

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, Gálvez Building, Conference Center, 602 North 5th Street, Baton Rouge, Louisiana, beginning at 1:05 p.m., on June 5, 2014.

BEFORE:

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

A P P E A R A N C E S

Keith Baker  
Chairman

Durwood Franklin  
Ted Broyles  
Jeff Baker  
Gary Fulton  
Steve Burnham  
John Milazzo  
Grady Gaubert  
Louis Saab  
Cy Morin  
Karyn Andrews

Melissa Vizinat  
Kodi Brignac  
Jason Efferson  
Rhonda Cook  
Sherry Milam  
Natalie Isaacks  
Vince Sagnibene  
Ian Kelley  
Christy Gardner

\* \* \* \* \*

I N D E X

EXAMINATION:

PAGE (S) :

None

EXHIBITS:

None

REPORTER'S PAGE

29

REPORTER'S CERTIFICATE

30

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1 \* \* \* \* \*

2 MR. KEITH BAKER:

3 All right, guys. Good afternoon.  
4 We'll call the meeting to order. We'll get  
5 a quick roll call. Ted, would you start?

6 MR. BROYLES:

7 I'm Ted Broyles, attorney for the  
8 Department.

9 MR. FRANKLIN:

10 Durwood Franklin, DEQ Trust Fund.

11 MR. JEFF BAKER:

12 Jeff Baker, DEQ Trust Fund.

13 MR. FULTON:

14 Gary Fulton, DEQ Underground Storage  
15 Tank Remediation Division Administrator.

16 MR. BURNHAM:

17 Steve Burnham, Engineering Associates,  
18 Incorporated.

19 MR. KEITH BAKER:

20 Keith Baker, Louisiana Oil Marketers.

21 MR. MILAZZO:

22 Johnny Milazzo, Louisiana Oil  
23 Marketers.

24 MR. GAUBERT:

25 Grady Gaubert, Louisiana Oil

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1           Marketers.

2           MR. SAAB:

3                   Louis Sabb, Louisiana Oil Marketers.

4           MS. ANDREWS:

5                   Karyn Andrews, Department of  
6           Environmental Quality Financial Services  
7           Division.

8           MR. MORIN:

9                   Cy Morin, DEQ Audit Services.

10          MS. VIZINAT:

11                   Melissa Vizinat, Trust Fund.

12          MS. COOK:

13                   Rhonda Cook, PPM Consultants.

14          MS. MILAM:

15                   Sherry Milam, PPM Consultants.

16          MS. GARDNER:

17                   Christy Gardner, SEMS.

18          MS. PETUS:

19                   Heather Petus, SEMS.

20          MR. EFFERSON:

21                   Jason Efferson, DEQ Trust Fund.

22          MR. BRIGNAC:

23                   Kodi Brignac, DEQ Trust Fund.

24          MR. KELLER:

25                   Ian Keller, DEQ Trust Fund.

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1 MR. KEITH BAKER:

2 All right. I trust everybody has had  
3 an opportunity to review the minutes. Do we  
4 have any questions or comments about those?

5 Motion to adopt?

6 MR. MILAZZO:

7 I move we accept the report.

8 MR. BURNHAM:

9 Second.

10 MR. KEITH BAKER:

11 Ms. Andrews, Financial Services  
12 Report.

13 MS. ANDREWS:

14 Sure. I'll start -- if you'll turn to  
15 tab three. I'll quickly go over these  
16 numbers with you.

17 At the beginning of the year, we  
18 transferred \$63,207,181 into the trust fund.  
19 As of March 31st, 2014, we've deposited  
20 \$16,642,755, and have paid out  
21 reimbursements of \$7,211,304. Current  
22 liabilities on the sites, \$64,629,635. That  
23 leaves our balance after obligations,  
24 \$8,008,997.

25 If you'd turn the page, this is our

1 information sheet on the interest revenue  
2 from the trust fund. Interest revenue  
3 collected inception to date on the trust  
4 fund is at \$6,470,639. Expenditures to date  
5 are at \$1,229,930.

6 You'll notice the details of the  
7 expenditures are included on this report.  
8 To date in fiscal year '14, we have spent  
9 \$1,600.

10 If you'll go ahead and turn one more  
11 page. This report details how we calculate  
12 the amount transferred from the motor fuel  
13 trust fund to the environmental trust fund.  
14 And it details our revenues and  
15 expenditures.

16 At this point, we are estimating the  
17 fiscal year 2014 reimbursement is going to  
18 be approximately \$4 million.

19 And I would like to note that, that is  
20 an increase from last year of a million.  
21 And that is attributable to the legal fees;  
22 however, that would be maximum legal fees  
23 that are paid out. I honestly do not  
24 anticipate it to be that full \$4 million. I  
25 really anticipate it to be closer to about

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1 3.7, but the maximum would be \$4 million.

2 Does anybody have any questions?

3 (No response.)

4 MR. KEITH BAKER:

5 If none, Cy, can you give us the  
6 Auditor's Status Report?

7 MR. MORIN:

8 Yes. We currently have 29 open audit  
9 cases. Six of the 29 have reached  
10 resolution and are being prepared for  
11 closure. 23 remain active. 14 of the 23  
12 active cases have been opened in fiscal year  
13 '14. This is 14 of the 16 planned. We've  
14 attempted to set up the 15th audit, but  
15 we've been unsuccessful in making contact.  
16 The status of the business is uncertain. We  
17 will likely replace it with another business  
18 to meet our goal for the fiscal year.

19 Field work has been completed for  
20 seven of these 14 fiscal year '14 audits,  
21 resulting in one demand and invoice sent on  
22 June 2, 2014 for \$917.67. Five are  
23 potentially clean audits with no assessments  
24 currently in the review process. One  
25 potential audit assessment of approximately

1           \$622 is currently in the review process.

2           Field work is still in progress for  
3           six open fiscal year '14 audits. And the  
4           14th fiscal year audit is scheduled to begin  
5           on June 17.

