

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 1:09 p.m., on February 22, 2018.

BEFORE:

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

A P P E A R A N C E S

Kerry Hill
Chairman

Durwood Franklin
Jeff Baker
Gary Fulton
Cy Morin
Johnny Milazzo
Perry Theriot
Nick St. Romain
Steve Burnham
Roger Bright, via telephone
Joe McCartney
Lacey Vitteri

Melissa Vizinat
Sam Broussard
Jason Efferson
Trey Kemp
Todd Perry
Roman Vixon
Fran Falke
Jill Carter
Kyle Blanchard
Vicky Hadlin

* * * * *

I N D E X

EXAMINATION:

PAGE(S):

None

EXHIBITS:

None

REPORTER'S PAGE

56

REPORTER'S CERTIFICATE

57

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MR. HILL:

I'd like to call this meeting to order. Good evening, Ladies and Gentlemen. Could we have a roll call and consideration and adoption of the November 2017 board minutes. Starting with Durwood.

MR. FRANKLIN:

Durwood Franklin, DEQ Trust Fund.

MR. BAKER:

Jeff Baker, DEQ Trust Fund.

MR. FULTON:

Gary Fulton, Underground Storage Tank Division.

MR. THERIOT:

Perry Theriot, Legal Division.

MR. BURNHAM:

Steve Burnham, Engineering Associates.

MR. MILAZZO:

Johnny Milazzo, Louisiana Oil Marketers and Convenience Store Association.

MR. HILL:

Kerry Hill, Louisiana Oil Marketers and Convenience Store Association.

MR. ST. ROMAIN:

1 Nicholas St. Romain, Louisiana Oil
2 Marketers and Convenience Store Association.
3 MS. VIZINAT:
4 Melissa Vizinat, Trust Fund.
5 MR. MORIN:
6 Cy Morin, DEQ Audit.
7 MS. VITTERI:
8 Lacey Vitteri, Financial Services.
9 MR. VIXON:
10 Roman Vixon, PPM Consultants.
11 MR. PERRY:
12 Todd Perry, PPM Consultants.
13 MS. FALKE:
14 Fran Falke, DEQ.
15 MR. BROUSSARD:
16 Sam Broussard, DEQ UST Division.
17 MS. CARTER:
18 Jill Carter, DEQ Legal Division.
19 MR. KEMP:
20 Trey Kemp, DEQ Trust Fund.
21 MR. EFFERSON:
22 Jason Efferson, DEQ Trust Fund.
23 MR. BLANCHARD:
24 Kyle Blanchard, UST Division.
25 MS. HADLIN:

1 Vicky Hadlin, UST Division.

2 MR. BAKER:

3 And on the phone.

4 MR. BRIGHT:

5 Roger Bright, Jones Environmental.

6 MR. HILL:

7 I think that's everyone. Thank ya'll.

8 Let's move to item number three,

9 election of chairperson for 2018.

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

11 MR. HILL:

12 Oh, let's adopt -- I'm sorry. We'd
13 like to adopt the minutes from the November
14 2017 board meeting. Do I hear a motion?

15 MR. FULTON:

16 Motion.

17 MR. HILL:

18 I've got a motion by Gary. Second?

19 MR. MILAZZO:

20 Second.

21 MR. HILL:

22 Second by Johnny. So moved. Thank
23 you.

24 Now, let's go to item number three,
25 election of chairperson for the calendar

1 year 2018. Do we hear a nominee?

2 MR. MILAZZO:

3 I'd like to -- Kerry, if you would
4 consider -- you've been -- you've done a
5 great job. I know it's a lot of travel.

6 MR. BURNHAM:

7 I agree with that.

8 MR. MILAZZO:

9 But my nomination is to re-elect Kerry
10 Hill, if he's willing to accept.

11 MR. HILL:

12 I will accept it, Johnny.

13 MR. BURNHAM:

14 And I second that motion.

15 MR. HILL:

16 All in favor?

17 (All indicated "aye".)

18 MR. HILL:

19 So moved. And we will continue on.
20 And Johnny will be the vice-chairperson.

21 MR. MILAZZO:

22 At least I'd know what I'm getting
23 into, right?

24 MR. HILL:

25 If you will, let's go to number four,

1 the financial services report with Theresa,
2 which I don't think is here.

3 MS. VITTERI:

4 I'm taking her place. She's at a
5 meeting.

6 MR. HILL:

7 And you're going to replace her.

8 MS. VITTERI:

9 Yes.

10 MR. HILL:

11 Okay. Well, it's all yours.

12 MS. VITTERI:

13 All right. Hi everyone. I'm Lacey
14 Vitteri. I'm an accountant in financial
15 services, and I prepare these quarterly
16 reports, which are presented to you at these
17 financial meetings.

18 I'd like to begin by explaining why
19 this report is only two columns compared to
20 previous quarters which had three columns.

21 As Theresa discussed, at the November
22 board meeting, we have changed the
23 presentation of financial statements to
24 exclude the interest amounts that are
25 dedicated to the abandoned tank program.

1 This includes all interest beginning July
2 1st, 2001. Because the interest is no
3 longer included in the trust fund balance or
4 the unobligated balance, we were able to
5 simplify the financials and remove the third
6 column which previously added in the
7 interest, which is now shown in the second
8 column of this report.

9 The interest total as of the second
10 quarter of this fiscal year was 6.7 million.
11 The amount Theresa discussed previously was
12 approximately 11 million. The 11 million
13 represented interest earned since the
14 program was created. However, in reading
15 the statute, we realized the only interest
16 earned beginning July 1st, 2001 was
17 dedicated to the abandoned tank program. So
18 we isolated that interest amount in a
19 separate column and removed it from the
20 total to ensure the proper amount was shown
21 that's available for that program.

22 Now, I'll discuss the reports for the
23 second quarter of fiscal year 2018. You may
24 want to turn to tab four to follow.

25 As you can see, when comparing the

1 center report to the report on the right, we
2 have collected approximately the same amount
3 of bulk distribution fees for the first two
4 quarters with a slight increase of two
5 hundred thousand. Moving down to the other
6 receipts line, you'll see that we did not
7 have a transfer for the DOJ for attorney
8 fees in the first two quarters of fiscal
9 year 2018, because the remaining funds for
10 the attorney general's escrow was
11 transferred in fiscal year 2017, as shown in
12 the report on the left.

13 In the disbursement section, you'll
14 see that we have seen an increase in year-
15 to-date claims for reimbursements of
16 approximately one million.

17 And last, you'll see at the bottom of
18 the report that the liabilities on current
19 sites have remained about the same and is
20 around 80 million. You'll hear more from
21 Jeff on this.

22 The unobligated balance has increased
23 to approximately 23.5 million, as of
24 December 31, 2017. However, I believe the
25 board has discussed a legislative solution

1 to correct the issue in the future.

2 The second page of the report includes
3 a projection of the transfer from the trust
4 fund to the ETF to cover administrative
5 expenses for both current fiscal year and
6 next fiscal year.

7 We expect the amount to stay fairly
8 steady over the next few years, barring any
9 unforeseen changes to federal funding or
10 other revenues.

11 Unfortunately today, we will not have
12 a power point presentation. Theresa had to
13 attend a meeting at the Capital and due to
14 other work priorities we were unable to
15 complete the power point report for this
16 quarter's meeting. This will resume at the
17 May board meeting.

18 If you have any questions or topics
19 you'd like Theresa to cover, please let me
20 know or send her an email. We apologize for
21 any inconvenience. Thank you.

22 MR. HILL:

23 Thank you. Does anybody have any
24 questions?

25 (No response.)

1 MR. HILL:

2 Thank you very much.

3 Let's go on to item number five, the
4 auditor's status report by Cy.

5 MR. MORIN:

6 Cy Morin, DEQ Audit.

7 Tab five is where my report will be
8 located.

9 This is as of February 14th. The
10 first page of the report details 20 open
11 motor fuel audit cases as of February 14th.

12 One case resulted in a credit of
13 \$579.61, due to a miscalculation for five
14 months. We're waiting on this credit
15 deduction from a current payment and we will
16 be able to close the case file.

17 Eleven cases are awaiting review.
18 Pending final review, there's one potential
19 credit of \$4,419.06, and ten potential clean
20 audits. Six cases are currently still in
21 progress with the results to be determined.
22 And two fiscal year cases are scheduled.
23 One for February 27th and one for March
24 27th.

25 Since the last meeting, three new

1 cases have been added to this list, and six
2 cases have been closed and removed from the
3 list.

4 Of the six removed, five were clean
5 audits and one was assessed approximately
6 \$4,000, which was paid in full.

7 Any questions on this page?

8 (No response.)

9 MR. MORIN:

10 The second page is the same four cases
11 in legal that we've discussed many times
12 before. The first case and the fourth case
13 on the list are now ready to go to ODR. The
14 letters have already been mailed out and
15 legal is working to get everything completed
16 on that. So those two cases will be going
17 to ODR in the very near future.

18 The second case, they continue to make
19 payments on that one. There was a \$250
20 payment received December 4, 2017. I would
21 expect we will get another payment soon. If
22 not, then that will be added to the list of
23 cases that need to go to ODR.

24 And the third case on the list remains
25 the same. It's at ODR and we have received

1 no payments to date.

2 As you can see, the four cases now
3 represent a total remaining balance of
4 \$118,223.30.

5 Any questions?

6 MR. MILAZZO:

7 Cy, I think I may have asked this last
8 time. I'm not looking at those notes, but
9 all four of these companies are no longer in
10 business; is that --

11 MR. MORIN:

12 I -- I think that's an accurate
13 statement, yes. It's -- I can say three for
14 certain, and I think the fourth is as well,
15 which would be the fourth one on there.
16 It's a more recent audit. But I do believe
17 -- I do believe that one is as well. I'll
18 follow up and --

19 MR. MILAZZO:

20 Okay.

21 MR. MORIN:

22 -- and make sure.

23 MR. HILL:

24 Does anybody have anymore questions?

25 (No response.)

1 MR. HILL:

2 If not, let's go to item number six,
3 the trust fund status report by Jeff.

4 MR. BAKER:

5 Good afternoon. If ya'll turn to tab
6 six in your packets. These are the figures
7 for the second quarter of fiscal year 2018.

8 During the second quarter of fiscal
9 year 2018, the trust fund received 194
10 applications, totaling approximately 3.6
11 million dollars. As of the end of December
12 2017, the trust fund had 147 pending
13 applications to process, which have
14 requested totals of approximately 2.1
15 million dollars. 159 applications were
16 processed for payment during this fiscal
17 quarter, totaling just over three million
18 dollars. And ten applications were returned
19 with deficiencies.

20 The next page titled report of
21 cumulative activities in the trust fund,
22 under the tab marked -- under this tab mark
23 the historical values related to the trust
24 fund is provided for the board's
25 informational purposes. It just kinda gives

1 you a history of what's gone on with the
2 trust fund over the years.

3 We gave ya'll a handout that wasn't
4 included in the packets, and we apologize
5 for that. Normally, we intend on including
6 these things in the packets. But if you'll
7 look at that, you'll see there's a -- the
8 first one is titled monthly motor fuel trust
9 fund obligation determination. I'm sorry.
10 That one was included in the packets. It's
11 the next section that's not. That's
12 actually in your packet. I apologize for
13 that.

14 This is the worksheet that list the
15 various component determination of the
16 potential obligation against the trust fund
17 as of the end of December. Do ya'll see
18 that page?

19 MR. HILL:

20 Oh, that's in the packet?

21 MR. BAKER:

22 It is. That's what I'm saying, I --
23 I --

24 MR. HILL:

25 Okay. I got you.

1 MR. BAKER:

2 The next section we're going to talk
3 about is not in the packet. I apologize for
4 that.

5 For the sites in the corrective
6 action, the outstanding liability for
7 corrective action plan budget and estimated
8 cost to reach closure as of the end of
9 December 2017 was approximately 27 million
10 dollars. This total includes the CAP budget
11 remaining amounts and the RAC estimated cost
12 to closure. This is what I was talking
13 about. In -- in the section, corrective
14 action plan budget in your handout that you
15 were given separate from the package, that
16 gives you the -- that documents the
17 individual CAP sites included in these
18 amounts. Do ya'll see that? Yes, that one
19 right there. Perry has got it in his hand.

20 MR. MILAZZO:

21 That's what I thought, yes.

22 MR. BAKER:

23 That gives you an overall of the
24 individual sites and their -- their CAP
25 budgets and where they are in their -- in

1 their budget.

2 The next section is the fund
3 obligation recognized for sites without ROG
4 approved CAP budgets. And that's 22 --
5 well, basically 23 million dollars. This is
6 determined using a three year average site
7 closure cost and applying these costs to the
8 average trust fund sites without a current
9 CAP budget.

10 The next -- the next group in that
11 handout we gave you is the non-CAP sites
12 trust fund obligation estimates. It's a
13 list of all of the sites that currently
14 don't have CAPs and where they are, how much
15 money we've spent on investigations and --
16 and some ICAP activities. So you'll see
17 that.

18 You'll also notice that the total
19 obligation for this section dropped
20 dramatically. The reason is, is that we --
21 we use a three year average for these
22 numbers. And what we did is, is that that
23 average is going to change over the years.
24 As we have high dollar sites come on and
25 off, that average is going to fluctuate.

1 And this particular time period -- we do
2 this every quarter. We recalculate that
3 three year average on a quarterly basis. In
4 this particular quarter, a number of high
5 dollar sites rotated out of that three year
6 cycle, so that average dropped dramatically,
7 approximately about \$50,000. Next quarter,
8 it may jump up some more. It's just going
9 to fluctuate as those high dollar sites come
10 on and off. But it does have an impact on
11 the obligation.

12 The next section, the fund obligation
13 recognized there were 30 sites that have
14 been determined to be trust fund eligible,
15 however, have not submitted a reimbursement
16 application. It's approximately 8.2 million
17 dollars. This is also determined using the
18 three year site average cost and applying
19 these costs to sites that have requested
20 eligibility but have not -- not yet
21 submitted a request for reimbursement from
22 the fund. That number actually went up a
23 little bit from last quarter, but the number
24 of sites also went up. It went from 24 to
25 30. But because the average dropped some,

1 the difference wasn't as much as it would
2 be.

3 The five year projected fund
4 obligation related to the trust fund to the
5 environmental trust fund transfers is 20.8
6 million dollars. That number stays the
7 same throughout the fiscal year. That --
8 that was the number it was last quarter as
9 well.

10 This number is based upon the three
11 year average of the trust fund transfers and
12 then multiply that average times five years.

13 The next section is -- well, the total
14 is -- the total estimated obligated amount
15 is 79.3 million dollars, which represents a
16 four million dollar reduction from last
17 quarters estimated amount.

18 Now, if you'll go back to your packet.
19 I'm sorry for the confusion. The -- the
20 section labeled incidents determined
21 eligible for the motor fuel trust, this
22 report shows a total -- shows the number of
23 potential trust fund sites that were
24 reviewed and made eligible during the
25 current fiscal year was 24. And that

1 represents 30 active incidents. So in this
2 quarter, we had 24 sites added to our list,
3 which represented 30 active incidents.

4 The next page in your packet labeled
5 trust fund sites that had a release granted
6 no further action status, the trust -- this
7 represents the trust fund sites that have
8 received a no further action status thus far
9 in fiscal year 2018. And those are 24
10 locations.

11 Are there any questions at this point
12 about what we've presented so far?

13 (No response.)

14 MR. BAKER:

15 Okay. We'll go on to points of
16 interest related to the trust fund. The
17 trust fund has noticed some habitual errors
18 in a number of our recent reimbursement
19 applications. Most of what we're seeing, we
20 -- we think it's attributable to staff
21 turnover with some of the RACs. The types
22 of errors -- these types of errors slowdown
23 our process time. And what the trust fund
24 is looking to do is facilitate some training
25 opportunities for the RAC's staff, to answer

1 questions and to share some of our
2 experiences. This is very much in the
3 beginning phases of our -- of our thoughts.
4 So we're going to probably be getting with
5 some of the RACs in the near future to talk
6 about some -- how to do this and better --
7 better ways to do it. We may even go up to
8 some of the regional offices to try to
9 facilitate allowing more of the RACs to come
10 that are in different regions. But we are
11 looking at that and we wanted to make ya'll
12 aware of that.

