

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 1:11 p.m., on June 20, 2019.

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

Nick St. Romain
Chairman

Jeff Baker
Gary Fulton
Cy Morin
Perry Theriot
Kerry Hill, via telephone
Roger Bright, via telephone
Theresa Delafosse
Michael Guillory
Nathan McBride
Joe McCartney
Steve Burnham
Durwood Franklin

Melissa Vizinat
Laura Maxwell, via telephone
John Wade, via telephone

Sam Broussard
Jason Efferson
Clinton Twilley
Kyle Blanchard
Roger Gingles
Natalie Isaacks
Jill Carter
Karyn Andrews
Steven Waguespack

* * * * *

I N D E X

EXAMINATION:

PAGE(S):

None

EXHIBITS:

None

REPORTER'S PAGE

56

REPORTER'S CERTIFICATE

57

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1 *****

2 MR. ST. ROMAIN:

3 All right. I'd like to call the
4 meeting to order. We'll start with a roll
5 call. I guess we'll -- we'll go around.
6 Start with Perry. Say your name and who
7 you're with.

8 MR. THERIOT:

9 Perry Theriot, Attorney with the
10 Louisiana Department of Environmental
11 Quality.

12 MR. FRANKLIN:

13 Durwood Franklin, DEQ Trust Fund.

14 MR. BAKER:

15 Jeff Baker, DEQ Trust Fund.

16 MR. FULTON:

17 Gary Fulton, DEQ.

18 MR. McBRIDE:

19 Nathan McBride, Louisiana Mid-
20 Continent Oil and Gas Association.

21 MR. BURNHAM:

22 Steve Burnham, Engineering Associates.

23 MR. McCARTNEY:

24 Joe McCartney, Louisiana Oil
25 Marketers.

1 MR. ST. ROMAIN:

2 Nick St. Romain, Louisiana Oil
3 Marketer Association.

4 MR. GUILLORY:

5 Michael Guillory, Louisiana Oil
6 Marketer Association.

7 MS. DELAFOSSE:

8 Theresa Delafosse, Louisiana DEQ
9 Financial Services.

10 MR. MORIN:

11 Cy Morin, LDEQ Audit.

12 MS. VIZINAT:

13 Melissa Vizinat, DEQ Trust Fund.

14 MS. ANDREWS:

15 Karyn Andrews, DEQ.

16 MS. CARTER:

17 Jill Carter, DEQ Legal.

18 MR. EFFERSON:

19 Jason Efferson, DEQ Trust Fund.

20 MR. BLANCHARD:

21 Kyle Blanchard, DEQ UST.

22 MS. ISAACKS:

23 Natalie Isaacks, Louisiana Oil
24 Marketers.

25 MR. WAGUESPACK:

1 Steven Waguespack, Louisiana Oil
2 Marketers.

3 MR. GINGLES:

4 Roger Gingles, DEQ.

5 MR. TWILLEY:

6 Clinton Twilley, DEQ.

7 MR. ST. ROMAIN:

8 And anyone on the phone.

9 MR. WADE:

10 This is John Wade.

11 MS. MAXWELL:

12 Laura Maxwell from Pinnacle Actuarial
13 Resources.

14 MR. BRIGHT:

15 Roger Bright with Jones Environmental.

16 (An off-the-record discussion followed.)

17 MR. ST. ROMAIN:

18 Okay. All right. Now, we'll move on
19 to consideration and adoption of the March
20 19, 2019 board meeting minutes, as written.
21 Do we have any motions to accept the board
22 minutes, as written?

23 MR. FULTON:

24 Motion to accept it.

25 MR. ST. ROMAIN:

1 Got a motion from Gary. Any seconds?

2 MR. GUILLORY:

3 Second.

4 MR. ST. ROMAIN:

5 All right. All in favor?

6 (All indicated "aye".)

7 MR. ST. ROMAIN:

8 Okay. We'll move on to item number
9 three, the financial services report with
10 Theresa Delafosse.

11 MS. DELAFOSSE:

12 Good afternoon everybody. If you'll
13 turn to tab three in your packet, we have
14 the financial information as of the third
15 quarter of fiscal year 2019.

16 The first page, ya'll are use to
17 seeing, we have the three different columns
18 with the final financial statement for the
19 end of fiscal year 2018. The center column
20 is the third quarter financial statement, as
21 of March 31st, 2018. And the third column
22 is the fiscal year 2019 statement as of
23 March -- March 31st, 2019, for the first
24 three quarters of this fiscal year.

25 It's pretty much business as usual as

1 far as the money is concerned. You know, we
2 collected, at this -- at this time last
3 year, we had collected 16.5 million. At
4 this -- at that -- at the same time this
5 year, we collected 17.6 million.

6 As you can see in the third row, our
7 interest earnings are still -- still up
8 there, still growing. Which is great for
9 the abandoned tank work that we're able to
10 do it with those funds. Year-to-date, we
11 have collected 2.1 million dollars.

12 Our claim for reimbursement are
13 showing down a little bit at this point, as
14 compared to last year. I think they may
15 just be some timing of how -- how things are
16 shaking out this year. We don't have our --
17 we don't have our final numbers yet, of
18 course, for the whole year.

19 And then at the bottom, you see the
20 cash balance without the interest. Again,
21 because that interest revenue is reserved
22 for the abandoned tank work. It is 109.3
23 million dollars. Our total cash balance is
24 119, which means we have about ten million
25 dollars available for that abandoned tank

1 work.

2 Our current site liability, which
3 that's a new number here, is the number that
4 was determined by Pinnacle, by John and
5 Laura, that 153 million dollars. That
6 represents the liability -- the estimated
7 liability on the current sites that we have
8 in our universe, which gives us a negative
9 equity balance of 43 million dollars.

10 Ya'll are use to seeing there --
11 instead of the actuary number, you're use to
12 seeing the obligation calculation that Jeff
13 does, which looks just more at the CAP
14 budgets and then uses -- uses the average
15 cost to close for the remaining sites
16 without CAP budgets to estimate the
17 obligation on those sites. But again,
18 that's a -- that number is a little,
19 obviously, lower, but it does not include --
20 it's not as accurate, we believe.

21 So if you -- if you use that number,
22 we would have a positive equity balance.
23 But -- but that -- that's some information
24 about that page.

25 The next page is our projection of

1 what we anticipate the transfer will be from
2 the motor fuel trust fund to the
3 environmental trust fund to make the
4 department whole for the cost of operating
5 the program. It's -- from -- from last year
6 to this year, it should be fairly steady.
7 There's a slight decrease projected at this
8 time of right around \$60,000. So again, our
9 expenditures are -- are in line with -- with
10 what they were last year.

11 We did have additional federal
12 revenues available, which is great. We had
13 an increase there.

14 So that's all I have this time. But
15 we'll do the full, long presentation at the
16 year-end meeting, which will be held in
17 August, hopefully.

18 So any questions?

19 MR. BURNHAM:

20 Theresa, I hope I can make this
21 question make sense --

22 MS. DELAFOSSE:

23 Okay.

24 MR. BURNHAM:

25 -- but on the -- on the getting in the

1 negative numbers, once you take in current
2 site liability, what time frame is that
3 based on? In other words, is there -- is
4 there a way to say that would take ten year
5 -- if -- if everything stayed the same with
6 income and -- and spending every year, how
7 long would it take us to get in to those
8 negative numbers where we were out of money?
9 Is that a five-year thing or ten-year thing
10 or a -- how long is the --

11 MS. DELAFOSSE:

12 That may be a better question for the
13 actuaries -- and -- but -- in that topic,
14 which is next on the agenda. But I could
15 look at the report. I mean, it -- no, it
16 wouldn't be five years. I'd be longer out
17 than that. Based on their projections in
18 the report, which again, is the next agenda
19 item, the fund will continue to grow. They
20 did project that based on our current --
21 current fee level.

22 MR. BURNHAM:

23 Okay. Well --

24 MS. DELAFOSSE:

25 But it will begin to decrease in about

1 ten years.

2 MR. BURNHAM:

3 -- I -- I just -- all right. 2032 is
4 what they --

5 MS. DELAFOSSE:

6 Yes.

7 MR. BURNHAM:

8 Yes.

9 MS. DELAFOSSE:

10 We'll head in the other direction in
11 about ten years.

12 MR. BURNHAM:

13 Okay. That's what I wanted to know.

14 MS. DELAFOSSE:

15 Anything else?

16 (No response.)

17 MR. ST. ROMAIN:

18 All right. No further questions,
19 we'll move on to -- I guess we need a -- do
20 we need a motion to accept that, Perry?

21 MR. McCARTNEY:

22 I move to accept the financials.

23 MR. ST. ROMAIN:

24 Okay.

25 MR. GUILLORY:

1 Second that.

2 MR. ST. ROMAIN:

3 All right. We have motion and second
4 to accept the financial services report.

5 We'll move on to item four, the
6 actuary report.

7 MS. DELAFOSSE:

8 Okay. So this is a -- a recurring
9 item, of course, for us. But since that
10 time, we have provided the report to
11 everyone electronically. It is in EDMS, our
12 electronic document management system. And
13 as well, we have available this two-page
14 summary that I wrote and had reviewed by
15 John and Laura, again, with Pinnacle.

16 I hope ya'll had a chance to review
17 this. It does give a -- a lot more basic
18 yet and short understanding of the report.

19 Again, their -- the calculation that
20 the actuaries performed estimates that the
21 remaining liability on our current sites is
22 153 million dollars. And the liabilities
23 estimated on future sites is 378.7 million
24 dollars.

25 Of course -- and they can -- ya'll --

1 ya'll pipe in at any time if I say anything
2 that's not accurate. But I would say that
3 the number -- their -- they have a lot more
4 -- the -- the future site number is -- is
5 not as certain, because there are so many
6 more variables as far -- that can change
7 going into the future, you know, time,
8 value, money, guidance document changes, the
9 uncertainty of what those sites will look
10 like if we ever change the -- the CAP from
11 one and a half million to something higher,
12 depending on what sites come in our universe
13 and -- and what we decide to do, et cetera,
14 any changes in deductible. You know, there
15 are so many things that could change the --
16 the further out we go. So there's a lot of
17 unknowns, of course, with the future sites.

18 They also took into account the
19 administrative costs and did a -- a --
20 there's sheets, of course, in the report
21 that show the projected equity balance at
22 both the current fee and the reduced fee,
23 using that formula as outlined in the
24 results section of my summary.

25 With the current fee, the cash balance

1 increases each year through 2037, at which
2 point it would begin to decline. With the
3 reduced fee, the project -- so if we were to
4 cut the fee in half, the projected cash
5 balance of the fund would reach zero dollars
6 during fiscal year 2032.

7 So we did provide a lot of data to
8 Pinnacle. You'll see that list there under
9 the data heading.

10 The actuary used three methods to
11 calculate the current and future
12 liabilities. I've summarized those methods.
13 They're at the top of page two. And those
14 are outlined in the report, as well.

15 I don't know if ya'll have any
16 specific questions about those. It would
17 probably be best, again, for John and Laura.

18 But they -- and these are -- these are
19 standard methods that are used for insurance
20 or different -- different types of programs
21 that actuaries evaluate. And then they
22 evaluate those three methods compared to
23 each other to determine and pick a high and
24 low, depending on which method had the low,
25 which method had the high and then

1 calculating an average for those, to kinda
2 smooth things out and make sure that we're
3 not selecting the method that always has the
4 highest or always has the lowest, to make
5 sure we're -- we're being reasonable.

