
25 that, we're bound by the red line strike

1 out. So if you have a concern, issue, an  
2 idea that's not in that red line strike out,  
3 we can't do anything with it. So this is  
4 really a much better format to get your  
5 input early in the process. And we look  
6 forward to working with you. If you have  
7 any heartburn, any issues, any good ideas,  
8 pick up the phone and give us a call.  
9 Thanks.

10 **MR. KEITH BAKER:**

11 Thanks, Tom. We have a motion to move  
12 to executive session.

13 **MR. GAUBERT:**

14 I second.

15 **MR. MILAZZO:**

16 Second.

17 (A brief recess followed while the board  
18 went into executive session.)

19 **MR. KEITH BAKER:**

20 Perry, I'm sorry. Do you have any  
21 other third party --

22 **MR. THERIOT:**

23 No, there's been no new ones.

24 **MR. KEITH BAKER:**

25 Okay.

1           **MR. THERIOT:**

2                   I think I said that before we went  
3           into session.

4           **MR. KEITH BAKER:**

5                   Thank you, Perry. I'm sorry.

6                   Any other business?

7           **MR. JEFF BAKER:**

8                   Yes, we do have one more thing. The  
9           Revised Statutes 2195.9(a)(5) and 2195.10(b)  
10          state that the advisory board shall review  
11          the financial responsibility requirements  
12          for the sites in and out of compliance on an  
13          annual basis, and may recommend to the  
14          secretary adjusting those requirements. So  
15          the board needs to review that at this time.  
16          At this time, the trust fund does not have  
17          any recommendations to the board relating to  
18          any modifications to the current financial  
19          responsibility dollar amounts. But ya'll  
20          need to take it and make a decision.

21          **MR. GAUBERT:**

22                   Let me make sure I understand what  
23          we're having to do. So the motor fuel trust  
24          fund board reviews owners' financial  
25          responsibility amounts?



1           **MR. JEFF BAKER:**

2                   What is often called the deductible,  
3           \$5,000 and the \$10,000 deductible as it  
4           relates to the \$5,000 for the sites in  
5           compliance and \$10,000 when it's out of  
6           compliance.

7           **MR. MILAZZO:**

8                   And you said that that -- there's a  
9           required annual review process for that?

10          **MR. JEFF BAKER:**

11                   The board is required annually to  
12          review that, and can make recommendations to  
13          the secretary to make changes of those  
14          amounts, or they can recommend that they  
15          just stay the same. But it has to be done  
16          annually. And it's time.

17          **MR. MILAZZO:**

18                   And so what would be that review  
19          process? I mean, just looking at existing  
20          data, you know, maintaining financial  
21          responsibility for the fund as a whole?

22          **MR. THERIOT:**

23                   No. It has to do with how much you  
24          believe is a fair deductible is the easiest  
25          colloquial way to say it. We are -- the

1 Department usually gives ya'll a  
2 recommendation. We're going on record as  
3 not having any recommendation, so you are  
4 free to increase it, keep it the same,  
5 decrease it. It is up to you to make the  
6 recommendation. Now, the secretary will  
7 make the final decision. But annually,  
8 ya'll have to make -- go on the record  
9 saying what ya'll think is a fair amount.

10 **MR. GAUBERT:**

11 I make a recommendation that we leave  
12 it the same.

13 **MR. MILAZZO:**

14 That's in a motion. And I'll second  
15 it.

16 **MR. THERIOT:**

17 And ya'll take a vote.

18 **MR. KEITH BAKER:**

19 Take a vote.

20 (All indicated yea.)

21 **MR. KEITH BAKER:**

22 All yea's. All right.

23 Any other new business?

24 (No response.)

