

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 1:02 p.m., on November 15, 2012.

**BEFORE:**

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

**ASSOCIATED REPORTERS, INC.**  
(225) 216-2036

DEPARTMENT OF ENVIRONMENTAL QUALITY

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A P P E A R A N C E S

Keith Baker  
Chairman

Ravelle Jones  
Tom Harris  
Denise Stafford  
Jeff Baker  
Shawn Ivey  
Ryan Wooten  
Perry Theriot  
Alex Prochaska  
Vince Sagnibene  
Tony Savoie  
Cy Morin

Melissa Vizinat  
Andrea Huval  
Jason Efferson  
Sherry Milam  
Rhonda Cook  
Don Wiley

\* \* \* \* \*

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I N D E X

EXAMINATION:

PAGE (S) :

None

EXHIBITS:

None

REPORTER'S PAGE

20

REPORTER'S CERTIFICATE

21

\* \* \* \* \*

## DEPARTMENT OF ENVIRONMENTAL QUALITY

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1           **CHAIRMAN:**

2                   We're going to call the meeting to  
3           order. Can we take a quick roll call?  
4           You guys want to start out there?

5           **MR. EFFERSON:**

6                   Jason Efferson, Motor Fuel Trust  
7           Fund.

8           **MS. COOK:**

9                   Rhonda Cook, PPM Consultants.

10          **MS. MILAM:**

11                   Sherry Milam, PPM Consultants.

12          **MR. BAKER:**

13                   Jeff Baker, DEQ Trust Fund.

14          **MR. PROCHASKA:**

15                   Alex Prochaska, DEQ, for Vince  
16          Sagnibene.

17          **MR. HARRIS:**

18                   Tom Harris, DEQ, Underground Storage  
19          Tank & Remediation Division.

20          **MR. IVEY:**

21                   Shawn Ivey, PPM Consultants.

22          **MS. JONES:**

23                   Ravelle Jones, Chevron.

24          **MR. SAVOIE:**

25                   Tony Savoie, LOMA.

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1 CHAIRMAN:

2 Keith Baker, Louisiana Oil  
3 Marketers.

4 MR. WOOTEN:

5 Brian Wooten, Louisiana Oil  
6 Marketers.

7 MS. STAFFORD:

8 Denise Stafford, DEQ Financial.

9 MR. MORIN:

10 Cy Morin, DEQ Audit Services

11 MS. VIZINAT:

12 Melissa Vizinat, DEQ Trust Fund.

13 MS. HUVAL:

14 Andrea Huval, DEQ Trust Fund.

15 MR. THERIOT:

16 Perry Theriot, DEQ Legal.

17 CHAIRMAN:

18 Has everybody had an opportunity to  
19 review the minutes? Any questions?

20 (No response.)

21 CHAIRMAN:

22 If not, can I have a motion to  
23 accept?

24 MR. IVEY:

25 Motion to accept.

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1 MS. JONES:

2 Second.

3 CHAIRMAN:

4 Cy, I'm told you're going to be the  
5 one doing the audit status report?

6 MR. MORIN:

7 Yes.

8 CHAIRMAN:

9 All right.

10 MR. MORIN:

11 Okay. For fiscal year 2013, we have  
12 planned 13 motor fuel audits. Three of  
13 those audits are in progress. We've been  
14 out to the facilities. And the findings  
15 need to be reviewed and confirmed. Four  
16 audits have been scheduled for the month  
17 of November and December in total. The  
18 remaining six audits will be completed in  
19 the second half of the year.

20 We have -- for fiscal year 2012, we  
21 have two audits that remain in progress,  
22 which are to be reviewed and confirmed.  
23 One of these cases has a potential  
24 liability to DEQ. And the other one  
25 potentially has a refund coming to them.

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1           One of these fiscal year 2012 audits was  
2           started by the previous motor fuel  
3           auditor. And it was picked up by our new  
4           current motor fuel auditor.

5           So far, for fiscal year '13, to  
6           date, we've collected \$4,000. And for  
7           fiscal year 2012, we collected  
8           \$36,712.34. And that's it.

9           **CHAIRMAN:**

10           All right. Ms. Denise, you're going  
11           to do the financial report?

12           **MS. STAFFORD:**

13           Yes, sir. If you'll turn to Tab 5  
14           in your packet. We transferred  
15           \$55,644,214.10 into the motor fuel trust  
16           fund from fiscal year '12 into fiscal  
17           year '13. To date, we have warranted for  
18           payments \$1,477,806.23. That leaves us  
19           with a current cash balance at the end of  
20           September of \$57,542,679.34. Liabilities  
21           on current sites in the -- in our system  
22           are \$64,934,428, leaving us a deficit  
23           overall of \$7,391,748.66. The bottom of  
24           the sheet details the monthly  
25           expenditures against the trust fund. Any

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1 questions for that page?

2 (No response.)

3 MS. STAFFORD:

4 Turn the page. This sheet details  
5 the interest revenue designated for  
6 abandoned sites as part of the trust  
7 fund. The current balance in that  
8 section of the trust fund is  
9 \$5,174,113.52. Since the inception of  
10 this portion of the trust fund, we have  
11 spent \$1,228,330.60. And the bottom of  
12 the page details which sites that was  
13 spent on. Any questions on the interest  
14 revenue and expenses?

15 (No response.)