6           Five of the 23 active audits were  
7           opened in fiscal year '13. One of the five  
8           has been referred to legal for collection.  
9           Legal is in the process of drafting and  
10          filing a petition to obtain a judgment on  
11          the approximately \$4,000 assessment.

12          Field work has been completed on three  
13          of the five, resulting in two potentially  
14          clean audits with no assessment and one  
15          potential assessment of \$903.

16          These audits are currently in the  
17          review process, and field work is still  
18          pending on the remaining fiscal year '13  
19          audits.

20          The four remaining active cases were  
21          opened in fiscal years prior to fiscal year  
22          '13 and remain in legal for collection.

23          As I've mentioned in the previous  
24          meeting, two of these cases, DEQ has  
25          obtained and signed and recorded judgments.

1           One of these businesses has been closed and  
2           the owner has passed away, so DEQ's recourse  
3           will be to make a claim against the  
4           succession, which hasn't been opened yet.

5           In the other case, legal has received  
6           the judgment debtor exam questionnaire and  
7           will file the petition for garnishment.

8           The legal status of the other two  
9           cases in legal has not changed since the  
10          last board meeting.

11          In addition, six fine cases have been  
12          finalized and closed since the February  
13          meeting.

14          As of to date, the total confirmed  
15          outstanding delinquent fees and penalties  
16          for the 23 active cases is approximately  
17          \$127,000. Approximately \$126,000 is tied to  
18          five cases being pursued legally. And as  
19          I've mentioned previously, we've recently  
20          sent a demand for the remaining \$917.67.

21          To date in fiscal year '14, demand has  
22          been made for approximately \$15,000 in  
23          delinquent fees and a credit issued for  
24          \$912.72 in overpaid fees.

25          And finally, to date in fiscal year

1 '14, we have collected \$11,866.68 in fees  
2 and penalties and \$172.90 in court costs.

3 MR. KEITH BAKER:

4 Any questions?

5 MR. GAUBERT:

6 Just to make a comment. You know,  
7 these audits and the result of the audits  
8 financially, you know, from the start, we  
9 have \$127,000 uncollected. And then this  
10 year, we have \$11,000. It wouldn't seem  
11 that it would economically make sense to  
12 continue to audit. But the net effect of it  
13 is that it keeps everybody on a level  
14 playing field as well. It lets -- it's an  
15 enforcement action, even though it's  
16 indirectly. So that the economics of it,  
17 even though the financial result may not be,  
18 you know, justified -- justifiable to the  
19 cost associated with the audits, it still  
20 creates a level playing field in an  
21 enforcement action. And it helps people to  
22 abide by the rules. So, you know, I think  
23 it's an important part of the program, going  
24 forward.

25 MR. MILAZZO:

1           What -- even though those funds are  
2           not being collected, what are happening to  
3           these operators or responsible fee payor in  
4           some of these cases, where you're not able  
5           to collect delinquency? What's the  
6           repercussion to those where, you know,  
7           you're not able to collect these?

8           MR. MORIN:

9           Well, as I said, we -- we're trying to  
10          pursue them -- the fees legally. That is --  
11          that is our course of action. Other than  
12          that --

13          MR. SAAB:

14          Possibly you could put a lien or  
15          judgment against them.

16          MR. MILAZZO:

17          Can you -- can you -- so you can't red  
18          tag a location if -- if -- for not paying;  
19          is that right?

20          MS. ANDREWS:

21          We have not had to do anything like  
22          that in the past.

23          We can -- what I can do next meeting,  
24          we can invite Diedre Johnson from our legal  
25          division who handles these cases and have

1 her put together a little summary and  
2 perhaps answer some of these questions for  
3 you.

4 MR. GAUBERT:

5 To my knowledge, the -- the red tag  
6 issue is a separate issue.

7 MR. MILAZZO:

8 Well, I realize that, but I'm -- you  
9 know, if a guys not paying and there are no  
10 real consequences, and he's not paying, you  
11 haven't been able to collect, what are the  
12 consequences? Does it render the location  
13 or someone out of business, or do they just  
14 keep marching along without penalty for not  
15 paying? So I just -- it's one thing to  
16 identify them, but you know, what are you  
17 going to do to hold them accountable?

18 MR. MORIN:

19 We do assess a penalty for late  
20 payment, which is the case with anyone who  
21 sends in a late payment. It's five percent  
22 per month, up to 15 percent maximum of the  
23 premium.

24 MS. ANDREWS:

25 And then once it goes to --

1 MR. MILAZZO:

2 I'm kind of like Louis, is there a  
3 lien against the asset of the property at  
4 some point in time? If you don't have that  
5 recourse --

6 MS. ANDREWS:

7 Why don't we have Diedre come and --  
8 at our next meeting. She's with our legal  
9 division that handles the collection side of  
10 this. And we'll have her speak to this at  
11 our next board meeting. I'm sure she'll be  
12 happy to provide some additional  
13 information.

14 MR. MILAZZO:

15 Okay.

16 MS. ANDREWS:

17 Okay.

18 MR. KEITH BAKER:

19 Anything else on the Auditor's Report?

20 (No response.)

21 MR. KEITH BAKER:

22 Jeff, you want to update us on the  
23 Trust Fund Status?

24 MR. JEFF BAKER:

25 Absolutely. If ya'll can refer to tab

1           number five in your packets. These are the  
2           figures for the third quarter of fiscal year  
3           2014. During the third quarter of this  
4           year, the trust fund received 251  
5           applications, totaling \$3,536,509. 201  
6           applications were processed for payment  
7           during the fiscal quarter, totaling  
8           \$3,084,912. And 37 applications were  
9           returned with deficiencies.

10                   For the sites in the corrective action  
11           phase, the outstanding liability of the  
12           corrective action plan budget and estimated  
13           cost to reach closure at the end of March  
14           2014 was \$31,515,840. The additional  
15           obligation recognized for the non-capped  
16           sites plus the projected motor fuel trust  
17           fund to the environmental trust fund  
18           transfers was \$32,594,044. At the end of  
19           March, the trust fund had 129 pending  
20           applications to process, which have  
21           requested amounts, totaling \$1,864,152. Of  
22           this amount, the estimated requested  
23           obligations relating to cap budgets and  
24           closure cost was \$1,344,402.