13 Also, in the past year, the department
14 has worked with the UST stakeholders to form
15 multiple workgroups to address a number of
16 critical issues. We've gotten very positive
17 feedback from these workgroups and feel
18 strongly that they help all parties see the
19 various perspectives related to the UST
20 issues. The department wants to continue
21 down this path by having an annual
22 stakeholder workgroup meeting. These
23 meetings will provide the RACs, the owners
24 and the department staff opportunities to
25 bring forth critical issues for discussion

1 towards resolution. There would be a time
2 period prior to the meeting for participants
3 to provide written topics for discussions.
4 These topics will be compiled into an
5 agenda. On the day of the meeting, there
6 would also be time after the agenda items
7 have been addressed for open discussion
8 concerning ad hoc topics. We're hoping to
9 begin planning the first meeting some time
10 this summer. And we want to make ya'll
11 aware of what our thoughts were on it.

12 All right. Does anybody have any
13 questions about any of those points?

14 (No response.)

15 MR. BAKER:

16 If you'll look in the -- again, we're
17 flipping -- having ya'll flip back and
18 forth. If you'll look in your handout,
19 you'll see a couple pictures of a -- a
20 trailer. This is a picture of an 8X5
21 enclosed trailer. This was one of the first
22 ozone units purchased by the trust fund to
23 remediate a site. This unit has been used
24 to complete at least two trust fund sites.
25 It's now about ten years old. We had the

1 manufacturer look at the unit and he
2 informed us, due to the age of the
3 technology, it's really not worth
4 refurbishing at this time. Typically, we do
5 try to relocate these used remediation
6 systems, but if we don't have another site
7 to utilize the system, we will actually put
8 the bid out to sale. Often, we don't get
9 much resale values for these used systems.
10 In fact, often, no bids are submitted and
11 the RAC will end up taking the unit to the
12 scrap yard and sell it for scrap metal.

13 Any funds that are generated from that
14 is -- from either the selling of the used
15 system or the scrap metal, does come back
16 into the trust fund. And you'll see that in
17 the category, recovered cost.

18 Since the refurbishment is not an
19 option for this system and the scrap metal
20 would be -- cost would be minimal, the
21 department request the board's approval to
22 donate the enclosed trailer to the
23 department. The trailer could be used to
24 transport weather sensitive equipment to
25 emergency response sites, as well as other

1 offsite assessment locations. It's a very
2 good trailer. It's enclosed. It's got an
3 AC on it. The department could utilize it
4 immensely. And we hated to see it go to
5 scrap.

6 MR. THERIOT:

7 Just to note, because I think it is
8 was -- it is very important. We would like
9 the board to recommend that it be made
10 available to the department. I don't want
11 you guys to be stuck in -- in actually
12 making the decision.

13 MR. HILL:

14 Right.

15 MR. THERIOT:

16 So I -- I would recommend that you get
17 the board to recommend to us that you would
18 approve such.

19 MR. HILL:

20 I make a recommendation.

21 (An off the record discussion followed.)

22 MR. HILL:

23 First, I'd like to recognize that Joe
24 McCartney has arrived in our meeting. He
25 got lost after lunch.

1 I make a motion -- or, I make a motion
2 that we donate the trailer to the department
3 for their further use. Do we hear a second?

4 MR. MILAZZO:

5 I -- I've got no problems with the
6 recommendation that -- and -- and motion or
7 second a motion to allow you guys use or
8 actually take ownership of the unit.

9 MR. HILL:

10 All in favor?
11 (All indicated "aye".)

12 MR. BAKER:

13 That ends my section. Does anybody
14 have any other questions?

15 MR. HILL:

16 Anybody have any other questions?

17 MR. MILAZZO:

18 I -- I do. On the -- on the
19 corrective action plan -- and maybe I'm
20 missing something here -- but are dates
21 available when these sites come into the
22 system?

23 MR. BAKER:

24 Absolutely.

25 MR. MILAZZO:

1 Is that a column maybe that you can
2 add to that? Is it too busy?

3 MR. BAKER:

4 It might make it a little smaller
5 print, but if ya'll are okay with that.

6 MR. MILAZZO:

7 I know it just -- you know, we -- we
8 sit here -- I sit here sometimes wondering,
9 you know, what -- if we're looking at some
10 of this stuff and it -- and it -- you know,
11 and this -- some sort of chronological
12 order and says okay from first to last and
13 how long are these things in the system, and
14 I just maybe at some point feel like we're
15 greater contributors. Perhaps we're not the
16 scientist or certainly environmentalist. I
17 don't -- I don't want to necessarily get in
18 that space. But I'd be interested in
19 knowing how long some of these things are
20 out there.

21 MR. BAKER:

22 Not a problem. Would you like that
23 column also added to the second report?

24 MR. MILAZZO:

25 Please. Yes.

1 MR. BAKER:

2 No problem.

3 MR. HILL:

4 Any other questions?

5 (No response.)

6 MR. HILL:

7 If not, we will -- thank you, Jeff.

8 We will move on to third party claims

9 status. Perry.

10 MR. THERIOT:

11 I'm glad to say that we have received
12 no new third party claims since the last
13 meeting that we had. We are currently
14 litigating two active suits. I expect one
15 to be settled very soon. The other I think
16 it may come abandoned, if the attorney does
17 not move it soon. So we -- we are doing
18 well so far on third party suits. Seems
19 that way.

20 On another legal note, just -- it's
21 not on the agenda but I -- I can bring it up
22 as a reminder, because I brought it up last
23 meeting. Our changes in the statute last
24 year do impose that two year limitation in
25 order to institute the investigation work.

1 So I like to bring it up each meeting to
2 remind the RAC community and the owners that
3 the clock is running on releases that have
4 occurred subsequent to that date of the
5 effective statute. So just -- that's just a
6 word to the wise, that's all, as a reminder.

7 MR. BURNHAM:

8 That's after an incident number has
9 been assigned and --

10 MR. MILAZZO:

11 Request for --

12 MR. BURNHAM:

13 -- and some correspondence has been
14 sent.

15 MR. THERIOT:

16 Yes. They will be -- yes, that's --
17 generally speaking, when the site is
18 reported to the department and a request for
19 eligibility is made.

20 MR. BURNHAM:

21 Right..

22 MR. BAKER:

23 And a request for assessment.

24 MR. FULTON:

25 Once we request the assessment work

1 that's when --

2 MR. THERIOT:

3 The two-year clock starts.

4 MR. BAKER:

5 Those are sent out with green cards,
6 so when the green cards come back, then we
7 have that date as our start date.

8 MR. MILAZZO:

9 So for a bit of clarity on my part,
10 you've had situations, I guess, where
11 someone has reported, you guys request maybe
12 further investigation and -- and literally
13 years could go by before there's a followup.

14 MR. THERIOT:

15 That would be correct.

16 MR. MILAZZO:

17 Okay.

18 MR. ST. ROMAIN:

19 And I guess plumes grow and --

20 MR. THERIOT:

21 That -- and that is one of the reasons
22 for us asking the legislature to give us the
23 two year time period, because it ends up
24 costing the fund more money the longer the
25 delay.

1 MR. MILAZZO:

2 And you really don't have an teeth in
3 that today to take some sort of action?

4 MR. THERIOT:

5 Well, we have teeth in some areas, but
6 some areas, we don't. If --

7 MR. FULTON:

8 I mean, if they're an active facility,
9 we can red tag them.

10 MR. THERIOT:

11 Yes. We can red tag them for not
12 doing it.

13 MR. MILAZZO:

14 Okay.

15 MR. THERIOT:

16 But --

17 MR. MILAZZO:

18 But -- but then it -- but they don't
19 have to do anything else then? How -- they
20 just don't get anymore fuel.

21 MR. THERIOT:

22 That's correct. But --

23 MR. MILAZZO:

24 But they can still procrastinate.

25 MR. THERIOT:

1 -- a facility -- that's usually a
2 pretty good -- that's better than anything
3 the department can do.

4 MR. FULTON:

5 It's worked.

6 MR. THERIOT:

7 It works better than --

8 MR. ST. ROMAIN:

9 Works at active sites.

10 MR. THERIOT:

11 Exactly.

12 MR. ST. ROMAIN:

13 Doesn't help if --

14 MR. THERIOT:

15 It's the inactive sites that --

16 MR. HILL:

17 The inactive is where the problem is.

18 MR. FULTON:

19 Yes.

20 MR. MILAZZO:

21 So again, I don't --

22 MR. HILL:

23 Do you have a lot of that?

24 MR. THERIOT:

25 Yes. We have a large list of inactive

1 sites where people were told to send in
2 investigation plans and it's been years and
3 we haven't gotten them.

4 MR. MILAZZO:

5 I'm not sure that -- you know, if we
6 can help by going on the record, but from a
7 legislative standpoint, that's something
8 that I think we're all genuinely interested
9 in doing the right thing. And if there are
10 those that are not following those rules,
11 then we need to support the department in
12 their quest to the legislature --

13 MR. ST. ROMAIN:

14 So the request would be that after two
15 years, they would no longer be trust fund
16 eligible?

17 MR. THERIOT:

18 No. It's already -- it's already in
19 the law.

20 MR. ST. ROMAIN:

21 It's already in it.

22 MR. THERIOT:

23 Yes. And after the two years from our
24 -- unless it's our fault, like, we got your
25 plan and we're -- because it extends the

1 clock while we're reviewing it.

2 MR. ST. ROMAIN:

3 Right.

4 MR. THERIOT:

5 But if the -- after that two year
6 period has run with no plan coming in, they
7 become ineligible.

8 MR. HILL:

9 And it could essentially cost the
10 department more money by the delay of
11 addressing the --

12 MR. THERIOT:

13 Well, it'd cost the fund.

14 MR. HILL:

15 The fund, I mean. The fund, yes.

16 MR. MILAZZO:

17 So what -- what support could we give
18 you in respect to making that better?

19 MR. THERIOT:

20 It -- well, we -- we have the statute
21 now. We just try to remind everyone of the
22 statute.

23 MR. HILL:

24 Okay.

25 MR. THERIOT:

1 All your owners out there and -- and
2 the RAC community that is contacted by the
3 owners, that the clock is running.

4 MR. FULTON:

5 We try to keep them reminding --

6 MR. BURNHAM:

7 I guess there would be multiple
8 attempts to contact in case a letter got
9 lost.

10 MR. FULTON:

11 Oh, yes.

12 MR. BURNHAM:

13 Yes.

14 MR. MILAZZO:

15 So you -- you're not even permitted to
16 really take any sort of civil action,
17 perhaps, if someone is -- is neglecting to
18 do -- or, respond to those requests?

19 MR. THERIOT:

20 It's difficult, okay. And it would
21 end up costing a lot of money to do that.
22 But we -- we -- we've got some -- like for
23 active stations, we -- we have some
24 remedies. The hard ones are the guys who
25 are not in business anymore, and you send

1 them things and they don't respond and they
2 -- you know, eventually we find out that
3 they're on social security someplace and
4 they don't have the money to do what
5 they're asking them to do. But if we know
6 that, we have an abandoned tank program to
7 handle it. So that's -- we need that
8 information. It's when we get the request -
9 - when we get the report and then nothing
10 happens, okay, that's the worse situation.

11 MR. MILAZZO:

12 And help me on the abandoned tank.
13 But where you guys take an active role in
14 that, you -- you lien that property for any
15 future transaction?

16 MR. FULTON:

17 Yes, we do. We send it through the
18 enforcement process. We have a crew that
19 evaluates those and they get -- they
20 recommend it to the tank program. Then once
21 it comes up on the list to be mediated -- I
22 mean, we only get so much money. We got,
23 you know, a large amount sites, then we
24 would place a lien on it, so --

25 MR. MILAZZO:

1 Is there any sort of mandate to force
2 that to a sheriff's sale perhaps to --

3 MR. THERIOT:

4 No. It -- we're not --

5 MR. MILAZZO:

6 So you just -- you just take the
7 position that it could be there forever?

8 MR. THERIOT:

9 Yes -- well, no -- well, we -- what we
10 do as a practical matter is if someone wants
11 to purchase the property that has a lien on
12 it, they can contact the department. We
13 will negotiate a price to release the lien,
14 okay, which goes back into the fund. But
15 generally, we are going to be limited by the
16 value of the property.

17 MR. MILAZZO:

18 Right.

19 MR. THERIOT:

20 I mean, no one is going to pay more
21 than market value. So in the -- in the few
22 cases we've done, we've asked that they have
23 an assessment, you know, a property
24 assessment done and we actually go spend a
25 few dollars -- we have some people on

1 contract that would do our own assessment to
2 make sure that we're getting the market
3 value of the property. And then, yes, we
4 will negotiate and take market value of the
5 property in order to place it back into
6 commerce. You know, we don't want a piece
7 of property all over the state just sitting
8 and --

9 MR. MILAZZO:

10 Right

11 MR. THERIOT:

12 -- never -- never to be used.

13 MR. MILAZZO:

14 Right.

15 MR. BURNHAM:

16 Okay. Does the department see any
17 other significant delays at any time during
18 the process like between assessment and CAP
19 or anything? There's not really a big --

20 MR. FULTON:

21 Not really.

22 MR. BURNHAM:

23 -- problem anywhere in there?

24 MR. FULTON:

25 It's -- it's actually getting them

1 either in the trust fund or finding funding
2 to -- it's always -- it's very rare after
3 you get started that you have a problem.

4 MR. HILL:

5 Any other questions for Perry?

6 (No response.)

7 MR. HILL:

8 If not, we're going to go to item
9 number seven -- I mean, number eight,
10 presentation, overview of the ages of
11 Louisiana underground storage tanks by Mr.
12 Sam Broussard.

13 Sam you've got the floor.

14 MR. BROUSSARD:

15 All right. Thank you, Kerry.

16 I put this together for Johnny because
17 he requested it at the last meeting, so
18 thank you, John.

19 MR. MILAZZO:

20 I figured I'd give you a little extra
21 work, Sam.

22 MR. HILL:

23 Gave you a little time to put it
24 together.

25 MR. BROUSSARD:

1 Yes.

2 MR. MILAZZO:

3 I know you like homework.

4 MR. BROUSSARD:

5 All right. So -- so what I did --
6 hey, Roger, can you hear me?

7 MR. BRIGHT:

8 Yes, I can hear you fine.

9 MR. BROUSSARD:

10 All right. Great. So -- so what I
11 did was, we -- we have a database a tempo
12 database, we have all our UST information
13 and we gave them our registration form. The
14 database is new. We don't do queries on it
15 that often. So the last one I did was in
16 January of '15, so I added that information
17 with this one. And the data that I'm going
18 to give you today is November 30 of '17, so
19 about -- close to three years after I did my
20 first one. Just for a little comparison.

21 We have -- I don't have a pointer.
22 But we have 10,650 buyout tanks that are --
23 it -- currently are not closed, either
24 active or temp closed in Louisiana. 9,551
25 of those are active. 1104 are in temp

1 closure. Just to give you an idea of the
2 universe.

3 All right. So the average age -- as
4 of November 30 of '17, the average age of
5 our total universe is in the far right, the
6 green column, 26.9 years. That includes
7 active and temp closed tanks. Active tanks,
8 the average age is 26.3 years. And average
9 age of our temp closed tanks is 31.8. So
10 comparing that to the early 2015, tanks are
11 getting older, which is what we expected.

12 This is a chart that's -- number of
13 tanks on the left, age on the bottom. And
14 you can see that the bulk of our age of our
15 tanks fall in between somewhere around 18 to
16 say 39 or 40 years. So I -- we have a lot
17 of old tanks in Louisiana is what this is
18 telling us. The redline is half the tanks.

19 The double wall -- these -- the bulk
20 of them are single wall. I think we have
21 about a little under 15 percent double wall
22 tanks.

23 MR. MILAZZO:

24 15, you said?

25 MR. BROUSSARD:

1 But only --

2 MR. MILAZZO:

3 15?

4 MR. BROUSSARD:

5 Pardon me?

6 MR. MILAZZO:

7 15?

8 MR. BROUSSARD:

9 It's actually 14.9 percent are double
10 wall. But of that, only seven -- I think
11 seven point four are required to do
12 interstitial monitoring. That's the ones
13 installed say nine years ago, after our
14 12/2008 interstitial monitoring deadline.
15 Yes, seven -- seven point four percent are
16 doing interstitial monitoring, or have to
17 submit.

18 I just broke it down, the ages, you
19 know, a ten year gap and five year gap so
20 you could see. You know, if we were to -- I
21 -- I know there's been a lot of talk.
22 People ask me all the time, "would you make
23 tanks over 30 years close?" And if we did
24 that, you could look on the left, anything
25 over 30 years, we're looking at somewhere

1 around close to 50 percent of our tank
2 universe is over 30 years old. So if we
3 said everybody over 30 years has to close,
4 that's gonna be close to half of our
5 universe.

6 So those things -- those are the
7 reasons why we don't pursue those kind of
8 regulations, because we know the impact to
9 the universe. But if you guys want to
10 propose something like that, you know, we'd
11 listen to you.

