

In The Matter Of:

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

MEETING

November 17, 2016

Associated Reporters, Incorporated

225-216-2036

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3 STATE OF LOUISIANA
4 DEPARTMENT OF ENVIRONMENTAL QUALITY
5 MOTOR FUELS UNDERGROUND STORAGE TANK TRUST
6 FUND ADVISORY BOARD
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12 The above-entitled meeting was held at the
13 IDEQ, Galvez Building, Conference Center, 602
14 North 5th Street, Baton Rouge, Louisiana,
beginning at 1:08 p.m., on November 17, 2016.
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18
19 BEFORE:
20 Lori B. Overland
21 Certified Court Reporter
22 In and For the State of
23 Louisiana
24
25

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1 APPEARANCES
2
3 Kerry Hill
Chairman
4 Durwood Franklin
5 Jeff Baker
6 Gary Fulton
7 Cy Morin
8 Johnny Milazzo
9 Perry Theriot
10 Nick St. Romain
11 Steve Burnham
12 Roger Bright
13 Theresa Chatelain
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2 EXAMINATION: PAGE(S):
3 None
4
5 EXHIBITS:
6 None
7
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9 REPORTER'S CERTIFICATE 10
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1 * * * * *
2 MR. HILL:
3 Good morning, Ladies and Gentlemen.
4 Thank everybody for making the meeting
5 today. I think -- bear with me. This is
6 the first I've seen of this. I left town
7 before my packet came in. I think what the
8 order -- roll of order, the first thing
9 we're going to do is call our first quarter
10 fiscal year 2017 meeting to order. At this
11 time, I'd like to have a roll call and
12 consideration and adoption of the May 19,
13 2016 board minutes. And then we can have a
14 discussion about that. Before we do that --
15 I think we're going to do that by the way.
16 MR. THERIOT:
17 Perry Theriot, Louisiana Department of
18 Environmental Quality Legal Staff.
19 MR. FRANKLIN:
20 Durwood Franklin, DEQ Trust Fund.
21 MR. BAKER:
22 Jeff Baker, DEQ Trust Fund.
23 MR. FULTON:
24 Gary Fulton, DEQ Underground Storage
25 Tank Remediation Division.

1 MR. BURNHAM:
2 Steve Burnham, Engineering Associates.
3 MR. BRIGHT:
4 Roger Bright, Jones Environmental.
5 MR. HILL:
6 Kerry Hill with Louisiana Oil
7 Marketers.
8 MR. MILAZZO:
9 Johnny Milazzo, Louisiana Oil
10 Marketers.
11 MR. MARCELLO:
12 Frank Marcello, Louisiana Oil
13 Marketers.
14 MR. ST. ROMAIN:
15 Nick St. Romain, Louisiana Oil
16 Marketers.
17 MS. CHATELAIN:
18 Theresa Chatelain, DEQ Financial
19 Services.
20 MR. MORIN:
21 Cy Morin, DEQ Audit.
22 MS. VIZINAT:
23 Melissa Vizinat, DEQ Trust Fund.
24 MS. ISAACKS:
25 Natalie Isaacks, Louisiana Oil

1 quarter fiscal year 2017 meeting to order.
2 MR. THERIOT:
3 Before we move to there, just to bring
4 the board up to date. As a result of the
5 flooding, of course, we were not able to
6 have one of the meetings.
7 MR. HILL:
8 Right.
9 MR. THERIOT:
10 The statute does require the four
11 meetings for the fiscal year. So it was
12 decided to have a quick meeting to comply
13 with the statute and any discussions that we
14 might have and then move to the next
15 required meeting. So you need to adjourn
16 the prior meeting before you move to the
17 second meeting.
18 MR. HILL:
19 I see that. I skipped item four. I
20 apologize.
21 May I hear a motion to adjourn the
22 first meeting that was missed because of the
23 flood?
24 MR. BURNHAM:
25 Motion to adjourn.

1 Marketers.
2 MR. PERRY:
3 Todd Perry, PPM Consultants.
4 MR. BROUSSARD:
5 Samuel Broussard, Louisiana UST
6 Division.
7 MR. KING:
8 Shawn King, Jones Environmental.
9 MR. EFFERSON:
10 Jason Efferson, DEQ Trust Fund.
11 MR. KEMP:
12 Trey Kemp, DEQ Trust Fund.
13 MS. STUMP:
14 Randi Stump, DEQ Trust Fund.
15 MR. HILL:
16 Okay. Thank you for the roll call.
17 At this time, I'd like a motion to adopt the
18 minutes.
19 MR. MARCELLO:
20 Mr. Chairman, so moved.
21 MR. MILAZZO:
22 Second.
23 MR. HILL:
24 Okay. Thank ya'll.
25 Item number five, call for the second

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

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

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

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

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

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

The above-entitled meeting was held at the LDEQ, Galvez Building, Conference Center, 602 North 5th Street, Baton Rouge, Louisiana, beginning at 1:08 p.m., on November 17, 2016.

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I N D E X

EXAMINATION:	PAGE(S) :
None	
EXHIBITS:	
None	
REPORTER'S PAGE	9
REPORTER'S CERTIFICATE	10

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DEPARTMENT OF ENVIRONMENTAL QUALITY

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11 MR. KEMP:

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13 MS. STUMP:

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15 MR. HILL:

16 Okay. Thank you for the roll call.

17 At this time, I'd like a motion to adopt the
18 minutes.

19 MR. MARCELLO:

20 Mr. Chairman, so moved.

21 MR. MILAZZO:

22 Second.

23 MR. HILL:

24 Okay. Thank ya'll.

25 Item number five, call for the second

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DEPARTMENT OF ENVIRONMENTAL QUALITY

8

1 MR. HILL:

2 Do I hear a second?

3 MR. MORIN:

4 Second.

5 MR. HILL:

6 Okay. Thank you.

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

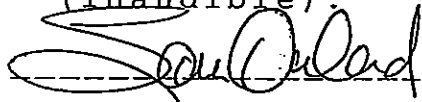
8 * * * * *

REPORTER'S PAGE

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21 Lori Overland, C.C.R.
22

97083

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

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3 and for the State of Louisiana, as the officer
4 before whom this testimony was taken, do hereby
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7 by me upon authority of R.S. 37:2554, did testify as
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16 board, that I have acted in compliance with the
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19 and in rules and advisory opinions of the board;
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Lori Overland C.C.R.

97083

In The Matter Of:

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MOTOR FUELS UNDERGROUND STORAGE TANK TRUST FUND*

*MEETING
November 17, 2016*

*Associated Reporters, Incorporated
225-216-2036*

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

The above-entitled meeting was held at the LDEQ, Galvez Building, Conference Center, 602 North 5th Street, Baton Rouge, Louisiana, beginning at 1:13 p.m., on November 17, 2016.

BEFORE:

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

A P P E A R A N C E S

Kerry Hill
Chairman

Durwood Franklin
Jeff Baker
Gary Fulton
Cy Morin
Johnny Milazzo
Perry Theriot
Nick St. Romain
Steve Burnham
Roger Bright
Theresa Chatelain

Melissa Vizinat
Sam Broussard
Jason Efferson
Shawn King
Trey Kemp
Randi Stump
Natalie Isaacks
Todd Perry

* * * * *

I N D E X

EXAMINATION:

PAGE(S):

None

EXHIBITS:

None

REPORTER'S PAGE

78

REPORTER'S CERTIFICATE

79

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MR. HILL:

Now, let's have a call for the second quarter fiscal year 2017 board meeting. I assume we need a roll call.

MR. THERIOT:

We'll need a roll call.

MR. HILL:

Could we have a roll call for today's meeting?

MR. THERIOT:

Perry Theriot, LDEQ Legal Staff.

MR. FRANKLIN:

Durwood Franklin, DEQ Trust Fund.

MR. BAKER:

Jeff Baker, DEQ Trust Fund.

MR. FULTON:

Gary Fulton, DEQ.

MR. BURNHAM:

Steve Burnham, Engineering Associates.

MR. BRIGHT:

Roger Bright, Jones Environmental.

MR. HILL:

Kerry Hill, Louisiana Oil Marketers.

1 MR. MILAZZO:

2 Johnny Milazzo, Louisiana Oil
3 Marketers.

4 MR. MARCELLO:

5 Frank Marcello, Louisiana Oil
6 Marketers.

7 MR. ST. ROMAIN:

8 Nick St. Romain, Louisiana Oil
9 Marketers.

10 MS. CHATELAIN:

11 Theresa Chatelain, DEQ Financial
12 Services.

13 MR. MORIN:

14 Cy Morin, DEQ Audit.

15 MS. VIZINAT:

16 Melissa Vizinat, DEQ Trust Fund.

17 MS. ISAACKS:

18 Natalie Isaacks, Louisiana Oil
19 Marketers.

20 MR. PERRY:

21 Todd Perry, PPM Consultants.

22 MR. BROUSSARD:

23 Samuel Broussard, Louisiana DEQ UST
24 Division.

25 MR. KING:

1 Shawn King, Jones Environmental.

2 MR. EFFERSON:

3 Jason Efferson, DEQ Trust Fund.

4 MR. KEMP:

5 Trey Kemp, DEQ Trust Fund.

6 MS. STUMP:

7 Randi Stump, DEQ Trust Fund.

8 MR. HILL:

9 Okay. Thank ya'll.

10 At this time, we'll ask Cy Morin to
11 bring us up to date on the audit status
12 report.

13 MR. MORIN:

14 Yes, sir. Good afternoon. If you'll
15 turn to tab six. The first two pages of
16 this report detail 32 open motor fuel audit
17 cases.

18 One case has been paid in full and is
19 being prepared for closure. We collected
20 \$47.61 on this case.

21 Twenty-four cases are awaiting review.
22 In our review, we have one potential
23 credit of \$579.61 and two potential
24 assessments, totaling \$634.74. And 21
25 potential clean audits with no assessments.

1 Five cases are still in progress with
2 results to be determined. And two cases are
3 in the report writing phase. One has a
4 potential credit of approximately \$3,200 and
5 one is potentially clean with no assessment.

6 One fiscal year '17 case on the second
7 page, it was postponed around the time of
8 the flood due to an illness. It will be
9 rescheduled after the first of the year.

10 Since the last meeting, seven new
11 cases have been added to this list and six
12 cases have been closed and removed from the
13 list.

14 Of those removed, one was clean and
15 five were assessed a total of \$13,749.69,
16 all of which was paid in full.

17 And if you don't mind, turn to page
18 three of the report.

19 The department continues to pursue
20 four of these cases legally. The fifth case
21 on this list has recently been paid in full.

22 The first case -- for the first case,
23 the status conference has been set for
24 November 28th and this will be used to set a
25 trial date and discovery deadlines.

1 The business in the second case
2 continues to send in monthly payments. The
3 last payment was received on November 9th in
4 the amount of \$250.00. Legal is prepared
5 to send this -- send a 60 day notice to
6 initiate referral to ODR if payments stop.

7 The status remains the same for the
8 third case. It's been with ODR collections
9 since October 14, 2015. We have not
10 received any payments from ODR as of
11 November 8th.

12 The fourth case is a case that has
13 been paid in full. It was paid in full
14 November 9th and is being prepared for
15 closure.

16 There's been no change in the fifth
17 case. The file is ready for referral to
18 ODR. This one was held up -- I'm told by
19 legal, it was held up by a conversion that
20 ODR was going through and the flood. So
21 this should be taken care of in the very
22 near future.

23 And as you can see on this page, the
24 five -- the four remaining legal cases
25 represent a total outstanding amount of

1 \$119,723.30.

2 That concludes the audit report.

3 MR. MILAZZO:

4 Cy, I may have asked this question
5 before, but are any of these companies still
6 in business?

7 MR. MORIN:

8 Yes. You did ask that, I believe, in
9 the last meeting.

10 MR. MILAZZO:

11 Yes.

12 MR. MORIN:

13 The company that -- to my knowledge
14 that is still open is the one that has paid
15 in full.

16 MR. MILAZZO:

17 Okay.

18 MR. MORIN:

19 The other four companies are not
20 operating as motor fuel distributors, to my
21 knowledge. There's still litigation with
22 the corporations and stuff ongoing. So I
23 can't really speak to the status of the
24 corporations, but they are no longer
25 operating as motor fuel distributors in the

1 state.

2 MR. MILAZZO:

3 Okay.

4 MR. HILL:

5 Thank you, Cy. Does anybody else have
6 anymore questions or discussions related to
7 the audit?

8 (No response.)

9 MR. HILL:

10 If not, we'll go to item number seven,
11 the financial services report. And we'd
12 like to ask Theresa to deliver that.

13 MS. CHATELAIN:

14 All right. If ya'll turn to tab
15 seven, which corresponds to our agenda item,
16 I have the fiscal year 2016 ending
17 information in the lefthand box and then the
18 end of the first quarter of fiscal year 2017
19 financial information in the box on the
20 right-hand side of the page.

21 Final receipts as of -- for fiscal
22 year 2016 were just under 26 million, with
23 total disbursements of 13.7 million. So the
24 cash balance was 93 million at the end of
25 the year. When you deduct out the liability

1 on the current sites, that left us with an
2 unobligated balance of 14 million.

3 And then fast forward to the end of
4 the first quarter of 2017, which was
5 September 30th. We have total receipts
6 to date of 5.8 million. Total disbursements
7 of 2.9 million. And we're looking at a cash
8 balance of 91 million when you net out the
9 liability of the current sites of about 82
10 million, that leaves you with 9 million
11 unobligated.

