STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

MOTOR FUELS UNDERGROUND STORAGE TANK TRUST

FUND ADVISORY BOARD

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

BEFORE:

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

ASSOCIATED REPORTERS, INC.

(225) 216-2036

APPEARANCES

Kerry Hill Chairman

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

Melissa Vizinat Ian Kelley Sam Broussard Natalie Isaacks Megan Terrell

* * * * *

I N D E X

EXAMINATION:		PAGE(S):	
None			
٠.			
EXHIBITS:			
None			
REPORTER'S	PAGE		3 3
REPORTER'S	CERTIFICATE		3 4

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

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

bring us up on that.

1 MR. MORIN:

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

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

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

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

```
MR. BURNHAM:
 1
 2
                Cy, these were randomly selected
 3
          audits, is that --
 4
          MR. MORIN:
 5
                You can see the reason for the audit
          column here. These audits -- let's see,
 7
          never audited. Okay. So we -- we -- the
          auditor who is doing motor fuel audits keeps
 9
          track of who we've audited in the past, when
10
          we audited them. And there's quite a few
11
          that have never been audited --
12
          MR. BURNHAM:
13
                Okay.
14
         MR. MORIN:
15
                -- so we are looking at trying to get
16
         to everyone --
17
         MR. BURNHAM:
18
                Yes.
19
         MR. MORIN:
20
                -- that had not been audited.
21
         you'll see a lot of that on this list.
22
         MR. BURNHAM
2.3
                Okav.
24
         MR. MORIN:
25
                Others, they may have had a missing or
```

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

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

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

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

So we closed the fiscal year `15 with

1 \$87,397,607 in cash. In this current fiscal 2 year to date, as of September 30, 2015, 3 we've deposited \$7,823,385. I would note that \$27,490 of that is interest money that 5 we do keep segregated. And we have 6 disbursed to RACs for sites \$3,543,460. 7 You'll also notice on here that there is a 8 line item for other financing uses. This is 9 the transfer to the Environmental Trust 10 Fund. That's the actual transfer that we reported to you for last year. We do that 11 12 in August. So since we are now on a cash 13 basis that I'm reporting to you, this is now 14 reported on this new statement in this 15 manner. 16 Next, I'll report to you, the current 17 liabilities on sites are at \$93,251,316. 18 And Jeff is going to go into that a little bit more with you. And what we now have as 19 20 -- in balance, after obligations of minus 21 \$6,901,030. 22 I would point out that, it's showing 23

24

25

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

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

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

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

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

I would like to report that cash and

```
1
          budget for motor fuels was reduced by
 2
          $823,657.
 3
                And that was five percent of the
          budget.
 5
          MR. HILL:
                That's the legal amount that --
 7
          MS. ANDREWS:
 8
                That's the maximum legal amount that
 9
          they are allowed to take. And I would like
10
          you to know that they -- they took that out
11
          of, I believe, all of the statutory
12
          dedicated funds and the constitutionally
          protected funds, if you go back and listen.
13
14
          So no one was spared.
15
                Did ya'll have any questions about
16
          anything?
17
          MR. HILL:
18
                Did you say Jeff was going to finish
19
         part of your --
20
         MS. ANDREWS:
21
                Well, when he does his presentation,
22
         he will discuss that.
23
         MR. HILL:
24
                Okay. Well, good. Well, thank you,
25
         Karyn.
```

```
1
          MR. MARCELLO:
 2
                I -- I did have a question. And I'm
 3
          trying -- I'm trying to get it together.
 4
          question revolves around the sweep.
 5
          MS. ANDREWS:
 6
                Yes.
 7
          MR. MARCELLO:
 8
                And the -- it's -- so our underground
 9
          trust fund has X dollars in it and X dollars
10
          that are allocated to potential cleanup
11
          sites. The five percent was based on which
12
          number?
13
          MS. ANDREWS:
14
                Okay. So the way the -- the legislate
15
          -- the Commissioner of Administration and
16
          the Governor's Office does is, we are
17
          appropriated every year with budget
18
          authority to expend. Our budget authority
19
          in the Motor Fuel Trust Fund this year was
20
          $16,473,142. That was our budgeted
21
         appropriation for the Motor Fuel Trust Fund.
22
         That is how much we are authorized to
23
         disburse.
24
         MR. MARCELLO:
```

Yes.

25

```
1
          MS. ANDREWS:
 2
                Okay?
 3
          MR. MARCELLO:
                Okay.
          MS. ANDREWS:
 6
                That has -- that's -- there's -- the
 7
          correlation to cash is not there. That is
 8
          how much we are authorized to disburse for
 9
          RAC Cleanup --
10
          MR. MARCELLO:
11
                Correct.
12
          MS. ANDREWS:
13
                -- sites. And so the way the statue
14
          is written and how it was utilized is, they
15
          can take that appropriated amount and they
16.
          reduce it by five percent. So five percent
17
          of that $16 million was the eight --
18
          MR. MARCELLO:
19
                823?
20
          MS. ANDREWS:
21
                Correct, correct. And as -- with the
22
          reduction, they also take the equal amount
23
          of the cash.
24
         MR. HILL:
25
                Anymore questions, Frank?
```

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

2.5

end of September 2015, the Trust Fund had

144 pending applications to process, which
which had requested amounts, totaling

\$2,956,917. 249 applications were processed

for payment during the fiscal period,

totaling \$3,150,617. And 22 applications

were returned with deficiencies.

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

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

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

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

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

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

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

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

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

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

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

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

you gave me and make sure that you have the 1 new numbers, along with all the supporting 2 calculations so ya'll will be able see this. 3 One other point. The revised statutes 4 2195.a.85 and 2195(10).d, the state --5 states that the Advisory Board shall review 6 7 the financial responsibility requirements for all sites in and out of compliance on an 8 annual basis. And they recommend to the Secretary adjusting those requirements, if 10 they see fit. At this time, the Trust Fund 11 12 does not have any recommendations to the board relating to any modifications for the 13 current financial responsibility dollar 14 15 amounts. MR. FULTON: 16 17 I propose that we not make any 18 changes. MR. HILL 19 20 Not make any changes? 21 MR. FULTON: 22 Right. 23 MR. BAKER: This is the five and ten thousand 24 dollar deductibles is what we're talking

25

```
1
           about.
 2
           MR. FULTON:
 3
                 Right.
 4
           MR. BURNHAM
 5
                 Yes. Okay.
 6
          MR. HILL:
 7
                 We have a proposal not to make any
          changes. Do we have any other comments, or
 9
          do we need a second on that?
10
          MR. BURNHAM:
11
                 Second.
12
          MR. HILL:
13
                We got -- we got a first and a second
14
          on not making any other changes to the
15
          deductible.
16
                All in favor?
17
          (All indicated "aye".)
18
          MR. BAKER:
19
                And that completes my review.
20
          anybody has any -- if ya'll have any
21
          questions?
22
          MR. HILL:
23
                Anybody have any questions for Jeff?
24
          MR. BURNHAM:
25
                The only -- in observation, Jeff, and
```

1 . -- and just tell me if I'm wrong. But the 2 effect of what you did on these calculations 3 was, you pulled in some things that were 4 previously, possibly slipping through the 5 cracks and it gives us a more conservative 6 look at the balance, at the true balance of 7 the -- the Trust Fund and at the -- or at 8 the true obligations of the Trust Fund? 9 MR. BAKER:

10 Yes, sir.

11 MR. BURNHAM:

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

MR. BAKER:

14

15

16

17

18

19

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22

23

24

25

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

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

```
1
                If not then, at this time, we need to
 2
          go into executive session.
 3
          MR. MARCELLO:
 4
                I'll -- if you need it in a motion
 5
          form, I'll make that motion.
 6
          MR. HILL:
 7
                We need a -- hear a motion to go --
 8
          MR. FULTON:
 9
                Second.
10
          MR. HILL:
11
                -- into executive session? Need a
12
          second.
          MR. FULTON:
13
14
                Second.
1.5
          MR. HILL:
16
17
          (The board went into executive session at
18
      this time.)
19
          (The meeting reconvened.)
20
          MR. HILL:
                Well, at this time, I'd like to ask,
21
22
          is there any other business that anybody
23
          would like to bring up and discuss?
24
          MR. BAKER:
25
                We would like to look at the dates for
```

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

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

.7

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

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

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

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

own financial responsibility.

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

So I wanted to bring -- there's a lot of other things that are going to effect tank owners that I can get into, but their kind of specific to UST compliance stuff.

If you want, I can go over some of those, but I just wanted to bring the things that are going to effect the Trust Fund. Let you guys hear it from me and have you start thinking about it. And -- and again, we

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18

19

20

21

22

23

24

25

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

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

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24

25

CERTIFICATION

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
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7	by me upon authority of R.S. 37:2554, did testify as
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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	- Phillips

Lori Overland C.C.R.

97083

In The Matter Of:

DEPARTMENT OF ENVIRONMENTAL QUALITY FUND ADVISORY BOARD

MEETING December 3, 2015

Associated Reporters, Incorporated 225-216-2036

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		18:16,20;20:12	annual (1)	authority (2)	21.1
	6	active (3)	annual (1) 22:9	authority (2) 15:18,18	21:1 brought (1)
	\$	19:6;20:17;21:6	Anymore (2)	authorization (2)	24:15
)		activities (1)			
,	\$1,500 (1)	21:7	16:25;17:4	29:3,18	Broussard (2)
	6:9	actual (1)	apparently (1) 21:23	authorized (2)	28:8,11
	\$11,000 (1)	11:10		15:22;16:8	Budget (8)
	6:14	L .	application (1)	available (1)	13:19;14:1,4;15:17,
	\$16 (1)	actually (2)	19:18	20:22	18;18:18,20,23
	16:17	24:25;31:4	applications (4)	average (4)	budgeted (1)
	\$16,473,142 (1)	added (1)	17:25;18:2,4,6	19:4,20;20:5,7	15:20
	15:20	6:22	applied (1)	awaiting (1)	budgets (2)
	\$17,020,861 (1)	additional (1) 7:5	19:13	6:6	19:3,7
	20:4		apply (6)	aye (1)	BURNHAM (16)
	\$2,956,917 (1)	addresses (1)	28:24,25;29:2,4,8,13	23:17	4:24,25;5:19;8:1,12,
	18:4	21:25	applying (2)	В	17,22;9:4;12:19;17:9;
	\$22,000,000 (1)	adjourn (2)	19:5,20	В	23:4,10,24;24:11;25:5;
	12:3	32:14,16	approach (3)	1 1. (6)	27:8
	\$27,490 (1)	ADJOURNED (1)	21:10;24:17;25:4	back (6)	business (3)
	11:4	32:25	approaching (1)	13:14;14:13;21:3,24;	7:12;26:22;28:3
	\$28,575,921 (1)	adjusting (1)	21:5	24:24;29:17	\mathbf{c}
	18:22	22:10 Administration (1)	appropriated (2)	backout (1) 19:12	
	\$3,150,617 (1)	15:15	15:17;16:15 appropriation (1)	BAKER (10)	calculate (2)
	18:6	adopt (1)	15:21	5:5,6;17:18;22:23;	13:1;19:10
	\$3,200 (1)	5:15	l .		calculation (1)
	6:8		approval (1) 29:14	23:18;24:9,14;26:24; 27:14;28:6	19:25
	\$3,543,460 (1)	adoption (1) 4:7		balance (4)	,
	11:6	advance (1)	approve (1) 27:2	11:20;12:7;24:6,6	calculations (2) 22:3;24:2
	\$300 (1)	13:6	approved (2)	based (1)	call (2)
	7:14	Advisory (1)	18:18;19:2	15:11	4:3,6
	\$38,143,288 (1)	22:6	approximately (4)	basically (2)	
٠.	19:3	affect (1)	6:8,9,14,15	24:12;31:11	can (7) 7:12;8:5;16:15;19:8;
j.	\$5,231,529 (1)	30:14	around (1)	basis (3)	30:10;31:19,21
	17:25	afternoon (1)	15:4	10:13;11:13;22:9	CAP (4)
	\$6,901,030 (1)	17:19	Article (1)	became (1)	18:18,23;19:3,7
	11:21	again (2)	33:5	21:6	capturing (1)
	\$7,823,385 (1)	29:20;31:25	assessment (2)	become (1)	25:1
	11:3	against (1)	6:11,17	21:6	case (8)
	\$823,657 (1)	18:13	assessments (2)	becoming (1)	6:19,19;7:4,5,9,15,
	14:2	ago (1)	6:9,13	20:21	17,19
	\$87,397,607 (1)	21:16	Associates (1)	behalf (1)	cases (5)
	11:1	ahead (1)	4:25	7:6	6:4,5,12,22;7:2
	\$9,511,246 (1)	13:17	Association (3)	below (1)	cash (7)
	19:18	airport (2)	4:17,20,23	31:11	10:13;11:1,12;13:20,
	\$9,700 (1)	30:16,22	attend (1)	better (3)	25;16:7,23
	6:15	allocated (1)	4:5	12:14;21:20;28:17	categorizing (1)
	\$93,251,316 (1) 11:17	15:10	attention (1)	beyond (1)	24:22
	11.17	allow (1)	29:12	24:24	CCR (1)
	A	7:12	attorney (3)	Bill (1)	33:21
		allowed (1)	5:11;7:5,7	20:19	certain (1)
	able (3)	14:9	Audit (6)	bit (6)	11:24
	4:5;22:3;32:1	along (1)	4:12;5:23;8:5;9:12,	10:2,4,8,9;11:19;	Certified (1)
	above (2)	22:2	15;13:10	12:14	33:2
	31:8,14	amount (4)	audited (5)	board (10)	Chairman (1)
	accept (5)	14:6,8;16:15,22	8:7,9,10,11,20	4:8;5:16;13:17;	5:18
	9:12,15;17:8,10;28:1	amounts (4)	auditor (3)	21:15,23;22:6,13;	change (2)
	accidental (1)	18:3,23,25;22:15	8:8;10:14;13:12	26:17;27:5;29:10	29:19;31:2
	31:3	and/or (3)	audits (6)	breakdown (1)	changed (4)
	accurate (3)	33:5,12,17	6:10,16;8:3,6,8;	18:15	10:2;29:16,18;31:4
,	21:9;24:17;25:3	ANDREWS (14)	10:15	bring (7)	changes (6)
1	Act (2)	4:13,14;9:24;12:12,	August (5)	5:25;26:23;28:4,8;	22:18,20;23:8,14;
	20:21,21	17,21;14:7,20;15:5,13;	4:7;5:15;7:8;11:12;	29:11;31:17,22	29:25;33:11
	action (3)	16:1,5,12,20	27:7	bringing (1)	Chris (3)
-		<u> </u>			

		T		1
5:11;25:14,23	constitutionally (2)	23:15	6:20;17:23;18:5;	
Christmas (1)	13:22;14:12	deductibles (1)	20:13,15	F
32:10	constructive (2)	22:25	Durwood (1)	
Civil (2)	30:16,23	defendant (1)	5:9	favor (1)
33:5,6	contacts (1)	7:8		23:16
	20:25	deferred (1)	E	
Claim (1)	i e		E	February (1)
25:13	continue (2)	30:15		27:6
claims (1)	12:4,24	deficiencies (1)	effect (4)	federal (5)
25:18	Convenience (3)	18:7	24:2;30:21;31:18,23	28:13,23;30:1;31:5;
clean (3)	4:17,20,23	defined (1)	effective (2)	33:4
6:10,16;13:9	copies (1)	33:4	28:21,23	
				feel (1)
cleanup (2)	13:14	definition (2)	eight (2)	28:17
15:10;16:9	copy (2)	31:3,4	6:24;16:17	few (1)
cleanups (1)	13:13,15	deliver (1)	either (1)	8:10
20:23	corrective (2)	17:16	31:13	fielded (1)
clearer (1)	18:16,20	denoted (1)	eligibility (1)	
* *				20:25
10:16	correlation (1)	33:19	19:22	fieldwork (1)
closed (1)	16:7	Department (1)	eligible (3)	6:18
10:25	cost (4)	7:12	19:16;20:15,23	fifth (1)
closely (1)	18:21,24;19:5,20	deposited (1)	else (1)	7:19
10:10	costs (4)	11:3	13:15	
				figures (1)
closing (1)	19:5,21;24:23;25:2	DEQ (7)	email (1)	17:21
28:5	counsel (1)	4:12,14;5:3,6,9,12;	13:11	filed (1)
closure (4)	7:6	7:6	emailed (1)	7:7
18:21,24;19:5,20	couple (2)	detail (1)	13:10	
code (1)	28:14;30:12	6:3	end (4)	filling (1)
				5:12
33:6	Court (2)	details (2)	10:21;18:1,14,21	final (2)
collected (2)	33:2,13	30:8,10	Engineering (1)	6:6;28:20
6:15;11:25	cover (2)	Determination (3)	4:25	Financial (8)
collections (1)	30:25;31:13	18:10;21:10,14	enrolled (1)	
12:2	covered (1)	determinations (1)	7:5	4:14;9:21;17:8;22:7,
				14;30:18;31:1,16
column (1)	31:10	18:12	entitled (1)	financing (1)
8:6	cracks (1)	determined (3)	18:9	11:8
commenced (1)	24:5	19:4,16,19	Environmental (4)	find (1)
6:21	credit (1)	develop (1)	11:9;13:2;20:3,6	25:20
comment (1)	6:7	21:9	EPA (2)	
	1			finish (1)
28:7	current (4)	different (2)	29:16,23	14:18
comments (4)	11:1,16;20:16;22:14	10:4;24:23	equal (1)	first (6)
10:5;21:17,17;23:8	currently (3)	disburse (2)	16:22	6:2;7:3;13:8;17:21,
Commissioner (1)	7:13;19:7,13	15:23;16:8	estimate (1)	
15:15	1 1	disbursed (1)	20:4	23;23:13
	Cy (3)		I .	fiscal (10)
Committee (1)	4:12;5:24;8:2	11:6	estimated (2)	6:4,24;10:22,25;
13:18		discourse (1)	18:20,24	11:1;17:22,23;18:5;
comparative (1)	\mathbf{D}	33:10	event (1)	20:13,16
10:19		discuss (3)	30:21	
completely (1)	dashes (2)	14:22;26:23;32:1	everybody (2)	fit (1)
				22:11
9:2	33:10,14	dispenser (1)	4:4;32:10	five (12)
completes (2)	database (1)	31:8	everyone (1)	6:8;7:2;14:3;15:11;
7:22;23:19	24:25	Division (2)	8:16	16:16,16;17:15,20;
compliance (2)	date (4)	5:4,7	executive (3)	
22:8;31:20			26:2,11,17	20:1,7,24;22:24
	6:25;11:2;28:21,23	document (2)		flyers (1)
component (1)	dates (6)	20:10;21:13	expect (1)	28:15
18:12	26:25;27:5,19;28:1;	documents (1)	30:19	form (1)
conflict (2)	29:6;30:4	21:15	expend (1)	26:5
27:17,22	days (1)	dollar (2)	15:18	l .
confusing (1)		1 ' '	•	forward (1)
	28:22	22:14,25	expenditure (1)	28:2
10:6	Debt (2)	dollars (4)	25:3	found (1)
conservative (2)	7:10,16	15:9,9;20:5,22	expenditures (1)	24:18
24:5,17	decision (2)	done (1)	19:12	Four (4)
consider (1)	30:24;31:13	13:20	explained (1)	
27:19				6:16;9:21;10:1;
	dedicated (2)	due (1)	12:6	21:16
consideration (2)	13:21;14:12	33:9	1	fourth (1)
4:7;27:4	deductible (1)	during (5)	1	7:16
	<u> </u>	.1	J	