25 **MR. KEITH BAKER:**

1 All right. Close the meeting.

2 MR. MILAZZO:

3 I motion we adjourn.

4 THE MEETING ADJOURNED AT 2:06 P.M.

5 \* \* \* \* \*

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

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

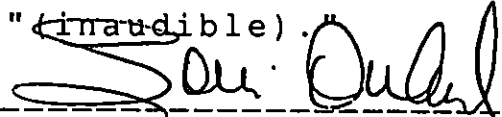
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 11     (--) have been used to indicate pauses, changes  
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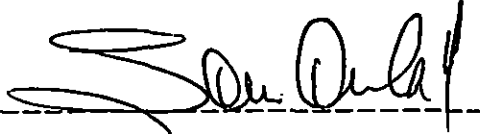
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 Lori Overland, C.C.R.

# 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.

23 

24 Lori Overland C.C.R.

25 # 97083

**In The Matter Of:**  
*DEPARTMENT OF ENVIRONMENTAL QUALITY  
MOTOR FUELS UNDERGROUND STORAGE TANK TRUST*

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*FUND ADVISORY BOARD MEETING  
November 14, 2013*

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**In The Matter Of:**  
*DEPARTMENT OF ENVIRONMENTAL QUALITY  
MOTOR FUELS UNDERGROUND STORAGE TANK TRUST*

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*FUND ADVISORY BOARD MEETING  
November 14, 2013*

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(225) 216-2036*

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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 1:12 p.m., on November 14, 2013.  
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 APPEARANCES  
2  
3 Keith Baker  
Chairman  
4 Durwood Franklin  
Tom Harris  
5 Roger Bright  
Perry Theriot  
6 Jeff Baker  
Shawn Ivey  
7 Grady Gaubert  
John Milazzo  
8 Cy Morin  
Karyn Andrews  
9  
10 Melissa Vizinat  
Jason Efferson  
Kodi Brignac  
11 T.J. Hebert  
Natalie Isaacks  
12 Louis Saab  
Jeremy Griffith  
13 Todd Perry  
Dina Heider  
14 Vince Sagnibene  
15  
16 \* \* \* \* \*  
17  
18  
19  
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21  
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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 28  
9 REPORTER'S CERTIFICATE 29  
10  
11 \* \* \* \* \*  
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Page 4

1 \* \* \* \* \*  
2 MR. KEITH BAKER:  
3 Good afternoon. We'll call the  
4 meeting to order. We'll start with the roll  
5 call. Perry, you want -  
6 MR. THERIOT:  
7 Okay. Perry Theriot, LDEQ Legal.  
8 MR. FRANKLIN:  
9 Durwood Franklin, DEQ Trust Fund.  
10 MR. JEFF BAKER:  
11 Jeff Baker, DEQ Trust Fund.  
12 MR. HARRIS:  
13 Tom Harris, Underground Storage Tanks,  
14 DEQ.  
15 MR. BRIGHT:  
16 Roger Bright with Jones Environmental.  
17 MR. IVEY:  
18 Shawn Ivey, PPM Consultants.  
19 MR. GAUBERT:  
20 Grady Gaubert, Louisiana Oil Marketers  
21 Association.  
22 MR. KEITH BAKER:  
23 Keith Baker, Louisiana Oil Marketers.  
24 MR. MORIN:  
25 Cy Morin, LDEQ Audit.

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1 MS. ANDREWS:  
2 Karyn Andrews, Financial Services  
3 Division, DEQ.  
4 MS. VIZINAT:  
5 Melissa Vizinat, Trust Fund.  
6 MR. PERRY:  
7 Todd Perry, PPM Consultants.  
8 MS. ISAACKS:  
9 Natalie Isaacks, Louisiana Oil  
10 Marketers.  
11 MR. SAAB:  
12 Louis Saab, Louisiana Oil Marketers.  
13 MR. SAGNIBENE:  
14 Vince Sagnibene, DEQ.  
15 MS. HEIDER:  
16 Dina Heider, DEQ.  
17 MR. GRIFFITH:  
18 Jeremy Griffith, Jones Environmental.  
19 MR. HEBERT:  
20 T.J. Hebert, Jones Environmental.  
21 MR. EFFERSON:  
22 Jason Efferson, DEQ Trust Fund.  
23 MR. BRIGNAC:  
24 Kodi Brignac, DEQ Trust Fund.  
25 MR. KEITH BAKER:

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1 All right. The first order of  
2 business is to approve and adopt the  
3 minutes. Motion?  
4 MR. JEFF BAKER:  
5 There is -- just before you do that,  
6 there is some corrections that I've already  
7 made mention to the court reporter. Vince  
8 had been misquoted in the -- on page 16, it  
9 says that he used the word, "totaling  
10 agreement". It's actually "tolling  
11 agreement". So she's going to make those  
12 corrections.  
13 MR. KEITH BAKER:  
14 Okay.  
15 MR. HARRIS:  
16 Motion to accept.  
17 MR. IVEY:  
18 Second it.  
19 MR. KEITH BAKER:  
20 All right. Cy, you want to give the  
21 audit report?  
22 MR. MORIN:  
23 Yes, sir. We currently have 30 open  
24 case files. Nineteen are active. One is to  
25 be audited. And ten are set to be closed.

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1 For fiscal year '14, we planned 16 audits.  
2 We currently have six open cases. Five are  
3 currently in progress. And one audit is  
4 scheduled for next week. We currently have  
5 no information on finding - potential  
6 findings or assessments for these cases.  
7 For fiscal year '13, we have ten outstanding  
8 cases. Nine are in progress. One has been  
9 referred to legal. Seven cases are in the  
10 review process with potential assessments of  
11 \$16,000 - approximately \$16,000. Two are  
12 still a work in progress. Field work is  
13 still being done on those. The one case for  
14 fiscal year '13 that was referred to legal  
15 has had a demand letter sent out for  
16 collections in October. Prior to fiscal  
17 year '13 cases, we have four active cases in  
18 legal at this time. Two cases have signed  
19 and recorded judgments. Legal is  
20 determining the next course of action in  
21 these two cases. One case has a consent  
22 agreement. In this case, they failed to  
23 adhere to the consent agreement. I've  
24 talked to legal, and they're currently  
25 determining the next course of action in

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1 this case. And then we have the fourth  
2 case, which is currently in litigation. And  
3 they're looking into the next legal action  
4 on that case. We - as I said before, we  
5 have ten cases which are set to be closed.  
6 Three of those are bankruptcy cases, which I  
7 mentioned at the last meeting. One case had  
8 no assessment. Four cases had assessments  
9 and were collected in full. Two cases had  
10 credits issued. To date for fiscal year  
11 '14, we've assessed \$6,118.53. And to date  
12 for fiscal year '14, we've collected  
13 \$3,635.45. As I mentioned at the last  
14 meeting, the total outstanding as of the  
15 last meeting was \$430,000 - approximately  
16 \$430,000. Approximately \$300,000 of that  
17 was related to those bankruptcy cases which  
18 were deemed uncollectible. So we have a  
19 remaining outstanding balance of  
20 approximately \$127,000. All of these are -  
21 the cases are being pursued in legal. Any  
22 questions? Any questions?  
23 MR. KEITH BAKER:  
24 Any questions?  
25 For the record, I'd like to note that



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1 Johnny Milazzo showed up.  
2 MR. MILAZZO:  
3 Johnny Milazzo.  
4 MR. KEITH BAKER:  
5 Any questions on the audit status  
6 report?  
7 (No response.)  
8 MR. KEITH BAKER:  
9 All right. Next, Ms. Karyn, would you  
10 give us the financial review?  
11 MS. ANDREWS:  
12 Okay. If we could turn to Tab Four.  
13 I'll just go through these numbers. You'll  
14 notice that we transferred at the beginning  
15 of the fiscal year \$63,207,180.78 into the  
16 trust fund. To date, we've deposited  
17 \$5,429,935.71. And we've paid out in  
18 reimbursements \$2,181,405.11. Current  
19 liabilities on our sites stand at  
20 \$68,607,025. That leaves us with a negative  
21 balance after obligations of \$2,151,313.62.  
22 If you'll go ahead and turn the page. This  
23 is our information report on our interest  
24 revenue from the trust fund. And to date,  
25 interest revenue collected stands at