6 And then they -- they use two methods
7 for the future incidents. And that's
8 outlined under that section, but I -- I
9 think more pertinent for our discussion,
10 most likely is the current incidents. So
11 I'll -- I'll leave that -- leave that as it
12 is.

13 So we did not include a copy of the
14 report because we sent the link beforehand.
15 But I have a copy and Jeff may have a copy,
16 if anybody needs to see anything specific,
17 or didn't -- didn't have access to the that.

18 So that's -- that's a little high
19 level look at the actuary report. And
20 again, John and Laura are both on the phone
21 and ready to answer any questions on it.

22 MR. McCARTNEY:

23 I have one. And -- and -- and these
24 guys explained it to me a while ago, but I
25 just want to be clear. These -- this 200 to

1 250 sites, future sites to clean up, are
2 those specific sites or is that a number of
3 sites you feel like will probably come up
4 over the --

5 MR. FULTON:

6 They're specific.

7 MS. DELAFOSSE:

8 Identified sites.

9 MR. FULTON:

10 They're identified sites.

11 MR. McCARTNEY:

12 They're identified sites?

13 MR. FULTON:

14 Yes.

15 MR. ST. ROMAIN:

16 Are -- are they trust fund eligible?

17 MR. FULTON:

18 Some of them are, some of them aren't.
19 It just really depends. And we're -- we're
20 trying to work through that now.

21 MR. ST. ROMAIN:

22 Okay.

23 MR. BAKER:

24 Joe, what that list is, is we looked
25 at all the active incidents in our data

1 system and we looked at all the ones that
2 are in the trust fund data system and we
3 looked at the difference. We broke out the
4 ones that aren't -- that have been requested
5 eligibility and -- and were denied, which
6 were about 50 to 60. And the rest of them
7 were in that 200 to 250 count that we told
8 you before. And Gary's group is going
9 through and vetting those right now.

10 MR. McCARTNEY:

11 What kind of -- did you put a -- an
12 average cost on each one of those?

13 MR. FULTON:

14 We didn't. Now, I -- I don't know if
15 they were --

16 MS. DELAFOSSE:

17 So those -- that's only part of their
18 future incident calculation, the 250.
19 That's, again, not part of the current
20 incident, because those -- they're still
21 unknown, what the cost will look like and
22 they haven't come into the program yet.

23 MR. ST. ROMAIN:

24 Those are tanks that are in the
25 actuarial's numbers, but not in the numbers

1 that Jeff --

2 MS. DELAFOSSE:

3 They're not in their -- they're not in
4 their 153 million. They're in their other
5 number for future. They're taken into
6 account for future, because they did project
7 going forward, an increase of the number of
8 sites that would come into the program each
9 year. And part of that is the 250, as we
10 work through those and, you know, get the
11 ones -- beginning to get cleaned up that are
12 eligible and bring them into the fund, they
13 did project that the number of sites would
14 increase.

15 MR. McCARTNEY:

16 But those 250 aren't included in the
17 153 million --

18 MS. DELAFOSSE:

19 They are not. That is correct. They
20 are not included in the 153.

21 MR. McCARTNEY:

22 Okay.

23 Do you have any idea what that'd be?
24 I mean, you got a rule of thumb what -- an
25 average --

1 MR. BAKER:

2 Our average right now is running
3 between 250 and 272, 273.

4 MR. McCARTNEY:

5 Right.

6 MR. BAKER:

7 That's what it's been running the last
8 couple of years.

9 MR. McCARTNEY:

10 I -- I was just curious.

11 MR. ST. ROMAIN:

12 So I -- I have a question, I guess
13 more around the -- the regulations or
14 legislation that -- that governs -- governs
15 how the trust fund works is -- and I don't
16 have it with me and haven't read over them
17 recently. But it seems I remember that --
18 that the calculation of the allocated
19 portion was explicitly listed out in those
20 regulations. And it basically is the
21 calculation that Jeff runs and that's what
22 the regulations say is how we determine
23 allocated balance.

24 MS. DELAFOSSE:

25 That was in the 20 -- in 30:2195.3,

1 but that was amended out -- or repealed out
2 in 20 -- in last year.

3 MR. ST. ROMAIN:

4 To allow an actuarial number to be the
5 number?

6 MS. DELAFOSSE:

7 It's not spelled out at all now what -
8 - what number should be --

9 MR. THERIOT:

10 When -- when the board was given the
11 authority to recommend changes in the amount
12 of withholding, that portion was removed
13 because it was no longer deemed necessary.
14 Just the maximum amount would be okay.
15 That's why we commissioned the study, to
16 begin with, was to find -- to assist the
17 board in taking a look at what future
18 liabilities of the fund actually are, the
19 way that insurance companies usually do it.
20 And so that's why we hired the actuary. And
21 while I think we still look at those numbers
22 --

23 MR. ST. ROMAIN:

24 Isn't that 40 million trigger point of
25 the off/on, calculated off of those -- the

1 numbers that Jeff --

2 MR. THERIOT:

3 I think that was taken out. The 40,
4 it's -- it's not there anymore. And anyway,
5 it says, obligated funds, but doesn't define
6 what obligated funds are. You could say
7 that the 153 that they're talking about are
8 obligated because they are going to be used
9 for current sites that are in the system.
10 I'm not sure -- I was looking it up to make
11 sure how -- how it's actually worded now.
12 Let me see if I can find it.

13 MR. ST. ROMAIN:

14 I was just more curious, based on the
15 regulations, could this actuary number even
16 be admitted as the unallocated balance for
17 determining the trigger point --

18 MS. DELAFOSSE:

19 Yes. So what you're referring to is
20 this section ten --

21 MR. ST. ROMAIN:

22 Yes.

23 MS. DELAFOSSE:

24 -- that was repealed. It read, "For
25 these purposes, the unobligated balance

1 shall be determined by subtracting from the
2 cash balance at the end of each month, the
3 sum of total estimates made by the board of
4 eligible payment request, pending review,
5 and the outstanding balance of the estimated
6 cost to be incurred with corrective action
7 plans approved by the department." So as
8 it's written exactly like that, we -- you
9 know, we adjusted it throughout the years, I
10 guess, and added it to sites that didn't
11 have CAPs. But that's written to just say
12 CAPs. If I'm reading --

13 MR. BAKER:

14 But it -- but that --

15 MS. DELAFOSSE:

16 But it's not in there anymore.

17 MR. BAKER:

18 That's the old -- you know, for
19 clarity, that was the old language.

20 MS. DELAFOSSE:

21 Yes.

22 MR. BAKER:

23 That was removed.

24 MS. DELAFOSSE:

25 Yes.

1 MR. BAKER:

2 And then was replaced with the board's
3 recommendation.

4 MR. ST. ROMAIN:

5 But the trigger point of the 40
6 million cut on it would just be 20 million?

7 MR. BAKER:

8 That's -- that's -- that's all been
9 removed.

10 MR. ST. ROMAIN:

11 That's all been removed.

12 MR. BAKER:

13 Yes.

14 MR. McCARTNEY:

15 Perry, let me ask you one thing just -
16 -

17 MR. THERIOT:

18 I've got the statute out.

19 MR. McCARTNEY:

20 If this actuarial firm did this the
21 same way they would for insurer (inaudible)
22 figured their reserve, do they figure in
23 interest, percentages on top of this cost?

24 MR. THERIOT:

25 I was looking through Theresa's

1 report, but you're -- you're free to ask
2 them. They're on the phone, you know. They
3 could tell you what they used. But I did
4 notice in Theresa's report, the interest was
5 excluded from the calculation because it's
6 dedicated to the abandoned tank fund.

7 MS. DELAFOSSE:

8 Is that your question, the interest
9 money?

10 MR. McCARTNEY:

11 Yes.

12 MS. DELAFOSSE:

13 Yes.

14 MR. McCARTNEY:

15 Is -- is this figured like an
16 insurance company where they add some
17 interest figured in there, future interest,
18 and debt cost?

19 MS. DELAFOSSE:

20 Oh, like future interest earnings?

21 MR. McCARTNEY:

22 Yes.

23 MS. DELAFOSSE:

24 Well, the interest earnings -- since --
25 - since the interest earnings are reserved

1 for the abandoned tank program, they're not
2 included in this analysis.

3 MR. McCARTNEY:

4 Because that interest earned on money
5 tide up and things like that -- I'm talking
6 about, is -- is there any padding in this or
7 is this cost, this actual --

8 MR. THERIOT:

9 I -- I think I might be understanding
10 what you're asking. When the department
11 takes in funds and it's deposited into this,
12 handled by the treasure, I'm sure, for the
13 state, that -- that fund and with all the
14 money that's deposited, it does accrue
15 interest. But in the case of the trust
16 fund, any monies from that fund that's
17 sitting there goes to the abandoned tank
18 fund.

19 MR. McCARTNEY:

20 No. What I'm -- what I'm talking
21 about, if I had one figured for me, I want a
22 little cut in that fee in there when I'm
23 figuring my cost. Is this -- are these
24 figures at -- at today's cost or they --

25 MR. THERIOT:

1 No. As a matter of fact, you can ask
2 the adjustors more specifically but I think
3 they figure in inflation as one of the
4 things that this is -- that is taking --

5 MS. DELAFOSSE:

6 Time, value, money and the increase of
7 -- in cost. Like the guidance document that
8 we were -- we are gonna continue to
9 reevaluate every two to three years to
10 determine if we need raise any of those
11 rates.

12 MR. THERIOT:

13 Yes.

14 MS. DELAFOSSE:

15 That's taken into account, yes.

16 MR. McCARTNEY:

17 Okay. All I was asking is, if you're
18 figuring for an insurance company, they've
19 got a profit figure figured in there.

20 MS. DELAFOSSE:

21 Right. No, we don't have a -- nothing
22 like that would be in --

23 MR. THERIOT:

24 Yes. Well, no, I think you're --
25 you're confusing two concepts. When an

1 insurance company receives a claim, they are
2 required by law to set aside that money.
3 They can't -- they can't touch it. Okay.
4 That's a requirement on an insurance
5 company.

6 MR. McCARTNEY:

7 Yes.

8 MR. THERIOT:

9 I -- I don't know how accounting-wise.
10 I'm not in the insurance business. Because
11 that money, while it's not touchable, may
12 still gain interest for somebody. I don't
13 know.

14 MR. McCARTNEY:

15 It may not be taxable either.

16 MR. THERIOT:

17 But --

18 MR. McCARTNEY:

19 You know, it's -- it's -- I'm just
20 asking, is this pure cost figure?

21 MR. THERIOT:

22 I -- I really don't know how they do
23 that, but I do know that they're -- the
24 money is -- they can no longer invest it as
25 they want to. It has to be set aside so

1 that it can be used for the claim.

2 MS. DELAFOSSE:

3 John may know --

4 MR. THERIOT:

5 Yes.

6 MS. DELAFOSSE:

7 -- anecdotally.