	- TONE HE VISORI BON				December 5, 2015
	Frank (3)	32:10	into (6)	logialative (4)	(3)
		I .		legislative (4)	maximum (3)
	4:16;16:25;32:20	hear (7)	11:18;21:3;26:2,11,	10:14;13:12,18;	14:8;20:22;21:2
`\	FRANKLIN (2)	5:14;9:12;17:7;26:7;	17;31:19	20:20	may (3)
1	5:8,9	31:24;32:16,20	iron (1)	letter (1)	8:25;13:11;27:6
	friendly (1)	heard (1)	30:7	7:11	maybe (1)
	10:9	10:5	item (4)	liabilities (2)	9:2
	Fuel (11)	help (1)	5:23;9:21;11:8;	11:17;21:11	mean (1)
	5:6;6:4;8:8;13:1,23;	12:13	25:12	liability (1)	31:5
		hereby (1)	l e e e e e e e e e e e e e e e e e e e	18:19	
	15:19,21;18:9;20:6;		items (1)		means (1)
	30:16,23	33:7	29:6	limit (1)	18:17
	fuels (1)	HILL (39)		21:5	meeting (8)
	14:1	4:2,21,22;5:13,21;	J J	line (1)	4:4;5:16;25:18;
	FULTON (8)	7:24;9:8,11,19;12:15;		11:8	26:19;30:3,4,6;32:25
	5:2,3;22:16,21;23:2;	14:5,17,23;16:24;17:3,	January (1)	list (3)	meetings (2)
	26:8,13;32:21	6,13;22:19;23:6,12,22;	30:7	6:23;7:17;8:21	27:1,5
	Fund (39)	25:7,10,21,25;26:6,10,	Jeff (9)	listed (4)	Melissa (1)
	4:10;5:6,9;11:10;	15,20;27:3,11,16,25;	5:6;11:18;12:7,8;	7:10,19;27:6,20	4:10
	12:13;13:2,2,23;15:9,	28:9;32:3,7,15,19,23	14:18;17:16;23:23,25;	listen (1)	members (2)
	19,21;17:16,24;18:1,9,	hope (2)	25:11	14:13	21:15,23
	14;19:1,6,14,16,23;	10:9;21:18	Joint (1)	listing (1)	membership (1)
	20:1,2,3,6,7,11,14,25;	hopefully (1)	13:18	18:12	30:9
	21:8;22:11;24:7,8;	10:15	judgment (1)	little (6)	Merry (1)
	29:10;30:14,25;31:10,	hydrant (1)	7:18	10:4,8,9,16;11:18;	32:10
			1		· ·
	14,23	30:22	July (2)	12:14	met (1)
	funds (4)	hydrants (1)	10:17;28:20	LOMA (1)	13:19
	13:21,22;14:12,13	30:16	June (2)	28:16	method (1)
	further (3)		10:18;28:20	look (6)	33:13
	20:12;25:8;32:9	I		19:8;24:6;26:25;	methodology (1)
			K	29:11,14,17	21:19
	${f G}$	ignored (2)		looked (1)	mid (1)
		19:24;24:16	Karyn (6)	29:20	30:6
	Gary (2)	implementation (1)	4:14;9:22;14:25;	looking (2)	mid-December (1)
		29:6		8:15;24:19	30:5
	5:3;32:24		17:7,8;18:11		
	gave (1)	inaudible (1)	keep (1)	Lori (2)	might (1)
	22:1	33:19	11:5	33:2,21	30:14
	generally (1)	incidents (1)	keeps (1)	loss (1)	million (3)
	12:2	20:17	8:8	10:11	16:17;20:24,24
	gives (1)	include (1)	Kerry (2)	lot (4)	minus (2)
	24:5	31:7	4:22;28:12	8:21;10:5;25:1;	11:20;12:5
	gonna (1)	included (2)	kind (4)	31:17	minutes (2)
	29:8	24:20,21	18:15;21:5;30:13;	Louisiana (8)	4:8;5:15
	Good (6)	includes (1)	31:20	4:16,19,22;28:24;	missed (1)
		18:23	31.20	29:9;30:20;33:3,6	27:4
	12:18,20;14:24;		Ψ	29.9,30.20,33.3,0	1
	17:19;25:6;30:18	Incorporated (1)	L	7.45	missing (1)
	Governor (1)	5:1		M	8:25
	20:20	increased (1)	last (6)		mistakes (1)
	Governor's (1)	20:22	6:19;7:18;11:11;	mail (1)	24:18
	15:16	indicate (1)	13:20;20:10;25:18	7:20	modifications (1)
	ground (2)	33:11	late (1)	mainly (1)	22:13
	31:8,14	indicated (2)	9:1	9:3	money (2)
	guess (1)	23:17;33:15	late- (1)	making (1)	11:4,25
	32:9			23:14	month (1)
		inflows (1)	30:6		
	guys (6)	11:23	late-December (1)	manner (1)	7:18
	28:13,15,17;30:9,23;	information (1)	30:5	11:15	monthly (2)
	31:24	25:19	left (1)	MARCELLO (15)	7:14;18:9
		initiated (1)	33:16	4:15,16;5:17;9:17;	more (15)
	H	6:4	legal (6)	15:1,7,24;16:3,10,18;	6:22;10:8,9;11:19;
		interaction (1)	7:3,10,17;14:6,8;	17:1;26:3;27:23;32:13,	13:14;21:6,9;24:5,16,
	hand (1)	33:9	20:9	17	17,17;25:3;29:25;32:1,
	13:9			Marketers (3)	8
1		interest (1)	legally (1)		MORIN (8)
•	handed (1)	11:4	7:3	4:17,20,22	
	13:6	interests (1)	legislate (1)	material (1)	4:11,12;6:1;8:4,14,
		00.10	15.14	22.10	10.24.0.4
	Happy (1)	20:18	15:14	33:18	19,24;9:6

	<u>,</u>			1
morning (1)	obligation (10)	17:20	6:7,8,10,13,16;	RACs (2)
4:5	12:7;18:10,13;19:1,	page (7)	15:10;18:13;19:11;	11:6;21:1
motion (9)	11,14,18;20:2;21:11,21	6:20;7:1;12:24;13:3;	20:14;21:10	random (1)
5:14;9:12,15;17:7,	obligations (2)	18:8;20:9,10	preliminary (1)	9:2
10;26:4,5,7;32:16	11:20;24:8	pages (1)	21:16	randomly (1)
Motor (10)	observation (1)	6:3	prepared (1)	8:2
5:6;6:4;8:8;13:1,23;	23:25	part (1)	7:19	RATCLIFF (3)
14:1;15:19,21;18:9;	o'clock (2)	14:19	preparing (1)	5:10,11;25:16
20:5	27:10,13	Party (2)	7:9	reach (1)
move (5)	October (4)	25:13,18	presentation (1)	18:21
5:23;17:15;32:14,18,	7:4,15;28:22;29:1	passed (1)	14:21	reached (1)
20	Office (3)	20:19	Previously (2)	21:2
moved (1)	7:10,16;15:16	past (3)	19:24;24:4	Real (1)
5:18	officer (1)	8:9;10:7;30:15	probably (1)	12:20
Moving (1)	33:4	pauses (1)	30:6	reason (3)
9:21	Oil (3)	33:11	Procedure (2)	8:5;12:3;27:18
much (2)	4:16,19,22	payment (2)	33:5,6	reasons (1)
15:22;16:8	older (1)	9:1;18:5	proceeding (2)	9:3
multiplies (1)	21:2	payments (2)	33:10,14	receive (2)
20:7	I .	7:13,14	process (1)	12:2;21:24
20.7	one (13)		18:2	received (4)
N	6:7,19;12:1;13:22,	Pending (2)		13:11;17:24;20:12;
	23;14:14;20:24,24;	6:6;18:2	processed (1)	21:18
4-2	22:4;29:13;30:12,14;	percent (4)	18:4	1
names (1)	31:2	14:3;15:11;16:16,16	profit (1)	recognized (2)
33:17	only (2)	perhaps (1)	10:11	19:2,15
need (6)	12:1;23:25	10:10	program (3)	recommend (1)
23:9;25:19;26:1,4,7,	open (1)	period (2)	21:3;29:3,14	22:9
11	6:3	10:17;18:5	progress (2)	recommendations (1)
negative (1)	operating (1)	period's (1)	6:12,17	22:12
11:23	31:6	12:1	projected (1)	reconvened (1)
new (14)	order (1)	Perry (3)	20:1	26:19
7:4;10:21,21;11:14;	4:4	5:12;25:13,17	proper (1)	record (2)
12:7;18:10;21:19;22:2;	original (1)	phase (1)	33:13	7:6;33:8
25:17;28:13;29:8,15;	29:18	18:17	proposal (1)	Recovery (2)
30:1;32:10	Others (1)	phrase (1)	23:7	7:11,16
next (7)	8:25	33:19	propose (1)	reduce (1)
6:23;11:16;13:3;	out (13)	phrases (1)	22:17	16:16
18:8;19:1,14;27:1	10:1;11:22;13:5,9,	33:15	proposed (1)	reduced (1)
Nick (1)	10;14:10;21:15;22:8;	place (1)	18:18	14:1
4:19	25:20;28:14;30:4,7;	29:2	protected (2)	reduction (1)
None (1)	33:16	placed (1)	13:22;14:13	16:22
27:24	outstanding (1)	7:20	public (1)	refer (1)
non-government (1)	18:19	plan (2)	28:7	17:20
30:22	over (2)	18:20;30:2	publicly (1)	reference (1)
normally (1)	21:12;31:21	please (1)	13:13	33:18
31:10	overfills (1)	17:17	pulled (1)	referred (2)
	31:9	PM (1)	24:3	7:15,17
note (1)	I .	32:25	pursued (1)	referring (1)
11:3	Overland (2)	It.	7:3	18:11
Notice (2)	33:2,21	point (9)	1	1
7:11;11:7	overs (1)	10:1;11:22;13:5;	put (2)	reg (3)
notify (1)	33:12	20:24;21:8;22:4;29:4,	10:18;28:14	29:19,19,25
13:17	own (3)	10;31:13		regs (6)
November (4)	29:1;31:1,15	Points (1)	Q	28:20,23;29:2,8;
7:18,20,13:19;27:7	owner (1)	20:18		30:1;31:5
number (10)	7:13	policy (1)	quarter (3)	regulated (1)
5:23;9:21;15:12;	owners (3)	31:11	10:20;17:21,23	30:17
17:15,20;20:11,14,25;	21:1;31:15,19	portion (3)	quite (2)	Regulation (2)
21:4;25:12	· · · · · · · · · · · · · · · · · · ·	12:6;19:7,8	8:10;10:2	28:14;29:17
numbers (3)	P	possibly (2)		regulations (2)
22:2;24:19,19		24:4;27:18	R	29:1,15
	packet (1)	posted (1)		reimbursement (2)
0	20:11	28:16	RAC (2)	19:17,23
	packets (1)	potential (10)	16:9;18:24	related (2)
	F (x)	(20)		

		T	T		
	7:25;21:1	revolves (1)	31:12	statutes (1)	thought (1)
	relates (2)	15:4	showing (3)	22:4	33:12
	19:9;24:22	right (6)	10:7;11:22;12:5	statutory (2)	thousand (1)
)	relating (2)	12:5,23;22:22;23:3;	shows (1)	13:21;14:11	22:24
	20:2;22:13	25:6;29:23	12:25	Steve (1)	three (6)
	release (3)	ROG (2)	signature (1)	4:25	5:23;6:2;19:4,19;
	20:23;31:3,5	18:19;19:2	7:20	still (2)	20:4;29:5
	released (1)	roll (1)	signed (1)	6:12,17	Thursdays (2)
	13:13	4:6	20:20	Storage (2)	27:9,12
	releases (3)	ROMAIN (5)	similar (1)	5:3;31:6	times (2)
	20:23;31:7,16	4:18,19;9:14;17:11;	10:14	Store (3)	11:24;19:10
	remaining (1)	27:21	simply (1)	4:17,20,23	timing (1)
	18:23	Rule (1)	11:23	stringent (1)	24:21
	Remediation (2)	33:4	site (2)	29:22	today (1)
	5:4;21:7	Rules (1)	19:5,20	stuff (1)	27:20
	Report (18)	33:5	sites (22)	31:20	together (2)
	5:24;6:3,21;7:2,22,		11:6,17;15:11;16:13;	submitted (2)	10:18;15:3
	25;9:13,16,22;10:2,19;	S	18:16,17;19:2,6,9,13,	19:17,22	told (1)
	11:16;12:1,10,24;		15,21,24;20:11,13,14,	substantial (1)	29:16
	13:25;17:8,16	Sam (5)	16;21:2,4;22:8;24:15,	29:25	took (1)
	reported (2)	28:7,10;32:4,5,12	24	supporting (2)	14:10
	11:11,14	same (1)	Six (3)	21:14;22:2	total (4)
	Reporter (1)	33:12	6:12;20:16;25:13	Sure (3)	18:22;19:9,12;25:2
	33:3	scheduled (1)	slightly (1)	17:19;22:1;29:21	totaling (5)
	Reporters's (1)	6:20	10:6	sweep (1)	6:9,14;17:25;18:3,6
	33:13	Second (14)	slipping (1)	15:4	track (1)
	reporting (3)	5:20;7:9;9:18;13:16;	24:4	sweeps (1)	8:9
	10:12,17;11:13	17:12;23:9,11,13;26:9,	slower (1)	13:20	transcript (1)
	represent (1)	12,14;32:20,22,24	11:24	sworn (1)	33:16
	6:7	Secretary (1)	spared (1)	33:7	transcription (1)
	representation (1)	22:10	14:14	system (2)	33:14
!	21:20	section (2)	specific (2)	30:23;31:7	transfer (4)
	representing (2)	19:1,14	30:13;31:20	systems (1)	11:9,10;13:1;20:3
	6:13;20:17	seeing (2)	specifics (1)	30:20	transferred (1)
	request (1)	10:3,11	30:11		20:5
	19:23	segregated (1)	spills (1)	T	trial (1)
	requested (2)	11:5	31:8		7:9
	18:3;19:21	selected (1)	spontaneous (1)	tab (3)	true (3)
	requirements (2)	8:2	33:10	6:2;9:25;17:20	21:20;24:6,8
	22:7,10	Senate (1)	ST (5)	talk (2)	truly (1)
	resembles (1)	20:19	4:18,19;9:14;17:11;	12:8;33:12	24:16
	10:10	send (2)	27:21	talking (2)	Trust (34)
	resend (1)	13:8;21:24	stagnant (1)	21:22;22:25	4:10;5:6,9;11:9;13:2,
	21:25	sending (2)	21:6	Tank (5)	2,23;15:9,19,21;17:15,
	responding (1)	7:14;30:4	stakeholder (3)	5:4;30:23;31:6,15,19	24;18:1,9,14;19:6,16;
	7:7	sent (2)	· .	tanks (1)	20:2,3,6,6,11,14,25;
	response (6)	7:10;21:15	start (3)	30:16	21:8;22:11;24:7,8;
	9:10;12:11;17:5;	separate (1)		tells (1)	29:10;30:14,25;31:10,
	25:9,24;32:6	31:15	started (1)	25:17	14,23
1	responsibility (5)	September (5)		ten (1)	try (2)
	22:7,14;30:18;31:1,	11:2;18:1,14,22;	starting (1)	22:24	10:8;25:20
	16	21:13		tentative (1)	trying (4)
]	returned (1)	Services (2)	state (5)	27:5	8:15;10:3;15:3,3
	18:7	4:14;9:22		testimony (1)	Turn (6)
J	review (6)	session (3)	statement (3)	33:7	6:2;7:1;9:25;12:23;
	6:5,6,6;21:17;22:6; 23:19	26:2,11,17		Thanks (1)	18:8;20:9
	Į,	seven (2)	states (3)		two (6)
1	reviewed (1)	20:13,17		Theriot (1)	6:3,13,20,22;13:4;
_	20:15	several (1)	statue (1)	5:12	21:16
ı	revise (1) 28:25	21:22		thinking (1)	U
	revised (1)	shall (1) 22:6	Status (6) 5:24:0:13 15:17:16:	31:25	<u> </u>
ı	22:4	shear (1)	5:24;9:13,15;17:16; 20:12;25:13	third (4)	under (1)
_	<i></i>	oncai (1)	40.14,43.13	7:1,14;25:13,18	under (1)
V	Iin-U-Seript®	Assoc	iated Reporters, Incorpor	ated	(5) relates - under

December 3, 2015				1.0111
6:5	working (1)	20 (3)		
Underground (3)	21:9	4:7;5:15;13:19		ļ
5:3;15:8;31:6	worksheet (1)	2015 (9)	•	
unfortunately (1)	18:11	4:8;5:16;7:15,18,21;		}
13:24		11:2;18:1,14,22		
	wrapping (1)			
up (6)	6:17	2016 (8)		
5:25;6:18;26:23;	written (1)	17:22,24;20:13;27:5,		
28:4,8;29:5	16:14	6,7,7,7		
update (5)	wrong (1)	2018 (1)	•.	
10:19,21;20:18;	24:1	29:2		
	24.1			
28:13,17	3.7	2021 (1)	•	1
used (3)	Y	29:7		
10:3,10;33:11		219510d (1)		ļ
user (1)	ya'll (8)	22:5		1
10:8	12:9;14:15;21:23;	2195a85 (1)		į
uses (2)	22:3;23:20;25:11;27:1;	22:5		ľ
11:8;20:4	32:24	22 (2)		
using (2)	year (23)	6:5;18:6		4,
19:4,19	6:4,24;7:4;10:21,22,	244 (1)		
UST (2)	25;11:2,11,24;13:20;	20:19		
28:13;31:20	15:17,19;17:22,24;	249 (1)		
utilized (1)	19:4,20;20:1,5,13,16;	18:4		1
		(·	i
16:14	28:21,22;32:11	277 (1)		1
	years (3)	20:21		
${f v}$	20:8;27:1;29:5	28 (1)		
	yesterday (2)	33:4		
valve (1)	6:22;13:10	29 (1)		- 1
31:12	0.22,13.10	6:3		1
	1			
various (2)	1	298 (1)		
9:1;18:12		17:24		
verified (1)	1 (1)	_		
33:18	10:17	3		
VIZINAT (2)	1:00 (2)	-		
4:9,10	27:9,12	30 (3)		
4.5,10	-	7:4;10:18;11:2		
3.3.7	12 (1)			
\mathbf{W}	7:18	327,000 (1)		1
	13 (2)	19:10		- {
way (3)	28:22;29:2	· · · · · · · · · · · · · · · · · · ·		ł
15:14;16:13;30:10	14 (3)	8		
website (1)	6:5;7:8,15			
28:15		823 (1)		
	1434b (1)			
week (1)	33:5	16:19		
6:24	144 (1)			
weeks (1)	18:2	9		
21:16	15 (3)			
welcome (2)	10:25;28:20,21	90 (1)		1
4:4;9:7	154 (1)	28:22		
				-
weren't (2)	19:9	97083 (1)		- 1
24:20;25:1	16 (3)	33:22		
what's (1)	6:10,25;7:21			.
30:1	17 (1)			- 1
who's (1)	27:7			1
25:14	18 (2)			
wish (1)	27:6,7	. 1		
32:9	19 (1)	. 1	3	
without (1)	27:6			
19:2	1992 (1)]		
words (2)	29:19		•	
33:15,17		 		1
	2			
workgroup (2)	L	į l		
30:3,8				-
workgroups (1)	2:23 (1)			ĺ
32:2	32:25	j i		

In The Matter Of:

DEPARTMENT OF ENVIRONMENTAL QUALITY FUND ADVISORY BOARD

MEETING
December 3, 2015

Associated Reporters, Incorporated 225-216-2036

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	Page 1		Page 3
1		1	INDEX
123	STATE OF LOUISIANA	2	
4	DEPARTMENT OF ENVIRONMENTAL QUALITY	3	EXAMINATION: PAGE (S):
5	MOTOR FUELS UNDERGROUND STORAGE TANK TRUST	4	None
6	FUND ADVISORY BOARD	5	EXHIBITS:
7		6	None
8		7	
9		8	REPORTER'S PAGE 33
10		9	REPORTER'S CERTIFICATE 34
11		10	
12		11	
13	The above-entitled meeting was held at the LDEQ, Galvez Building, Conference Center, 602	12	
14	North 5th Street, Baton Rouge, Louisiana, beginning at 1:37 p.m., on December 3, 2015.	13	
15		14	
16		15	
17		16	
18		17	
19	BEFORE:	18	
20	Lori B. Overland	19	
21	Certified Court Reporter In and For the State of Louisiana	20	
22	Bourstalla	21	
23		22	
24		23	Cartain August 1 State Cartain San Cartain St. 1882 - 1885
25		24	
25		25	
	Page 2		Page 4
1	APPEARANCES		* * * * *
2		1	MR. HILL:
3	Kerry Hill Chairman	2	At this time, I'd like to call this
4	Durwood Franklin	4	meeting to order and welcome everybody for
5	Jeff Baker Gary Fulton	5	being able to attend this morning. At this
6	Karyn Andrews Cy Morin	6	time, I'd like to have a roll call and
7	Frank Marcello Chris Ratcliff	7	consideration and adoption of the August 20,
8	Nick St. Romain Steve Burnham	8	2015 board minutes.
9	Melissa Vizinat	9	MS. VIZINAT:
10	Ian Kelley Sam Broussard Natalie Isaacks	10	Melissa Vizinat, Trust Fund.
11	Megan Terrell	11	Mr. MORIN:
12		12	Cy Morin, DEQ Audit.
13		13	MS. ANDREWS:
14		14	Karyn Andrews, DEQ Financial Services.
15		15	MR. MARCELLO:
16		16	Frank Marcello, Louisiana Oil
17		17	Marketers and Convenience Store Association.
18		18	MR. ST. ROMAIN:
19		19	Nick St. Romain, Louisiana Oil
20		20	Marketers and Convenience Store Association.
21		21	MR. HILL:
22		22	Kerry Hill, Louisiana Oil Marketers
23		23	and Convenience Store Association.
24		24	MR. BURNHAM: Steve Burnham Engineering Associates
25		25	Steve Burnham, Engineering Associates,