25                   If you'll note, the last page of the

1 packet, the legal-sized page, the number of  
2 trust fund sites that have received no  
3 further action status thus far, this current  
4 fiscal year, was 23 sites. The number of  
5 potential trust fund sites that were  
6 reviewed and made eligible during the  
7 current fiscal year was 17, representing 19  
8 active incidences.

9 Some points of interest relating to  
10 the trust fund. The Department has recently  
11 implemented a new appeals process. The  
12 process allows the RACs to submit appeals of  
13 denied reimbursements, via a new form, which  
14 is available on the LDEQ website. Prior to  
15 this new process, the RAC would submit these  
16 appeals, via unofficial emails and phone  
17 calls, making it difficult to document the  
18 issue. Also, if the trust fund determined  
19 that the appeal was valid and the RAC was  
20 due reimbursement, these checks would not be  
21 cut until the next application was submitted  
22 by the RAC for the site in question.

23 The new appeals process allows the  
24 Department to treat each appeal as a stand  
25 alone application, which is document in the

1           Departments EDMES system. It can be  
2           processed separately. Also, if the appeal  
3           is approved, the check can be cut and sent  
4           to the RAC immediately rather than waiting  
5           for the next application to be submitted.

6           Another point of interest, over the  
7           last two years, the EPA has requested the  
8           LDEQ present trust fund information to them,  
9           grouped by and based upon independent UST  
10          releases. The information presented to EPA  
11          related to the soundness of the Louisiana  
12          Trust Fund, documenting the cost per  
13          release, numbers of releases in and out of  
14          the trust fund, beginning and ending fund  
15          balances, et cetera. EPA then compiles the  
16          Louisiana data with other state's  
17          information and uses this data to compare  
18          the various programs across the country.  
19          Historically, the trust fund data systems  
20          only tracked the cost per site or by agency  
21          interest number. During the past year, the  
22          Department has made great strides to upload  
23          the incident data -- incident release data  
24          for the current active sites and all sites  
25          that have been NFA'd with the last three

1 years, to the tune of about 15,000 lines of  
2 data.

3 This allowed us to provide EPA with  
4 the requested data but also would allow us  
5 to do a better job of tracking the cost per  
6 release, not just by site.

7 EPA Region Six sent LDEQ an unapproved  
8 draft report that will be submitted to the  
9 EPA headquarters. The summary included the  
10 following statements: the data does not  
11 indicate a need to raise any concerns  
12 regarding fund soundness at this time.  
13 Overall, the fund is financially strong and  
14 shows a net reduction in the number of open  
15 UST cleanups.

16 Another point they made is, it appears  
17 that the fund has sufficient money available  
18 to cover the estimated annual spending to  
19 address all open federally regulated fund  
20 eligible sites in the coming year.

21 I'm finished.

22 MR. KEITH BAKER:

23 Any questions for Jeff?

24 (No response.)

25 MR. KEITH BAKER:

1 Mr. Broyles, Third Party Claims.

2 MR. BROYLES:

3 Let's see. Since the board last met,  
4 we've not been served with any petitions of  
5 a third party claim. The only real active  
6 case is one that I'm handling. It's the  
7 Soprano versus Lemoine case. It deals with  
8 Geno's Exxon in Morganza. This corrective  
9 action has been going on since 1999. We  
10 were set for trial in October of 2012, but  
11 one of the insurers went belly-up and we got  
12 a stay order. Long story short, Judge  
13 Baptiste in the 18th JDC just set a trial  
14 date for next June, June through July. So  
15 that's the move we've had on the one active  
16 third party case.

17 That's all I have.

18 MR. MILAZZO:

19 That is the only two. There have been  
20 34 total. And that's the two that's still  
21 outstanding. The one that you just referred  
22 to is --

23 MR. BROYLES:

24 I read one, but I'm not sure of the  
25 other one.

1 MR. MILAZZO:

2 Yes.

3 MR. BROYLES:

4 If the other one is Big Fat -- that's  
5 the site name, but anyway -- that -- I  
6 believe there's a motion to dismiss, based  
7 on abandonment that's about to be filed. So  
8 that'll probably be gone. If that's the  
9 other case to which you're referring.

10 MR. KEITH BAKER:

11 Any other questions?

12 (No response.)

13 MR. KEITH BAKER:

14 If none, is there any other business?

15 MR. GAUBERT:

16 I have two -- two questions. Can we  
17 get an update today on the lawsuit status,  
18 or do we need to be in executive session?

19 MR. SAGNIBENE:

20 We can give you one, but I think we  
21 have to go into executive session.

22 MR. GAUBERT:

23 Okay. All right. And then the other  
24 question I had was on, the last meeting, we  
25 discussed the E15, putting E15 into UL

1 listed E10 tanks and if that would cause a  
2 concern down the road or into the future  
3 with trust fund eligibility, if there was a  
4 leak with a non-approved product in an  
5 underground storage tank. I don't know if  
6 any work has been done on that or any  
7 discussion.

8 MR. FRANKLIN:

9 We did talk about it internally but  
10 there's not been anything done beyond that,  
11 other than open discussion about it.

12 MR. GAUBERT:

13 I guess it could be a longtime  
14 concern. We talked about it. If EPA  
15 mandates more than 13 billion gallons of  
16 Ethanol this year, it's going to force the  
17 industry to continue to look at higher  
18 levels of Ethanol in the motor fuels beyond  
19 E10. So it -- you know, as the -- as the  
20 EPA, you know, addresses that issue, I think  
21 that maybe the trust fund ought to also  
22 address it and to see whether not that is --  
23 an unapproved product is eligible in -- in  
24 these tanks, a non -- you know, non-approved  
25 product in an underground storage tank.