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1 \$6,533,968.58. Expenditures also to date  
2 are \$1,229,930. Towards the bottom of the  
3 report is the details of the expenditures to  
4 date. And so far, in fiscal year '14, we  
5 have expended \$1,600 on one site. And if  
6 you could go ahead and turn the page one  
7 more time. This shows how we calculate the  
8 amount transferred from the motor fuel trust  
9 fund to the environmental trust fund with  
10 the details of our revenues and expenditures  
11 provided. You'll notice towards the middle  
12 of the report, this provides some  
13 information on our indirect costs. Fiscal  
14 year '14, the Department's approved rate is  
15 57.56 percent. So we'll be applying a rate  
16 of 28.78 as agreed. And based on our  
17 estimate, next year's overhead will be  
18 approximately \$935,000. And one other item  
19 I will go ahead and defer until we get to  
20 third party claim status' legal expenses.  
21 Anybody have any questions?  
22 (No response.)  
23 MR. KEITH BAKER:  
24 Thank you. Mr. Baker, give us the  
25 Trust Fund status report.

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1 MR. JEFF BAKER:  
2 Yes, sir. If ya'll can refer to Tab  
3 Five in your packets. These are the figures  
4 for the first quarter of fiscal year 2014.  
5 During the first quarter of fiscal year  
6 2014, the Trust Fund received 211  
7 applications, totaling \$3,877,095. 178  
8 applications were processed for payment  
9 during the fiscal quarter, totaling  
10 \$2,967,865. And 17 applications were  
11 returned with deficiencies. For sites in  
12 the corrective action phase, the outstanding  
13 liability of the corrective action plan  
14 budget and estimated costs to reach closure  
15 at the end of September 2013 was  
16 \$33,244,715. The additional obligation  
17 recognized for the non-capped sites plus the  
18 projected motor fuel trust fund  
19 environmental trust fund transfers is  
20 \$34,721,357. At the end of June -- of  
21 September 2013, the trust fund had 99  
22 applications pending the process which had  
23 requested amounts totaling \$1,845,728. Of  
24 this amount, the estimated requested  
25 obligations related to capped budgets and

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1 closure costs was \$1,204,775. If you'll  
2 note the legal sized page, the last page of  
3 your packets, the number of trust fund sites  
4 that received a "no further action" status  
5 during this period was six. The number of  
6 potential trust fund sites that were  
7 reviewed and made eligible during this  
8 period was four, four new sites.  
9 Points of interest. The Department  
10 has continued to work on the revised trust  
11 fund reimbursement application form. Web  
12 links for both the Microsoft Word and Excel  
13 versions were sent to the RAC community on  
14 September 12, 2013. The response has been  
15 very positive, especially with the new Excel  
16 version. This version includes field drop  
17 downs with existing unit prices, and  
18 automatically categorizes and sums the  
19 various portions of the application on the  
20 Part Five summary page. So we've gotten  
21 some real good response on that.  
22 Another point of information, it's  
23 time to begin the revision process for the  
24 current guidance document. We revised that  
25 last in April of 2012, so it's time to look

1 at it again. The Department has a number of  
2 clarifications and modifications to address,  
3 and would like to also seek the input from  
4 the RAC community. Our goal is to send out  
5 an email to the current active RAC list over  
6 the next couple of weeks, asking for  
7 suggestions. These recommendations will be  
8 compiled into a single document, including  
9 the Department's request for modifications.  
10 This compiled document will be given to the  
11 guidance document review work group, which  
12 will begin as a starting point for  
13 discussions which will most likely begin  
14 sometime early next year.

15 MR. IVEY:

16 Who's going to be on that group?

17 MR. JEFF BAKER:

18 We're going to send out emails to the  
19 RAC community, asking for volunteers to  
20 participate.

21 MR. IVEY:

22 Okay.

23 MR. JEFF BAKER:

24 We have -- the last group, we have a  
25 list of those that were on it the last time.

1 MR. JEFF BAKER:

2 Sure.

3 MR. GAUBERT:

4 -- be on the focus group as well.