12 I -- I think the take away is, you can
13 look on the right, you know, 75 percent of
14 our tanks are between 16 and 40 years old.
15 So we have an old tank universe. And
16 looking at releases is one of the things I
17 do every year and the number of tank
18 releases has been going up. It was -- we
19 had seven documented tank releases two years
20 ago. We had 15 last year. And I looked at
21 the average age of those 15 tanks that
22 leaked and they were average age of 30.8.
23 And -- and what I've been seeing recently in
24 the last year is older fiberglass tanks in
25 the mid '80's are starting to leak. We've

1 got -- I -- I saw on that list that Jeff had
2 of eligibility request, I saw a number of
3 those were on that list this year. So we
4 are starting to see these old FRT tanks
5 leak.

6 I will open it up to any questions you
7 guys have.

8 MR. MILAZZO:

9 So with that information and, you
10 know, you look at cleanup cost today, impact
11 to the trust fund, when you look at the
12 demand, okay, there's some correlation to
13 age and cost. As you guys begin to look at,
14 as we look at, you know, what we think not
15 too long ago, we thinking the fund is
16 getting to a point where maybe you could
17 ratchet back a little bit, but if those
18 numbers, if you look at tanks 30 and older,
19 and it's one thing if folks are pro-actively
20 upgrading, right? But if you only respond
21 because the tank is end of life, and it's
22 because you've had an event, it'd be a
23 pretty hefty demand on the fund.

24 MR. BROUSSARD:

25 Right.

1 MR. HILL:

2 So a tank installed in '87 or '88 is
3 at that 30 year mark right now.

4 MR. THERIOT:

5 Yes. That would've been -- remember
6 the tank upgrade requirement, it had to be
7 upgraded by '90.

8 MR. HILL:

9 By '90. That's right.

10 MR. THERIOT:

11 Yes. And -- so many of those tanks,
12 although they were old, were upgraded.

13 MR. HILL:

14 Yes.

15 MR. THERIOT:

16 Many were lined.

17 MR. HILL:

18 That's right. We had an option to
19 line or --

20 MR. THERIOT:

21 All those things had to be done in
22 order to continue receiving fuel after '98.
23 So I don't know how many -- I -- my guess
24 would be -- and I'm not like Sam, I haven't
25 gone out and looked. But I've been to a

1 couple presentations at the funds meetings,
2 the -- the older tanks, that they're older
3 than the 30 or 40 years olds, tend to be the
4 smaller facilities that are beginning to
5 close. A lot of them. And -- and we find a
6 lot of releases when phase two's are done on
7 the property transfers.

8 MR. HILL:

9 Would you agree with that, Sam?

10 MR. BROUSSARD:

11 Not necessarily. We are -- we're
12 seeing large companies that are buying
13 smaller companies that have older tanks. So
14 Circle K has a lot of old fiberglass tanks.
15 They bought Kangaroos. And as these larger
16 companies buy these smaller companies,
17 they're going to own them.

18 MR. ST. ROMAIN:

19 So --

20 MR. BROUSSARD:

21 And -- and here's the other thing,
22 they have the money, when they do leak, to
23 go in and do the internal inspection and
24 repair them. And -- so we're seeing a lot
25 of repairs to old fiberglass tanks now.

1 MR. ST. ROMAIN:

2 Now, Sam, isn't there a certain age or
3 certain tank type that if it leaks, it's not
4 eligible for repairs, it has to be removed
5 or closed?

6 MR. BROUSSARD:

7 Not necessarily.

8 MR. ST. ROMAIN:

9 Bare steel or --

10 MR. THERIOT:

11 There are some states --

12 MR. BROUSSARD:

13 Well, bare steel piping in our regs,
14 if your piping is steel and it leaks, the
15 total pipe, you have to replace the steel
16 pipe.

17 MR. ST. ROMAIN:

18 But a steel tank does not -- it can
19 still be --

20 MR. BROUSSARD:

21 No. It could be repaired.

22 MR. ST. ROMAIN:

23 -- repaired.

24 MR. HILL:

25 Even a steel tank that was relined

1 back during that time period?

2 MR. BROUSSARD:

3 Yes. The relining thing, currently
4 those -- they can be relined again.

5 MR. HILL:

6 Do you see much of that anymore?

7 MR. BROUSSARD:

8 Yes.

9 MR. HILL:

10 You do. Okay.

11 MR. BROUSSARD:

12 Yes, we are. When the new regs come
13 out, tanks that had that -- that are lined,
14 that don't have any other corrosion
15 protection, the lining will have to be
16 inspected again and -- whenever it's due.
17 And if it can't be repaired, they'd have to
18 close the tank. We're not going to let
19 people reline older tanks anymore. So we're
20 trying to get out of the business of
21 allowing upgrades to older tanks. So this
22 new reg packet -- I know some of you guys
23 have seen it -- there's a lot of things
24 built in to start phasing out that older
25 universe.

1 MR. ST. ROMAIN:

2 Now -- now, when a -- I guess, is
3 there a percentage or -- of tanks that are
4 closed, is there a high amount of releases
5 that are found upon closure? Whereas, if
6 you had set a sunset date on tanks, and you
7 had a certain close on all these tanks,
8 would there be a sudden rush on the trust
9 fund, if all of a sudden you're finding --
10 finding leaks that were previously
11 undiscovered?

12 MR. BROUSSARD:

13 I don't have the data on closures --

14 MR. ST. ROMAIN:

15 Yes, right.

16 MR. BROUSSARD:

17 -- in my hand. I could -- we could
18 get that for you, how many closures are
19 actually doing remediation. We could get
20 that for you at a later date. I don't have
21 it today.

22 MR. ST. ROMAIN:

23 Right. If you pushed 1,000 tanks to
24 closure, are you exposing yourself to 500
25 new leaks or something like that?

1 MR. BROUSSARD:

2 My guess would be, yes.

3 MR. THERIOT:

4 That would be my guess as well.

5 MR. ST. ROMAIN:

6 Right.

7 MR. THERIOT:

8 I haven't seen too many pulled where
9 you don't have to do work.

10 MR. HILL:

11 So ya'll -- ya'll see -- ya'll see
12 this everyday. And, you know, we see it or
13 experience it and just, you know, by
14 listening to what even Perry said, the --
15 the -- and what you said Sam -- the 30 plus
16 or 35 year plus old tanks could be a
17 tremendous cost to the trust fund. Do ya'll
18 have any suggestions going forward? And I
19 think maybe you do.

20 MR. BROUSSARD:

21 No. Actually --

22 MR. HILL:

23 You don't? Okay.

24 MR. BROUSSARD:

25 Well -- and I can tell you, one of the

1 things we did in this new reg packet is we
2 do -- there's a lot of old temporary closed
3 tanks.

4 MR. HILL:

5 Yes.

6 MR. BROUSSARD:

7 We have a bunch. And a lot of them,
8 the average age is 30 something, close to 32
9 years old. We've got a bunch that are over
10 30, over 40. We put in a lot of new regs in
11 this reg packet to address those temp closed
12 tanks. For instance, if they have internal
13 lining and they don't do the inspection when
14 they're suppose to or they have a
15 (inaudible) exposure protecting it from
16 corrosion and they're not operating it over
17 a certain period of time, we're going to
18 require them to permanently close those
19 tanks. So we don't like to keep a bunch of
20 old temporarily closed tanks that are not
21 kept up with in our universe where somebody
22 can come and buy it and put it back in
23 service.

24 MR. FULTON:

25 Especially when it's been in temp

1 closure for an extended amount of time.

2 MR. ST. ROMAIN:

3 It's called temporary closure. Is
4 there a limit on how long it can stay in
5 there?

6 MR. BROUSSARD:

7 There is no limit. And -- and we've
8 had many discussions on a limit. But -- and
9 -- and here's the reason. If you look at
10 our numbers, we got, you know, close to
11 whatever, 11.2 percent of them and 1.8 of
12 temp closed tanks that are under 20 years
13 old. Totally fine tanks that are in temp
14 closure that we don't want to force them to
15 temporarily close because they've been out
16 of service for a year. But we don't want to
17 make somebody remove an asset if it's still
18 an asset.

19 MR. THERIOT:

20 Those were extensively debated during
21 the reg groups, because some states do, some
22 states don't.

23 MR. FULTON:

24 We believe it is an asset.

25 MR. THERIOT:

1 Some of them -- some of them are
2 assets and some of them aren't.

3 MR. FULTON:

4 Yes.

5 MR. THERIOT:

6 Okay. Is kinda how it breaks out.
7 And -- and rather than make a rule that
8 classifies them all as non-assets, which is
9 what would happen if you put a time limit on
10 them, the decision was made to not put a
11 time limit on them unless we get to one of
12 the compliance issues that it's not being
13 followed and gives rise to a greater chance
14 that the tank would leak. So --

15 MR. HILL:

16 You're speaking of an asset to the
17 property or the property owner?

18 MR. THERIOT:

19 Right. Somebody may want to buy and
20 put the station back into service. There's
21 a difference of opinion on it. That's the
22 best I can tell.

23 MR. HILL:

24 Any other questions for Sam?

25 MR. MILAZZO:

1 Thanks for doing that, Sam.

2 MR. HILL:

3 Thanks for doing it, Sam.

4 MR. MILAZZO:

5 You'll share that with us?

6 MR. BROUSSARD:

7 Yes. I think Jeff should've done
8 that.

9 MS. VIZINAT:

10 It's in your packet, Johnny.

11 MR. BAKER:

12 The hard copy is in the packet.

13 MR. MILAZZO:

14 I didn't see that.

15 MR. FULTON:

16 Well, we can get you one. If you need
17 an electronic copy, we can certainly do
18 that.

19 MR. MILAZZO:

20 Oh, I got it. I got it. Okay.

21 MR. FULTON:

22 We can certainly get you an electronic
23 copy too.

24 MR. MILAZZO:

25 I've got what I need. Thank you.

1 MR. HILL:

2 Okay. At this time, is there anymore
3 questions for anybody today present at the
4 meeting?

5 (No response.)

6 MR. HILL:

7 And if not, do I hear a motion to
8 close the meeting?

9 MR. MILAZZO:

10 So moved.

11 MR. HILL:

12 Johnny makes a motion to close the
13 meeting. Do I hear a second?

14 MR. ST. ROMAIN:

15 Second.

16 MR. HILL:

17 Second by Nick.

18 Thank you everyone for attending.


19 **THE MEETING ADJOURNED AT 1:54 P.M.**

20

* * * * *

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

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

23  _____

24 Lori Overland C.C.R.

25 # 97083

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

*FUND ADVISORY BOARD MEETING
February 22, 2018*

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In The Matter Of:

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

FUND ADVISORY BOARD MEETING

February 22, 2018

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

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3 STATE OF LOUISIANA
4 DEPARTMENT OF ENVIRONMENTAL QUALITY
5 MOTOR FUELS UNDERGROUND STORAGE TANK TRUST
6 FUND ADVISORY BOARD
7
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9
10
11
12
13 The above-entitled meeting was held at the
14 LDEQ, Galvez Building, Conference Center, 602
North 5th Street, Baton Rouge, Louisiana,
beginning at 1:09 p.m., on February 22, 2018.
15
16
17
18
19 BEFORE:
20 Lori B. Overland
21 Certified Court Reporter
22 In and For the State of
23 Louisiana
24
25

Page 2

1 A P P E A R A N C E S
2
3 Kerry Hill
Chairman
4 Durwood Franklin
5 Jeff Baker
6 Gary Fulton
7 Cy Morin
8 Johnny Milazzo
9 Perry Theriot
10 Nick St. Romain
11 Steve Burnham
12 Roger Bright, via telephone
13 Joe McCartney
14 Lacey Vitteri
15
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23
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25

Page 3

1 I N D E X
2
3 EXAMINATION: PAGE (S) :
4 None
5 EXHIBITS:
6 None
7
8 REPORTER'S PAGE 56
9 REPORTER'S CERTIFICATE 57
10
11 * * * * *
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Page 4

1 * * * * *
2 MR. HILL:
3 I'd like to call this meeting to
4 order. Good evening, Ladies and Gentlemen.
5 Could we have a roll call and consideration
6 and adoption of the November 2017 board
7 minutes. Starting with Durwood.
8 MR. FRANKLIN:
9 Durwood Franklin, DEQ Trust Fund.
10 MR. BAKER:
11 Jeff Baker, DEQ Trust Fund.
12 MR. FULTON:
13 Gary Fulton, Underground Storage Tank
14 Division.
15 MR. THERIOT:
16 Perry Theriot, Legal Division.
17 MR. BURNHAM:
18 Steve Burnham, Engineering Associates.
19 MR. MILAZZO:
20 Johnny Milazzo, Louisiana Oil
21 Marketers and Convenience Store Association.
22 MR. HILL:
23 Kerry Hill, Louisiana Oil Marketers
24 and Convenience Store Association.
25 MR. ST. ROMAIN:

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1 Nicholas St. Romain, Louisiana Oil
2 Marketers and Convenience Store Association.
3 MS. VIZINAT:
4 Melissa Vizinat, Trust Fund.
5 MR. MORIN:
6 Cy Morin, DEQ Audit.
7 MS. VITTERI:
8 Lacey Vitteri, Financial Services.
9 MR. VIXON:
10 Roman Vixon, PPM Consultants.
11 MR. PERRY:
12 Todd Perry, PPM Consultants.
13 MS. FALKE:
14 Fran Falke, DEQ.
15 MR. BROUSSARD:
16 Sam Broussard, DEQ UST Division.
17 MS. CARTER:
18 Jill Carter, DEQ Legal Division.
19 MR. KEMP:
20 Trey Kemp, DEQ Trust Fund.
21 MR. EFFERSON:
22 Jason Efferson, DEQ Trust Fund.
23 MR. BLANCHARD:
24 Kyle Blanchard, UST Division.
25 MS. HADLIN:

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1 Vicky Hadlin, UST Division.
2 MR. BAKER:
3 And on the phone.
4 MR. BRIGHT:
5 Roger Bright, Jones Environmental.
6 MR. HILL:
7 I think that's everyone. Thank ya'll.
8 Let's move to item number three,
9 election of chairperson for 2018.
10 (An off-the-record discussion followed.)
11 MR. HILL:
12 Oh, let's adopt -- I'm sorry. We'd
13 like to adopt the minutes from the November
14 2017 board meeting. Do I hear a motion?
15 MR. FULTON:
16 Motion.
17 MR. HILL:
18 I've got a motion by Gary. Second?
19 MR. MILAZZO:
20 Second.
21 MR. HILL:
22 Second by Johnny. So moved. Thank
23 you.
24 Now, let's go to item number three,
25 election of chairperson for the calendar

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1 year 2018. Do we hear a nominee?
2 MR. MILAZZO:
3 I'd like to -- Kerry, if you would
4 consider -- you've been -- you've done a
5 great job. I know it's a lot of travel.
6 MR. BURNHAM:
7 I agree with that.
8 MR. MILAZZO:
9 But my nomination is to re-elect Kerry
10 Hill, if he's willing to accept.
11 MR. HILL:
12 I will accept it, Johnny.
13 MR. BURNHAM:
14 And I second that motion.
15 MR. HILL:
16 All in favor?
17 (All indicated "aye".)
18 MR. HILL:
19 So moved. And we will continue on.
20 And Johnny will be the vice-chairperson.
21 MR. MILAZZO:
22 At least I'd know what I'm getting
23 into, right?
24 MR. HILL:
25 If you will, let's go to number four,

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1 the financial services report with Theresa,
2 which I don't think is here.
3 MS. VITTERI:
4 I'm taking her place. She's at a
5 meeting.
6 MR. HILL:
7 And you're going to replace her.
8 MS. VITTERI:
9 Yes.
10 MR. HILL:
11 Okay. Well, it's all yours.
12 MS. VITTERI:
13 All right. Hi everyone. I'm Lacey
14 Vitteri. I'm an accountant in financial
15 services, and I prepare these quarterly
16 reports, which are presented to you at these
17 financial meetings.
18 I'd like to begin by explaining why
19 this report is only two columns compared to
20 previous quarters which had three columns.
21 As Theresa discussed, at the November
22 board meeting, we have changed the
23 presentation of financial statements to
24 exclude the interest amounts that are
25 dedicated to the abandoned tank program.

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1 This includes all interest beginning July
2 1st, 2001. Because the interest is no
3 longer included in the trust fund balance or
4 the unobligated balance, we were able to
5 simplify the financials and remove the third
6 column which previously added in the
7 interest, which is now shown in the second
8 column of this report.

