

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 1:07 p.m., on November 15, 2018.

**BEFORE:**

Mark Lacour  
Certified Court Reporter  
In and For the State of  
Louisiana

A P P E A R A N C E S

Johnny Milazzo  
Chairman

Durwood Franklin  
Jeff Baker  
Gary Fulton  
Cy Morin  
Jill Carter  
Nick St. Romain  
Steve Burnham  
Roger Bright, via telephone  
Lacey Vitteri  
Joe McCartney  
Kerry Hill, via telephone  
Rhonda Cook  
Kristine Stanley  
Roger Gingles

Melissa Vizinat  
Sam Broussard  
Jason Efferson  
Natalie Isaacks  
Kyle Blanchard  
Fran Falke

\* \* \* \* \*

I N D E X

EXAMINATION:

PAGE(S):

None

EXHIBITS:

None

REPORTER'S PAGE

51

REPORTER'S CERTIFICATE

52

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MR. MILAZZO:

Okay. So I'll step in on Kerry's behalf and chair the meeting. So let me begin by calling the meeting to order.

Next on the agenda, I'd like a roll call, please.

MS. CARTER:

Jill Carter, DEQ Attorney.

MR. FRANKLIN:

Durwood Franklin, DEQ Trust Fund.

MR. BAKER:

Jeff Baker, DEQ Trust Fund.

MR. FULTON:

Gary Fulton, UST Division.

MR. McCARTNEY:

Joe McCartney, LOMA.

MR. BURNHAM:

Steve Burnham, Engineering Associates.

MR. ST. ROMAIN:

Nick St. Romain, LOMA.

MR. MILAZZO:

Johnny Milazzo, LOMA.

MS. VITTERI:

Lacey Vitteri, Financial Services.

1 MR. MORIN:  
2 Cy Morin, DEQ Audit.  
3 MS. VIZINAT:  
4 Melissa Vizinat, Trust Fund.  
5 MS. FALKE:  
6 Fran Falke, Financial Services.  
7 MR. BROUSSARD:  
8 Sam Broussard, UST Division.  
9 MS. ISAACKS:  
10 Natalie Isaacks, from Louisiana Oil  
11 Marketers.  
12 MR. BLANCHARD:  
13 Kyle Blanchard, UST Division.  
14 MS. VICKIE (INAUDIBLE):  
15 Vickie (inaudible), DEQ Attorney.  
16 MR. TWILLEY:  
17 Clinton Twilley, UST Division.  
18 MR. KEMP:  
19 Trey Kemp, DEQ Trust Fund.  
20 MR. EFFERSON:  
21 Jason Efferson, DEQ Trust Fund.  
22 MS. VIZINAT:  
23 Roger?  
24 MR. BAKER:  
25 Roger?

1 MR. BRIGHT:

2 Roger Bright, Jones Environmental.

3 MR. MILAZZO:

4 Anyone else on the phone?

5 (No response.)

6 MR. MILAZZO:

7 Thanks to everyone for being here  
8 today.

9 I'd like to ask you to turn your  
10 attention now to the August 16, 2018 minutes  
11 of this board. And if I could ask someone  
12 for a motion to please adopt the minutes, if  
13 you had an opportunity to review them.

14 MR. BURNHAM:

15 Motion to adopt.

16 MR. MILAZZO:

17 Do I have a second?

18 MR. ST. ROMAIN:

19 I'll second.

20 MR. MILAZZO:

21 Nick seconds. All in favor?

22 (All indicted "aye".)

23 MILAZZO:

24 Adopted.

25 Okay. Let's go into the financial

1 services report. Ms. Lacey, we'll hand it  
2 over to you and instruct us the tab.

3 MS. VITTERI:

4 Okay. It's tab three. If ya'll  
5 please turn to tab three.

6 All right. Again, I'm Lacey Vitteri,  
7 an accountant in financial services. Today,  
8 I'll be discussing the results from the  
9 first quarter of fiscal year '19.

10 As of September 30, we've deposited  
11 approximately 4.9 million into the fund.  
12 Bulk distribution fees are roughly 500,000  
13 less than at this time last year. But we  
14 still anticipate the year-in total to be  
15 around 22 million.

16 Interest is growing, which is great.  
17 It is slightly higher than double the amount  
18 we received at this time last year.

19 Total claims for reimbursements, as of  
20 September 30, were 3.3 million. Almost  
21 exactly the same at this point last year.

22 Now, going to the bottom of the page,  
23 the total cash in the fund is 111.2 million.  
24 Once you deduct the interest and the  
25 liability of 78 million, that leaves an

1 unobligated balance of 24.9 million.

2 On the second page of this report, it  
3 includes a projection of the transfer from  
4 the trust fund to ETF to cover admin  
5 expenses from both the current fiscal year  
6 and next fiscal year.

7 We expect this year's transfer to be a  
8 little less than last year. One of the  
9 reasons is because the indirect cost rate is  
10 lower this year than last year.

11 Any questions?

12 MR. MILAZZO:

13 Let's go back to, if you don't mind,  
14 on the indirect cost --

15 MS. VITTERI:

16 Okay.

17 MR. MILAZZO:

18 -- on the expenditure side. Give me  
19 your definition --

20 MR. HILL:

21 Good evening, this is Kerry Hill  
22 calling in. How are ya'll doing?

23 MR. MILAZZO:

24 Kerry Hill?

25 MR. HILL:



1                   Yes, sir.

2           MR. MILAZZO:

3                   Kerry, welcome. We're on the  
4           financial report. Lacey has just presented,  
5           and we're in a -- asking questions if you  
6           have any. So --

7           MS. VITTERI:

8                   Okay. The indirect cost rate is  
9           approved by EPA and we use half of  
10          whatever's approved by them as our  
11          percentage. We calculate it for the  
12          motor fuel trust fund.

13                   So this year, it's actually 18.01  
14          percent lower than it was last year. But  
15          that was total. So for the motor fuel,  
16          would be half of that. So nine percent.

17                   And your -- indirect is like your  
18          overhead cost.

19          MR. MILAZZO:

20                   Okay.

21                   Any other questions on the financial  
22          report?

23          (No response.)

24          MR. MILAZZO:

25                   I need a motion to adopt the financial

1 report.

2 MR. ST. ROMAIN:

3 Motion to adopt the financial report  
4 as written.

5 MR. MILAZZO:

6 I need a second.

7 MR. McCARTNEY:

8 I second it.

9 MR. MILAZZO:

10 All in favor?

11 (All indicated "aye".)

12 MR. MILAZZO:

13 Adopted.

14 Let's move to the auditor's status  
15 report. And -- Cy.

16 MR. MORIN:

17 Good afternoon. Cy Morin, DEQ Audit.

18 If you'd turn to tab four, please.

19 This -- this report represents -- the first  
20 page of this report represents 20 open motor  
21 fuel delivery fee audit cases.

22 This list, as of November 9, 2018  
23 included two cases that have been assessed  
24 for unpaid late fees and we were awaiting  
25 payments of \$132.09 and \$2,942.24. Since

1 last week, since the 9th, we discovered the  
2 \$2,900 assessment had been paid in full and  
3 we closed the file. We also learned that  
4 the business that was assessed \$132 was sold  
5 at the end of 2016. This morning, the  
6 auditor spoke to a representative of the new  
7 company, who asserted that they would pay  
8 that assessment. So we should see that  
9 soon.

10 One case resulted in an overpayment of  
11 \$4,419.06 and we're awaiting a refund to be  
12 issued in order to close the file. The  
13 overpayment was due to human input error  
14 when calculating fees on the monthly report.  
15 We've notified the business of the  
16 overpayment and pending refund.

17 Eight cases are awaiting review.  
18 Pending final review, one with a potential  
19 assessment of \$978.33 and seven are  
20 potential clean audits with no assessment.

21 And then the remaining nine cases are  
22 still in progress with the results to be  
23 determined and finalized.

24 Do we have any questions on this page?  
25 (No response.)

1 MR. MORIN:

2 If not, turn to the second page.

3 The status of -- of these four cases  
4 in legal remain the same. Cases one, three  
5 and four are still with the Office of Debt  
6 Recovery. And as of November 8, we have not  
7 received any payments from ODR on these  
8 cases.

9 Case number two continues to make  
10 regular monthly payments. The last payment  
11 of \$200 was received on October 12. If  
12 anything happens with that and they fail to  
13 continue to remitting, we'll send it to ODR  
14 as well.

15 So as of today, the four cases  
16 represent \$104,305.20 in late -- in  
17 delinquent motor fuel delivery fees and late  
18 payment penalties, plus the attorney's fees  
19 and court cost you see here on the page, for  
20 a total of \$116,000.

21 That concludes my update. If you have  
22 any questions?

23 MR. MILAZZO:

24 Any questions?

25 (No response.)

1 MR. MILAZZO:

2 Cy, I would think we'd want to have a  
3 motion to adopt this as well too, correct?

4 MR. MORIN:

5 Correct.

6 MR. MILAZZO:

7 Motion to accept the audit report?

8 MR. ST. ROMAIN:

9 I'll second it.

10 MR. MILAZZO:

11 Well, we got a first? Second?

12 MR. McCARTNEY:

13 I'll second.

14 MR. ST. ROMAIN:

15 First.

16 MR. MILAZZO:

17 Okay. Well, we have a first and a  
18 second. All in favor?

19 (All indicated "aye".)

20 MR. MILAZZO:

21 All right. Cy, I want to say thanks  
22 again. I -- I know over the years as we've  
23 paid more and more attention to this -- and  
24 it's obviously a lot of tension, so I just  
25 wanted to say thanks.

1 MR. MORIN:

2 You're welcome.

3 MR. MILAZZO:

4 We just went through it. Absolutely,  
5 professionally done. And I can't say enough  
6 about the -- the whole process. So thank  
7 you guys.

8 MR. MORIN:

9 You're welcome.

10 MR. MILAZZO:

11 Okay. Trust fund status report, Mr.  
12 Jeff Baker.

13 MR. BAKER:

14 Good afternoon. This is Jeff Baker.  
15 If you'll turn to tab five in your packets.  
16 These are the figures from the first quarter  
17 of fiscal year 2019.

18 If you'll look at the first report,  
19 the report of activities from motor fuel  
20 trust fund current activities. It says,  
21 during the first quarter of fiscal year  
22 2019, the trust fund has received 265  
23 applications, totaling a requested amount of  
24 approximately 4.4 million dollars.

25 As of the end of September 2018, the

1 trust fund had 87 pending applications to  
2 process, which had requested amounts,  
3 totaling approximately 1.6 million dollars.  
4 213 applications were processed for payment  
5 during the fiscal year, totaling  
6 approximately 3.4 million dollars. And 39  
7 applications were returned with  
8 deficiencies.

9 Now, the last board meeting, one of  
10 the members asked me to make some tweaks to  
11 this report. As I go through my numbers,  
12 this is actually quarterly totals. And so,  
13 when you look at the report, you don't see  
14 those quarterly totals. You see the  
15 individual monthly numbers. And that  
16 doesn't really effect this one because the -  
17 - the monthly number is the quarterly total  
18 for this quarter. However, we have made  
19 some changes for future reports and we're  
20 going to have a quarterly total at the end  
21 of each quarter. So you'll see some changes  
22 to this report next time.