Dece	5 AULS			TOND ADVISORT DOMAD
:		Page 5	İ	Page 7
1	Incorporated.		1	If you turn to the third page of the
2	MR. FULTON:		. 2	report, these are the five cases that are in
3	Gary Fulton, DEQ Underground Storage		3	legal, being pursued legally. For the first
4	Tank Remediation Division.		4	case, on October 30 of this year, a new
5	MR. BAKER:		. 5	attorney on the case enrolled as additional
6	Jeff Baker, DEQ Motor Fuel Trust Fund		6	counsel of record on behalf of DEQ. This
7	Division.		7	attorney is responding to the answer filed
8	MR. FRANKLIN:	i	8	on August 14 by the defendant and will be
9	Durwood Franklin, DEQ Trust Fund.		9	preparing to go to trial. The second case
10	MR. RATCLIFF:		10	listed, legal sent an Office of Debt
11	Chris Ratcliff. I'm an attorney with	ļ	11	Recovery Notice letter, which states that
12	DEQ, and I'm filling in for Perry Theriot.	Ì	12	the Department can allow the business to
13	MR. HILL:		13	make payments. The owner is currently
14	Okay. Thank you. Do I hear a motion	1	14	sending monthly payments of \$300. The third
15	to adopt the minutes from the August 20,		15	case, on October 14, 2015 was referred to
16	2015 board meeting?	l	16	the Office of Debt Recovery. The fourth
17	MR. MARCELLO:	İ	17	case on the list was referred to legal just
18	So moved, Mr. Chairman.		18	last month, November 12, 2015. And judgment
19	MR. BURNHAM:		19	for the fifth case listed was prepared for
20	Second.		20	signature and placed in the mail on November
21	MR. HILL:		21	16, 2015.
22	Thank you.		22	And that completes my report. Any
23	We'll move to item number three, Audit		23	questions?
24	Status Report. And I'd like to have Cy to		24	MR. HILL:
25	bring us up on that.	ļ	25	Any questions related to his report?
	orm9 to the outtour			Taly queenone related to me repair.
		Page 6		Page 8
1	MR. MORIN:		1	MR. BURNHAM:
2	Okay. Turn to tab three. The first		2	Cy, these were randomly selected
3	two pages of this report detail 29 open	ŀ	3	audits, is that
4	motor fuel cases initiated since fiscal year	ļ	4	MR. MORIN:
5	'14. 22 of these cases are under review or	İ	5	You can see the reason for the audit
6	are awaiting review. Pending final review,		6	column here. These audits let's see,
7	these represent one potential credit of		7	never audited. Okay. So we we the
8	approximately \$3,200, five potential		8	auditor who is doing motor fuel audits keeps
9	assessments, totaling approximately \$1,500,		9	track of who we've audited in the past, when
10	and 16 potential clean audits with no		10	we audited them. And there's quite a few
11	assessment.		11	that have never been audited
12	Six cases are still in progress,	!	12	MR. BURNHAM:
13	representing two potential assessments,		13	Okay.
14	totaling approximately \$11,000, of which	:	14	MR. MORIN:
15	approximately \$9,700 has been collected.		15	so we are looking at trying to get
16	Four potential clean audits with no		16	to everyone
17	assessment are still in progress, wrapping		17	MR. BURNHAM:
18	up fieldwork.		18	Yes.
19	One case, which is the last case on		19	MR. MORIN:
20	page two, was scheduled during the time I		20	that had not been audited. So
21	made this report. It has since commenced		21	you'll see a lot of that on this list.
1	yesterday and we've added two more cases to		22	MR. BURNHAM
22	Jesterauj una no re added two more educa to		23	Okay.
22	the list that that are starting next			
23	the list that that are starting next week. That will make eight for fiscal year			
1	the list that that are starting next week. That will make eight for fiscal year '16 to date.		24 25	MR. MORIN:
23 24	week. That will make eight for fiscal year		24	

	ND ADVISORY BOARD		December 3, 201
	Pag	e 9	Page 11
1	late payment, or just the various things you	1	\$87,397,607 in cash. In this current fiscal
2	see here. So maybe not completely random,	2	year to date, as of September 30, 2015,
3	but mainly for these reasons you see here.	3	we've deposited \$7,823,385. I would note
1	MR. BURNHAM:	1	that \$27,490 of that is interest money that
4		4	· · · · · · · · · · · · · · · · · · ·
5	Okay. Thank you. MR. MORIN:	5	we do keep segregated. And we have
6		6	disbursed to RACs for sites \$3,543,460. You'll also notice on here that there is a
7	You're welcome.	7	
8	MR. HILL:	8	line item for other financing uses. This is
.9	Does anybody have any other questions?	9	the transfer to the Environmental Trust
10	(No response.)	10	Fund. That's the actual transfer that we
11	MR. HILL:	11	reported to you for last year. We do that
12	Do I hear a motion to accept the Audit	12	in August. So since we are now on a cash
13	Status Report?	13	basis that I'm reporting to you, this is now
14	MR. ST. ROMAIN:	14	reported on this new statement in this
15	I motion to accept the Audit Status	15	manner.
16	Report.	16	Next, I'll report to you, the current
17	MR. MARCELLO:	17	liabilities on sites are at \$93,251,316.
18	Second.	18	And Jeff is going to go into that a little
19	MR. HILL:	19	bit more with you. And what we now have as
20	Okay. Thank you.	20	in balance, after obligations of minus
21	Moving to item number four, Financial	21	\$6,901,030.
22	Services Report. I'd like to ask Karyn to -	22	I would point out that, it's showing
23	MC ANDDEWC	23	negative simply because the inflows are
24	MS. ANDREWS:	24 25	slower at certain times of the year. We haven't collected all the money. This is
25	Thank you. If we could turn to tab	25	haven't conceted an the money. This is
-	Page	10	Page 12
ļ	Page	ן טי	Page 12
1			
1 2	four. I'd like to point out that I have	1	only one period's report. As you know,
2	four. I'd like to point out that I have changed this report quite a bit from what	1 2	only one period's report. As you know, collections, we generally receive about
	four. I'd like to point out that I have changed this report quite a bit from what you are used to seeing. I'm I'm trying	1	only one period's report. As you know, collections, we generally receive about \$22,000,000. There's no reason to think
2	four. I'd like to point out that I have changed this report quite a bit from what you are used to seeing. I'm I'm trying to do a little bit different here. I	1 2 3	only one period's report. As you know, collections, we generally receive about \$22,000,000. There's no reason to think that that would not continue. So the the
2 3 4	four. I'd like to point out that I have changed this report quite a bit from what you are used to seeing. I'm I'm trying to do a little bit different here. I I've heard a lot of comments that it it's	1 2 3 4	only one period's report. As you know, collections, we generally receive about \$22,000,000. There's no reason to think that that would not continue. So the the minus right now, it's showing that and also
2 3 4	four. I'd like to point out that I have changed this report quite a bit from what you are used to seeing. I'm I'm trying to do a little bit different here. I I've heard a lot of comments that it it's slightly confusing what we have been been	1 2 3 4	only one period's report. As you know, collections, we generally receive about \$22,000,000. There's no reason to think that that would not continue. So the the minus right now, it's showing that and also a portion of that would be explained in the
2 3 4 5 6	four. I'd like to point out that I have changed this report quite a bit from what you are used to seeing. I'm I'm trying to do a little bit different here. I I've heard a lot of comments that it it's slightly confusing what we have been been showing you in the past. And I'm I want	1 2 3 4 5 6	only one period's report. As you know, collections, we generally receive about \$22,000,000. There's no reason to think that that would not continue. So the the minus right now, it's showing that and also
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	four. I'd like to point out that I have changed this report quite a bit from what you are used to seeing. I'm I'm trying to do a little bit different here. I I've heard a lot of comments that it it's slightly confusing what we have been been showing you in the past. And I'm I want to try to make this a little bit more user friendly. And I hope this a little bit more closely resembles what you perhaps are used to seeing as a profit and loss statement. And so what we are reporting is a statement that's on the cash basis. It's similar to what the legislative auditor audits. And hopefully, this will be a little clearer for you to understand. And so we're now reporting for the period July 1 to June 30. And what we've put together is a comparative report that we will update each quarter for you that you'll see the year end and then the new update for the new fiscal year. So I'll go through this with you. And	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	only one period's report. As you know, collections, we generally receive about \$22,000,000. There's no reason to think that that would not continue. So the the minus right now, it's showing that and also a portion of that would be explained in the new obligation balance that Jeff that Jeff is going to talk about. Did ya'll have any questions about this report? (No response.) MS. ANDREWS: Does this help you understand the fund a little bit better, I would ask you? MR. HILL: It does. MS. ANDREWS: Okay. Good. MR. BURNHAM Real good. MS. ANDREWS: Okay. All right. If you could turn the

Page 15 Page 13 MR. MARCELLO: calculate our transfer from the Motor Fuel I -- I did have a question. And I'm Trust Fund to the Environmental Trust Fund, 2 2 trying -- I'm trying to get it together. My on the next page. 3 3 question revolves around the sweep. And I did have two things that I did 4 4 MS. ANDREWS: want to point out to you that's not -- that 5 5 was not handed to you in advance, things Yes. 6 6 that we didn't know about them. 7 MR. MARCELLO: 7 And the -- it's -- so our underground The first thing, I did send -- I did 8 8 trust fund has X dollars in it and X dollars hand out to you already. We did get a clean 9 9 audit that was emailed out to me yesterday. that are allocated to potential cleanup 10 10 sites. The five percent was based on which You may have received an email from the --11 11 from the Legislative Auditor. It has been 12 number? 12 released publicly. You do have a copy and MS. ANDREWS: 13 13 there are some more copies in the back, if Okay. So the way the -- the legislate 14 14 -- the Commissioner of Administration and 15 anyone else would like a copy. 15 And the second thing that I did want the Governor's Office does is, we are 16 to go ahead and notify the board about is appropriated every year with budget 17 17 that the Joint Legislative Committee on 18 authority to expend. Our budget authority 18 Budget met on November 20. And as they did in the Motor Fuel Trust Fund this year was 19 19 \$16,473,142. That was our budgeted last year, they have done cash sweeps of all 20 of states statutory dedicated funds and appropriation for the Motor Fuel Trust Fund. 21 21 constitutionally protected funds, one of That is how much we are authorized to 22 22 which, the Motor Fuel Trust Fund was one of 23 23 disburse. them, unfortunately. MR. MARCELLO: 24 24 25 I would like to report that cash and Yes. 25 Page 14 Page 16 budget for motor fuels was reduced by MS. ANDREWS: 1 1 \$823,657. 2 Okay? 2 And that was five percent of the MR. MARCELLO: 3 3 budget. Okav. 4 4 MR. HILL: MS. ANDREWS: 5 5 That's the legal amount that --That has -- that's -- there's -- the 6 6 MS. ANDREWS: correlation to cash is not there. That is 7 7 That's the maximum legal amount that how much we are authorized to disburse for 8 8 they are allowed to take. And I would like 9 9 RAC Cleanup -you to know that they -- they took that out MR. MARCELLO: 10 of, I believe, all of the statutory Correct. dedicated funds and the constitutionally MS. ANDREWS: 12 12 protected funds, if you go back and listen. -- sites. And so the way the statue 13 13 So no one was spared. is written and how it was utilized is, they 14 14 Did ya'll have any questions about can take that appropriated amount and they 15 15 reduce it by five percent. So five percent anything? 16 16 MR. HILL: of that \$16 million was the eight --17 17 Did you say Jeff was going to finish MR. MARCELLO: 18 18 part of your --823? 19 19 20 MS. ANDREWS: 20 MS. ANDREWS: Well, when he does his presentation, Correct, correct. And as -- with the 21 21 reduction, they also take the equal amount he will discuss that. 22 22 23 MR. HILL: of the cash. 23 Okay. Well, good. Well, thank you, MR. HILL: 24 24 25 Karyn. 25 Anymore questions, Frank?

DE: FU	PARTMENT OF ENVIRONMENTAL QUALITY ND ADVISORY BOARD		
	Page	17	·
1	MR. MARCELLO:	1	The next section
2	That's it.	2	recognized for site
3	MR. HILL:	3	CAP budgets is \$3
4	Anybody have anymore questions?	4	determined by usin
5	(No response.)	5	site closure cost an
6	MR. HILL:	6	to that active trust
7	Thank you, Karyn. Do I hear a motion	7	currently have CAl
8	to accept the financial report from Karyn?	8	you can see, a port
9	MR. BURNHAM:	9	the total, as it relate
10	Motion to accept.	10	times the 327,000,
11	MR. ST. ROMAIN:	111	potential obligation
12	Second.	12	backout that, the to
13	MR. HILL:	13	had been applied co
14	Thank you.	14	The next section
15	Let's move on to number five, Trust	15	has recognized the
16	Fund Status Report. Jeff, would you deliver	16	determined to be tr
17	that for us, please.	17	however, have not
18	MR. BAKER:	18	application. That o
19	Sure will. Good afternoon. If you'll	19	This is also determ
20	refer to tab number five in the packets.	20	year average site cl
21	These are the figures for the first quarter	21	these costs to the si
22	of fiscal year 2016.	22	eligibility but have
23	During the first quarter of fiscal	23	request for reimbur
24	year 2016, the Trust Fund received 298	24	Previously, these si
25	applications, totaling \$5,231,529. At the	25	in this calculation.
	Page	18	
1	end of September 2015, the Trust Fund had	1	The five year p
2	144 pending applications to process, which -	2	obligation relating

Page 19 The next section, the fund obligation recognized for sites without ROG approved CAP budgets is \$38,143,288. This is determined by using the three year average site closure cost and applying these costs to that active trust fund sites that don't currently have CAP budgets. A portion -- as you can see, a portion -- when you look at the total, as it relates to the 154 sites times the 327,000, we calculate what the potential obligation would be and then we backout that, the total expenditures that had been applied currently to those sites. The next section, the fund obligation has recognized the sites that had been determined to be trust fund eligible, however, have not submitted a reimbursement application. That obligation is \$9,511,246. This is also determined by using the three year average site closure cost and applying hese costs to the sites that have requested eligibility but have yet not submitted a equest for reimbursement from the fund. Previously, these sites were being ignored