8 MR. THERIOT:

9 You guys know that on the phone? Any
10 of ya'll know the answer to that?

11 MR. WADE:

12 Well, Laura, chime in, but -- this is
13 John. The insurance companies have a little
14 bit of latitude what they do with that
15 money, but the accounting requirements are
16 strict enough that they have to have certain
17 funds set aside. Now, they can still invest
18 those funds and earn interest on it, but
19 that interest that they're earning is
20 actually figured in. For example, when an
21 insurance company, let's say an auto
22 insurer, has liabilities that it has to pay,
23 and they set those monies aside, the
24 interest that they're going to earn on that
25 is taken into account when they establish

1 what rates they ought to be charging the
2 consumer. So it's not just the liability,
3 but -- but the interest side comes in as
4 well. So -- so the money is available but
5 they have ways that they set it aside, to
6 keep it. They -- they have to have it
7 available to pay their claims, if you will.
8 But the interest that comes in helps reduce
9 that liability. I mean, they need to use
10 that to pay the claims. I -- I don't know
11 if that makes sense.

12 MR. McCARTNEY:

13 Well, yes. That -- that answered my -
14 - there's a factor in there that you're
15 factoring in to pay those claims, so it --
16 it -- it's a little bit of cushion in there.
17 That's all I was asking.

18 MR. WADE:

19 Yes. And -- and to Theresa's point,
20 there is no cushion here because we -- we
21 specifically did not include interest
22 earnings.

23 MR. McCARTNEY:

24 Okay. I was just curious.

25 MS. DELAFOSSE:

1 They know a lot.

2 Any other questions?

3 MR. McCARTNEY:

4 Will this -- one more question and
5 I'll be quiet. Will this study show up to
6 protect this fund as a reserve like it would
7 a reserve for an insurance company? The
8 legislature can come after this. This --
9 this fund is -- is -- is in the red now. It
10 can't (inaudible) it's obligations now,
11 according to this study. And they say,
12 "well, it's a big difference in the study
13 you had last year." Will it stand up?

14 MR. THERIOT:

15 Nobody can speculate on the future.

16 MR. McCARTNEY:

17 Well --

18 MR. THERIOT:

19 And nobody knows that those guys over
20 there do. But the -- the report is -- will
21 be forwarded to the legislative committee
22 that sees us.

23 MS. DELAFOSSE:

24 Yes. And, I mean -- and I've
25 mentioned this before, but the legislature

1 works, you know, they have a retirement
2 committee in both the Senate and the House
3 side and they work closely with the
4 actuaries. There's -- the legislative
5 auditors office has actuaries on contract
6 and then there are actuaries that work for
7 all the major retirement systems, and then
8 actuaries that work for the smaller
9 retirement systems as well, that do these
10 same reports, an evaluation every single
11 year. And the legislature absolutely relies
12 on those numbers. I mean, they -- that's
13 exactly how they calculated the unfunded
14 accrued liability so many years ago and
15 that's why we pay 40-something percent per
16 employee right now in the retirement to get
17 those systems caught up, because they're not
18 quite pay as you go where they pay out
19 exactly what they earn every year, but they
20 certainly are behind.

21 MR. McCARTNEY:

22 This --

23 MS. DELAFOSSE:

24 And they -- they -- they take those
25 reports into account. And they -- they make

1 decisions based on them. And they're --
2 they're serious about the UAL over there, so
3 I can't imagine they would be anything but
4 serious about the actuary report for this
5 program. And then, you know -- I guess,
6 your -- was your question about the ability
7 for money to be taken from the fund, as
8 well?

9 MR. McCARTNEY:

10 Yes.

11 MS. DELAFOSSE:

12 Because I wanted to address that too
13 and say, you know, the standard amount that
14 can be taken, when there's a mid-year
15 deficit, not any other time -- there has to
16 be a mid-year deficit. So for example, this
17 fiscal year there was not a deficit. There
18 was a surplus. So they can't -- they can't
19 do anything with any of our funds when
20 there's a surplus, not the environmental
21 trust fund, motor fuel trust fund, anything.
22 When that is triggered and there is a major
23 deficit, the most that they can take is five
24 percent of the budget. So the budget for
25 trust fund is around 16/17 million dollars,

1 which leaves -- that's about 700/800
2 thousand is the only cash that can be moved
3 by the Governor in those years --

4 MR. ST. ROMAIN:

5 Five percent of the budget.

6 MS. DELAFOSSE:

7 Five percent of budget. Not of
8 balance. Right.

9 So if anything were to be done to take
10 the balance, that would have to be a
11 separate legislative instrument. So --

12 MR. McCARTNEY:

13 Well, then that's what --

14 MS. DELAFOSSE:

15 -- there's a funds bill that they do
16 every year or anything -- you know, and they
17 could do that before, now, after, whenever.

18 MR. McCARTNEY:

19 Well, I think all our interest is the
20 same, to protect the fund.

21 MS. DELAFOSSE:

22 Absolutely.

23 MR. McCARTNEY:

24 And -- and they say Oklahoma is an
25 example. The legislature pulled all the

1 money out of their fund. And this is the
2 best insurance we can get to prove that this
3 money is obligated where it is, is that --

4 MR. FULTON:

5 And I would agree with --

6 MR. McCARTNEY:

7 That's kinda where --

8 MR. BAKER:

9 Well, you have a third party entity
10 that came in and looked at our fund. That
11 should give it credibility right there.

12 MS. DELAFOSSE:

13 Experts.

14 MR. ST. ROMAIN:

15 And how -- how often will they -- will
16 Pinnacle touch up their -- renew their --
17 their math? Is it annually or is it bi-
18 annually or --

19 MR. BAKER:

20 That's up to us. We can -- we can
21 choose whatever we want.

22 MS. DELAFOSSE:

23 Yes. And I think -- you know, my
24 opinion and I -- and I guess the opinion of
25 the undersecretary and the financial folks,

1 would be that since we haven't had this done
2 before, it may be prudent to do it maybe for
3 the first two or three years annually, but
4 then once we have -- you know, the -- the --
5 the more analysis they can do and the more
6 data they have, the more accurate it
7 becomes. So I think we would maybe be able
8 to push out the duration at that point. But
9 that decision can be made any time. I mean,
10 you know, we can do a contract every year.
11 We can do a three year contract. We can do
12 a one year contract. And then decide, let's
13 do it every two years, or we can push it out
14 to three or four. You know, if we see that
15 the numbers are steady and we're confident -
16 - we're confident with where they are. But
17 yes, that -- that's really up to -- up to
18 us and the department together.

19 MR. BAKER:

20 And remember that -- I know ya'll know
21 the number for the actuary this time is in
22 the \$90,000 range. That wasn't just for
23 this portion of it. There's a second phase
24 to this that actually is a little more money
25 than what this one was. So it -- the cost

1 of that overall, of year to year, would be a
2 lot less than the \$90,000 in theory.

3 MR. ST. ROMAIN:

4 Any other questions?

5 (No response.)

6 MR. ST. ROMAIN:

7 If there's no further questions, can
8 we get a motion to accept the actuary
9 report?

10 MR. FULTON:

11 I have a motion we accept it.

12 MR. ST. ROMAIN:

13 Okay, Gary. Can I get a second?

14 MR. McCARTNEY:

15 I second.

16 MR. ST. ROMAIN:

17 Joe, second.

18 All right. We'll move on to item
19 number five, the auditor status report. Cy?

20 MR. MORIN:

21 How are ya'll doing? Turn to page
22 five, please.

23 Okay. The first page of this report
24 shows that we currently have 17 open motor
25 fuel delivery fee audit cases.

1 MR. HILL

2 Kerry Hill calling in. Sorry I'm
3 late.

4 MR. ST. ROMAIN:

5 Hey Kerry.

6 MS. DELAFOSSE:

7 Hey Kerry. Oh, and before you get
8 going, one second. I don't know if ya'll
9 want -- do ya'll need John and Laura to stay
10 on the phone, or can we have them drop off?
11 I don't know if ya'll have any questions? I
12 know ya'll didn't have anymore questions,
13 but any -- any reason for them to stay?

14 (No response.)

15 MS. DELAFOSSE:

16 We can always email them questions.
17 Okay. Ya'll are good, John and Laura.

18 MR. WADE:

19 We appreciate it.

20 MS. DELAFOSSE:

21 Thank ya'll.

22 MR. BAKER:

23 Thank you, John.

24 MR. MORIN:

25 So, as of May 7th, when this report

1 was created, one case has been assessed for
2 unpaid late fees. We're awaiting payment of
3 \$132.09.

4 Seven cases are awaiting review.
5 And pending review, we have two potential
6 assessments, totaling \$1,141.40. One
7 potential credit of \$44.68. And four
8 potential clean audits with no assessment.

9 Eight cases are still in progress and
10 one case is awaiting closure. We received a
11 payment of \$996.46.

12 Since the last meeting, one case has
13 been added to the list. That was as of May
14 7th. We -- we've started five additional
15 audits since that time. So the next report,
16 you'll see five additional audits closing
17 out fiscal year '19.

18 We also removed five cases from the
19 list that were closed with no assessment.

20 Questions on that page?

21 (No response.)

22 MR. MORIN:

23 The second page is very similar, guys,
24 as it has been for many meetings. Four
25 cases -- four cases remaining. Three are at

1 ODR. As of May 6th, we have received no
2 payments from ODR. The second case on the
3 list continues to make \$200 payments every
4 month.

5 As of the time of this report, the
6 last payment was on April 4th. Since then,
7 we've received two more payments. So the
8 balance, instead of \$3,955, would now be
9 \$3,455.43.

10 As of today, the total balance of
11 these cases is \$103,105.20. \$400 less than
12 what you see here on the paper, plus the
13 additional court cost.

14 I believe that concludes my report.

15 MR. ST. ROMAIN:

16 Okay. Any questions for Cy?

17 (No response.)

18 MR. ST. ROMAIN:

19 Can we get a motion to accept the
20 auditor's report?

21 MR. BURNHAM:

22 Motion to accept.

23 MR. ST. ROMAIN:

24 All right. We've got Steve. Can I
25 get a second?

1 MR. GUILLORY:

2 Second.

3 MR. ST. ROMAIN:

4 All right. We'll move on to item
5 number six, the trust fund status report.
6 Jeff?

7 MR. BAKER:

8 Good afternoon. If you'll refer to
9 tab number six in your packets. These are
10 the figures for the third quarter of fiscal
11 year 2019.

12 During the third quarter of this year,
13 the trust fund has received 210
14 applications, totaling approximately 3.7
15 million dollars. 220 applications were
16 processed for payment during the fiscal
17 year, totaling 3.4 million dollars, with 32
18 applications returned with deficiencies.

19 As of the end of March 2019, the trust
20 fund had 78 pending applications to process,
21 which had requested total amounts of
22 approximately 1.3 million dollars.

23 You'll notice on this page too that we
24 -- we started grouping things by the
25 quarter. That was one of the board members

1 requested that at the -- a few quarters
2 back, and we -- we were able to get it done.
3 And we hope that that makes it easier for
4 ya'll to follow the quarter -- quarterly
5 numbers.

6 If ya'll have any future questions or
7 request on these forms, please let me know.
8 We'll -- we'll try to adapt, if we can.

9 If you'll turn the page. You'll see
10 the next page is title, report of cumulative
11 activities for the motor fuel trust fund.
12 This is kinda of a historical review of the
13 fund. You'll see our -- how many
14 applications we've received, processed,
15 total number of claims since the inception
16 of the fund. This is strictly here for
17 ya'lls historical information and resources.