23 If you'll turn the page. The next  
24 page is titled report of cumulative  
25 activities for motor fuel trust fund. Under

1           this tab, this document lists the historical  
2           values related to the trust fund and  
3           strictly provided for the board's  
4           informational purposes. We do tweak it  
5           every month. Every -- every month, every  
6           quarter, you'll see at the bottom -- and  
7           you'll see for fiscal year '19, you'll see  
8           the numbers and they correlate over to the  
9           first report. So as the year goes on,  
10          you'll see those changes.

11                    If you'll turn the page. The next  
12          page, you'll see the monthly motor fuel  
13          trust fund obligation determination. This  
14          worksheet list the various component  
15          determinations of the potential obligations  
16          of the trust fund as of the end of September  
17          2018.

18                    For sites in the corrective action  
19          phase, the outstanding liability of  
20          corrective action budget and estimated cost  
21          to reach closure at the end of September  
22          2018 was approximately 27.4 million dollars.  
23          This total includes the CAP budget remaining  
24          amount and the RAC estimated cost to closure  
25          amounts.



1           If you'll look at your -- there were  
2           some handouts that were not in the packet.  
3           I think they were on your chair when you got  
4           here. If you'll look at the summary report  
5           for the motor fuel trust fund active sites  
6           without corrective -- without -- I mean,  
7           with corrective action, I'm sorry.  
8           Corrective action plan summary report for  
9           motor fuel trust fund active sites. What  
10          this is, is, this is a report of each  
11          individual site and that amount of money  
12          that we've spent on it, CAP budget, the  
13          whole -- kind of an overview of that site.  
14          You'll also notice, it has the first app  
15          received and the last app processed date.  
16          That was an addition that one of the board  
17          members asked us to include.

18                 The next section in the obligation  
19                 report is, the fund obligation recognized  
20                 for sites without ROG approved CAP budgets.  
21                 That's approximately 21.8 million dollars.  
22                 This is determined using a three-year  
23                 average site closure cost and applying these  
24                 costs to active trust fund sites without  
25                 current CAP budgets.

1           Again, if you'll look to one of those  
2           handouts that was in your chair when you got  
3           here, the next one is titled, summary report  
4           for motor fuel trust fund active sites  
5           without corrective action plans. That again  
6           is a -- a summary of all the individual  
7           sites included in this, as well as the  
8           estimated cost and -- and dates and number  
9           of applications processed. Just an overview  
10          of each site included in that report.

11          Going back to our monthly obligation  
12          determination page. The fund obligation  
13          recognizes 23 sites that have been  
14          determined to be trust fund eligible,  
15          however, have not submitted reimbursement  
16          applications. That amount is 5.9 million  
17          dollars approximately.

18          This is also determined using a three-  
19          year average site closure and applying these  
20          costs to sites that have requested  
21          eligibility, that have not yet submitted a  
22          request for reimbursement from the fund.

23          The five-year projected fund  
24          obligation related to the motor fuel trust  
25          fund to environmental trust fund transferred

1 is 22.9 million -- well, actually,  
2 approximately 23 million dollars. This  
3 estimate uses the three-year average dollars  
4 transferred from the motor fuel trust fund  
5 to the environmental trust fund and  
6 multiplies that average by an estimated five  
7 years.

8 The total estimated obligated amount  
9 is \$78,099,289, which represents the 2.2  
10 million dollar decrease compared to last  
11 quarters estimated amount. This reduction  
12 was attributed to the reduction of the  
13 number of non-CAP sites and also a minor  
14 decrease in the -- in the three-year average  
15 cost to close estimate.

16 Now, if you'll turn to page -- to page  
17 -- the next page in your packet is titled  
18 trust fund sites that had a release granted  
19 no further action. There were 11 locations  
20 that had -- that -- that we had that -- had  
21 no further actions on this year, for the  
22 quarter.

23 Now, if you'll turn to the next page,  
24 these are incidents determined eligible for  
25 the motor fuel trust fund. This report

1 shows the number of potential trust fund  
2 sites that were reviewed and made eligible  
3 during the current fiscal year. That was a  
4 total of ten sites, representing 15 active  
5 incidents.

6 Now, for points of interest, Act 150  
7 of the -- the Louisiana Regular Session was  
8 implemented effective October -- on August  
9 1st, 2018. This new law allowed the  
10 Secretary, after consideration of the  
11 recommendation from the board, to change the  
12 amount of the fee on an annual basis, but  
13 caps the fee at the current rate of \$72 for  
14 every withdrawal of 9,000 gallons of bulk  
15 fuel of point eight cents per gallon.

16 The new law requires the board to  
17 determine a minimum level of funding by  
18 conducting an annual review of receipts and  
19 disbursements from the fund, along with the  
20 projected amounts expected to be expended  
21 for the next fiscal year. Further requiring  
22 -- it further requires the board to meet at  
23 the end of each fiscal year to determine  
24 it's recommendation for setting the fee for  
25 the next fiscal year.

1           The new law also negated the language  
2           requiring a suspension of the fees  
3           collection if the fund balance to current  
4           obligation deferential exceeds 40 million  
5           dollars. Okay?

6           As discussed in the last board  
7           meeting, the department has been researching  
8           actuarial consults to review our fund for  
9           the purpose of providing criterial  
10          information to assist the board in this  
11          assessment. A firm has been selected and we  
12          are currently working with the -- working on  
13          a contract.

14          The company that was selected was the  
15          Pinnacle Actuarial Services.

16          The initial report will include an  
17          evaluation of the current and future claim  
18          reserves, a projection of the future claim  
19          liabilities and the cash flow scenario based  
20          upon various fee options. Based upon the  
21          expected time frame, we expect this report  
22          will be ready for the board prior to the  
23          February meeting, hopefully, sometime mid-  
24          January. So we'll -- we're -- we're going  
25          to try to get that to ya'll in ample time

1           before the meeting so that ya'll can take a  
2           look at it and be able to digest it.

3                   A subsequent review in the latter part  
4           of fiscal year 2019, this review will  
5           consider analysis of high cost and long term  
6           site claims and program operation  
7           considerations and their impacts, which  
8           would include deductibles, long programs and  
9           the impact of the potential of including  
10          AST's into the fund. The associated report  
11          for this study will be completed and  
12          hopefully available by the end of this  
13          fiscal year.

14                   I can take a breath now. That pretty  
15          -- that finishes up what I have. So if  
16          anybody has any questions?

17          MR. BURNHAM:

18                   Jeff, would you go back to the 40  
19          million number? What does that represent?

20          MR. BAKER:

21                   What that means is that the law up to  
22          this point said that if our bank balance was  
23          40 million dollars more than our obligation,  
24          then we had to stop collecting the fee.

25          MR. BURNHAM:

1                   Okay.

2           MR. BAKER:

3                   However, the law now has been changed  
4           to where the board can recommend to the  
5           Secretary a rate -- a fee rate which will  
6           obviously change that balance. So instead  
7           of using that as a mechanism to control  
8           that, the board and the Secretary can now  
9           control the fee to control that that balance  
10          is where we want it to be.

11          MR. BURNHAM:

12                   What is the balance at which the  
13          legislature can potentially snatch money  
14          from the trust fund?

15          MR. BAKER:

16                   I can't answer that.

17          MR. BURNHAM:

18                   Any -- didn't -- didn't that happen at  
19          some point, a year or two ago?

20          MR. BAKER:

21                   Lacey -- they -- they did take some.

22          MS. VITTERI:

23                   Yes.

24          MR. BURNHAM:

25                   So that -- that's not based on a magic

1 number?

2 MR. BAKER:

3 No. No.

4 MR. BURNHAM:

5 Okay.

6 MR. BAKER:

7 There is no magic number.

8 MR. BURNHAM:

9 Okay.

10 MR. ST. ROMAIN:

11 It's not a protected fund.

12 MR. BAKER:

13 Well, it is. It is a dedicated fund.  
14 However, the legislature -- the law does  
15 allow a certain percentage under emergency  
16 considerations that they can go into the  
17 dedicated funds and do that. But it -- it's  
18 happened one time that I know of, maybe  
19 twice. Maybe twice. I know we also had  
20 some money that was over in the escrow  
21 account with the AG's office and I think  
22 there were some funds moved at that point.

23 MR. FULTON:

24 There are some restrictions on it.  
25 But I'm not sure of all of the restrictions,



1 but they have to declare the emergency, five  
2 or six or --

3 MR. BAKER:

4 Yes. It's not five percent of the  
5 entire balance. It's five percent of the  
6 operating budget.

7 MR. BURNHAM:

8 Got you.

9 MR. McCARTNEY:

10 That request from the AG's office,  
11 that was suppose to --

12 MR. BAKER:

13 That was -- that was from lawsuits  
14 that were in the escrow account that were  
15 waiting to be moved back over to the trust  
16 fund.

17 MR. MILAZZO:

18 So -- and Perry is not here, but in  
19 respect to that, I know there was some  
20 concern because the money in the AG's office  
21 is in a kinda protected space at the moment.  
22 And there was some consideration of this  
23 board to really leave the funds there at the  
24 moment, until there's more clarity of the  
25 raid on -- on the trust fund. I do think

1           it's appropriate to say you guys, with the  
2           help of Louisiana Oil Marketers and pressure  
3           on -- you know, on legislature --  
4           legislatures that, you know, we -- there's  
5           been a great job of protecting those funds.  
6           So I guess we're all subjected to  
7           conditions. But in the past, you know,  
8           considering the amount of money that was  
9           coming away, or out of a lot of funds, as we  
10          know of today, we came out really well.

11         MR. BURNHAM:

12                 Yes.

13         MR. MILAZZO:

14                 And so, if there is money, at least as  
15                 I last recall, still sitting in the AG's  
16                 office, a recent consideration where that  
17                 plans -- am I right about that?

18         MR. BAKER:

19                 If I'm not mistaken -- Lacey, please  
20                 correct me if I'm wrong. I believe a  
21                 majority of the remaining funds has been  
22                 transferred back into the environment --  
23                 into the motor fuel trust fund; is that  
24                 correct?

25         MS. VITTERI:

1                   There's seven million, I think, still  
2                   left.

3                   MR. MILAZZO:

4                   I would, maybe in a future meeting,  
5                   maybe put that on the agenda as an update  
6                   and be some input as to perhaps where is it  
7                   and what's the likelihood of seeing that  
8                   transfer.

9                   But -- so, you know, you look at, you  
10                  know 111 -- 111 million dollars as you  
11                  report, and the 78 million, as you just  
12                  finished in your status report, Jeff, it's  
13                  fair to say that everything that's been  
14                  approved that we know, that has a budget, is  
15                  in this 78 million dollars of obligation, as  
16                  we know it today. Is that fair to say?

17                  MR. BAKER:

18                  Yes, sir. Yes, sir.

19                  MR. MILAZZO:

20                  Okay. And really, the unencumbered  
21                  amount sitting at about 24 million dollars  
22                  today.