1           Because there are potential problems with --  
2           with leaks with glue, resins and -- and that  
3           sort of stuff. So I just want to keep that  
4           --

5           MR. FRANKLIN:

6                     Sure. Is there any --

7           MR. GAUBERT:

8                     It's -- it's a big issue in Washington  
9           with the RFS. Yes, I mean, that's one --  
10          that's one of the number one issues in  
11          Washington is the reformulated fuel standard  
12          and what they're going to do with the  
13          Ethanol long term. But legislatively, it's  
14          suppose to go up to 30-some odd billion  
15          gallons and -- but, you know, the -- the  
16          gallons of motor fuel demand is decreasing,  
17          so it ultimately requires more Ethanol per  
18          gallon. And -- and a higher content of  
19          Ethanol in gasoline can lead -- potentially  
20          lead to underground storage tank problem --  
21          underground storage tank problems. So it --  
22          you know, long term, it could be a -- a big  
23          concern.

24          MR. FRANKLIN:

25                     It is something we did discuss

1           internally. We haven't -- but what we  
2           wanted to do was talk with other states and  
3           see if they have began to address it in any  
4           manner. But within the Department, we  
5           haven't done anything other than just open  
6           discussion about it.

7           MR. GAUBERT:

8                     Thank you.

9           MR. KEITH BAKER:

10                    Is there anything we can do to help?

11           MR. FRANKLIN:

12                    At this time, no. We may call upon  
13           you to contact some of your constituents in  
14           the future.

15           MR. KEITH BAKER:

16                    Okay. Just let us know.

17           MR. BURNHAM:

18                    I have a couple of questions for Jeff,  
19           if I could.

20                    I recall from years ago that if a leak  
21           occurred as a result of some type of  
22           operator error such as installing a fuel  
23           filter and improperly installing it or  
24           something that, that is not an eligible  
25           refundable release. Is that still the case?

1 I just -- I haven't asked that question and  
2 haven't had it come up in a long time. Is  
3 that still the case under the trust fund?

4 MR. FRANKLIN:

5 And that would be above the shear  
6 valve?

7 MR. JEFF BAKER:

8 Yes.

9 MR. BURNHAM:

10 Yes.

11 MR. FRANKLIN:

12 You know, the decision was made many,  
13 many years ago that from the shear valve  
14 below ground would be considered part of the  
15 UST system.

16 MR. BURNHAM:

17 Okay.

18 MR. FRANKLIN:

19 Anything above the shear valve  
20 filters, per se, would not be.

21 MR. BURNHAM:

22 Okay. Somebody drives off with the  
23 nozzle in the tank, the pump doesn't shut  
24 down, just leak -- that's not an eligible --

25 MR. FRANKLIN:

1 No.

2 MR. BURNHAM:

3 -- spill? Okay. All right. Thank  
4 you.

5 MR. KEITH BAKER:

6 I guess we need a motion to move into  
7 executive session.

8 MR. GAUBERT:

9 I make that motion.

10 MR. MILAZZO:

11 Second.

12 MR. KEITH BAKER:

13 All right. With that, we will go into  
14 executive session then.

15 (The board went into executive session at  
16 this time.)

17 MR. KEITH BAKER:

18 Can I have a motion to come out of  
19 executive session?

20 MR. MILAZZO:

21 So moved.

22 MR. SAAB:

23 I second.

24 MR. KEITH BAKER:

25 Okay. Is there any other business we

1           need to discuss today.  
2           (No response.)  
3           MR. KEITH BAKER:  
4                     All right. Seeing none, can I have a  
5           motion to close?  
6           MR. BURNHAM:  
7                     Motion to close.  
8           MR. MILAZZO:  
9                     Well, before we do that, is there  
10          something else, Grady, that you wanted to  
11          visit about?  
12          MR. GAUBERT:  
13                     No.  
14          MR. MILAZZO:  
15                     Then maybe at the close of the  
16          legislative session, was there anything that  
17          we may have missed, is there -- that could  
18          come back and impact us? Did we find the  
19          session was favorable, Vince?  
20          MR. SAGNIBENE:  
21                     Yes.  
22          MR. MILAZZO:  
23                     Okay.  
24          MS. ANDREWS:  
25                     We, you know -- yes, the Department

1 had pretty much a continuation level budget.  
2 There was really no major changes for DEQ.

3 MR. SAGNIBENE:

4 And our Sunset Bill passed that we got  
5 re-authorized, so that was good.

6 MR. GAUBERT:

7 For how long?

8 MS. ANDREWS:

9 Four years.

10 MR. SAGNIBENE:

11 Four.

12 MR. GAUBERT:

13 Four more years?

14 MS. ANDREWS:

15 Four more years, we're still around.

16 MR. GAUBERT:

17 Four more years.

18 MR. SAGNIBENE:

19 That's all they do it for is four.

20 MR. GAUBERT:

21 Yes.

22 MR. MILAZZO:

23 Okay. That's all I have.

24 MR. KEITH BAKER:

25 All right. Any other new business?

1 (No response.)

2 MR. KEITH BAKER:

3 If I can have a motion to close.

4 MR. BURNHAM:

5 Motion to close.

6 MR. MILAZZO:

7 Second.

8 MR. KEITH BAKER:

9 Okay, guys. Thank ya'll.

10 THE MEETING ADJOURNED AT 1:53 P.M.

11 \* \* \* \* \*





**In The Matter Of:**

*DEPARTMENT OF ENVIRONMENTAL QUALITY  
MOTOR FUELS UNDERGROUND STORAGE TANK TRUST*

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*Meeting  
June 5, 2014*

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 3 STATE OF LOUISIANA  
 4 DEPARTMENT OF ENVIRONMENTAL QUALITY  
 5 MOTOR FUELS UNDERGROUND STORAGE TANK TRUST  
 6 FUND ADVISORY BOARD  
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 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 1:05 p.m., on June 5, 2014.  
 15  
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 18  
 19 BEFORE:  
 20 Lori B. Overland  
 21 Certified Court Reporter  
 In and For the State of  
 Louisiana  
 22  
 23  
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1 I N D E X  
 2  
 3 EXAMINATION: PAGE (S) :  
 4 None  
 5 EXHIBITS:  
 6 None  
 7  
 8 REPORTER'S PAGE 29  
 9 REPORTER'S CERTIFICATE 30  
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Page 2