5 MR. JEFF BAKER:

6 Not a problem.

7 MR. IVEY:

8 Maybe after we get comments back from  
9 everybody that they --

10 MR. JEFF BAKER:

11 Yes.

12 MR. IVEY:

13 Yes.

14 MR. JEFF BAKER:

15 That would probably be a good starting  
16 point.

17 MR. IVEY:

18 Yes.

19 MR. JEFF BAKER:

20 Like I said, we're going to try to  
21 start next year, early next year, with at  
22 least a starting point from what we get from  
23 the RAC community. And we have a number --  
24 a lot of it's clarification with issues that  
25 we found that -- just points of confusion

1 So we're going to start with them. But  
2 we're also going to make it available to  
3 whoever would like to participate.

4 MR. GAUBERT:

5 Jeff, is there a particular reason  
6 that the -- that all stakeholders -- that  
7 just the RAC communities involved  
8 (inaudible) the focus group instead of all  
9 stakeholders?

10 MR. JEFF BAKER:

11 Well, we can definitely make it  
12 available to all stakeholders. The RACs are  
13 intimately involved in these applications,  
14 so they were the first ones we thought  
15 about. But we would welcome input from  
16 anybody.

17 MR. GAUBERT:

18 Yes, I would make the suggestion that  
19 all stake -- you know, a representative from  
20 all stakeholders be on that focus group.

21 MR. JEFF BAKER:

22 Okay.

23 MR. GAUBERT:

24 You know, somebody from the regulated  
25 community -

1 with the RACs. And we want to try to make  
2 it easier for them and for us. So we've got  
3 quite a few parking lot options to add to  
4 it.

5 MR. GAUBERT:

6 But if you could include -

7 MR. JEFF BAKER:

8 Not a problem.

9 MR. GAUBERT:

10 -- the stakeholder community.

11 MS. ISAACKS:

12 Jeff, is that the cost-saving --

13 MR. GAUBERT:

14 No, no.

15 MS. ISAACKS:

16 That's something else.

17 MR. GAUBERT:

18 That's something else. That's a  
19 guidance document --

20 MS. ISAACKS:

21 Okay.

22 MR. IVEY:

23 Which would kind of be along those  
24 lines.

25 MR. JEFF BAKER:

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1 Yes, it's a cost saving -  
2 MR. GAUBERT:  
3 Yes.  
4 MR. JEFF BAKER:  
5 Now, would Natalie be our point of  
6 contact to ask for a representative on the  
7 work group?  
8 MR. GAUBERT:  
9 Yes, Natalie could very well be the  
10 contact.  
11 MR. JEFF BAKER:  
12 Okay.  
13 MR. GAUBERT:  
14 In other business, we had - we were  
15 going to ask if - at an earlier meeting, we  
16 talked about a focus group on cost saving  
17 issues. And we can wait until later to  
18 discuss that. If you want to discuss it  
19 now, we can discuss that. It's up to you.  
20 MR. KEITH BAKER:  
21 I'm fine if ya'll go ahead with that.  
22 Certainly.  
23 MR. GAUBERT:  
24 We had - part of an agreement we had  
25 earlier was to have a focus group set up to

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1 look at cost saving measures for the trust  
2 fund. And I don't know -- you know, Vince  
3 was involved with that. I think we talked  
4 about it when, you know, the Department had  
5 asked for some additional revenue that we  
6 were going to do a focus group at that time  
7 to, you know, look at cost saving measures  
8 that we thought could possibly help long-  
9 term. And to date, we hadn't done that yet.  
10 So I don't know if this focus group could,  
11 you know, piggy-back on that idea or if it  
12 needs to be two separate focus groups.  
13 MR. JEFF BAKER:  
14 They could. Those are - personally,  
15 I would probably recommend two separate  
16 ones. This one is going to be truly focused  
17 on the guidance document. And albeit, the  
18 changes in the guidance document will create  
19 cost savings, I don't think that's the  
20 direction that you're - what you're talking  
21 about.  
22 MR. GAUBERT:  
23 Right. It's two different issues.  
24 It's two different issues. So we - you  
25 know, we can discuss that other issue a