23                  MR. BAKER:

24                  Right.

25                  MR. MILAZZO:

1           It's still considered to be pretty  
2           healthy. So the one question that I -- when  
3           you talk about change in the fee structure,  
4           and -- and now that that's been changed  
5           legislatively, is it the fee on the per tank  
6           basis or does it carry into the fee on the  
7           per gallon basis, as well? How much  
8           latitude? Because there's two components of  
9           the fee, right?

10          MR. BAKER:

11                 Well, it -- it ends -- we -- we list  
12                 it as \$72 per 9,000 gallons, but it really  
13                 ends up being paid pretty much on a per  
14                 gallon basis. I mean, so when they report  
15                 it to us, it goes by the number of gallons.

16          MR. MILAZZO:

17                 Okay.

18          MR. BAKER:

19                 And so I'm assume -- assuming that  
20                 that's not going to change. It would be --  
21                 so you'd be making some tweaks -- I'm not  
22                 sure how legal --

23          MR. FULTON:

24                 Yes. So there's two components,  
25                 right, the annual fee and the -- the CPG,

1 right?

2 MS. ISAACKS:

3 It's per gallon, is what I recall.

4 MR. FULTON:

5 But it's a good question.

6 MR. ST. ROMAIN:

7 You're referring to the tank fee and  
8 the delivery --

9 MR. MILAZZO:

10 There's a registration -- an annual  
11 registration fee. Does that fee have any  
12 latitude for change or is it just the cents  
13 per gallon?

14 MR. BAKER:

15 No. That's set.

16 MR. MILAZZO:

17 Okay. Good. All right.

18 MR. BAKER:

19 No. The fee that we're talking about  
20 is strictly the delivery fee. I'm sorry. I  
21 misunderstood what you asked.

22 MR. MILAZZO:

23 Okay. So any other questions  
24 regarding that?

25 MR. ST. ROMAIN:

1                   And that recommended fee change would  
2                   happen at the February meeting; is that  
3                   correct?

4                   MR. BAKER:

5                   Yes. I think the intention is that we  
6                   would -- that information will be provided  
7                   to the board in January, ya'll would have  
8                   that, we could discuss it at the February  
9                   meeting. The recommendation would then go  
10                  from the board to the Secretary. The  
11                  Secretary would make a decision. Then that  
12                  would give us several months to inform the  
13                  stakeholders, prior to July 1, it's taken  
14                  effect, the new fee take effect, which would  
15                  be in effect for at least a year, from July  
16                  1 to June 30.

17                  MR. ST. ROMAIN:

18                  Okay. Then you also mentioned -- go  
19                  ahead.

20                  MR. McCARTNEY:

21                  Then you got Pinnacle -- as far as  
22                  January and the year-end work, is that all  
23                  the same thing?

24                  MR. BAKER:

25                  Yes, sir. It's -- it's -- it's a

1 phase one and a phase two.

2 MR. ST. ROMAIN:

3 You said phase two would be before the  
4 end of fiscal year 2018?

5 MR. BAKER:

6 That's the intention.

7 MR. ST. ROMAIN:

8 To try and have a recommendation  
9 before July of that as well?

10 MR. BAKER:

11 Well, that -- I mean, there -- this is  
12 going to be for more of informational  
13 purposes to the board. It won't really be a  
14 -- a recommendation related to the fee.  
15 That would be in the phase one aspect, ready  
16 for January. That would be more of ways  
17 that we could improve the program, some  
18 recommendations to the board, along those  
19 lines, aspects of the different programs, if  
20 you make -- if you'd implement this program,  
21 how it would effect the fund and things of  
22 that nature.

23 MR. ST. ROMAIN:

24 Right.

25 MR. BAKER:

1 Yes.

2 MR. MILAZZO:

3 Any other comments or questions?

4 (No response.)

5 MR. MILAZZO:

6 Could I get a motion to accept the  
7 status report?

8 MR. BURNHAM:

9 Motion to accept.

10 MR. McCARTNEY:

11 Second.

12 MR. MILAZZO:

13 All in favor?

14 (All indicated "aye".)

15 MR. MILAZZO:

16 So adopted.

17 Okay. Third party claims. And I  
18 guess, Perry?

19 MS. CARTER:

20 Jill Carter. And there are no new  
21 updates on the third party claims at this  
22 time.

23 MR. MILAZZO:

24 Any comments or -- about it?

25 (No response.)



1 MR. MILAZZO:

2 Okay. Well, let's move into other  
3 business.

4 Consideration for tentative dates for  
5 board meetings in 2019. Jeff, do you want  
6 to take this?

7 MR. BAKER:

8 I can. This was -- these are -- these  
9 are similar dates to what we have right now.  
10 We just tried to follow that same protocol.  
11 I did touch base with Natalie and -- to make  
12 sure that there weren't any conflicts with  
13 the LOMSA schedule. And this seemed to work  
14 out for everybody.

15 MR. MILAZZO:

16 Anyone here have any conflicts that  
17 you know of?

18 (No response.)

19 MR. MILAZZO:

20 So is this something we should, you  
21 know, just accept today and -- with the  
22 understanding as we get closer, things could  
23 change a little bit?

24 MR. BAKER:

25 They -- they can. I mean -- but what

1 I would say is, I vote we approve the dates  
2 and -- and then what we will do is, we'll go  
3 ahead and put them on the calendar and the -  
4 - the venue may change. I know last year,  
5 we did do one in Alexandria -- or this year,  
6 we did one in Alexandria. And so, you know,  
7 we -- we'd like to do that again at least  
8 once or twice. It worked out well. And I  
9 think it gave everybody that's in North  
10 Louisiana a chance to kinda not travel quite  
11 so far.

12 MR. MILAZZO:

13 Okay.

14 MR. BAKER:

15 So --

16 MR. MILAZZO:

17 So why don't we -- can I get a motion  
18 to accept the dates as proposed, please?

19 MR. BURNHAM:

20 Motion to accept the dates as  
21 proposed.

22 MR. MILAZZO:

23 Second?

24 MR. ST. ROMAIN:

25 I'll second.

1 MR. MILAZZO:

2 All in favor?

3 (All indicted "aye".)

4 MR. MILAZZO:

5 Is anybody opposed to them?

6 (No response.)

7 MR. MILAZZO:

8 Okay. Scheduled.

9 Okay. Jeff had sent out kinda of a  
10 pre-read on this RAC request for review and  
11 the trust fund reimbursement determination,  
12 perhaps maybe making a -- maybe a one time  
13 consideration. But, Jeff, I -- I'll ask you  
14 to kinda head the discussion, and then,  
15 perhaps we get into some really good  
16 discussion about what they're asking.

17 MR. BAKER:

18 Well, basically an overview is, one of  
19 our RACs has an office in Shreveport and  
20 they also have one in Lafayette. And the  
21 office in Shreveport, according to the RAC,  
22 doesn't have the personnel available to do  
23 typical fieldwork, okay? And they have a  
24 site in Monroe, and they have requested  
25 reimbursement of mileage from their

1           Lafayette office to Monroe. And we -- and  
2           the trust fund denied it, because they had a  
3           closer office in Shreveport, which is  
4           according to our guidance document and our  
5           protocol. And that's been in place for a  
6           number of years.

7                     And the RAC contested it. We went  
8           back and forth. And it -- it was a very  
9           professional discussion. However, in the  
10          end, we basically agreed to disagree. And  
11          the -- the RAC asked where do they go from  
12          there, and I said, "Well, you can appeal it  
13          to the board." And so that -- I don't  
14          believe they were able to attend today.  
15          They told me they -- they weren't sure. But  
16          what they did do was, they sent -- they  
17          asked if they could send their written  
18          request. So that's what the letter was that  
19          I forwarded to ya'll yesterday. And -- and  
20          then we tried to give you, in our email, a  
21          little bit of the historical perspective of  
22          what the -- the mileage is. You know, most  
23          people, when they see mileage, they look at  
24          a -- you know, whatever the IRS rate is at  
25          the time, or the state rate, you know. And

1 I think when we originally came up with this  
2 rate, it was 51 cents a mile. I think now  
3 it's 54 and a half cents a mile. Well, the  
4 trust fund, a number of years ago, included  
5 that rate, but they also included the  
6 estimates of personnel time. So they take  
7 an engineer or geologist rate and they apply  
8 that to an average mile per hour at 50 miles  
9 per hour to come up with a dollar per mile  
10 then, and they add that to the -- the -- the  
11 IRS rate and they came up with \$1.95. And  
12 that was back around 2011/2012. Now, in  
13 2017, we had a fee increase with our new  
14 version of the guidance document, and we  
15 increased that to \$2.

16 So that was basically -- that kinda  
17 gives you a backup of -- of where -- why the  
18 mileage -- why the mileage rate seems so  
19 high.

20 Historically, the trust fund has  
21 followed this -- this guidance. And the  
22 reason we do it is, because it's very  
23 difficult for us to keep track of who has  
24 what in what office. So this -- this month,  
25 this quarter, you may have somebody in that

1 office that can do the work, next month, you  
2 may not. And it's really not reasonable for  
3 the trust fund to keep -- to be asked to  
4 keep track of that. So we just look to see,  
5 do you have an office available closer and  
6 we go -- we use the closest office to  
7 calculate your mileage.

8 Now, in this case, like I said, the  
9 RAC has submitted this letter to the board  
10 and asked for their consideration. The  
11 trust fund staff, as we looked at this, we  
12 do strongly recommend leaving the trust fund  
13 guidance language as it is, because it has  
14 served us well. It -- I believe it has  
15 saved the trust fund quite a bit of money.

16 Now, as for how you want to handle  
17 this particular case, I'll leave that to the  
18 board. We've tried to lay it all out for  
19 you as to what the situation is. We did --  
20 you know, we do -- if you do decide to allow  
21 it, we would strongly recommend that we put  
22 some caveats on there that the RAC has to  
23 inform us immediately if they change staff,  
24 if something happens, because there's no way  
25 in the world we could know. We can't keep

1 track at all.

2 MR. BURNHAM:

3 Did I interpret the email you had sent  
4 us correctly, that the trust fund staff is  
5 recommending approval of the mileage as a --  
6 but not a change of the trust fund?

7 MR. BAKER:

8 Yes. We -- we strongly recommend not  
9 changing the guidance document. We think  
10 it's good the way it is.

11 MR. BURNHAM:

12 But do you have a recommendation on  
13 whether to approve this request or not?

14 MR. BAKER:

15 Yes. I mean, we don't -- we don't  
16 feel strongly -- we -- we don't like opening  
17 Pandora boxes to be honest with you, but we  
18 understand the situation and if the board  
19 approves, we -- we wouldn't argue.