16 MS. STAFFORD:

17 Okay. Turn the page again. This is  
18 the fiscal year '13 projections for the  
19 amount that will be transferred from the  
20 motor fuel trust fund to the  
21 environmental trust fund where trust fund  
22 -- where UST revenues do not cover UST  
23 expenses. The current projection is  
24 \$2,031,720.81. And this is in line with  
25 the last five previous years. You'll see



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1           those columns out to the side. And they  
2           run anywhere from \$2 million to \$2.2  
3           million. Any questions?

4           (No response.)

5           **MS. STAFFORD:**

6                     That's it.

7           **CHAIRMAN:**

8                     That's it? I'm sorry, Ms. Denise,  
9           the legislative audit, do you have any  
10          update on that?

11          **MS. STAFFORD:**

12                     Yes, we do. It was sent out. I  
13          meant to bring that. I apologize. I was  
14          supposed to hand that out to ya'll today.  
15          I will send it to all of you in an email.

16          **CHAIRMAN:**

17                     Okay.

18          **MR. SAVOIE:**

19                     Denise, I don't know if it's -- I  
20          don't know who's responsible for the  
21          packets. But I know haven't received  
22          mine as of today, so --

23          **MS. STAFFORD:**

24                     Melissa?

25          **MR. SAVOIE:**

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1 I don't know if it went out --

2 MS. VIZINAT:

3 It was mailed.

4 MR. SAVOIE:

5 I mean, I have one. I picked one up  
6 in the back.

7 MS. VIZINAT:

8 Oh, okay.

9 MR. SAVOIE:

10 I'm just saying, I didn't know --

11 MS. VIZINAT:

12 I'm sorry.

13 MS. STAFFORD:

14 We'll check that and make sure it's  
15 correct.

16 MR. SAVOIE:

17 All right.

18 CHAIRMAN:

19 Mr. Jeff, trust fund status report.

20 MR. JEFF BAKER:

21 Yes, sir. If everyone could refer  
22 to Tab 6 in your packets. These are the  
23 figures of the first quarter of fiscal  
24 year 2013. During the first quarter, the  
25 trust fund received 200 applications,

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1 totaling \$2,911,537. 256 applications  
2 were processed for payment during the  
3 fiscal quarter, totaling \$2,910,936. And  
4 21 applications were returned with  
5 deficiencies. For the sites in the  
6 corrective action phase, the liability --  
7 the outstanding liability of corrective  
8 action plan budget and estimate cost to  
9 reach closer at the end of September was  
10 \$30,553,390. The additional obligation  
11 recognized for non-capped sites plus the  
12 projected motor fuel trust fund to  
13 environmental trust fund transfers, the  
14 liability is \$34,008,930. At the end of  
15 September 2012, the trust fund had 108  
16 pending applications to process, which  
17 had requested amounts of \$2,145,582. Of  
18 this amount, the requested obligations  
19 relating to capped budgets and closure  
20 costs was \$1,773,474. If you'll note the  
21 legal size page, the last page of your  
22 packet, the number of trust fund sites  
23 that received a "no further action"  
24 status for this period was three. Also,  
25 the number of potential trust fund sites

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1 that were reviewed and made eligible  
2 during this period were seven.

3 Some points of interest, the  
4 Department is continuing to work on a  
5 revised trust fund reimbursement  
6 application form. We have a draft  
7 Microsoft Word version that is almost  
8 completed. We are also working on a new  
9 Excel version of this tool. The new  
10 Excel version will have field drop downs  
11 with existing unit prices. It will  
12 automatically categorize and sum various  
13 portions of the application on the part  
14 five summary page. We hope to have this  
15 completed within the next couple of  
16 months. And we'll send both versions out  
17 to the board and the work group members  
18 for comments and suggestions.

19 Another point of interest, the  
20 report listing the active trust fund  
21 sites without current caps has been  
22 compiled, along with status descriptions  
23 and comments from the LDEQ staff. The  
24 Undersecretary is currently reviewing  
25 these with the remediation staff. And we

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1 hope to have a list for the board's  
2 review soon.

3 MR. SAGNIBENE:

4 Can I say something. I want to make  
5 sure I'm satisfied with the explanations  
6 on the list before I send them to ya'll.  
7 And that's the holdup. But it's  
8 complete.

9 CHAIRMAN:

10 You should have that before next  
11 meeting?

12 MR. SAGNIBENE:

13 Oh, yes.

14 MR. JEFF BAKER:

15 And that completes my review.

16 CHAIRMAN:

17 Mr. Perry, third party claims.

18 MR. THERIOT:

19 Well, it's another good news. No  
20 new third party suits. And so we haven't  
21 had a new one since the last meeting. We  
22 do have one item, and I don't think we're  
23 going to need to go into executive  
24 session to discuss it.

25 CHAIRMAN:

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1           Okay.

2           **MR. THERIOT:**

3           We can discuss it if we want to.

4           You want to hand these out to them?

5           **CHAIRMAN:**

6           If we do, you know, come into some  
7           things, we'll step out.

8           **MR. THERIOT:**

9           No, we don't need to.

10          **CHAIRMAN:**

11          Okay.

12          **MR. THERIOT:**

13          There's no litigation pending. This  
14          is simply asking for the trust fund's  
15          opinions and guidance on the advise --  
16          advice on how we should begin treating  
17          these.