12 If you'll turn to the second page,
13 this has the projected numbers for 2017 and
14 2018, giving you what the program balance
15 will be and that'll be the transfer to the
16 environmental trust fund. It's the
17 difference between the revenue available for
18 the program and the program expenditures.
19 So we're projecting right around five
20 million for both 2017 and 2018 in the
21 transfer to the environmental trust fund.

22 And if ya'll have any questions?

23 MR. MARCELLO:

24 I do.

25 MS. CHATELAIN:

1 Okay.

2 MR. MARCELLO:

3 We have a cash balance fund of 93
4 million and you have liability or
5 obligations totaling 79 million. And that
6 is how many sites?

7 MS. CHATELAIN:

8 Jeff?

9 MR. BAKER:

10 It ranges anywhere from 270 to 300,
11 depending upon the -- it has kinda
12 fluctuated that -- from those numbers in the
13 last year or so.

14 MR. MARCELLO:

15 Do you have an average?

16 MR. BAKER:

17 Not off the top of my head.

18 MR. MARCELLO:

19 Okay.

20 MR. BAKER:

21 I would guess --

22 MS. CHATELAIN:

23 285.

24 MR. BAKER:

25 -- 280, somewhere in -- 280 to 290,

1 somewhere in there.

2 MR. MARCELLO:

3 280,000 average, per site?

4 MR. BAKER:

5 Oh, no. No. You're talking about
6 cost?

7 MR. MARCELLO:

8 Yes. I'm talking about -- I'll do the
9 math, but 93 million -- I'm sorry. 79
10 million in obligations on 280 sites as an
11 example.

12 MR. BAKER:

13 Okay. I thought you were talking
14 about average number of sites. No. I mean,
15 our average closure costs on those sites
16 ranges -- at the end of the fiscal year, it
17 was --

18 MR. MARCELLO:

19 It -- it -- I'm coming up with about
20 332,000 per site --

21 MR. BAKER:

22 On --

23 MR. MARCELLO:

24 -- average.

25 MR. THERIOT:

1 There are additional costs besides the
2 cost per site. Okay. Those are the
3 directly reimbursed cost.

4 MR. MARCELLO:

5 Right.

6 MR. THERIOT:

7 There are other costs the department
8 maintains that are also figured into the
9 obligated balance, I would imagine. But I
10 would defer to the Theresa.

11 MR. BAKER:

12 Well, our average closure costs ranges
13 around \$300,000. You know, and that -- but
14 that includes all sites --

15 MR. MARCELLO:

16 Right.

17 MR. BAKER:

18 -- the high dollar sites and low
19 dollar sites. But the obligation
20 calculation, if you'd go back through and
21 look -- we -- we'll get to that in my
22 section --

23 MR. MARCELLO:

24 Yes, sir.

25 MR. BAKER:

1 -- you'll see that that actually
2 encompasses a number of categories including
3 what Perry is talking about, transfers and
4 other things.

5 MR. MARCELLO:

6 Okay.

7 MR. MILAZZO:

8 You know, that is a good question.
9 Jeff, when you look at 280 sites and
10 forecast and predicting some value for
11 cleanup, is that because of knowledge of
12 each site or is this just some average, a
13 historical number, that you march forward
14 with? Are those 280, call them, active
15 sites, is that based on information coming
16 from what the environmental companies, your
17 team -- is there something fairly precise
18 about that number?

19 MR. BAKER:

20 Well, the answer to that question is
21 yes. It's site specific, but it's also
22 kinda of an average.

23 MR. MILAZZO:

24 Okay.

25 MR. BAKER:

1 The sites that we've done corrective
2 action plans on, the RACs have come in to us
3 and told us, this is what we expect these to
4 cost.

5 MR. MILAZZO:

6 And that's that number?

7 MR. BAKER:

8 And that's part of that calculation.

9 MR. MILAZZO:

10 Okay.

11 MR. BAKER:

12 The rest of them that we're still
13 kinda in the investigation phase, we don't
14 have anything telling us what site specific
15 that number would be. So what we do is, we
16 come up with an average closure cost and we
17 apply that average closure cost to those
18 sites because we just don't know.

19 MR. MILAZZO:

20 Okay. So in that case, your number
21 would be appropriate, but -- so 280, is that
22 the total number of sites -- some you have
23 are already in remediation, some you might
24 just be looking at -- but 280, does that
25 really represent all the sites that you know

1 about?

2 MR. BAKER:

3 That represents the sites that are
4 currently receiving reimbursements --

5 MR. MILAZZO:

6 Okay.

7 MR. BAKER:

8 -- from the trust fund.

9 MR. MILAZZO:

10 Okay. So there's been some work that
11 you guys have agreed it's eligible and
12 there's some reimbursement in the process.
13 So there's a whole other group that you
14 haven't even got to that number yet.

15 MR. BAKER:

16 Yes, sir.

17 MR. MILAZZO:

18 Any idea what that number may be like?

19 MR. BAKER:

20 It varies. You also have a category -
21 - we include this in the obligation -- of
22 ones that have requested eligibility from us
23 but yet they haven't requested
24 reimbursement. And I think the last
25 quarter, when I looked at the numbers, those

1 were about 20 sites. And you have a chunk
2 of sites that have we have incidents for
3 that have never requested eligibility. And
4 there out there too. I'd say that's -- how
5 many active incidents do we have right now?

6 MR. FULTON:

7 About 400 or so. 400 or 500.

8 MR. MILAZZO:

9 Wow.

10 MR. HILL:

11 Why would you think they hadn't asked
12 for everything? They don't think they're
13 qualified or --

14 MR. FULTON:

15 But that's a total number of
16 incidents. You could have a diesel spill or
17 gas spill or --

18 MR. HILL:

19 Oh, okay.

20 MR. FULTON:

21 You could have two -- two diesel
22 spills, two gas spills --

23 MR. BURNHAM:

24 Right.

25 MR. FULTON:

1 -- on one site. You know, multiple.
2 That's the way we track that information, so
3 --

4 MR. BAKER:

5 And some cases, they'll come and
6 they'll -- basically, when they work a RAC,
7 they'll determine that the assessment is
8 going to be less than the current deductible
9 amount. And as such, they don't even
10 request eligibility.

11 MR. HILL:

12 I understand.

13 MR. FULTON:

14 We handle quite a few of those.

15 MR. BURNHAM:

16 And they have two years to do so; is
17 that correct?

18 MR. FULTON:

19 Yes.

20 MS. CHATELAIN:

21 Anything else?

22 MR. HILL:

23 Are we through with that?

24 MR. MARCELLO:

25 No.

1 MR. HILL:

2 Does that answer your question,
3 Johnny?

4 MR. MILAZZO:

5 Well, it does, because -- and I don't
6 want this to sound like an interrogation,
7 but there was a meeting yesterday -- and
8 even though I'm no longer on the board, you
9 know, a bunch of calls come in because they
10 know my roll here today and ongoing. And it
11 just wouldn't be fair for me not to have
12 really -- a much better and deeper
13 understanding so I can provide better
14 information going back. Because when you
15 look at this on the surface, I guess there's
16 some good news here, right? If you look at
17 the high 715 active sites, today, 280 sites.
18 So there's certainly double-wall systems, a
19 lot of progress being made. I think there's
20 a lot of concern for escalation of cost, I
21 think. And you look at these cleanups where
22 we were, where we are and where we may be
23 headed, there's just a lot of questions
24 coming in. And I think being part of this
25 board -- me personally speaking. I don't

1 speak for anybody else -- I probably need to
2 do a better job of understanding the total
3 role here and being able to provide greater
4 feedback, with better understanding. So I
5 think that's a big part of it, because those
6 questions are coming up, looking at cost
7 then and cost today, and understanding, one,
8 there's -- there's a cleanup process where I
9 think remediation standards have been
10 softened some and yet cost seems to still be
11 escalating for two reasons. One, cost in
12 the field and then whatever cost associated
13 with the DEQ administratively. So I'm --
14 I'm just trying to wrap my brain around it,
15 Jeff, to better understand it. It just
16 looks like on the per site, that number just
17 -- just keeps ratcheting up, where we were
18 thinking with higher standards, cost would
19 be rolling back. Does that make sense?

20 I think, Nick, you brought up a great
21 point a little bit earlier. And if you look
22 at it more scientifically, I guess --

23 MR. ST. ROMAIN:

24 Yes. The amount of dollars
25 transferred to the fund, say back in '08,

1 '09 versus today has escalated. So it's
2 about double. But the number of active
3 sites has gotten cut in three. So it's a --
4 if you look at the transfer to fund divided
5 by the number of active sites, it's
6 quadrupled, the cost per site, in the last
7 less than ten years, eight years.

8 MR. THERIOT:

9 Theresa, you want to answer that one?
10 I think that -- I think he might be
11 talking about originally, the administrative
12 expenses were not included in that
13 calculation. That's the reason why it
14 appears to jump but it really didn't.

15 MS. CHATELAIN:

16 It was low for years because we didn't
17 include the --

18 MR. THERIOT:

19 Yes, it was low for years because we -
20 -

21 MS. CHATELAIN:

22 -- total overhead.

23 MR. THERIOT:

24 -- didn't include it. And now it
25 is included in the total overall picture.

1 So while it appears to have gone up, it just
2 more truly reflects what we're doing. And
3 EPA's money has dropped. I mean, there's no
4 question that EPA's money has dropped while
5 expenses continue to rise. And so those are
6 covered by the fund and always have been
7 really, because the statute authorizes it.

8 MR. MILAZZO:

9 Well, my response to that, I think the
10 optics are this: you know, what does it look
11 like? You know, if we were having fair
12 comparisons, in all due respect to the
13 department, you know, when you look at those
14 who are generating this revenue or have the
15 responsibility, you know, for collection and
16 getting it in, you get a lot of folks asking
17 questions, well, can you guys explain that,
18 you sit on this board with a responsibility,
19 give us answers. And without that fair
20 comparison, there's not a good answer.
21 That's -- so if you can help us maybe -- and
22 not stop what you're doing. But that does
23 help that -- because when you look at it
24 here, you know, it's -- it's 3,000 versus
25 13,000 per site. So -- and we're just

1 talking about the DEQ administrative part of
2 that. But if it's not fair because in 2007,
3 or 2008 or 2005 or 2006, you guys didn't
4 report it that way, then we got -- the
5 scales not --

6 MR. THERIOT:

7 Some of that was moving here. A lot
8 of people don't understand that state
9 agencies paid for these buildings. Okay.
10 Every building that you see downtown, the
11 payments for them are credited to the agency
12 that occupies them. It's much like a
13 commercial arrangement. So some of that, we
14 didn't use to account for, now we have to in
15 the budgets. It's a little -- it's a little
16 bit different than it use to be. The
17 statute requires us, I think, if you -- in
18 the statute that we truly reflect much like
19 an insurance company would do, when a claim
20 comes in, whether the claim is actually
21 viable or not, when it gets here, we have to
22 set aside funds. That's what insurance
23 companies are required to do on their
24 accounting sheets. And so when we get a
25 request for eligibility, we have to know a

1 certain amount of funds are going to be
2 available to pay if that eventual liability
3 under accounting principles. And so we --
4 those things have been in -- those
5 accounting principles are being incorporated
6 into what we do here. And those -- that
7 was a recent development. Theresa you maybe
8 know more than I do when they began imposing
9 that -- that accounting requirement. I
10 remember when they talked about it, but --

11 MS. CHATELAIN:

12 No.

13 MR. THERIOT:

14 -- we now use that accounting method
15 that truly accounts for cost.

16 MS. CHATELAIN:

17 Right. And --

18 MR. BAKER:

19 And also --

20 MS. CHATELAIN:

21 Go ahead.

22 MR. BAKER:

23 Also, you know, part of our transfer
24 of funds is, we have to incorporate our
25 revenue coming in. Our revenue coming in

1 includes EPA grants and whatnot. And those
2 fluctuate year to year as well. And that
3 can also have an effect. And it has, I
4 think, gone down some.

5 MR. FULTON:

6 About eight percent.

7 MR. MILAZZO:

8 So is it fair to say, if you lose that
9 source of revenue, then that -- this is what
10 it's coming from?

11 MS. CHATELAIN:

12 Yes.

13 MR. THERIOT:

14 That would be correct.

15 MR. BAKER:

16 Yes, sir.

17 MR. MILAZZO:

18 Okay. I mean, that's good to know
19 because it's -- it's hard to explain some of
20 this stuff when it just looks like
21 arbitrarily, you know, it's this today and
22 there's nothing relative about it because if
23 you look at the sites and you say, well,
24 sites would drive budget, it's disconnected.

25 MR. BAKER:

1 Well, and I will tell you this as
2 well, the number of sites in the past years,
3 when I first started, we went through and
4 did a data analysis of the active sites.
5 And a large chunk of the sites we had in our
6 system at the time had actually been NFA'd
7 and closed years and years before. And we
8 went through and cleaned those up in our
9 data system. However, they were still
10 showing up on our reports.

11 MR. MILAZZO:

12 So you could have an exaggeration of
13 sites that --

14 MR. BAKER:

15 Yes.

16 MR. FULTON:

17 That -- that is -- we spent the last
18 three years --

19 MR. MILAZZO:

20 Okay.

21 MR. FULTON:

22 -- cleaning up our data systems. Yes.