20 MR. McCARTNEY:

21 How are you going to keep that from  
22 being -- progressively getting worse?

23 MR. BAKER:

24 That's the concern. That is the  
25 concern.

1 MR. MILAZZO:

2 So -- so let me chime in, since I read  
3 this earlier today. And I thank you for  
4 articulating it as well as you did. And,  
5 you know, we sit here -- you know, we -- we  
6 pay the fee, collect the fee, and at the  
7 same time, I think we have responsibility,  
8 in particular, we as members of this board,  
9 you know, and -- and even our own  
10 association to make sure we're responsible  
11 members of this -- this trust fund. I've  
12 really struggled, Jeff, to be honest with  
13 you. Someone, they understand the guidance  
14 documents, they understand the cost  
15 structure. And, you know, if you agree to  
16 take on a job, you ought to understand the  
17 ins and outs. And, you know, I know in my  
18 own business, you know, I -- just because I  
19 decide to relocate, you know, my customer  
20 doesn't forgive me. I don't just get to  
21 pile on additional cost. And this is real  
22 troubling for me. And I got friends in the  
23 room, friends in this business. And I -- I  
24 don't mean to make any enemy with anybody,  
25 but -- but we all have responsibility and --



1 and I think when we start making exceptions,  
2 I don't know where you stop making  
3 exceptions. And that's kinda -- you know,  
4 well, I can't get there and unfortunately,  
5 he's 400 miles away and -- and, I mean, the  
6 rules are the rules. In fact, I -- I think  
7 it ought to be simple by saying in no case  
8 can you ever request mileage greater than  
9 this number. That way, people, the RACs in  
10 the world, will begin to look at this and  
11 say, "Does this make sense for me 500 miles  
12 away?" And we're -- we're not responsible  
13 to this trust fund if we just say, you know,  
14 you can come in from Missouri if you want to  
15 and do the work. I -- I just think the  
16 rules are the rules today and -- and they  
17 ought to adhere to it and, you know, if --  
18 if it doesn't make sense, then maybe he  
19 needs to consider selling off to another  
20 action -- response action contractor.

21 MR. BAKER:

22 Well, and you're -- you're --

23 MR. MILAZZO:

24 And I don't mean to be harsh about it,  
25 but our responsibility here is pretty

1           serious.

2           MR. BAKER:

3                       Well, and your point is well made.  
4           There is -- you know, typically, if you  
5           wanted to hire -- and the example I use is a  
6           contractor, or a plumber, somebody, and  
7           you're in Shreveport and you want to hire  
8           somebody in New Orleans, you know, you --  
9           you may be the best plumber in the -- in the  
10          state, and you say to him, can you come up  
11          here? And he's gonna say, yes, I can, but  
12          it's -- I'm gonna charge you this mileage  
13          and this hotel rate, whatnot, to do the job.  
14          And -- and you're gonna have to make a  
15          decision, is it worth that to do that? With  
16          the trust fund, that's really not the case.  
17          Owners and responsible parties can hire  
18          anybody in the state, and the one who pays  
19          the mileage is the trust fund. And so, it's  
20          -- it's been -- you know, we -- we have some  
21          that we've paid several -- several hundred  
22          miles, round trip.

23          MR. McCARTNEY:

24                       So this hasn't been enforced, I mean -  
25          -

1 MR. BAKER:

2 Well, there's nothing to enforce. We  
3 can't -- there's nothing we can do about it  
4 as the trust fund. I mean --

5 MR. MILAZZO:

6 So -- so the question he's asking Joe  
7 is this though, you know, what they had  
8 historically done, there's an office here in  
9 Shreveport and a job in Monroe. And so the  
10 trust fund says, as guidance, we're going to  
11 use the closest one and that's how you're  
12 going to be reimbursed. Historically,  
13 that's been okay. That's why I think there  
14 needs to be a cap anyway. So this guy  
15 decides, whoever it is, you know, well, now  
16 my office is out of New Orleans, even though  
17 I still have an office in Shreveport, but  
18 the right guy doesn't live there anymore --

19 MR. McCARTNEY:

20 That's just like if somebody called  
21 me, needs a load of fuel in New Orleans,  
22 then sure. I've got an office in New  
23 Orleans. I just don't have a truck down  
24 there.

25 MR. MILAZZO:

1                   But if you told them -- if everything  
2                   was up front, he may say that's too much  
3                   money, right? I just think we're --

4                   MR. ST. ROMAIN:

5                   He may find a contractor closer.

6                   MR. MILAZZO:

7                   Find a contractor closer.

8                   I think the responsible thing for us  
9                   is to have some sensor responsibility that  
10                  we don't need to be sending people all over  
11                  the state, \$2 a mile, and overnight and all  
12                  this other stuff when it could be more in  
13                  favor of the trust fund to do things that  
14                  would have less impact to the fund.

15                  MR. McCARTNEY:

16                  I think --

17                  MR. MILAZZO:

18                  I'm just one voice here.

19                  MR. McCARTNEY:

20                  -- it's proper, because you called the  
21                  contractor, he knows how he's gonna be  
22                  reimbursed. He knows it proposes all this.

23                  MR. ST. ROMAIN:

24                  He knew that when he took the job.

25                  MR. McCARTNEY:

1                   He -- he accepted the job.

2           MR. MILAZZO:

3                   He knew it when he took the job.

4           MR. McCARTNEY:

5                   He knows the guidelines. He can make  
6           the call whether he can break even eating  
7           that mileage et cetera.

8           MR. MILAZZO:

9                   So let me say -- any comments from  
10          those on the phone?

11          MR. BRIGHT:

12                   Yes. This is Roger with Jones  
13          Environmental. I -- I agree with what  
14          you're saying, Mr. Milazzo. I -- I think  
15          it's dangerous to -- to offer an exception  
16          to a rule that's worked well. As -- as a  
17          RAC -- and we have multiple offices  
18          throughout the state, and I could make a  
19          thousand arguments as to why someone in New  
20          Orleans is not qualified to do a job there  
21          and I need to send somebody from Shreveport.  
22          I think ultimately we'll -- we'll open up  
23          that box and we'll pay a lot more money out  
24          of the trust fund. So I think the right  
25          thing to do is leave the rules as they are

1 with no exception.

2 MR. MILAZZO:

3 Thank you.

4 MR. BRIGHT:

5 Yes, sir.

6 MR. MILAZZO:

7 I don't want to stop a good  
8 discussion. Any other comments from  
9 anybody?

10 MR. BURNHAM:

11 I just want to say to the -- to the  
12 benefit of the consultant, I do understand.  
13 I -- I take the for instance if -- if I was  
14 to start an office in New Orleans to sell  
15 widgets and it had nothing to do with UST,  
16 right now, I get paid to drive to New  
17 Orleans, if we have a site in New Orleans,  
18 and to drive back. And would -- would the  
19 opening of an office to sell widgets exclude  
20 me from that? And the answer is yes. And I  
21 think that's what this consultant was trying  
22 to point out. I think he was saying his  
23 office closer doesn't do UST work. Is that  
24 correct, or -- I'd be interested to know  
25 where the report came out of. I'm sure

1           there have been some reports that have been  
2           written on the project. I'd be interested  
3           to know, did those reports come out of that  
4           closer office, or did they come out of this,  
5           you know, further office that he's saying he  
6           --

7           MR. BAKER:

8                     I'd have to -- I'd have to research  
9           that.

10          MR. BURNHAM:

11                     Yes.

12          MR. BRIGHT:

13                     And -- and see what the letter -- what  
14           the letter is saying, that I've got here on  
15           my desk, is that he doesn't have the  
16           qualified personnel to do the sampling or  
17           operations made to the system in the  
18           Shreveport office. Qualified versus trained  
19           and versus decisions for business --

20          MR. BURNHAM:

21                     Yes. I -- I -- I'm not disagreeing  
22           but I did want to point out that there --  
23           you know, there -- there could be times.  
24           But if they do UST work out of that office,  
25           the fact that they don't have the perfect

1           guy to go do that is -- is irrelevant, I  
2           think. And -- and there's many times where  
3           an engineering firm has to send some --  
4           someone who's more qualified than they  
5           needed to be to do it --

6           MR. BRIGHT:

7                     Right.

8           MR. BURNHAM:

9                     -- but they're gonna get the rate that  
10           the trust fund pays for the right guy to do  
11           it, the least qualified -- or the one with  
12           the least qualifications. So I'm not  
13           arguing. I'm just -- wanted to bring it up  
14           from the RACs --

15           MR. MILAZZO:

16                     No. I mean, we -- we want a good  
17           discussion because we're gonna take action  
18           on it.

19           MR. BURNHAM:

20                     Yes.

21           MR. MILAZZO:

22                     Any other comments?

23                     (No response.)

24           MR. MILAZZO:

25                     So let's see if we can --



1 MR. ST. ROMAIN:

2 I think I can get it.

3 MR. MILAZZO:

4 You're ready?

5 MR. ST. ROMAIN:

6 I think so. I'd like to make a motion  
7 to not have any amendments or exceptions to  
8 the current cost control guidance document,  
9 as currently written. Is that sufficient?

10 MR. MILAZZO:

11 Pretty clear.

12 MR. BAKER:

13 Can I ask a question? As it relates  
14 to this issue?

15 MR. ST. ROMAIN:

16 And as it relates to this issue.

17 MR. BAKER:

18 Okay.

19 MR. MILAZZO:

20 Do I have a second?

21 MR. McCARTNEY:

22 I second.

23 MR. MILAZZO:

24 All in favor?

25 (All indicted "aye".)

1 MR. MILAZZO:

2 Anyone opposed?

3 (No response.)

4 MR. MILAZZO:

5 It's adopted that we make no exception  
6 as requested by this response action  
7 contractor.

8 MR. BAKER:

9 Thank ya'll.

10 MR. MILAZZO:

11 Thank you. Thank you, Nick.

12 Is there any other business?

13 (No response.)

14 MR. MILAZZO:

15 Can I get a motion to adjourn?

16 MR. BURNHAM:

17 Motion to adjourn.

18 MR. ST. ROMAIN:

19 Second.

20 MR. MILAZZO:

21 All in favor?

22 (All indicted "aye".)

23 MR. MILAZZO:


24 Let's get ready for Thanksgiving.

25 **THE MEETING ADJOURNED AT 1:48 P.M.**



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

1  
2 I, Mark Lacour, Certified Court Reporter in and  
3 for the State of Louisiana, as the officer before  
4 whom this testimony was taken, do hereby certify  
5 that the above referenced individual to whom oath  
6 was administered, after having been duly sworn by me  
7 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 -----  
Mark Lacour, C.C.R.