18 Also, note towards the bottom, you'll
19 see that it's very small print, but you'll
20 notice the budgeted amounts for the fund for
21 each year is down there. So if you'll look
22 -- like I said, it's very small print
23 towards the bottom. It says, for fiscal
24 year 2019, our budgeted amount was 15.6
25 million dollars. So --

1 If you'll turn the page. You'll see
2 the handout entitled, monthly motor fuel
3 obligation determination. This is the
4 worksheet that list the various component
5 determinations of the potential obligation
6 against the fund to the end of March 2019.
7 For sites in the corrective action phase,
8 the outstanding liability of CAP budgets and
9 the estimated cost to the end of March 2019
10 was 18.7 million dollars, with approximately
11 9.4 million dollars in RAC estimated
12 additional cost to bring these sites to
13 closure. These are noted in sections G and
14 H on that form.

15 The fund obligation recognized for
16 sites without ROG approved CAP budgets is
17 23.2 million dollars. This is determined by
18 using a three-year average of site closure
19 cost and applying this average to the active
20 trust fund sites without current CAP
21 budgets.

22 The next section is the -- the fund
23 obligation recognized for three sites that
24 have been determined to be trust fund
25 eligible, however, have not submitted their

1 reimbursement application request. This
2 estimated obligation is approximately 7.6
3 million dollars. This is also calculated
4 using that three-year average site closure
5 cost.

6 The five-year projected fund
7 obligation related to the trust fund to
8 environmental fund transfer is 22.9 million
9 dollars. This estimate uses a three-year
10 average cost transferred from the trust fund
11 -- motor fuel trust fund to the
12 environmental fund and multiplies that times
13 five years. Thus, the total estimated
14 obligated amount was 81.9 million dollars,
15 which represents a 3.3 million dollar
16 increase compared to last quarter's
17 estimates.

18 Please note the handouts provided on
19 your -- on the table. This -- there's two
20 forms here. One is the actual sites that
21 were included and that have corrective
22 action plans. And the other is sites that
23 currently do not have corrective action
24 plans. This is a breakdown of all the
25 individual sites. It list their total cost

1 so far. It list all the different
2 categories that go into the obligation
3 determination. But it gives you an idea of
4 the -- of the individual sites that are --
5 that go into this.

6 If you'll note on the next page in the
7 packet. You'll see in the packet -- the
8 page entitled incidents determined that are
9 eligible for the motor fuel trust fund.
10 This report shows the number of potential
11 trust fund sites that were reviewed and made
12 eligible. During the current year, it was
13 36. And these represented 42 active
14 incidents.

15 And if you'll turn to the next page,
16 you'll see sites that were NFA'd during this
17 fiscal year. And you'll see that the trust
18 fund has received no further action statuses
19 for 29 locations during this fiscal year.

20 Some points of interest. The trust
21 fund and the RAC stakeholders have been
22 developing revised guidance related to soil
23 -- soil and contaminated waste water
24 disposal. The previous guidance needed to
25 be updated to add clarity and address some

1 habitual situations. This guidance, along
2 with some additional small clarifications
3 were added to a draft -- draft version of
4 the trust fund guidance document and were
5 provided to the board members this morning
6 in an email. If ya'll -- we -- we asked
7 ya'll in the email to get back with us by
8 next Friday. We hope to implement this
9 revised version by July 1, 2019.

10 It's not a lot of major changes. It's
11 pretty minor. The changes related to the
12 soil and the waste disposal were necessary.
13 We have a lot of habitual issues that we
14 were trying to address. And we think this
15 will -- will help a lot.

16 That's pretty much it for me. Does
17 anybody have any questions?

18 (No response.)

19 MR. ST. ROMAIN:

20 All right. No questions. Can I get a
21 motion to accept the trust fund status
22 report?

23 MR. GUILLORY:

24 I make a motion.

25 MR. ST. ROMAIN:

1 All right. Michael made a motion.

2 Can we -- can we get a second?

3 MR. FULTON:

4 Second.

5 MR. ST. ROMAIN:

6 Okay. Gary seconded. Thank you.

7 We'll move on to item number seven,
8 the third party claim status with Perry.

9 MR. THERIOT:

10 I'm happy to report that there's been
11 no changes. No new suits and no new
12 settlements. And we haven't received any
13 third party claims in quite a while, so it's
14 a good thing that we're not getting any.

15 MR. ST. ROMAIN:

16 Any questions for Perry?

17 (No response.)

18 MR. ST. ROMAIN:

19 All right. We'll move on to item
20 eight, other business. And we have a bullet
21 there for discussion for change in
22 deductible.

23 MR. BAKER:

24 Each year, the board is required to
25 look at the deductibles and make

1 recommendations to the secretary as to
2 whether we need to make changes.

3 A couple of years ago, the board
4 recommended we drop the in-compliance
5 deductible from \$5,000 down to zero. It's
6 up to ya'll to look at that and make
7 recommendations on an annual basis. So this
8 is the -- the -- usually the quarter that we
9 do that. So we want to give ya'll that
10 opportunity.

11 Just to give you an idea. Right now,
12 we've been looking at the numbers for the
13 last couple of years and our average out-of-
14 compliance versus in-compliance is about 40
15 -- about 40 to -- 40 percent out-of-
16 compliance, 60 percent in-compliance.
17 Which, if you compare that to seven or eight
18 years ago, it was actually the reverse.

19 MR. ST. ROMAIN:

20 Right.

21 MR. BAKER:

22 We actually had about 60 percent out-
23 of-compliance and 40 percent in-compliance.
24 So we're making some headway there.

25 If you wanted to recommend changes to

1 the out-of-compliance deductible, please
2 recognize that the statute says right now,
3 you can't reduce it below the existing
4 \$10,000. So to reduce that or make any
5 changes there, it would require statute
6 changes.

7 MR. ST. ROMAIN:

8 Okay. So I guess if we have a -- any
9 motions to change them, we'll take them, but
10 if there's no motions to change it, then we
11 just leave it alone and go forward?

12 MS. DELAFOSSE:

13 Yes.

14 MR. ST. ROMAIN:

15 Any discussion, guys?

16 (No response.)

17 MR. ST. ROMAIN:

18 I think everybody is good. Ya'll all
19 good?

20 MR. FULTON:

21 We don't have any concerns for -- for
22 the fees with where it's at right now.

23 MR. ST. ROMAIN:

24 Okay.

25 MR. BURNHAM:

1 Is there a mechanism by which we can
2 proceed with remediation when a -- I know
3 this is not the first time this has been
4 brought up -- when an owner cannot pay the
5 deductible?

6 MR. FULTON:

7 We do have some provisions where we
8 can use the liens provision. And we are
9 working with Perry to draft a letter. We
10 are doing that now from time to time.

11 And it's only -- it can only be used
12 on -- on stations that are -- that's not in
13 service. They're -- they're not in service.

14 MR. THERIOT:

15 No longer in business.

16 MR. FULTON:

17 So that's a big issue with regard to,
18 if they can't meet their deductible, they're
19 still dispensing fuel and they can't pay,
20 then why -- some of the sites, issues like
21 that, we can use the red tag ability. But
22 we're careful when we do that. It's not
23 something we would prefer to do.

24 MR. BURNHAM:

25 Thank you.

1 MR. GUILLORY:

2 I'll make a motion to accept the
3 deductible as it is.

4 MR. ST. ROMAIN:

5 Okay. I got a motion from Michael to
6 keep the deductibles as is.

7 MR. McCARTNEY:

8 Second.

9 MR. ST. ROMAIN:

10 Second. All in favor?

11 (All indicated "aye".)

12 MR. ST. ROMAIN:

13 All right. Any other business?

14 MS. DELAFOSSE:

15 I would like to share that yesterday,
16 the Governor signed Act 362, which is a bill
17 that's done every year, the funds bill.
18 Sometimes, we don't want to be in the funds
19 bill, but this time we were in it and it's
20 good news. The state treasurer was
21 authorized and directed to transfer one and
22 a half million dollars back into the fund
23 from the state general fund.

24 So I know ya'll probably remember a
25 couple of years back in the budget bill,

1 House Bill 1, about seven million dollars
2 was transferred from the attorney general's
3 escrow that was ours from the lawsuits into
4 the state general fund. And so we've been
5 working with the Governor's office to
6 develop a plan to get the fund paid back for
7 that amount. And so that's -- that's a good
8 start, a million and a half dollars more for
9 the treasurer's office to have that happen
10 during next fiscal year, beginning in July.

11 So I just wanted to share that news
12 with ya'll. And it was signed yesterday by
13 the Governor.

14 MR. McCARTNEY:

15 How did they come up with that figure?
16 Is that just --

17 MS. DELAFOSSE:

18 What?

19 MR. McCARTNEY:

20 That one and a half over seven?

21 MS. DELAFOSSE:

22 I have no clue. It's just an amount
23 they came up with that they felt like they
24 could give us.

25 MR. McCARTNEY:

1 That will happen next year --

2 MS. DELAFOSSE:

3 Oh, no. We're gonna keep working on
4 it. We're gonna get the rest. That's just
5 a start.

6 MR. McCARTNEY:

7 A million and a half a year, is that -
8 -

9 MS. DELAFOSSE:

10 I don't know. I don't think they
11 know.

12 MR. ST. ROMAIN:

13 It's a one time number.

14 MS. DELAFOSSE:

15 Well, I mean, I think they had some
16 surplus money this year and that was one of
17 the -- one of the decisions they made with -
18 - with how to spend that surplus. So it
19 works out for us.

20 And that's all I have.

21 MR. ST. ROMAIN:

22 I guess one thing I have before we
23 close the meeting is, I have a date of
24 August 15th for the next meeting. Is that
25 still accurate?

1 MR. BAKER:

2 Yes.

3 MR. ST. ROMAIN:

4 Is that here or is that in Alexandria?

5 MR. BAKER:

6 Thank you for bringing that up. We
7 were actually going to comment on that.

8 We're going to actually have that
9 meeting in Alexandria.

10 MR. ST. ROMAIN:

11 Okay.

12 MR. BAKER:

13 The same location we had. It's the
14 LSU Ag Center there. It's kinda south of
15 Alexandria. We thought it worked out real
16 well. We were trying to -- you know, ya'll
17 -- ya'll give us your feedback, please. We
18 thought it would be a good idea to try to
19 move it around at least once or twice a year
20 to try to make it easier for the guys coming
21 from North Louisiana to make it down. They
22 don't have to travel quite so far.

23 MR. ST. ROMAIN:

24 I don't think you'll get a complaint.
25 It's probably closer for all of us. Even

1 Kerry on the phone.

2 All right. If no other business, I
3 guess we'll ask for a motion to close the
4 meeting.

5 MR. BURNHAM:

6 Motion to close.

7 MR. McCARTNEY:

8 Second.

9 MR. ST. ROMAIN:

10 All right. Guys, this meeting is
11 adjourned.

12 THE MEETING ADJOURNED AT 1:55 P.M.

13 * * * * *

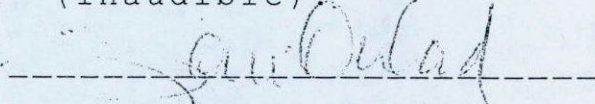
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Lori Overland, C.C.R.