Page 20

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144 pending applications to process, which -
 3
    - which had requested amounts, totaling
    $2,956,917. 249 applications were processed
    for payment during the fiscal period,
 5
 6
    totaling $3,150,617. And 22 applications
    were returned with deficiencies.
 7
         If you'll turn to the next page
 8
 9
    entitled Monthly Motor Fuel Trust Fund
    Obligation Determination, this is the new
10
    worksheet that Karyn was referring too,
```

Trust Fund as of the end of September 2015. To kind of give you a breakdown of it, for the sites in the corrective action phase, which means that these are sites that a CAP budget has been proposed and approved by the ROG, the outstanding liability of the corrective action plan budget and estimated cost to reach closure at the end of September 2015 was \$28,575,921. This total

listing the various component determinations

of the potential obligation against the

20 21 22 23 includes the CAP budget remaining amounts and the RAC estimated cost to closure 24 25 amounts.

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

9 If you will turn to the legal page, the last page of your document -- of you 10 packet, the number of Trust Fund sites that 11 12 have received no further action status during the fiscal year 2016 was seven sites. 13 14 The number of potential Trust Fund sites that were reviewed and made eligible during 15 16 the current fiscal year was six sites, 17 representing seven active incidents. 18

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

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Page 23 Page 21 from RACs and owners related to bringing the about. 1 2 older sites that have reached their maximum 2 MR. FULTON: back into the program. Right. 3 3 We've also seen a number of sites that MR. BURNHAM 4 4 were approaching the limit that had kind of Yes. Okay. 5 5 became stagnant become more active in their MR. HILL: 6 6 remediation activities. We have a proposal not to make any 7 7 Another point. The Trust Fund has 8 changes. Do we have any other comments, or 8 do we need a second on that? been working to develop a more accurate 9 9 approach to the determination of potential MR. BURNHAM: 10 10 obligation liabilities, which is what we Second. 11 11 just went over. MR. HILL: 12 12 13 The -- the -- the September document -13 We got -- we got a first and a second - determination with all the supporting on not making any other changes to the 14 14 documents were sent out to the board members deductible. 15 15 16 two to four weeks ago with the preliminary 16 All in favor? (All indicated "aye".) review and comments. No comments or 17 17 questions were received. We hope and MR. BAKER: 18 18 believe that this new methodology is a And that completes my review. If 19 anybody has any -- if ya'll have any better representation of the true 20 20 21 obligation. 21 questions? Now, in talking to several of the MR. HILL: 22 22 board members, apparently, some of ya'll did Anybody have any questions for Jeff? 23 23 not receive this. I will go back and send MR. BURNHAM: 24 24 this -- resend this to the addresses that The only -- in observation, Jeff, and 25 25 Page 22 Page 24

you gave me and make sure that you have the 1 new numbers, along with all the supporting 2 3

calculations so ya'll will be able see this. One other point. The revised statutes

4 2195.a.85 and 2195(10).d, the state --5

states that the Advisory Board shall review 6

the financial responsibility requirements 7

for all sites in and out of compliance on an

annual basis. And they recommend to the

Secretary adjusting those requirements, if 10

11 they see fit. At this time, the Trust Fund

does not have any recommendations to the 12

13 board relating to any modifications for the

current financial responsibility dollar 14

amounts. 15

MR. FULTON: 16

17 I propose that we not make any

18 changes.

20

MR. HILL 19

Not make any changes?

21 MR. FULTON:

22 Right.

23 MR. BAKER:

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

- -- and just tell me if I'm wrong. But the
- effect of what you did on these calculations 2
- was, you pulled in some things that were 3
- previously, possibly slipping through the 4
- cracks and it gives us a more conservative
- look at the balance, at the true balance of 6
- the -- the Trust Fund and at the -- or at 7
- the true obligations of the Trust Fund?
- MR. BAKER: 9

Yes, sir.

MR. BURNHAM: 11

That's -- that's basically what it 12

13 does?

10

15

MR. BAKER: 14

We brought in some sites that were

being ignored to make it more -- a -- truly 16

a more conservative, more accurate approach. 17

18 We also found some mistakes in how it was

looking at some numbers. Some numbers 19

weren't being included that should've been 20

21 included, just because of timing as it

relates to -- they -- they were categorizing 22

the -- the different costs and some of

23

those sites were going back beyond when we 24

actually started doing that in the database. 25

	NU AUVISUR I BUARU			December 3, 201
1	1	Page 25		Page 27
1	So we weren't capturing a lot of those		1	the next years meetings and let ya'll
2	costs. So now, we're doing it on the total		2	approve those.
3	expenditure, which is a more accurate		3	MR. HILL:
4	approach.		4	I missed that. Consideration of
5	MR. BURNHAM:		5	tentative dates for board meetings in 2016.
6	Right. Good.		6	We have listed February 18, 2016, May 19,
7	MR. HILL:		7	2016, August 18, 2016, November 17, 2016.
8	Any further questions?		8	MR. BURNHAM:
9	(No response.)		9	Those would all be Thursdays at 1:00
10	MR. HILL:		10	o'clock?
11	Thank ya'll. Thank you, Jeff.		11	MR. HILL:
12	At this time, we'll go to item number	1	12	They would all be Thursdays at 1:00
13	six, Third Party Claim Status. Perry is not		13	o'clock?
14	going to be here, but we have Chris who's		14	MR. BAKER:
15	going to		15	Yes, sir.
16	MR. RATCLIFF:		16	MR. HILL:
17	Perry tells me there have been no new		17	Does anybody have any conflict or
18	third party claims since the last meeting.		18	or reason that we could not possibly
19	If you need any other information, let me		19	consider having these dates that they have
20	know and I'll try and find out for you.	ľ	20	listed today?
21	MR. HILL:		21	MR. ST. ROMAIN:
22	Okay. Thank you. Does anybody have		22	No conflict.
23	any questions for Chris?		23	MR. MARCELLO:
24	(No response.)	}	24	None.
25	MR. HILL:	1	25	MR. HILL:
	F	age 26		Page 28
1	If not then, at this time, we need to	ľ	1	Okay. We will accept those dates
1				
2	go into executive session.		2	going forward.
3	go into executive session. MR. MARCELLO:		2 3	going forward. Is there any other business that
	MR. MARCELLO:			Is there any other business that
3	MR. MARCELLO: I'll if you need it in a motion		3	Is there any other business that anybody would like to bring up before
3 4	MR. MARCELLO:		3 4	Is there any other business that
3 4 5	MR. MARCELLO: I'll if you need it in a motion form, I'll make that motion. MR. HILL:		3 4 5	Is there any other business that anybody would like to bring up before closing?
3 4 5 6	MR. MARCELLO: I'll if you need it in a motion form, I'll make that motion.		3 4 5 6	Is there any other business that anybody would like to bring up before closing? MR. BAKER:
3 4 5 6 7	MR. MARCELLO: I'll if you need it in a motion form, I'll make that motion. MR. HILL: We need a hear a motion to go		3 4 5 6 7	Is there any other business that anybody would like to bring up before closing? MR. BAKER: We have a public comment. Sam
3 4 5 6 7 8	MR. MARCELLO: I'll if you need it in a motion form, I'll make that motion. MR. HILL: We need a hear a motion to go MR. FULTON:		3 4 5 6 7 8	Is there any other business that anybody would like to bring up before closing? MR. BAKER: We have a public comment. Sam Broussard wanted to bring up a
3 4 5 6 7 8 9	MR. MARCELLO: I'll if you need it in a motion form, I'll make that motion. MR. HILL: We need a hear a motion to go MR. FULTON: Second.		3 4 5 6 7 8 9	Is there any other business that anybody would like to bring up before closing? MR. BAKER: We have a public comment. Sam Broussard wanted to bring up a MR. HILL:
3 4 5 6 7 8 9	MR. MARCELLO: I'll if you need it in a motion form, I'll make that motion. MR. HILL: We need a hear a motion to go MR. FULTON: Second. MR. HILL:		3 4 5 6 7 8 9	Is there any other business that anybody would like to bring up before closing? MR. BAKER: We have a public comment. Sam Broussard wanted to bring up a MR. HILL: Okay. We'd like to have Sam to
3 4 5 6 7 8 9 10	MR. MARCELLO: I'll if you need it in a motion form, I'll make that motion. MR. HILL: We need a hear a motion to go MR. FULTON: Second. MR. HILL: into executive session? Need a		3 4 5 6 7 8 9 10	Is there any other business that anybody would like to bring up before closing? MR. BAKER: We have a public comment. Sam Broussard wanted to bring up a MR. HILL: Okay. We'd like to have Sam to MR. BROUSSARD:
3 4 5 6 7 8 9 10 11 12	MR. MARCELLO: I'll if you need it in a motion form, I'll make that motion. MR. HILL: We need a hear a motion to go MR. FULTON: Second. MR. HILL: into executive session? Need a second.		3 4 5 6 7 8 9 10 11	Is there any other business that anybody would like to bring up before closing? MR. BAKER: We have a public comment. Sam Broussard wanted to bring up a MR. HILL: Okay. We'd like to have Sam to MR. BROUSSARD: Thanks, Kerry. I want to give you
3 4 5 6 7 8 9 10 11 12 13	MR. MARCELLO: I'll if you need it in a motion form, I'll make that motion. MR. HILL: We need a hear a motion to go MR. FULTON: Second. MR. HILL: into executive session? Need a second. MR. FULTON:		3 4 5 6 7 8 9 10 11 12	Is there any other business that anybody would like to bring up before closing? MR. BAKER: We have a public comment. Sam Broussard wanted to bring up a MR. HILL: Okay. We'd like to have Sam to MR. BROUSSARD: Thanks, Kerry. I want to give you guys an update on the new federal UST
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3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	MR. MARCELLO: I'll if you need it in a motion form, I'll make that motion. MR. HILL: We need a hear a motion to go MR. FULTON: Second. MR. HILL: into executive session? Need a second. MR. FULTON: Second. MR. HILL: Okay. (The board went into executive session at this time.) (The meeting reconvened.) MR. HILL: Well, at this time, I'd like to ask, is there any other business that anybody would like to bring up and discuss?		3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Is there any other business that anybody would like to bring up before closing? MR. BAKER: We have a public comment. Sam Broussard wanted to bring up a MR. HILL: Okay. We'd like to have Sam to MR. BROUSSARD: Thanks, Kerry. I want to give you guys an update on the new federal UST Regulation. I I put out a couple of flyers on our website, and I think you guys posted something on LOMA. But I just wanted to give you guys a better update and feel for where we are and where I'm going with it. The regs are final on June 15 July 15 of this year. Their effective date was 90 days after, so October 13 of this year was the effective date of the federal regs.

Page 29 Page 31 own regulations. And we have until October own financial responsibility. 1 13, 2018 to get our regs in place and apply And one other thing they did change 2 2 was the definition of accidental release. for state program authorization. So -- so 3 3 we're -- they will apply at that point and They actually changed the definition in the 4 4 then we have up to three years to have some federal regs to mean any release from 5 operating an underground storage tank 6 implementation dates on some of these items. 6 system. And that would include releases So it could be in 2021 before some of the 7 7 above ground from dispenser spills or things in the new regs are gonna apply in 8 overfills. And those things are not Louisiana. But there are some things that 9 9 the Trust Fund board at some point is going normally covered by the Trust Fund. 10 10 Basically, the policy was everything below to have to look at and I wanted to bring 11 11 the shear valve. Now, you'll have to make a those things to your attention. 12 12 decision at some point, either cover those One is, when we apply for state 13 13 above ground things with the Trust Fund or program approval, they're not going to look 14 14 at just the new regulations that they 15 have tank owners get their own separate 15 financial responsibility for those releases. changed. EPA told me that they're going to 16 16 So I wanted to bring -- there's a lot 17 go back and look at every regulation that we 17 changed since our original authorization in of other things that are going to effect 18 18 tank owners that I can get into, but their 1992. So every reg we did, every reg change 19 19 20 we did is going to get looked at again. So 20 kind of specific to UST compliance stuff. If you want, I can go over some of those, we're going to have to make sure that 21 21 but I just wanted to bring the things that everything we have is as stringent as the 22 22 are going to effect the Trust Fund. Let you EPA. And I know right now, we have things 23 23 that are not. So we're going to be doing guys hear it from me and have you start 24 24 thinking about it. And -- and again, we 25 some more substantial reg changes than 25 Page 30 Page 32 what's in the new federal regs. And it -will be able to discuss those more in the 1 what -- my plan is to have a stakeholder stakeholder workgroups. 2 workgroup start meeting. I'm going to be MR. HILL: 3 3 sending out some meeting dates some time in Okay. Thank you, Sam. Does anybody 4 4 -- in mid-December, late-December and we have any questions for Sam? 5 5 will probably start meeting in mid to late-(No response.) 6 6 January. And then I'll iron out all the MR. HILL: 7 7 details with that stakeholder workgroup and Well, if that's -- if there's no more 8 8 you guys will have membership in there and further questions, I guess we will wish 9 9 that way you can get all the -- the details everybody a Merry Christmas and a Happy New 10 10 on the specifics. 11 11 Year. But one other -- well, a couple of 12 12 Thank you, Sam. other things that are kind of specific that MR. MARCELLO: 13 13 might affect the Trust Fund. One is that I move that we adjourn. 14 14 15 things that were deferred in the past, 15 MR. HILL: airport hydrants and fuel constructive tanks Did I hear a motion to adjourn? 16 16 are now regulated and they're going to have MR. MARCELLO: 17 17 to have financial responsibility. The good Move. 18 18 thing is, I -- we don't expect to have any 19 MR. HILL: 19 20 of those systems in Louisiana. So that Move by Frank. Do I hear a second? 20 shouldn't effect us. But in the event that MR. FULTON: 21 21 22 we do get a non-government airport hydrant 22 Second. system or fuel constructive tank, you guys MR. HILL: 23 23 will have to make a decision if you want to Second by Gary. Thank ya'll. 24 24

cover those with Trust Fund or have their

25

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THE MEETING ADJOURNED AT 2:23 P.M.

Page 33 REPORTER'S PAGE 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 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; That any words and/or names which could not 17 be verified through reference material have been denoted with the phrase "(inaudible)." 20 Lori Overland, C.C.R. 21 # 97083 22 23 24 25 Page 34 1 CERTIFICATION 2 I, Lori B. Overland, Certified Court Reporter in and for the State of Louisiana, as the officer before whom this testimony was taken, do hereby certify that the above referenced individual to whom oath was administered, after having been duly sworn 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 115 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; that I am not related to counsel or to the parties herein, nor am I otherwise interested in the outcome of this matter. 23 24 Lori Overland C.C.R. 25 # 97083

	19.16.20.20.12	1 (1)		21.1
	18:16,20;20:12 active (3)	annual (1) 22:9	authority (2) 15:18,18	21:1 brought (1)
\$	19:6;20:17;21:6	Anymore (2)	authorization (2)	24:15
21 700 (1)	activities (1)	16:25;17:4	29:3,18	Broussard (2)
\$1,500 (1)	21:7	•	authorized (2)	28:8,11
6:9		apparently (1) 21:23	15:22;16:8	Budget (8)
\$11,000 (1)	actual (1)	1		
6:14	11:10	application (1) 19:18	available (1) 20:22	13:19;14:1,4;15:17,
\$16 (1)	actually (2)	1		18;18:18,20,23
16:17	24:25;31:4	applications (4)	average (4)	budgeted (1)
\$16,473,142 (1)	added (1)	17:25;18:2,4,6	19:4,20;20:5,7	15:20
15:20	6:22	applied (1)	awaiting (1)	budgets (2)
\$17,020,861 (1)	additional (1)	19:13	6:6	19:3,7
20:4	7:5	apply (6)	aye (1)	BURNHAM (16)
\$2,956,917 (1)	addresses (1)	28:24,25;29:2,4,8,13	23:17	4:24,25;5:19;8:1,12,
18:4	21:25	applying (2)	В	17,22;9:4;12:19;17:9;
\$22,000,000 (1)	adjourn (2)	19:5,20	В	23:4,10,24;24:11;25:5;
12:3	32:14,16	approach (3)		27:8
\$27,490 (1)	ADJOURNED (1)	21:10;24:17;25:4	back (6)	business (3)
11:4	32:25	approaching (1)	13:14;14:13;21:3,24;	7:12;26:22;28:3
\$28,575,921 (1)	adjusting (1)	21:5	24:24;29:17	
18:22	22:10	appropriated (2)	backout (1)	C
\$3,150,617 (1)	Administration (1)	15:17;16:15	19:12	
18:6	15:15	appropriation (1)	BAKER (10)	calculate (2)
\$3,200 (1)	adopt (1)	15:21	5:5,6;17:18;22:23;	13:1;19:10
6:8	5:15	approval (1)	23:18;24:9,14;26:24;	calculation (1)
\$3,543,460 (1)	adoption (1)	29:14	27:14;28:6	19:25
11:6	4:7	approve (1)	balance (4)	calculations (2)
\$300 (1)	advance (1)	27:2	11:20;12:7;24:6,6	22:3;24:2
7:14	13:6	approved (2)	based (1)	call (2)
\$38,143,288 (1)	Advisory (1)	18:18;19:2	15:11	4:3,6
19:3	22:6	approximately (4)	basically (2)	can (7)
\$5,231,529 (1)	affect (1)	6:8,9,14,15	24:12;31:11	7:12;8:5;16:15;19:8;
17:25	30:14	around (1)	basis (3)	30:10;31:19,21
\$6,901,030 (1)	afternoon (1)	15:4	10:13;11:13;22:9	CAP (4)
11:21	17:19	Article (1)	became (1)	18:18,23;19:3,7
\$7,823,385 (1)	again (2)	33:5	21:6	capturing (1)
11:3	29:20;31:25	assessment (2)	become (1)	25:1
\$823,657 (1)	against (1)	6:11,17	21:6	case (8)
14:2	18:13	assessments (2)	becoming (1)	6:19,19;7:4,5,9,15,
\$87,397,607 (1)	ago (1)	6:9,13	20:21	17,19
11:1	21:16	Associates (1)	behalf (1)	cases (5)
\$9,511,246 (1)	ahead (1)	4:25	7:6	6:4,5,12,22;7:2
19:18	13:17	Association (3)	below (1)	cash (7)
\$9,700 (1)	airport (2)	4:17,20,23	31:11	10:13;11:1,12;13:20,
6:15	30:16,22	attend (1)	better (3)	25;16:7,23
\$93,251,316 (1)	allocated (1)	4:5	12:14;21:20;28:17	categorizing (1)
11:17	15:10	attention (1)	beyond (1)	24:22
11.17	allow (1)	29:12	24:24	CCR (1)
A	7:12	attorney (3)	Bill (1)	33:21
	allowed (1)	5:11;7:5,7	20:19	certain (1)
abla (3)	14:9	Audit (6)	bit (6)	11:24
able (3)	along (1)	4:12;5:23;8:5;9:12,	10:2,4,8,9;11:19;	Certified (1)
4:5;22:3;32:1	22:2	15;13:10	12:14	33:2
above (2)	amount (4)	audited (5)	board (10)	Chairman (1)
31:8,14	14:6,8;16:15,22	8:7,9,10,11,20	4:8;5:16;13:17;	5:18
accept (5)	amounts (4)	auditor (3)	21:15,23;22:6,13;	change (2)
9:12,15;17:8,10;28:1	18:3,23,25;22:15	8:8;10:14;13:12	26:17;27:5;29:10	29:19;31:2
accidental (1)	and/or (3)	audits (6)	breakdown (1)	changed (4)
31:3	33:5,12,17	6:10,16;8:3,6,8;	18:15	10:2;29:16,18;31:4
accurate (3)	ANDREWS (14)	10:15	bring (7)	changes (6)
21:9;24:17;25:3	4:13,14;9:24;12:12,	August (5)	5:25;26:23;28:4,8;	22:18,20;23:8,14;
Act (2)	17,21;14:7,20;15:5,13;	4:7;5:15;7:8;11:12;	29:11;31:17,22	29:25;33:11
20:21,21	16:1,5,12,20	27:7	bringing (1)	Chris (3)
action (3)	10.1,5,12,20		~	
B40 11 C . 146		sisted Denoutous Incompa		(1) \$1 500 Chris

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5:11;25:14,23	constitutionally (2)	23:15	6:20;17:23;18:5;	
		deductibles (1)	20:13,15	
Christmas (1)	13:22;14:12	1		F
32:10	constructive (2)	22:25	Durwood (1)	
Civil (2)	30:16,23	defendant (1)	5:9	favor (1)
33:5,6	contacts (1)	7:8		23:16
Claim (1)	20:25	deferred (1)	\mathbf{E}	
25:13				February (1)
	continue (2)	30:15		27:6
claims (1)	12:4,24	deficiencies (1)	effect (4)	federal (5)
25:18	Convenience (3)	18:7	24:2;30:21;31:18,23	28:13,23;30:1;31:5;
clean (3)	4:17,20,23	defined (1)	effective (2)	33:4
6:10,16;13:9	copies (1)	33:4	28:21,23	1
	1 - 1/			feel (1)
cleanup (2)	13:14	definition (2)	eight (2)	28:17
15:10;16:9	copy (2)	31:3,4	6:24;16:17	few (1)
cleanups (1)	13:13,15	deliver (1)	either (1)	8:10
20:23	corrective (2)	17:16	31:13	
clearer (1)	18:16,20	denoted (1)		fielded (1)
			eligibility (1)	20:25
10:16	correlation (1)	33:19	19:22	fieldwork (1)
closed (1)	16:7	Department (1)	eligible (3)	6:18
10:25	cost (4)	7:12	19:16;20:15,23	fifth (1)
closely (1)	18:21,24;19:5,20	deposited (1)	else (1)	
	1			7:19
10:10	costs (4)	11:3	13:15	figures (1)
closing (1)	19:5,21;24:23;25:2	DEQ (7)	email (1)	17:21
28:5	counsel (1)	4:12,14;5:3,6,9,12;	13:11	filed (1)
closure (4)	7:6	7:6	emailed (1)	7:7
18:21,24;19:5,20	couple (2)	detail (1)	13:10	
		6:3		filling (1)
code (1)	28:14;30:12		end (4)	5:12
33:6	Court (2)	details (2)	10:21;18:1,14,21	final (2)
collected (2)	33:2,13	30:8,10	Engineering (1)	6:6;28:20
6:15;11:25	cover (2)	Determination (3)	4:25	
collections (1)	30:25;31:13	18:10;21:10,14	enrolled (1)	Financial (8)
12:2				4:14;9:21;17:8;22:7,
	covered (1)	determinations (1)	7:5	14;30:18;31:1,16
column (1)	31:10	18:12	entitled (1)	financing (1)
8:6	cracks (1)	determined (3)	18:9	11:8
commenced (1)	24:5	19:4,16,19	Environmental (4)	
6:21	credit (1)	develop (1)	11:9;13:2;20:3,6	find (1)
				25:20
comment (1)	6:7	21:9	EPA (2)	finish (1)
28:7	current (4)	different (2)	29:16,23	14:18
comments (4)	11:1,16;20:16;22:14	10:4;24:23	equal (1)	first (6)
10:5;21:17,17;23:8	currently (3)	disburse (2)	16:22	
Commissioner (1)	7:13;19:7,13	15:23;16:8	ſ	6:2;7:3;13:8;17:21,
			estimate (1)	23;23:13
15:15	Cy (3)	disbursed (1)	20:4	fiscal (10)
Committee (1)	4:12;5:24;8:2	11:6	estimated (2)	6:4,24;10:22,25;
13:18	;	discourse (1)	18:20,24	11:1;17:22,23;18:5;
comparative (1)	D	33:10	event (1)	
10:19		1	30:21	20:13,16
		discuss (3)		fit (1)
completely (1)	dashes (2)	14:22;26:23;32:1	everybody (2)	22:11
9:2	33:10,14	dispenser (1)	4:4;32:10	five (12)
completes (2)	database (1)	31:8	everyone (1)	6:8;7:2;14:3;15:11;
7:22;23:19	24:25	Division (2)	8:16	
•	1		•	16:16,16;17:15,20;
compliance (2)	date (4)	.5:4,7	executive (3)	20:1,7,24;22:24
22:8;31:20	6:25;11:2;28:21,23	document (2)	26:2,11,17	flyers (1)
component (1)	dates (6)	20:10;21:13	expect (1)	28:15
18:12	26:25;27:5,19;28:1;	documents (1)	30:19	I .
conflict (2)	29:6;30:4	21:15	expend (1)	form (1)
, ,				26:5
27:17,22	days (1)	dollar (2)	15:18	forward (1)
confusing (1)	28:22	22:14,25	expenditure (1)	28:2
10:6	Debt (2)	dollars (4)	25:3	found (1)
conservative (2)	7:10,16	15:9,9;20:5,22	expenditures (1)	
24:5,17				24:18
	decision (2)	done (1)	19:12	Four (4)
consider (1)	30:24;31:13	13:20	explained (1)	6:16;9:21;10:1;
27:19	dedicated (2)	due (1)	12:6	21:16
consideration (2)	13:21;14:12	33:9		
4:7;27:4	deductible (1)	during (5)		fourth (1)
7.1,41.7	deductible (1)	Guring (3)		7:16
	4.	1	-1	1

			T	T
Frank (3)	32:10	into (6)	legislative (4)	maximum (3)
4:16;16:25;32:20	hear (7)	11:18;21:3;26:2,11,	10:14;13:12,18;	14:8;20:22;21:2
FRANKLIN (2)	5:14;9:12;17:7;26:7;	17;31:19	20:20	may (3)
5:8,9	31:24;32:16,20	iron (1)	letter (1)	8:25;13:11;27:6
friendly (1)	heard (1)	30:7	7:11	maybe (1)
10:9	10:5	item (4)	liabilities (2)	9:2
Fuel (11)	help (1)	5:23;9:21;11:8;	11:17;21:11	mean (1)
5:6;6:4;8:8;13:1,23;	12:13	25:12	liability (1)	31:5
15:19,21;18:9;20:6;	hereby (1)	items (1)	18:19	means (1)
30:16,23	33:7	29:6	limit (1)	18:17
fuels (1)	HILL (39)		21:5	meeting (8)
/ 14:1	4:2,21,22;5:13,21;	J	line (1)	4:4;5:16;25:18;
FULTON (8)	7:24;9:8,11,19;12:15;		11:8	26:19;30:3,4,6;32:25
5:2,3;22:16,21;23:2;	14:5,17,23;16:24;17:3,	January (1)	list (3)	meetings (2)
26:8,13;32:21	6,13;22:19;23:6,12,22;	30:7	6:23;7:17;8:21	27:1,5
Fund (39)	25:7,10,21,25;26:6,10,	Jeff (9)	listed (4)	Melissa (1)
4:10;5:6,9;11:10;	15,20;27:3,11,16,25;	5:6;11:18;12:7,8;	7:10,19;27:6,20	4:10
12:13;13:2,2,23;15:9,	28:9;32:3,7,15,19,23	14:18;17:16;23:23,25;	listen (1)	members (2)
19,21;17:16,24;18:1,9,	hope (2)	25:11	14:13	21:15,23
14;19:1,6,14,16,23;	10:9;21:18	Joint (1)	listing (1)	membership (1)
20:1,2,3,6,7,11,14,25;	hopefully (1)	13:18	18:12	30:9
21:8;22:11;24:7,8;	10:15	judgment (1)	little (6)	Merry (1)
29:10;30:14,25;31:10,	hydrant (1)	7:18	10:4,8,9,16;11:18;	32:10
14,23	30:22	July (2)	12:14	met (1)
funds (4)	hydrants (1)	10:17;28:20	LOMA (1)	13:19
	30:16	June (2)	28:16	method (1)
13:21,22;14:12,13	30.10	10:18;28:20	look (6)	33:13
further (3) 20:12;25:8;32:9	I	10.18,28.20	19:8;24:6;26:25;	methodology (1)
20.12,23.8,32.9	1	К	29:11,14,17	21:19
${f G}$	ignamed (2)		looked (1)	mid (1)
	ignored (2) 19:24;24:16	V (6)	29:20	30:6
Co (2)		Karyn (6)	looking (2)	mid-December (1)
Gary (2)	implementation (1) 29:6	4:14;9:22;14:25;	8:15;24:19	30:5
5:3;32:24	I .	17:7,8;18:11	Lori (2)	might (1)
gave (1)	inaudible (1)	keep (1)	33:2,21	30:14
22:1	33:19	11:5		million (3)