25 # 89054

**In The Matter Of:**

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

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*MEETING  
November 15, 2018*

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*Associated Reporters, Inc.  
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**In The Matter Of:**

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

---

*MEETING*

*November 15, 2018*

---

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

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2  
3 STATE OF LOUISIANA  
4 DEPARTMENT OF ENVIRONMENTAL QUALITY  
5 MOTOR FUELS UNDERGROUND STORAGE TANK TRUST  
6 FUND ADVISORY BOARD  
7  
8  
9  
10  
11  
12 The above-entitled meeting was held at the  
13 LDEQ, Galvez Building, Conference Center, 602  
14 North 5th Street, Baton Rouge, Louisiana,  
beginning at 1:07 p.m., on November 15, 2018.  
15  
16  
17  
18  
19 BEFORE:  
20 Mark Lacour  
21 Certified Court Reporter  
In and For the State of  
Louisiana  
22  
23  
24  
25

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1 A P P E A R A N C E S  
2  
3 Johnny Milazzo  
Chairman  
4 Durwood Franklin  
5 Jeff Baker  
6 Gary Fulton  
7 Cy Morin  
8 Jill Carter  
9 Nick St. Romain  
10 Steve Burnham  
11 Roger Bright, via telephone  
12 Lacey Vitteri  
13 Joe McCartney  
14 Kerry Hill, via telephone.  
15 Rhonda Cook  
16 Kristine Stanley  
17 Roger Gingles  
18  
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Page 3

I N D E X

1  
2  
3 EXAMINATION: PAGE(S) :  
4 None  
5 EXHIBITS:  
6 None  
7  
8 REPORTER'S PAGE 51  
9 REPORTER'S CERTIFICATE 52  
10  
11 \* \* \* \* \*  
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Page 4

1 \* \* \* \* \*  
2 MR. MILAZZO:  
3 Okay. So I'll step in on Kerry's  
4 behalf and chair the meeting. So let me  
5 begin by calling the meeting to order.  
6 Next on the agenda, I'd like a roll  
7 call, please.  
8 MS. CARTER:  
9 Jill Carter, DEQ Attorney.  
10 MR. FRANKLIN:  
11 Durwood Franklin, DEQ Trust Fund.  
12 MR. BAKER:  
13 Jeff Baker, DEQ Trust Fund.  
14 MR. FULTON:  
15 Gary Fulton, UST Division.  
16 MR. McCARTNEY:  
17 Joe McCartney, LOMA.  
18 MR. BURNHAM:  
19 Steve Burnham, Engineering Associates.  
20 MR. ST. ROMAIN:  
21 Nick St. Romain, LOMA.  
22 MR. MILAZZO:  
23 Johnny Milazzo, LOMA.  
24 MS. VITTERI:  
25 Lacey Vitteri, Financial Services.

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1 MR. MORIN:  
2 Cy Morin, DEQ Audit.  
3 MS. VIZINAT:  
4 Melissa Vizinat, Trust Fund.  
5 MS. FALKE:  
6 Fran Falke, Financial Services.  
7 MR. BROUSSARD:  
8 Sam Broussard, UST Division.  
9 MS. ISAACKS:  
10 Natalie Isaacks, from Louisiana Oil  
11 Marketers.  
12 MR. BLANCHARD:  
13 Kyle Blanchard, UST Division.  
14 MS. VICKIE (INAUDIBLE):  
15 Vickie (inaudible), DEQ Attorney.  
16 MR. TWILLEY:  
17 Clinton Twilley, UST Division.  
18 MR. KEMP:  
19 Trey Kemp, DEQ Trust Fund.  
20 MR. EFFERSON:  
21 Jason Efferson, DEQ Trust Fund.  
22 MS. VIZINAT:  
23 Roger?  
24 MR. BAKER:  
25 Roger?

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1 services report. Ms. Lacey, we'll hand it  
2 over to you and instruct us the tab.  
3 MS. VITTERI:  
4 Okay. It's tab three. If ya'll  
5 please turn to tab three.  
6 All right. Again, I'm Lacey Vitteri,  
7 an accountant in financial services. Today,  
8 I'll be discussing the results from the  
9 first quarter of fiscal year '19.  
10 As of September 30, we've deposited  
11 approximately 4.9 million into the fund.  
12 Bulk distribution fees are roughly 500,000  
13 less than at this time last year. But we  
14 still anticipate the year-in total to be  
15 around 22 million.  
16 Interest is growing, which is great.  
17 It is slightly higher than double the amount  
18 we received at this time last year.  
19 Total claims for reimbursements, as of  
20 September 30, were 3.3 million. Almost  
21 exactly the same at this point last year.  
22 Now, going to the bottom of the page,  
23 the total cash in the fund is 111.2 million.  
24 Once you deduct the interest and the  
25 liability of 78 million, that leaves an

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1 MR. BRIGHT:  
2 Roger Bright, Jones Environmental.  
3 MR. MILAZZO:  
4 Anyone else on the phone?  
5 (No response.)  
6 MR. MILAZZO:  
7 Thanks to everyone for being here  
8 today.  
9 I'd like to ask you to turn your  
10 attention now to the August 16, 2018 minutes  
11 of this board. And if I could ask someone  
12 for a motion to please adopt the minutes, if  
13 you had an opportunity to review them.  
14 MR. BURNHAM:  
15 Motion to adopt.  
16 MR. MILAZZO:  
17 Do I have a second?  
18 MR. ST. ROMAIN:  
19 I'll second.  
20 MR. MILAZZO:  
21 Nick seconds. All in favor?  
22 (All indicted "aye".)  
23 MILAZZO:  
24 Adopted.  
25 Okay. Let's go into the financial

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1 unobligated balance of 24.9 million.  
2 On the second page of this report, it  
3 includes a projection of the transfer from  
4 the trust fund to ETF to cover admin  
5 expenses from both the current fiscal year  
6 and next fiscal year.  
7 We expect this year's transfer to be a  
8 little less than last year. One of the  
9 reasons is because the indirect cost rate is  
10 lower this year than last year.  
11 Any questions?  
12 MR. MILAZZO:  
13 Let's go back to, if you don't mind,  
14 on the indirect cost --  
15 MS. VITTERI:  
16 Okay.  
17 MR. MILAZZO:  
18 -- on the expenditure side. Give me  
19 your definition --  
20 MR. HILL:  
21 Good evening, this is Kerry Hill  
22 calling in. How are ya'll doing?  
23 MR. MILAZZO:  
24 Kerry Hill?  
25 MR. HILL:

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1 Yes, sir.  
2 MR. MILAZZO:  
3 Kerry, welcome. We're on the  
4 financial report. Lacey has just presented,  
5 and we're in a -- asking questions if you  
6 have any. So --  
7 MS. VITTERI:  
8 Okay. The indirect cost rate is  
9 approved by EPA and we use half of  
10 whatever's approved by them as our  
11 percentage. We calculate it for the  
12 motor fuel trust fund.  
13 So this year, it's actually 18.01  
14 percent lower than it was last year. But  
15 that was total. So for the motor fuel,  
16 would be half of that. So nine percent.  
17 And your -- indirect is like your  
18 overhead cost.  
19 MR. MILAZZO:  
20 Okay.  
21 Any other questions on the financial  
22 report?  
23 (No response.)  
24 MR. MILAZZO:  
25 I need a motion to adopt the financial

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1 report.  
2 MR. ST. ROMAIN:  
3 Motion to adopt the financial report  
4 as written.  
5 MR. MILAZZO:  
6 I need a second.  
7 MR. McCARTNEY:  
8 I second it.  
9 MR. MILAZZO:  
10 All in favor?  
11 (All indicated "aye".)  
12 MR. MILAZZO:  
13 Adopted.  
14 Let's move to the auditor's status  
15 report. And -- Cy.  
16 MR. MORIN:  
17 Good afternoon. Cy Morin, DEQ Audit.  
18 If you'd turn to tab four, please.  
19 This -- this report represents -- the first  
20 page of this report represents 20 open motor  
21 fuel delivery fee audit cases.  
22 This list, as of November 9, 2018  
23 included two cases that have been assessed  
24 for unpaid late fees and we were awaiting  
25 payments of \$132.09 and \$2,942.24. Since

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1 last week, since the 9th, we discovered the  
2 \$2,900 assessment had been paid in full and  
3 we closed the file. We also learned that  
4 the business that was assessed \$132 was sold  
5 at the end of 2016. This morning, the  
6 auditor spoke to a representative of the new  
7 company, who asserted that they would pay  
8 that assessment. So we should see that  
9 soon.  
10 One case resulted in an overpayment of  
11 \$4,419.06 and we're awaiting a refund to be  
12 issued in order to close the file. The  
13 overpayment was due to human input error  
14 when calculating fees on the monthly report.  
15 We've notified the business of the  
16 overpayment and pending refund.  
17 Eight cases are awaiting review.  
18 Pending final review, one with a potential  
19 assessment of \$978.33 and seven are  
20 potential clean audits with no assessment.  
21 And then the remaining nine cases are  
22 still in progress with the results to be  
23 determined and finalized.  
24 Do we have any questions on this page?  
25 (No response.)

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1 MR. MORIN:  
2 If not, turn to the second page.  
3 The status of -- of these four cases  
4 in legal remain the same. Cases one, three  
5 and four are still with the Office of Debt  
6 Recovery. And as of November 8, we have not  
7 received any payments from ODR on these  
8 cases.  
9 Case number two continues to make  
10 regular monthly payments. The last payment  
11 of \$200 was received on October 12. If  
12 anything happens with that and they fail to  
13 continue to remitting, we'll send it to ODR  
14 as well.  
15 So as of today, the four cases  
16 represent \$104,305.20 in late -- in  
17 delinquent motor fuel delivery fees and late  
18 payment penalties, plus the attorney's fees  
19 and court cost you see here on the page, for  
20 a total of \$116,000.  
21 That concludes my update. If you have  
22 any questions?  
23 MR. MILAZZO:  
24 Any questions?  
25 (No response.)

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1 MR. MILAZZO:  
2 Cy, I would think we'd want to have a  
3 motion to adopt this as well too, correct?  
4 MR. MORIN:  
5 Correct.  
6 MR. MILAZZO:  
7 Motion to accept the audit report?  
8 MR. ST. ROMAIN:  
9 I'll second it.  
10 MR. MILAZZO:  
11 Well, we got a first? Second?  
12 MR. McCARTNEY:  
13 I'll second.  
14 MR. ST. ROMAIN:  
15 First.  
16 MR. MILAZZO:  
17 Okay. Well, we have a first and a  
18 second. All in favor?  
19 (All indicated "aye".)  
20 MR. MILAZZO:  
21 All right. Cy, I want to say thanks  
22 again. I -- I know over the years as we've  
23 paid more and more attention to this -- and  
24 it's obviously a lot of tension, so I just  
25 wanted to say thanks.