97083

In The Matter Of:

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

*MEETING
June 20, 2019*

*Associated Reporters, Inc.
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In The Matter Of:

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

MEETING

June 20, 2019

*Associated Reporters, Inc.
2431 South Acadian Thruway
Suite 550
Baton Rouge, La. 70808*

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Page 1

1
2
3 STATE OF LOUISIANA
4 DEPARTMENT OF ENVIRONMENTAL QUALITY
5 MOTOR FUELS UNDERGROUND STORAGE TANK TRUST
6 FUND ADVISORY BOARD
7
8
9
10
11
12 The above-entitled meeting was held at the
13 LDEQ, Galvez Building, Conference Center, 602
14 North 5th Street, Baton Rouge, Louisiana,
beginning at 1:11 p.m., on June 20, 2019.
15
16
17
18
19 BEFORE:
20 Lori B. Overland
21 Certified Court Reporter
22 In and For the State of
23 Louisiana
24
25

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Chairman
4
5 Jeff Baker
Gary Fulton
Cy Morin
Perry Theriot
6 Kerry Hill, via telephone
Roger Bright, via telephone
7 Theresa Delafosse
Michael Guillory
Nathan McBride
8 Joe McCartney
Steve Burnham
9 Durwood Franklin
10
11 Melissa Vizinat
Laura Maxwell, via telephone
John Wade, via telephone
12
13 Sam Broussard
Jason Efferson
Clinton Twilley
14 Kyle Blanchard
Roger Gingles
15 Natalie Isaacks
Jill Carter
16 Karyn Andrews
Steven Waguespack
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Page 3

1 I N D E X
2
3 EXAMINATION: PAGE(S) :
4 None
5 EXHIBITS:
6 None
7
8 REPORTER'S PAGE 56
9 REPORTER'S CERTIFICATE 57
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1 * * * * *
2 MR. ST. ROMAIN:
3 All right. I'd like to call the
4 meeting to order. We'll start with a roll
5 call. I guess we'll -- we'll go around.
6 Start with Perry. Say your name and who
7 you're with.
8 MR. THERIOT:
9 Perry Theriot, Attorney with the
10 Louisiana Department of Environmental
11 Quality.
12 MR. FRANKLIN:
13 Durwood Franklin, DEQ Trust Fund.
14 MR. BAKER:
15 Jeff Baker, DEQ Trust Fund.
16 MR. FULTON:
17 Gary Fulton, DEQ.
18 MR. McBRIDE:
19 Nathan McBride, Louisiana Mid-
20 Continent Oil and Gas Association.
21 MR. BURNHAM:
22 Steve Burnham, Engineering Associates.
23 MR. McCARTNEY:
24 Joe McCartney, Louisiana Oil
25 Marketers.

1 MR. ST. ROMAIN:
2 Nick St. Romain, Louisiana Oil
3 Marketer Association.
4 MR. GUILLORY:
5 Michael Guillory, Louisiana Oil
6 Marketer Association.
7 MS. DELAFOSSE:
8 Theresa Delafosse, Louisiana DEQ
9 Financial Services.
10 MR. MORIN:
11 Cy Morin, LDEQ Audit.
12 MS. VIZINAT:
13 Melissa Vizinat, DEQ Trust Fund.
14 MS. ANDREWS:
15 Karyn Andrews, DEQ.
16 MS. CARTER:
17 Jill Carter, DEQ Legal.
18 MR. EFFERSON:
19 Jason Efferson, DEQ Trust Fund.
20 MR. BLANCHARD:
21 Kyle Blanchard, DEQ UST.
22 MS. ISAACKS:
23 Natalie Isaacks, Louisiana Oil
24 Marketers.
25 MR. WAGUESPACK:

1 Got a motion from Gary. Any seconds?
2 MR. GUILLORY:
3 Second.
4 MR. ST. ROMAIN:
5 All right. All in favor?
6 (All indicated "aye".)
7 MR. ST. ROMAIN:
8 Okay. We'll move on to item number
9 three, the financial services report with
10 Theresa Delafosse.
11 MS. DELAFOSSE:
12 Good afternoon everybody. If you'll
13 turn to tab three in your packet, we have
14 the financial information as of the third
15 quarter of fiscal year 2019.
16 The first page, ya'll are use to
17 seeing, we have the three different columns
18 with the final financial statement for the
19 end of fiscal year 2018. The center column
20 is the third quarter financial statement, as
21 of March 31st, 2018. And the third column
22 is the fiscal year 2019 statement as of
23 March -- March 31st, 2019, for the first
24 three quarters of this fiscal year.
25 It's pretty much business as usual as

1 Steven Waguespack, Louisiana Oil
2 Marketers.
3 MR. GINGLES:
4 Roger Gingles, DEQ.
5 MR. TWILLEY:
6 Clinton Twilley, DEQ.
7 MR. ST. ROMAIN:
8 And anyone on the phone.
9 MR. WADE:
10 This is John Wade.
11 MS. MAXWELL:
12 Laura Maxwell from Pinnacle Actuarial
13 Resources.
14 MR. BRIGHT:
15 Roger Bright with Jones Environmental.
16 (An off-the-record discussion followed.)
17 MR. ST. ROMAIN:
18 Okay. All right. Now, we'll move on
19 to consideration and adoption of the March
20 19, 2019 board meeting minutes, as written.
21 Do we have any motions to accept the board
22 minutes, as written?
23 MR. FULTON:
24 Motion to accept it.
25 MR. ST. ROMAIN:

1 far as the money is concerned. You know, we
2 collected, at this -- at this time last
3 year, we had collected 16.5 million. At
4 this -- at that -- at the same time this
5 year, we collected 17.6 million.
6 As you can see in the third row, our
7 interest earnings are still -- still up
8 there, still growing. Which is great for
9 the abandoned tank work that we're able to
10 do it with those funds. Year-to-date, we
11 have collected 2.1 million dollars.
12 Our claim for reimbursement are
13 showing down a little bit at this point, as
14 compared to last year. I think they may
15 just be some timing of how -- how things are
16 shaking out this year. We don't have our --
17 we don't have our final numbers yet, of
18 course, for the whole year.
19 And then at the bottom, you see the
20 cash balance without the interest. Again,
21 because that interest revenue is reserved
22 for the abandoned tank work. It is 109.3
23 million dollars. Our total cash balance is
24 119, which means we have about ten million
25 dollars available for that abandoned tank

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1 work.
2 Our current site liability, which
3 that's a new number here, is the number that
4 was determined by Pinnacle, by John and
5 Laura, that 153 million dollars. That
6 represents the liability -- the estimated
7 liability on the current sites that we have
8 in our universe, which gives us a negative
9 equity balance of 43 million dollars.
10 Ya'll are use to seeing there --
11 instead of the actuary number, you're use to
12 seeing the obligation calculation that Jeff
13 does, which looks just more at the CAP
14 budgets and then uses -- uses the average
15 cost to close for the remaining sites
16 without CAP budgets to estimate the
17 obligation on those sites. But again,
18 that's a -- that number is a little,
19 obviously, lower, but it does not include --
20 it's not as accurate, we believe.
21 So if you -- if you use that number,
22 we would have a positive equity balance.
23 But -- but that -- that's some information
24 about that page.
25 The next page is our projection of

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1 what we anticipate the transfer will be from
2 the motor fuel trust fund to the
3 environmental trust fund to make the
4 department whole for the cost of operating
5 the program. It's -- from -- from last year
6 to this year, it should be fairly steady.
7 There's a slight decrease projected at this
8 time of right around \$60,000. So again, our
9 expenditures are -- are in line with -- with
10 what they were last year.
11 We did have additional federal
12 revenues available, which is great. We had
13 an increase there.
14 So that's all I have this time. But
15 we'll do the full, long presentation at the
16 year-end meeting, which will be held in
17 August, hopefully.
18 So any questions?
19 MR. BURNHAM:
20 Theresa, I hope I can make this
21 question make sense --
22 MS. DELAFOSSE:
23 Okay.
24 MR. BURNHAM:
25 -- but on the -- on the getting in the

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1 negative numbers, once you take in current
2 site liability, what time frame is that
3 based on? In other words, is there -- is
4 there a way to say that would take ten year
5 -- if -- if everything stayed the same with
6 income and -- and spending every year, how
7 long would it take us to get in to those
8 negative numbers where we were out of money?
9 Is that a five-year thing or ten-year thing
10 or a -- how long is the --
11 MS. DELAFOSSE:
12 That may be a better question for the
13 actuaries -- and -- but -- in that topic,
14 which is next on the agenda. But I could
15 look at the report. I mean, it -- no, it
16 wouldn't be five years. I'd be longer out
17 than that. Based on their projections in
18 the report, which again, is the next agenda
19 item, the fund will continue to grow. They
20 did project that based on our current --
21 current fee level.
22 MR. BURNHAM:
23 Okay. Well --
24 MS. DELAFOSSE:
25 But it will begin to decrease in about

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1 ten years.
2 MR. BURNHAM:
3 -- I -- I just -- all right. 2032 is
4 what they --
5 MS. DELAFOSSE:
6 Yes.
7 MR. BURNHAM:
8 Yes.
9 MS. DELAFOSSE:
10 We'll head in the other direction in
11 about ten years.
12 MR. BURNHAM:
13 Okay. That's what I wanted to know.
14 MS. DELAFOSSE:
15 Anything else?
16 (No response.)
17 MR. ST. ROMAIN:
18 All right. No further questions,
19 we'll move on to -- I guess we need a -- do
20 we need a motion to accept that, Perry?
21 MR. McCARTNEY:
22 I move to accept the financials.
23 MR. ST. ROMAIN:
24 Okay.
25 MR. GUILLORY:

1 Second that.
2 MR. ST. ROMAIN:
3 All right. We have motion and second
4 to accept the financial services report.
5 We'll move on to item four, the
6 actuary report.
7 MS. DELAFOSSE:
8 Okay. So this is a -- a recurring
9 item, of course, for us. But since that
10 time, we have provided the report to
11 everyone electronically. It is in EDMS, our
12 electronic document management system. And
13 as well, we have available this two-page
14 summary that I wrote and had reviewed by
15 John and Laura, again, with Pinnacle.
16 I hope ya'll had a chance to review
17 this. It does give a -- a lot more basic
18 yet and short understanding of the report.
19 Again, their -- the calculation that
20 the actuaries performed estimates that the
21 remaining liability on our current sites is
22 153 million dollars. And the liabilities
23 estimated on future sites is 378.7 million
24 dollars.
25 Of course -- and they can -- ya'll --

1 increases each year through 2037, at which
2 point it would begin to decline. With the
3 reduced fee, the project -- so if we were to
4 cut the fee in half, the projected cash
5 balance of the fund would reach zero dollars
6 during fiscal year 2032.
7 So we did provide a lot of data to
8 Pinnacle. You'll see that list there under
9 the data heading.
10 The actuary used three methods to
11 calculate the current and future
12 liabilities. I've summarized those methods.
13 They're at the top of page two. And those
14 are outlined in the report, as well.
15 I don't know if ya'll have any
16 specific questions about those. It would
17 probably be best, again, for John and Laura.
18 But they -- and these are -- these are
19 standard methods that are used for insurance
20 or different -- different types of programs
21 that actuaries evaluate. And then they
22 evaluate those three methods compared to
23 each other to determine and pick a high and
24 low, depending on which method had the low,
25 which method had the high and then

1 ya'll pipe in at any time if I say anything
2 that's not accurate. But I would say that
3 the number -- their -- they have a lot more
4 -- the -- the future site number is -- is
5 not as certain, because there are so many
6 more variables as far -- that can change
7 going into the future, you know, time,
8 value, money, guidance document changes, the
9 uncertainty of what those sites will look
10 like if we ever change the -- the CAP from
11 one and a half million to something higher,
12 depending on what sites come in our universe
13 and -- and what we decide to do, et cetera,
14 any changes in deductible. You know, there
15 are so many things that could change the --
16 the further out we go. So there's a lot of
17 unknowns, of course, with the future sites.
18 They also took into account the
19 administrative costs and did a -- a --
20 there's sheets, of course, in the report
21 that show the projected equity balance at
22 both the current fee and the reduced fee,
23 using that formula as outlined in the
24 results section of my summary.
25 With the current fee, the cash balance