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1 little bit later.  
2 MR. SAGNIBENE:  
3 But if you have any suggestions, I  
4 mean, mail them to Jeff, on the cost savings  
5 measures. I mean, we don't have to have a  
6 focus group just to implement stuff. If  
7 it's a good idea, we're going to do it.  
8 MR. GAUBERT:  
9 Okay.  
10 MR. SAGNIBENE:  
11 But if you want a focus group, then we  
12 have to do that.  
13 MR. GAUBERT:  
14 Okay. We can possibly discuss that  
15 amongst ourselves at a later time and come  
16 up with the recommendations.  
17 MR. SAGNIBENE:  
18 Come up with a list of --  
19 MR. GAUBERT:  
20 Yes. LOMA has an environmental group.  
21 We could possibly discuss it within that  
22 group and see what the consensus is, and  
23 then forward that to Jeff and go from there.  
24 MR. KEITH BAKER:  
25 That's it?

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1 MR. JEFF BAKER:  
2 Unless ya'll have any other questions.  
3 MR. KEITH BAKER:  
4 Any other questions for Jeff?  
5 (No response.)  
6 MR. KEITH BAKER:  
7 Okay. Perry, you have any third party  
8 claims?  
9 MR. THERIOT:  
10 Okay. Before we go into executive  
11 session, I can go on the record and say  
12 we've received no new third party claims  
13 since our last meeting. So there's been no  
14 change in -- other than we were able to  
15 settle one outstanding case. And that one  
16 will be removed from our list. We're down  
17 to only one active case, I believe. So  
18 we're doing quite well on third party  
19 claims.  
20 With that, we have some additional  
21 items we have to discuss on the legal scene.  
22 And I would ask that the chair make a motion  
23 - someone make a motion to go into  
24 executive session.  
25 MR. KEITH BAKER:

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1 Sure. Motion to go into executive  
2 session.  
3 MR. HARRIS:  
4 I do have one thing.  
5 MR. KEITH BAKER:  
6 Yes, sir.  
7 MR. HARRIS:  
8 I want to just take about two minutes  
9 to give you an update on where we are with  
10 the recap revisions, the proposed revisions.  
11 We've been working on it for several - for  
12 a better part of a year. We - right now,  
13 we have two of the appendices with the  
14 greatest concentration of technical changes  
15 up on the website. We've got some real good  
16 feedback. We've actually changed the -  
17 made some changes based on that input. So  
18 what we started doing is putting a date next  
19 to the version that's posted so you can tell  
20 when there have been changes made. Right  
21 now, we've already scheduled for January  
22 21st kind of a - well, not kind of, a  
23 three-hour presentation for anyone who's  
24 interested in coming here. I believe it's  
25 in this room, certainly in the conference

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1 center, from 8:30 to 11:30. It'll probably  
2 take about two hours to go over, you know,  
3 the changes one by one. And we wanted to  
4 leave about an hour for discussion, you  
5 know, to listen to people's feedback or  
6 ideas. Between now and then, we're going to  
7 have the entire document, including tables,  
8 posted on the website for your review, you  
9 know, at least two or three weeks prior to  
10 the January 21st meeting. Again, you know,  
11 this is not a replacement to the rule making  
12 process. It's an addition to. We really  
13 wanted to reach out to the regulated  
14 community. Give you a chance to see what  
15 we're working on. You know, we took the  
16 first shot at it, but hey, if you've got  
17 some issues, some concerns, some good ideas,  
18 you know, come to us now. And it's a whole  
19 lot easier to really work those concerns in  
20 and those ideas in before we start the rule  
21 making process. You know, once we publish  
22 the draft document, the draft regulation, in  
23 the Louisiana Register -- I'm hoping for  
24 March 20th of 2014 to do that. Once we do  
25 that, we're bound by the red line strike