1 A P P E A R A N C E S  
 2  
 3 Keith Baker  
 Chairman  
 4 Durwood Franklin  
 Ted Broyles  
 5 Jeff Baker  
 Gary Fulton  
 6 Steve Burnham  
 John Milazzo  
 7 Grady Gaubert  
 Louis Saab  
 8 Cy Morin  
 Karyn Andrews  
 9  
 10 Melissa Vizinat  
 Kodi Brignac  
 11 Jason Efferson  
 Rhonda Cook  
 12 Sherry Milam  
 Natalie Isaacks  
 13 Vince Sagnibene  
 Ian Kelley  
 14 Christy Gardner  
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 16 \* \* \* \* \*  
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Page 4

1 \* \* \* \* \*  
 2 MR. KEITH BAKER:  
 3 All right, guys. Good afternoon.  
 4 We'll call the meeting to order. We'll get  
 5 a quick roll call. Ted, would you start?  
 6 MR. BROYLES:  
 7 I'm Ted Broyles, attorney for the  
 8 Department.  
 9 MR. FRANKLIN:  
 10 Durwood Franklin, DEQ Trust Fund.  
 11 MR. JEFF BAKER:  
 12 Jeff Baker, DEQ Trust Fund.  
 13 MR. FULTON:  
 14 Gary Fulton, DEQ Underground Storage  
 15 Tank Remediation Division Administrator.  
 16 MR. BURNHAM:  
 17 Steve Burnham, Engineering Associates,  
 18 Incorporated.  
 19 MR. KEITH BAKER:  
 20 Keith Baker, Louisiana Oil Marketers.  
 21 MR. MILAZZO:  
 22 Johnny Milazzo, Louisiana Oil  
 23 Marketers.  
 24 MR. GAUBERT:  
 25 Grady Gaubert, Louisiana Oil

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1 Marketers.  
2 MR. SAAB:  
3 Louis Sabb, Louisiana Oil Marketers.  
4 MS. ANDREWS:  
5 Karyn Andrews, Department of  
6 Environmental Quality Financial Services  
7 Division.  
8 MR. MORIN:  
9 Cy Morin, DEQ Audit Services.  
10 MS. VIZINAT:  
11 Melissa Vizinat, Trust Fund.  
12 MS. COOK:  
13 Rhonda Cook, PPM Consultants.  
14 MS. MILAM:  
15 Sherry Milam, PPM Consultants.  
16 MS. GARDNER:  
17 Christy Gardner, SEMS.  
18 MS. PETUS:  
19 Heather Petus, SEMS.  
20 MR. EFFERSON:  
21 Jason Efferson, DEQ Trust Fund.  
22 MR. BRIGNAC:  
23 Kodi Brignac, DEQ Trust Fund.  
24 MR. KELLER:  
25 Ian Keller, DEQ Trust Fund.

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1 MR. KEITH BAKER:  
2 All right. I trust everybody has had  
3 an opportunity to review the minutes. Do we  
4 have any questions or comments about those?  
5 Motion to adopt?  
6 MR. MILAZZO:  
7 I move we accept the report.  
8 MR. BURNHAM:  
9 Second.  
10 MR. KEITH BAKER:  
11 Ms. Andrews, Financial Services  
12 Report.  
13 MS. ANDREWS:  
14 Sure. I'll start -- if you'll turn to  
15 tab three. I'll quickly go over these  
16 numbers with you.  
17 At the beginning of the year, we  
18 transferred \$63,207,181 into the trust fund.  
19 As of March 31st, 2014, we've deposited  
20 \$16,642,755, and have paid out  
21 reimbursements of \$7,211,304. Current  
22 liabilities on the sites, \$64,629,635. That  
23 leaves our balance after obligations,  
24 \$8,008,997.  
25 If you'd turn the page, this is our

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1 information sheet on the interest revenue  
2 from the trust fund. Interest revenue  
3 collected inception to date on the trust  
4 fund is at \$6,470,639. Expenditures to date  
5 are at \$1,229,930.  
6 You'll notice the details of the  
7 expenditures are included on this report.  
8 To date in fiscal year '14, we have spent  
9 \$1,600.  
10 If you'll go ahead and turn one more  
11 page. This report details how we calculate  
12 the amount transferred from the motor fuel  
13 trust fund to the environmental trust fund.  
14 And it details our revenues and  
15 expenditures.  
16 At this point, we are estimating the  
17 fiscal year 2014 reimbursement is going to  
18 be approximately \$4 million.  
19 And I would like to note that, that is  
20 an increase from last year of a million.  
21 And that is attributable to the legal fees;  
22 however, that would be maximum legal fees  
23 that are paid out. I honestly do not  
24 anticipate it to be that full \$4 million. I  
25 really anticipate it to be closer to about

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1 3.7, but the maximum would be \$4 million.  
2 Does anybody have any questions?  
3 (No response.)  
4 MR. KEITH BAKER:  
5 If none, Cy, can you give us the  
6 Auditor's Status Report?  
7 MR. MORIN:  
8 Yes. We currently have 29 open audit  
9 cases. Six of the 29 have reached  
10 resolution and are being prepared for  
11 closure. 23 remain active. 14 of the 23  
12 active cases have been opened in fiscal year  
13 '14. This is 14 of the 16 planned. We've  
14 attempted to set up the 15th audit, but  
15 we've been unsuccessful in making contact.  
16 The status of the business is uncertain. We  
17 will likely replace it with another business  
18 to meet our goal for the fiscal year.  
19 Field work has been completed for  
20 seven of these 14 fiscal year '14 audits,  
21 resulting in one demand and invoice sent on  
22 June 2, 2014 for \$917.67. Five are  
23 potentially clean audits with no assessments  
24 currently in the review process. One  
25 potential audit assessment of approximately

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1 \$622 is currently in the review process.  
2 Field work is still in progress for  
3 six open fiscal year '14 audits. And the  
4 14th fiscal year audit is scheduled to begin  
5 on June 17.  
6 Five of the 23 active audits were  
7 opened in fiscal year '13. One of the five  
8 has been referred to legal for collection.  
9 Legal is in the process of drafting and  
10 filing a petition to obtain a judgment on  
11 the approximately \$4,000 assessment.  
12 Field work has been completed on three  
13 of the five, resulting in two potentially  
14 clean audits with no assessment and one  
15 potential assessment of \$903.  
16 These audits are currently in the  
17 review process, and field work is still  
18 pending on the remaining fiscal year '13  
19 audits.  
20 The four remaining active cases were  
21 opened in fiscal years prior to fiscal year  
22 '13 and remain in legal for collection.  
23 As I've mentioned in the previous  
24 meeting, two of these cases, DEQ has  
25 obtained and signed and recorded judgments.