1 calculating an average for those, to kinda
2 smooth things out and make sure that we're
3 not selecting the method that always has the
4 highest or always has the lowest, to make
5 sure we're -- we're being reasonable.
6 And then they -- they use two methods
7 for the future incidents. And that's
8 outlined under that section, but I -- I
9 think more pertinent for our discussion,
10 most likely is the current incidents. So
11 I'll -- I'll leave that -- leave that as it
12 is.
13 So we did not include a copy of the
14 report because we sent the link beforehand.
15 But I have a copy and Jeff may have a copy,
16 if anybody needs to see anything specific,
17 or didn't -- didn't have access to the that.
18 So that's -- that's a little high
19 level look at the actuary report. And
20 again, John and Laura are both on the phone
21 and ready to answer any questions on it.
22 MR. McCARTNEY:
23 I have one. And -- and -- and these
24 guys explained it to me a while ago, but I
25 just want to be clear. These -- this 200 to

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1 250 sites, future sites to clean up, are
2 those specific sites or is that a number of
3 sites you feel like will probably come up
4 over the --
5 MR. FULTON:
6 They're specific.
7 MS. DELAFOSSE:
8 Identified sites.
9 MR. FULTON:
10 They're identified sites.
11 MR. McCARTNEY:
12 They're identified sites?
13 MR. FULTON:
14 Yes.
15 MR. ST. ROMAIN:
16 Are -- are they trust fund eligible?
17 MR. FULTON:
18 Some of them are, some of them aren't.
19 It just really depends. And we're -- we're
20 trying to work through that now.
21 MR. ST. ROMAIN:
22 Okay.
23 MR. BAKER:
24 Joe, what that list is, is we looked
25 at all the active incidents in our data

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1 that Jeff --
2 MS. DELAFOSSE:
3 They're not in their -- they're not in
4 their 153 million. They're in their other
5 number for future. They're taken into
6 account for future, because they did project
7 going forward, an increase of the number of
8 sites that would come into the program each
9 year. And part of that is the 250, as we
10 work through those and, you know, get the
11 ones -- beginning to get cleaned up that are
12 eligible and bring them into the fund, they
13 did project that the number of sites would
14 increase.
15 MR. McCARTNEY:
16 But those 250 aren't included in the
17 153 million --
18 MS. DELAFOSSE:
19 They are not. That is correct. They
20 are not included in the 153.
21 MR. McCARTNEY:
22 Okay.
23 Do you have any idea what that'd be?
24 I mean, you got a rule of thumb what -- an
25 average --

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1 system and we looked at all the ones that
2 are in the trust fund data system and we
3 looked at the difference. We broke out the
4 ones that aren't -- that have been requested
5 eligibility and -- and were denied, which
6 were about 50 to 60. And the rest of them
7 were in that 200 to 250 count that we told
8 you before. And Gary's group is going
9 through and vetting those right now.
10 MR. McCARTNEY:
11 What kind of -- did you put a -- an
12 average cost on each one of those?
13 MR. FULTON:
14 We didn't. Now, I -- I don't know if
15 they were --
16 MS. DELAFOSSE:
17 So those -- that's only part of their
18 future incident calculation, the 250.
19 That's, again, not part of the current
20 incident, because those -- they're still
21 unknown, what the cost will look like and
22 they haven't come into the program yet.
23 MR. ST. ROMAIN:
24 Those are tanks that are in the
25 actuarial's numbers, but not in the numbers

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1 MR. BAKER:
2 Our average right now is running
3 between 250 and 272, 273.
4 MR. McCARTNEY:
5 Right.
6 MR. BAKER:
7 That's what it's been running the last
8 couple of years.
9 MR. McCARTNEY:
10 I -- I was just curious.
11 MR. ST. ROMAIN:
12 So I -- I have a question, I guess
13 more around the -- the regulations or
14 legislation that -- that governs -- governs
15 how the trust fund works is -- and I don't
16 have it with me and haven't read over them
17 recently. But it seems I remember that --
18 that the calculation of the allocated
19 portion was explicitly listed out in those
20 regulations. And it basically is the
21 calculation that Jeff runs and that's what
22 the regulations say is how we determine
23 allocated balance.
24 MS. DELAFOSSE:
25 That was in the 20 -- in 30:2195.3,

1 but that was amended out -- or repealed out
2 in 20 -- in last year.
3 MR. ST. ROMAIN:
4 To allow an actuarial number to be the
5 number?
6 MS. DELAFOSSE:
7 It's not spelled out at all now what -
8 - what number should be --
9 MR. THERIOT:
10 When -- when the board was given the
11 authority to recommend changes in the amount
12 of withholding, that portion was removed
13 because it was no longer deemed necessary.
14 Just the maximum amount would be okay.
15 That's why we commissioned the study, to
16 begin with, was to find -- to assist the
17 board in taking a look at what future
18 liabilities of the fund actually are, the
19 way that insurance companies usually do it.
20 And so that's why we hired the actuary. And
21 while I think we still look at those numbers
22 --
23 MR. ST. ROMAIN:
24 Isn't that 40 million trigger point of
25 the off/on, calculated off of those -- the

1 shall be determined by subtracting from the
2 cash balance at the end of each month, the
3 sum of total estimates made by the board of
4 eligible payment request, pending review,
5 and the outstanding balance of the estimated
6 cost to be incurred with corrective action
7 plans approved by the department." So as
8 it's written exactly like that, we -- you
9 know, we adjusted it throughout the years, I
10 guess, and added it to sites that didn't
11 have CAPs. But that's written to just say
12 CAPs. If I'm reading --
13 MR. BAKER:
14 But it -- but that --
15 MS. DELAFOSSE:
16 But it's not in there anymore.
17 MR. BAKER:
18 That's the old -- you know, for
19 clarity, that was the old language.
20 MS. DELAFOSSE:
21 Yes.
22 MR. BAKER:
23 That was removed.
24 MS. DELAFOSSE:
25 Yes.

1 numbers that Jeff --
2 MR. THERIOT:
3 I think that was taken out. The 40,
4 it's -- it's not there anymore. And anyway,
5 it says, obligated funds, but doesn't define
6 what obligated funds are. You could say
7 that the 153 that they're talking about are
8 obligated because they are going to be used
9 for current sites that are in the system.
10 I'm not sure -- I was looking it up to make
11 sure how -- how it's actually worded now.
12 Let me see if I can find it.
13 MR. ST. ROMAIN:
14 I was just more curious, based on the
15 regulations, could this actuary number even
16 be admitted as the unallocated balance for
17 determining the trigger point --
18 MS. DELAFOSSE:
19 Yes. So what you're referring to is
20 this section ten --
21 MR. ST. ROMAIN:
22 Yes.
23 MS. DELAFOSSE:
24 -- that was repealed. It read, "For
25 these purposes, the unobligated balance

1 MR. BAKER:
2 And then was replaced with the board's
3 recommendation.
4 MR. ST. ROMAIN:
5 But the trigger point of the 40
6 million cut on it would just be 20 million?
7 MR. BAKER:
8 That's -- that's -- that's all been
9 removed.
10 MR. ST. ROMAIN:
11 That's all been removed.
12 MR. BAKER:
13 Yes.
14 MR. McCARTNEY:
15 Perry, let me ask you one thing just -
16 -
17 MR. THERIOT:
18 I've got the statute out.
19 MR. McCARTNEY:
20 If this actuarial firm did this the
21 same way they would for insurer (inaudible)
22 figured their reserve, do they figure in
23 interest, percentages on top of this cost?
24 MR. THERIOT:
25 I was looking through Theresa's

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1 report, but you're -- you're free to ask
2 them. They're on the phone, you know. They
3 could tell you what they used. But I did
4 notice in Theresa's report, the interest was
5 excluded from the calculation because it's
6 dedicated to the abandoned tank fund.
7 MS. DELAFOSSE:
8 Is that your question, the interest
9 money?
10 MR. McCARTNEY:
11 Yes.
12 MS. DELAFOSSE:
13 Yes.
14 MR. McCARTNEY:
15 Is -- is this figured like an
16 insurance company where they add some
17 interest figured in there, future interest,
18 and debt cost?
19 MS. DELAFOSSE:
20 Oh, like future interest earnings?
21 MR. McCARTNEY:
22 Yes.
23 MS. DELAFOSSE:
24 Well, the interest earnings -- since -
25 - since the interest earnings are reserved

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1 for the abandoned tank program, they're not
2 included in this analysis.
3 MR. McCARTNEY:
4 Because that interest earned on money
5 tide up and things like that -- I'm talking
6 about, is -- is there any padding in this or
7 is this cost, this actual --
8 MR. THERIOT:
9 I -- I think I might be understanding
10 what you're asking. When the department
11 takes in funds and it's deposited into this,
12 handled by the treasure, I'm sure, for the
13 state, that -- that fund and with all the
14 money that's deposited, it does accrue
15 interest. But in the case of the trust
16 fund, any monies from that fund that's
17 sitting there goes to the abandoned tank
18 fund.
19 MR. McCARTNEY:
20 No. What I'm -- what I'm talking
21 about, if I had one figured for me, I want a
22 little cut in that fee in there when I'm
23 figuring my cost. Is this -- are these
24 figures at -- at today's cost or they --
25 MR. THERIOT:

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1 No. As a matter of fact, you can ask
2 the adjustors more specifically but I think
3 they figure in inflation as one of the
4 things that this is -- that is taking --
5 MS. DELAFOSSE:
6 Time, value, money and the increase of
7 -- in cost. Like the guidance document that
8 we were -- we are gonna continue to
9 reevaluate every two to three years to
10 determine if we need raise any of those
11 rates.
12 MR. THERIOT:
13 Yes.
14 MS. DELAFOSSE:
15 That's taken into account, yes.
16 MR. McCARTNEY:
17 Okay. All I was asking is, if you're
18 figuring for an insurance company, they've
19 got a profit figure figured in there.
20 MS. DELAFOSSE:
21 Right. No, we don't have a -- nothing
22 like that would be in --
23 MR. THERIOT:
24 Yes. Well, no, I think you're --
25 you're confusing two concepts. When an

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1 insurance company receives a claim, they are
2 required by law to set aside that money.
3 They can't -- they can't touch it. Okay.
4 That's a requirement on an insurance
5 company.
6 MR. McCARTNEY:
7 Yes.
8 MR. THERIOT:
9 I -- I don't know how accounting-wise.
10 I'm not in the insurance business. Because
11 that money, while it's not touchable, may
12 still gain interest for somebody. I don't
13 know.
14 MR. McCARTNEY:
15 It may not be taxable either.
16 MR. THERIOT:
17 But --
18 MR. McCARTNEY:
19 You know, it's -- it's -- I'm just
20 asking, is this pure cost figure?
21 MR. THERIOT:
22 I -- I really don't know how they do
23 that, but I do know that they're -- the
24 money is -- they can no longer invest it as
25 they want to. It has to be set aside so