18          **MR. SAGNIBENE:**

19          And I suggested that we bring this  
20          issue in front of ya'll to get some of  
21          ya'll -- get your input on it, so --

22          **MR. THERIOT:**

23          Traditionally, the trust fund has a  
24          -- in the statute, there's a band on  
25          paying reimbursement to a RAC who also

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1 owns the station. For obvious reasons,  
2 the bar and the statute deals with -- you  
3 know, you don't want the same person who  
4 is supposed to keep releases from  
5 happening profiting from the release.  
6 That's generally the reason for the  
7 provision in the statute. We've been  
8 getting a -- we got at least one. And I  
9 think there's been some other inquiries  
10 so far. And on your piece of paper,  
11 you'll see -- that was handed out -- some  
12 people asking for reimbursement where the  
13 response -- the individual who is asking  
14 about this is a minority owner of a RAC  
15 with no control over day-to-day  
16 operations. Now, I don't know what that  
17 means because that -- the facts  
18 concerning that one I -- completely  
19 supplied to us. The RAC goes out and  
20 does a phase 2 and -- on behalf of an  
21 owner, and identifies the contaminates  
22 soils and groundwater from the UST  
23 system. The release was reported on  
24 behalf of Owner A. And the site's  
25 determined to be eligible. Owner A set

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1           aside money for the trust fund deductible  
2           amount with a lending institution. The  
3           same individuals that own the minority  
4           interest also has a non-controlling  
5           interest in the UST facility in order to  
6           assist the owner with financial problems.  
7           We don't know what that means. But co-  
8           signing papers or -- we really don't  
9           know. But it does kind of give us pause  
10          that the same person, even if they're  
11          non-controlling, if they're making  
12          arrangements for loaning money to an  
13          owner. We don't know how this was done.  
14          But the -- Owner B arranged for Owner A  
15          to maintain control and operations of the  
16          UST facility. And made provisions for  
17          the owner to revert back in due time. I  
18          don't know what that means either. But  
19          that's what they told us. Okay? The  
20          lending institution holds the title to  
21          the facility as collateral. So it's been  
22          mortgaged. The lending institution wants  
23          the RAC to handle the assessment and  
24          remediation. We're a little concerned  
25          about this. But we wanted to get your



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1           sense of it. I don't think we have a  
2           definition in our regulations for what  
3           control is, effective control. But I can  
4           think of many scenarios where this could  
5           present a problem.

6           **MR. SAGNIBENE:**

7                     And we don't know the ownership  
8           ratio either.

9           **MR. THERIOT:**

10                    We don't know ownership -- we don't  
11           know -- we don't know anything about  
12           other than what you see here. Our normal  
13           -- they brought it in front of ya'll  
14           because my normal interest when I was  
15           asked about this was, I would not allow  
16           this as a normal practice. And absent  
17           additional information, I would not -- my  
18           advice would be, look, I don't think we  
19           should do this because we don't have  
20           enough information available. But the  
21           ban and the statute doesn't say how much  
22           ownership. It just says that we can't  
23           pay a RAC who owns the station. It's a  
24           little simplistic view in the statute.  
25           It's not real complicated. Business

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1 arrangements, of course, we know can take  
2 lots of different forms. But the ban is  
3 in place because we don't want the same  
4 people in charge of preventing a release  
5 profiting off of the release. And we  
6 wanted ya'll to see if ya'll had any  
7 input to give us, if ya'll wanted to.

8 **MR. SAVOIE:**

9 So the intention, basically, was  
10 that you didn't want a RAC that would be  
11 paid to do the cleanup to have any type  
12 of ownership in the facility. Correct?

13 **MR. THERIOT:**

14 Right.

15 **MR. SAVOIE:**

16 So in that case, then I would say,  
17 if a RAC has any type of ownership then,  
18 they should step back and another RAC  
19 should take over remediation, to me,  
20 would be the logical --

21 **MR. SAGNIBENE:**

22 This was my first one, and I kind of  
23 had heartburn about it. That's why I  
24 wanted to run it by ya'll.

25 **MR. SAVOIE:**

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1                   That's my gut reaction to. I don't  
2                   know what everybody else --

3                   MR. WOOTEN

4                   I agree with that.

5                   MS. JONES:

6                   Yes.

7                   MR. SAVOIE:

8                   I mean, that way, it makes it nice  
9                   and clean and --

10                  MR. THERIOT:

11                  Well, that was my initial impression  
12                  as well is that we don't want these lines  
13                  blurred because you don't know where  
14                  they're going to go.

15                  Okay. That's the only legal --  
16                  (An off-the-record discussion followed.)

17                  MR. THERIOT:

18                  That's it for the legal report  
19                  today.

20                  CHAIRMAN:

21                  Do we have any other business?

22                  (No response.)

23                  CHAIRMAN:

24                  If none, then adjourn the meeting.

25                  THE MEETING ADJOURNED AT 1:17 P.M.

DEPARTMENT OF ENVIRONMENTAL QUALITY

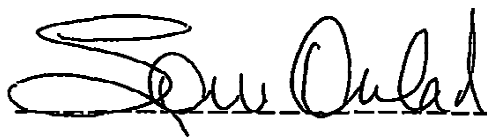
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R E P O R T E R ' S P A G E

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

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

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



Lori Overland, C.C.R.



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

I, the undersigned reporter, do hereby certify that the above and foregoing is a true and correct transcription of the stenomask tape of the proceedings had herein, taken down by me and transcribed under my supervision, to the best of my ability and understanding, at the time and place hereinbefore noted, in the above entitled cause.