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1 out. So if you have a concern, issue, an  
2 idea that's not in that red line strike out,  
3 we can't do anything with it. So this is  
4 really a much better format to get your  
5 input early in the process. And we look  
6 forward to working with you. If you have  
7 any heartburn, any issues, any good ideas,  
8 pick up the phone and give us a call.  
9 Thanks.  
10 MR. KEITH BAKER:  
11 Thanks, Tom. We have a motion to move  
12 to executive session.  
13 MR. GAUBERT:  
14 I second.  
15 MR. MILAZZO:  
16 Second.  
17 (A brief recess followed while the board  
18 went into executive session.)  
19 MR. KEITH BAKER:  
20 Perry, I'm sorry. Do you have any  
21 other third party -  
22 MR. THERIOT:  
23 No, there's been no new ones.  
24 MR. KEITH BAKER:  
25 Okay.

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1 MR. THERIOT:  
2 I think I said that before we went  
3 into session.  
4 MR. KEITH BAKER:  
5 Thank you, Perry. I'm sorry.  
6 Any other business?  
7 MR. JEFF BAKER:  
8 Yes, we do have one more thing. The  
9 Revised Statutes 2195.9(a)(5) and 2195.10(b)  
10 state that the advisory board shall review  
11 the financial responsibility requirements  
12 for the sites in and out of compliance on an  
13 annual basis, and may recommend to the  
14 secretary adjusting those requirements. So  
15 the board needs to review that at this time.  
16 At this time, the trust fund does not have  
17 any recommendations to the board relating to  
18 any modifications to the current financial  
19 responsibility dollar amounts. But ya'll  
20 need to take it and make a decision.  
21 MR. GAUBERT:  
22 Let me make sure I understand what  
23 we're having to do. So the motor fuel trust  
24 fund board reviews owners' financial  
25 responsibility amounts?

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1 MR. JEFF BAKER:  
2 What is often called the deductible,  
3 \$5,000 and the \$10,000 deductible as it  
4 relates to the \$5,000 for the sites in  
5 compliance and \$10,000 when it's out of  
6 compliance.  
7 MR. MILAZZO:  
8 And you said that that -- there's a  
9 required annual review process for that?  
10 MR. JEFF BAKER:  
11 The board is required annually to  
12 review that, and can make recommendations to  
13 the secretary to make changes of those  
14 amounts, or they can recommend that they  
15 just stay the same. But it has to be done  
16 annually. And it's time.  
17 MR. MILAZZO:  
18 And so what would be that review  
19 process? I mean, just looking at existing  
20 data, you know, maintaining financial  
21 responsibility for the fund as a whole?  
22 MR. THERIOT:  
23 No. It has to do with how much you  
24 believe is a fair deductible is the easiest  
25 colloquial way to say it. We are - the

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1 Department usually gives ya'll a  
2 recommendation. We're going on record as  
3 not having any recommendation, so you are  
4 free to increase it, keep it the same,  
5 decrease it. It is up to you to make the  
6 recommendation. Now, the secretary will  
7 make the final decision. But annually,  
8 ya'll have to make - go on the record  
9 saying what ya'll think is a fair amount.  
10 MR. GAUBERT:  
11 I make a recommendation that we leave  
12 it the same.  
13 MR. MILAZZO:  
14 That's in a motion. And I'll second  
15 it.  
16 MR. THERIOT:  
17 And ya'll take a vote.  
18 MR. KEITH BAKER:  
19 Take a vote.  
20 (All indicated yea.)  
21 MR. KEITH BAKER:  
22 All yea's. All right.  
23 Any other new business?  
24 (No response.)  
25 MR. KEITH BAKER:

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1 All right. Close the meeting.  
2 MR. MILAZZO:  
3 I motion we adjourn.  
4 THE MEETING ADJOURNED AT 2:06 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 

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Lori Overland, C.C.R.  
22 # 97083  
23  
24  
25

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.

23 \_\_\_\_\_  
24 Lori Overland C.C.R.

25 # 97083

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