1 that it can be used for the claim.
2 MS. DELAFOSSE:
3 John may know --
4 MR. THERIOT:
5 Yes.
6 MS. DELAFOSSE:
7 -- anecdotally.
8 MR. THERIOT:
9 You guys know that on the phone? Any
10 of ya'll know the answer to that?
11 MR. WADE:
12 Well, Laura, chime in, but -- this is
13 John. The insurance companies have a little
14 bit of latitude what they do with that
15 money, but the accounting requirements are
16 strict enough that they have to have certain
17 funds set aside. Now, they can still invest
18 those funds and earn interest on it, but
19 that interest that they're earning is
20 actually figured in. For example, when an
21 insurance company, let's say an auto
22 insurer, has liabilities that it has to pay,
23 and they set those monies aside, the
24 interest that they're going to earn on that
25 is taken into account when they establish

1 They know a lot.
2 Any other questions?
3 MR. McCARTNEY:
4 Will this -- one more question and
5 I'll be quiet. Will this study show up to
6 protect this fund as a reserve like it would
7 a reserve for an insurance company? The
8 legislature can come after this. This --
9 this fund is -- is -- is in the red now. It
10 can't (inaudible) it's obligations now,
11 according to this study. And they say,
12 "well, it's a big difference in the study
13 you had last year." Will it stand up?
14 MR. THERIOT:
15 Nobody can speculate on the future.
16 MR. McCARTNEY:
17 Well --
18 MR. THERIOT:
19 And nobody knows that those guys over
20 there do. But the -- the report is -- will
21 be forwarded to the legislative committee
22 that sees us.
23 MS. DELAFOSSE:
24 Yes. And, I mean -- and I've
25 mentioned this before, but the legislature

1 what rates they ought to be charging the
2 consumer. So it's not just the liability,
3 but -- but the interest side comes in as
4 well. So -- so the money is available but
5 they have ways that they set it aside, to
6 keep it. They -- they have to have it
7 available to pay their claims, if you will.
8 But the interest that comes in helps reduce
9 that liability. I mean, they need to use
10 that to pay the claims. I -- I don't know
11 if that makes sense.
12 MR. McCARTNEY:
13 Well, yes. That -- that answered my -
14 - there's a factor in there that you're
15 factoring in to pay those claims, so it --
16 it -- it's a little bit of cushion in there.
17 That's all I was asking.
18 MR. WADE:
19 Yes. And -- and to Theresa's point,
20 there is no cushion here because we -- we
21 specifically did not include interest
22 earnings.
23 MR. McCARTNEY:
24 Okay. I was just curious.
25 MS. DELAFOSSE:

1 works, you know, they have a retirement
2 committee in both the Senate and the House
3 side and they work closely with the
4 actuaries. There's -- the legislative
5 auditors office has actuaries on contract
6 and then there are actuaries that work for
7 all the major retirement systems, and then
8 actuaries that work for the smaller
9 retirement systems as well, that do these
10 same reports, an evaluation every single
11 year. And the legislature absolutely relies
12 on those numbers. I mean, they -- that's
13 exactly how they calculated the unfunded
14 accrued liability so many years ago and
15 that's why we pay 40-something percent per
16 employee right now in the retirement to get
17 those systems caught up, because they're not
18 quite pay as you go where they pay out
19 exactly what they earn every year, but they
20 certainly are behind.
21 MR. McCARTNEY:
22 This --
23 MS. DELAFOSSE:
24 And they -- they -- they take those
25 reports into account. And they -- they make

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1 decisions based on them. And they're --
2 they're serious about the UAL over there, so
3 I can't imagine they would be anything but
4 serious about the actuary report for this
5 program. And then, you know -- I guess,
6 your -- was your question about the ability
7 for money to be taken from the fund, as
8 well?
9 MR. McCARTNEY:
10 Yes.
11 MS. DELAFOSSE:
12 Because I wanted to address that too
13 and say, you know, the standard amount that
14 can be taken, when there's a mid-year
15 deficit, not any other time -- there has to
16 be a mid-year deficit. So for example, this
17 fiscal year there was not a deficit. There
18 was a surplus. So they can't -- they can't
19 do anything with any of our funds when
20 there's a surplus, not the environmental
21 trust fund, motor fuel trust fund, anything.
22 When that is triggered and there is a major
23 deficit, the most that they can take is five
24 percent of the budget. So the budget for
25 trust fund is around 16/17 million dollars,

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1 which leaves -- that's about 700/800
2 thousand is the only cash that can be moved
3 by the Governor in those years --
4 MR. ST. ROMAIN:
5 Five percent of the budget.
6 MS. DELAFOSSE:
7 Five percent of budget. Not of
8 balance. Right.
9 So if anything were to be done to take
10 the balance, that would have to be a
11 separate legislative instrument. So --
12 MR. McCARTNEY:
13 Well, then that's what --
14 MS. DELAFOSSE:
15 -- there's a funds bill that they do
16 every year or anything -- you know, and they
17 could do that before, now, after, whenever.
18 MR. McCARTNEY:
19 Well, I think all our interest is the
20 same, to protect the fund.
21 MS. DELAFOSSE:
22 Absolutely.
23 MR. McCARTNEY:
24 And -- and they say Oklahoma is an
25 example. The legislature pulled all the

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1 money out of their fund. And this is the
2 best insurance we can get to prove that this
3 money is obligated where it is, is that --
4 MR. FULTON:
5 And I would agree with --
6 MR. McCARTNEY:
7 That's kinda where --
8 MR. BAKER:
9 Well, you have a third party entity
10 that came in and looked at our fund. That
11 should give it credibility right there.
12 MS. DELAFOSSE:
13 Experts.
14 MR. ST. ROMAIN:
15 And how -- how often will they -- will
16 Pinnacle touch up their -- renew their --
17 their math? Is it annually or is it bi-
18 annually or --
19 MR. BAKER:
20 That's up to us. We can -- we can
21 choose whatever we want.
22 MS. DELAFOSSE:
23 Yes. And I think -- you know, my
24 opinion and I -- and I guess the opinion of
25 the undersecretary and the financial folks,

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1 would be that since we haven't had this done
2 before, it may be prudent to do it maybe for
3 the first two or three years annually, but
4 then once we have -- you know, the -- the --
5 the more analysis they can do and the more
6 data they have, the more accurate it
7 becomes. So I think we would maybe be able
8 to push out the duration at that point. But
9 that decision can be made any time. I mean,
10 you know, we can do a contract every year.
11 We can do a three year contract. We can do
12 a one year contract. And then decide, let's
13 do it every two years, or we can push it out
14 to three or four. You know, if we see that
15 the numbers are steady and we're confident -
16 - we're confident with where they are. But
17 yes, that -- that's really up to -- up to
18 us and the department together.
19 MR. BAKER:
20 And remember that -- I know ya'll know
21 the number for the actuary this time is in
22 the \$90,000 range. That wasn't just for
23 this portion of it. There's a second phase
24 to this that actually is a little more money
25 than what this one was. So it -- the cost

1 of that overall, of year to year, would be a
2 lot less than the \$90,000 in theory.
3 MR. ST. ROMAIN:
4 Any other questions?
5 (No response.)
6 MR. ST. ROMAIN:
7 If there's no further questions, can
8 we get a motion to accept the actuary
9 report?
10 MR. FULTON:
11 I have a motion we accept it.
12 MR. ST. ROMAIN:
13 Okay, Gary. Can I get a second?
14 MR. McCARTNEY:
15 I second.
16 MR. ST. ROMAIN:
17 Joe, second.
18 All right. We'll move on to item
19 number five, the auditor status report. Cy?
20 MR. MORIN:
21 How are ya'll doing? Turn to page
22 five, please.
23 Okay. The first page of this report
24 shows that we currently have 17 open motor
25 fuel delivery fee audit cases.

1 was created, one case has been assessed for
2 unpaid late fees. We're awaiting payment of
3 \$132.09.
4 Seven cases are awaiting review.
5 And pending review, we have two potential
6 assessments, totaling \$1,141.40. One
7 potential credit of \$44.68. And four
8 potential clean audits with no assessment.
9 Eight cases are still in progress and
10 one case is awaiting closure. We received a
11 payment of \$996.46.
12 Since the last meeting, one case has
13 been added to the list. That was as of May
14 7th. We -- we've started five additional
15 audits since that time. So the next report,
16 you'll see five additional audits closing
17 out fiscal year '19.
18 We also removed five cases from the
19 list that were closed with no assessment.
20 Questions on that page?
21 (No response.)
22 MR. MORIN:
23 The second page is very similar, guys,
24 as it has been for many meetings. Four
25 cases -- four cases remaining. Three are at

1 MR. HILL
2 Kerry Hill calling in. Sorry I'm
3 late.
4 MR. ST. ROMAIN:
5 Hey Kerry.
6 MS. DELAFOSSE:
7 Hey Kerry. Oh, and before you get
8 going, one second. I don't know if ya'll
9 want -- do ya'll need John and Laura to stay
10 on the phone, or can we have them drop off?
11 I don't know if ya'll have any questions? I
12 know ya'll didn't have anymore questions,
13 but any -- any reason for them to stay?
14 (No response.)
15 MS. DELAFOSSE:
16 We can always email them questions.
17 Okay. Ya'll are good, John and Laura.
18 MR. WADE:
19 We appreciate it.
20 MS. DELAFOSSE:
21 Thank ya'll.
22 MR. BAKER:
23 Thank you, John.
24 MR. MORIN:
25 So, as of May 7th, when this report

1 ODR. As of May 6th, we have received no
2 payments from ODR. The second case on the
3 list continues to make \$200 payments every
4 month.
5 As of the time of this report, the
6 last payment was on April 4th. Since then,
7 we've received two more payments. So the
8 balance, instead of \$3,955, would now be
9 \$3,455.43.
10 As of today, the total balance of
11 these cases is \$103,105.20. \$400 less than
12 what you see here on the paper, plus the
13 additional court cost.
14 I believe that concludes my report.
15 MR. ST. ROMAIN:
16 Okay. Any questions for Cy?
17 (No response.)
18 MR. ST. ROMAIN:
19 Can we get a motion to accept the
20 auditor's report?
21 MR. BURNHAM:
22 Motion to accept.
23 MR. ST. ROMAIN:
24 All right. We've got Steve. Can I
25 get a second?