generally (1)	incidents (1)	keeps (1)	loss (1) 10:11	16:17;20:24,24
12:2	20:17	8:8		
gives (1)	include (1)	Kerry (2)	lot (4)	minus (2)
24:5	31:7	4:22;28:12	8:21;10:5;25:1;	11:20;12:5
gonna (1)	included (2)	kind (4)	31:17	minutes (2)
29:8	24:20,21	18:15;21:5;30:13;	Louisiana (8)	4:8;5:15
Good (6)	includes (1)	31:20	4:16,19,22;28:24;	missed (1) 27:4
12:18,20;14:24;	18:23	Ψ .	29:9;30:20;33:3,6	1
17:19;25:6;30:18	Incorporated (1)	L	M	missing (1)
Governor (1)	5:1	1 ((6)	141	8:25
20:20	increased (1)	last (6)		mistakes (1)
Governor's (1)	20:22	6:19;7:18;11:11;	mail (1)	24:18
15:16	indicate (1)	13:20;20:10;25:18	7:20	modifications (1)
ground (2)	33:11	late (1)	mainly (1)	22:13
31:8,14	indicated (2)	9:1	9:3	money (2)
guess (1)	23:17;33:15	late- (1)	making (1)	11:4,25
32:9	inflows (1)	30:6	23:14	month (1)
guys (6)	11:23	late-December (1)	manner (1)	7:18
28:13,15,17;30:9,23;	information (1)	30:5	11:15	monthly (2)
31:24	25:19	left (1)	MARCELLO (15)	7:14;18:9
YY	initiated (1)	33:16	4:15,16;5:17;9:17;	more (15)
H	6:4	legal (6)	15:1,7,24;16:3,10,18;	6:22;10:8,9;11:19;
	interaction (1)	7:3,10,17;14:6,8;	17:1;26:3;27:23;32:13,	13:14;21:6,9;24:5,16,
hand (1)	33:9	20:9	17	17,17;25:3;29:25;32:1,
13:9	interest (1)	legally (1)	Marketers (3)	8
handed (1)	11:4	7:3	4:17,20,22	MORIN (8)
13:6	interests (1)	legislate (1)	material (1)	4:11,12;6:1;8:4,14,
Happy (1)	1 20 10	15:14	33:18	19,24;9:6
FF3 ()	20:18	13.14	33.10	17,24,7.0

		т	· · · · · · · · · · · · · · · · · · ·	
norning (1)	obligation (10)	17:20	6:7,8,10,13,16;	RACs (2)
4:5	12:7;18:10,13;19:1,	page (7)	15:10;18:13;19:11;	11:6;21:1
notion (9)	11,14,18;20:2;21:11,21	6:20;7:1;12:24;13:3;	20:14;21:10	random (1)
5:14;9:12,15;17:7,	obligations (2)	18:8;20:9,10	preliminary (1)	9:2
10;26:4,5,7;32:16	11:20;24:8	pages (1)	21:16	randomly (1)
Motor (10)	observation (1)	6:3	prepared (1)	8:2
5:6;6:4;8:8;13:1,23;	23:25	part (1)	7:19	RATCLIFF (3)
14:1;15:19,21;18:9;	o'clock (2)	14:19	preparing (1)	5:10,11;25:16
20:5	27:10,13	Party (2)	7:9	reach (1)
nove (5)	October (4)	25:13,18	presentation (1)	18:21
5:23;17:15;32:14,18,	7:4,15;28:22;29:1	passed (1)	14:21	reached (1)
20	Office (3)	20:19	Previously (2)	21:2
noved (1)	7:10,16;15:16	past (3)	19:24;24:4	Real (1)
5:18	officer (1)	8:9;10:7;30:15	probably (1)	12:20
Moving (1)	33:4	pauses (1)	30:6	reason (3)
9:21		33:11	Procedure (2)	8:5;12:3;27:18
	Oil (3)			reasons (1)
nuch (2)	4:16,19,22	payment (2)	33:5,6	9:3
15:22;16:8	older (1)	9:1;18:5	proceeding (2)	1
nultiplies (1)	21:2	payments (2)	33:10,14	receive (2)
20:7	one (13)	7:13,14	process (1)	12:2;21:24
	6:7,19;12:1;13:22,	Pending (2)	18:2	received (4)
N	23;14:14;20:24,24;	6:6;18:2	processed (1)	13:11;17:24;20:12;
	22:4;29:13;30:12,14;	percent (4)	18:4	21:18
names (1)	31:2	14:3;15:11;16:16,16	profit (1)	recognized (2)
33:17	only (2)	perhaps (1)	10:11	19:2,15
need (6)	12:1;23:25	10:10	program (3)	recommend (1)
23:9;25:19;26:1,4,7,	open (1)	period (2)	21:3;29:3,14	22:9
11	6:3	10:17;18:5	progress (2)	recommendations (1)
,	l e e e e e e e e e e e e e e e e e e e	period's (1)	6:12,17	22:12
negative (1)	operating (1) 31:6	12:1	projected (1)	reconvened (1)
11:23				26:19
new (14)	order (1)	Perry (3)	20:1	•
7:4;10:21,21;11:14;	4:4	5:12;25:13,17	proper (1)	record (2)
12:7;18:10;21:19;22:2;	original (1)	phase (1)	33:13	7:6;33:8
25:17;28:13;29:8,15;	29:18	18:17	proposal (1)	Recovery (2)
30:1;32:10	Others (1)	phrase (1)	23:7	7:11,16
next (7)	8:25	33:19	propose (1)	reduce (1)
6:23;11:16;13:3;	out (13)	phrases (1)	22:17	16:16
18:8;19:1,14;27:1	10:1;11:22;13:5,9,	33:15	proposed (1)	reduced (1)
Nick (1)	10;14:10;21:15;22:8;	place (1)	18:18	14:1
4:19	25:20;28:14;30:4,7;	29:2	protected (2)	reduction (1)
None (1)	33:16	placed (1)	13:22;14:13	16:22
27:24	outstanding (1)	7:20	public (1)	refer (1)
non-government (1)	18:19	plan (2)	28:7	17:20
30:22				reference (1)
	over (2)	18:20;30:2	publicly (1)	33:18
normally (1)	21:12;31:21	please (1)	13:13	
31:10	overfills (1)	17:17	pulled (1)	referred (2)
10te (1)	31:9	PM (1)	24:3	7:15,17
11:3	Overland (2)	32:25	pursued (1)	referring (1)
Notice (2)	33:2,21	point (9)	7:3	18:11
7:11;11:7	overs (1)	10:1;11:22;13:5;	put (2)	reg (3)
notify (1)	33:12	20:24;21:8;22:4;29:4,	10:18;28:14	29:19,19,25
13:17	own (3)	10;31:13		regs (6)
November (4)	29:1;31:1,15	Points (1)	Q	28:20,23;29:2,8;
7:18,20;13:19;27:7	owner (1)	20:18		30:1;31:5
	7:13	policy (1)	quarter (3)	regulated (1)
number (10)	owners (3)	31:11		30:17
			10:20;17:21,23	Regulation (2)
5:23;9:21;15:12;		1 - 4 - 4 i a - (2)		RECHIATION (7)
17:15,20;20:11,14,25;	21:1;31:15,19	portion (3)	quite (2)	
5:23;9:21;15:12; 17:15,20;20:11,14,25; 21:4;25:12	21:1;31:15,19	12:6;19:7,8	8:10;10:2	28:14;29:17
5:23;9:21;15:12; 17:15,20;20:11,14,25; 21:4;25:12 numbers (3)		12:6;19:7,8 possibly (2)	8:10;10:2	28:14;29:17 regulations (2)
5:23;9:21;15:12; 17:15,20;20:11,14,25;	21:1;31:15,19	12:6;19:7,8 possibly (2) 24:4;27:18		28:14;29:17 regulations (2) 29:1,15
5:23;9:21;15:12; 17:15,20;20:11,14,25; 21:4;25:12 numbers (3) 22:2;24:19,19	21:1;31:15,19	12:6;19:7,8 possibly (2)	8:10;10:2	28:14;29:17 regulations (2)
5:23;9:21;15:12; 17:15,20;20:11,14,25; 21:4;25:12 numbers (3)	21:1;31:15,19 P	12:6;19:7,8 possibly (2) 24:4;27:18	8:10;10:2	28:14;29:17 regulations (2) 29:1,15

101.2.12.12011.2011		-1		December 5, 201.
7:25;21:1	revolves (1)	31:12	statutes (1)	thought (1)
relates (2)	15:4	showing (3)	22:4	33:12
19:9;24:22	right (6)	10:7;11:22;12:5	statutory (2)	thousand (1)
relating (2)	12:5,23;22:22;23:3;	shows (1)	13:21;14:11	22:24
20:2;22:13	25:6;29:23	12:25	Steve (1)	three (6)
release (3)	ROG (2)	signature (1)	4:25	5:23;6:2;19:4,19;
20:23;31:3,5	18:19;19:2	7:20	still (2)	20:4;29:5
released (1)	roll (1)	signed (1)	6:12,17	Thursdays (2)
13:13	4:6	20:20	Storage (2)	27:9,12
releases (3)	ROMAIN (5)	similar (1)	5:3;31:6	times (2)
20:23;31:7,16	4:18,19;9:14;17:11;	10:14	Store (3)	11:24;19:10
remaining (1)	27:21	simply (1)	4:17,20,23	timing (1)
18:23	Rule (1)	11:23	stringent (1)	24:21
Remediation (2)	33:4	site (2)	29:22	today (1)
5:4;21:7	Rules (1)	19:5,20	stuff (1)	27:20
Report (18)	33:5	sites (22)	31:20	together (2)
5:24;6:3,21;7:2,22,		11:6,17;15:11;16:13;	submitted (2)	10:18;15:3
25;9:13,16,22;10:2,19;	S	18:16,17;19:2,6,9,13,	19:17,22	told (1)
11:16;12:1,10,24;		15,21,24;20:11,13,14,	substantial (1)	29:16
13:25;17:8,16	Sam (5)	16,21:2,4;22:8;24:15,	29:25	took (1)
reported (2)	28:7,10;32:4,5,12	24	supporting (2)	14:10
11:11,14	same (1)	Six (3)	21:14;22:2	total (4)
Reporter (1)	33:12	6:12;20:16;25:13	Sure (3)	18:22;19:9,12;25:2
33:3	scheduled (1)	slightly (1)	17:19;22:1;29:21	totaling (5)
Reporters's (1)	6:20	10:6	sweep (1)	6:9,14;17:25;18:3,6
33:13	Second (14)	slipping (1)	15:4	track (1)
reporting (3)	5:20;7:9;9:18;13:16;	24:4	sweeps (1)	8:9
10:12,17;11:13	17:12;23:9,11,13;26:9,	slower (1)	13:20	transcript (1)
represent (1)	12,14;32:20,22,24	11:24	sworn (1)	33:16
6:7	Secretary (1)	spared (1)	33:7	transcription (1)
representation (1)	22:10	14:14	system (2)	33:14
21:20	section (2)	specific (2)	30:23;31:7	transfer (4)
representing (2)	19:1,14	30:13;31:20	systems (1)	11:9,10;13:1;20:3
6:13;20:17	seeing (2)	specifics (1)	30:20	transferred (1)
request (1)	10:3,11	30:11		20:5
19:23	segregated (1)	spills (1)	T	trial (1)
requested (2)	11:5	31:8		7:9
18:3;19:21	selected (1)	spontaneous (1)	tab (3)	true (3)
requirements (2)	8:2	33:10	6:2;9:25;17:20	21:20;24:6,8
22:7,10	Senate (1)	ST (5)	talk (2)	truly (1)
resembles (1)	20:19	4:18,19;9:14;17:11;	12:8;33:12	24:16
10:10	send (2)	27:21	talking (2)	Trust (34)
resend (1)	13:8;21:24	stagnant (1)	21:22;22:25	4:10;5:6,9;11:9;13:2,
21:25	sending (2)	21:6	Tank (5)	2,23;15:9,19,21;17:15,
responding (1)	7:14;30:4	stakeholder (3)	5:4;30:23;31:6,15,19	24;18:1,9,14;19:6,16;
7:7	sent (2)	30:2,8;32:2	tanks (1)	20:2,3,6,6,11,14,25;
response (6)	7:10;21:15	start (3)	30:16	21:8;22:11;24:7,8;
9:10;12:11;17:5;	separate (1)	30:3,6;31:24	tells (1)	29:10;30:14,25;31:10,
25:9,24;32:6 responsibility (5)	31:15	started (1) 24:25	25:17 ten (1)	14,23 try (2)
	September (5)		22:24	10:8;25:20
22:7,14;30:18;31:1, 16	11:2;18:1,14,22; 21:13	starting (1) 6:23	tentative (1)	trying (4)
*		l .	27:5	8:15;10:3;15:3,3
returned (1) 18:7	Services (2) 4:14;9:22	state (5) 22:5;29:3,13;33:3,8	testimony (1)	Turn (6)
			• , ,	6:2;7:1;9:25;12:23;
review (6)	session (3)	statement (3) 10:11,13;11:14	33:7 Thanks (1)	18:8;20:9
6:5,6,6;21:17;22:6; 23:19	26:2,11,17		Thanks (1) 28:12	two (6)
•	seven (2)	states (3) 7:11;13:21;22:6	Theriot (1)	6:3,13,20,22;13:4;
reviewed (1) 20:15	20:13,17	statue (1)	5:12	21:16
revise (1)	several (1) 21:22	16:13	thinking (1)	21.10
28:25	shall (1)	Status (6)	31:25	U
revised (1)	22:6	5:24;9:13,15;17:16;	third (4)	
22:4	shear (1)	20:12;25:13	7:1,14;25:13,18	under (1)
22.7	Silvar (1)	20.12,23.13	1.1,17,43.13,10	Lander (1)
			<u> </u>	

December 3, 2015			FI	UND ADVISORY BUARD
6:5	working (1)	20 (3)		
Underground (3)	21:9	4:7;5:15;13:19		
5:3;15:8;31:6	worksheet (1)	2015 (9)		
unfortunately (1)	18:11	4:8;5:16;7:15,18,21;	•	
13:24	wrapping (1)	11:2;18:1,14,22		1
up (6)	6:17	2016 (8)		
5:25;6:18;26:23;	written (1)	17:22,24;20:13;27:5,		
28:4,8;29:5	16:14	6,7,7,7	,	
update (5)	wrong (1)	2018 (1)		·
10:19,21;20:18;	24:1	29:2		, i
28:13,17	24.1	2021 (1)		
used (3)	Y	29:7		
10:3,10;33:11	<u>.</u>	219510d (1)		
user (1)	ya'll (8)	22:5		
10:8	12:9;14:15;21:23;	2195a85 (1)		
uses (2)	22:3;23:20;25:11;27:1;	, .		
11:8;20:4	32:24	22 (2)		
using (2)	year (23)	6:5;18:6	ł	
19:4,19	6:4,24;7:4;10:21,22,	244 (1)	ļ.	
UST (2)		20:19		
28:13;31:20	25;11:2,11,24;13:20; 15:17,19;17:22,24;	249 (1)		
utilized (1)	19:4,20;20:1,5,13,16;	18:4		1
16:14	28:21,22;32:11	277 (1)		1
10.14		20:21		
\mathbf{v}	years (3) 20:8;27:1;29:5	28 (1)	ļ.	
		33:4		
valve (1)	yesterday (2) 6:22;13:10	29 (1)		•
31:12	0.22,13.10	6:3	:	
various (2)	1	298 (1)		
9:1;18:12	<u>.</u>	17:24		
verified (1)	1 (1)	17.24	_	
33:18	10:17	3		
VIZINAT (2)	1:00 (2)	3	4	1
4:9,10	27:9,12	30 (3)		
4.2,10	$-\frac{12(1)}{12(1)}$	7:4;10:18;11:2	· · · · · · · · · · · · · · · · · · ·	
\mathbf{w}	7:18	327,000 (1)	į	1
	13 (2)	19:10	ŀ	Ì
way (3)	28:22;29:2		-	
15:14;16:13;30:10	14 (3)	8	,	
website (1)	6:5;7:8,15		-	1
28:15	1434b (1)	823 (1)	i i	-
week (1)	33:5	16:19	ľ	1
6:24	144 (1)		4	
weeks (1)	18:2	9		•
21:16	15 (3)	<u> </u>	4	+
welcome (2)	10:25;28:20,21	90 (1)		
4:4;9:7	154 (1)	28:22		
weren't (2)	19:9	97083 (1)		1
24:20;25:1	16 (3)	33:22	1	
what's (1)	6:10,25;7:21		1	1
30:1	17 (1)			
who's (1)	27:7		i	İ
25:14	18 (2)			
wish (1)	27:6,7		i	
32:9	19 (1)			-
without (1)	27:6			•
19:2	1992 (1)		i	
words (2)	29:19			
		i .	I	
33:15.17	27.17	4		+
33:15,17 workgroup (2)				
workgroup (2)	2			
workgroup (2) 30:3,8	2			
workgroup (2)				

In The Matter Of:

DEPARTMENT OF ENVIRONMENTAL QUALITY FUND ADVISORY BOARD

MEETING
December 3, 2015

Associated Reporters, Incorporated 225-216-2036

Original File Trust.txt
Min-U-Script® with Word Index

	Page 1	T	Page
-	rayeı	1	INDEX
123	CHAMIN ON LOVILLIANA	2	I N D E A
	STATE OF LOUISIANA	3	EXAMINATION: PAGE (S):
4	DEPARTMENT OF ENVIRONMENTAL QUALITY	4	None
5	MOTOR FUELS UNDERGROUND STORAGE TANK TRUST	5	EXHIBITS:
6	FUND ADVISORY BOARD	6	None
7		7	
8		8	REPORTER'S PAGE 33
9		9	REPORTER'S CERTIFICATE 34
10		10	
11		11	* * * * *
12	The above-entitled meeting was held at the	12	
13	LDEQ, Galvez Building, Conference Center, 602 North 5th Street, Baton Rouge, Louisiana,	13	
14	beginning at 1:37 p.m., on December 3, 2015.	14	
15		15	
16		16	
17		17	
18		18	
19	BEFORE: Lori B. Overland	19	
20	Certified Court Reporter In and For the State of	20	
21	Louisiana	21	
22		22	
23		23	
24		24	
25		25	
	Page 2	10.30	Page 4
1	APPEARANCES	-	* * * *
2		2	MR. HILL:
3	Kerry Hill Chairman	3	At this time, I'd like to call this
4	Durwood Franklin Jeff Baker	4	meeting to order and welcome everybody for
5	Gary Fulton Karyn Andrews	5	being able to attend this morning. At this
6	Cy Morin Frank Marcello	6	time, I'd like to have a roll call and
7	Chris Ratcliff Nick St. Romain	7	consideration and adoption of the August 20,
8	Steve Burnham	8	2015 board minutes.
9	Melissa Vizinat Ian Kelley	9	MS. VIZINAT:
10	Sam Broussard Natalie Isaacks	10	Melissa Vizinat, Trust Fund.
11	Megan Terrell	11	Mr. MORIN:
12	* * * * *	12	Cy Morin, DEQ Audit.
13		13	MS. ANDREWS:
14		14	Karyn Andrews, DEQ Financial Services.
15		15	MR. MARCELLO:
16		16	Frank Marcello, Louisiana Oil Marketers and Convenience Store Association.
77		17	MR. ST. ROMAIN:
		18	
18		10	
18 19		19	Nick St. Romain, Louisiana Oil Marketers and Convenience Store Association.
18 19 20		20	Marketers and Convenience Store Association.
18 19 20 21		20 21	Marketers and Convenience Store Association. MR. HILL:
18 19 20 21 22		20 21 22	Marketers and Convenience Store Association. MR. HILL: Kerry Hill, Louisiana Oil Marketers
17 18 19 20 21 22 23		20 21	Marketers and Convenience Store Association. MR. HILL:
18 19 20 21 22		20 21 22 23	Marketers and Convenience Store Association. MR. HILL: Kerry Hill, Louisiana Oil Marketers and Convenience Store Association.

Dec	CHIDCI 5, 2015			FOND ADVISORT DOARD
		Page 5		Page 7
1	Incorporated.		1	If you turn to the third page of the
2	MR. FULTON:		2	report, these are the five cases that are in
3	Gary Fulton, DEQ Underground Storage		3	legal, being pursued legally. For the first
4	Tank Remediation Division.		4	case, on October 30 of this year, a new
5	MR. BAKER:		5	attorney on the case enrolled as additional
6	Jeff Baker, DEQ Motor Fuel Trust Fund		6	counsel of record on behalf of DEQ. This
7	Division.		7	attorney is responding to the answer filed
8	MR. FRANKLIN:		8	on August 14 by the defendant and will be
9	Durwood Franklin, DEQ Trust Fund.		9	preparing to go to trial. The second case
10	MR. RATCLIFF:		10	listed, legal sent an Office of Debt
11	Chris Ratcliff. I'm an attorney with		11	Recovery Notice letter, which states that
12	DEQ, and I'm filling in for Perry Theriot.		12	the Department can allow the business to
13	MR. HILL:		13	make payments. The owner is currently
14	Okay. Thank you. Do I hear a motion		i	
15	to adopt the minutes from the August 20,		14	sending monthly payments of \$300. The third case, on October 14, 2015 was referred to
16	2015 board meeting?		15	the Office of Debt Recovery. The fourth
17	MR. MARCELLO:		16 17	• •
18	So moved, Mr. Chairman.			case on the list was referred to legal just
19	MR. BURNHAM:		18	last month, November 12, 2015. And judgment for the fifth case listed was prepared for
20	Second.		19	• •
21	MR. HILL:		20	signature and placed in the mail on November
22	Thank you.		21	16, 2015.
23	•		22	And that completes my report. Any
24	We'll move to item number three, Audit		23	questions? MR. HILL:
25	Status Report. And I'd like to have Cy to bring us up on that.		24	
23	oring us up on that.		25	Any questions related to his report?
:		Page 6		Page 8
	MD MODDI			
1	MR. MORIN:		1	MR. BURNHAM:
2	Okay. Turn to tab three. The first		2	Cy, these were randomly selected
3	two pages of this report detail 29 open		3	audits, is that
4	motor fuel cases initiated since fiscal year		4	MR. MORIN:
5	'14. 22 of these cases are under review or		5	You can see the reason for the audit
6	are awaiting review. Pending final review,		6	column here. These audits let's see,
7	these represent one potential credit of		7	never audited. Okay. So we we the
8	approximately \$3,200, five potential		-8	auditor who is doing motor fuel audits keeps
9	assessments, totaling approximately \$1,500,		9	track of who we've audited in the past, when
10	and 16 potential clean audits with no		10	we audited them. And there's quite a few
111	assessment.		11	that have never been audited
12	Six cases are still in progress,		12	MR. BURNHAM:
13	representing two potential assessments,		13	Okay.
14	totaling approximately \$11,000, of which		14	MR. MORIN:
15	approximately \$9,700 has been collected.		15	so we are looking at trying to get
16	Four potential clean audits with no	1	16	to everyone
17	assessment are still in progress, wrapping	i	17	MR. BÜRNHAM:
140				
18	up fieldwork.		18	Yes.
19	up fieldwork. One case, which is the last case on		18 19	MR. MORIN:
i i	up fieldwork. One case, which is the last case on page two, was scheduled during the time I			
19	up fieldwork. One case, which is the last case on page two, was scheduled during the time I made this report. It has since commenced		19	MR. MORIN:
19 20	up fieldwork. One case, which is the last case on page two, was scheduled during the time I made this report. It has since commenced yesterday and we've added two more cases to	ĺ	19 20	MR. MORIN: that had not been audited. So
19 20 21	up fieldwork. One case, which is the last case on page two, was scheduled during the time I made this report. It has since commenced yesterday and we've added two more cases to the list that that are starting next	į	19 20 21	MR. MORIN: that had not been audited. So you'll see a lot of that on this list.
19 20 21 22	up fieldwork. One case, which is the last case on page two, was scheduled during the time I made this report. It has since commenced yesterday and we've added two more cases to the list that that are starting next week. That will make eight for fiscal year		19 20 21 22	MR. MORIN: that had not been audited. So you'll see a lot of that on this list. MR. BURNHAM
19 20 21 22 23	up fieldwork. One case, which is the last case on page two, was scheduled during the time I made this report. It has since commenced yesterday and we've added two more cases to the list that that are starting next		19 20 21 22 23	MR. MORIN: that had not been audited. So you'll see a lot of that on this list. MR. BURNHAM Okay.

FUL	AD AD VISURT BUARD	4	December 5.	
-	Page	9	Pa _t	ge 11
1	late payment, or just the various things you	1	\$87,397,607 in cash. In this current fiscal	
2	see here. So maybe not completely random,	2	year to date, as of September 30, 2015,	
3	but mainly for these reasons you see here.	3	we've deposited \$7,823,385. I would note	
4	MR. BURNHAM:	4	that \$27,490 of that is interest money that	
5	Okay. Thank you.	5	we do keep segregated. And we have	
6	MR. MORIN:	6	disbursed to RACs for sites \$3,543,460.	
.7	You're welcome.	7	You'll also notice on here that there is a	
8	MR. HILL:	8	line item for other financing uses. This is	
9	Does anybody have any other questions?	9	the transfer to the Environmental Trust	
10	(No response.)	10	Fund. That's the actual transfer that we	
11	MR. HILL:	11	reported to you for last year. We do that	
12	Do I hear a motion to accept the Audit	12	in August. So since we are now on a cash	
13	Status Report?	13	basis that I'm reporting to you, this is now	
14	MR. ST. ROMAIN:	14	reported on this new statement in this	
15	I motion to accept the Audit Status	15	manner.	
16	Report.	16	Next, I'll report to you, the current	
17	MR. MARCELLO:	17	liabilities on sites are at \$93,251,316.	
18	Second.	18	And Jeff is going to go into that a little	
19	MR. HILL:	19	bit more with you. And what we now have as	
20	Okay. Thank you.	20	in balance, after obligations of minus	
21	Moving to item number four, Financial	21	\$6,901,030.	
22	Services Report. I'd like to ask Karyn to -	22	I would point out that, it's showing	
23	-	23	negative simply because the inflows are	
24	MS. ANDREWS:	24	slower at certain times of the year. We	
25	Thank you. If we could turn to tab	25	haven't collected all the money. This is	
<u> </u>	B	_	Page	ge 12
1	Page 1	١,		<i>j</i> e 12
1	four. I'd like to point out that I have	1	only one period's report. As you know,	
2	changed this report quite a bit from what	2	collections, we generally receive about	
3	you are used to seeing. I'm I'm trying	3	\$22,000,000. There's no reason to think	
4	to do a little bit different here. I	4.	that that would not continue. So the the	
5	I've heard a lot of comments that it it's	5	minus right now, it's showing that and also	
6	slightly confusing what we have been been	6	a portion of that would be explained in the	
7	showing you in the past. And I'm I want	7	new obligation balance that Jeff that	
8	to try to make this a little bit more user	8	Jeff is going to talk about.	
9	friendly. And I hope this a little bit more	9	Did ya'll have any questions about	
10	closely resembles what you perhaps are used	10	this report?	
11	to seeing as a profit and loss statement.	11	(No response.)	
12	And so what we are reporting is a	12	MS. ANDREWS:	
13	statement that's on the cash basis. It's	13	Does this help you understand the fund	
14	similar to what the legislative auditor	14	a little bit better, I would ask you?	
15	audits. And hopefully, this will be a	15	MR. HILL:	
16	little clearer for you to understand. And	16	It does.	
17	so we're now reporting for the period July 1	17	MS. ANDREWS:	
18	to June 30. And what we've put together is	18	Okay. Good. MR. BURNHAM	
19	a comparative report that we will update	19		
20	each quarter for you that you'll see the	20	Real good. MS. ANDREWS:	
21	year end and then the new update for the new	21		
22	fiscal year.	22	Okay. All right. If you could turn the	
23	So I'll go through this with you. And	23	page. I'm going to continue to report this	
24 25	if you have any questions, let me know. So we closed the fiscal year '15 with	24	for you. This shows you how we we	
	DO TO DIDDOG HID HIDDEN TOER ID TILL			
25	,			

Page 13 Page 15 calculate our transfer from the Motor Fuel MR. MARCELLO: 1 1 Trust Fund to the Environmental Trust Fund, I -- I did have a question. And I'm 2 2 on the next page. trying -- I'm trying to get it together. My 3 3 question revolves around the sweep. And I did have two things that I did 4 want to point out to you that's not -- that MS. ANDREWS: 5 was not handed to you in advance, things Yes. 6 6 that we didn't know about them. MR. MARCELLO: 7 7 8 The first thing, I did send -- I did And the -- it's -- so our underground 8 hand out to you already. We did get a clean trust fund has X dollars in it and X dollars 9 9 audit that was emailed out to me yesterday. that are allocated to potential cleanup 10 10 You may have received an email from the --11 sites. The five percent was based on which 11 from the Legislative Auditor. It has been number? 12 12 released publicly. You do have a copy and MS. ANDREWS: 13 13 there are some more copies in the back, if Okay. So the way the -- the legislate 14 14 anyone else would like a copy. -- the Commissioner of Administration and 15 15 And the second thing that I did want the Governor's Office does is, we are 16 16 17 to go ahead and notify the board about is appropriated every year with budget 17 that the Joint Legislative Committee on authority to expend. Our budget authority 18 18 Budget met on November 20. And as they did 19 in the Motor Fuel Trust Fund this year was 19 last year, they have done cash sweeps of all \$16,473,142. That was our budgeted 20 of states statutory dedicated funds and appropriation for the Motor Fuel Trust Fund. 21 21 22 constitutionally protected funds, one of 22 That is how much we are authorized to which, the Motor Fuel Trust Fund was one of 23 23 disburse. them, unfortunately. 24 24 MR. MARCELLO: I would like to report that cash and 25 25 Yes. Page 14 Page 16 budget for motor fuels was reduced by MS. ANDREWS: 1 \$823,657. 2 Okav? 2 And that was five percent of the 3 MR. MARCELLO: 3 budget. 4 Okay. 4 MR. HILL: MS. ANDREWS: 5 5 That's the legal amount that --6 6 That has -- that's -- there's -- the MS. ANDREWS: 7 7 correlation to cash is not there. That is That's the maximum legal amount that how much we are authorized to disburse for 8 8 they are allowed to take. And I would like RAC Cleanup --9 you to know that they -- they took that out 10 10 MR. MARCELLO: of, I believe, all of the statutory 11 11 Correct. dedicated funds and the constitutionally 12 MS. ANDREWS: 12 protected funds, if you go back and listen. 13 -- sites. And so the way the statue 13 14 So no one was spared. is written and how it was utilized is, they 14 Did ya'll have any questions about 15 can take that appropriated amount and they 15 16 anything? reduce it by five percent. So five percent 16 MR. HILL: 17 of that \$16 million was the eight --17 Did you say Jeff was going to finish 18 MR. MARCELLO: 18 part of your --19 19 823? MS. ANDREWS: 20 MS. ANDREWS: 20 Well, when he does his presentation, 21 Correct, correct. And as -- with the 21 22 he will discuss that. reduction, they also take the equal amount 22 MR. HILL: 23 of the cash. 23 24 Okay. Well, good. Well, thank you, 24 MR. HILL: 25 Anymore questions, Frank? 25

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

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

Page 18

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Page 20

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end of September 2015, the Trust Fund had
1
   144 pending applications to process, which -
2
   - which had requested amounts, totaling
3
   $2,956,917. 249 applications were processed
4
   for payment during the fiscal period,
5
   totaling $3,150,617. And 22 applications
6
   were returned with deficiencies.
7
8
        If you'll turn to the next page
   entitled Monthly Motor Fuel Trust Fund
9
```