23 MR. MILAZZO:

24 Well, I guess it's fair to say, we're
25 building better averages today?

1 MR. FULTON:

2 Yes.

3 MR. BAKER:

4 Yes, sir.

5 MR. THERIOT:

6 More accurately reflect what's
7 actually going on.

8 MR. FULTON:

9 And we spend a lot of time doing it.

10 MR. BAKER:

11 Absolutely.

12 MR. MARCELLO:

13 Which brings up the question that I
14 had. I had -- I had sent an email to Karyn.
15 I was requesting some information and I was
16 wondering if we -- it was just for me.

17 MS. CHATELAIN:

18 Yes.

19 MR. MARCELLO:

20 I didn't -- I didn't want to report on
21 anything. Okay.

22 MR. HILL:

23 Are there anymore questions or
24 discussions around the financial report?

25 MR. MILAZZO:

1 I'd just like to say thanks for
2 explaining it to me. Truly, I didn't want
3 it to sound like an interrogation, but I
4 need a better understanding.

5 MR. HILL:

6 Okay. We will -- if no further
7 discussion on the financial report, we will
8 move to number eight, the trust fund status
9 report. I'd like to ask Jeff to report on
10 that for us, please.

11 MR. BAKER:

12 If ya'll would go to tab eight in your
13 packets. We're going to kinda split my
14 report up. We're going to do this kinda of
15 a real quick and dirty on the end of fiscal
16 year 2016 and then we'll cover the first
17 quarter of 2017.

18 If you'll look at the first page
19 there, you'll notice that during the fiscal
20 year of 2016, the trust fund received 1000
21 applications, totaling \$15,724,270. At the
22 close of this fiscal year, the trust fund
23 had 138 pending applications, with 912
24 applications processed for payment, totaling
25 \$12,847,679. And we had 67 applications

1 that were returned with deficiencies.

2 If you'd go to the next page, the
3 tables on this page kinda give you an
4 overview of the commutative activities of
5 the trust fund over the last several years
6 and it shows you how fiscal year 2016
7 compares to the previous years.

8 If you go to the next page, this kinda
9 gets to the calculation that you were
10 talking about, Johnny, and the different
11 categories. And if you'll look, as of the
12 end of fiscal year 2016, the total
13 obligation from all the categories was
14 \$79,224,055.

15 If you go to the next section, next
16 page, it's entitled, reports of activities
17 for the first quarter of fiscal year 2017.
18 As of September -- the end of September of
19 2016, the trust fund had 143 pending
20 applications, which have requested amounts
21 totaling, \$1,728,185. 186 applications were
22 processed for payment during the fiscal
23 year, totaling \$2,632,951. And 37
24 applications were returned with
25 deficiencies.

1 Again, if you'd flip the page, the
2 table on -- this table gives you a
3 comparison of the current fiscal year to the
4 previous fiscal year. Obviously, we've only
5 covered a portion of that year, so you'll
6 see the differences there.

7 If you'll flip to the next page, this
8 is entitled, report of cumulative activate -
9 - I'm sorry -- the monthly motor fuel trust
10 fund obligation determination with September
11 30th at the top. This worksheet list the
12 various component determination of the
13 potential obligations against the trust fund
14 as of the end of September 2016. For sites
15 in the corrective action phase, the
16 outstanding liability of corrective action
17 plan and budget estimated cost to reach
18 closure as of the end of September 2016 was
19 \$25,714,755. This total includes the CAP
20 budgets remaining amounts and the RAC
21 estimated cost to closure.

22 Johnny, that was the section where we
23 were talking about, that is site specific,
24 where we know there's a corrective action
25 plan and what those cost are.

1 The next section, the fund obligation
2 recognized for sites without ROG approved
3 CAP budget is \$31,363,325. This is
4 determined by using a three year average
5 site closure cost, applying these cost to
6 the average trust fund sites without current
7 CAP budgets.

8 The fund obligation recognized for
9 sites that are determined to be trust fund
10 eligible, however, have not submitted
11 reimbursement applications is \$3,186,100.
12 This is also determined by using three year
13 average site closure cost, applying these
14 costs to the sites that have requested
15 eligibility and have yet not submitted a
16 request for reimbursement from the fund.

17 The five year projected fund
18 obligation related to the motor fuel trust
19 fund -- I'm sorry -- related to transfers
20 from the motor fuel trust fund to the
21 environmental trust fund is \$18,624,277.
22 This estimate uses a three year average
23 dollars transferred from the motor fuel
24 trust fund to the environmental trust fund
25 and multiplies this average by an estimated

1 five years.

2 The total component categories show a
3 -- correlate the quarterly obligation amount
4 of \$81,888,457.

5 Some points of interest. The trust
6 fund is continuing to work on the revised
7 guidance document. A workgroup of
8 stakeholders met on November 1, 2016 to
9 discuss the draft document and began the
10 review process. During this meeting, the
11 members had a high level review of the draft
12 document and discussed a number of issues.
13 Several breakout groups were formed to begin
14 working on various projects. We hope to
15 have a final document ready for the board's
16 review sometime in the first half of the
17 next calendar year.

18 Another point of interest. It was
19 brought to the department's attention,
20 during a recent audit, that the revised
21 obligation process that we just went over,
22 was presented and discussed by the board in
23 a previous board meeting, but was not
24 officially approved by the board. The
25 department request the board consider the

1 revised method as a viable and accurate net
2 tool for determining the potential
3 obligations against the trust fund moving
4 forward.

5 Does anybody have any questions?

6 MR. HILL:

7 Thank you, Jeff. Does anybody have
8 any questions?

9 MR. ST. ROMAIN:

10 One question. What determines the
11 annual transfer from motor fuel trust fund
12 to the environmental trust fund?

13 MR. BAKER:

14 What we do is we take the last three
15 years of transfers and we take that money,
16 we average -- average those three transfer
17 costs on an annual basis and come up with a
18 single value and multiply that times --

19 MR. ST. ROMAIN:

20 But how do you come up with those
21 annuals transfers? What -- what triggers
22 those? Do they fluctuate?

23 MR. BAKER:

24 They do fluctuate. Those are the
25 numbers we were talking about earlier. We

1 get that from the accounting group.

2 MS. CHATELAIN:

3 Yes. It's the difference between the
4 program revenue that is available for
5 department expenditures and the total
6 department expenditures. So the revenue is
7 2.6 million but the expenditures were 7.5.
8 So the additional 4.9 has to be transferred
9 back to ETF, because ETF spent the money for
10 the program.

11 MR. ST. ROMAIN:

12 Okay.

13 MR. HILL:

14 Any other questions?

15 MR. FULTON:

16 Like -- well, I just wanted to -- I
17 guess the question regarding the revised
18 method, I'd like to make a motion that we
19 accept the revised method. I guess, were
20 ya'll fine with the revised method?

21 MR. MILAZZO:

22 For reporting?

23 MR. FULTON:

24 Yes.

25 MR. BAKER:

1 For obligation --

2 MS. CHATELAIN:

3 For the obligation --

4 MR. FULTON:

5 For the obligations against the fund,
6 the -- the new revised method.

7 MR. BAKER:

8 We discussed this about a year ago and
9 we sent out the backup documentation and --
10 and it was a good discussion with the board
11 in the board meeting. However, it was never
12 voted by the board for approval.

13 MR. FULTON:

14 We never officially voted.

15 MR. MILAZZO:

16 I'm comfortable with it.

17 MR. HILL:

18 I'm -- I'm fine with it. We need to -

19 -

20 MR. FULTON:

21 So I make a motion to accept.

22 MR. HILL:

23 -- make a motion to accept.

24 MR. FULTON:

25 I do. I'm going to make a motion to

1 accept.

2 MR. HILL:

3 We have a motion to accept the new
4 revised --

5 MR. MILAZZO:

6 Second.

7 MR. HILL:

8 All in favor?

9 (All indicated "aye".)

10 MR. HILL:

11 All right. So moved.

12 We will move on to agenda item number
13 nine, third party claim status. I'd like to
14 ask Mr. Perry to bring us up to date.

15 MR. THERIOT:

16 We have one new case. And it was
17 filed within the past month. And it was a
18 second case involving AT&T, BellSouth, for a
19 manhole that, as a result of a release from
20 a nearby UST, sustained damage to the
21 communications equipment. They filed suit
22 against us. This is our second one like
23 that. It will likely settle, as the first
24 one did, because the -- the statute is such
25 that they don't own the manhole cover, nor

1 do they own the land that the manhole cover
2 sits on. It's usually a servitude and what
3 we don't -- the fund doesn't mind settling
4 for what the statute refers to as un-
5 reimbursed cost of -- of remediation,
6 meaning events to get the manhole cover
7 fixed. We will not -- there's no permanent
8 damage to any property, which the statute
9 defines as real property that has been
10 permanently devalued. So if you don't own
11 it, it's not been devalued. So we
12 anticipate that one will settle for a minor
13 amount in the future. It's our second suit
14 by them, so they're going to get familiar
15 with it and we're liable to -- each time it
16 gets in a manhole, we're going to get a
17 lawsuit where they try to get some of their
18 cost back.

19 MR. BURNHAM:

20 Perry, AT&T filed suit against the
21 station and --

22 MR. THERIOT:

23 The owner of the tank.

24 MR. BURNHAM:

25 -- then we defend the station.

1 MR. THERIOT:

2 Yes. The owner of the tank and the
3 secretary as administrator.

4 MR. BURNHAM:

5 Right.

6 MR. HILL:

7 Okay. If no further discussions on
8 that. Under agenda item number nine (a)
9 discussion of legislative changes for 2016
10 session.

11 MR. THERIOT:

12 That would also be me.

13 MR. HILL:

14 That would also be Perry.

15 MR. THERIOT:

16 I had originally planned to put this
17 on the screen but we're not able. So I'm
18 going to go through my notes here and I'll
19 just give an oral presentation.

20 Most everyone here knows about the
21 act, but it's just good to sum up what we
22 did come up with as the final. Let me take
23 a second and get my notes up.

24 Okay. Of course we had only -- we had
25 the bill that we worked on with the board

1 and -- and with everyone at session. And it
2 resulted in -- in Act 521, which we have in
3 effect today. When we got together, we --
4 we had some discussions. But the problems
5 that the DEQ were wanting to fix with this
6 bill -- and we've been very -- I'm very glad
7 to see that the board has helped us in
8 securing some of these things. We have a
9 cap in this statute, of course, that caps
10 the amount of unobligated balance that will
11 trigger the cessation of the -- of the
12 collection of the fund and then return it
13 when you get back to a balance. And there
14 was only a \$10 million difference between
15 the two. So it would've been triggering the
16 on and off switch pretty quickly throughout
17 the year, which would've been kinda of a
18 nightmare. So one of the things that 521
19 did was to raise that cap so that we
20 wouldn't have the continual switch on.
21 We can still switch off now, but it won't
22 switch on and off as quickly as it would've
23 in the past.

24 There were a few other problems. One
25 of them was that the -- at one time, all the

1 major oil companies owned many of the
2 stations and as all of you are aware of the
3 double-dipping problem, many of -- many of
4 the -- it is alleged that many of the major
5 oil companies waited until the fund came
6 into being and then filed their claims for
7 releases after -- even though they knew they
8 had releases prior to the adoption of the
9 fund, or that they filed claims against
10 their insurance companies while collecting
11 from the fund for all their remediation.
12 The department along with the AG's office,
13 of course, began the process of recovering
14 that money.

15 We have recovered a significant amount
16 of money from -- from these people and it
17 would've immediately triggered the cessation
18 of the collection had they been -- had this
19 money been deposited directly into the motor
20 fuel trust fund.

21 So we worked with the AG and we
22 decided that we would put out that -- put
23 the bill out to do a few things. We
24 included a few what we considered to be
25 reforms. We were having trouble in some of

1 the cases with the date of the release. So
2 we put a definition in for the date of
3 release that will make things a little bit
4 clearer to both the regulated community and
5 to us, which is, now, it's going to be -- if
6 we don't know an exact date, for instances,
7 your alarm goes off, we know the date, you
8 call it in. If we don't know the date,
9 which we find out a lot times from a real
10 estate transfer, it will be the date that
11 it's reported to us. And that's now clear.

12 We also were getting the -- the age of
13 bio-fuels is coming. And they're going to
14 be stored in UST's. I don't know if any of
15 you saw the news last night, but the Navy
16 now uses, I think, 40 percent bio-fuel for
17 the entire United States Navy and their
18 F-18's are flying on bio-fuel now. So the
19 age is coming for it and we needed to be
20 ready for it if it comes. Right now, before
21 521, a release from one of those, even
22 though the contents of the tank would've
23 been almost chemically identical, it would
24 not be covered because they're bio-fuels.
25 So we changed it to redefine motor fuels to

1 allow the secretary along with the advisory
2 board to declare some fuels to be motor
3 fuels if they use -- if they otherwise meet
4 the definition. And that will take care of
5 it. If we ever need it, we have. And so we
6 can get -- if you guys all of a sudden come
7 out -- they come out with a bio-fuel that
8 you're going to be placing in your UST's,
9 you will be covered.