9 The interest total as of the second
10 quarter of this fiscal year was 6.7 million.
11 The amount Theresa discussed previously was
12 approximately 11 million. The 11 million
13 represented interest earned since the
14 program was created. However, in reading
15 the statute, we realized the only interest
16 earned beginning July 1st, 2001 was
17 dedicated to the abandoned tank program. So
18 we isolated that interest amount in a
19 separate column and removed it from the
20 total to ensure the proper amount was shown
21 that's available for that program.

22 Now, I'll discuss the reports for the
23 second quarter of fiscal year 2018. You may
24 want to turn to tab four to follow.

25 As you can see, when comparing the

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1 center report to the report on the right, we
2 have collected approximately the same amount
3 of bulk distribution fees for the first two
4 quarters with a slight increase of two
5 hundred thousand. Moving down to the other
6 receipts line, you'll see that we did not
7 have a transfer for the DOJ for attorney
8 fees in the first two quarters of fiscal
9 year 2018, because the remaining funds for
10 the attorney general's escrow was
11 transferred in fiscal year 2017, as shown in
12 the report on the left.

13 In the disbursement section, you'll
14 see that we have seen an increase in year-
15 to-date claims for reimbursements of
16 approximately one million.

17 And last, you'll see at the bottom of
18 the report that the liabilities on current
19 sites have remained about the same and is
20 around 80 million. You'll hear more from
21 Jeff on this.

22 The unobligated balance has increased
23 to approximately 23.5 million, as of
24 December 31, 2017. However, I believe the
25 board has discussed a legislative solution

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1 to correct the issue in the future.

2 The second page of the report includes
3 a projection of the transfer from the trust
4 fund to the ETF to cover administrative
5 expenses for both current fiscal year and
6 next fiscal year.

7 We expect the amount to stay fairly
8 steady over the next few years, barring any
9 unforeseen changes to federal funding or
10 other revenues.

11 Unfortunately today, we will not have
12 a power point presentation. Theresa had to
13 attend a meeting at the Capital and due to
14 other work priorities we were unable to
15 complete the power point report for this
16 quarter's meeting. This will resume at the
17 May board meeting.

18 If you have any questions or topics
19 you'd like Theresa to cover, please let me
20 know or send her an email. We apologize for
21 any inconvenience. Thank you.

22 MR. HILL:
23 Thank you. Does anybody have any
24 questions?
25 (No response.)

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1 MR. HILL:
2 Thank you very much.
3 Let's go on to item number five, the
4 auditor's status report by Cy.

5 MR. MORIN:
6 Cy Morin, DEQ Audit.
7 Tab five is where my report will be
8 located.

9 This is as of February 14th. The
10 first page of the report details 20 open
11 motor fuel audit cases as of February 14th.

12 One case resulted in a credit of
13 \$579.61, due to a miscalculation for five
14 months. We're waiting on this credit
15 deduction from a current payment and we will
16 be able to close the case file.

17 Eleven cases are awaiting review.
18 Pending final review, there's one potential
19 credit of \$4,419.06, and ten potential clean
20 audits. Six cases are currently still in
21 progress with the results to be determined.
22 And two fiscal year cases are scheduled.
23 One for February 27th and one for March
24 27th.

25 Since the last meeting, three new

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1 cases have been added to this list, and six
2 cases have been closed and removed from the
3 list.
4 Of the six removed, five were clean
5 audits and one was assessed approximately
6 \$4,000, which was paid in full.
7 Any questions on this page?
8 (No response.)
9 MR. MORIN:
10 The second page is the same four cases
11 in legal that we've discussed many times
12 before. The first case and the fourth case
13 on the list are now ready to go to ODR. The
14 letters have already been mailed out and
15 legal is working to get everything completed
16 on that. So those two cases will be going
17 to ODR in the very near future.
18 The second case, they continue to make
19 payments on that one. There was a \$250
20 payment received December 4, 2017. I would
21 expect we will get another payment soon. If
22 not, then that will be added to the list of
23 cases that need to go to ODR.
24 And the third case on the list remains
25 the same. It's at ODR and we have received

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1 no payments to date.
2 As you can see, the four cases now
3 represent a total remaining balance of
4 \$118,223.30.
5 Any questions?
6 MR. MILAZZO:
7 Cy, I think I may have asked this last
8 time. I'm not looking at those notes, but
9 all four of these companies are no longer in
10 business; is that --
11 MR. MORIN:
12 I -- I think that's an accurate
13 statement, yes. It's -- I can say three for
14 certain, and I think the fourth is as well,
15 which would be the fourth one on there.
16 It's a more recent audit. But I do believe
17 -- I do believe that one is as well. I'll
18 follow up and --
19 MR. MILAZZO:
20 Okay.
21 MR. MORIN:
22 -- and make sure.
23 MR. HILL:
24 Does anybody have anymore questions?
25 (No response.)

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1 MR. HILL:
2 If not, let's go to item number six,
3 the trust fund status report by Jeff.
4 MR. BAKER:
5 Good afternoon. If ya'll turn to tab
6 six in your packets. These are the figures
7 for the second quarter of fiscal year 2018.
8 During the second quarter of fiscal
9 year 2018, the trust fund received 194
10 applications, totaling approximately 3.6
11 million dollars. As of the end of December
12 2017, the trust fund had 147 pending
13 applications to process, which have
14 requested totals of approximately 2.1
15 million dollars. 159 applications were
16 processed for payment during this fiscal
17 quarter, totaling just over three million
18 dollars. And ten applications were returned
19 with deficiencies.
20 The next page titled report of
21 cumulative activities in the trust fund,
22 under the tab marked -- under this tab mark
23 the historical values related to the trust
24 fund is provided for the board's
25 informational purposes. It just kinda gives

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1 you a history of what's gone on with the
2 trust fund over the years.
3 We gave ya'll a handout that wasn't
4 included in the packets, and we apologize
5 for that. Normally, we intend on including
6 these things in the packets. But if you'll
7 look at that, you'll see there's a -- the
8 first one is titled monthly motor fuel trust
9 fund obligation determination. I'm sorry.
10 That one was included in the packets. It's
11 the next section that's not. That's
12 actually in your packet. I apologize for
13 that.
14 This is the worksheet that list the
15 various component determination of the
16 potential obligation against the trust fund
17 as of the end of December. Do ya'll see
18 that page?
19 MR. HILL:
20 Oh, that's in the packet?
21 MR. BAKER:
22 It is. That's what I'm saying, I --
23 I --
24 MR. HILL:
25 Okay. I got you.

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1 MR. BAKER:
2 The next section we're going to talk
3 about is not in the packet. I apologize for
4 that.
5 For the sites in the corrective
6 action, the outstanding liability for
7 corrective action plan budget and estimated
8 cost to reach closure as of the end of
9 December 2017 was approximately 27 million
10 dollars. This total includes the CAP budget
11 remaining amounts and the RAC estimated cost
12 to closure. This is what I was talking
13 about. In -- in the section, corrective
14 action plan budget in your handout that you
15 were given separate from the package, that
16 gives you the -- that documents the
17 individual CAP sites included in these
18 amounts. Do ya'll see that? Yes, that one
19 right there. Perry has got it in his hand.
20 MR. MILAZZO:
21 That's what I thought, yes.
22 MR. BAKER:
23 That gives you an overall of the
24 individual sites and their -- their CAP
25 budgets and where they are in their -- in

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1 their budget.
2 The next section is the fund
3 obligation recognized for sites without ROG
4 approved CAP budgets. And that's 22 --
5 well, basically 23 million dollars. This is
6 determined using a three year average site
7 closure cost and applying these costs to the
8 average trust fund sites without a current
9 CAP budget.
10 The next -- the next group in that
11 handout we gave you is the non-CAP sites
12 trust fund obligation estimates. It's a
13 list of all of the sites that currently
14 don't have CAPs and where they are, how much
15 money we've spent on investigations and --
16 and some ICAP activities. So you'll see
17 that.
18 You'll also notice that the total
19 obligation for this section dropped
20 dramatically. The reason is, is that we --
21 we use a three year average for these
22 numbers. And what we did is, is that that
23 average is going to change over the years.
24 As we have high dollar sites come on and
25 off, that average is going to fluctuate.

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1 And this particular time period -- we do
2 this every quarter. We recalculate that
3 three year average on a quarterly basis. In
4 this particular quarter, a number of high
5 dollar sites rotated out of that three year
6 cycle, so that average dropped dramatically,
7 approximately about \$50,000. Next quarter,
8 it may jump up some more. It's just going
9 to fluctuate as those high dollar sites come
10 on and off. But it does have an impact on
11 the obligation.
12 The next section, the fund obligation
13 recognized there were 30 sites that have
14 been determined to be trust fund eligible,
15 however, have not submitted a reimbursement
16 application. It's approximately 8.2 million
17 dollars. This is also determined using the
18 three year site average cost and applying
19 these costs to sites that have requested
20 eligibility but have not -- not yet
21 submitted a request for reimbursement from
22 the fund. That number actually went up a
23 little bit from last quarter, but the number
24 of sites also went up. It went from 24 to
25 30. But because the average dropped some,

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1 the difference wasn't as much as it would
2 be.
3 The five year projected fund
4 obligation related to the trust fund to the
5 environmental trust fund transfers is 20.8
6 million dollars. That number stays the
7 same throughout the fiscal year. That --
8 that was the number it was last quarter as
9 well.
10 This number is based upon the three
11 year average of the trust fund transfers and
12 then multiply that average times five years.
13 The next section is -- well, the total
14 is -- the total estimated obligated amount
15 is 79.3 million dollars, which represents a
16 four million dollar reduction from last
17 quarters estimated amount.
18 Now, if you'll go back to your packet.
19 I'm sorry for the confusion. The -- the
20 section labeled incidents determined
21 eligible for the motor fuel trust, this
22 report shows a total -- shows the number of
23 potential trust fund sites that were
24 reviewed and made eligible during the
25 current fiscal year was 24. And that

1 represents 30 active incidents. So in this
2 quarter, we had 24 sites added to our list,
3 which represented 30 active incidents.
4 The next page in your packet labeled
5 trust fund sites that had a release granted
6 no further action status, the trust -- this
7 represents the trust fund sites that have
8 received a no further action status thus far
9 in fiscal year 2018. And those are 24
10 locations.

11 Are there any questions at this point
12 about what we've presented so far?

13 (No response.)

14 MR. BAKER:

15 Okay. We'll go on to points of
16 interest related to the trust fund. The
17 trust fund has noticed some habitual errors
18 in a number of our recent reimbursement
19 applications. Most of what we're seeing, we
20 -- we think it's attributable to staff
21 turnover with some of the RACs. The types
22 of errors -- these types of errors slowdown
23 our process time. And what the trust fund
24 is looking to do is facilitate some training
25 opportunities for the RAC's staff, to answer

1 towards resolution. There would be a time
2 period prior to the meeting for participants
3 to provide written topics for discussions.
4 These topics will be compiled into an
5 agenda. On the day of the meeting, there
6 would also be time after the agenda items
7 have been addressed for open discussion
8 concerning ad hoc topics. We're hoping to
9 begin planning the first meeting some time
10 this summer. And we want to make ya'll
11 aware of what our thoughts were on it.

12 All right. Does anybody have any
13 questions about any of those points?

14 (No response.)

15 MR. BAKER:

16 If you'll look in the -- again, we're
17 flipping -- having ya'll flip back and
18 forth. If you'll look in your handout,
19 you'll see a couple pictures of a -- a
20 trailer. This is a picture of an 8X5
21 enclosed trailer. This was one of the first
22 ozone units purchased by the trust fund to
23 remediate a site. This unit has been used
24 to complete at least two trust fund sites.
25 It's now about ten years old. We had the

1 questions and to share some of our
2 experiences. This is very much in the
3 beginning phases of our -- of our thoughts.
4 So we're going to probably be getting with
5 some of the RACs in the near future to talk
6 about some -- how to do this and better --
7 better ways to do it. We may even go up to
8 some of the regional offices to try to
9 facilitate allowing more of the RACs to come
10 that are in different regions. But we are
11 looking at that and we wanted to make ya'll
12 aware of that.

13 Also, in the past year, the department
14 has worked with the UST stakeholders to form
15 multiple workgroups to address a number of
16 critical issues. We've gotten very positive
17 feedback from these workgroups and feel
18 strongly that they help all parties see the
19 various perspectives related to the UST
20 issues. The department wants to continue
21 down this path by having an annual
22 stakeholder workgroup meeting. These
23 meetings will provide the RACs, the owners
24 and the department staff opportunities to
25 bring forth critical issues for discussion

1 manufacturer look at the unit and he
2 informed us, due to the age of the
3 technology, it's really not worth
4 refurbishing at this time. Typically, we do
5 try to relocate these used remediation
6 systems, but if we don't have another site
7 to utilize the system, we will actually put
8 the bid out to sale. Often, we don't get
9 much resale values for these used systems.
10 In fact, often, no bids are submitted and
11 the RAC will end up taking the unit to the
12 scrap yard and sell it for scrap metal.

13 Any funds that are generated from that
14 is -- from either the selling of the used
15 system or the scrap metal, does come back
16 into the trust fund. And you'll see that in
17 the category, recovered cost.

18 Since the refurbishment is not an
19 option for this system and the scrap metal
20 would be -- cost would be minimal, the
21 department request the board's approval to
22 donate the enclosed trailer to the
23 department. The trailer could be used to
24 transport weather sensitive equipment to
25 emergency response sites, as well as other

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1 offsite assessment locations. It's a very
2 good trailer. It's enclosed. It's got an
3 AC on it. The department could utilize it
4 immensely. And we hated to see it go to
5 scrap.
6 MR. THERIOT:
7 Just to note, because I think it is
8 was -- it is very important. We would like
9 the board to recommend that it be made
10 available to the department. I don't want
11 you guys to be stuck in -- in actually
12 making the decision.
13 MR. HILL:
14 Right.
15 MR. THERIOT:
16 So I -- I would recommend that you get
17 the board to recommend to us that you would
18 approve such.
19 MR. HILL:
20 I make a recommendation.
21 (An off the record discussion followed.)
22 MR. HILL:
23 First, I'd like to recognize that Joe
24 McCartney has arrived in our meeting. He
25 got lost after lunch.

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1 I make a motion -- or, I make a motion
2 that we donate the trailer to the department
3 for their further use. Do we hear a second?
4 MR. MILAZZO:
5 I -- I've got no problems with the
6 recommendation that -- and -- and motion or
7 second a motion to allow you guys use or
8 actually take ownership of the unit.
9 MR. HILL:
10 All in favor?
11 (All indicated "aye".)
12 MR. BAKER:
13 That ends my section. Does anybody
14 have any other questions?
15 MR. HILL:
16 Anybody have any other questions?
17 MR. MILAZZO:
18 I -- I do. On the -- on the
19 corrective action plan -- and maybe I'm
20 missing something here -- but are dates
21 available when these sites come into the
22 system?
23 MR. BAKER:
24 Absolutely.
25 MR. MILAZZO:

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1 Is that a column maybe that you can
2 add to that? Is it too busy?
3 MR. BAKER:
4 It might make it a little smaller
5 print, but if ya'll are okay with that.
6 MR. MILAZZO:
7 I know it just -- you know, we -- we
8 sit here -- I sit here sometimes wondering,
9 you know, what -- if we're looking at some
10 of this stuff and it -- and it -- you know,
11 and this -- some sort of chronological
12 order and says okay from first to last and
13 how long are these things in the system, and
14 I just maybe at some point feel like we're
15 greater contributors. Perhaps we're not the
16 scientist or certainly environmentalist. I
17 don't -- I don't want to necessarily get in
18 that space. But I'd be interested in
19 knowing how long some of these things are
20 out there.
21 MR. BAKER:
22 Not a problem. Would you like that
23 column also added to the second report?
24 MR. MILAZZO:
25 Please. Yes.

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1 MR. BAKER:
2 No problem.
3 MR. HILL:
4 Any other questions?
5 (No response.)
6 MR. HILL:
7 If not, we will -- thank you, Jeff.
8 We will move on to third party claims
9 status. Perry.
10 MR. THERIOT:
11 I'm glad to say that we have received
12 no new third party claims since the last
13 meeting that we had. We are currently
14 litigating two active suits. I expect one
15 to be settled very soon. The other I think
16 it may come abandoned, if the attorney does
17 not move it soon. So we -- we are doing
18 well so far on third party suits. Seems
19 that way.
20 On another legal note, just -- it's
21 not on the agenda but I -- I can bring it up
22 as a reminder, because I brought it up last
23 meeting. Our changes in the statue last
24 year do impose that two year limitation in
25 order to institute the investigation work.