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1 One of these businesses has been closed and  
2 the owner has passed away, so DEQ's recourse  
3 will be to make a claim against the  
4 succession, which hasn't been opened yet.  
5 In the other case, legal has received  
6 the judgment debtor exam questionnaire and  
7 will file the petition for garnishment.  
8 The legal status of the other two  
9 cases in legal has not changed since the  
10 last board meeting.  
11 In addition, six fine cases have been  
12 finalized and closed since the February  
13 meeting.  
14 As of to date, the total confirmed  
15 outstanding delinquent fees and penalties  
16 for the 23 active cases is approximately  
17 \$127,000. Approximately \$126,000 is tied to  
18 five cases being pursued legally. And as  
19 I've mentioned previously, we've recently  
20 sent a demand for the remaining \$917.67.  
21 To date in fiscal year '14, demand has  
22 been made for approximately \$15,000 in  
23 delinquent fees and a credit issued for  
24 \$912.72 in overpaid fees.  
25 And finally, to date in fiscal year

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1 '14, we have collected \$11,866.68 in fees  
2 and penalties and \$172.90 in court costs.  
3 MR. KEITH BAKER:  
4 Any questions?  
5 MR. GAUBERT:  
6 Just to make a comment. You know,  
7 these audits and the result of the audits  
8 financially, you know, from the start, we  
9 have \$127,000 uncollected. And then this  
10 year, we have \$11,000. It wouldn't seem  
11 that it would economically make sense to  
12 continue to audit. But the net effect of it  
13 is that it keeps everybody on a level  
14 playing field as well. It lets -- it's an  
15 enforcement action, even though it's  
16 indirectly. So that the economics of it,  
17 even though the financial result may not be,  
18 you know, justified -- justifiable to the  
19 cost associated with the audits, it still  
20 creates a level playing field in an  
21 enforcement action. And it helps people to  
22 abide by the rules. So, you know, I think  
23 it's an important part of the program, going  
24 forward.  
25 MR. MILAZZO:

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1 What -- even though those funds are  
2 not being collected, what are happening to  
3 these operators or responsible fee payor in  
4 some of these cases, where you're not able  
5 to collect delinquency? What's the  
6 repercussion to those where, you know,  
7 you're not able to collect these?  
8 MR. MORIN:  
9 Well, as I said, we -- we're trying to  
10 pursue them -- the fees legally. That is --  
11 that is our course of action. Other than  
12 that --  
13 MR. SAAB:  
14 Possibly you could put a lien or  
15 judgment against them.  
16 MR. MILAZZO:  
17 Can you -- can you -- so you can't red  
18 tag a location if -- if -- for not paying;  
19 is that right?  
20 MS. ANDREWS:  
21 We have not had to do anything like  
22 that in the past.  
23 We can -- what I can do next meeting,  
24 we can invite Diedre Johnson from our legal  
25 division who handles these cases and have

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1 her put together a little summary and  
2 perhaps answer some of these questions for  
3 you.  
4 MR. GAUBERT:  
5 To my knowledge, the -- the red tag  
6 issue is a separate issue.  
7 MR. MILAZZO:  
8 Well, I realize that, but I'm -- you  
9 know, if a guys not paying and there are no  
10 real consequences, and he's not paying, you  
11 haven't been able to collect, what are the  
12 consequences? Does it render the location  
13 or someone out of business, or do they just  
14 keep marching along without penalty for not  
15 paying? So I just -- it's one thing to  
16 identify them, but you know, what are you  
17 going to do to hold them accountable?  
18 MR. MORIN:  
19 We do assess a penalty for late  
20 payment, which is the case with anyone who  
21 sends in a late payment. It's five percent  
22 per month, up to 15 percent maximum of the  
23 premium.  
24 MS. ANDREWS:  
25 And then once it goes to --

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1 MR. MILAZZO:  
2 I'm kind of like Louis, is there a  
3 lien against the asset of the property at  
4 some point in time? If you don't have that  
5 recourse --  
6 MS. ANDREWS:  
7 Why don't we have Diedre come and --  
8 at our next meeting. She's with our legal  
9 division that handles the collection side of  
10 this. And we'll have her speak to this at  
11 our next board meeting. I'm sure she'll be  
12 happy to provide some additional  
13 information.  
14 MR. MILAZZO:  
15 Okay.  
16 MS. ANDREWS:  
17 Okay.  
18 MR. KEITH BAKER:  
19 Anything else on the Auditor's Report?  
20 (No response.)  
21 MR. KEITH BAKER:  
22 Jeff, you want to update us on the  
23 Trust Fund Status?  
24 MR. JEFF BAKER:  
25 Absolutely. If ya'll can refer to tab

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1 number five in your packets. These are the  
2 figures for the third quarter of fiscal year  
3 2014. During the third quarter of this  
4 year, the trust fund received 251  
5 applications, totaling \$3,536,509. 201  
6 applications were processed for payment  
7 during the fiscal quarter, totaling  
8 \$3,084,912. And 37 applications were  
9 returned with deficiencies.  
10 For the sites in the corrective action  
11 phase, the outstanding liability of the  
12 corrective action plan budget and estimated  
13 cost to reach closure at the end of March  
14 2014 was \$31,515,840. The additional  
15 obligation recognized for the non-capped  
16 sites plus the projected motor fuel trust  
17 fund to the environmental trust fund  
18 transfers was \$32,594,044. At the end of  
19 March, the trust fund had 129 pending  
20 applications to process, which have  
21 requested amounts, totaling \$1,864,152. Of  
22 this amount, the estimated requested  
23 obligations relating to cap budgets and  
24 closure cost was \$1,344,402.  
25 If you'll note, the last page of the