10 We also are experiencing an increase
11 in abandoned and orphaned tanks within the
12 state. That's not a secret. One of the
13 things we did with Act 521 is, we allowed
14 the secretary to -- we -- we have a lot of
15 problems with people who don't have any
16 money and then they close their stations and
17 they can't even come up with deductibles,
18 they can't pull their tanks. There's a lot
19 of problems. So we're going -- the
20 secretary can declare a tank an abandon tank
21 for purposes of the fund. As you know, we
22 were limited to the interests on the trust
23 fund which has gotten okay. But we're now
24 going to be able to draw on the funds from
25 the cost recovery actions. So the money

1 that was coming back from the -- into the
2 fund, we can use presumably to pay for some
3 of these orphan tanks and get them out.
4 Because most of those orphan tanks did
5 actually pay into the fund at one time.

6 Okay. We're also having problems with
7 investigations not proceeding. That was one
8 of the things we would've liked to have seen
9 speed up. Sometimes we'll get a case and as
10 Jeff said earlier, it's been two years and
11 we don't have an investigation. So we don't
12 even know what the liability is at the
13 moment. We amended it and put into the act
14 a two year time limit in these
15 investigations. Currently, there's a letter
16 that will be sent out to all new releases
17 that will be telling them they have two
18 years to get their investigation in.

19 There's also the possibility that any
20 one that's -- it could be three years and
21 been sitting in house, but the bill was
22 effective August 1st. So now they have two
23 years from August 1st to get that
24 investigation in. We expect a few more
25 investigations. The result of not doing the

1 investigations is, we're not going to cover
2 your tanks. Now, this is not a major change
3 that some people believe it is. Under the
4 statute, the department always had the right
5 to declare your site to be not eligible if
6 your delay caused the price of the cleanup
7 to go way higher. Because the statute
8 requires that we use the most economically
9 efficient and timely way to cleanup the
10 site. If you sit on the site for two,
11 three, four years, there's no question that
12 the plume is spreading and you're going to
13 have to spend probably more money to clean
14 it up. So this was considered to be a
15 reform that would be set that the regulated
16 community would know, now when you have a
17 release, you need to get your investigation
18 done in two years.

19 We recently loss a motion for summary
20 judgment in a district court -- I think I
21 told ya'll about this in the last meeting
22 that I was here -- where a district ruled
23 that there were two caps on the fund, there
24 was 1 million for remediation and 1 million
25 for third party claims. We wanted to make

1 sure that that was not the case, because
2 that would double the possible liability of
3 the fund. So we -- when the amendment was
4 passed, we made it clear that there's 1.5
5 million, because we raised the cap last year
6 -- there's 1.5 million available for third
7 party claims and remediation. We don't want
8 the liability going to 3 million. So that
9 was made clear.

10 We were having trouble -- they are
11 very -- there's quite a lot of number of
12 bulk dealers that we have that hold -- are
13 holders of certificates. We are currently
14 in the process of auditing these bulk
15 dealers to find out who's still in business
16 and who's not, because there was no --
17 there's nothing in the law that -- that
18 discontinues their certificates. So we're
19 looking at those things to find out who's
20 still in business. And they're going to get
21 letters that we're going to be canceling
22 their certificates if they're not in
23 business any longer.

24 Bulk dealers used to be required to
25 have pipelines, tanks and quite a few other

1 things. And many bulk dealers don't have
2 this anymore. Bulk dealers are closer to
3 brokers than they are to the old fashioned
4 bulk dealer that used to exist. So we
5 redefined the bulk dealer to make sure that
6 you didn't have to own any infrastructure.
7 You just had to have a certificate and you
8 had -- to be a bulk dealer, you had to meet
9 the definition of a bulk dealer, which
10 include brokers. So now everyone who
11 brokers fuel is going to have to register as
12 a bulk dealer.

13 We have new -- the new definition of
14 the bulk facility, new definition of the
15 date of release, new definition of motor
16 fuels. We also tightened up on the fee
17 structure. We have a lot of sites that
18 transfer. This is a common problem up here.
19 And we send invoices because guess what, the
20 new owner doesn't fill out his new
21 (inaudible) one, so we don't know that it's
22 changed hands, but it's been changing hands
23 all the time. And we send out a bill -- a
24 fee bill to the guy who's listed in our
25 records as the owner. They don't pay it

1 because they go, I don't own that anymore.
2 I'm not paying that. That's pretty -- not
3 unusual. Now, those people will be subject
4 to what is basically the red tag. If you
5 don't pay your fees for the tanks, which are
6 very reasonable fees, they're not, you know,
7 it's -- it's -- what's it, \$59, or \$65, now,
8 I think?

9 MS. CHATELAIN:

10 60.

11 MR. THERIOT:

12 Per tank. We're not going to let you
13 receive -- you're going to get put on the
14 red tag list and you will not get any fuel
15 until you pay those fees. Because it's not
16 fair to you guys paying the fees to have
17 guys out there not paying their fees. And
18 anybody who can afford the amount of tanks
19 to drop a load of fuel into these tanks, has
20 bound to be able to afford that price.

21 So this is the new way of -- it's much
22 similar to what we did back in 1998. Those
23 of you who have been here a long time know
24 that when they put the upgrade requirements
25 in the tank world, if you didn't upgrade

1 your tanks, you couldn't get fuel. So now,
2 this will be, you got to pay your fees or
3 you don't get fuel.

4 We also wanted to establish a loan or
5 grant program. We did not -- we went along,
6 we said we don't really need the grants
7 so we'll go with the loans. The Energy Act
8 currently has a provision in it that allows
9 the state to exempt -- the secretary of the
10 DEQ can exempt any rural station out there
11 if he believes that the station is not
12 necessary to ensure fuel delivery to certain
13 populations. That is in the Energy Act.
14 That is federal law. So what we wanted --
15 it's better to upgrade them than to close
16 them in some cases. So we're not going to
17 give it away, but we're going to take
18 stations that might serve rural areas that,
19 as everyone knows here, the economic
20 viability of rural areas fueling stations
21 is getting on a very close margin, if at
22 all. So this will allow us to only use --
23 not the fund but the recovered money. Only
24 the recovered money, not the fund. In order
25 to set up a loan program to enable these

1 people to upgrade their tanks, if they feel
2 so inclined to pay the loan and upgrade
3 their tanks.

4 MR. HILL:

5 Perry, I assume that you'll go through
6 some motion or financial responsibility.
7 How does that work?

8 MR. THERIOT:

9 We are -- we are -- the statute
10 requires us to do regulations, which you
11 guys will get to see before they're ever
12 sent anywhere.

13 MR. HILL:

14 Okay..

15 MR. THERIOT:

16 We're in the preliminary process.
17 That's not going to be easy to write
18 regulations for loan making. We're not a
19 loan making group.

20 We are going to try to borrow and look
21 at some of the loan regulations that are
22 used. Our rural water group over at DHH
23 that loans money to small systems for
24 drinking water, we're going to look at
25 theirs and see if they can be adapted for

1 the use that we want to. We're not going to
2 loan out any money until we have
3 regulations.

4 Okay. And that is also restricted
5 only to the money we have recovered, not to
6 anything that's currently -- the fees
7 currently going into the fund.

8 MR. MILAZZO:

9 Could I ask a question --

10 MR. THERIOT:

11 Sure.

12 MR. MILAZZO:

13 -- in the middle? So let's just use
14 an example. And, Cy, I'm going to go back
15 to your report for a second.

16 So a three tank location, \$180 a year,
17 if my math is right. But most importantly,
18 at eight tenths of a cent, we're talking --
19 we're knocking on a door of about \$10,000 a
20 year, fee into that fund. So I'm not as
21 concerned about the guy that doesn't pay
22 that \$60. But that's your tracking
23 mechanism. But from an audit trail
24 standpoint, how do you know what that guy
25 that's paid his little \$180 might be doing

1 the balance of the year? Do you connect the
2 dots with him as a site -- registered site
3 owner. You go back to folks like me who are
4 the collects -- the collection agent,
5 submitting this for you. And if you were to
6 audit me, you took a -- I'm not really sure
7 what you do, but have. I guess you'd look
8 at all these invoices and look at maybe some
9 balance sheet numbers. Do you ever go back
10 to the specific location? Because I'm
11 awfully --

12 MR. THERIOT:

13 I think I can answer and put your mind
14 at ease, because what you're saying is a
15 misconception in the industry. The tank
16 owner does not owe the motor fuel trust fund
17 fee. It has never owed it. It is owed by
18 the bulk dealer, upon withdrawal from bulk.
19 So no, we do not go out and audit the
20 stations because they don't owe the fee.
21 It's owed by the bulk dealer.

22 Now, we're not -- you know, we're not
23 with our head in the sand. Of course,
24 you're going to pass -- bulk dealers are
25 going to pass the costs on. But legally

1 speaking, the only people who owe the fee
2 are the bulk dealers.

3 MR. MILAZZO:

4 Yes. And I -- and I get that. And I
5 guess the point I want to make, Perry, is
6 that, do you have a check and balance to
7 that process? For instance, what are the
8 total gallons, first? I guess for road
9 purpose, you would think by and large it
10 would be UST related. That's one number
11 multiplied would say, are we collecting
12 something close to this number? I just
13 worry about -- and maybe I shouldn't be
14 worried about anything. Right? I mean,
15 it's -- it's what you guys are doing. But I
16 just -- you know, I commend you guys. I
17 mean, you know, you're looking in all the
18 right places, but if you just go to a guy
19 and say, show me what you're doing. He may
20 not be doing anything with five or six guys.

21 MR. THERIOT:

22 Okay. The system is set up. And it
23 is in the regs. There is a system that
24 you're talking about. Sam who's here can
25 tell you that when you pay your tank fee,

1 you receive a certificate that you're
2 suppose to have posted at your station.
3 When an inspector goes out, which is about
4 once every three years and that -- it's
5 required by the Energy Act, once every three
6 years, that's the first thing they check, to
7 see if you have your certificate, okay, as a
8 -- as a gas. And that -- this -- the way
9 this was rewritten, is if you don't have
10 that certificate, okay, then they're going
11 to look at not delivering fuel to your
12 station. Okay. But that is part of the
13 checks. And we also -- the regulations do
14 require when a station changes hands, they
15 have 90 days, Sam, to do the (inaudible)
16 one? I think it's --

17 MR. BROUSSARD:

18 30.

19 MR. THERIOT:

20 30 days to do a new registration with
21 us. And they're suppose to do it. There
22 are many, many, many of our smaller stations
23 that change hands regularly.

24 MR. MILAZZO:

25 Yes. Well, I heard you mention that.

1 That's a challenge.

2 So -- so I can see the audit trail
3 there then. So if you go out to do -- and
4 pardon me, because I'm probably -- some
5 folks are ready to go home, but this is a --
6 if you go out and you're doing a three-year
7 inspection and reconciliation is a part of
8 that, right? So I see you do 100,000
9 gallons a month. Who's -- do you guys not
10 even look at that anymore?

11 MR. THERIOT:

12 No. The inspectors do not look at
13 your --

14 MR. MILAZZO:

15 Okay. All right. Maybe I'll take
16 that offline, but it's probably something --
17 the guys that are --

18 MR. THERIOT:

19 I will tell you --

20 MR. MILAZZO:

21 -- doing a great job, that --

22 MR. THERIOT:

23 I will tell you that that is done in
24 many states. But that is -- we're are
25 unique in this state. And I think that it's

1 probably -- we're actually I think a little
2 better. But in most of the country, this
3 fee is collected by the Department of
4 Revenue who collects your excise taxes too.
5 I have seen and requested a packet of the
6 forms that you have to fill out in those
7 states and they're about this thick. And
8 the -- only a small, one page of it, is
9 dedicated to the motor fuels underground
10 storage tank trust fund, but you have to
11 fill out the whole thing. And -- and we
12 attempted at one time to get permission from
13 the Department of Revenue here -- we
14 actually prepared a bill to allow them to
15 give us access to their excise tax figures
16 so that we could do a back audit. We -- we
17 really did want to do that. Revenue has
18 been very protective of their information
19 here and will not give it to us and actually
20 opposed us --

21 MR. MILAZZO:

22 Boy, that's a shame because that's a
23 great opportunity for you. It really is.
24 And it's surprising because you're one
25 gigantic agency at the end of the day.

1 Lending, you know, hands to -- and I'm all
2 for -- for the audit. I mean, I -- I hope
3 you guys gather that. We want
4 accountability. We absolutely support
5 accountability. Pardon me for making a long
6 discussion out of that.

7 MR. THERIOT:

8 No. And we agree with you. And
9 that's one of the reasons for this change in
10 the bill, is to force those who are not
11 paying their fees, we're -- we're going to
12 take part of the action and then we don't
13 have fees, we're not sending out the
14 certificates. Okay. And if they don't have
15 a certificate, we would hope that the driver
16 goes in and checks that certificate before
17 he drops his fuel and makes sure that
18 they're a qualified user of the fuel.

19 But that's part of the system that's
20 set up to try and make sure. We're just
21 tightening up on it a little bit to make
22 sure that we're not bringing fuel to people
23 who are not willing to pay their fees.

24 MR. BROUSSARD:

25 And let me clarify. That's the annual

1 fee.

2 MR. MILAZZO:

3 No, I understand. Right, right.

4 That's the thing that gives you information
5 about that site. That's what I'm stuck on
6 here is that, you have the evidence in your
7 hand. It's matching up -- that's only \$180.
8 I'm chasing \$10,000. That is -- that's my
9 point. How do we connect those two dots?
10 More to come. Okay? We -- we'll take that
11 offline, talk within our group. And maybe
12 as you talk legislatively, bolting this
13 thing together in future without putting the
14 burden on you.