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1 So I like to bring it up each meeting to
2 remind the RAC community and the owners that
3 the clock is running on releases that have
4 occurred subsequent to that date of the
5 effective statute. So just -- that's just a
6 word to the wise, that's all, as a reminder.
7 MR. BURNHAM:
8 That's after an incident number has
9 been assigned and --
10 MR. MILAZZO:
11 Request for --
12 MR. BURNHAM:
13 -- and some correspondence has been
14 sent.
15 MR. THERIOT:
16 Yes. They will be -- yes, that's --
17 generally speaking, when the site is
18 reported to the department and a request for
19 eligibility is made.
20 MR. BURNHAM:
21 Right.
22 MR. BAKER:
23 And a request for assessment.
24 MR. FULTON:
25 Once we request the assessment work

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1 that's when --
2 MR. THERIOT:
3 The two-year clock starts.
4 MR. BAKER:
5 Those are sent out with green cards,
6 so when the green cards come back, then we
7 have that date as our start date.
8 MR. MILAZZO:
9 So for a bit of clarity on my part,
10 you've had situations, I guess, where
11 someone has reported, you guys request maybe
12 further investigation and -- and literally
13 years could go by before there's a followup.
14 MR. THERIOT:
15 That would be correct.
16 MR. MILAZZO:
17 Okay.
18 MR. ST. ROMAIN:
19 And I guess plumes grow and --
20 MR. THERIOT:
21 That -- and that is one of the reasons
22 for us asking the legislature to give us the
23 two year time period, because it ends up
24 costing the fund more money the longer the
25 delay.

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1 MR. MILAZZO:
2 And you really don't have an teeth in
3 that today to take some sort of action?
4 MR. THERIOT:
5 Well, we have teeth in some areas, but
6 some areas, we don't. If --
7 MR. FULTON:
8 I mean, if they're an active facility,
9 we can red tag them.
10 MR. THERIOT:
11 Yes. We can red tag them for not
12 doing it.
13 MR. MILAZZO:
14 Okay.
15 MR. THERIOT:
16 But --
17 MR. MILAZZO:
18 But -- but then it -- but they don't
19 have to do anything else then? How -- they
20 just don't get anymore fuel.
21 MR. THERIOT:
22 That's correct. But --
23 MR. MILAZZO:
24 But they can still procrastinate.
25 MR. THERIOT:

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1 -- a facility -- that's usually a
2 pretty good -- that's better than anything
3 the department can do.
4 MR. FULTON:
5 It's worked.
6 MR. THERIOT:
7 It works better than --
8 MR. ST. ROMAIN:
9 Works at active sites.
10 MR. THERIOT:
11 Exactly.
12 MR. ST. ROMAIN:
13 Doesn't help if --
14 MR. THERIOT:
15 It's the inactive sites that --
16 MR. HILL:
17 The inactive is where the problem is.
18 MR. FULTON:
19 Yes.
20 MR. MILAZZO:
21 So again, I don't --
22 MR. HILL:
23 Do you have a lot of that?
24 MR. THERIOT:
25 Yes. We have a large list of inactive

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1 sites where people were told to send in
2 investigation plans and it's been years and
3 we haven't gotten them.
4 MR. MILAZZO:
5 I'm not sure that -- you know, if we
6 can help by going on the record, but from a
7 legislative standpoint, that's something
8 that I think we're all genuinely interested
9 in doing the right thing. And if there are
10 those that are not following those rules,
11 then we need to support the department in
12 their quest to the legislature --
13 MR. ST. ROMAIN:
14 So the request would be that after two
15 years, they would no longer be trust fund
16 eligible?
17 MR. THERIOT:
18 No. It's already -- it's already in
19 the law.
20 MR. ST. ROMAIN:
21 It's already in it.
22 MR. THERIOT:
23 Yes. And after the two years from our
24 -- unless it's our fault, like, we got your
25 plan and we're -- because it extends the

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1 clock while we're reviewing it.
2 MR. ST. ROMAIN:
3 Right.
4 MR. THERIOT:
5 But if the -- after that two year
6 period has run with no plan coming in, they
7 become ineligible.
8 MR. HILL:
9 And it could essentially cost the
10 department more money by the delay of
11 addressing the --
12 MR. THERIOT:
13 Well, it'd cost the fund.
14 MR. HILL:
15 The fund, I mean. The fund, yes.
16 MR. MILAZZO:
17 So what -- what support could we give
18 you in respect to making that better?
19 MR. THERIOT:
20 It -- well, we -- we have the statute
21 now. We just try to remind everyone of the
22 statute.
23 MR. HILL:
24 Okay.
25 MR. THERIOT:

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1 All your owners out there and -- and
2 the RAC community that is contacted by the
3 owners, that the clock is running.
4 MR. FULTON:
5 We try to keep them reminding --
6 MR. BURNHAM:
7 I guess there would be multiple
8 attempts to contact in case a letter got
9 lost.
10 MR. FULTON:
11 Oh, yes.
12 MR. BURNHAM:
13 Yes.
14 MR. MILAZZO:
15 So you -- you're not even permitted to
16 really take any sort of civil action,
17 perhaps, if someone is -- is neglecting to
18 do -- or, respond to those requests?
19 MR. THERIOT:
20 It's difficult, okay. And it would
21 end up costing a lot of money to do that.
22 But we -- we -- we've got some -- like for
23 active stations, we -- we have some
24 remedies. The hard ones are the guys who
25 are not in business anymore, and you send

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1 them things and they don't respond and they
2 -- you know, eventually we find out that
3 they're on social security someplace and
4 they don't have the money to do what
5 they're asking them to do. But if we know
6 that, we have an abandoned tank program to
7 handle it. So that's -- we need that
8 information. It's when we get the request -
9 - when we get the report and then nothing
10 happens, okay, that's the worse situation.
11 MR. MILAZZO:
12 And help me on the abandoned tank.
13 But where you guys take an active role in
14 that, you -- you lien that property for any
15 future transaction?
16 MR. FULTON:
17 Yes, we do. We send it through the
18 enforcement process. We have a crew that
19 evaluates those and they get -- they
20 recommend it to the tank program. Then once
21 it comes up on the list to be mediated -- I
22 mean, we only get so much money. We got,
23 you know, a large amount sites, then we
24 would place a lien on it, so --
25 MR. MILAZZO:

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1 Is there any sort of mandate to force
2 that to a sheriff's sale perhaps to --
3 MR. THERIOT:
4 No. It -- we're not --
5 MR. MILAZZO:
6 So you just -- you just take the
7 position that it could be there forever?
8 MR. THERIOT:
9 Yes -- well, no -- well, we -- what we
10 do as a practical matter is if someone wants
11 to purchase the property that has a lien on
12 it, they can contact the department. We
13 will negotiate a price to release the lien,
14 okay, which goes back into the fund. But
15 generally, we are going to be limited by the
16 value of the property.
17 MR. MILAZZO:
18 Right.
19 MR. THERIOT:
20 I mean, no one is going to pay more
21 than market value. So in the -- in the few
22 cases we've done, we've asked that they have
23 an assessment, you know, a property
24 assessment done and we actually go spend a
25 few dollars -- we have some people on

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1 contract that would do our own assessment to
2 make sure that we're getting the market
3 value of the property. And then, yes, we
4 will negotiate and take market value of the
5 property in order to place it back into
6 commerce. You know, we don't want a piece
7 of property all over the state just sitting
8 and --
9 MR. MILAZZO:
10 Right
11 MR. THERIOT:
12 -- never -- never to be used.
13 MR. MILAZZO:
14 Right.
15 MR. BURNHAM:
16 Okay. Does the department see any
17 other significant delays at any time during
18 the process like between assessment and CAP
19 or anything? There's not really a big --
20 MR. FULTON:
21 Not really.
22 MR. BURNHAM:
23 -- problem anywhere in there?
24 MR. FULTON:
25 It's -- it's actually getting them

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1 either in the trust fund or finding funding
2 to -- it's always -- it's very rare after
3 you get started that you have a problem.
4 MR. HILL:
5 Any other questions for Perry?
6 (No response.)
7 MR. HILL:
8 If not, we're going to go to item
9 number seven -- I mean, number eight,
10 presentation, overview of the ages of
11 Louisiana underground storage tanks by Mr.
12 Sam Broussard.
13 Sam you've got the floor.
14 MR. BROUSSARD:
15 All right. Thank you, Kerry.
16 I put this together for Johnny because
17 he requested it at the last meeting, so
18 thank you, John.
19 MR. MILAZZO:
20 I figured I'd give you a little extra
21 work, Sam.
22 MR. HILL:
23 Gave you a little time to put it
24 together.
25 MR. BROUSSARD:

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1 Yes.
2 MR. MILAZZO:
3 I know you like homework.
4 MR. BROUSSARD:
5 All right. So -- so what I did --
6 hey, Roger, can you hear me?
7 MR. BRIGHT:
8 Yes, I can hear you fine.
9 MR. BROUSSARD:
10 All right. Great. So -- so what I
11 did was, we -- we have a database a tempo
12 database, we have all our UST information
13 and we gave them our registration form. The
14 database is new. We don't do queries on it
15 that often. So the last one I did was in
16 January of '15, so I added that information
17 with this one. And the data that I'm going
18 to give you today is November 30 of '17, so
19 about -- close to three years after I did my
20 first one. Just for a little comparison.
21 We have -- I don't have a pointer.
22 But we have 10,650 buyout tanks that are --
23 it -- currently are not closed, either
24 active or temp closed in Louisiana. 9,551
25 of those are active. 1104 are in temp

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1 closure. Just to give you an idea of the
2 universe.
3 All right. So the average age -- as
4 of November 30 of '17, the average age of
5 our total universe is in the far right, the
6 green column, 26.9 years. That includes
7 active and temp closed tanks. Active tanks,
8 the average age is 26.3 years. And average
9 age of our temp closed tanks is 31.8. So
10 comparing that to the early 2015, tanks are
11 getting older, which is what we expected.
12 This is a chart that's -- number of
13 tanks on the left, age on the bottom. And
14 you can see that the bulk of our age of our
15 tanks fall in between somewhere around 18 to
16 say 39 or 40 years. So I -- we have a lot
17 of old tanks in Louisiana is what this is
18 telling us. The redline is half the tanks.
19 The double wall -- these -- the bulk
20 of them are single wall. I think we have
21 about a little under 15 percent double wall
22 tanks.
23 MR. MILAZZO:
24 15, you said?
25 MR. BROUSSARD:

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1 But only --
2 MR. MILAZZO:
3 15?
4 MR. BROUSSARD:
5 Pardon me?
6 MR. MILAZZO:
7 15?
8 MR. BROUSSARD:
9 It's actually 14.9 percent are double
10 wall. But of that, only seven -- I think
11 seven point four are required to do
12 interstitial monitoring. That's the ones
13 installed say nine years ago, after our
14 12/2008 interstitial monitoring deadline.
15 Yes, seven -- seven point four percent are
16 doing interstitial monitoring, or have to
17 submit.
18 I just broke it down, the ages, you
19 know, a ten year gap and five year gap so
20 you could see. You know, if we were to -- I
21 -- I know there's been a lot of talk.
22 People ask me all the time, "would you make
23 tanks over 30 years close?" And if we did
24 that, you could look on the left, anything
25 over 30 years, we're looking at somewhere

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1 around close to 50 percent of our tank
2 universe is over 30 years old. So if we
3 said everybody over 30 years has to close,
4 that's gonna be close to half of our
5 universe.
6 So those things -- those are the
7 reasons why we don't pursue those kind of
8 regulations, because we know the impact to
9 the universe. But if you guys want to
10 propose something like that, you know, we'd
11 listen to you.
12 I -- I think the take away is, you can
13 look on the right, you know, 75 percent of
14 our tanks are between 16 and 40 years old.
15 So we have an old tank universe. And
16 looking at releases is one of the things I
17 do every year and the number of tank
18 releases has been going up. It was -- we
19 had seven documented tank releases two years
20 ago. We had 15 last year. And I looked at
21 the average age of those 15 tanks that
22 leaked and they were average age of 30.8.
23 And -- and what I've been seeing recently in
24 the last year is older fiberglass tanks in
25 the mid '80's are starting to leak. We've

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1 got -- I -- I saw on that list that Jeff had
2 of eligibility request, I saw a number of
3 those were on that list this year. So we
4 are starting to see these old FRT tanks
5 leak.
6 I will open it up to any questions you
7 guys have.
8 MR. MILAZZO:
9 So with that information and, you
10 know, you look at cleanup cost today, impact
11 to the trust fund, when you look at the
12 demand, okay, there's some correlation to
13 age and cost. As you guys begin to look at,
14 as we look at, you know, what we think not
15 too long ago, we thinking the fund is
16 getting to a point where maybe you could
17 ratchet back a little bit, but if those
18 numbers, if you look at tanks 30 and older,
19 and it's one thing if folks are pro-actively
20 upgrading, right? But if you only respond
21 because the tank is end of life, and it's
22 because you've had an event, it'd be a
23 pretty hefty demand on the fund.
24 MR. BROUSSARD:
25 Right.

1 MR. HILL:
2 So a tank installed in '87 or '88 is
3 at that 30 year mark right now.
4 MR. THERIOT:
5 Yes. That would've been -- remember
6 the tank upgrade requirement, it had to be
7 upgraded by '90.
8 MR. HILL:
9 By '90. That's right.
10 MR. THERIOT:
11 Yes. And -- so many of those tanks,
12 although they were old, were upgraded.
13 MR. HILL:
14 Yes.
15 MR. THERIOT:
16 Many were lined.
17 MR. HILL:
18 That's right. We had an option to
19 line or --
20 MR. THERIOT:
21 All those things had to be done in
22 order to continue receiving fuel after '98.
23 So I don't know how many -- I -- my guess
24 would be -- and I'm not like Sam, I haven't
25 gone out and looked. But I've been to a

1 MR. ST. ROMAIN:
2 Now, Sam, isn't there a certain age or
3 certain tank type that if it leaks, it's not
4 eligible for repairs, it has to be removed
5 or closed?
6 MR. BROUSSARD:
7 Not necessarily.
8 MR. ST. ROMAIN:
9 Bare steel or --
10 MR. THERIOT:
11 There are some states --
12 MR. BROUSSARD:
13 Well, bare steel piping in our regs,
14 if your piping is steel and it leaks, the
15 total pipe, you have to replace the steel
16 pipe.
17 MR. ST. ROMAIN:
18 But a steel tank does not -- it can
19 still be --
20 MR. BROUSSARD:
21 No. It could be repaired.
22 MR. ST. ROMAIN:
23 -- repaired.
24 MR. HILL:
25 Even a steel tank that was relined

1 couple presentations at the funds meetings,
2 the -- the older tanks, that they're older
3 than the 30 or 40 years olds, tend to be the
4 smaller facilities that are beginning to
5 close. A lot of them. And -- and we find a
6 lot of releases when phase two's are done on
7 the property transfers.
8 MR. HILL:
9 Would you agree with that, Sam?
10 MR. BROUSSARD:
11 Not necessarily. We are -- we're
12 seeing large companies that are buying
13 smaller companies that have older tanks. So
14 Circle K has a lot of old fiberglass tanks.
15 They bought Kangaroos. And as these larger
16 companies buy these smaller companies,
17 they're going to own them.
18 MR. ST. ROMAIN:
19 So --
20 MR. BROUSSARD:
21 And -- and here's the other thing,
22 they have the money, when they do leak, to
23 go in and do the internal inspection and
24 repair them. And -- so we're seeing a lot
25 of repairs to old fiberglass tanks now.

1 back during that time period?
2 MR. BROUSSARD:
3 Yes. The relining thing, currently
4 those -- they can be relined again.
5 MR. HILL:
6 Do you see much of that anymore?
7 MR. BROUSSARD:
8 Yes.
9 MR. HILL:
10 You do. Okay.
11 MR. BROUSSARD:
12 Yes, we are. When the new regs come
13 out, tanks that had that -- that are lined,
14 that don't have any other corrosion
15 protection, the lining will have to be
16 inspected again and -- whenever it's due.
17 And if it can't be repaired, they'd have to
18 close the tank. We're not going to let
19 people reline older tanks anymore. So we're
20 trying to get out of the business of
21 allowing upgrades to older tanks. So this
22 new reg packet -- I know some of you guys
23 have seen it -- there's a lot of things
24 built in to start phasing out that older
25 universe.