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1 MR. MORIN:  
2 You're welcome.  
3 MR. MILAZZO:  
4 We just went through it. Absolutely,  
5 professionally done. And I can't say enough  
6 about the -- the whole process. So thank  
7 you guys.  
8 MR. MORIN:  
9 You're welcome.  
10 MR. MILAZZO:  
11 Okay. Trust fund status report, Mr.  
12 Jeff Baker.  
13 MR. BAKER:  
14 Good afternoon. This is Jeff Baker.  
15 If you'll turn to tab five in your packets.  
16 These are the figures from the first quarter  
17 of fiscal year 2019.  
18 If you'll look at the first report,  
19 the report of activities from motor fuel  
20 trust fund current activities. It says,  
21 during the first quarter of fiscal year  
22 2019, the trust fund has received 265  
23 applications, totaling a requested amount of  
24 approximately 4.4 million dollars.  
25 As of the end of September 2018, the

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1 trust fund had 87 pending applications to  
2 process, which had requested amounts,  
3 totaling approximately 1.6 million dollars.  
4 213 applications were processed for payment  
5 during the fiscal year, totaling  
6 approximately 3.4 million dollars. And 39  
7 applications were returned with  
8 deficiencies.  
9 Now, the last board meeting, one of  
10 the members asked me to make some tweaks to  
11 this report. As I go through my numbers,  
12 this is actually quarterly totals. And so,  
13 when you look at the report, you don't see  
14 those quarterly totals. You see the  
15 individual monthly numbers. And that  
16 doesn't really effect this one because the -  
17 - the monthly number is the quarterly total  
18 for this quarter. However, we have made  
19 some changes for future reports and we're  
20 going to have a quarterly total at the end  
21 of each quarter. So you'll see some changes  
22 to this report next time.  
23 If you'll turn the page. The next  
24 page is titled report of cumulative  
25 activities for motor fuel trust fund. Under

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1 this tab, this document lists the historical  
2 values related to the trust fund and  
3 strictly provided for the board's  
4 informational purposes. We do tweak it  
5 every month. Every -- every month, every  
6 quarter, you'll see at the bottom -- and  
7 you'll see for fiscal year '19, you'll see  
8 the numbers and they correlate over to the  
9 first report. So as the year goes on,  
10 you'll see those changes.  
11 If you'll turn the page. The next  
12 page, you'll see the monthly motor fuel  
13 trust fund obligation determination. This  
14 worksheet list the various component  
15 determinations of the potential obligations  
16 of the trust fund as of the end of September  
17 2018.  
18 For sites in the corrective action  
19 phase, the outstanding liability of  
20 corrective action budget and estimated cost  
21 to reach closure at the end of September  
22 2018 was approximately 27.4 million dollars.  
23 This total includes the CAP budget remaining  
24 amount and the RAC estimated cost to closure  
25 amounts.

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1 If you'll look at your -- there were  
2 some handouts that were not in the packet.  
3 I think they were on your chair when you got  
4 here. If you'll look at the summary report  
5 for the motor fuel trust fund active sites  
6 without corrective -- without -- I mean,  
7 with corrective action, I'm sorry.  
8 Corrective action plan summary report for  
9 motor fuel trust fund active sites. What  
10 this is, is, this is a report of each  
11 individual site and that amount of money  
12 that we've spent on it, CAP budget, the  
13 whole -- kind of an overview of that site.  
14 You'll also notice, it has the first app  
15 received and the last app processed date.  
16 That was an addition that one of the board  
17 members asked us to include.  
18 The next section in the obligation  
19 report is, the fund obligation recognized  
20 for sites without ROG approved CAP budgets.  
21 That's approximately 21.8 million dollars.  
22 This is determined using a three-year  
23 average site closure cost and applying these  
24 costs to active trust fund sites without  
25 current CAP budgets.

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1 Again, if you'll look to one of those  
2 handouts that was in your chair when you got  
3 here, the next one is titled, summary report  
4 for motor fuel trust fund active sites  
5 without corrective action plans. That again  
6 is a -- a summary of all the individual  
7 sites included in this, as well as the  
8 estimated cost and -- and dates and number  
9 of applications processed. Just an overview  
10 of each site included in that report.  
11 Going back to our monthly obligation  
12 determination page. The fund obligation  
13 recognizes 23 sites that have been  
14 determined to be trust fund eligible,  
15 however, have not submitted reimbursement  
16 applications. That amount is 5.9 million  
17 dollars approximately.  
18 This is also determined using a three-  
19 year average site closure and applying these  
20 costs to sites that have requested  
21 eligibility, that have not yet submitted a  
22 request for reimbursement from the fund.  
23 The five-year projected fund  
24 obligation related to the motor fuel trust  
25 fund to environmental trust fund transferred

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1 is 22.9 million -- well, actually,  
2 approximately 23 million dollars. This  
3 estimate uses the three-year average dollars  
4 transferred from the motor fuel trust fund  
5 to the environmental trust fund and  
6 multiplies that average by an estimated five  
7 years.  
8 The total estimated obligated amount  
9 is \$78,099,289, which represents the 2.2  
10 million dollar decrease compared to last  
11 quarters estimated amount. This reduction  
12 was attributed to the reduction of the  
13 number of non-CAP sites and also a minor  
14 decrease in the -- in the three-year average  
15 cost to close estimate.  
16 Now, if you'll turn to page -- to page  
17 -- the next page in your packet is titled  
18 trust fund sites that had a release granted  
19 no further action. There were 11 locations  
20 that had -- that -- that we had that -- had  
21 no further actions on this year, for the  
22 quarter.  
23 Now, if you'll turn to the next page,  
24 these are incidents determined eligible for  
25 the motor fuel trust fund. This report

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1 shows the number of potential trust fund  
2 sites that were reviewed and made eligible  
3 during the current fiscal year. That was a  
4 total of ten sites, representing 15 active  
5 incidents.  
6 Now, for points of interest, Act 150  
7 of the -- the Louisiana Regular Session was  
8 implemented effective October -- on August  
9 1st, 2018. This new law allowed the  
10 Secretary, after consideration of the  
11 recommendation from the board, to change the  
12 amount of the fee on an annual basis, but  
13 caps the fee at the current rate of \$72 for  
14 every withdrawal of 9,000 gallons of bulk  
15 fuel of point eight cents per gallon.  
16 The new law requires the board to  
17 determine a minimum level of funding by  
18 conducting an annual review of receipts and  
19 disbursements from the fund, along with the  
20 projected amounts expected to be expended  
21 for the next fiscal year. Further requiring  
22 -- it further requires the board to meet at  
23 the end of each fiscal year to determine  
24 it's recommendation for setting the fee for  
25 the next fiscal year.



1 The new law also negated the language  
2 requiring a suspension of the fees  
3 collection if the fund balance to current  
4 obligation deferential exceeds 40 million  
5 dollars. Okay?

6 As discussed in the last board  
7 meeting, the department has been researching  
8 actuarial consults to review our fund for  
9 the purpose of providing criterial  
10 information to assist the board in this  
11 assessment. A firm has been selected and we  
12 are currently working with the -- working on  
13 a contract.

14 The company that was selected was the  
15 Pinnacle Actuarial Services.

16 The initial report will include an  
17 evaluation of the current and future claim  
18 reserves, a projection of the future claim  
19 liabilities and the cash flow scenario based  
20 upon various fee options. Based upon the  
21 expected time frame, we expect this report  
22 will be ready for the board prior to the  
23 February meeting, hopefully, sometime mid-  
24 January. So we'll -- we're -- we're going  
25 to try to get that to ya'll in ample time

1 Okay.  
2 MR. BAKER:  
3 However, the law now has been changed  
4 to where the board can recommend to the  
5 Secretary a rate -- a fee rate which will  
6 obviously change that balance. So instead  
7 of using that as a mechanism to control  
8 that, the board and the Secretary can now  
9 control the fee to control that that balance  
10 is where we want it to be.

11 MR. BURNHAM:  
12 What is the balance at which the  
13 legislature can potentially snatch money  
14 from the trust fund?

15 MR. BAKER:  
16 I can't answer that.

17 MR. BURNHAM:  
18 Any -- didn't -- didn't that happen at  
19 some point, a year or two ago?

20 MR. BAKER:  
21 Lacey -- they -- they did take some.

22 MS. VITTERI:  
23 Yes.

24 MR. BURNHAM:  
25 So that -- that's not based on a magic

1 before the meeting so that ya'll can take a  
2 look at it and be able to digest it.

3 A subsequent review in the latter part  
4 of fiscal year 2019, this review will  
5 consider analysis of high cost and long term  
6 site claims and program operation  
7 considerations and their impacts, which  
8 would include deductibles, long programs and  
9 the impact of the potential of including  
10 AST's into the fund. The associated report  
11 for this study will be completed and  
12 hopefully available by the end of this  
13 fiscal year.

14 I can take a breath now. That pretty  
15 -- that finishes up what I have. So if  
16 anybody has any questions?

17 MR. BURNHAM:

18 Jeff, would you go back to the 40  
19 million number? What does that represent?

20 MR. BAKER:

21 What that means is that the law up to  
22 this point said that if our bank balance was  
23 40 million dollars more than our obligation,  
24 then we had to stop collecting the fee.

25 MR. BURNHAM:

1 number?  
2 MR. BAKER:  
3 No. No.  
4 MR. BURNHAM:  
5 Okay.  
6 MR. BAKER:  
7 There is no magic number.

8 MR. BURNHAM:  
9 Okay.

10 MR. ST. ROMAIN:  
11 It's not a protected fund.

12 MR. BAKER:  
13 Well, it is. It is a dedicated fund.  
14 However, the legislature -- the law does  
15 allow a certain percentage under emergency  
16 considerations that they can go into the  
17 dedicated funds and do that. But it -- it's  
18 happened one time that I know of, maybe  
19 twice. Maybe twice. I know we also had  
20 some money that was over in the escrow  
21 account with the AG's office and I think  
22 there were some funds moved at that point.

23 MR. FULTON:  
24 There are some restrictions on it.  
25 But I'm not sure of all of the restrictions,

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1 but they have to declare the emergency, five  
2 or six or --  
3 MR. BAKER:  
4 Yes. It's not five percent of the  
5 entire balance. It's five percent of the  
6 operating budget.  
7 MR. BURNHAM:  
8 Got you.  
9 MR. McCARTNEY:  
10 That request from the AG's office,  
11 that was suppose to --  
12 MR. BAKER:  
13 That was -- that was from lawsuits  
14 that were in the escrow account that were  
15 waiting to be moved back over to the trust  
16 fund.  
17 MR. MILAZZO:  
18 So -- and Perry is not here, but in  
19 respect to that, I know there was some  
20 concern because the money in the AG's office  
21 is in a kinda protected space at the moment.  
22 And there was some consideration of this  
23 board to really leave the funds there at the  
24 moment, until there's more clarity of the  
25 raid on -- on the trust fund. I do think

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1 it's appropriate to say you guys, with the  
2 help of Louisiana Oil Marketers and pressure  
3 on -- you know, on legislature --  
4 legislatures that, you know, we -- there's  
5 been a great job of protecting those funds.  
6 So I guess we're all subjected to  
7 conditions. But in the past, you know,  
8 considering the amount of money that was  
9 coming away, or out of a lot of funds, as we  
10 know of today, we came out really well.  
11 MR. BURNHAM:  
12 Yes.  
13 MR. MILAZZO:  
14 And so, if there is money, at least as  
15 I last recall, still sitting in the AG's  
16 office, a recent consideration where that  
17 plans -- am I right about that?  
18 MR. BAKER:  
19 If I'm not mistaken -- Lacey, please  
20 correct me if I'm wrong. I believe a  
21 majority of the remaining funds has been  
22 transferred back into the environment --  
23 into the motor fuel trust fund; is that  
24 correct?  
25 MS. VITTERI:

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1 There's seven million, I think, still  
2 left.  
3 MR. MILAZZO:  
4 I would, maybe in a future meeting,  
5 maybe put that on the agenda as an update  
6 and be some input as to perhaps where is it  
7 and what's the likelihood of seeing that  
8 transfer.  
9 But -- so, you know, you look at, you  
10 know 111 -- 111 million dollars as you  
11 report, and the 78 million, as you just  
12 finished in your status report, Jeff, it's  
13 fair to say that everything that's been  
14 approved that we know, that has a budget, is  
15 in this 78 million dollars of obligation, as  
16 we know it today. Is that fair to say?  
17 MR. BAKER:  
18 Yes, sir. Yes, sir.  
19 MR. MILAZZO:  
20 Okay. And really, the unencumbered  
21 amount sitting at about 24 million dollars  
22 today.  
23 MR. BAKER:  
24 Right.  
25 MR. MILAZZO:

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1 It's still considered to be pretty  
2 healthy. So the one question that I -- when  
3 you talk about change in the fee structure,  
4 and -- and now that that's been changed  
5 legislatively, is it the fee on the per tank  
6 basis or does it carry into the fee on the  
7 per gallon basis, as well? How much  
8 latitude? Because there's two components of  
9 the fee, right?  
10 MR. BAKER:  
11 Well, it -- it ends -- we -- we list  
12 it as \$72 per 9,000 gallons, but it really  
13 ends up being paid pretty much on a per  
14 gallon basis. I mean, so when they report  
15 it to us, it goes by the number of gallons.  
16 MR. MILAZZO:  
17 Okay.  
18 MR. BAKER:  
19 And so I'm assume -- assuming that  
20 that's not going to change. It would be --  
21 so you'd be making some tweaks -- I'm not  
22 sure how legal --  
23 MR. FULTON:  
24 Yes. So there's two components,  
25 right, the annual fee and the -- the CPG,

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1 right?  
2 MS. ISAACKS:  
3 It's per gallon, is what I recall.  
4 MR. FULTON:  
5 But it's a good question.  
6 MR. ST. ROMAIN:  
7 You're referring to the tank fee and  
8 the delivery --  
9 MR. MILAZZO:  
10 There's a registration -- an annual  
11 registration fee. Does that fee have any  
12 latitude for change or is it just the cents  
13 per gallon?  
14 MR. BAKER:  
15 No. That's set.  
16 MR. MILAZZO:  
17 Okay. Good. All right.  
18 MR. BAKER:  
19 No. The fee that we're talking about  
20 is strictly the delivery fee. I'm sorry. I  
21 misunderstood what you asked.  
22 MR. MILAZZO:  
23 Okay. So any other questions  
24 regarding that?  
25 MR. ST. ROMAIN:

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1 And that recommended fee change would  
2 happen at the February meeting; is that  
3 correct?  
4 MR. BAKER:  
5 Yes. I think the intention is that we  
6 would -- that information will be provided  
7 to the board in January, ya'll would have  
8 that, we could discuss it at the February  
9 meeting. The recommendation would then go  
10 from the board to the Secretary. The  
11 Secretary would make a decision. Then that  
12 would give us several months to inform the  
13 stakeholders, prior to July 1, it's taken  
14 effect, the new fee take effect, which would  
15 be in effect for at least a year, from July  
16 1 to June 30.  
17 MR. ST. ROMAIN:  
18 Okay. Then you also mentioned -- go  
19 ahead.  
20 MR. McCARTNEY:  
21 Then you got Pinnacle -- as far as  
22 January and the year-end work, is that all  
23 the same thing?  
24 MR. BAKER:  
25 Yes, sir. It's -- it's -- it's a

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1 phase one and a phase two.  
2 MR. ST. ROMAIN:  
3 You said phase two would be before the  
4 end of fiscal year 2018?  
5 MR. BAKER:  
6 That's the intention.  
7 MR. ST. ROMAIN:  
8 To try and have a recommendation  
9 before July of that as well?  
10 MR. BAKER:  
11 Well, that -- I mean, there -- this is  
12 going to be for more of informational  
13 purposes to the board. It won't really be a  
14 -- a recommendation related to the fee.  
15 That would be in the phase one aspect, ready  
16 for January. That would be more of ways  
17 that we could improve the program, some  
18 recommendations to the board, along those  
19 lines, aspects of the different programs, if  
20 you make -- if you'd implement this program,  
21 how it would effect the fund and things of  
22 that nature.  
23 MR. ST. ROMAIN:  
24 Right.  
25 MR. BAKER:

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1 Yes.  
2 MR. MILAZZO:  
3 Any other comments or questions?  
4 (No response.)  
5 MR. MILAZZO:  
6 Could I get a motion to accept the  
7 status report?  
8 MR. BURNHAM:  
9 Motion to accept.  
10 MR. McCARTNEY:  
11 Second.  
12 MR. MILAZZO:  
13 All in favor?  
14 (All indicated "aye".)  
15 MR. MILAZZO:  
16 So adopted.  
17 Okay. Third party claims. And I  
18 guess, Perry?  
19 MS. CARTER:  
20 Jill Carter. And there are no new  
21 updates on the third party claims at this  
22 time.  
23 MR. MILAZZO:  
24 Any comments or -- about it?  
25 (No response.)

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1 MR. MILAZZO:  
2 Okay. Well, let's move into other  
3 business.  
4 Consideration for tentative dates for  
5 board meetings in 2019. Jeff, do you want  
6 to take this?  
7 MR. BAKER:  
8 I can. This was -- these are -- these  
9 are similar dates to what we have right now.  
10 We just tried to follow that same protocol.  
11 I did touch base with Natalie and -- to make  
12 sure that there weren't any conflicts with  
13 the LOMSA schedule. And this seemed to work  
14 out for everybody.  
15 MR. MILAZZO:  
16 Anyone here have any conflicts that  
17 you know of?  
18 (No response.)  
19 MR. MILAZZO:  
20 So is this something we should, you  
21 know, just accept today and -- with the  
22 understanding as we get closer, things could  
23 change a little bit?  
24 MR. BAKER:  
25 They -- they can. I mean -- but what

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1 I would say is, I vote we approve the dates  
2 and -- and then what we will do is, we'll go  
3 ahead and put them on the calendar and the -  
4 - the venue may change. I know last year,  
5 we did do one in Alexandria -- or this year,  
6 we did one in Alexandria. And so, you know,  
7 we -- we'd like to do that again at least  
8 once or twice. It worked out well. And I  
9 think it gave everybody that's in North  
10 Louisiana a chance to kinda not travel quite  
11 so far.  
12 MR. MILAZZO:  
13 Okay.  
14 MR. BAKER:  
15 So --  
16 MR. MILAZZO:  
17 So why don't we -- can I get a motion  
18 to accept the dates as proposed, please?  
19 MR. BURNHAM:  
20 Motion to accept the dates as  
21 proposed.  
22 MR. MILAZZO:  
23 Second?  
24 MR. ST. ROMAIN:  
25 I'll second.

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1 MR. MILAZZO:  
2 All in favor?  
3 (All indicted "aye".)  
4 MR. MILAZZO:  
5 Is anybody opposed to them?  
6 (No response.)  
7 MR. MILAZZO:  
8 Okay. Scheduled.  
9 Okay. Jeff had sent out kinda of a  
10 pre-read on this RAC request for review and  
11 the trust fund reimbursement determination,  
12 perhaps maybe making a -- maybe a one time  
13 consideration. But, Jeff, I -- I'll ask you  
14 to kinda head the discussion, and then,  
15 perhaps we get into some really good  
16 discussion about what they're asking.  
17 MR. BAKER:  
18 Well, basically an overview is, one of  
19 our RACs has an office in Shreveport and  
20 they also have one in Lafayette. And the  
21 office in Shreveport, according to the RAC,  
22 doesn't have the personnel available to do  
23 typical fieldwork, okay? And they have a  
24 site in Monroe, and they have requested  
25 reimbursement of mileage from their

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1 Lafayette office to Monroe. And we -- and  
2 the trust fund denied it, because they had a  
3 closer office in Shreveport, which is  
4 according to our guidance document and our  
5 protocol. And that's been in place for a  
6 number of years.  
7 And the RAC contested it. We went  
8 back and forth. And it -- it was a very  
9 professional discussion. However, in the  
10 end, we basically agreed to disagree. And  
11 the -- the RAC asked where do they go from  
12 there, and I said, "Well, you can appeal it  
13 to the board." And so that -- I don't  
14 believe they were able to attend today.  
15 They told me they -- they weren't sure. But  
16 what they did do was, they sent -- they  
17 asked if they could send their written  
18 request. So that's what the letter was that  
19 I forwarded to ya'll yesterday. And -- and  
20 then we tried to give you, in our email, a  
21 little bit of the historical perspective of  
22 what the -- the mileage is. You know, most  
23 people, when they see mileage, they look at  
24 a -- you know, whatever the IRS rate is at  
25 the time, or the state rate, you know. And

1 I think when we originally came up with this  
2 rate, it was 51 cents a mile. I think now  
3 it's 54 and a half cents a mile. Well, the  
4 trust fund, a number of years ago, included  
5 that rate, but they also included the  
6 estimates of personnel time. So they take  
7 an engineer or geologist rate and they apply  
8 that to an average mile per hour at 50 miles  
9 per hour to come up with a dollar per mile  
10 then, and they add that to the -- the -- the  
11 IRS rate and they came up with \$1.95. And  
12 that was back around 2011/2012. Now, in  
13 2017, we had a fee increase with our new  
14 version of the guidance document, and we  
15 increased that to \$2.

16 So that was basically -- that kinda  
17 gives you a backup of -- of where -- why the  
18 mileage -- why the mileage rate seems so  
19 high.

20 Historically, the trust fund has  
21 followed this -- this guidance. And the  
22 reason we do it is, because it's very  
23 difficult for us to keep track of who has  
24 what in what office. So this -- this month,  
25 this quarter, you may have somebody in that

1 track at all.

2 MR. BURNHAM:

3 Did I interpret the email you had sent  
4 us correctly, that the trust fund staff is  
5 recommending approval of the mileage as a --  
6 but not a change of the trust fund?

7 MR. BAKER:

8 Yes. We -- we strongly recommend not  
9 changing the guidance document. We think  
10 it's good the way it is.

11 MR. BURNHAM:

12 But do you have a recommendation on  
13 whether to approve this request or not?

14 MR. BAKER:

15 Yes. I mean, we don't -- we don't  
16 feel strongly -- we -- we don't like opening  
17 Pandora boxes to be honest with you, but we  
18 understand the situation and if the board  
19 approves, we -- we wouldn't argue.

20 MR. McCARTNEY:

21 How are you going to keep that from  
22 being -- progressively getting worse?

23 MR. BAKER:

24 That's the concern. That is the  
25 concern.

1 office that can do the work, next month, you  
2 may not. And it's really not reasonable for  
3 the trust fund to keep -- to be asked to  
4 keep track of that. So we just look to see,  
5 do you have an office available closer and  
6 we go -- we use the closest office to  
7 calculate your mileage.

8 Now, in this case, like I said, the  
9 RAC has submitted this letter to the board  
10 and asked for their consideration. The  
11 trust fund staff, as we looked at this, we  
12 do strongly recommend leaving the trust fund  
13 guidance language as it is, because it has  
14 served us well. It -- I believe it has  
15 saved the trust fund quite a bit of money.