entitled Monthly Motor Fuel Trust Fund Obligation Determination, this is the new worksheet that Karyn was referring too, listing the various component determinations of the potential obligation against the Trust Fund as of the end of September 2015. To kind of give you a breakdown of it,

for the sites in the corrective action
phase, which means that these are sites that
a CAP budget has been proposed and approved
by the ROG, the outstanding liability of the
corrective action plan budget and estimated
cost to reach closure at the end of
September 2015 was \$28,575,921. This total

September 2015 was \$28,575,921. This total includes the CAP budget remaining amounts and the RAC estimated cost to closure amounts.

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

eligibility but have yet not submitted a

in this calculation.

request for reimbursement from the fund.

Previously, these sites were being ignored

If you will turn to the legal page, 9 the last page of your document -- of you 10 packet, the number of Trust Fund sites that 11 have received no further action status 12 13 during the fiscal year 2016 was seven sites. The number of potential Trust Fund sites 14 that were reviewed and made eligible during 15 16 the current fiscal year was six sites, representing seven active incidents. 17 18

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

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Page 23 Page 21 from RACs and owners related to bringing the about. older sites that have reached their maximum MR. FULTON: 2 2 back into the program. 3 Right. 3 MR. BURNHAM 4 We've also seen a number of sites that 4 were approaching the limit that had kind of 5 Yes. Okay. became stagnant become more active in their MR. HILL: 6 6 remediation activities. 7 7 We have a proposal not to make any Another point. The Trust Fund has changes. Do we have any other comments, or 8 8 been working to develop a more accurate do we need a second on that? 9 9 approach to the determination of potential MR. BURNHAM: 10 10 obligation liabilities, which is what we Second. 11 11 just went over. MR. HILL: 12 12 13 The -- the -- the September document -13 We got -- we got a first and a second - determination with all the supporting on not making any other changes to the 14 14 documents were sent out to the board members deductible. 15 15 two to four weeks ago with the preliminary All in favor? 16 16 review and comments. No comments or (All indicated "aye".) 17 17 18 questions were received. We hope and 18 MR. BAKER: believe that this new methodology is a And that completes my review. If 19 19 better representation of the true anybody has any -- if ya'll have any 20 20 21 obligation. 21 questions? Now, in talking to several of the 22 MR. HILL: 22 board members, apparently, some of ya'll did Anybody have any questions for Jeff? 23 23 not receive this. I will go back and send MR. BURNHAM: 24 24 this -- resend this to the addresses that The only -- in observation, Jeff, and 25 25 Page 22 Page 24 you gave me and make sure that you have the -- and just tell me if I'm wrong. But the new numbers, along with all the supporting effect of what you did on these calculations 2 2 calculations so ya'll will be able see this. was, you pulled in some things that were 3 3 One other point. The revised statutes previously, possibly slipping through the 4 2195.a.85 and 2195(10).d, the state -cracks and it gives us a more conservative 5 states that the Advisory Board shall review look at the balance, at the true balance of 6 7 the financial responsibility requirements 7 the -- the Trust Fund and at the -- or at for all sites in and out of compliance on an the true obligations of the Trust Fund? 8 annual basis. And they recommend to the MR. BAKER: 9 Secretary adjusting those requirements, if Yes, sir. 10 10 they see fit. At this time, the Trust Fund 11 MR. BURNHAM: 11 does not have any recommendations to the 12 12 That's -- that's basically what it board relating to any modifications for the 13 13 does? current financial responsibility dollar 14 MR. BAKER: 14 amounts. We brought in some sites that were 15 15 MR. FULTON: being ignored to make it more -- a -- truly 16 16 I propose that we not make any a more conservative, more accurate approach. 17 17 18 changes. 18 We also found some mistakes in how it was MR. HILL looking at some numbers. Some numbers 19 19

20

21

MR. BAKER:

MR. FULTON:

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

Not make any changes?

23 the -- the different costs and some of 24

included, just because of timing as it

those sites were going back beyond when we

weren't being included that should've been

actually started doing that in the database. 25

20

FUN	D ADVISORY BOARD			December 3, 2015
		Page 25		Page 27
-	So we weren't capturing a lot of those		1	the next years meetings and let ya'll
1	costs. So now, we're doing it on the total		2	approve those.
2	expenditure, which is a more accurate		3	MR. HILL:
3	approach.		4	I missed that. Consideration of
5	MR. BURNHAM:		5	tentative dates for board meetings in 2016.
6	Right. Good.		6	We have listed February 18, 2016, May 19,
7	MR. HILL:		7	2016, August 18, 2016, November 17, 2016.
8	Any further questions?		8	MR. BURNHAM:
9	(No response.)		9.	Those would all be Thursdays at 1:00
10	MR. HILL:		10	o'clock?
11	Thank ya'll. Thank you, Jeff.		11	MR. HILL:
12	At this time, we'll go to item number		12	They would all be Thursdays at 1:00
13	six, Third Party Claim Status. Perry is not		13	o'clock?
14	going to be here, but we have Chris who's		14	MR. BAKER:
15	going to		15	Yes, sir.
16	MR. RATCLIFF:		16	MR. HILL:
17	Perry tells me there have been no new		17	Does anybody have any conflict or
18	third party claims since the last meeting.		18	or reason that we could not possibly
19	If you need any other information, let me		19	consider having these dates that they have
20	know and I'll try and find out for you.		20	listed today?
21	MR. HILL:	÷	21	MR. ST. ROMAIN:
22	Okay. Thank you. Does anybody have		22	No conflict.
23	any questions for Chris?	:	23	MR. MARCELLO:
24	(No response.)	,	24	None.
25	MR. HILL:		25	MR. HILL:
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	,	Page 26	· · · · · ·	Page 28
	If not the not this time, we need to		1	Okay. We will accept those dates
1	If not then, at this time, we need to		2	going forward.
2	go into executive session. MR. MARCELLO:		3	Is there any other business that
3	I'll if you need it in a motion		4	anybody would like to bring up before
4	form, I'll make that motion.		5	closing?
5	MR. HILL:		6	MR. BAKER:
6	We need a hear a motion to go		7	We have a public comment. Sam
7	MR. FULTON:		8	Broussard wanted to bring up a
8			9	MR. HILL:
9	Second. MR. HILL:		10	Okay. We'd like to have Sam to
10	into executive session? Need a		11	MR. BROUSSARD:
11			12	Thanks, Kerry. I want to give you
12	second. MR. FULTON:		13	guys an update on the new federal UST
13	Second.		14	Regulation. I I put out a couple of
14	MR. HILL:		15	flyers on our website, and I think you guys
15			16	posted something on LOMA. But I just wanted
16	Okay. (The board went into executive session at		17	to give you guys a better update and feel
17	this time.)		18	for where we are and where I'm going with
1	(The meeting reconvened.)		19	it.
19	MR. HILL:		20	The regs are final on June 15 July
20	Well, at this time, I'd like to ask,		21	15 of this year. Their effective date was
21	is there any other business that anybody		22	90 days after, so October 13 of this year
22	is more any other business that anybody		1	was the effective date of the federal regs.
000			123	Was the effective date of the redefair reas.
23	would like to bring up and discuss?		23	They do not apply to Louisiana and they
24	would like to bring up and discuss? MR. BAKER:		24	They do not apply to Louisiana and they
1	would like to bring up and discuss?		1	They do not apply to Louisiana and they won't apply to us until we revise our

Page 31

Page 32

own regulations. And we have until October 1

13, 2018 to get our regs in place and apply 2

for state program authorization. So -- so 3

we're -- they will apply at that point and 4

then we have up to three years to have some 5

implementation dates on some of these items. 6

So it could be in 2021 before some of the 7

things in the new regs are gonna apply in 8

Louisiana. But there are some things that

10 the Trust Fund board at some point is going

to have to look at and I wanted to bring 11

those things to your attention. 12.

13 One is, when we apply for state program approval, they're not going to look 14

at just the new regulations that they 15

16 changed. EPA told me that they're going to

go back and look at every regulation that we 17

changed since our original authorization in 18

19 1992. So every reg we did, every reg change

we did is going to get looked at again. So 20

21 we're going to have to make sure that

everything we have is as stringent as the 22

EPA. And I know right now, we have things

that are not. So we're going to be doing 24

25 some more substantial reg changes than own financial responsibility.

And one other thing they did change 2

was the definition of accidental release. 3

They actually changed the definition in the 4

federal regs to mean any release from 5

6 operating an underground storage tank

system. And that would include releases 7

above ground from dispenser spills or 8

9 overfills. And those things are not

normally covered by the Trust Fund. 10

Basically, the policy was everything below 11

the shear valve. Now, you'll have to make a 12

decision at some point, either cover those 13

above ground things with the Trust Fund or 14

15 have tank owners get their own separate

financial responsibility for those releases. 16

So I wanted to bring -- there's a lot 17

of other things that are going to effect 18

tank owners that I can get into, but their 19

20 kind of specific to UST compliance stuff. 21 If you want, I can go over some of those,

but I just wanted to bring the things that 22

are going to effect the Trust Fund. Let you 23

guys hear it from me and have you start 24

thinking about it. And -- and again, we 25

will be able to discuss those more in the

stakeholder workgroups. 2

3 MR. HILL:

Okay. Thank you, Sam. Does anybody 4

have any questions for Sam? 5

6 (No response.)

7 MR. HILL:

Well, if that's -- if there's no more 8

further questions, I guess we will wish 9

everybody a Merry Christmas and a Happy New 10

11 Year.

12 Thank you, Sam.

MR. MARCELLO: 13

14 I move that we adjourn.

15 MR. HILL:

16 Did I hear a motion to adjourn?

17 MR. MARCELLO:

Move. 18

19 MR. HILL:

Move by Frank. Do I hear a second?

MR. FULTON: 21

22 Second.

MR. HILL: 23

24 Second by Gary. Thank ya'll.

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

Page 30

Page 29

2 what -- my plan is to have a stakeholder workgroup start meeting. I'm going to be 3

what's in the new federal regs. And it --

sending out some meeting dates some time in 4

-- in mid-December, late-December and we 5

will probably start meeting in mid to late-6

January. And then I'll iron out all the 7

8 details with that stakeholder workgroup and

you guys will have membership in there and 9 that way you can get all the -- the details 10

on the specifics. 11 12

1

13

14

15

But one other -- well, a couple of other things that are kind of specific that might affect the Trust Fund. One is that things that were deferred in the past, airport hydrants and fuel constructive tanks

16 are now regulated and they're going to have 17

to have financial responsibility. The good 18

thing is, I -- we don't expect to have any 19 of those systems in Louisiana. So that 20

21 shouldn't effect us. But in the event that

22 we do get a non-government airport hydrant

system or fuel constructive tank, you guys 23 will have to make a decision if you want to 24

25 cover those with Trust Fund or have their

Page 33 1 REPORTER'S PAGE 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 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; That any words and/or names which could not 17 be verified through reference material have been denoted with the phrase "(inaudible)." 19 20 Lori Overland, C.C.R. 21 # 97083 22 23 24 25 Page 34 1 CERTIFICATION 2 I, Lori B. Overland, Certified Court Reporter in 3 and for the State of Louisiana, as the officer before whom this testimony was taken, do hereby certify that the above referenced individual to whom oath was administered, after having been duly sworn by me upon authority of R.S. 37:2554, did testify as 8 hereinbefore set forth in the foregoing pages, that 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 is a true and correct transcript to the best of my 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 116 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

	10.16.00.00.10			
	- 18:16,20;20:12	annual (1)	authority (2)	21:1
\$	active (3)	22:9	15:18,18	brought (1)
	19:6;20:17;21:6	Anymore (2)	authorization (2)	24:15
\$1,500 (1)	activities (1)	16:25;17:4	29:3,18	Broussard (2)
6:9	21:7	apparently (1)	authorized (2)	28:8,11
\$11,000 (1)	actual (1)	21:23	15:22;16:8	Budget (8)
6:14	11:10	application (1)	available (1)	13:19;14:1,4;15:17,
\$16(1)	actually (2)	19:18	20:22	18;18:18,20,23
16:17	24:25;31:4	applications (4)	average (4)	budgeted (1)
\$16,473,142 (1)	added (1)	17:25;18:2,4,6	19:4,20;20:5,7	15:20
15:20	6:22	applied (1)	awaiting (1)	budgets (2)
\$17,020,861 (1)	additional (1)	19:13	6:6	19:3.7
20:4	7:5	apply (6)	aye (1)	BURNHAM (16)
	addresses (1)	28:24,25;29:2,4,8,13	23:17	4:24,25;5:19;8:1,12,
\$2,956,917 (1)	21:25	applying (2)		17,22;9:4;12:19;17:9;
18:4	adjourn (2)	19:5,20	В	23:4,10,24;24:11;25:5;
\$22,000,000 (1)	32:14,16	approach (3)		27:8
12:3	ADJOURNED (1)	21:10;24:17;25:4	back (6)	business (3)
\$27,490 (1)				
11:4	32:25	approaching (1)	13:14;14:13;21:3,24;	7:12;26:22;28:3
\$28,575,921 (1)	adjusting (1)	21:5	24:24;29:17	C
18:22	22:10	appropriated (2)	backout (1)	
\$3,150,617 (1)	Administration (1)	15:17;16:15	19:12	
18:6	15:15	appropriation (1)	BAKER (10)	calculate (2)
\$3,200 (1)	adopt (1)	15:21	5:5,6;17:18;22:23;	13:1;19:10
6:8	5:15	approval (1)	23:18;24:9,14;26:24;	calculation (1)
\$3,543,460 (1)	adoption (1)	29:14	27:14;28:6	19:25
11:6	4:7	approve (1)	balance (4)	calculations (2)
\$300 (1)	advance (1)	27:2	11:20;12:7;24:6,6	22:3;24:2
7:14	13:6	approved (2)	based (1)	call (2)
\$38,143,288 (1)	Advisory (1)	18:18;19:2	15:11	4:3,6
19:3	22:6	approximately (4)	basically (2)	can (7)
\$5,231,529 (1)	affect (1)	6:8,9,14,15	24:12;31:11	7:12;8:5;16:15;19:8;
17:25	30:14	around (1)	basis (3)	30:10;31:19,21
\$6,901,030 (1)	afternoon (1)	15:4	10:13;11:13;22:9	CAP (4)
	17:19	Article (1)	became (1)	18:18,23;19:3,7
11:21	again (2)	33:5	21:6	capturing (1)
\$7,823,385 (1)	29:20;31:25	assessment (2)	become (1)	25:1
11:3	against (1)	6:11,17	21:6	case (8)
\$823,657 (1)	18:13	assessments (2)	becoming (1)	6:19,19;7:4,5,9,15,
14:2		6:9,13	20:21	17,19
\$87,397,607 (1)	ago (1)			cases (5)
11:1	21:16	Associates (1)	behalf (1)	
\$9,511,246 (1)	ahead (1)	4:25	7:6	6:4,5,12,22;7:2
19:18	13:17	Association (3)	below (1)	cash (7)
\$9,700 (1)	airport (2)	4:17,20,23	31:11	10:13;11:1,12;13:20,
6:15	30:16,22	attend (1)	better (3)	25;16:7,23
\$93,251,316 (1)	allocated (1)	4:5	12:14;21:20;28:17	categorizing (1)
11:17	15:10	attention (1)	beyond (1)	24:22
	allow (1)	29:12	24:24	CCR (1)
${f A}$	7:12	attorney (3)	Bill (1)	33:21
	allowed (1)	5:11;7:5,7	20:19	certain (1)
able (3)	14:9	Audit (6)	bit (6)	11:24
4:5;22:3;32:1	along (1)	4:12;5:23;8:5;9:12,	10:2,4,8,9;11:19;	Certified (1)
above (2)	22:2	15;13:10	12:14	33:2
31:8,14	amount (4)	audited (5)	board (10)	Chairman (1)
	14:6,8;16:15,22	8:7,9,10,11,20	4:8;5:16;13:17;	5:18
accept (5)	amounts (4)	auditor (3)	21:15,23;22:6,13;	change (2)
9:12,15;17:8,10;28:1	18:3,23,25;22:15	8:8;10:14;13:12	26:17;27:5;29:10	29:19;31:2
accidental (1)	and/or (3)	audits (6)	breakdown (1)	changed (4)
31:3	33:5,12,17	6:10,16;8:3,6,8;	18:15	10:2;29:16,18;31:4
accurate (3)		10:15	bring (7)	changes (6)
21:9;24:17;25:3	ANDREWS (14)	}		
Act (2)	4:13,14;9:24;12:12,	August (5)	5:25;26:23;28:4,8;	22:18,20;23:8,14;
20:21,21	17,21;14:7,20;15:5,13;	4:7;5:15;7:8;11:12;	29:11;31:17,22	29:25;33:11
action (3)	16:1,5,12,20	27:7	bringing (1)	Chris (3)
	1		<u> </u>	<u> </u>