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1 MR. ST. ROMAIN:
2 Now -- now, when a -- I guess, is
3 there a percentage or -- of tanks that are
4 closed, is there a high amount of releases
5 that are found upon closure? Whereas, if
6 you had set a sunset date on tanks, and you
7 had a certain close on all these tanks,
8 would there be a sudden rush on the trust
9 fund, if all of a sudden you're finding --
10 finding leaks that were previously
11 undiscovered?
12 MR. BROUSSARD:
13 I don't have the data on closures --
14 MR. ST. ROMAIN:
15 Yes, right.
16 MR. BROUSSARD:
17 -- in my hand. I could -- we could
18 get that for you, how many closures are
19 actually doing remediation. We could get
20 that for you at a later date. I don't have
21 it today.
22 MR. ST. ROMAIN:
23 Right. If you pushed 1,000 tanks to
24 closure, are you exposing yourself to 500
25 new leaks or something like that?

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1 MR. BROUSSARD:
2 My guess would be, yes.
3 MR. THERIOT:
4 That would be my guess as well.
5 MR. ST. ROMAIN:
6 Right.
7 MR. THERIOT:
8 I haven't seen too many pulled where
9 you don't have to do work.
10 MR. HILL:
11 So ya'll -- ya'll see -- ya'll see
12 this everyday. And, you know, we see it or
13 experience it and just, you know, by
14 listening to what even Perry said, the --
15 the -- and what you said Sam -- the 30 plus
16 or 35 year plus old tanks could be a
17 tremendous cost to the trust fund. Do ya'll
18 have any suggestions going forward? And I
19 think maybe you do.
20 MR. BROUSSARD:
21 No. Actually --
22 MR. HILL:
23 You don't? Okay.
24 MR. BROUSSARD:
25 Well -- and I can tell you, one of the

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1 things we did in this new reg packet is we
2 do -- there's a lot of old temporary closed
3 tanks.
4 MR. HILL:
5 Yes.
6 MR. BROUSSARD:
7 We have a bunch. And a lot of them,
8 the average age is 30 something, close to 32
9 years old. We've got a bunch that are over
10 30, over 40. We put in a lot of new regs in
11 this reg packet to address those temp closed
12 tanks. For instance, if they have internal
13 lining and they don't do the inspection when
14 they're suppose to or they have a
15 (inaudible) exposure protecting it from
16 corrosion and they're not operating it over
17 a certain period of time, we're going to
18 require them to permanently close those
19 tanks. So we don't like to keep a bunch of
20 old temporarily closed tanks that are not
21 kept up with in our universe where somebody
22 can come and buy it and put it back in
23 service.
24 MR. FULTON:
25 Especially when it's been in temp

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1 closure for an extended amount of time.
2 MR. ST. ROMAIN:
3 It's called temporary closure. Is
4 there a limit on how long it can stay in
5 there?
6 MR. BROUSSARD:
7 There is no limit. And -- and we've
8 had many discussions on a limit. But -- and
9 -- and here's the reason. If you look at
10 our numbers, we got, you know, close to
11 whatever, 11.2 percent of them and 1.8 of
12 temp closed tanks that are under 20 years
13 old. Totally fine tanks that are in temp
14 closure that we don't want to force them to
15 temporarily close because they've been out
16 of service for a year. But we don't want to
17 make somebody remove an asset if it's still
18 an asset.
19 MR. THERIOT:
20 Those were extensively debated during
21 the reg groups, because some states do, some
22 states don't.
23 MR. FULTON:
24 We believe it is an asset.
25 MR. THERIOT:

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1 Some of them -- some of them are
2 assets and some of them aren't.
3 MR. FULTON:
4 Yes.
5 MR. THERIOT:
6 Okay. Is kinda how it breaks out.
7 And -- and rather than make a rule that
8 classifies them all as non-assets, which is
9 what would happen if you put a time limit on
10 them; the decision was made to not put a
11 time limit on them unless we get to one of
12 the compliance issues that it's not being
13 followed and gives rise to a greater chance
14 that the tank would leak. So --
15 MR. HILL:
16 You're speaking of an asset to the
17 property or the property owner?
18 MR. THERIOT:
19 Right. Somebody may want to buy and
20 put the station back into service. There's
21 a difference of opinion on it. That's the
22 best I can tell.
23 MR. HILL:
24 Any other questions for Sam?
25 MR. MILAZZO:

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1 Thanks for doing that, Sam.
2 MR. HILL:
3 Thanks for doing it, Sam.
4 MR. MILAZZO:
5 You'll share that with us?
6 MR. BROUSSARD:
7 Yes. I think Jeff should've done
8 that.
9 MS. VIZINAT:
10 It's in your packet, Johnny.
11 MR. BAKER:
12 The hard copy is in the packet.
13 MR. MILAZZO:
14 I didn't see that.
15 MR. FULTON:
16 Well, we can get you one. If you need
17 an electronic copy, we can certainly do
18 that.
19 MR. MILAZZO:
20 Oh, I got it. I got it. Okay.
21 MR. FULTON:
22 We can certainly get you an electronic
23 copy too.
24 MR. MILAZZO:
25 I've got what I need. Thank you.

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1 MR. HILL:
2 Okay. At this time, is there anymore
3 questions for anybody today present at the
4 meeting?
5 (No response.)
6 MR. HILL:
7 And if not, do I hear a motion to
8 close the meeting?
9 MR. MILAZZO:
10 So moved.
11 MR. HILL:
12 Johnny makes a motion to close the
13 meeting. Do I hear a second?
14 MR. ST. ROMAIN:
15 Second.
16 MR. HILL:
17 Second by Nick.
18 Thank you everyone for attending.
19 THE MEETING ADJOURNED AT 1:54 P.M.
20 * * * * *
21
22
23
24
25

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1 REPORTER'S PAGE
2 I, Lori B. Overland, Certified Court
3 Reporter, in and for the State of Louisiana, the
4 officer, as defined in Rule 28 of the Federal
5 Rules of Civil Procedure and/or Article 1434(b)
6 of the Louisiana code of Civil Procedure, before
7 whom this sworn testimony was taken, do hereby
8 state on the Record
9 That due to the interaction in the
10 spontaneous discourse of this proceeding, dashes
11 (--) have been used to indicate pauses, changes
12 in thought, and/or talk overs; that same is the
13 proper method for a Court Reporters's
14 transcription of proceeding, and that the dashes
15 (--) do not indicated that words or phrases have
16 been left out of this transcript;
17 That any words and/or names which could not
18 be verified through reference material have been
19 denoted with the phrase "(inaudible)."
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Lori Overland, C.C.R.
97083

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

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

23
24 _____
Lori Overland C.C.R.

25 # 97083

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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 1:09 p.m., on February 22, 2018.

BEFORE:

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

A P P E A R A N C E S

Kerry Hill
Chairman

Durwood Franklin
Jeff Baker
Gary Fulton
Cy Morin
Johnny Milazzo
Perry Theriot
Nick St. Romain
Steve Burnham
Roger Bright, via telephone
Joe McCartney
Lacey Vitteri

Melissa Vizinat
Sam Broussard
Jason Efferson
Trey Kemp
Todd Perry
Roman Vixon
Fran Falke
Jill Carter
Kyle Blanchard
Vicky Hadlin

* * * * *

I N D E X

EXAMINATION:

PAGE(S):

None

EXHIBITS:

None

REPORTER'S PAGE

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REPORTER'S CERTIFICATE

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MR. HILL:

I'd like to call this meeting to order. Good evening, Ladies and Gentlemen. Could we have a roll call and consideration and adoption of the November 2017 board minutes. Starting with Durwood.

MR. FRANKLIN:

Durwood Franklin, DEQ Trust Fund.

MR. BAKER:

Jeff Baker, DEQ Trust Fund.

MR. FULTON:

Gary Fulton, Underground Storage Tank Division.

MR. THERIOT:

Perry Theriot, Legal Division.

MR. BURNHAM:

Steve Burnham, Engineering Associates.

MR. MILAZZO:

Johnny Milazzo, Louisiana Oil Marketers and Convenience Store Association.

MR. HILL:

Kerry Hill, Louisiana Oil Marketers and Convenience Store Association.

MR. ST. ROMAIN:

DEPARTMENT OF ENVIRONMENTAL QUALITY

5

1 Nicholas St. Romain, Louisiana Oil
2 Marketers and Convenience Store Association.

3 MS. VIZINAT:

4 Melissa Vizinat, Trust Fund.

5 MR. MORIN:

6 Cy Morin, DEQ Audit.

7 MS. VITTERI:

8 Lacey Vitteri, Financial Services.

9 MR. VIXON:

10 Roman Vixon, PPM Consultants.

11 MR. PERRY:

12 Todd Perry, PPM Consultants.

13 MS. FALKE:

14 Fran Falke, DEQ.

15 MR. BROUSSARD:

16 Sam Broussard, DEQ UST Division.

17 MS. CARTER:

18 Jill Carter, DEQ Legal Division.

19 MR. KEMP:

20 Trey Kemp, DEQ Trust Fund.

21 MR. EFFERSON:

22 Jason Efferson, DEQ Trust Fund.

23 MR. BLANCHARD:

24 Kyle Blanchard, UST Division.

25 MS. HADLIN:

1 Vicky Hadlin, UST Division.

2 MR. BAKER:

3 And on the phone.

4 MR. BRIGHT:

5 Roger Bright, Jones Environmental.

6 MR. HILL:

7 I think that's everyone. Thank ya'll.

8 Let's move to item number three,

9 election of chairperson for 2018.

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

11 MR. HILL:

12 Oh, let's adopt -- I'm sorry. We'd
13 like to adopt the minutes from the November
14 2017 board meeting. Do I hear a motion?

15 MR. FULTON:

16 Motion.

17 MR. HILL:

18 I've got a motion by Gary. Second?

19 MR. MILAZZO:

20 Second.

21 MR. HILL:

22 Second by Johnny. So moved. Thank
23 you.

24 Now, let's go to item number three,
25 election of chairperson for the calendar

1 year 2018. Do we hear a nominee?

2 MR. MILAZZO:

3 I'd like to -- Kerry, if you would
4 consider -- you've been -- you've done a
5 great job. I know it's a lot of travel.

6 MR. BURNHAM:

7 I agree with that.

8 MR. MILAZZO:

9 But my nomination is to re-elect Kerry
10 Hill, if he's willing to accept.

11 MR. HILL:

12 I will accept it, Johnny.

13 MR. BURNHAM:

14 And I second that motion.

15 MR. HILL:

16 All in favor?

17 (All indicated "aye".)

18 MR. HILL:

19 So moved. And we will continue on.
20 And Johnny will be the vice-chairperson.

21 MR. MILAZZO:

22 At least I'd know what I'm getting
23 into, right?

24 MR. HILL:

25 If you will, let's go to number four,

1 the financial services report with Theresa,
2 which I don't think is here.

3 MS. VITTERI:

4 I'm taking her place. She's at a
5 meeting.

6 MR. HILL:

7 And you're going to replace her.

8 MS. VITTERI:

9 Yes.

10 MR. HILL:

11 Okay. Well, it's all yours.

12 MS. VITTERI:

13 All right. Hi everyone. I'm Lacey
14 Vitteri. I'm an accountant in financial
15 services, and I prepare these quarterly
16 reports, which are presented to you at these
17 financial meetings.

18 I'd like to begin by explaining why
19 this report is only two columns compared to
20 previous quarters which had three columns.

21 As Theresa discussed, at the November
22 board meeting, we have changed the
23 presentation of financial statements to
24 exclude the interest amounts that are
25 dedicated to the abandoned tank program.

1 This includes all interest beginning July
2 1st, 2001. Because the interest is no
3 longer included in the trust fund balance or
4 the unobligated balance, we were able to
5 simplify the financials and remove the third
6 column which previously added in the
7 interest, which is now shown in the second
8 column of this report.

9 The interest total as of the second
10 quarter of this fiscal year was 6.7 million.
11 The amount Theresa discussed previously was
12 approximately 11 million. The 11 million
13 represented interest earned since the
14 program was created. However, in reading
15 the statute, we realized the only interest
16 earned beginning July 1st, 2001 was
17 dedicated to the abandoned tank program. So
18 we isolated that interest amount in a
19 separate column and removed it from the
20 total to ensure the proper amount was shown
21 that's available for that program.

22 Now, I'll discuss the reports for the
23 second quarter of fiscal year 2018. You may
24 want to turn to tab four to follow.

25 As you can see, when comparing the

1 center report to the report on the right, we
2 have collected approximately the same amount
3 of bulk distribution fees for the first two
4 quarters with a slight increase of two
5 hundred thousand. Moving down to the other
6 receipts line, you'll see that we did not
7 have a transfer for the DOJ for attorney
8 fees in the first two quarters of fiscal
9 year 2018, because the remaining funds for
10 the attorney general's escrow was
11 transferred in fiscal year 2017, as shown in
12 the report on the left.

13 In the disbursement section, you'll
14 see that we have seen an increase in year-
15 to-date claims for reimbursements of
16 approximately one million.

17 And last, you'll see at the bottom of
18 the report that the liabilities on current
19 sites have remained about the same and is
20 around 80 million. You'll hear more from
21 Jeff on this.

22 The unobligated balance has increased
23 to approximately 23.5 million, as of
24 December 31, 2017. However, I believe the
25 board has discussed a legislative solution

1 to correct the issue in the future.

2 The second page of the report includes
3 a projection of the transfer from the trust
4 fund to the ETF to cover administrative
5 expenses for both current fiscal year and
6 next fiscal year.

7 We expect the amount to stay fairly
8 steady over the next few years, barring any
9 unforeseen changes to federal funding or
10 other revenues.

11 Unfortunately today, we will not have
12 a power point presentation. Theresa had to
13 attend a meeting at the Capital and due to
14 other work priorities we were unable to
15 complete the power point report for this
16 quarter's meeting. This will resume at the
17 May board meeting.

18 If you have any questions or topics
19 you'd like Theresa to cover, please let me
20 know or send her an email. We apologize for
21 any inconvenience. Thank you.

22 MR. HILL:

23 Thank you. Does anybody have any
24 questions?

25 (No response.)

1 MR. HILL:

2 Thank you very much.

3 Let's go on to item number five, the
4 auditor's status report by Cy.

5 MR. MORIN:

6 Cy Morin, DEQ Audit.

7 Tab five is where my report will be
8 located.

9 This is as of February 14th. The
10 first page of the report details 20 open
11 motor fuel audit cases as of February 14th.

12 One case resulted in a credit of
13 \$579.61, due to a miscalculation for five
14 months. We're waiting on this credit
15 deduction from a current payment and we will
16 be able to close the case file.

17 Eleven cases are awaiting review.
18 Pending final review, there's one potential
19 credit of \$4,419.06, and ten potential clean
20 audits. Six cases are currently still in
21 progress with the results to be determined.
22 And two fiscal year cases are scheduled.
23 One for February 27th and one for March
24 27th.

25 Since the last meeting, three new

1 cases have been added to this list, and six
2 cases have been closed and removed from the
3 list.

4 Of the six removed, five were clean
5 audits and one was assessed approximately
6 \$4,000, which was paid in full.

7 Any questions on this page?

8 (No response.)

9 MR. MORIN:

10 The second page is the same four cases
11 in legal that we've discussed many times
12 before. The first case and the fourth case
13 on the list are now ready to go to ODR. The
14 letters have already been mailed out and
15 legal is working to get everything completed
16 on that. So those two cases will be going
17 to ODR in the very near future.

18 The second case, they continue to make
19 payments on that one. There was a \$250
20 payment received December 4, 2017. I would
21 expect we will get another payment soon. If
22 not, then that will be added to the list of
23 cases that need to go to ODR.

24 And the third case on the list remains
25 the same. It's at ODR and we have received

1 no payments to date.

2 As you can see, the four cases now
3 represent a total remaining balance of
4 \$118,223.30.

5 Any questions?

6 MR. MILAZZO:

7 Cy, I think I may have asked this last
8 time. I'm not looking at those notes, but
9 all four of these companies are no longer in
10 business; is that --

11 MR. MORIN:

12 I -- I think that's an accurate
13 statement, yes. It's -- I can say three for
14 certain, and I think the fourth is as well,
15 which would be the fourth one on there.
16 It's a more recent audit. But I do believe
17 -- I do believe that one is as well. I'll
18 follow up and --

19 MR. MILAZZO:

20 Okay.

21 MR. MORIN:

22 -- and make sure.

23 MR. HILL:

24 Does anybody have anymore questions?

25 (No response.)

1 MR. HILL:

2 If not, let's go to item number six,
3 the trust fund status report by Jeff.

4 MR. BAKER:

5 Good afternoon. If ya'll turn to tab
6 six in your packets. These are the figures
7 for the second quarter of fiscal year 2018.

8 During the second quarter of fiscal
9 year 2018, the trust fund received 194
10 applications, totaling approximately 3.6
11 million dollars. As of the end of December
12 2017, the trust fund had 147 pending
13 applications to process, which have
14 requested totals of approximately 2.1
15 million dollars. 159 applications were
16 processed for payment during this fiscal
17 quarter, totaling just over three million
18 dollars. And ten applications were returned
19 with deficiencies.