15 MR. ST. ROMAIN:

16 Are you can get the numbers from --

17 MR. MILAZZO:

18 Are you can get the numbers.

19 MR. ST. ROMAIN:

20 -- the Department of Revenue.

21 MR. THERIOT:

22 Well, that would be nice --

23 MR. MILAZZO:

24 And -- and I think that's where we go
25 hand in hand with you to talk about

1 accountability for those who should be
2 paying and make -- gives you a clear path to
3 the information. That -- that's what we
4 want.

5 MR. THERIOT:

6 And our audit department would love to
7 see those figures from revenue to make sure
8 that they agree with the amount of gallons
9 that are being reported to us.

10 MR. MILAZZO:

11 Yes. So let -- let's count on some
12 more dialog and then -- maybe not in this
13 setting, but, you know, where we can really
14 throw some stuff to the board and see if it
15 sticks.

16 MR. THERIOT:

17 The other thing, of course, on
18 legislative developments -- that's probably
19 enough on the bill that we got passed, but
20 ya'll -- there is the resolution that
21 requires us to study AST's at the bulk
22 dealers for conclusion into the fund.

23 In that line, we've actually begun
24 preparing -- we have a draft. We're not
25 finished with it yet -- of a questionnaire,

1 because we're not even sure of the world
2 that we're dealing with. Because of --
3 that's one of the things we talked about
4 earlier, about the cleaning up of the
5 database for the bulk dealers. We had a ton
6 of bulk dealers who don't even exist
7 anymore. We're working on a questionnaire
8 that we're going to send out for them to
9 fill out, because not everything that goes
10 into a bulk tank pays the fee. That's one
11 of the things we're going to have to know.
12 And so there's going to be a questionnaire
13 on, do you do this, do you do that, how much
14 duty free fuel do you sale through these
15 tanks? You guys are going to be asked to
16 provide us that information so that we can
17 do at least a little bit more research on
18 covering them. And then, you know, I would
19 recommend -- we're going to -- I know some
20 states do -- and so we're going to look to
21 see what other states are also doing on it.
22 But you've asked us to study it, and we're
23 going to study it and get back with you guys
24 at this board before we do anything else.
25 There is one other thing that I --

1 this is in other matters, dealing with --
2 well, it's not on the agenda, so I probably
3 should wait until we put it on the agenda.
4 That'd probably be better. We can talk
5 informally, but -- because it's not -- it's
6 a long range thing that I was exposed to at
7 a conference that I would really like to put
8 on the agenda and discuss at a later time.

9 MR. MARCELLO:

10 Well, Perry, to -- to add to what
11 you're talking about, I had two questions
12 and -- or two concerns and one was that
13 resolution. So a synopsis of what you said
14 was, we will see --

15 MR. THERIOT:

16 You're going to see a questionnaire.

17 MR. MARCELLO:

18 -- a questionnaire.

19 MR. THERIOT:

20 Yes.

21 MR. MARCELLO:

22 Okay.

23 MR. ST. ROMAIN:

24 Related to those above ground storage
25 tanks.

1 MR. THERIOT:

2 Yes.

3 MR. ST. ROMAIN:

4 I would imagine a good --

5 MR. THERIOT:

6 Related to above ground storage tanks.

7 MR. ST. ROMAIN:

8 A good portion of those, I would bet
9 are no longer being actively used, but could
10 have --

11 MR. THERIOT:

12 That's what we would like to know. We
13 don't know that. We have no idea.

14 MR. ST. ROMAIN:

15 Would it cover contamination that
16 happened here in the past, not just on an
17 active site?

18 MR. THERIOT:

19 We don't know even how many above --
20 because we've never regulated above ground
21 storage tanks, this department doesn't have
22 any idea how many there are. We don't even
23 know.

24 MR. MILAZZO:

25 Only in a bulk plan operation?

1 MR. ST. ROMAIN:

2 Right. Only in a bulk plan setting.

3 MR. THERIOT:

4 And that's -- that, as I -- I spoke to
5 ya'll personally, but that's one of the
6 challenges of doing this, is because it's
7 going to have to be tightly written. And
8 the reason being is, the RACs, the major
9 fuel supplier, they would love to see their
10 above ground tanks covered.

11 MR. ST. ROMAIN:

12 Right.

13 MR. THERIOT:

14 And so, we're going to have to work on
15 this if we're going to get it done. It's
16 going to have to be done very, very tightly
17 drawn is the way I like to put it.

18 MR. HILL:

19 I think it's fair to say they haven't
20 paid -- those million gallon storage tanks
21 haven't paid into the trust fund --

22 MR. THERIOT:

23 No, they don't.

24 MR. HILL:

25 -- in respect to what you just said.

1 MR. THERIOT:

2 That's right. They don't.

3 MR. MILAZZO:

4 Perry, let me -- first of all, thank
5 you guys for any consideration in that.
6 But given the choice and, you know, when I
7 hear the word, you know, loan program,
8 making funding available for some when
9 others, you know, provide their own path
10 forward, just something to think about --
11 and I want to be careful because I'm not
12 sure of the position of -- of our own
13 organization. But the thought of building a
14 program that takes on environmental
15 responsibility to clean up something that's
16 different than what we have built this
17 program to do, simply because there may be
18 surplus, I think is the right environmental
19 responsibility, even with the risks of some
20 unknowns versus creating attractive funding
21 for those who might need financial support.
22 I -- I struggle with that. I don't think we
23 ever intended in meeting our financial
24 responsibility and the purpose of the UST
25 Trust Fund was to develop loan programs.

1 That's just Johnny Milazzo speaking. I want
2 to be careful, because I don't know if we've
3 got any consensus there yet, when we hear
4 loans. But I think of your world and your
5 department. I think what we're trying to do
6 in our responsibility to the environment. I
7 think it's a much better tone when you start
8 taking on true environmental responsibility
9 and less financial -- making funding
10 available to those who may destruct them.

11 MR. THERIOT:

12 Well, it -- it may be -- and ya'll
13 will have to discuss this. We don't -- we
14 don't have a consensus either. Okay. This
15 is --

16 MR. MILAZZO:

17 Yes. And thank you for including us
18 in this kinda discussion.

19 MR. THERIOT:

20 But as to those tanks you're talking
21 about, we can -- as to the loans, okay,
22 those will not be available to closed
23 stations which --

24 MR. MILAZZO:

25 Right.

1 MR. THERIOT:

2 These would only -- I imagine there's
3 not going to be a big world of these. So I
4 -- I think the money we have recovered will
5 be more than enough to cover the ones that
6 we're thinking of. Okay. I -- I'm not sure
7 of that, because it's -- who knows? But I
8 think that the money we've recovered is
9 going to be a lot more than the amount it
10 would take to do the loan program.

11 MR. MILAZZO:

12 My vote would be to think financial --
13 I mean, environmental responsibility. And,
14 you know, put yourself in the position of a
15 millennial, a whole new world of
16 responsibility.

17 MR. THERIOT:

18 Well, I think it's easy if you think
19 about it. When you think about it, it is
20 environmental because the whole basis for --

21 MR. MILAZZO:

22 Well, I guess it is. I don't --

23 MR. THERIOT:

24 -- it is, so that the fund won't have
25 to spend money in the future.

1 MR. MILAZZO:

2 Yes. I -- I'm just saying, those guys
3 have a responsibility. We all share the
4 same responsibly. It's a small percentage
5 that are asking for that. I don't know how
6 big it is, but --

7 MR. THERIOT:

8 It -- it --

9 MR. MILAZZO:

10 You know, to be in the business,
11 you've got to show up and -- and be
12 prepared. That's all I'm saying.

13 MR. THERIOT:

14 There's two -- there's two states
15 doing it, so if anybody wants to check into
16 it, I always like to tell them there's two
17 states that are already doing it. Colorado
18 is doing it. And I believe it is North
19 Dakota that is doing it. Two western
20 states. Colorado also recovered the money
21 from the major oil dealers and they're using
22 it to upgrade rural stations.

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

24 MR. FULTON:

25 Well, they've got a long way to travel

1 between gas stations.

2 MR. THERIOT:

3 But that -- that's -- our program is
4 not going to be a new program. We're going
5 to take a look at Colorado's program and I
6 think North Dakota. There are a couple of
7 other states that are getting ready to do it
8 as well. The idea being, it's better to
9 upgrade them than to have them continue
10 operating where they don't have to
11 spend the money that everybody else is going
12 to spend. Okay. I think that's kinda
13 what's behind it.

14 MR. FULTON:

15 It's kinda of a prevention.

16 MR. THERIOT:

17 Yes. And -- and they -- it's not a
18 good idea to having people driving 30 or 40
19 miles to go get their gas, if you can avoid
20 it. And so nationwide, that would become
21 quite a drain on our existing gasoline
22 supplies that wouldn't ordinarily be there
23 because before, they use to just go about
24 five miles and get their gas. So that's the
25 theory behind it.

1 MR. MILAZZO:

2 No. I understand.

3 MR. THERIOT:

4 We will see how it works out, but that
5 -- that's all open and that's all conjecture
6 because we're not going to -- we don't have
7 regulations yet. And the regulations, we're
8 going to bring to you guys before they go
9 anywhere.

10 MR. MILAZZO:

11 Right. And we share your concern as
12 well. You're not -- you're not stepping on
13 any --

14 MR. HILL:

15 Did you have one last question?

16 MR. MARCELLO:

17 Well, the second -- the second part of
18 my question to you, Perry, was you -- you
19 alluded to deductibles. And for the sake of
20 conversation for the group, deductibles, as
21 we speak right now, are?

22 MR. THERIOT:

23 They're five for compliant stations
24 and ten for non-compliant.

25 MR. MARCELLO:

1 Right. And are we considering or can
2 we consider changing those deductibles?

3 MR. THERIOT:

4 Ya'll will be required to make
5 recommendations. That's one of the things
6 the board has to do. And that's one of the
7 reasons my discussion that I -- it's not on
8 there, but that's one of the discussions we
9 need to have.

10 MR. MARCELLO:

11 In concurrence with this resolution --

12 MR. THERIOT:

13 It's not on this -- it's not on this -
14 -

15 MR. MARCELLO:

16 -- as well? I mean, can we do this at
17 the same time, in concurrence with this
18 resolution that we're talking about, or it's
19 got to be a separate piece of legislation?

20 MR. THERIOT:

21 I think if we're going to discuss
22 deductibles, it needs to be on the agenda,
23 because it is one of the powers that you
24 guys -- that you guys do.

25 MR. MARCELLO:

1 Right.

2 MR. THERIOT:

3 So I think it does need to be on the
4 agenda and that's why I said, well, we --
5 you know, we'll put it on the next agenda
6 for discussion.

7 MR. HILL:

8 That'd be great.

9 MR. THERIOT:

10 And that way, you know --

11 MR. MARCELLO:

12 Great.

13 MR. THERIOT:

14 -- we will be able to --

15 MR. HILL:

16 That'd be good.

17 It think Todd Perry has a question.

18 MR. PERRY:

19 Thank you, Kerry. Perry, since you
20 were talking about Senate Resolution 02,
21 before the department sends the
22 questionnaire out, I would encourage the
23 department to take a timeout, bring the oil
24 marketers in, because they've got a lot of
25 institutional knowledge that can be answered

1 and help shape the questionnaire. So I
2 would highly recommend posthaste that you
3 guys get together and share some language
4 that will really help you fine tune that
5 questionnaire.

6 MR. THERIOT:

7 I was going to put it up on the
8 screen. We have a draft. Okay. And --

9 MR. PERRY:

10 I think oil marketers can help you.

11 MR. THERIOT:

12 But we couldn't get it to work, so we
13 didn't get to put it up there. But we do
14 have -- Jeff has prepared a questionnaire on
15 a draft. We haven't had -- circulated it
16 around, because not even us have circulated
17 it around.

18 MR. PERRY:

19 Right.

20 MR. THERIOT:

21 And we would certainly send it to
22 ya'll before we send it out.

23 MR. PERRY:

24 Right. I -- even before -- I think it
25 can be tweaked with oil marketer's

1 assistance to be even better as it's sent
2 out.

3 MR. THERIOT:

4 I don't have any -- it's a
5 questionnaire to gather information. If you
6 have information, we'd be happy to take it.

7 MR. PERRY:

8 I think they have a lot of information
9 they could share.

10 MR. MILAZZO:

11 I have one last question for --

12 MR. BAKER:

13 Can I ask one quick question?

14 MR. MILAZZO:

15 Oh, I'm sorry.

16 MR. BAKER:

17 Todd, who is our contact?

18 MR. PERRY:

19 Natalie.

20 MS. ISAACKS:

21 Me. I was going to ask to send it,
22 but when you said it hadn't been circulated
23 internally, I didn't want to cross --

24 MR. BAKER:

25 We will be in contact with you in the

1 near future.

2 MS. ISAACKS:

3 Okay.

4 MR. MILAZZO:

5 Perry, you had mentioned the success
6 of the lawsuit. I'm not looking at the
7 exact numbers, but let's assume, you know
8 two and a half million dollars in the first
9 two years of this. That -- that's what the
10 trust fund has paid out to the AG's office.
11 First half of the year, you know,
12 approaching a million dollars. I would
13 think we're getting close to complete
14 settlement with the players that are left.