I further certify that the witness was duly sworn by me in my capacity as a Certified Court Reporter pursuant to the provisions of R.S. 37:2551 et seq. in and for the state of Louisiana; that I am not of counsel nor related to any of the counsel of any of the parties, nor in the employ of any of the parties, and that I have no interest in the outcome of this action.

I further certify that my license is in good standing as a court reporter in and for the state of Louisiana.

  
Lori Overland, C.C.R.

# 97083



**In The Matter Of:**  
*DEPARTMENT OF ENVIRONMENTAL QUALITY*

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*MOTOR FUELS UNDERGROUND STORAGE TANK TRUST*  
*November 15, 2012*

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*Associated Reporters Incorporated*  
*(225) 216-2036*

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MOTOR FUELS UNDERGROUND STORAGE TANK TRUST

November 15, 2012

	8:17	bar (1)	10:14	couple (1)
\$	against (1)	15:2	Chevron (1)	12:15
\$1,228,330.60 (1)	7:25	basically (1)	4:23	course (1)
8:11	agree (1)	18:9	Civil (2)	18:1
\$1,477,806.23 (1)	19:4	begin (1)	20:5,7	Court (2)
7:18	Alex (1)	14:16	claims (1)	20:2,15
\$1,773,474 (1)	4:15	behalf (2)	13:17	cover (1)
11:20	allow (1)	15:20,24	clean (1)	8:22
\$2 (1)	17:15	blurred (1)	19:9	current (6)
9:2	almost (1)	19:13	cleanup (1)	7:4,19,21;8:7,23;
\$2,031,720.81 (1)	12:7	board (1)	18:11	12:21
8:24	along (1)	12:17	closer (1)	currently (1)
\$2,145,582 (1)	12:22	board's (1)	11:9	12:24
11:17	amount (3)	13:1	closure (1)	Cy (2)
\$2,910,936 (1)	8:19;11:18;16:2	both (1)	11:19	5:10;6:4
11:3	amounts (1)	12:16	co- (1)	
\$2,911,537 (1)	11:17	bottom (2)	16:7	<b>D</b>
11:1	and/or (3)	7:23;8:11	code (1)	dashes (2)
\$2.2 (1)	20:5,13,19	Brian (1)	20:6	20:12,16
9:2	Andrea (1)	5:5	collateral (1)	date (2)
\$30,553,390 (1)	5:14	bring (2)	16:21	7:6,17
11:10	apologize (1)	9:13;14:19	collected (2)	day-to-day (1)
\$34,008,930 (1)	9:13	brought (1)	7:6,7	15:15
11:14	application (2)	17:13	columns (1)	deals (1)
\$36,712.34 (1)	12:6,13	budget (1)	9:1	15:2
7:8	applications (4)	11:8	coming (1)	December (1)
\$4,000 (1)	10:25;11:1,4,16	budgets (1)	6:25	6:17
7:6	arranged (1)	11:19	comments (2)	12:18,23
\$5,174,113.52 (1)	16:14	Business (2)	12:18,23	compiled (1)
8:9	arrangements (2)	17:25;19:21	12:22	complete (1)
\$55,644,214.10 (1)	16:12;18:1	<b>C</b>	13:8	13:8
7:15	Article (1)	call (2)	completed (3)	6:18;12:8,15
\$57,542,679.34 (1)	20:6	4:2,3	completely (1)	15:18
7:20	aside (1)	Can (6)	completes (1)	13:15
\$64,934,428 (1)	16:1	4:3;5:22;13:4;14:3;	complicated (1)	17:25
7:22	assessment (1)	17:3;18:1	17:25	concerned (1)
\$7,391,748.66 (1)	16:23	capped (1)	16:24	16:24
7:23	assist (1)	11:19	concerning (1)	15:18
<b>A</b>	16:6	caps (1)	confirmed (2)	6:15,22
abandoned (1)	Audit (3)	12:21	Consultants (3)	4:9,11,21
8:6	5:10;6:5;9:9	case (1)	contaminates (1)	15:21
absent (1)	auditor (2)	18:16	continuing (1)	12:4
17:16	7:3,4	cases (1)	control (4)	15:15;16:15;17:3,3
accept (2)	6:12,13,16,18,21;7:1	6:23	COOK (2)	4:8,9
5:23,25	automatically (1)	cash (1)	corrective (2)	11:6,7
action (3)	12:12	7:19	cost (1)	11:8
11:6,8,23	available (1)	categorize (1)	costs (1)	11:20
active (1)	17:20	12:12		
12:20	<b>B</b>	CCR (1)		
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*November 15, 2012*

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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  
13 The above-entitled meeting was held at  
14 the LDEQ, Galvez Building, Conference  
15 Center, 602 North 5th Street, Baton Rouge,  
16 Louisiana, beginning at 1:02 p.m., on  
17 November 15, 2012.  
18  
19  
20 BEFORE:  
21 Lori B. Overland  
22 Certified Court Reporter  
23 In and For the State of  
24 Louisiana  
25

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1 A P P E A R A N C E S  
2  
3 Keith Baker  
4 Chairman  
5  
6 Ravelle Jones  
7 Tom Harris  
8 Denise Stafford  
9 Jeff Baker  
10 Shawn Ivey  
11 Ryan Wooten  
12 Perry Theriot  
13 Alex Prochaska  
14 Vince Sagnibene  
15 Tony Savoie  
16 Cy Morin  
17  
18 Melissa Vizinat  
19 Andrea Huval  
20 Jason Efferson  
21 Sherry Milam  
22 Rhonda Cook  
23 Don Wiley  
24  
25 \* \* \* \* \*