20 The next page titled report of
21 cumulative activities in the trust fund,
22 under the tab marked -- under this tab mark
23 the historical values related to the trust
24 fund is provided for the board's
25 informational purposes. It just kinda gives

1 you a history of what's gone on with the
2 trust fund over the years.

3 We gave ya'll a handout that wasn't
4 included in the packets, and we apologize
5 for that. Normally, we intend on including
6 these things in the packets. But if you'll
7 look at that, you'll see there's a -- the
8 first one is titled monthly motor fuel trust
9 fund obligation determination. I'm sorry.
10 That one was included in the packets. It's
11 the next section that's not. That's
12 actually in your packet. I apologize for
13 that.

14 This is the worksheet that list the
15 various component determination of the
16 potential obligation against the trust fund
17 as of the end of December. Do ya'll see
18 that page?

19 MR. HILL:

20 Oh, that's in the packet?

21 MR. BAKER:

22 It is. That's what I'm saying, I --
23 I --

24 MR. HILL:

25 Okay. I got you.

1 MR. BAKER:

2 The next section we're going to talk
3 about is not in the packet. I apologize for
4 that.

5 For the sites in the corrective
6 action, the outstanding liability for
7 corrective action plan budget and estimated
8 cost to reach closure as of the end of
9 December 2017 was approximately 27 million
10 dollars. This total includes the CAP budget
11 remaining amounts and the RAC estimated cost
12 to closure. This is what I was talking
13 about. In -- in the section, corrective
14 action plan budget in your handout that you
15 were given separate from the package, that
16 gives you the -- that documents the
17 individual CAP sites included in these
18 amounts. Do ya'll see that? Yes, that one
19 right there. Perry has got it in his hand.

20 MR. MILAZZO:

21 That's what I thought, yes.

22 MR. BAKER:

23 That gives you an overall of the
24 individual sites and their -- their CAP
25 budgets and where they are in their -- in

1 their budget.

2 The next section is the fund
3 obligation recognized for sites without ROG
4 approved CAP budgets. And that's 22 --
5 well, basically 23 million dollars. This is
6 determined using a three year average site
7 closure cost and applying these costs to the
8 average trust fund sites without a current
9 CAP budget.

10 The next -- the next group in that
11 handout we gave you is the non-CAP sites
12 trust fund obligation estimates. It's a
13 list of all of the sites that currently
14 don't have CAPs and where they are, how much
15 money we've spent on investigations and --
16 and some ICAP activities. So you'll see
17 that.

18 You'll also notice that the total
19 obligation for this section dropped
20 dramatically. The reason is, is that we --
21 we use a three year average for these
22 numbers. And what we did is, is that that
23 average is going to change over the years.
24 As we have high dollar sites come on and
25 off, that average is going to fluctuate.

1 And this particular time period -- we do
2 this every quarter. We recalculate that
3 three year average on a quarterly basis. In
4 this particular quarter, a number of high
5 dollar sites rotated out of that three year
6 cycle, so that average dropped dramatically,
7 approximately about \$50,000. Next quarter,
8 it may jump up some more. It's just going
9 to fluctuate as those high dollar sites come
10 on and off. But it does have an impact on
11 the obligation.

12 The next section, the fund obligation
13 recognized there were 30 sites that have
14 been determined to be trust fund eligible,
15 however, have not submitted a reimbursement
16 application. It's approximately 8.2 million
17 dollars. This is also determined using the
18 three year site average cost and applying
19 these costs to sites that have requested
20 eligibility but have not -- not yet
21 submitted a request for reimbursement from
22 the fund. That number actually went up a
23 little bit from last quarter, but the number
24 of sites also went up. It went from 24 to
25 30. But because the average dropped some,

1 the difference wasn't as much as it would
2 be.

3 The five year projected fund
4 obligation related to the trust fund to the
5 environmental trust fund transfers is 20.8
6 million dollars. That number stays the
7 same throughout the fiscal year. That --
8 that was the number it was last quarter as
9 well.

10 This number is based upon the three
11 year average of the trust fund transfers and
12 then multiply that average times five years.

13 The next section is -- well, the total
14 is -- the total estimated obligated amount
15 is 79.3 million dollars, which represents a
16 four million dollar reduction from last
17 quarters estimated amount.

18 Now, if you'll go back to your packet.
19 I'm sorry for the confusion. The -- the
20 section labeled incidents determined
21 eligible for the motor fuel trust, this
22 report shows a total -- shows the number of
23 potential trust fund sites that were
24 reviewed and made eligible during the
25 current fiscal year was 24. And that

1 represents 30 active incidents. So in this
2 quarter, we had 24 sites added to our list,
3 which represented 30 active incidents.

4 The next page in your packet labeled
5 trust fund sites that had a release granted
6 no further action status, the trust -- this
7 represents the trust fund sites that have
8 received a no further action status thus far
9 in fiscal year 2018. And those are 24
10 locations.

11 Are there any questions at this point
12 about what we've presented so far?

13 (No response.)

14 MR. BAKER:

15 Okay. We'll go on to points of
16 interest related to the trust fund. The
17 trust fund has noticed some habitual errors
18 in a number of our recent reimbursement
19 applications. Most of what we're seeing, we
20 -- we think it's attributable to staff
21 turnover with some of the RACs. The types
22 of errors -- these types of errors slowdown
23 our process time. And what the trust fund
24 is looking to do is facilitate some training
25 opportunities for the RAC's staff, to answer

1 questions and to share some of our
2 experiences. This is very much in the
3 beginning phases of our -- of our thoughts.
4 So we're going to probably be getting with
5 some of the RACs in the near future to talk
6 about some -- how to do this and better --
7 better ways to do it. We may even go up to
8 some of the regional offices to try to
9 facilitate allowing more of the RACs to come
10 that are in different regions. But we are
11 looking at that and we wanted to make ya'll
12 aware of that.

13 Also, in the past year, the department
14 has worked with the UST stakeholders to form
15 multiple workgroups to address a number of
16 critical issues. We've gotten very positive
17 feedback from these workgroups and feel
18 strongly that they help all parties see the
19 various perspectives related to the UST
20 issues. The department wants to continue
21 down this path by having an annual
22 stakeholder workgroup meeting. These
23 meetings will provide the RACs, the owners
24 and the department staff opportunities to
25 bring forth critical issues for discussion

1 towards resolution. There would be a time
2 period prior to the meeting for participants
3 to provide written topics for discussions.
4 These topics will be compiled into an
5 agenda. On the day of the meeting, there
6 would also be time after the agenda items
7 have been addressed for open discussion
8 concerning ad hoc topics. We're hoping to
9 begin planning the first meeting some time
10 this summer. And we want to make ya'll
11 aware of what our thoughts were on it.

12 All right. Does anybody have any
13 questions about any of those points?

14 (No response.)

15 MR. BAKER:

16 If you'll look in the -- again, we're
17 flipping -- having ya'll flip back and
18 forth. If you'll look in your handout,
19 you'll see a couple pictures of a -- a
20 trailer. This is a picture of an 8X5
21 enclosed trailer. This was one of the first
22 ozone units purchased by the trust fund to
23 remediate a site. This unit has been used
24 to complete at least two trust fund sites.
25 It's now about ten years old. We had the

1 manufacturer look at the unit and he
2 informed us, due to the age of the
3 technology, it's really not worth
4 refurbishing at this time. Typically, we do
5 try to relocate these used remediation
6 systems, but if we don't have another site
7 to utilize the system, we will actually put
8 the bid out to sale. Often, we don't get
9 much resale values for these used systems.
10 In fact, often, no bids are submitted and
11 the RAC will end up taking the unit to the
12 scrap yard and sell it for scrap metal.

13 Any funds that are generated from that
14 is -- from either the selling of the used
15 system or the scrap metal, does come back
16 into the trust fund. And you'll see that in
17 the category, recovered cost.

18 Since the refurbishment is not an
19 option for this system and the scrap metal
20 would be -- cost would be minimal, the
21 department request the board's approval to
22 donate the enclosed trailer to the
23 department. The trailer could be used to
24 transport weather sensitive equipment to
25 emergency response sites, as well as other

1 offsite assessment locations. It's a very
2 good trailer. It's enclosed. It's got an
3 AC on it. The department could utilize it
4 immensely. And we hated to see it go to
5 scrap.

6 MR. THERIOT:

7 Just to note, because I think it is
8 was -- it is very important. We would like
9 the board to recommend that it be made
10 available to the department. I don't want
11 you guys to be stuck in -- in actually
12 making the decision.

13 MR. HILL:

14 Right.

15 MR. THERIOT:

16 So I -- I would recommend that you get
17 the board to recommend to us that you would
18 approve such.

19 MR. HILL:

20 I make a recommendation.

21 (An off the record discussion followed.)

22 MR. HILL:

23 First, I'd like to recognize that Joe
24 McCartney has arrived in our meeting. He
25 got lost after lunch.

1 I make a motion -- or, I make a motion
2 that we donate the trailer to the department
3 for their further use. Do we hear a second?

4 MR. MILAZZO:

5 I -- I've got no problems with the
6 recommendation that -- and -- and motion or
7 second a motion to allow you guys use or
8 actually take ownership of the unit.

9 MR. HILL:

10 All in favor?

11 (All indicated "aye".)

12 MR. BAKER:

13 That ends my section. Does anybody
14 have any other questions?

15 MR. HILL:

16 Anybody have any other questions?

17 MR. MILAZZO:

18 I -- I do. On the -- on the
19 corrective action plan -- and maybe I'm
20 missing something here -- but are dates
21 available when these sites come into the
22 system?

23 MR. BAKER:

24 Absolutely.

25 MR. MILAZZO:

1 Is that a column maybe that you can
2 add to that? Is it too busy?

3 MR. BAKER:

4 It might make it a little smaller
5 print, but if ya'll are okay with that.

6 MR. MILAZZO:

7 I know it just -- you know, we -- we
8 sit here -- I sit here sometimes wondering,
9 you know, what -- if we're looking at some
10 of this stuff and it -- and it -- you know,
11 and this -- some sort of chronological
12 order and says okay from first to last and
13 how long are these things in the system, and
14 I just maybe at some point feel like we're
15 greater contributors. Perhaps we're not the
16 scientist or certainly environmentalist. I
17 don't -- I don't want to necessarily get in
18 that space. But I'd be interested in
19 knowing how long some of these things are
20 out there.

21 MR. BAKER:

22 Not a problem. Would you like that
23 column also added to the second report?

24 MR. MILAZZO:

25 Please. Yes.

1 MR. BAKER:

2 No problem.

3 MR. HILL:

4 Any other questions?

5 (No response.)

6 MR. HILL:

7 If not, we will -- thank you, Jeff.

8 We will move on to third party claims

9 status. Perry.

10 MR. THERIOT:

11 I'm glad to say that we have received
12 no new third party claims since the last
13 meeting that we had. We are currently
14 litigating two active suits. I expect one
15 to be settled very soon. The other I think
16 it may come abandoned, if the attorney does
17 not move it soon. So we -- we are doing
18 well so far on third party suits. Seems
19 that way.

20 On another legal note, just -- it's
21 not on the agenda but I -- I can bring it up
22 as a reminder, because I brought it up last
23 meeting. Our changes in the statute last
24 year do impose that two year limitation in
25 order to institute the investigation work.

1 So I like to bring it up each meeting to
2 remind the RAC community and the owners that
3 the clock is running on releases that have
4 occurred subsequent to that date of the
5 effective statute. So just -- that's just a
6 word to the wise, that's all, as a reminder.

7 MR. BURNHAM:

8 That's after an incident number has
9 been assigned and --

10 MR. MILAZZO:

11 Request for --

12 MR. BURNHAM:

13 -- and some correspondence has been
14 sent.

15 MR. THERIOT:

16 Yes. They will be -- yes, that's --
17 generally speaking, when the site is
18 reported to the department and a request for
19 eligibility is made.

20 MR. BURNHAM:

21 Right.

22 MR. BAKER:

23 And a request for assessment.

24 MR. FULTON:

25 Once we request the assessment work

1 that's when --

2 MR. THERIOT:

3 The two-year clock starts.

4 MR. BAKER:

5 Those are sent out with green cards,
6 so when the green cards come back, then we
7 have that date as our start date.

8 MR. MILAZZO:

9 So for a bit of clarity on my part,
10 you've had situations, I guess, where
11 someone has reported, you guys request maybe
12 further investigation and -- and literally
13 years could go by before there's a followup.

14 MR. THERIOT:

15 That would be correct.

16 MR. MILAZZO:

17 Okay.

18 MR. ST. ROMAIN:

19 And I guess plumes grow and --

20 MR. THERIOT:

21 That -- and that is one of the reasons
22 for us asking the legislature to give us the
23 two year time period, because it ends up
24 costing the fund more money the longer the
25 delay.

1 MR. MILAZZO:

2 And you really don't have an teeth in
3 that today to take some sort of action?

4 MR. THERIOT:

5 Well, we have teeth in some areas, but
6 some areas, we don't. If --

7 MR. FULTON:

8 I mean, if they're an active facility,
9 we can red tag them.

10 MR. THERIOT:

11 Yes. We can red tag them for not
12 doing it.

13 MR. MILAZZO:

14 Okay.

15 MR. THERIOT:

16 But --

17 MR. MILAZZO:

18 But -- but then it -- but they don't
19 have to do anything else then? How -- they
20 just don't get anymore fuel.

21 MR. THERIOT:

22 That's correct. But --

23 MR. MILAZZO:

24 But they can still procrastinate.

25 MR. THERIOT:

1 -- a facility -- that's usually a
2 pretty good -- that's better than anything
3 the department can do.

4 MR. FULTON:

5 It's worked.

6 MR. THERIOT:

7 It works better than --

8 MR. ST. ROMAIN:

9 Works at active sites.

10 MR. THERIOT:

11 Exactly.

12 MR. ST. ROMAIN:

13 Doesn't help if --

14 MR. THERIOT:

15 It's the inactive sites that --

16 MR. HILL:

17 The inactive is where the problem is.

18 MR. FULTON:

19 Yes.

20 MR. MILAZZO:

21 So again, I don't --

22 MR. HILL:

23 Do you have a lot of that?

24 MR. THERIOT:

25 Yes. We have a large list of inactive

1 sites where people were told to send in
2 investigation plans and it's been years and
3 we haven't gotten them.

4 MR. MILAZZO:

5 I'm not sure that -- you know, if we
6 can help by going on the record, but from a
7 legislative standpoint, that's something
8 that I think we're all genuinely interested
9 in doing the right thing. And if there are
10 those that are not following those rules,
11 then we need to support the department in
12 their quest to the legislature --

13 MR. ST. ROMAIN:

14 So the request would be that after two
15 years, they would no longer be trust fund
16 eligible?

17 MR. THERIOT:

18 No. It's already -- it's already in
19 the law.

20 MR. ST. ROMAIN:

21 It's already in it.

22 MR. THERIOT:

23 Yes. And after the two years from our
24 -- unless it's our fault, like, we got your
25 plan and we're -- because it extends the

1 clock while we're reviewing it.

2 MR. ST. ROMAIN:

3 Right.

4 MR. THERIOT:

5 But if the -- after that two year
6 period has run with no plan coming in, they
7 become ineligible.

8 MR. HILL:

9 And it could essentially cost the
10 department more money by the delay of
11 addressing the --

12 MR. THERIOT:

13 Well, it'd cost the fund.

14 MR. HILL:

15 The fund, I mean. The fund, yes.

16 MR. MILAZZO:

17 So what -- what support could we give
18 you in respect to making that better?

19 MR. THERIOT:

20 It -- well, we -- we have the statute
21 now. We just try to remind everyone of the
22 statute.

23 MR. HILL:

24 Okay.

25 MR. THERIOT:

1 All your owners out there and -- and
2 the RAC community that is contacted by the
3 owners, that the clock is running.

4 MR. FULTON:

5 We try to keep them reminding --

6 MR. BURNHAM:

7 I guess there would be multiple
8 attempts to contact in case a letter got
9 lost.

10 MR. FULTON:

11 Oh, yes.

12 MR. BURNHAM:

13 Yes.

14 MR. MILAZZO:

15 So you -- you're not even permitted to
16 really take any sort of civil action,
17 perhaps, if someone is -- is neglecting to
18 do -- or, respond to those requests?