15 MR. THERIOT:

16 No. We still have one major that's --
17 that we haven't gotten to it yet. At least
18 one, one major. And that -- they're working
19 on that now.

20 MR. MILAZZO:

21 So could you -- is it fair to say that
22 this could be over maybe sometime in the
23 summer?

24 MR. THERIOT:

25 That would be impossible to tell,

1 because they're taking them in sequence in
2 order to not -- you know, it would cost a
3 lot more to hire a lot more attorneys to do
4 them all at the same time. So they're --
5 they're currently in a hold where they're
6 working through discovery on one. The other
7 one has come to the table and is -- it is at
8 the table, but it -- I don't know where it
9 will go from there. But there's -- there's
10 still more to come. And we have more than
11 recovered enough money to make it worth the
12 while. And that's not in question.

13 MR. MILAZZO:

14 Okay. That's all I have.

15 MR. HILL:

16 Okay. Does anybody have anymore
17 questions or discussions?

18 MR. BAKER:

19 Under other business, we need to
20 consider the tentative dates for next year's
21 board meetings. If you will look at your
22 agenda, you'll see we've got February 23rd,
23 May 18th, August 17th and November 16th.
24 We'd like to present those potential meeting
25 times.

1 MR. HILL:

2 Okay. So these are already scheduled
3 dates and -- or --

4 MR. BAKER:

5 This is up to ya'll.

6 MR. HILL:

7 This is up for discussion.

8 MR. MARCELLO:

9 And I think he's conversed with
10 Louisiana Oil Marketers to make sure we're
11 not in any discrepancy with our board
12 meetings.

13 MR. HILL:

14 Yes.

15 MR. MARCELLO:

16 Or in any conflict, if you will.

17 MS. ISAACKS:

18 I'm sorry. I already reviewed --

19 MR. MARCELLO:

20 Right.

21 MR. HILL:

22 Oh, so you're fine with it, Natalie?

23 MS. ISAACKS:

24 Yes. I reviewed our calendar and
25 we're good to go.

1 MR. HILL:

2 Okay. Well, do we need to vote on
3 that, or we're okay with it?

4 MR. BAKER:

5 We're probably good.

6 MR. HILL:

7 Is there any other business that
8 anybody would like to discuss at this time,
9 before we close? The table is open.

10 (No response.)

11 MR. HILL:

12 Well, I would say, I need a motion to
13 adjourn.

14 MR. MARCELLO:

15 So moved, Mr. Chairman.

16 MR. HILL:

17 Do I hear a second?

18 MR. MILAZZO:

19 Second.

20 MR. HILL:

21 All in favor?

22 (All indicated "aye".)

23 MR. HILL:

24 Thank ya'll.

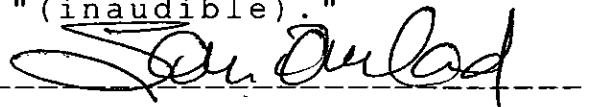
25 THE MEETING ADJOURNED AT 2:19 P.M.

R E P O R T E R ' S P A G E

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2 I, Lori B. Overland, Certified Court
3 Reporter, in and for the State of Louisiana, the
4 officer, as defined in Rule 28 of the Federal
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6 of the Louisiana code of Civil Procedure, before
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9 That due to the interaction in the
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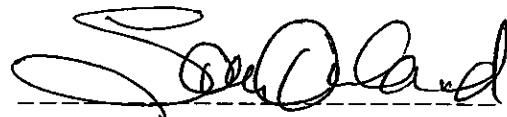
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21 Lori Overland, C.C.R.

22 # 97083

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

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



Lori Overland C.C.R.

97083

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

MEETING
November 17, 2016

Associated Reporters, Incorporated
225-216-2036

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

MEETING
November 17, 2016

Associated Reporters, Incorporated
225-216-2036

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Page 1

1
2
3 STATE OF LOUISIANA
4 DEPARTMENT OF ENVIRONMENTAL QUALITY
5 MOTOR FUELS UNDERGROUND STORAGE TANK TRUST
6 FUND ADVISORY BOARD
7
8
9
10
11
12 The above-entitled meeting was held at the
13 LDEQ, Galvez Building, Conference Center, 602
14 North 5th Street, Baton Rouge, Louisiana,
beginning at 1:13 p.m., on November 17, 2016.
15
16
17
18
19 BEFORE:
20 Lori B. Overland
21 Certified Court Reporter
22 In and For the State of
23 Louisiana
24
25

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1 APPEARANCES
2
3 Kerry Hill
Chairman
4 Durwood Franklin
5 Jeff Baker
6 Gary Fulton
7 Cy Morin
8 Johnny Milazzo
9 Perry Theriot
10 Nick St. Romain
11 Steve Burnham
12 Roger Bright
13 Theresa Chatelain
14
15 Melissa Vizinat
16 Sam Broussard
17 Jason Efferson
18 Shawn King
19 Trey Kemp
20 Randi Stump
21 Natalie Isaacks
22 Todd Perry
23
24
25

* * * * *

Page 3

1 I N D E X
2
3 EXAMINATION: PAGE (S):
4 None
5 EXHIBITS:
6 None
7
8 REPORTER'S PAGE 78
9 REPORTER'S CERTIFICATE 79
10
11 * * * * *
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1 * * * * *
2 MR. HILL:
3 Now, let's have a call for the second
4 quarter fiscal year 2017 board meeting. I
5 assume we need a roll call.
6 MR. THERIOT:
7 We'll need a roll call.
8 MR. HILL:
9 Could we have a roll call for today's
10 meeting?
11 MR. THERIOT:
12 Perry Theriot, LDEQ Legal Staff.
13 MR. FRANKLIN:
14 Durwood Franklin, DEQ Trust Fund.
15 MR. BAKER:
16 Jeff Baker, DEQ Trust Fund.
17 MR. FULTON:
18 Gary Fulton, DEQ.
19 MR. BURNHAM:
20 Steve Burnham, Engineering Associates.
21 MR. BRIGHT:
22 Roger Bright, Jones Environmental.
23 MR. HILL:
24 Kerry Hill, Louisiana Oil
25 Marketers.

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1 MR. MILAZZO:
2 Johnny Milazzo, Louisiana Oil
3 Marketers.
4 MR. MARCELLO:
5 Frank Marcello, Louisiana Oil
6 Marketers.
7 MR. ST. ROMAIN:
8 Nick St. Romain, Louisiana Oil
9 Marketers.
10 MS. CHATELAIN:
11 Theresa Chatelain, DEQ Financial
12 Services.
13 MR. MORIN:
14 Cy Morin, DEQ Audit.
15 MS. VIZINAT:
16 Melissa Vizinat, DEQ Trust Fund.
17 MS. ISAACKS:
18 Natalie Isaacks, Louisiana Oil
19 Marketers.
20 MR. PERRY:
21 Todd Perry, PPM Consultants.
22 MR. BROUSSARD:
23 Samuel Broussard, Louisiana DEQ UST
24 Division.
25 MR. KING:

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1 Shawn King, Jones Environmental.
2 MR. EFFERSON:
3 Jason Efferson, DEQ Trust Fund.
4 MR. KEMP:
5 Trey Kemp, DEQ Trust Fund.
6 MS. STUMP:
7 Randi Stump, DEQ Trust Fund.
8 MR. HILL:
9 Okay. Thank ya'll.
10 At this time, we'll ask Cy Morin to
11 bring us up to date on the audit status
12 report.
13 MR. MORIN:
14 Yes, sir. Good afternoon. If you'll
15 turn to tab six. The first two pages of
16 this report detail 32 open motor fuel audit
17 cases.
18 One case has been paid in full and is
19 being prepared for closure. We collected
20 \$47.61 on this case.
21 Twenty-four cases are awaiting review.
22 In our review, we have one potential
23 credit of \$579.61 and two potential
24 assessments, totaling \$634.74. And 21
25 potential clean audits with no assessments.

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1 Five cases are still in progress with
2 results to be determined. And two cases are
3 in the report writing phase. One has a
4 potential credit of approximately \$3,200 and
5 one is potentially clean with no assessment.
6 One fiscal year '17 case on the second
7 page, it was postponed around the time of
8 the flood due to an illness. It will be
9 rescheduled after the first of the year.
10 Since the last meeting, seven new
11 cases have been added to this list and six
12 cases have been closed and removed from the
13 list.
14 Of those removed, one was clean and
15 five were assessed a total of \$13,749.69,
16 all of which was paid in full.
17 And if you don't mind, turn to page
18 three of the report.
19 The department continues to pursue
20 four of these cases legally. The fifth case
21 on this list has recently been paid in full.
22 The first case -- for the first case,
23 the status conference has been set for
24 November 28th and this will be used to set a
25 trial date and discovery deadlines.

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1 The business in the second case
2 continues to send in monthly payments. The
3 last payment was received on November 9th in
4 the amount of \$250.00. Legal is prepared
5 to send this -- send a 60 day notice to
6 initiate referral to ODR if payments stop.
7 The status remains the same for the
8 third case. It's been with ODR collections
9 since October 14, 2015. We have not
10 received any payments from ODR as of
11 November 8th.
12 The fourth case is a case that has
13 been paid in full. It was paid in full
14 November 9th and is being prepared for
15 closure.
16 There's been no change in the fifth
17 case. The file is ready for referral to
18 ODR. This one was held up -- I'm told by
19 legal, it was held up by a conversion that
20 ODR was going through and the flood. So
21 this should be taken care of in the very
22 near future.
23 And as you can see on this page, the
24 five -- the four remaining legal cases
25 represent a total outstanding amount of

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1 \$119,723.30.
2 That concludes the audit report.
3 MR. MILAZZO:
4 Cy, I may have asked this question
5 before, but are any of these companies still
6 in business?
7 MR. MORIN:
8 Yes. You did ask that, I believe, in
9 the last meeting.
10 MR. MILAZZO:
11 Yes.
12 MR. MORIN:
13 The company that -- to my knowledge
14 that is still open is the one that has paid
15 in full.
16 MR. MILAZZO:
17 Okay.
18 MR. MORIN:
19 The other four companies are not
20 operating as motor fuel distributors, to my
21 knowledge. There's still litigation with
22 the corporations and stuff ongoing. So I
23 can't really speak to the status of the
24 corporations, but they are no longer
25 operating as motor fuel distributors in the

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1 state.
2 MR. MILAZZO:
3 Okay.
4 MR. HILL:
5 Thank you, Cy. Does anybody else have
6 anymore questions or discussions related to
7 the audit?
8 (No response.)
9 MR. HILL:
10 If not, we'll go to item number seven,
11 the financial services report. And we'd
12 like to ask Theresa to deliver that.
13 MS. CHATELAIN:
14 All right. If ya'll turn to tab
15 seven, which corresponds to our agenda item,
16 I have the fiscal year 2016 ending
17 information in the lefthand box and then the
18 end of the first quarter of fiscal year 2017
19 financial information in the box on the
20 right-hand side of the page.
21 Final receipts as of -- for fiscal
22 year 2016 were just under 26 million, with
23 total disbursements of 13.7 million. So the
24 cash balance was 93 million at the end of
25 the year. When you deduct out the liability

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1 on the current sites, that left us with an
2 unobligated balance of 14 million.
3 And then fast forward to the end of
4 the first quarter of 2017, which was
5 September 30th. We have total receipts
6 to date of 5.8 million. Total disbursements
7 of 2.9 million. And we're looking at a cash
8 balance of 91 million when you net out the
9 liability of the current sites of about 82
10 million, that leaves you with 9 million
11 unobligated.
12 If you'll turn to the second page,
13 this has the projected numbers for 2017 and
14 2018, giving you what the program balance
15 will be and that'll be the transfer to the
16 environmental trust fund. It's the
17 difference between the revenue available for
18 the program and the program expenditures.
19 So we're projecting right around five
20 million for both 2017 and 2018 in the
21 transfer to the environmental trust fund.
22 And if ya'll have any questions?
23 MR. MARCELLO:
24 I do.
25 MS. CHATELAIN:

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1 Okay.
2 MR. MARCELLO:
3 We have a cash balance fund of 93
4 million and you have liability or
5 obligations totaling 79 million. And that
6 is how many sites?
7 MS. CHATELAIN:
8 Jeff?
9 MR. BAKER:
10 It ranges anywhere from 270 to 300,
11 depending upon the -- it has kinda
12 fluctuated that -- from those numbers in the
13 last year or so.
14 MR. MARCELLO:
15 Do you have an average?
16 MR. BAKER:
17 Not off the top of my head.
18 MR. MARCELLO:
19 Okay.
20 MR. BAKER:
21 I would guess --
22 MS. CHATELAIN:
23 285.
24 MR. BAKER:
25 -- 280, somewhere in -- 280 to 290,

1 somewhere in there.
2 MR. MARCELLO:
3 280,000 average, per site?
4 MR. BAKER:
5 Oh, no. No. You're talking about
6 cost?
7 MR. MARCELLO:
8 Yes. I'm talking about -- I'll do the
9 math, but 93 million -- I'm sorry. 79
10 million in obligations on 280 sites as an
11 example.
12 MR. BAKER:
13 Okay. I thought you were talking
14 about average number of sites. No. I mean,
15 our average closure costs on those sites
16 ranges -- at the end of the fiscal year, it
17 was --
18 MR. MARCELLO:
19 It -- it -- I'm coming up with about
20 332,000 per site --
21 MR. BAKER:
22 On --
23 MR. MARCELLO:
24 -- average.
25 MR. THERIOT:

1 -- you'll see that that actually
2 encompasses a number of categories including
3 what Perry is talking about, transfers and
4 other things.
5 MR. MARCELLO:
6 Okay.
7 MR. MILAZZO:
8 You know, that is a good question.
9 Jeff, when you look at 280 sites and
10 forecast and predicting some value for
11 cleanup, is that because of knowledge of
12 each site or is this just some average, a
13 historical number, that you march forward
14 with? Are those 280, call them, active
15 sites, is that based on information coming
16 from what the environmental companies, your
17 team -- is there something fairly precise
18 about that number?
19 MR. BAKER:
20 Well, the answer to that question is
21 yes. It's site specific, but it's also
22 kinda of an average.
23 MR. MILAZZO:
24 Okay.
25 MR. BAKER:

1 There are additional costs besides the
2 cost per site. Okay. Those are the
3 directly reimbursed cost.
4 MR. MARCELLO:
5 Right.
6 MR. THERIOT:
7 There are other costs the department
8 maintains that are also figured into the
9 obligated balance, I would imagine. But I
10 would defer to the Theresa.
11 MR. BAKER:
12 Well, our average closure costs ranges
13 around \$300,000. You know, and that -- but
14 that includes all sites --
15 MR. MARCELLO:
16 Right.
17 MR. BAKER:
18 -- the high dollar sites and low
19 dollar sites. But the obligation
20 calculation, if you'd go back through and
21 look -- we -- we'll get to that in my
22 section --
23 MR. MARCELLO:
24 Yes, sir.
25 MR. BAKER:

1 The sites that we've done corrective
2 action plans on, the RACs have come in to us
3 and told us, this is what we expect these to
4 cost.
5 MR. MILAZZO:
6 And that's that number?
7 MR. BAKER:
8 And that's part of that calculation.
9 MR. MILAZZO:
10 Okay.
11 MR. BAKER:
12 The rest of them that we're still
13 kinda in the investigation phase, we don't
14 have anything telling us what site specific
15 that number would be. So what we do is, we
16 come up with an average closure cost and we
17 apply that average closure cost to those
18 sites because we just don't know.
19 MR. MILAZZO:
20 Okay. So in that case, your number
21 would be appropriate, but -- so 280, is that
22 the total number of sites -- some you have
23 are already in remediation, some you might
24 just be looking at -- but 280, does that
25 really represent all the sites that you know

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1 about?
2 MR. BAKER:
3 That represents the sites that are
4 currently receiving reimbursements --
5 MR. MILAZZO:
6 Okay.
7 MR. BAKER:
8 -- from the trust fund.
9 MR. MILAZZO:
10 Okay. So there's been some work that
11 you guys have agreed it's eligible and
12 there's some reimbursement in the process.
13 So there's a whole other group that you
14 haven't even got to that number yet.
15 MR. BAKER:
16 Yes, sir.
17 MR. MILAZZO:
18 Any idea what that number may be like?
19 MR. BAKER:
20 It varies. You also have a category -
21 - we include this in the obligation -- of
22 ones that have requested eligibility from us
23 but yet they haven't requested
24 reimbursement. And I think the last
25 quarter, when I looked at the numbers, those

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1 were about 20 sites. And you have a chunk
2 of sites that have we have incidents for
3 that have never requested eligibility. And
4 there out there too. I'd say that's -- how
5 many active incidents do we have right now?
6 MR. FULTON:
7 About 400 or so. 400 or 500.
8 MR. MILAZZO:
9 Wow.
10 MR. HILL:
11 Why would you think they hadn't asked
12 for everything? They don't think they're
13 qualified or --
14 MR. FULTON:
15 But that's a total number of
16 incidents. You could have a diesel spill or
17 gas spill or --
18 MR. HILL:
19 Oh, okay.
20 MR. FULTON:
21 You could have two -- two diesel
22 spills, two gas spills --
23 MR. BURNHAM:
24 Right.
25 MR. FULTON:

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1 -- on one site. You know, multiple.
2 That's the way we track that information, so
3 --
4 MR. BAKER:
5 And some cases, they'll come and
6 they'll -- basically, when they work a RAC,
7 they'll determine that the assessment is
8 going to be less than the current deductible
9 amount. And as such, they don't even
10 request eligibility.
11 MR. HILL:
12 I understand.
13 MR. FULTON:
14 We handle quite a few of those.
15 MR. BURNHAM:
16 And they have two years to do so; is
17 that correct?
18 MR. FULTON:
19 Yes.
20 MS. CHATELAIN:
21 Anything else?
22 MR. HILL:
23 Are we through with that?
24 MR. MARCELLO:
25 No.

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1 MR. HILL:
2 Does that answer your question,
3 Johnny?
4 MR. MILAZZO:
5 Well, it does, because -- and I don't
6 want this to sound like an interrogation,
7 but there was a meeting yesterday -- and
8 even though I'm no longer on the board, you
9 know, a bunch of calls come in because they
10 know my roll here today and ongoing. And it
11 just wouldn't be fair for me not to have
12 really -- a much better and deeper
13 understanding so I can provide better
14 information going back. Because when you
15 look at this on the surface, I guess there's
16 some good news here, right? If you look at
17 the high 715 active sites, today, 280 sites.
18 So there's certainly double-wall systems, a
19 lot of progress being made. I think there's
20 a lot of concern for escalation of cost, I
21 think. And you look at these cleanups where
22 we were, where we are and where we may be
23 headed, there's just a lot of questions
24 coming in. And I think being part of this
25 board -- me personally speaking. I don't

1 speak for anybody else -- I probably need to
2 do a better job of understanding the total
3 role here and being able to provide greater
4 feedback, with better understanding. So I
5 think that's a big part of it, because those
6 questions are coming up, looking at cost
7 then and cost today, and understanding, one,
8 there's -- there's a cleanup process where I
9 think remediation standards have been
10 softened some and yet cost seems to still be
11 escalating for two reasons. One, cost in
12 the field and then whatever cost associated
13 with the DEQ administratively. So I'm --
14 I'm just trying to wrap my brain around it,
15 Jeff, to better understand it. It just
16 looks like on the per site, that number just
17 -- just keeps ratcheting up, where we were
18 thinking with higher standards, cost would
19 be rolling back. Does that make sense?

20 I think, Nick, you brought up a great
21 point a little bit earlier. And if you look
22 at it more scientifically, I guess --

23 MR. ST. ROMAIN:

24 Yes. The amount of dollars
25 transferred to the fund, say back in '08,

1 So while it appears to have gone up, it just
2 more truly reflects what we're doing. And
3 EPA's money has dropped. I mean, there's no
4 question that EPA's money has dropped while
5 expenses continue to rise. And so those are
6 covered by the fund and always have been
7 really, because the statute authorizes it.

8 MR. MILAZZO:

9 Well, my response to that, I think the
10 optics are this: you know, what does it look
11 like? You know, if we were having fair
12 comparisons, in all due respect to the
13 department, you know, when you look at those
14 who are generating this revenue or have the
15 responsibility, you know, for collection and
16 getting it in, you get a lot of folks asking
17 questions, well, can you guys explain that,
18 you sit on this board with a responsibility,
19 give us answers. And without that fair
20 comparison, there's not a good answer.
21 That's -- so if you can help us maybe -- and
22 not stop what you're doing. But that does
23 help that -- because when you look at it
24 here, you know, it's -- it's 3,000 versus
25 13,000 per site. So -- and we're just

1 '09 versus today has escalated. So it's
2 about double. But the number of active
3 sites has gotten cut in three. So it's a --
4 if you look at the transfer to fund divided
5 by the number of active sites, it's
6 quadrupled, the cost per site, in the last
7 less than ten years, eight years.

8 MR. THERIOT:

9 Theresa, you want to answer that one?
10 I think that -- I think he might be
11 talking about originally, the administrative
12 expenses were not included in that
13 calculation. That's the reason why it
14 appears to jump but it really didn't.

15 MS. CHATELAIN:

16 It was low for years because we didn't
17 include the --

18 MR. THERIOT:

19 Yes, it was low for years because we -
20 -

21 MS. CHATELAIN:

22 -- total overhead.

23 MR. THERIOT:

24 -- didn't include it. And now it
25 is included in the total overall picture.

1 talking about the DEQ administrative part of
2 that. But if it's not fair because in 2007,
3 or 2008 or 2005 or 2006, you guys didn't
4 report it that way, then we got -- the
5 scales not --

6 MR. THERIOT:

7 Some of that was moving here. A lot
8 of people don't understand that state
9 agencies paid for these buildings. Okay.
10 Every building that you see downtown, the
11 payments for them are credited to the agency
12 that occupies them. It's much like a
13 commercial arrangement. So some of that, we
14 didn't use to account for, now we have to in
15 the budgets. It's a little -- it's a little
16 bit different than it use to be. The
17 statute requires us, I think, if you -- in
18 the statute that we truly reflect much like
19 an insurance company would do, when a claim
20 comes in, whether the claim is actually
21 viable or not, when it gets here, we have to
22 set aside funds. That's what insurance
23 companies are required to do on their
24 accounting sheets. And so when we get a
25 request for eligibility, we have to know a

1 certain amount of funds are going to be
2 available to pay if that eventual liability
3 under accounting principles. And so we --
4 those things have been in -- those
5 accounting principles are being incorporated
6 into what we do here. And those -- that
7 was a recent development. Theresa you maybe
8 know more than I do when they began imposing
9 that -- that accounting requirement. I
10 remember when they talked about it, but --
11 MS. CHATELAIN:
12 No.
13 MR. THERIOT:
14 -- we now use that accounting method
15 that truly accounts for cost.
16 MS. CHATELAIN:
17 Right. And --
18 MR. BAKER:
19 And also --
20 MS. CHATELAIN:
21 Go ahead.
22 MR. BAKER:
23 Also, you know, part of our transfer
24 of funds is, we have to incorporate our
25 revenue coming in. Our revenue coming in

1 Well, and I will tell you this as
2 well, the number of sites in the past years,
3 when I first started, we went through and
4 did a data analysis of the active sites.
5 And a large chunk of the sites we had in our
6 system at the time had actually been NFA'd
7 and closed years and years before. And we
8 went through and cleaned those up in our
9 data system. However, they were still
10 showing up on our reports.
11 MR. MILAZZO:
12 So you could have an exaggeration of
13 sites that --
14 MR. BAKER:
15 Yes.
16 MR. FULTON:
17 That -- that is -- we spent the last
18 three years --
19 MR. MILAZZO:
20 Okay.
21 MR. FULTON:
22 -- cleaning up our data systems. Yes.
23 MR. MILAZZO:
24 Well, I guess it's fair to say, we're
25 building better averages today?

1 includes EPA grants and whatnot. And those
2 fluctuate year to year as well. And that
3 can also have an effect. And it has, I
4 think, gone down some.
5 MR. FULTON:
6 About eight percent.
7 MR. MILAZZO:
8 So is it fair to say, if you lose that
9 source of revenue, then that -- this is what
10 it's coming from?
11 MS. CHATELAIN:
12 Yes.
13 MR. THERIOT:
14 That would be correct.
15 MR. BAKER:
16 Yes, sir.
17 MR. MILAZZO:
18 Okay. I mean, that's good to know
19 because it's -- it's hard to explain some of
20 this stuff when it just looks like
21 arbitrarily, you know, it's this today and
22 there's nothing relative about it because if
23 you look at the sites and you say, well,
24 sites would drive budget, it's disconnected.
25 MR. BAKER:

1 MR. FULTON:
2 Yes.
3 MR. BAKER:
4 Yes, sir.
5 MR. THERIOT:
6 More accurately reflect what's
7 actually going on.
8 MR. FULTON:
9 And we spend a lot of time doing it.
10 MR. BAKER:
11 Absolutely.
12 MR. MARCELLO:
13 Which brings up the question that I
14 had. I had -- I had sent an email to Karyn.
15 I was requesting some information and I was
16 wondering if we -- it was just for me.
17 MS. CHATELAIN:
18 Yes.
19 MR. MARCELLO:
20 I didn't -- I didn't want to report on
21 anything. Okay.
22 MR. HILL:
23 Are there anymore questions or
24 discussions around the financial report?
25 MR. MILAZZO:

1 I'd just like to say thanks for
2 explaining it to me. Truly, I didn't want
3 it to sound like an interrogation, but I
4 need a better understanding.

5 MR. HILL:

6 Okay. We will -- if no further
7 discussion on the financial report, we will
8 move to number eight, the trust fund status
9 report. I'd like to ask Jeff to report on
10 that for us, please.

11 MR. BAKER:

12 If ya'll would go to tab eight in your
13 packets. We're going to kinda split my
14 report up. We're going to do this kinda of
15 a real quick and dirty on the end of fiscal
16 year 2016 and then we'll cover the first
17 quarter of 2017.

18 If you'll look at the first page
19 there, you'll notice that during the fiscal
20 year of 2016, the trust fund received 1000
21 applications, totaling \$15,724,270. At the
22 close of this fiscal year, the trust fund
23 had 138 pending applications, with 912
24 applications processed for payment, totaling
25 \$12,847,679. And we had 67 applications

1 Again, if you'd flip the page, the
2 table on -- this table gives you a
3 comparison of the current fiscal year to the
4 previous fiscal year. Obviously, we've only
5 covered a portion of that year, so you'll
6 see the differences there.