Claim (1) 25:13 claims (1) 25:18 Claims (1) 25:18 Claims (1) 25:18 Clean (3) 6:10,16;13:9 cleanup (2) 15:10;16:9 copies (1) 13:14 cleanups (1) 20:23 clearer (1) 10:16 closed (1) 10:25 closely (1) 10:10 10:25 closely (1) 10:10 10	favor (1) 23:16 February (1) 27:6 federal (5) 28:13,23;30:1;31:5; 33:4 feel (1) 28:17 few (1) 8:10 fielded (1) 20:25 fieldwork (1)
Christmas (1) 32:10 Civil (2) 30:16,23 contacts (1) 7:8 Claim (1) 20:25 continue (2) 25:13 claims (1) 25:18 Convenience (3) 6:10,16;13:9 cleanup (2) 13:14 cleanup (2) 13:14 cleanup (2) 13:14 cleanup (1) 13:13,15 cleanup (1) 13:13,15 cleanup (1) 10:16 closed (1) 10:25 closed (1) 10:10 closed (1)	favor (1) 23:16 February (1) 27:6 federal (5) 28:13,23;30:1;31:5; 33:4 feel (1) 28:17 few (1) 8:10 fielded (1) 20:25
32:10 Civil (2) 30:16,23 contacts (1) 5:9 file 5:3 file 5:4:14:15:15:15:15 file 5:9 file 5:9 file 5:9 file 5:9 file 5:9 file 5:4:14:15:15 file 5:9 file 5:9 file 5:4:14:15:15 file 5:9 file 5:4:14:15:15 file 5:9	favor (1) 23:16 February (1) 27:6 federal (5) 28:13,23;30:1;31:5; 33:4 feel (1) 28:17 few (1) 8:10 fielded (1) 20:25
Civil (2) 33:5,6 Claim (1) 20:25 continue (2) 12:4,24 Convenience (3) 6:10,16;13:9 clean (2) 15:10;16:9 clean (3) 10:16 20:23 clean (1) 20:23 clear (1) 10:16 closed (1) 10:25 closed (1) 10:10 closing (1) 10:10 closing (1) 20:25 couple (2) 28:14;30:12 closure (4) 18:21,24;19:5,20 code (1) 30:15 defired (1) 30:15 deficiencies (1) 18:7 24:2;30:21;31:18,23 effective (2) 28:21,23 effective (2) eight (2) 6:24;16:17 effective (1) 31:13 effective (2) 28:21,23 effective (2) eight (2) ei	23:16 February (1) 27:6 federal (5) 28:13,23;30:1;31:5; 33:4 feel (1) 28:17 few (1) 8:10 fielded (1) 20:25
Claim (1) 20:25 deferred (1) 30:15 effect (4) 24:2;30:21;31:18,23 effective (2) 28:21,23 effective (2) 28:21,23 effective (2) 20:23 corrective (2) 13:14 definition (2) eight (2) either (1) either (1) 20:23 corrective (2) 13:16,20 eight (2) either (1) either (1) either (1) 10:16 costed (1) 10:25 cost (4) 10:25 cost (4) 10:10 costs (4) 10:10 costs (4) 10:10 costs (4) 10:10 costs (4) 10:28:5 couple (2) 28:14;30:12 code (1) 28:14;30:12 code (1) 28:14;30:12 code (1) 28:14;30:12 code (2) 33:2,13 cover (2) 30:25;31:13 18:10;21:10,14 enrolled (1) 4:25 enrolled (1) Engineering (1) 4:25 enrolled (1) final fin	23:16 February (1) 27:6 federal (5) 28:13,23;30:1;31:5; 33:4 feel (1) 28:17 few (1) 8:10 fielded (1) 20:25
Claim (1) 25:13 claims (1) 25:18 claims (1) 25:18 Convenience (3) 6:10,16;13:9 cleanup (2) 13:14 cleanup (2) 13:14 cleanups (1) 20:23 cleanups (1) 10:16 clearer (1) 10:16 closed (1) 10:25 closely (1) 10:10 28:55 closely (1) 10:10 28:55 closure (4) 18:21,24;19:5,20 closure (4) 18:21,24;19:5,20 code (1) 28:14;30:12 28:21,23 confection (2) 31:3,4 33:6 collected (2) 31:3,4 33:6 collected (2) 31:3,4 30:10 33:13 4eliver (1) 17:16 31:13 6eight (2) 6:24;16:17 6ither (1) 33:13 6eight (2) 6:24;16:17 6ither (1) 31:13 6ight (2) 6:24;16:17 6:24;16:17 6ight (2) 6:24;16:17 6ight (2) 6:24;16:17 6ight (2) 6:24;16:17 6ight (2) 6:24;16:17 6ight (2) 6:24;16:17 6ight (2) 6:24;16:17 6ight (2) 6:24;16:17 6ight (2) 6:24;16:17 6ight (2) 6:24;16:17 6ight (2) 6:24;16:17 6ight (2) 6:24;16:17 6ight (2) 6:24;16:17 6ight (2) 6:24;16:17 6ight (2) 6:24;16:17 6ight (2) 6:24;16	February (1) 27:6 federal (5) 28:13,23;30:1;31:5; 33:4 feel (1) 28:17 few (1) 8:10 fielded (1) 20:25
Colaims (1)	February (1) 27:6 federal (5) 28:13,23;30:1;31:5; 33:4 feel (1) 28:17 few (1) 8:10 fielded (1) 20:25
Continue (2) Continue (2) Convenience (3) Convenience (4) Convenience (3) Convenience (3) Convenience (3) Convenience (3) Convenience (3) Convenience (3) Convenience (4) Convenience (5) Convenience (6) Convenience (7) Convenience (7) Convenience (8) Convenience (9) Convenience (1)	27:6 federal (5) 28:13,23;30:1;31:5; 33:4 feel (1) 28:17 few (1) 8:10 fielded (1) 20:25
claims (1) 12:4,24 deficiencies (1) effect (4) fect (4) 25:18 convenience (3) defined (1) 24:2;30:21;31:18,23 fect (4) 24:2;30:21;31:18,23 fect (2) 24:2;30:21;31:18,23 fect (2) 28:1,23 fect (4) 24:2;30:21;31:18,23 fect (4) 24:2;30:21;31:18,23 fect (4) 24:2;30:21;31:18,23 fect (2) 28:11,23 fect (4) 24:2;30:21;31:18,23 fect (2) 28:11,23 fect (2) 31:3 fect (2) 31:3 fect (2) 31:3 fect (2) 4:12,14 4:12,14 4:12,14 4:12,14 4:12,14 4:12,14 4:12,14 4:12,14 4:12,14 4:12,14 4:12,14 4:12,14 4:12,14 4:12,14 4:12,14 4:12,14 4:12,14	federal (5) 28:13,23;30:1;31:5; 33:4 feel (1) 28:17 few (1) 8:10 fielded (1) 20:25
25:18	28:13,23;30:1;31:5; 33:4 feel (1) 28:17 few (1) 8:10 fielded (1) 20:25
clean (3) 4:17,20,23 defined (1) effective (2) 6:10,16;13:9 copies (1) 33:4 28:21,23 fe cleanup (2) 13:14 definition (2) eight (2) 6:24;16:17 fe cleanups (1) 13:13,15 deliver (1) 31:13 fi 20:23 corrective (2) 17:16 31:13 fi clearer (1) 18:16,20 denoted (1) eligibility (1) 19:22 fi closed (1) 16:7 Department (1) 19:22 fi closed (1) 18:21,24;19:5,20 deposited (1) else (1) 19:16;20:15,23 fi closing (1) 19:5,21;24:23;25:2 deposited (1) else (1) 13:15 fi closure (4) 7:6 7:6 mail (1) 13:10 fi code (1) 28:14;30:12 6:3 end (4) 13:10 fi code (2) 33:2,13 30:8,10 10:21;18:1,14,21 fi collected (2) 30:25;31:13 18:10;21:10,14 enrolled (1)	33:4 feel (1) 28:17 few (1) 8:10 fielded (1) 20:25
6:10,16;13:9 copies (1) 33:4 28:21,23 formula (2) 13:14 definition (2) eight (2) formula (2) formula (2) 13:14 definition (2) eight (2) formula (2) </td <td>feel (1) 28:17 few (1) 8:10 fielded (1) 20:25</td>	feel (1) 28:17 few (1) 8:10 fielded (1) 20:25
cleanup (2) 13:14 definition (2) eight (2) 15:10;16:9 copy (2) 31:3,4 6:24;16:17 cleanups (1) 13:13,15 deliver (1) either (1) 20:23 corrective (2) 17:16 31:13 file clearer (1) 18:16,20 denoted (1) eligibility (1) 19:22 file closed (1) 16:7 Department (1) eligible (3) 19:22 file closely (1) 18:21,24;19:5,20 deposited (1) 19:16;20:15,23 file closing (1) 19:5,21;24:23;25:2 DEQ (7) email (1) email (1) 28:5 counsel (1) 4:12,14;5:3,6,9,12; 13:11 file closure (4) 7:6 7:6 emailed (1) 13:10 file 18:21,24;19:5,20 couple (2) detail (1) 13:10 file 18:21,24;19:5,20 couple (2) details (2) 10:21;18:1,14,21 file 28:14;30:12 6:3 end (4) 10:21;18:1,14,21 file 33:6 <td< td=""><td>28:17 few (1) 8:10 fielded (1) 20:25</td></td<>	28:17 few (1) 8:10 fielded (1) 20:25
Cleanup (2)	28:17 few (1) 8:10 fielded (1) 20:25
cleanups (1) 13:13,15 deliver (1) either (1) deliver (1) 20:23 corrective (2) 17:16 31:13 file clearer (1) 18:16,20 denoted (1) eligibility (1) leigibility (1) 10:16 correlation (1) 33:19 19:22 file closed (1) 16:7 Department (1) eligible (3) 19:16;20:15,23 file closely (1) 18:21,24;19:5,20 deposited (1) else (1) 13:15 file closing (1) 19:5,21;24:23;25:2 DEQ (7) email (1) email (1) 13:11 file closure (4) 7:6 7:6 emailed (1) 13:10 file closure (4) 7:6 6:3 end (4) file 33:6 Court (2) details (2) 10:21;18:1,14,21 file collected (2) 33:2,13 30:8,10 Engineering (1) 6:15;11:25 cover (2) Determination (3) 4:25 enrolled (1)	few (1) 8:10 fielded (1) 20:25
cleanups (1) 13:13,15 deliver (1) either (1) 31:13 file 20:23 18:16,20 denoted (1) 31:13 eligibility (1) file 10:16 correlation (1) 33:19 19:22 file closed (1) 16:7 Department (1) eligible (3) file 10:25 cost (4) 7:12 19:16;20:15,23 file closely (1) 18:21,24;19:5,20 deposited (1) else (1) file 10:10 costs (4) 11:3 13:15 file closing (1) 19:5,21;24:23;25:2 DEQ (7) email (1) email (1) file 28:5 counsel (1) 4:12,14;5:3,6,9,12; 13:11 file closure (4) 7:6 7:6 emailed (1) file 18:21,24;19:5,20 couple (2) detail (1) 13:10 end (4) 33:6 Court (2) details (2) 10:21;18:1,14,21 file collected (2) 33:2,13 30:8,10 Engineering (1) 6:15;11:25 cover (2) Determination (3) 4:25 enrolled (1) <td>8:10 fielded (1) 20:25</td>	8:10 fielded (1) 20:25
20:23 corrective (2) 17:16 denoted (1) 18:16,20 fill denoted (1) 19:22 fill denoted (1) 19:22 fill denoted (1) 19:22 fill denoted (1) 19:22 fill denoted (1) 19:22 fill denoted (1) 19:22 fill denoted (1) 19:22 fill denoted (1) 19:22 fill denoted (1) 19:22 fill denoted (1) 19:22 fill denoted (1) 19:16;20:15,23 fill denoted (1) 19:16;20:15,23 fill denoted (1) 19:16;20:15,23 fill denoted (1) 19:16;20:15,23 fill denoted (1) 13:15 fill denoted (1) 13:15 fill denoted (1) 13:15 fill denoted (1) 13:10 fill d	fielded (1) 20:25
clearer (1) 18:16,20 denoted (1) eligibility (1) 10:16 10:16 correlation (1) 33:19 19:22 fi closed (1) 16:7 Department (1) 19:22 fi 10:25 cost (4) 7:12 19:16;20:15,23 fi closely (1) 18:21,24;19:5,20 deposited (1) else (1) 13:15 fi closing (1) 19:5,21;24:23;25:2 DEQ (7) email (1) fi fi 28:5 counsel (1) 4:12,14;5:3,6,9,12; 13:11 fi fi closure (4) 7:6 7:6 emailed (1) fi fi 18:21,24;19:5,20 couple (2) detail (1) 13:10 fi code (1) 28:14;30:12 6:3 end (4) fi 33:6 Court (2) 33:2,13 details (2) 10:21;18:1,14,21 fi collected (2) 33:2,13 30:8,10 Engineering (1) fi collections (1) 30:25;31:13 18:10;21:10,14 enrolled (1) <td>20:25</td>	20:25
10:16 closed (1) 10:25 closely (1) 10:10 closing (1) 28:5 closure (4) 18:21,24;19:5,20 closure (4) 18:21,24;19:5,20 code (1) 28:14;30:12 code (1) 33:19 Department (1) 7:12 deposited (1) 11:3 DEQ (7) PEQ (7) PEQ (7) PEQ (7) PEQ (7) PEQ (8) PEQ (8) PEQ (9) PEQ (1) PEQ (1) PEQ (1) PEQ (1) PEQ (1) PEQ (1) PEQ (1) PEQ (1) PEQ (1) PEQ (2) PEQ (3) PEQ (4) PEQ (4) PEQ (5) PEQ (6) PEQ (6) PEQ (7) PEQ (7) PEQ (8) PEQ (1) PEQ (1) PEQ (1) PEQ (2) PEQ (3) PEQ (4) PEQ (4) PEQ (5) PEQ (6) PEQ (6) PEQ (6) PEQ (7) PEQ (7) PEQ (7) PEQ (8) PEQ (8) PEQ (7) PEQ (8) PEQ (8) PEQ (8) PEQ (8) PEQ (9) PEQ (9) PEQ (1)	
closed (1) 16:7 Department (1) eligible (3) 10:26:50:15,23 10:20:16;20:15,23 10:20:16;20:15,23 10:20:16;20:15,23 10:20:16;20:15,23 10:20:16;20:15,23 10:20:16;20:15,23 10:20:16;20:15,23 10:20:16;20:15,23 10:20:16;20:15,23 10:20:15,23	fieldwork (1)
10:25 closely (1) 18:21,24;19:5,20 deposited (1) else (1) 10:10 costs (4) 11:3 13:15 fill (1) 28:5 counsel (1) 7:6 emailed (1) 13:10 emailed (1) 18:21,24;19:5,20 couple (2) code (1) 28:14;30:12 6:3 details (2) 33:6 Court (2) 33:2,13 collected (2) 6:15;11:25 collections (1) 30:25;31:13 18:10;21:10,14 fill (1) fill (2) fill (2) fill (2) fill (3):25 fill (4) fill (4):25 fill	AICAUTOLA (A)
closely (1) 18:21,24;19:5,20 deposited (1) else (1) 10:10 10:10 11:3 13:15 closing (1) 19:5,21;24:23;25:2 DEQ (7) email (1) 28:5 counsel (1) 4:12,14;5:3,6,9,12; 13:11 closure (4) 7:6 emailed (1) 18:21,24;19:5,20 couple (2) detail (1) 13:10 code (1) 28:14;30:12 6:3 end (4) 33:6 Court (2) details (2) 10:21;18:1,14,21 fit collected (2) 33:2,13 30:8,10 Engineering (1) 6:15;11:25 cover (2) Determination (3) 4:25 enrolled (1) collections (1) 30:25;31:13 18:10;21:10,14 enrolled (1)	6:18
closely (1) 18:21,24;19:5,20 deposited (1) else (1) 10:10 costs (4) 11:3 13:15 closing (1) 19:5,21;24:23;25:2 DEQ (7) email (1) 28:5 counsel (1) 4:12,14;5:3,6,9,12; 13:11 closure (4) 7:6 emailed (1) 18:21,24;19:5,20 couple (2) detail (1) 13:10 code (1) 28:14;30:12 6:3 end (4) 33:6 Court (2) details (2) 10:21;18:1,14,21 collected (2) 33:2,13 30:8,10 Engineering (1) 6:15;11:25 cover (2) Determination (3) 4:25 collections (1) 30:25;31:13 18:10;21:10,14 enrolled (1)	fifth (1)
10:10 costs (4) 11:3 13:15 fit closing (1) 19:5,21;24:23;25:2 DEQ (7) email (1) fit 28:5 counsel (1) 4:12,14;5:3,6,9,12; 13:11 fit closure (4) 7:6 7:6 emailed (1) fit 18:21,24;19:5,20 couple (2) detail (1) 13:10 fit code (1) 28:14;30:12 6:3 end (4) fit 33:6 Court (2) details (2) 10:21;18:1,14,21 fit collected (2) 33:2,13 30:8,10 Engineering (1) 6:15;11:25 cover (2) Determination (3) 4:25 enrolled (1) collections (1) 30:25;31:13 18:10;21:10,14 enrolled (1)	7:19
closing (1) 19:5,21;24:23;25:2 DEQ (7) email (1) index of the problem of the pro	
28:5 closure (4) 7:6 7:6 emailed (1) 18:21,24;19:5,20 couple (2) detail (1) 33:6 Court (2) details (2) collected (2) 33:2,13 cover (2) 6:15;11:25 collections (1) 30:25;31:13 enrolled (1) 13:11 emailed (1) 13:10 end (4) 13:10 end (4) 10:21;18:1,14,21 fi 30:8,10 Engineering (1) 4:25 enrolled (1)	figures (1)
closure (4) 7:6 7:6 emailed (1) fill 18:21,24;19:5,20 couple (2) detail (1) 13:10 fill code (1) 28:14;30:12 6:3 end (4) fill 33:6 Court (2) details (2) 10:21;18:1,14,21 fill collected (2) 33:2,13 30:8,10 Engineering (1) 6:15;11:25 cover (2) Determination (3) 4:25 enrolled (1) collections (1) 30:25;31:13 18:10;21:10,14 enrolled (1)	17:21
18:21,24;19:5,20 couple (2) detail (1) 13:10 fi code (1) 28:14;30:12 6:3 end (4) fi 33:6 Court (2) details (2) 10:21;18:1,14,21 fi collected (2) 33:2,13 30:8,10 Engineering (1) 6:15;11:25 cover (2) Determination (3) 4:25 collections (1) 30:25;31:13 18:10;21:10,14 enrolled (1)	filed (1)
code (1) 28:14;30:12 6:3 end (4) indexistance 33:6 Court (2) details (2) 10:21;18:1,14,21 fix collected (2) 33:2,13 30:8,10 Engineering (1) 6:15;11:25 cover (2) Determination (3) 4:25 collections (1) 30:25;31:13 18:10;21:10,14 enrolled (1)	7:7
code (1) 28:14;30:12 6:3 end (4) 33:6 Court (2) details (2) 10:21;18:1,14,21 fi collected (2) 33:2,13 30:8,10 Engineering (1) Engineering (filling (1)
collected (2) 33:2,13 30:8,10 Engineering (1) 6:15;11:25 cover (2) Determination (3) 4:25 collections (1) 30:25;31:13 18:10;21:10,14 enrolled (1)	5:12
collected (2) 33:2,13 30:8,10 Engineering (1) 6:15;11:25 cover (2) Determination (3) 4:25 collections (1) 30:25;31:13 18:10;21:10,14 enrolled (1)	final (2)
6:15;11:25 cover (2) Determination (3) 4:25 enrolled (1)	
collections (1) 30:25;31:13 18:10;21:10,14 enrolled (1)	6:6;28:20
	Financial (8)
10.0	4:14;9:21;17:8;22:7,
12:2 covered (1) determinations (1) 7:5	14;30:18;31:1,16
column (1) 31:10 18:12 entitled (1)	financing (1)
8:6 cracks (1) determined (3) 18:9	11:8
2041610	find (1)
6:21 credit (1) develop (1) 11:9;13:2;20:3,6	
21.0 TD 4 (2)	25:20
	finish (1)
11.1.1.6.20.1.6.20.1.4. 10.4.24.22	14:18
comments (4) 11:1,16;20:16;22:14 10:4;24:23 equal (1)	first (6)
10:5;21:17,17;23:8 currently (3) disburse (2) 16:22	6:2;7:3;13:8;17:21,
Commissioner (1) 7:13;19:7,13 15:23;16:8 estimate (1)	23;23:13
15:15 Cy (3) disbursed (1) 20:4 fi	fiscal (10)
Committee (1) 4:12;5:24;8:2 11:6 estimated (2)	
13:18 discourse (1) 18:20,24	6:4,24;10:22,25;
	11:1;17:22,23;18:5;
10.10	20:13,16
10:19 discuss (3) 30:21 fi	fit (1)
completely (1) dashes (2) 14:22;26:23;32:1 everybody (2)	22:11
9:2 33:10,14 dispenser (1) 4:4;32:10 fi	five (12)
completes (2) database (1) 31:8 everyone (1)	6:8;7:2;14:3;15:11;
7:22;23:19 24:25 Division (2) 8:16	
compliance (2) date (4) 5:4,7 executive (3)	16:16,16;17:15,20;
20.8.21.20	20:1,7,24;22:24
	flyers (1)
component (1) dates (6) 20:10;21:13 expect (1)	28:15
18:12 26:25;27:5,19;28:1; documents (1) 30:19 fo	form (1)
conflict (2) 29:6;30:4 21:15 expend (1)	26:5
27-17-22	forward (1)
confusing (1) 28:22 22:14,25 expenditure (1)	
10.6	28:2
	found (1)
	24:18
24:5,17 decision (2) done (1) 19:12 F	O (A)
consider (1) 30:24;31:13 13:20 explained (1)	Four (4)
27:19 dedicated (2) due (1) 12:6	
20 0 12 01 14 10 22 0	6:16;9:21;10:1;
4:7;27:4 deductible (1) during (5)	6:16;9:21;10:1; 21:16
	6:16;9:21;10:1;