19 MR. THERIOT:

20 It's difficult, okay. And it would
21 end up costing a lot of money to do that.
22 But we -- we -- we've got some -- like for
23 active stations, we -- we have some
24 remedies. The hard ones are the guys who
25 are not in business anymore, and you send

1 them things and they don't respond and they
2 -- you know, eventually we find out that
3 they're on social security someplace and
4 they don't have the money to do what
5 they're asking them to do. But if we know
6 that, we have an abandoned tank program to
7 handle it. So that's -- we need that
8 information. It's when we get the request -
9 - when we get the report and then nothing
10 happens, okay, that's the worse situation.

11 MR. MILAZZO:

12 And help me on the abandoned tank.
13 But where you guys take an active role in
14 that, you -- you lien that property for any
15 future transaction?

16 MR. FULTON:

17 Yes, we do. We send it through the
18 enforcement process. We have a crew that
19 evaluates those and they get -- they
20 recommend it to the tank program. Then once
21 it comes up on the list to be mediated -- I
22 mean, we only get so much money. We got,
23 you know, a large amount sites, then we
24 would place a lien on it, so --

25 MR. MILAZZO:

1 Is there any sort of mandate to force
2 that to a sheriff's sale perhaps to --

3 MR. THERIOT:

4 No. It -- we're not --

5 MR. MILAZZO:

6 So you just -- you just take the
7 position that it could be there forever?

8 MR. THERIOT:

9 Yes -- well, no -- well, we -- what we
10 do as a practical matter is if someone wants
11 to purchase the property that has a lien on
12 it, they can contact the department. We
13 will negotiate a price to release the lien,
14 okay, which goes back into the fund. But
15 generally, we are going to be limited by the
16 value of the property.

17 MR. MILAZZO:

18 Right.

19 MR. THERIOT:

20 I mean, no one is going to pay more
21 than market value. So in the -- in the few
22 cases we've done, we've asked that they have
23 an assessment, you know, a property
24 assessment done and we actually go spend a
25 few dollars -- we have some people on

1 contract that would do our own assessment to
2 make sure that we're getting the market
3 value of the property. And then, yes, we
4 will negotiate and take market value of the
5 property in order to place it back into
6 commerce. You know, we don't want a piece
7 of property all over the state just sitting
8 and --

9 MR. MILAZZO:

10 Right

11 MR. THERIOT:

12 -- never -- never to be used.

13 MR. MILAZZO:

14 Right.

15 MR. BURNHAM:

16 Okay. Does the department see any
17 other significant delays at any time during
18 the process like between assessment and CAP
19 or anything? There's not really a big --

20 MR. FULTON:

21 Not really.

22 MR. BURNHAM:

23 -- problem anywhere in there?

24 MR. FULTON:

25 It's -- it's actually getting them

1 either in the trust fund or finding funding
2 to -- it's always -- it's very rare after
3 you get started that you have a problem.

4 MR. HILL:

5 Any other questions for Perry?

6 (No response.)

7 MR. HILL:

8 If not, we're going to go to item
9 number seven -- I mean, number eight,
10 presentation, overview of the ages of
11 Louisiana underground storage tanks by Mr.
12 Sam Broussard.

13 Sam you've got the floor.

14 MR. BROUSSARD:

15 All right. Thank you, Kerry.

16 I put this together for Johnny because
17 he requested it at the last meeting, so
18 thank you, John.

19 MR. MILAZZO:

20 I figured I'd give you a little extra
21 work, Sam.

22 MR. HILL:

23 Gave you a little time to put it
24 together.

25 MR. BROUSSARD:

1 Yes.

2 MR. MILAZZO:

3 I know you like homework.

4 MR. BROUSSARD:

5 All right. So -- so what I did --
6 hey, Roger, can you hear me?

7 MR. BRIGHT:

8 Yes, I can hear you fine.

9 MR. BROUSSARD:

10 All right. Great. So -- so what I
11 did was, we -- we have a database a tempo
12 database, we have all our UST information
13 and we gave them our registration form. The
14 database is new. We don't do queries on it
15 that often. So the last one I did was in
16 January of '15, so I added that information
17 with this one. And the data that I'm going
18 to give you today is November 30 of '17, so
19 about -- close to three years after I did my
20 first one. Just for a little comparison.

21 We have -- I don't have a pointer.
22 But we have 10,650 buyout tanks that are --
23 it -- currently are not closed, either
24 active or temp closed in Louisiana. 9,551
25 of those are active. 1104 are in temp

1 closure. Just to give you an idea of the
2 universe.

3 All right. So the average age -- as
4 of November 30 of '17, the average age of
5 our total universe is in the far right, the
6 green column, 26.9 years. That includes
7 active and temp closed tanks. Active tanks,
8 the average age is 26.3 years. And average
9 age of our temp closed tanks is 31.8. So
10 comparing that to the early 2015, tanks are
11 getting older, which is what we expected.

12 This is a chart that's -- number of
13 tanks on the left, age on the bottom. And
14 you can see that the bulk of our age of our
15 tanks fall in between somewhere around 18 to
16 say 39 or 40 years. So I -- we have a lot
17 of old tanks in Louisiana is what this is
18 telling us. The redline is half the tanks.

19 The double wall -- these -- the bulk
20 of them are single wall. I think we have
21 about a little under 15 percent double wall
22 tanks.

23 MR. MILAZZO:

24 15, you said?

25 MR. BROUSSARD:

1 But only --

2 MR. MILAZZO:

3 15?

4 MR. BROUSSARD:

5 Pardon me?

6 MR. MILAZZO:

7 15?

8 MR. BROUSSARD:

9 It's actually 14.9 percent are double
10 wall. But of that, only seven -- I think
11 seven point four are required to do
12 interstitial monitoring. That's the ones
13 installed say nine years ago, after our
14 12/2008 interstitial monitoring deadline.
15 Yes, seven -- seven point four percent are
16 doing interstitial monitoring, or have to
17 submit.

18 I just broke it down, the ages, you
19 know, a ten year gap and five year gap so
20 you could see. You know, if we were to -- I
21 -- I know there's been a lot of talk.
22 People ask me all the time, "would you make
23 tanks over 30 years close?" And if we did
24 that, you could look on the left, anything
25 over 30 years, we're looking at somewhere

1 around close to 50 percent of our tank
2 universe is over 30 years old. So if we
3 said everybody over 30 years has to close,
4 that's gonna be close to half of our
5 universe.

6 So those things -- those are the
7 reasons why we don't pursue those kind of
8 regulations, because we know the impact to
9 the universe. But if you guys want to
10 propose something like that, you know, we'd
11 listen to you.

12 I -- I think the take away is, you can
13 look on the right, you know, 75 percent of
14 our tanks are between 16 and 40 years old.
15 So we have an old tank universe. And
16 looking at releases is one of the things I
17 do every year and the number of tank
18 releases has been going up. It was -- we
19 had seven documented tank releases two years
20 ago. We had 15 last year. And I looked at
21 the average age of those 15 tanks that
22 leaked and they were average age of 30.8.
23 And -- and what I've been seeing recently in
24 the last year is older fiberglass tanks in
25 the mid '80's are starting to leak. We've

1 got -- I -- I saw on that list that Jeff had
2 of eligibility request, I saw a number of
3 those were on that list this year. So we
4 are starting to see these old FRT tanks
5 leak.

6 I will open it up to any questions you
7 guys have.

8 MR. MILAZZO:

9 So with that information and, you
10 know, you look at cleanup cost today, impact
11 to the trust fund, when you look at the
12 demand, okay, there's some correlation to
13 age and cost. As you guys begin to look at,
14 as we look at, you know, what we think not
15 too long ago, we thinking the fund is
16 getting to a point where maybe you could
17 ratchet back a little bit, but if those
18 numbers, if you look at tanks 30 and older,
19 and it's one thing if folks are pro-actively
20 upgrading, right? But if you only respond
21 because the tank is end of life, and it's
22 because you've had an event, it'd be a
23 pretty hefty demand on the fund.

24 MR. BROUSSARD:

25 Right.

1 MR. HILL:

2 So a tank installed in '87 or '88 is
3 at that 30 year mark right now.

4 MR. THERIOT:

5 Yes. That would've been -- remember
6 the tank upgrade requirement, it had to be
7 upgraded by '90.

8 MR. HILL:

9 By '90. That's right.

10 MR. THERIOT:

11 Yes. And -- so many of those tanks,
12 although they were old, were upgraded.

13 MR. HILL:

14 Yes.

15 MR. THERIOT:

16 Many were lined.

17 MR. HILL:

18 That's right. We had an option to
19 line or --

20 MR. THERIOT:

21 All those things had to be done in
22 order to continue receiving fuel after '98.
23 So I don't know how many -- I -- my guess
24 would be -- and I'm not like Sam, I haven't
25 gone out and looked. But I've been to a

1 couple presentations at the funds meetings,
2 the -- the older tanks, that they're older
3 than the 30 or 40 years olds, tend to be the
4 smaller facilities that are beginning to
5 close. A lot of them. And -- and we find a
6 lot of releases when phase two's are done on
7 the property transfers.

8 MR. HILL:

9 Would you agree with that, Sam?

10 MR. BROUSSARD:

11 Not necessarily. We are -- we're
12 seeing large companies that are buying
13 smaller companies that have older tanks. So
14 Circle K has a lot of old fiberglass tanks.
15 They bought Kangaroos. And as these larger
16 companies buy these smaller companies,
17 they're going to own them.

18 MR. ST. ROMAIN:

19 So --

20 MR. BROUSSARD:

21 And -- and here's the other thing,
22 they have the money, when they do leak, to
23 go in and do the internal inspection and
24 repair them. And -- so we're seeing a lot
25 of repairs to old fiberglass tanks now.

1 MR. ST. ROMAIN:

2 Now, Sam, isn't there a certain age or
3 certain tank type that if it leaks, it's not
4 eligible for repairs, it has to be removed
5 or closed?

6 MR. BROUSSARD:

7 Not necessarily.

8 MR. ST. ROMAIN:

9 Bare steel or --

10 MR. THERIOT:

11 There are some states --

12 MR. BROUSSARD:

13 Well, bare steel piping in our regs,
14 if your piping is steel and it leaks, the
15 total pipe, you have to replace the steel
16 pipe.

17 MR. ST. ROMAIN:

18 But a steel tank does not -- it can
19 still be --

20 MR. BROUSSARD:

21 No. It could be repaired.

22 MR. ST. ROMAIN:

23 -- repaired.

24 MR. HILL:

25 Even a steel tank that was relined

1 back during that time period?

2 MR. BROUSSARD:

3 Yes. The relining thing, currently
4 those -- they can be relined again.

5 MR. HILL:

6 Do you see much of that anymore?

7 MR. BROUSSARD:

8 Yes.

9 MR. HILL:

10 You do. Okay.

11 MR. BROUSSARD:

12 Yes, we are. When the new regs come
13 out, tanks that had that -- that are lined,
14 that don't have any other corrosion
15 protection, the lining will have to be
16 inspected again and -- whenever it's due.
17 And if it can't be repaired, they'd have to
18 close the tank. We're not going to let
19 people reline older tanks anymore. So we're
20 trying to get out of the business of
21 allowing upgrades to older tanks. So this
22 new reg packet -- I know some of you guys
23 have seen it -- there's a lot of things
24 built in to start phasing out that older
25 universe.

1 MR. ST. ROMAIN:

2 Now -- now, when a -- I guess, is
3 there a percentage or -- of tanks that are
4 closed, is there a high amount of releases
5 that are found upon closure? Whereas, if
6 you had set a sunset date on tanks, and you
7 had a certain close on all these tanks,
8 would there be a sudden rush on the trust
9 fund, if all of a sudden you're finding --
10 finding leaks that were previously
11 undiscovered?

12 MR. BROUSSARD:

13 I don't have the data on closures --

14 MR. ST. ROMAIN:

15 Yes, right.

16 MR. BROUSSARD:

17 -- in my hand. I could -- we could
18 get that for you, how many closures are
19 actually doing remediation. We could get
20 that for you at a later date. I don't have
21 it today.

22 MR. ST. ROMAIN:

23 Right. If you pushed 1,000 tanks to
24 closure, are you exposing yourself to 500
25 new leaks or something like that?

1 MR. BROUSSARD:

2 My guess would be, yes.

3 MR. THERIOT:

4 That would be my guess as well.

5 MR. ST. ROMAIN:

6 Right.

7 MR. THERIOT:

8 I haven't seen too many pulled where
9 you don't have to do work.

10 MR. HILL:

11 So ya'll -- ya'll see -- ya'll see
12 this everyday. And, you know, we see it or
13 experience it and just, you know, by
14 listening to what even Perry said, the --
15 the -- and what you said Sam -- the 30 plus
16 or 35 year plus old tanks could be a
17 tremendous cost to the trust fund. Do ya'll
18 have any suggestions going forward? And I
19 think maybe you do.

20 MR. BROUSSARD:

21 No. Actually --

22 MR. HILL:

23 You don't? Okay.

24 MR. BROUSSARD:

25 Well -- and I can tell you, one of the

1 things we did in this new reg packet is we
2 do -- there's a lot of old temporary closed
3 tanks.

4 MR. HILL:

5 Yes.

6 MR. BROUSSARD:

7 We have a bunch. And a lot of them,
8 the average age is 30 something, close to 32
9 years old. We've got a bunch that are over
10 30, over 40. We put in a lot of new regs in
11 this reg packet to address those temp closed
12 tanks. For instance, if they have internal
13 lining and they don't do the inspection when
14 they're suppose to or they have a
15 (inaudible) exposure protecting it from
16 corrosion and they're not operating it over
17 a certain period of time, we're going to
18 require them to permanently close those
19 tanks. So we don't like to keep a bunch of
20 old temporarily closed tanks that are not
21 kept up with in our universe where somebody
22 can come and buy it and put it back in
23 service.

24 MR. FULTON:

25 Especially when it's been in temp

1 closure for an extended amount of time.

2 MR. ST. ROMAIN:

3 It's called temporary closure. Is
4 there a limit on how long it can stay in
5 there?

6 MR. BROUSSARD:

7 There is no limit. And -- and we've
8 had many discussions on a limit. But -- and
9 -- and here's the reason. If you look at
10 our numbers, we got, you know, close to
11 whatever, 11.2 percent of them and 1.8 of
12 temp closed tanks that are under 20 years
13 old. Totally fine tanks that are in temp
14 closure that we don't want to force them to
15 temporarily close because they've been out
16 of service for a year. But we don't want to
17 make somebody remove an asset if it's still
18 an asset.

19 MR. THERIOT:

20 Those were extensively debated during
21 the reg groups, because some states do, some
22 states don't.

23 MR. FULTON:

24 We believe it is an asset.

25 MR. THERIOT:

1 Some of them -- some of them are
2 assets and some of them aren't.

3 MR. FULTON:

4 Yes.

5 MR. THERIOT:

6 Okay. Is kinda how it breaks out.
7 And -- and rather than make a rule that
8 classifies them all as non-assets, which is
9 what would happen if you put a time limit on
10 them, the decision was made to not put a
11 time limit on them unless we get to one of
12 the compliance issues that it's not being
13 followed and gives rise to a greater chance
14 that the tank would leak. So --

15 MR. HILL:

16 You're speaking of an asset to the
17 property or the property owner?

18 MR. THERIOT:

19 Right. Somebody may want to buy and
20 put the station back into service. There's
21 a difference of opinion on it. That's the
22 best I can tell.

23 MR. HILL:

24 Any other questions for Sam?

25 MR. MILAZZO:

1 Thanks for doing that, Sam.

2 MR. HILL:

3 Thanks for doing it, Sam.

4 MR. MILAZZO:

5 You'll share that with us?

6 MR. BROUSSARD:

7 Yes. I think Jeff should've done
8 that.

9 MS. VIZINAT:

10 It's in your packet, Johnny.

11 MR. BAKER:

12 The hard copy is in the packet.

13 MR. MILAZZO:

14 I didn't see that.

15 MR. FULTON:

16 Well, we can get you one. If you need
17 an electronic copy, we can certainly do
18 that.

19 MR. MILAZZO:

20 Oh, I got it. I got it. Okay.

21 MR. FULTON:

22 We can certainly get you an electronic
23 copy too.

24 MR. MILAZZO:

25 I've got what I need. Thank you.

1 MR. HILL:

2 Okay. At this time, is there anymore
3 questions for anybody today present at the
4 meeting?

5 (No response.)

6 MR. HILL:

7 And if not, do I hear a motion to
8 close the meeting?

9 MR. MILAZZO:

10 So moved.

11 MR. HILL:

12 Johnny makes a motion to close the
13 meeting. Do I hear a second?

14 MR. ST. ROMAIN:

15 Second.

16 MR. HILL:

17 Second by Nick.

18 Thank you everyone for attending.

19 **THE MEETING ADJOURNED AT 1:54 P.M.**

20 * * * * *

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

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

23 

24 Lori Overland C.C.R.

25 # 97083