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3 EXAMINATION: PAGE(S):  
4 None  
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6 EXHIBITS:  
7 None  
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10 REPORTER'S CERTIFICATE 21  
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1 CHAIRMAN:  
2 We're going to call the meeting to  
3 order. Can we take a quick roll call?  
4 You guys want to start out there?  
5 MR. EFFERSON:  
6 Jason Efferson, Motor Fuel Trust  
7 Fund.  
8 MS. COOK:  
9 Rhonda Cook, PPM Consultants.  
10 MS. MILAM:  
11 Sherry Milam, PPM Consultants.  
12 MR. BAKER:  
13 Jeff Baker, DEQ Trust Fund.  
14 MR. PROCHASKA:  
15 Alex Prochaska, DEQ, for Vince  
16 Sagnibene.  
17 MR. HARRIS:  
18 Tom Harris, DEQ, Underground Storage  
19 Tank & Remediation Division.  
20 MR. IVEY:  
21 Shawn Ivey, PPM Consultants.  
22 MS. JONES:  
23 Ravelle Jones, Chevron.  
24 MR. SAVOIE:  
25 Tony Savoie, LOMA.

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1 CHAIRMAN:  
2 Keith Baker, Louisiana Oil  
3 Marketers.  
4 MR. WOOTEN:  
5 Brian Wooten, Louisiana Oil  
6 Marketers.  
7 MS. STAFFORD:  
8 Denise Stafford, DEQ Financial.  
9 MR. MORIN:  
10 Cy Morin, DEQ Audit Services  
11 MS. VIZINAT:  
12 Melissa Vizinat, DEQ Trust Fund.  
13 MS. HUVAL:  
14 Andrea Huval, DEQ Trust Fund.  
15 MR. THERIOT:  
16 Perry Theriot, DEQ Legal.  
17 CHAIRMAN:  
18 Has everybody had an opportunity to  
19 review the minutes? Any questions?  
20 (No response.)  
21 CHAIRMAN:  
22 If not, can I have a motion to  
23 accept?  
24 MR. IVEY:  
25 Motion to accept.

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1 One of these fiscal year 2012 audits was  
2 started by the previous motor fuel  
3 auditor. And it was picked up by our new  
4 current motor fuel auditor.  
5 So far, for fiscal year '13, to  
6 date, we've collected \$4,000. And for  
7 fiscal year 2012, we collected  
8 \$36,712.34. And that's it.  
9 CHAIRMAN:  
10 All right. Ms. Denise, you're going  
11 to do the financial report?  
12 MS. STAFFORD:  
13 Yes, sir. If you'll turn to Tab 5  
14 in your packet. We transferred  
15 \$55,644,214.10 into the motor fuel trust  
16 fund from fiscal year '12 into fiscal  
17 year '13. To date, we have warranted for  
18 payments \$1,477,806.23. That leaves us  
19 with a current cash balance at the end of  
20 September of \$57,542,679.34. Liabilities  
21 on current sites in the - in our system  
22 are \$64,934,428, leaving us a deficit  
23 overall of \$7,391,748.66. The bottom of  
24 the sheet details the monthly  
25 expenditures against the trust fund. Any

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1 MS. JONES:  
2 Second.  
3 CHAIRMAN:  
4 Cy, I'm told you're going to be the  
5 one doing the audit status report?  
6 MR. MORIN:  
7 Yes.  
8 CHAIRMAN:  
9 All right.  
10 MR. MORIN:  
11 Okay. For fiscal year 2013, we have  
12 planned 13 motor fuel audits. Three of  
13 those audits are in progress. We've been  
14 out to the facilities. And the findings  
15 need to be reviewed and confirmed. Four  
16 audits have been scheduled for the month  
17 of November and December in total. The  
18 remaining six audits will be completed in  
19 the second half of the year.  
20 We have - for fiscal year 2012, we  
21 have two audits that remain in progress,  
22 which are to be reviewed and confirmed.  
23 One of these cases has a potential  
24 liability to DEQ. And the other one  
25 potentially has a refund coming to them.

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1 questions for that page?  
2 (No response.)  
3 MS. STAFFORD:  
4 Turn the page. This sheet details  
5 the interest revenue designated for  
6 abandoned sites as part of the trust  
7 fund. The current balance in that  
8 section of the trust fund is  
9 \$5,174,113.52. Since the inception of  
10 this portion of the trust fund, we have  
11 spent \$1,228,330.60. And the bottom of  
12 the page details which sites that was  
13 spent on. Any questions on the interest  
14 revenue and expenses?  
15 (No response.)  
16 MS. STAFFORD:  
17 Okay. Turn the page again. This is  
18 the fiscal year '13 projections for the  
19 amount that will be transferred from the  
20 motor fuel trust fund to the  
21 environmental trust fund where trust fund  
22 - where UST revenues do not cover UST  
23 expenses. The current projection is  
24 \$2,031,720.81. And this is in line with  
25 the last five previous years. You'll see