TONE HE VISORT BOX				December 5, 2015
Frank (3) 4:16;16:25;32:20	32:10 hear (7)	into (6) 11:18;21:3;26:2,11,	legislative (4) 10:14;13:12,18;	maximum (3) 14:8;20:22;21:2
			20:20	
FRANKLIN (2)	5:14;9:12;17:7;26:7;	17;31:19		may (3)
5:8,9	31:24;32:16,20	iron (1)	letter (1)	8:25;13:11;27:6
friendly (1)	heard (1)	30:7	7:11	maybe (1)
10:9	10:5	item (4)	liabilities (2)	9:2
Fuel (11)	help (1)	5:23;9:21;11:8;	11:17;21:11	mean (1)
5:6;6:4;8:8;13:1,23;	12:13	25:12	liability (1)	31:5
15:19,21;18:9;20:6;	hereby (1)	items (1)	18:19	means (1)
30:16,23	33:7	29:6	limit (1)	18:17
fuels (1)	HILL (39)	-	21:5	meeting (8)
14:1	4:2,21,22;5:13,21;	j J	line (1)	4:4;5:16;25:18;
FULTON (8)	7:24;9:8,11,19;12:15;		11:8	26:19;30:3,4,6;32:25
5:2,3;22:16,21;23:2;	14:5,17,23;16:24;17:3,	January (1)	list (3)	meetings (2)
26:8,13;32:21	6,13;22:19;23:6,12,22;	30:7	6:23;7:17;8:21	27:1,5
Fund (39)	25:7,10,21,25;26:6,10,	Jeff (9)	listed (4)	Melissa (1)
4:10;5:6,9;11:10;	15,20;27:3,11,16,25;	5:6;11:18;12:7,8;	7:10,19;27:6,20	4:10
12:13;13:2,2,23;15:9,	28:9;32:3,7,15,19,23	14:18;17:16;23:23,25;	listen (1)	members (2)
19,21;17:16,24;18:1,9,	hope (2)	25:11	14:13	21:15,23
14;19:1,6,14,16,23;	10:9;21:18	Joint (1)	listing (1)	membership (1)
20:1,2,3,6,7,11,14,25;	hopefully (1)	13:18	18:12	30:9
21:8;22:11;24:7,8;	10:15	judgment (1)	little (6)	Merry (1)
29:10;30:14,25;31:10,	hydrant (1)	7:18	10:4,8,9,16;11:18;	32:10
14,23	30:22	July (2)	12:14	met (1)
funds (4)	hydrants (1)	10:17;28:20	LOMA (1)	13:19
13:21,22;14:12,13	30:16	June (2)	28:16	method (1)
further (3)		10:18;28:20	look (6)	33:13
20:12;25:8;32:9	I.		19:8;24:6;26:25;	methodology (1)
		K	29:11,14,17	21:19
${f G}$	ignored (2)		looked (1)	mid (1)
	19:24;24:16	Karyn (6)	29:20	30:6
Gary (2)	implementation (1)	4:14;9:22;14:25;	looking (2)	mid-December (1)
5:3;32:24	29:6	17:7,8;18:11	8:15;24:19	30:5
gave (1)	inaudible (1)	keep (1)	Lori (2)	might (1)
22:1	33:19	11:5	33:2,21	30:14
generally (1)	incidents (1)	keeps (1)	loss (1)	million (3)
12:2	20:17	8:8	10:11	16:17;20:24,24
gives (1)	include (1)	Kerry (2)	lot (4)	minus (2)
24:5	31:7	4:22;28:12	8:21;10:5;25:1;	11:20;12:5
gonna (1)	included (2)	kind (4)	31:17	minutes (2)
29:8	24:20,21	18:15;21:5;30:13;	Louisiana (8)	4:8;5:15
Good (6)	includes (1)	31:20	4:16,19,22;28:24;	missed (1)
12:18,20;14:24;	18:23		29:9;30:20;33:3,6	27:4
17:19;25:6;30:18	Incorporated (1)	\mathbf{L}		missing (1)
Governor (1)	5:1		M	8:25
20:20	increased (1)	last (6)		mistakes (1)
Governor's (1)	20:22	6:19;7:18;11:11;	mail (1)	24:18
15:16	indicate (1)	13:20;20:10;25:18	7:20	modifications (1)
ground (2)	33:11	late (1)	mainly (1)	22:13
31:8,14	indicated (2)	9:1	9:3	money (2)
guess (1)	23:17;33:15	late- (1)	making (1)	11:4,25
32:9	inflows (1)	30:6	23:14	month (1)
guys (6)	11:23	late-December (1)	manner (1)	7:18
28:13,15,17;30:9,23;	information (1)	30:5	11:15	monthly (2)
31:24	25:19	left (1)	MARCELLO (15)	7:14;18:9
	initiated (1)	33:16	4:15,16;5:17;9:17;	more (15)
Н	6:4	legal (6)	15:1,7,24;16:3,10,18;	6:22;10:8,9;11:19;
	interaction (1)	7:3,10,17;14:6,8;	17:1;26:3;27:23;32:13,	13:14;21:6,9;24:5,16,
hand (1)	33:9	20:9	17	17,17;25:3;29:25;32:1,
13:9	interest (1)	legally (1)	Marketers (3)	8
handed (1)	11:4	7:3	4:17,20,22	MORIN (8)
13:6	interests (1)	legislate (1)	material (1)	4:11,12;6:1;8:4,14,
Happy (1)	20:18	15:14	33:18	19,24;9:6
· · · · · · · · · · · · · · · · · · ·				<u>, </u>

7 CCC 11 DC 1 3, 2013		, , , , , , , , , , , , , , , , , , , ,	T	1
morning (1)	obligation (10)	17:20	6:7,8,10,13,16;	RACs (2)
4:5	12:7;18:10,13;19:1,	page (7)	15:10;18:13;19:11;	11:6;21:1
notion (9)	11,14,18;20:2;21:11,21	6:20;7:1;12:24;13:3;	20:14;21:10	random (1)
5:14;9:12,15;17:7,	obligations (2)	18:8;20:9,10	preliminary (1)	9:2
10;26:4,5,7;32:16	11:20;24:8	pages (1)	21:16	randomly (1)
Motor (10)	observation (1)	6:3	prepared (1)	8:2
5:6;6:4;8:8;13:1,23;	23:25	part (1)	7:19	RATCLIFF (3)
14:1;15:19,21;18:9;	o'clock (2)	14:19	preparing (1)	5:10,11;25:16
20:5	27:10,13	Party (2)	7:9	reach (1)
nove (5)	October (4)	25:13,18	presentation (1)	18:21
5:23;17:15;32:14,18,	7:4,15;28:22;29:1	passed (1)	14:21	reached (1)
20	Office (3)	20:19	Previously (2)	21:2
•	7:10,16;15:16	past (3)	19:24;24:4	Real (1)
noved (1)				12:20
5:18	officer (1)	8:9;10:7;30:15	probably (1)	1
Moving (1)	33:4	pauses (1)	30:6	reason (3)
9:21	Oil (3)	33:11	Procedure (2)	8:5;12:3;27:18
nuch (2)	4:16,19,22	payment (2)	33:5,6	reasons (1)
15:22;16:8	older (1)	9:1;18:5	proceeding (2)	9:3
nultiplies (1)	21:2	payments (2)	33:10,14	receive (2)
20:7	one (13)	7:13,14	process (1)	12:2;21:24
	6:7,19;12:1;13:22,	Pending (2)	18:2	received (4)
· N	23;14:14;20:24,24;	6:6;18:2	processed (1)	13:11;17:24;20:12;
	22:4;29:13;30:12,14;	percent (4)	18:4	21:18
names (1)	31:2	14:3;15:11;16:16,16	profit (1)	recognized (2)
				1 0 1
33:17	only (2)	perhaps (1)	10:11	19:2,15
need (6)	12:1;23:25	10:10	program (3)	recommend (1)
23:9;25:19;26:1,4,7,	open (1)	period (2)	21:3;29:3,14	22:9
11	6:3	10:17;18:5	progress (2)	recommendations (1)
negative (1)	operating (1)	period's (1)	6:12,17	22:12
11:23	31:6	12:1	projected (1)	reconvened (1)
new (14)	order (1)	Perry (3)	20:1	26:19
7:4;10:21,21;11:14;	4:4	5:12;25:13,17	proper (1)	record (2)
12:7;18:10;21:19;22:2;	original (1)	phase (1)	33:13	7:6;33:8
25:17;28:13;29:8,15;	29:18	18:17	proposal (1)	Recovery (2)
30:1;32:10	Others (1)	phrase (1)	23:7	7:11,16
next (7)	8:25	33:19	propose (1)	reduce (1)
6:23;11:16;13:3;	out (13)	phrases (1)	22:17	16:16
				reduced (1)
18:8;19:1,14;27:1	10:1;11:22;13:5,9,	33:15	proposed (1)	` ` `
Nick (1)	10;14:10;21:15;22:8;	place (1)	18:18	14:1
4:19	25:20;28:14;30:4,7;	29:2	protected (2)	reduction (1)
None (1)	33:16	placed (1)	13:22;14:13	16:22
27:24	outstanding (1)	7:20	public (1)	refer (1)
non-government (1)	18:19	plan (2)	28:7	17:20
30:22	over (2)	18:20;30:2	publicly (1)	reference (1)
normally (1)	21:12;31:21	please (1)	13:13	33:18
31:10	overfills (1)	17:17	pulled (1)	referred (2)
note (1)	31:9	PM (1)	24.3	7:15,17
11:3	Overland (2)	32:25	pursued (1)	referring (1)
		I .	7:3	18:11
Notice (2)	33:2,21	point (9)		
7:11;11:7	overs (1)	10:1;11:22;13:5;	put (2)	reg (3)
notify (1)	33:12	20:24;21:8;22:4;29:4,	10:18;28:14	29:19,19,25
13:17	own (3)	10;31:13		regs (6)
November (4)	29:1;31:1,15	Points (1)	Q	28:20,23;29:2,8;
7:18,20;13:19;27:7	owner (1)	20:18		30:1;31:5
number (10)	7:13	policy (1)	quarter (3)	regulated (1)
5:23;9:21;15:12;	owners (3)	31:11	10:20;17:21,23	30:17
17:15,20;20:11,14,25;	21:1;31:15,19	portion (3)	quite (2)	Regulation (2)
21:4;25:12		12:6;19:7,8	8:10;10:2	28:14;29:17
numbers (3)	P	possibly (2)	0.10,10.2	regulations (2)
22:2;24:19,19			R	29:1,15
	1	24:4;27:18	1	reimbursement (2)
22.2,24.19,19				
	packet (1)	posted (1)	DAGO:	
0	packet (1) 20:11 packets (1)	28:16 potential (10)	RAC (2) 16:9;18:24	19:17,23 related (2)

FORD ADVISORT BOX			Tr	December 3, 2013
7:25;21:1	revolves (1)	31:12	statutes (1)	thought (1)
relates (2)	15:4	showing (3)	22:4	33:12
19:9;24:22	right (6)	10:7;11:22;12:5	statutory (2)	thousand (1)
relating (2)	12:5,23;22:22;23:3;	shows (1)	13:21;14:11	22:24
20:2;22:13	25:6;29:23	12:25	Steve (1)	three (6)
release (3)	ROG (2)	signature (1)	4:25	5:23;6:2;19:4,19;
20:23;31:3,5	18:19;19:2	7:20	still (2)	20:4;29:5
released (1)	roll (1)	signed (1)	6:12,17	Thursdays (2)
13:13	4:6	20:20	Storage (2)	27:9,12
releases (3)	ROMAIN (5)	similar (1)	5:3;31:6	times (2)
20:23;31:7,16	4:18,19;9:14;17:11;	10:14	Store (3)	11:24;19:10
remaining (1)	27:21	•	4:17,20,23	1
18:23	Rule (1)	simply (1) 11:23		timing (1) 24:21
Remediation (2)	33:4		stringent (1) 29:22	_ · · · - -
5:4;21:7	•	site (2)		today (1)
	Rules (1)	19:5,20	stuff (1)	27:20
Report (18)	33:5	sites (22)	31:20	together (2)
5:24;6:3,21;7:2,22,		11:6,17;15:11;16:13;	submitted (2)	10:18;15:3
25;9:13,16,22;10:2,19;	S	18:16,17;19:2,6,9,13,	19:17,22	told (1)
11:16;12:1,10,24;	G (F)	15,21,24;20:11,13,14,	substantial (1)	29:16
13:25;17:8,16	Sam (5)	16;21:2,4;22:8;24:15,	29:25	took (1)
reported (2)	28:7,10;32:4,5,12	24	supporting (2)	14:10
11:11,14	same (1)	Six (3)	21:14;22:2	total (4)
Reporter (1)	33:12	6:12;20:16;25:13	Sure (3)	18:22;19:9,12;25:2
33:3	scheduled (1)	slightly (1)	17:19;22:1;29:21	totaling (5)
Reporters's (1)	6:20	10:6	sweep (1)	6:9,14;17:25;18:3,6
33:13	Second (14)	slipping (1)	15:4	track (1)
reporting (3)	5:20;7:9;9:18;13:16;	24:4	sweeps (1)	8:9
10:12,17;11:13	17:12;23:9,11,13;26:9,	slower (1)	13:20	transcript (1)
represent (1)	12,14;32:20,22,24	11:24	sworn (1)	33:16
6:7	Secretary (1)	spared (1)	33:7	transcription (1)
representation (1)	22:10	14:14	system (2)	33:14
21:20	section (2)	specific (2)	30:23;31:7	transfer (4)
representing (2)	19:1,14	30:13;31:20	systems (1)	11:9,10;13:1;20:3
6:13;20:17	seeing (2)	specifics (1)	30:20	transferred (1)
request (1)	10:3,11	30:11		20:5
19:23	segregated (1)	spills (1)	T	trial (1)
requested (2)	11:5	31:8		7:9
18:3;19:21	selected (1)	spontaneous (1)	tab (3)	true (3)
requirements (2)	8:2	33:10	6:2;9:25;17:20	21:20;24:6,8
22:7,10	Senate (1)	ST (5)	talk (2)	truly (1)
resembles (1)	20:19	4:18,19;9:14;17:11;	12:8;33:12	24:16
10:10	send (2)	27:21	talking (2)	Trust (34)
resend (1)	13:8;21:24	stagnant (1)	21:22;22:25	4:10;5:6,9;11:9;13:2,
21:25	sending (2)	21:6	Tank (5)	2,23;15:9,19,21;17:15,
responding (1)	7:14;30:4	stakeholder (3)	5:4;30:23;31:6,15,19	24;18:1,9,14;19:6,16;
7:7	sent (2)	30:2,8;32:2	tanks (1)	20:2,3,6,6,11,14,25;
response (6)	7:10;21:15	start (3)	30:16	21:8;22:11;24:7,8;
9:10;12:11;17:5;	separate (1)	30:3,6;31:24	tells (1)	29:10;30:14,25;31:10,
25:9,24;32:6	31:15	started (1)	25:17	14,23
responsibility (5)	September (5)	24:25	ten (1)	try (2)
22:7,14;30:18;31:1,	11:2;18:1,14,22;	starting (1)	22:24	10:8;25:20
16	21:13	6:23	tentative (1)	trying (4)
returned (1)	Services (2)	state (5)	27:5	8:15;10:3;15:3,3
18:7	4:14;9:22	22:5;29:3,13;33:3,8	testimony (1)	Turn (6)
review (6)	session (3)	statement (3)	33:7	6:2;7:1;9:25;12:23;
6:5,6,6;21:17;22:6;	26:2,11,17	10:11,13;11:14	Thanks (1)	18:8;20:9
23:19	seven (2)	states (3)	28:12	two (6)
reviewed (1)	20:13,17	7:11;13:21;22:6	Theriot (1)	6:3,13,20,22;13:4;
20:15	several (1)	statue (1)	5:12	21:16
revise (1)	21:22	16:13	thinking (1)	21.10
28:25		Status (6)	31:25	U
	shall (1)			
revised (1)	22:6	5:24;9:13,15;17:16;	third (4)	under (1)
22:4	shear (1)	20:12;25:13	7:1,14;25:13,18	under (1)
				·

December 3, 2015			r O.	ND ADVISORY BUARD
	1. (1)	20 (2)		
6:5	working (1)	20 (3)	İ	
Underground (3)	21:9	4:7;5:15;13:19		
5:3;15:8;31:6	worksheet (1)	2015 (9)		
unfortunately (1)	18:11	4:8;5:16;7:15,18,21;		
13:24	wrapping (1)	11:2;18:1,14,22		
up (6)	6:17	2016 (8)		
5:25;6:18;26:23;	written (1)	17:22,24;20:13;27:5,		
28:4,8;29:5	16:14	6,7,7,7		
update (5)	wrong (1)	2018 (1)		·
10:19,21;20:18;	24:1	29:2		
28:13,17	27.1	2021 (1)		
used (3)	Y	29:7	Ì	
	<u> </u>	219510d (1)		
10:3,10;33:11				
user (1)	ya'll (8)	22:5	'	
10:8	12:9;14:15;21:23;	2195a85 (1)		
uses (2)	22:3;23:20;25:11;27:1;	22:5		
11:8;20:4	32:24	22.(2)		
using (2)	year (23)	6:5;18:6		
19:4,19	6:4,24;7:4;10:21,22,	244 (1)	Ì	
UST (2)	25;11:2,11,24;13:20;	20:19		
28:13;31:20	15:17,19;17:22,24;	249 (1)		
utilized (1)	19:4,20;20:1,5,13,16;	18:4	1	
16:14	28:21,22;32:11	277 (1)	1	
-	years (3)	20:21		
${}^{ ext{-}}\mathbf{V}$	20:8;27:1;29:5	28 (1)		
	yesterday (2)	33:4		
valve (1)	6:22;13:10	29 (1)		
31:12	0.22,13.10	6:3		
various (2)	1	298 (1)		
9:1;18:12		17:24		
verified (1)	1 (1)	17.27	4	
33:18	10:17	3		
		3		
VIZINAT (2)	1:00 (2)	30 (3)	i	
4:9,10	27:9,12	30 (3)		
**7	12 (1)	7:4;10:18;11:2	•	
W	7:18	327,000 (1)		
4	13 (2)	19:10		
way (3)	28:22;29:2]	
15:14;16:13;30:10	14 (3)	8		
website (1)	6:5;7:8,15		1	
28:15	1434b (1)	823 (1)	1	
week (1)	33:5	16:19		
6:24	144 (1)		1	
weeks (1)	18:2	9		
21:16	15 (3)	-	†	
welcome (2)	10:25;28:20,21	90 (1)	1	
4:4;9:7	154 (1)	28:22	1	
weren't (2)	19:9	97083 (1)	1	
24:20;25:1	16 (3)	33:22		• :
what's (1)	6:10,25;7:21			
30:1	17 (1)			
who's (1)	27:7		1 .	
25:14	18 (2)		1	
		,		
wish (1)	27:6,7			
32:9	19 (1)	1	1	I.
without (1)	27:6		1	
19:2	1992 (1)			
words (2)	29:19	1		
33:15,17				
workgroup (2)	2			
30:3,8		1		
workgroups (1)	2:23 (1)		ſ	
32:2	32:25		T _i	
	_1	<u> </u>	ľ	<u> </u>