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1 MR. GUILLORY:
2 Second.
3 MR. ST. ROMAIN:
4 All right. We'll move on to item
5 number six, the trust fund status report.
6 Jeff?
7 MR. BAKER:
8 Good afternoon. If you'll refer to
9 tab number six in your packets. These are
10 the figures for the third quarter of fiscal
11 year 2019.
12 During the third quarter of this year,
13 the trust fund has received 210
14 applications, totaling approximately 3.7
15 million dollars. 220 applications were
16 processed for payment during the fiscal
17 year, totaling 3.4 million dollars, with 32
18 applications returned with deficiencies.
19 As of the end of March 2019, the trust
20 fund had 78 pending applications to process,
21 which had requested total amounts of
22 approximately 1.3 million dollars.
23 You'll notice on this page too that we
24 -- we started grouping things by the
25 quarter. That was one of the board members

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1 requested that at the -- a few quarters
2 back, and we -- we were able to get it done.
3 And we hope that that makes it easier for
4 ya'll to follow the quarter -- quarterly
5 numbers.
6 If ya'll have any future questions or
7 request on these forms, please let me know.
8 We'll -- we'll try to adapt, if we can.
9 If you'll turn the page. You'll see
10 the next page is title, report of cumulative
11 activities for the motor fuel trust fund.
12 This is kinda of a historical review of the
13 fund. You'll see our -- how many
14 applications we've received, processed,
15 total number of claims since the inception
16 of the fund. This is strictly here for
17 ya'lls historical information and resources.
18 Also, note towards the bottom, you'll
19 see that it's very small print, but you'll
20 notice the budgeted amounts for the fund for
21 each year is down there. So if you'll look
22 -- like I said, it's very small print
23 towards the bottom. It says, for fiscal
24 year 2019, our budgeted amount was 15.6
25 million dollars. So --

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1 If you'll turn the page. You'll see
2 the handout entitled, monthly motor fuel
3 obligation determination. This is the
4 worksheet that list the various component
5 determinations of the potential obligation
6 against the fund to the end of March 2019.
7 For sites in the corrective action phase,
8 the outstanding liability of CAP budgets and
9 the estimated cost to the end of March 2019
10 was 18.7 million dollars, with approximately
11 9.4 million dollars in RAC estimated
12 additional cost to bring these sites to
13 closure. These are noted in sections G and
14 H on that form.
15 The fund obligation recognized for
16 sites without ROG approved CAP budgets is
17 23.2 million dollars. This is determined by
18 using a three-year average of site closure
19 cost and applying this average to the active
20 trust fund sites without current CAP
21 budgets.
22 The next section is the -- the fund
23 obligation recognized for three sites that
24 have been determined to be trust fund
25 eligible, however, have not submitted their

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1 reimbursement application request. This
2 estimated obligation is approximately 7.6
3 million dollars. This is also calculated
4 using that three-year average site closure
5 cost.
6 The five-year projected fund
7 obligation related to the trust fund to
8 environmental fund transfer is 22.9 million
9 dollars. This estimate uses a three-year
10 average cost transferred from the trust fund
11 -- motor fuel trust fund to the
12 environmental fund and multiplies that times
13 five years. Thus, the total estimated
14 obligated amount was 81.9 million dollars,
15 which represents a 3.3 million dollar
16 increase compared to last quarter's
17 estimates.
18 Please note the handouts provided on
19 your -- on the table. This -- there's two
20 forms here. One is the actual sites that
21 were included and that have corrective
22 action plans. And the other is sites that
23 currently do not have corrective action
24 plans. This is a breakdown of all the
25 individual sites. It list their total cost

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1 so far. It list all the different
2 categories that go into the obligation
3 determination. But it gives you an idea of
4 the -- of the individual sites that are --
5 that go into this.
6 If you'll note on the next page in the
7 packet. You'll see in the packet -- the
8 page entitled incidents determined that are
9 eligible for the motor fuel trust fund.
10 This report shows the number of potential
11 trust fund sites that were reviewed and made
12 eligible. During the current year, it was
13 36. And these represented 42 active
14 incidents.
15 And if you'll turn to the next page,
16 you'll see sites that were NFA'd during this
17 fiscal year. And you'll see that the trust
18 fund has received no further action statuses
19 for 29 locations during this fiscal year.
20 Some points of interest. The trust
21 fund and the RAC stakeholders have been
22 developing revised guidance related to soil
23 -- soil and contaminated waste water
24 disposal. The previous guidance needed to
25 be updated to add clarity and address some

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1 habitual situations. This guidance, along
2 with some additional small clarifications
3 were added to a draft -- draft version of
4 the trust fund guidance document and were
5 provided to the board members this morning
6 in an email. If ya'll -- we -- we asked
7 ya'll in the email to get back with us by
8 next Friday. We hope to implement this
9 revised version by July 1, 2019.
10 It's not a lot of major changes. It's
11 pretty minor. The changes related to the
12 soil and the waste disposal were necessary.
13 We have a lot of habitual issues that we
14 were trying to address. And we think this
15 will -- will help a lot.
16 That's pretty much it for me. Does
17 anybody have any questions?
18 (No response.)
19 MR. ST. ROMAIN:
20 All right. No questions. Can I get a
21 motion to accept the trust fund status
22 report?
23 MR. GUILLORY:
24 I make a motion.
25 MR. ST. ROMAIN:

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1 All right. Michael made a motion.
2 Can we -- can we get a second?
3 MR. FULTON:
4 Second.
5 MR. ST. ROMAIN:
6 Okay. Gary seconded. Thank you.
7 We'll move on to item number seven,
8 the third party claim status with Perry.
9 MR. THERIOT:
10 I'm happy to report that there's been
11 no changes. No new suits and no new
12 settlements. And we haven't received any
13 third party claims in quite a while, so it's
14 a good thing that we're not getting any.
15 MR. ST. ROMAIN:
16 Any questions for Perry?
17 (No response.)
18 MR. ST. ROMAIN:
19 All right. We'll move on to item
20 eight, other business. And we have a bullet
21 there for discussion for change in
22 deductible.
23 MR. BAKER:
24 Each year, the board is required to
25 look at the deductibles and make

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1 recommendations to the secretary as to
2 whether we need to make changes.
3 A couple of years ago, the board
4 recommended we drop the in-compliance
5 deductible from \$5,000 down to zero. It's
6 up to ya'll to look at that and make
7 recommendations on an annual basis. So this
8 is the -- the -- usually the quarter that we
9 do that. So we want to give ya'll that
10 opportunity.
11 Just to give you an idea. Right now,
12 we've been looking at the numbers for the
13 last couple of years and our average out-of-
14 compliance versus in-compliance is about 40
15 -- about 40 to -- 40 percent out-of-
16 compliance, 60 percent in-compliance.
17 Which, if you compare that to seven or eight
18 years ago, it was actually the reverse.
19 MR. ST. ROMAIN:
20 Right.
21 MR. BAKER:
22 We actually had about 60 percent out-
23 of-compliance and 40 percent in-compliance.
24 So we're making some headway there.
25 If you wanted to recommend changes to

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1 the out-of-compliance deductible, please
2 recognize that the statute says right now,
3 you can't reduce it below the existing
4 \$10,000. So to reduce that or make any
5 changes there, it would require statute
6 changes.
7 MR. ST. ROMAIN:
8 Okay. So I guess if we have a -- any
9 motions to change them, we'll take them, but
10 if there's no motions to change it, then we
11 just leave it alone and go forward?
12 MS. DELAFOSSE:
13 Yes.
14 MR. ST. ROMAIN:
15 Any discussion, guys?
16 (No response.)
17 MR. ST. ROMAIN:
18 I think everybody is good. Ya'll all
19 good?
20 MR. FULTON:
21 We don't have any concerns for -- for
22 the fees with where it's at right now.
23 MR. ST. ROMAIN:
24 Okay.
25 MR. BURNHAM:

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1 Is there a mechanism by which we can
2 proceed with remediation when a -- I know
3 this is not the first time this has been
4 brought up -- when an owner cannot pay the
5 deductible?
6 MR. FULTON:
7 We do have some provisions where we
8 can use the liens provision. And we are
9 working with Perry to draft a letter. We
10 are doing that now from time to time.
11 And it's only -- it can only be used
12 on -- on stations that are -- that's not in
13 service. They're -- they're not in service.
14 MR. THERIOT:
15 No longer in business.
16 MR. FULTON:
17 So that's a big issue with regard to,
18 if they can't meet their deductible, they're
19 still dispensing fuel and they can't pay,
20 then why -- some of the sites, issues like
21 that, we can use the red tag ability. But
22 we're careful when we do that. It's not
23 something we would prefer to do.
24 MR. BURNHAM:
25 Thank you.

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1 MR. GUILLORY:
2 I'll make a motion to accept the
3 deductible as it is.
4 MR. ST. ROMAIN:
5 Okay. I got a motion from Michael to
6 keep the deductibles as is.
7 MR. McCARTNEY:
8 Second.
9 MR. ST. ROMAIN:
10 Second. All in favor?
11 (All indicated "aye".)
12 MR. ST. ROMAIN:
13 All right. Any other business?
14 MS. DELAFOSSE:
15 I would like to share that yesterday,
16 the Governor signed Act 362, which is a bill
17 that's done every year, the funds bill.
18 Sometimes, we don't want to be in the funds
19 bill, but this time we were in it and it's
20 good news. The state treasurer was
21 authorized and directed to transfer one and
22 a half million dollars back into the fund
23 from the state general fund.
24 So I know ya'll probably remember a
25 couple of years back in the budget bill,

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1 House Bill 1, about seven million dollars
2 was transferred from the attorney general's
3 escrow that was ours from the lawsuits into
4 the state general fund. And so we've been
5 working with the Governor's office to
6 develop a plan to get the fund paid back for
7 that amount. And so that's -- that's a good
8 start, a million and a half dollars more for
9 the treasurer's office to have that happen
10 during next fiscal year, beginning in July.
11 So I just wanted to share that news
12 with ya'll. And it was signed yesterday by
13 the Governor.
14 MR. McCARTNEY:
15 How did they come up with that figure?
16 Is that just --
17 MS. DELAFOSSE:
18 What?
19 MR. McCARTNEY:
20 That one and a half over seven?
21 MS. DELAFOSSE:
22 I have no clue. It's just an amount
23 they came up with that they felt like they
24 could give us.
25 MR. McCARTNEY:

1 That will happen next year --
2 MS. DELAFOSSE:
3 Oh, no. We're gonna keep working on
4 it. We're gonna get the rest. That's just
5 a start.
6 MR. McCARTNEY:
7 A million and a half a year, is that -
8 -
9 MS. DELAFOSSE:
10 I don't know. I don't think they
11 know.
12 MR. ST. ROMAIN:
13 It's a one time number.
14 MS. DELAFOSSE:
15 Well, I mean, I think they had some
16 surplus money this year and that was one of
17 the -- one of the decisions they made with -
18 - with how to spend that surplus. So it
19 works out for us.
20 And that's all I have.
21 MR. ST. ROMAIN:
22 I guess one thing I have before we
23 close the meeting is, I have a date of
24 August 15th for the next meeting. Is that
25 still accurate?

1 Kerry on the phone.
2 All right. If no other business, I
3 guess we'll ask for a motion to close the
4 meeting.
5 MR. BURNHAM:
6 Motion to close.
7 MR. McCARTNEY:
8 Second.
9 MR. ST. ROMAIN:
10 All right. Guys, this meeting is
11 adjourned.
12 THE MEETING ADJOURNED AT 1:55 P.M.
13 * * * * *

1 MR. BAKER:
2 Yes.
3 MR. ST. ROMAIN:
4 Is that here or is that in Alexandria?
5 MR. BAKER:
6 Thank you for bringing that up. We
7 were actually going to comment on that.
8 We're going to actually have that
9 meeting in Alexandria.
10 MR. ST. ROMAIN:
11 Okay.
12 MR. BAKER:
13 The same location we had. It's the
14 LSU Ag Center there. It's kinda south of
15 Alexandria. We thought it worked out real
16 well. We were trying to -- you know, ya'll
17 -- ya'll give us your feedback, please. We
18 thought it would be a good idea to try to
19 move it around at least once or twice a year
20 to try to make it easier for the guys coming
21 from North Louisiana to make it down. They
22 don't have to travel quite so far.
23 MR. ST. ROMAIN:
24 I don't think you'll get a complaint.
25 It's probably closer for all of us. Even

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

20
21 Lori Overland, C.C.R.
22 # 97083
23
24
25

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

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

23
24 _____
Lori Overland C.C.R.

25 # 97083

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