16 Now, as for how you want to handle  
17 this particular case, I'll leave that to the  
18 board. We've tried to lay it all out for  
19 you as to what the situation is. We did --  
20 you know, we do -- if you do decide to allow  
21 it, we would strongly recommend that we put  
22 some caveats on there that the RAC has to  
23 inform us immediately if they change staff,  
24 if something happens, because there's no way  
25 in the world we could know. We can't keep

1 MR. MILAZZO:

2 So -- so let me chime in, since I read  
3 this earlier today. And I thank you for  
4 articulating it as well as you did. And,  
5 you know, we sit here -- you know, we -- we  
6 pay the fee, collect the fee, and at the  
7 same time, I think we have responsibility,  
8 in particular, we as members of this board,  
9 you know, and -- and even our own  
10 association to make sure we're responsible  
11 members of this -- this trust fund. I've  
12 really struggled, Jeff, to be honest with  
13 you. Someone, they understand the guidance  
14 documents, they understand the cost  
15 structure. And, you know, if you agree to  
16 take on a job, you ought to understand the  
17 ins and outs. And, you know, I know in my  
18 own business, you know, I -- just because I  
19 decide to relocate, you know, my customer  
20 doesn't forgive me. I don't just get to  
21 pile on additional cost. And this is real  
22 troubling for me. And I got friends in the  
23 room, friends in this business. And I -- I  
24 don't mean to make any enemy with anybody,  
25 but -- but we all have responsibility and --

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1 and I think when we start making exceptions,  
2 I don't know where you stop making  
3 exceptions. And that's kinda -- you know,  
4 well, I can't get there and unfortunately,  
5 he's 400 miles away and -- and, I mean, the  
6 rules are the rules. In fact, I -- I think  
7 it ought to be simple by saying in no case  
8 can you ever request mileage greater than  
9 this number. That way, people, the RACs in  
10 the world, will begin to look at this and  
11 say, "Does this make sense for me 500 miles  
12 away?" And we're -- we're not responsible  
13 to this trust fund if we just say, you know,  
14 you can come in from Missouri if you want to  
15 and do the work. I -- I just think the  
16 rules are the rules today and -- and they  
17 ought to adhere to it and, you know, if --  
18 if it doesn't make sense, then maybe he  
19 needs to consider selling off to another  
20 action -- response action contractor.  
21 MR. BAKER:  
22 Well, and you're -- you're --  
23 MR. MILAZZO:  
24 And I don't mean to be harsh about it,  
25 but our responsibility here is pretty

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1 serious.  
2 MR. BAKER:  
3 Well, and your point is well made.  
4 There is -- you know, typically, if you  
5 wanted to hire -- and the example I use is a  
6 contractor, or a plumber, somebody, and  
7 you're in Shreveport and you want to hire  
8 somebody in New Orleans, you know, you --  
9 you may be the best plumber in the -- in the  
10 state, and you say to him, can you come up  
11 here? And he's gonna say, yes, I can, but  
12 it's -- I'm gonna charge you this mileage  
13 and this hotel rate, whatnot, to do the job.  
14 And -- and you're gonna have to make a  
15 decision, is it worth that to do that? With  
16 the trust fund, that's really not the case.  
17 Owners and responsible parties can hire  
18 anybody in the state, and the one who pays  
19 the mileage is the trust fund. And so, it's  
20 -- it's been -- you know, we -- we have some  
21 that we've paid several -- several hundred  
22 miles, round trip.  
23 MR. McCARTNEY:  
24 So this hasn't been enforced, I mean -  
25 -

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1 MR. BAKER:  
2 Well, there's nothing to enforce. We  
3 can't -- there's nothing we can do about it  
4 as the trust fund. I mean --  
5 MR. MILAZZO:  
6 So -- so the question he's asking Joe  
7 is this though, you know, what they had  
8 historically done, there's an office here in  
9 Shreveport and a job in Monroe. And so the  
10 trust fund says, as guidance, we're going to  
11 use the closest one and that's how you're  
12 going to be reimbursed. Historically,  
13 that's been okay. That's why I think there  
14 needs to be a cap anyway. So this guy  
15 decides, whoever it is, you know, well, now  
16 my office is out of New Orleans, even though  
17 I still have an office in Shreveport, but  
18 the right guy doesn't live there anymore --  
19 MR. McCARTNEY:  
20 That's just like if somebody called  
21 me, needs a load of fuel in New Orleans,  
22 then sure. I've got an office in New  
23 Orleans. I just don't have a truck down  
24 there.  
25 MR. MILAZZO:

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1 But if you told them -- if everything  
2 was up front, he may say that's too much  
3 money, right? I just think we're --  
4 MR. ST. ROMAIN:  
5 He may find a contractor closer.  
6 MR. MILAZZO:  
7 Find a contractor closer.  
8 I think the responsible thing for us  
9 is to have some sensor responsibility that  
10 we don't need to be sending people all over  
11 the state, \$2 a mile, and overnight and all  
12 this other stuff when it could be more in  
13 favor of the trust fund to do things that  
14 would have less impact to the fund.  
15 MR. McCARTNEY:  
16 I think --  
17 MR. MILAZZO:  
18 I'm just one voice here.  
19 MR. McCARTNEY:  
20 -- it's proper, because you called the  
21 contractor, he knows how he's gonna be  
22 reimbursed. He knows it proposes all this.  
23 MR. ST. ROMAIN:  
24 He knew that when he took the job.  
25 MR. McCARTNEY:

1 He -- he accepted the job.  
2 MR. MILAZZO:  
3 He knew it when he took the job.  
4 MR. McCARTNEY:  
5 He knows the guidelines. He can make  
6 the call whether he can break even eating  
7 that mileage et cetera.  
8 MR. MILAZZO:  
9 So let me say -- any comments from  
10 those on the phone?  
11 MR. BRIGHT:  
12 Yes. This is Roger with Jones  
13 Environmental. I -- I agree with what  
14 you're saying, Mr. Milazzo. I -- I think  
15 it's dangerous to -- to offer an exception  
16 to a rule that's worked well. As -- as a  
17 RAC -- and we have multiple offices  
18 throughout the state, and I could make a  
19 thousand arguments as to why someone in New  
20 Orleans is not qualified to do a job there  
21 and I need to send somebody from Shreveport.  
22 I think ultimately we'll -- we'll open up  
23 that box and we'll pay a lot more money out  
24 of the trust fund. So I think the right  
25 thing to do is leave the rules as they are

1 there have been some reports that have been  
2 written on the project. I'd be interested  
3 to know, did those reports come out of that  
4 closer office, or did they come out of this,  
5 you know, further office that he's saying he  
6 --  
7 MR. BAKER:  
8 I'd have to -- I'd have to research  
9 that.  
10 MR. BURNHAM:  
11 Yes.  
12 MR. BRIGHT:  
13 And -- and see what the letter -- what  
14 the letter is saying, that I've got here on  
15 my desk, is that he doesn't have the  
16 qualified personnel to do the sampling or  
17 operations made to the system in the  
18 Shreveport office. Qualified versus trained  
19 and versus decisions for business --  
20 MR. BURNHAM:  
21 Yes. I -- I -- I'm not disagreeing  
22 but I did want to point out that there --  
23 you know, there -- there could be times.  
24 But if they do UST work out of that office,  
25 the fact that they don't have the perfect

1 with no exception.  
2 MR. MILAZZO:  
3 Thank you.  
4 MR. BRIGHT:  
5 Yes, sir.  
6 MR. MILAZZO:  
7 I don't want to stop a good  
8 discussion. Any other comments from  
9 anybody?  
10 MR. BURNHAM:  
11 I just want to say to the -- to the  
12 benefit of the consultant, I do understand.  
13 I -- I take the for instance if -- if I was  
14 to start an office in New Orleans to sell  
15 widgets and it had nothing to do with UST,  
16 right now, I get paid to drive to New  
17 Orleans, if we have a site in New Orleans,  
18 and to drive back. And would -- would the  
19 opening of an office to sell widgets exclude  
20 me from that? And the answer is yes. And I  
21 think that's what this consultant was trying  
22 to point out. I think he was saying his  
23 office closer doesn't do UST work. Is that  
24 correct, or -- I'd be interested to know  
25 where the report came out of. I'm sure

1 guy to go do that is -- is irrelevant, I  
2 think. And -- and there's many times where  
3 an engineering firm has to send some --  
4 someone who's more qualified than they  
5 needed to be to do it --  
6 MR. BRIGHT:  
7 Right.  
8 MR. BURNHAM:  
9 -- but they're gonna get the rate that  
10 the trust fund pays for the right guy to do  
11 it, the least qualified -- or the one with  
12 the least qualifications. So I'm not  
13 arguing. I'm just -- wanted to bring it up  
14 from the RACs --  
15 MR. MILAZZO:  
16 No. I mean, we -- we want a good  
17 discussion because we're gonna take action  
18 on it.  
19 MR. BURNHAM:  
20 Yes.  
21 MR. MILAZZO:  
22 Any other comments?  
23 (No response.)  
24 MR. MILAZZO:  
25 So let's see if we can --

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1 MR. ST. ROMAIN:  
2 I think I can get it.  
3 MR. MILAZZO:  
4 You're ready?  
5 MR. ST. ROMAIN:  
6 I think so. I'd like to make a motion  
7 to not have any amendments or exceptions to  
8 the current cost control guidance document,  
9 as currently written. Is that sufficient?  
10 MR. MILAZZO:  
11 Pretty clear.  
12 MR. BAKER:  
13 Can I ask a question? As it relates  
14 to this issue?  
15 MR. ST. ROMAIN:  
16 And as it relates to this issue.  
17 MR. BAKER:  
18 Okay.  
19 MR. MILAZZO:  
20 Do I have a second?  
21 MR. McCARTNEY:  
22 I second.  
23 MR. MILAZZO:  
24 All in favor?  
25 (All indicted "aye".)

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1 MR. MILAZZO:  
2 Anyone opposed?  
3 (No response.)  
4 MR. MILAZZO:  
5 It's adopted that we make no exception  
6 as requested by this response action  
7 contractor.  
8 MR. BAKER:  
9 Thank ya'll.  
10 MR. MILAZZO:  
11 Thank you. Thank you, Nick.  
12 Is there any other business?  
13 (No response.)  
14 MR. MILAZZO:  
15 Can I get a motion to adjourn?  
16 MR. BURNHAM:  
17 Motion to adjourn.  
18 MR. ST. ROMAIN:  
19 Second.  
20 MR. MILAZZO:  
21 All in favor?  
22 (All indicted "aye".)  
23 MR. MILAZZO:  
24 Let's get ready for Thanksgiving.  
25 THE MEETING ADJOURNED AT 1:48 P.M.

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

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22 Mark Lacour, C.C.R.  
23 # 89054  
24  
25

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1 CERTIFICATION  
2 I, Mark Lacour, Certified Court Reporter in and  
3 for the State of Louisiana, as the officer before  
4 whom this testimony was taken, do hereby certify  
5 that the above referenced individual to whom oath  
6 was administered, after having been duly sworn by me  
7 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 

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25 Mark Lacour, C.C.R.  
# 89054



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