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1 packet, the legal-sized page, the number of  
2 trust fund sites that have received no  
3 further action status thus far, this current  
4 fiscal year, was 23 sites. The number of  
5 potential trust fund sites that were  
6 reviewed and made eligible during the  
7 current fiscal year was 17, representing 19  
8 active incidences.  
9 Some points of interest relating to  
10 the trust fund. The Department has recently  
11 implemented a new appeals process. The  
12 process allows the RACs to submit appeals of  
13 denied reimbursements, via a new form, which  
14 is available on the LDEQ website. Prior to  
15 this new process, the RAC would submit these  
16 appeals, via unofficial emails and phone  
17 calls, making it difficult to document the  
18 issue. Also, if the trust fund determined  
19 that the appeal was valid and the RAC was  
20 due reimbursement, these checks would not be  
21 cut until the next application was submitted  
22 by the RAC for the site in question.  
23 The new appeals process allows the  
24 Department to treat each appeal as a stand  
25 alone application, which is document in the

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1 Departments EDMES system. It can be  
2 processed separately. Also, if the appeal  
3 is approved, the check can be cut and sent  
4 to the RAC immediately rather than waiting  
5 for the next application to be submitted.  
6 Another point of interest, over the  
7 last two years, the EPA has requested the  
8 LDEQ present trust fund information to them,  
9 grouped by and based upon independent UST  
10 releases. The information presented to EPA  
11 related to the soundness of the Louisiana  
12 Trust Fund, documenting the cost per  
13 release, numbers of releases in and out of  
14 the trust fund, beginning and ending fund  
15 balances, et cetera. EPA then compiles the  
16 Louisiana data with other state's  
17 information and uses this data to compare  
18 the various programs across the country.  
19 Historically, the trust fund data systems  
20 only tracked the cost per site or by agency  
21 interest number. During the past year, the  
22 Department has made great strides to upload  
23 the incident data -- incident release data  
24 for the current active sites and all sites  
25 that have been NFA'd with the last three

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1 years, to the tune of about 15,000 lines of  
2 data.  
3 This allowed us to provide EPA with  
4 the requested data but also would allow us  
5 to do a better job of tracking the cost per  
6 release, not just by site.  
7 EPA Region Six sent LDEQ an unapproved  
8 draft report that will be submitted to the  
9 EPA headquarters. The summary included the  
10 following statements: the data does not  
11 indicate a need to raise any concerns  
12 regarding fund soundness at this time.  
13 Overall, the fund is financially strong and  
14 shows a net reduction in the number of open  
15 UST cleanups.  
16 Another point they made is, it appears  
17 that the fund has sufficient money available  
18 to cover the estimated annual spending to  
19 address all open federally regulated fund  
20 eligible sites in the coming year.  
21 I'm finished.  
22 MR. KEITH BAKER:  
23 Any questions for Jeff?  
24 (No response.)  
25 MR. KEITH BAKER:

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1 Mr. Broyles, Third Party Claims.  
2 MR. BROYLES:  
3 Let's see. Since the board last met,  
4 we've not been served with any petitions of  
5 a third party claim. The only real active  
6 case is one that I'm handling. It's the  
7 Soprano versus Lemoine case. It deals with  
8 Geno's Exxon in Morganza. This corrective  
9 action has been going on since 1999. We  
10 were set for trial in October of 2012, but  
11 one of the insurers went belly-up and we got  
12 a stay order. Long story short, Judge  
13 Baptiste in the 18th JDC just set a trial  
14 date for next June, June through July. So  
15 that's the move we've had on the one active  
16 third party case.  
17 That's all I have.  
18 MR. MILAZZO:  
19 That is the only two. There have been  
20 34 total. And that's the two that's still  
21 outstanding. The one that you just referred  
22 to is --  
23 MR. BROYLES:  
24 I read one, but I'm not sure of the  
25 other one.

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1 MR. MILAZZO:  
2 Yes.  
3 MR. BROYLES:  
4 If the other one is Big Fat -- that's  
5 the site name, but anyway -- that -- I  
6 believe there's a motion to dismiss, based  
7 on abandonment that's about to be filed. So  
8 that'll probably be gone. If that's the  
9 other case to which you're referring.  
10 MR. KEITH BAKER:  
11 Any other questions?  
12 (No response.)  
13 MR. KEITH BAKER:  
14 If none, is there any other business?  
15 MR. GAUBERT:  
16 I have two -- two questions. Can we  
17 get an update today on the lawsuit status,  
18 or do we need to be in executive session?  
19 MR. SAGNIBENE:  
20 We can give you one, but I think we  
21 have to go into executive session.  
22 MR. GAUBERT:  
23 Okay. All right. And then the other  
24 question I had was on, the last meeting, we  
25 discussed the E15, putting E15 into UL

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1 listed E10 tanks and if that would cause a  
2 concern down the road or into the future  
3 with trust fund eligibility, if there was a  
4 leak with a non-approved product in an  
5 underground storage tank. I don't know if  
6 any work has been done on that or any  
7 discussion.  
8 MR. FRANKLIN:  
9 We did talk about it internally but  
10 there's not been anything done beyond that,  
11 other than open discussion about it.  
12 MR. GAUBERT:  
13 I guess it could be a longtime  
14 concern. We talked about it. If EPA  
15 mandates more than 13 billion gallons of  
16 Ethanol this year, it's going to force the  
17 industry to continue to look at higher  
18 levels of Ethanol in the motor fuels beyond  
19 E10. So it -- you know, as the -- as the  
20 EPA, you know, addresses that issue, I think  
21 that maybe the trust fund ought to also  
22 address it and to see whether not that is --  
23 an unapproved product is eligible in -- in  
24 these tanks, a non -- you know, non-approved  
25 product in an underground storage tank.