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1 those columns out to the side. And they  
 2 run anywhere from \$2 million to \$2.2  
 3 million. Any questions?  
 4 (No response.)  
 5 MS. STAFFORD:  
 6 That's it.  
 7 CHAIRMAN:  
 8 That's it? I'm sorry, Ms. Denise,  
 9 the legislative audit, do you have any  
 10 update on that?  
 11 MS. STAFFORD:  
 12 Yes, we do. It was sent out. I  
 13 meant to bring that. I apologize. I was  
 14 supposed to hand that out to ya'll today.  
 15 I will send it to all of you in an email.  
 16 CHAIRMAN:  
 17 Okay.  
 18 MR. SAVOIE:  
 19 Denise, I don't know if it's - I  
 20 don't know who's responsible for the  
 21 packets. But I know haven't received  
 22 mine as of today, so --  
 23 MS. STAFFORD:  
 24 Melissa?  
 25 MR. SAVOIE:

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1 totaling \$2,911,537. 256 applications  
 2 were processed for payment during the  
 3 fiscal quarter, totaling \$2,910,936. And  
 4 21 applications were returned with  
 5 deficiencies. For the sites in the  
 6 corrective action phase, the liability -  
 7 the outstanding liability of corrective  
 8 action plan budget and estimate cost to  
 9 reach closer at the end of September was  
 10 \$30,553,390. The additional obligation  
 11 recognized for non-capped sites plus the  
 12 projected motor fuel trust fund to  
 13 environmental trust fund transfers, the  
 14 liability is \$34,008,930. At the end of  
 15 September 2012, the trust fund had 108  
 16 pending applications to process, which  
 17 had requested amounts of \$2,145,582. Of  
 18 this amount, the requested obligations  
 19 relating to capped budgets and closure  
 20 costs was \$1,773,474. If you'll note the  
 21 legal size page, the last page of your  
 22 packet, the number of trust fund sites  
 23 that received a "no further action"  
 24 status for this period was three. Also,  
 25 the number of potential trust fund sites

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1 I don't know if it went out --  
 2 MS. VIZINAT:  
 3 It was mailed.  
 4 MR. SAVOIE:  
 5 I mean, I have one. I picked one up  
 6 in the back.  
 7 MS. VIZINAT:  
 8 Oh, okay.  
 9 MR. SAVOIE:  
 10 I'm just saying, I didn't know -  
 11 MS. VIZINAT:  
 12 I'm sorry.  
 13 MS. STAFFORD:  
 14 We'll check that and make sure it's  
 15 correct.  
 16 MR. SAVOIE:  
 17 All right.  
 18 CHAIRMAN:  
 19 Mr. Jeff, trust fund status report.  
 20 MR. JEFF BAKER:  
 21 Yes, sir. If everyone could refer  
 22 to Tab 6 in your packets. These are the  
 23 figures of the first quarter of fiscal  
 24 year 2013. During the first quarter, the  
 25 trust fund received 200 applications,

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1 that were reviewed and made eligible  
 2 during this period were seven.  
 3 Some points of interest, the  
 4 Department is continuing to work on a  
 5 revised trust fund reimbursement  
 6 application form. We have a draft  
 7 Microsoft Word version that is almost  
 8 completed. We are also working on a new  
 9 Excel version of this tool. The new  
 10 Excel version will have field drop downs  
 11 with existing unit prices. It will  
 12 automatically categorize and sum various  
 13 portions of the application on the part  
 14 five summary page. We hope to have this  
 15 completed within the next couple of  
 16 months. And we'll send both versions out  
 17 to the board and the work group members  
 18 for comments and suggestions.  
 19 Another point of interest, the  
 20 report listing the active trust fund  
 21 sites without current caps has been  
 22 compiled, along with status descriptions  
 23 and comments from the LDEQ staff. The  
 24 Undersecretary is currently reviewing  
 25 these with the remediation staff. And we

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1 hope to have a list for the board's  
 2 review soon.  
 3 MR. SAGNIBENE:  
 4 Can I say something. I want to make  
 5 sure I'm satisfied with the explanations  
 6 on the list before I send them to ya'll.  
 7 And that's the holdup. But it's  
 8 complete.  
 9 CHAIRMAN:  
 10 You should have that before next  
 11 meeting?  
 12 MR. SAGNIBENE:  
 13 Oh, yes.  
 14 MR. JEFF BAKER:  
 15 And that completes my review.  
 16 CHAIRMAN:  
 17 Mr. Perry, third party claims.  
 18 MR. THERIOT:  
 19 Well, it's another good news. No  
 20 new third party suits. And so we haven't  
 21 had a new one since the last meeting. We  
 22 do have one item, and I don't think we're  
 23 going to need to go into executive  
 24 session to discuss it.  
 25 CHAIRMAN:

1 owns the station. For obvious reasons,  
 2 the bar and the statute deals with - you  
 3 know, you don't want the same person who  
 4 is supposed to keep releases from  
 5 happening profiting from the release.  
 6 That's generally the reason for the  
 7 provision in the statute. We've been  
 8 getting a - we got at least one. And I  
 9 think there's been some other inquiries  
 10 so far. And on your piece of paper,  
 11 you'll see -- that was handed out -- some  
 12 people asking for reimbursement where the  
 13 response - the individual who is asking  
 14 about this is a minority owner of a RAC  
 15 with no control over day-to-day  
 16 operations. Now, I don't know what that  
 17 means because that - the facts  
 18 concerning that one I -- completely  
 19 supplied to us. The RAC goes out and  
 20 does a phase 2 and -- on behalf of an  
 21 owner, and identifies the contaminates  
 22 soils and groundwater from the UST  
 23 system. The release was reported on  
 24 behalf of Owner A. And the site's  
 25 determined to be eligible. Owner A set