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1 Because there are potential problems with --  
2 with leaks with glue, resins and -- and that  
3 sort of stuff. So I just want to keep that  
4 --  
5 MR. FRANKLIN:  
6 Sure. Is there any --  
7 MR. GAUBERT:  
8 It's -- it's a big issue in Washington  
9 with the RFS. Yes, I mean, that's one --  
10 that's one of the number one issues in  
11 Washington is the reformulated fuel standard  
12 and what they're going to do with the  
13 Ethanol long term. But legislatively, it's  
14 suppose to go up to 30-some odd billion  
15 gallons and -- but, you know, the -- the  
16 gallons of motor fuel demand is decreasing,  
17 so it ultimately requires more Ethanol per  
18 gallon. And -- and a higher content of  
19 Ethanol in gasoline can lead -- potentially  
20 lead to underground storage tank problem --  
21 underground storage tank problems. So it --  
22 you know, long term, it could be a -- a big  
23 concern.  
24 MR. FRANKLIN:  
25 It is something we did discuss

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1 internally. We haven't -- but what we  
2 wanted to do was talk with other states and  
3 see if they have began to address it in any  
4 manner. But within the Department, we  
5 haven't done anything other than just open  
6 discussion about it.  
7 MR. GAUBERT:  
8 Thank you.  
9 MR. KEITH BAKER:  
10 Is there anything we can do to help?  
11 MR. FRANKLIN:  
12 At this time, no. We may call upon  
13 you to contact some of your constituents in  
14 the future.  
15 MR. KEITH BAKER:  
16 Okay. Just let us know.  
17 MR. BURNHAM:  
18 I have a couple of questions for Jeff,  
19 if I could.  
20 I recall from years ago that if a leak  
21 occurred as a result of some type of  
22 operator error such as installing a fuel  
23 filter and improperly installing it or  
24 something that, that is not an eligible  
25 refundable release. Is that still the case?

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1 I just -- I haven't asked that question and  
2 haven't had it come up in a long time. Is  
3 that still the case under the trust fund?  
4 MR. FRANKLIN:  
5 And that would be above the shear  
6 valve?  
7 MR. JEFF BAKER:  
8 Yes.  
9 MR. BURNHAM:  
10 Yes.  
11 MR. FRANKLIN:  
12 You know, the decision was made many,  
13 many years ago that from the shear valve  
14 below ground would be considered part of the  
15 UST system.  
16 MR. BURNHAM:  
17 Okay.  
18 MR. FRANKLIN:  
19 Anything above the shear valve  
20 filters, per se, would not be.  
21 MR. BURNHAM:  
22 Okay. Somebody drives off with the  
23 nozzle in the tank, the pump doesn't shut  
24 down, just leak -- that's not an eligible --  
25 MR. FRANKLIN:

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1 No.  
2 MR. BURNHAM:  
3 -- spill? Okay. All right. Thank  
4 you.  
5 MR. KEITH BAKER:  
6 I guess we need a motion to move into  
7 executive session.  
8 MR. GAUBERT:  
9 I make that motion.  
10 MR. MILAZZO:  
11 Second.  
12 MR. KEITH BAKER:  
13 All right. With that, we will go into  
14 executive session then.  
15 (The board went into executive session at  
16 this time.)  
17 MR. KEITH BAKER:  
18 Can I have a motion to come out of  
19 executive session?  
20 MR. MILAZZO:  
21 So moved.  
22 MR. SAAB:  
23 I second.  
24 MR. KEITH BAKER:  
25 Okay. Is there any other business we

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1 need to discuss today.  
2 (No response.)  
3 MR. KEITH BAKER:  
4 All right. Seeing none, can I have a  
5 motion to close?  
6 MR. BURNHAM:  
7 Motion to close.  
8 MR. MILAZZO:  
9 Well, before we do that, is there  
10 something else, Grady, that you wanted to  
11 visit about?  
12 MR. GAUBERT:  
13 No.  
14 MR. MILAZZO:  
15 Then maybe at the close of the  
16 legislative session, was there anything that  
17 we may have missed, is there -- that could  
18 come back and impact us? Did we find the  
19 session was favorable, Vince?  
20 MR. SAGNIBENE:  
21 Yes.  
22 MR. MILAZZO:  
23 Okay.  
24 MS. ANDREWS:  
25 We, you know -- yes, the Department

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1 had pretty much a continuation level budget.  
2 There was really no major changes for DEQ.  
3 MR. SAGNIBENE:  
4 And our Sunset Bill passed that we got  
5 re-authorized, so that was good.  
6 MR. GAUBERT:  
7 For how long?  
8 MS. ANDREWS:  
9 Four years.  
10 MR. SAGNIBENE:  
11 Four.  
12 MR. GAUBERT:  
13 Four more years?  
14 MS. ANDREWS:  
15 Four more years, we're still around.  
16 MR. GAUBERT:  
17 Four more years.  
18 MR. SAGNIBENE:  
19 That's all they do it for is four.  
20 MR. GAUBERT:  
21 Yes.  
22 MR. MILAZZO:  
23 Okay. That's all I have.  
24 MR. KEITH BAKER:  
25 All right. Any other new business?

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1 (No response.)  
2 MR. KEITH BAKER:  
3 If I can have a motion to close.  
4 MR. BURNHAM:  
5 Motion to close.  
6 MR. MILAZZO:  
7 Second.  
8 MR. KEITH BAKER:  
9 Okay, guys. Thank ya'll.  
10 THE MEETING ADJOURNED AT 1:53 P.M.  
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1 REPORTER'S PAGE

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

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

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

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21 \_\_\_\_\_  
22 Lori Overland, C.C.R.  
23 # 97083  
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1 C E R T I F I C A T I O N

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

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



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

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*Meeting  
June 5, 2014*

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*Associated Reporters Incorporated  
(225) 216-2036*

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DEPARTMENT OF ENVIRONMENTAL QUALITY  
MOTOR FUELS UNDERGROUND STORAGE TANK TRUST

Meeting  
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