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1 Okay.  
 2 MR. THERIOT:  
 3 We can discuss it if we want to.  
 4 You want to hand these out to them?  
 5 CHAIRMAN:  
 6 If we do, you know, come into some  
 7 things, we'll step out.  
 8 MR. THERIOT:  
 9 No, we don't need to.  
 10 CHAIRMAN:  
 11 Okay.  
 12 MR. THERIOT:  
 13 There's no litigation pending. This  
 14 is simply asking for the trust fund's  
 15 opinions and guidance on the advise -  
 16 advice on how we should begin treating  
 17 these.  
 18 MR. SAGNIBENE:  
 19 And I suggested that we bring this  
 20 issue in front of ya'll to get some of  
 21 ya'll - get your input on it, so --  
 22 MR. THERIOT:  
 23 Traditionally, the trust fund has a  
 24 - in the statute, there's a band on  
 25 paying reimbursement to a RAC who also

1 aside money for the trust fund deductible  
 2 amount with a lending institution. The  
 3 same individuals that own the minority  
 4 interest also has a non-controlling  
 5 interest in the UST facility in order to  
 6 assist the owner with financial problems.  
 7 We don't know what that means. But co-  
 8 signing papers or - we really don't  
 9 know. But it does kind of give us pause  
 10 that the same person, even if they're  
 11 non-controlling, if they're making  
 12 arrangements for loaning money to an  
 13 owner. We don't know how this was done.  
 14 But the - Owner B arranged for Owner A  
 15 to maintain control and operations of the  
 16 UST facility. And made provisions for  
 17 the owner to revert back in due time. I  
 18 don't know what that means either. But  
 19 that's what they told us. Okay? The  
 20 lending institution holds the title to  
 21 the facility as collateral. So it's been  
 22 mortgaged. The lending institution wants  
 23 the RAC to handle the assessment and  
 24 remediation. We're a little concerned  
 25 about this. But we wanted to get your

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1 sense of it. I don't think we have a  
 2 definition in our regulations for what  
 3 control is, effective control. But I can  
 4 think of many scenarios where this could  
 5 present a problem.  
 6 MR. SAGNIBENE:  
 7 And we don't know the ownership  
 8 ratio either.  
 9 MR. THERIOT:  
 10 We don't know ownership - we don't  
 11 know - we don't know anything about  
 12 other than what you see here. Our normal  
 13 - they brought it in front of ya'll  
 14 because my normal interest when I was  
 15 asked about this was, I would not allow  
 16 this as a normal practice. And absent  
 17 additional information, I would not - my  
 18 advice would be, look, I don't think we  
 19 should do this because we don't have  
 20 enough information available. But the  
 21 ban and the statute doesn't say how much  
 22 ownership. It just says that we can't  
 23 pay a RAC who owns the station. It's a  
 24 little simplistic view in the statute.  
 25 It's not real complicated. Business

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1 That's my gut reaction to. I don't  
 2 know what everybody else --  
 3 MR. WOOTEN  
 4 I agree with that.  
 5 MS. JONES:  
 6 Yes.  
 7 MR. SAVOIE:  
 8 I mean, that way, it makes it nice  
 9 and clean and --  
 10 MR. THERIOT:  
 11 Well, that was my initial impression  
 12 as well is that we don't want these lines  
 13 blurred because you don't know where  
 14 they're going to go.  
 15 Okay. That's the only legal -  
 16 (An off-the-record discussion followed.)  
 17 MR. THERIOT:  
 18 That's it for the legal report  
 19 today.  
 20 CHAIRMAN:  
 21 Do we have any other business?  
 22 (No response.)  
 23 CHAIRMAN:  
 24 If none, then adjourn the meeting.  
 25 THE MEETING ADJOURNED AT 1:17 P.M.

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1 arrangements, of course, we know can take  
 2 lots of different forms. But the ban is  
 3 in place because we don't want the same  
 4 people in charge of preventing a release  
 5 profiting off of the release. And we  
 6 wanted ya'll to see if ya'll had any  
 7 input to give us, if ya'll wanted to.  
 8 MR. SAVOIE:  
 9 So the intention, basically, was  
 10 that you didn't want a RAC that would be  
 11 paid to do the cleanup to have any type  
 12 of ownership in the facility. Correct?  
 13 MR. THERIOT:  
 14 Right.  
 15 MR. SAVOIE:  
 16 So in that case, then I would say,  
 17 if a RAC has any type of ownership then,  
 18 they should step back and another RAC  
 19 should take over remediation, to me,  
 20 would be the logical --  
 21 MR. SAGNIBENE:  
 22 This was my first one, and I kind of  
 23 had heartburn about it. That's why I  
 24 wanted to run it by ya'll.  
 25 MR. SAVOIE:

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1 REPORTER'S PAGE  
 2 I, Lori B. Overland, Certified Court  
 3 Reporter, in and for the State of Louisiana,  
 4 the officer, as defined in Rule 28 of the  
 5 Federal Rules of Civil Procedure and/or  
 6 Article 1434(b) of the Louisiana code of  
 7 Civil Procedure, before whom this sworn  
 8 testimony was taken, do hereby state on the  
 9 Record  
 10 That due to the interaction in the  
 11 spontaneous discourse of this proceeding,  
 12 dashes (-) have been used to indicate  
 13 pauses, changes in thought, and/or talk  
 14 overs; that same is the proper method for a  
 15 Court Reporters's transcription of  
 16 proceeding, and that the dashes (-) do not  
 17 indicated that words or phrases have been  
 18 left out of this transcript;  
 19 That any words and/or names which could  
 20 not be verified through reference material  
 21 have been denoted with the phrase  
 22 "(inaudible)."  
 23  
 24  
 25

Lori Overland, C.C.R.  
 # 97083



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

2 I, the undersigned reporter, do hereby  
3 certify that the above and foregoing is a  
4 true and correct transcription of the  
5 stenomask tape of the proceedings had  
6 herein, taken down by me and transcribed  
7 under my supervision, to the best of my  
8 ability and understanding, at the time and  
9 place hereinbefore noted, in the above  
10 entitled cause.

11 I further certify that the witness was  
12 duly sworn by me in my capacity as a  
13 Certified Court Reporter pursuant to the  
14 provisions of R.S. 37:2551 et seq. in and  
15 for the state of Louisiana; that I am not of  
16 counsel nor related to any of the counsel of  
17 any of the parties, nor in the employ of any  
18 of the parties, and that I have no interest  
19 in the outcome of this action.

20 I further certify that my license is in  
21 good standing as a court reporter in and for  
22 the state of Louisiana.

23 \_\_\_\_\_  
24 Lori Overland, C.C.R.  
25 # 97083

DEPARTMENT OF ENVIRONMENTAL QUALITY

MOTOR FUELS UNDERGROUND STORAGE TANK TRUST

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	8:17	bar (1)	10:14	couple (1)
\$	against (1)	15:2	Chevron (1)	12:15
\$1,228,330.60 (1)	7:25	basically (1)	4:23	course (1)
8:11	agree (1)	18:9	Civil (2)	18:1
\$1,477,806.23 (1)	19:4	begin (1)	20:5,7	Court (2)
7:18	Alex (1)	14:16	claims (1)	20:2,15
\$1,773,474 (1)	4:15	behalf (2)	13:17	cover (1)
11:20	allow (1)	15:20,24	clean (1)	8:22
\$2 (1)	17:15	blurred (1)	19:9	current (6)
9:2	almost (1)	19:13	cleanup (1)	7:4,19,21;8:7,23;
\$2,031,720.81 (1)	12:7	board (1)	18:11	12:21
8:24	along (1)	12:17	closer (1)	currently (1)
\$2,145,582 (1)	12:22	board's (1)	11:9	12:24
11:17	amount (3)	13:1	closure (1)	Cy (2)
\$2,910,936 (1)	8:19;11:18;16:2	both (1)	11:19	5:10;6:4
11:3	amounts (1)	12:16	co- (1)	
\$2,911,537 (1)	11:17	bottom (2)	16:7	D
11:1	and/or (3)	7:23;8:11	code (1)	
\$2.2 (1)	20:5,13,19	Bryan (1)	20:6	dashes (2)
9:2	Andrea (1)	5:5	collateral (1)	20:12,16
\$30,553,390 (1)	5:14	bring (2)	16:21	date (2)
11:10	apologize (1)	9:13;14:19	collected (2)	7:6,17
\$34,008,930 (1)	9:13	brought (1)	7:6,7	day-to-day (1)
11:14	application (2)	17:13	columns (1)	15:15
\$36,712.34 (1)	12:6,13	budget (1)	9:1	deals (1)
7:8	applications (4)	11:8	coming (1)	15:2
\$4,000 (1)	10:25;11:1,4,16	budgets (1)	6:25	December (1)
7:6	arranged (1)	11:19	comments (2)	6:17
\$5,174,113.52 (1)	16:14	Business (2)	12:18,23	deductible (1)
8:9	arrangements (2)	17:25;19:21	compiled (1)	16:1
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7:15	Article (1)	C	complete (1)	11:5
\$57,542,679.34 (1)	20:6	call (2)	13:8	deficit (1)
7:20	aside (1)	4:2,3	completed (3)	7:22
\$64,934,428 (1)	16:1	Can (6)	6:18;12:8,15	defined (1)
7:22	assessment (1)	4:3;5:22;13:4;14:3;	completely (1)	20:4
\$7,391,748.66 (1)	16:23	17:3;18:1	15:18	definition (1)
7:23	assist (1)	capped (1)	completes (1)	17:2
	16:6	11:19	13:15	Denise (4)
A	Audit (3)	caps (1)	complicated (1)	5:8;7:10;9:8,19
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8:6	auditor (2)	case (1)	16:24	20:21
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17:16	audits (6)	cases (1)	15:18	12:4
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5:23,25	automatically (1)	cash (1)	6:15,22	4:13,15,18;5:8,10,12,
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12:20	B	CCR (1)	15:21	designated (1)
additional (2)	back (3)	20:24	continuing (1)	8:5
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19:24	4:12,13;5:2;10:20;	CHAIRMAN (17)	15:15;16:15;17:3,3	determined (1)
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again (1)	14:24	18:4	costs (1)	13:24;14:3
		check (1)	11:20	discussion (1)
				19:16

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**DEPARTMENT OF ENVIRONMENTAL QUALITY**

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