7 If you'll flip to the next page, this
8 is entitled, report of cumulative activate -
9 - I'm sorry -- the monthly motor fuel trust
10 fund obligation determination with September
11 30th at the top. This worksheet list the
12 various component determination of the
13 potential obligations against the trust fund
14 as of the end of September 2016. For sites
15 in the corrective action phase, the
16 outstanding liability of corrective action
17 plan and budget estimated cost to reach
18 closure as of the end of September 2016 was
19 \$25,714,755. This total includes the CAP
20 budgets remaining amounts and the RAC
21 estimated cost to closure.

22 Johnny, that was the section where we
23 were talking about, that is site specific,
24 where we know there's a corrective action
25 plan and what those cost are.

1 that were returned with deficiencies.

2 If you'd go to the next page, the
3 tables on this page kinda give you an
4 overview of the commutative activities of
5 the trust fund over the last several years
6 and it shows you how fiscal year 2016
7 compares to the previous years.

8 If you go to the next page, this kinda
9 gets to the calculation that you were
10 talking about, Johnny, and the different
11 categories. And if you'll look, as of the
12 end of fiscal year 2016, the total
13 obligation from all the categories was
14 \$79,224,055.

15 If you go to the next section, next
16 page, it's entitled, reports of activities
17 for the first quarter of fiscal year 2017.
18 As of September -- the end of September of
19 2016, the trust fund had 143 pending
20 applications, which have requested amounts
21 totaling, \$1,728,185. 186 applications were
22 processed for payment during the fiscal
23 year, totaling \$2,632,951. And 37
24 applications were returned with
25 deficiencies.

1 The next section, the fund obligation
2 recognized for sites without ROG approved
3 CAP budget is \$31,363,325. This is
4 determined by using a three year average
5 site closure cost, applying these cost to
6 the average trust fund sites without current
7 CAP budgets.

8 The fund obligation recognized for
9 sites that are determined to be trust fund
10 eligible, however, have not submitted
11 reimbursement applications is \$3,186,100.
12 This is also determined by using three year
13 average site closure cost, applying these
14 costs to the sites that have requested
15 eligibility and have yet not submitted a
16 request for reimbursement from the fund.

17 The five year projected fund
18 obligation related to the motor fuel trust
19 fund -- I'm sorry -- related to transfers
20 from the motor fuel trust fund to the
21 environmental trust fund is \$18,624,277.
22 This estimate uses a three year average
23 dollars transferred from the motor fuel
24 trust fund to the environmental trust fund
25 and multiplies this average by an estimated

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1 five years.
2 The total component categories show a
3 -- correlate the quarterly obligation amount
4 of \$81,888,457.
5 Some points of interest. The trust
6 fund is continuing to work on the revised
7 guidance document. A workgroup of
8 stakeholders met on November 1, 2016 to
9 discuss the draft document and began the
10 review process. During this meeting, the
11 members had a high level review of the draft
12 document and discussed a number of issues.
13 Several breakout groups were formed to begin
14 working on various projects. We hope to
15 have a final document ready for the board's
16 review sometime in the first half of the
17 next calendar year.
18 Another point of interest. It was
19 brought to the department's attention,
20 during a recent audit, that the revised
21 obligation process that we just went over,
22 was presented and discussed by the board in
23 a previous board meeting, but was not
24 officially approved by the board. The
25 department request the board consider the

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1 revised method as a viable and accurate net
2 tool for determining the potential
3 obligations against the trust fund moving
4 forward.
5 Does anybody have any questions?
6 MR. HILL:
7 Thank you, Jeff. Does anybody have
8 any questions?
9 MR. ST. ROMAIN:
10 One question. What determines the
11 annual transfer from motor fuel trust fund
12 to the environmental trust fund?
13 MR. BAKER:
14 What we do is we take the last three
15 years of transfers and we take that money,
16 we average -- average those three transfer
17 costs on an annual basis and come up with a
18 single value and multiply that times --
19 MR. ST. ROMAIN:
20 But how do you come up with those
21 annuals transfers? What -- what triggers
22 those? Do they fluctuate?
23 MR. BAKER:
24 They do fluctuate. Those are the
25 numbers we were talking about earlier. We

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1 get that from the accounting group.
2 MS. CHATELAIN:
3 Yes. It's the difference between the
4 program revenue that is available for
5 department expenditures and the total
6 department expenditures. So the revenue is
7 2.6 million but the expenditures were 7.5.
8 So the additional 4.9 has to be transferred
9 back to ETF, because ETF spent the money for
10 the program.
11 MR. ST. ROMAIN:
12 Okay.
13 MR. HILL:
14 Any other questions?
15 MR. FULTON:
16 Like -- well, I just wanted to -- I
17 guess the question regarding the revised
18 method, I'd like to make a motion that we
19 accept the revised method. I guess, were
20 ya'll fine with the revised method?
21 MR. MILAZZO:
22 For reporting?
23 MR. FULTON:
24 Yes.
25 MR. BAKER:

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1 For obligation --
2 MS. CHATELAIN:
3 For the obligation --
4 MR. FULTON:
5 For the obligations against the fund,
6 the -- the new revised method.
7 MR. BAKER:
8 We discussed this about a year ago and
9 we sent out the backup documentation and --
10 and it was a good discussion with the board
11 in the board meeting. However, it was never
12 voted by the board for approval.
13 MR. FULTON:
14 We never officially voted.
15 MR. MILAZZO:
16 I'm comfortable with it.
17 MR. HILL:
18 I'm -- I'm fine with it. We need to -
19 -
20 MR. FULTON:
21 So I make a motion to accept.
22 MR. HILL:
23 -- make a motion to accept.
24 MR. FULTON:
25 I do. I'm going to make a motion to

1 accept.
2 MR. HILL:
3 We have a motion to accept the new
4 revised --
5 MR. MILAZZO:
6 Second.
7 MR. HILL:
8 All in favor?
9 (All indicated "aye".)
10 MR. HILL:
11 All right. So moved.
12 We will move on to agenda item number
13 nine, third party claim status. I'd like to
14 ask Mr. Perry to bring us up to date.
15 MR. THERIOT:
16 We have one new case. And it was
17 filed within the past month. And it was a
18 second case involving AT&T, BellSouth, for a
19 manhole that, as a result of a release from
20 a nearby UST, sustained damage to the
21 communications equipment. They filed suit
22 against us. This is our second one like
23 that. It will likely settle, as the first
24 one did, because the -- the statute is such
25 that they don't own the manhole cover, nor

1 MR. THERIOT:
2 Yes. The owner of the tank and the
3 secretary as administrator.
4 MR. BURNHAM:
5 Right.
6 MR. HILL:
7 Okay. If no further discussions on
8 that. Under agenda item number nine (a)
9 discussion of legislative changes for 2016
10 session.
11 MR. THERIOT:
12 That would also be me.
13 MR. HILL:
14 That would also be Perry.
15 MR. THERIOT:
16 I had originally planned to put this
17 on the screen but we're not able. So I'm
18 going to go through my notes here and I'll
19 just give an oral presentation.
20 Most everyone here knows about the
21 act, but it's just good to sum up what we
22 did come up with as the final. Let me take
23 a second and get my notes up.
24 Okay. Of course we had only -- we had
25 the bill that we worked on with the board

1 do they own the land that the manhole cover
2 sits on. It's usually a servitude and what
3 we don't -- the fund doesn't mind settling
4 for what the statute refers to as un-
5 reimbursed cost of -- of remediation,
6 meaning events to get the manhole cover
7 fixed. We will not -- there's no permanent
8 damage to any property, which the statute
9 defines as real property that has been
10 permanently devalued. So if you don't own
11 it, it's not been devalued. So we
12 anticipate that one will settle for a minor
13 amount in the future. It's our second suit
14 by them, so they're going to get familiar
15 with it and we're liable to -- each time it
16 gets in a manhole, we're going to get a
17 lawsuit where they try to get some of their
18 cost back.
19 MR. BURNHAM:
20 Perry, AT&T filed suit against the
21 station and --
22 MR. THERIOT:
23 The owner of the tank.
24 MR. BURNHAM:
25 -- then we defend the station.

1 and -- and with everyone at session. And it
2 resulted in -- in Act 521, which we have in
3 effect today. When we got together, we --
4 we had some discussions. But the problems
5 that the DEQ were wanting to fix with this
6 bill -- and we've been very -- I'm very glad
7 to see that the board has helped us in
8 securing some of these things. We have a
9 cap in this statute, of course, that caps
10 the amount of unobligated balance that will
11 trigger the cessation of the -- of the
12 collection of the fund and then return it
13 when you get back to a balance. And there
14 was only a \$10 million difference between
15 the two. So it would've been triggering the
16 on and off switch pretty quickly throughout
17 the year, which would've been kinda of a
18 nightmare. So one of the things that 521
19 did was to raise that cap so that we
20 wouldn't have the continual switch on.
21 We can still switch off now, but it won't
22 switch on and off as quickly as it would've
23 in the past.
24 There were a few other problems. One
25 of them was that the -- at one time, all the

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1 major oil companies owned many of the
2 stations and as all of you are aware of the
3 double-dipping problem, many of -- many of
4 the -- it is alleged that many of the major
5 oil companies waited until the fund came
6 into being and then filed their claims for
7 releases after -- even though they knew they
8 had releases prior to the adoption of the
9 fund, or that they filed claims against
10 their insurance companies while collecting
11 from the fund for all their remediation.
12 The department along with the AG's office,
13 of course, began the process of recovering
14 that money.
15 We have recovered a significant amount
16 of money from -- from these people and it
17 would've immediately triggered the cessation
18 of the collection had they been -- had this
19 money been deposited directly into the motor
20 fuel trust fund.
21 So we worked with the AG and we
22 decided that we would put out that -- put
23 the bill out to do a few things. We
24 included a few what we considered to be
25 reforms. We were having trouble in some of

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1 the cases with the date of the release. So
2 we put a definition in for the date of
3 release that will make things a little bit
4 clearer to both the regulated community and
5 to us, which is, now, it's going to be -- if
6 we don't know an exact date, for instances,
7 your alarm goes off, we know the date, you
8 call it in. If we don't know the date,
9 which we find out a lot times from a real
10 estate transfer, it will be the date that
11 it's reported to us. And that's now clear.
12 We also were getting the -- the age of
13 bio-fuels is coming. And they're going to
14 be stored in UST's. I don't know if any of
15 you saw the news last night, but the Navy
16 now uses, I think, 40 percent bio-fuel for
17 the entire United States Navy and their
18 F-18's are flying on bio-fuel now. So the
19 age is coming for it and we needed to be
20 ready for it if it comes. Right now, before
21 521, a release from one of those, even
22 though the contents of the tank would've
23 been almost chemically identical, it would
24 not be covered because they're bio-fuels.
25 So we changed it to redefine motor fuels to

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1 allow the secretary along with the advisory
2 board to declare some fuels to be motor
3 fuels if they use -- if they otherwise meet
4 the definition. And that will take care of
5 it. If we ever need it, we have. And so we
6 can get -- if you guys all of a sudden come
7 out -- they come out with a bio-fuel that
8 you're going to be placing in your UST's,
9 you will be covered.
10 We also are experiencing an increase
11 in abandoned and orphaned tanks within the
12 state. That's not a secret. One of the
13 things we did with Act 521 is, we allowed
14 the secretary to -- we -- we have a lot of
15 problems with people who don't have any
16 money and then they close their stations and
17 they can't even come up with deductibles,
18 they can't pull their tanks. There's a lot
19 of problems. So we're going -- the
20 secretary can declare a tank an abandon tank
21 for purposes of the fund. As you know, we
22 were limited to the interests on the trust
23 fund which has gotten okay. But we're now
24 going to be able to draw on the funds from
25 the cost recovery actions. So the money

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1 that was coming back from the -- into the
2 fund, we can use presumably to pay for some
3 of these orphan tanks and get them out.
4 Because most of those orphan tanks did
5 actually pay into the fund at one time.
6 Okay. We're also having problems with
7 investigations not proceeding. That was one
8 of the things we would've liked to have seen
9 speed up. Sometimes we'll get a case and as
10 Jeff said earlier, it's been two years and
11 we don't have an investigation. So we don't
12 even know what the liability is at the
13 moment. We amended it and put into the act
14 a two year time limit in these
15 investigations. Currently, there's a letter
16 that will be sent out to all new releases
17 that will be telling them they have two
18 years to get their investigation in.
19 There's also the possibility that any
20 one that's -- it could be three years and
21 been sitting in house, but the bill was
22 effective August 1st. So now they have two
23 years from August 1st to get that
24 investigation in. We expect a few more
25 investigations. The result of not doing the

1 investigations is, we're not going to cover
2 your tanks. Now, this is not a major change
3 that some people believe it is. Under the
4 statute, the department always had the right
5 to declare your site to be not eligible if
6 your delay caused the price of the cleanup
7 to go way higher. Because the statute
8 requires that we use the most economically
9 efficient and timely way to cleanup the
10 site. If you sit on the site for two,
11 three, four years, there's no question that
12 the plume is spreading and you're going to
13 have to spend probably more money to clean
14 it up. So this was considered to be a
15 reform that would be set that the regulated
16 community would know, now when you have a
17 release, you need to get your investigation
18 done in two years.

19 We recently loss a motion for summary
20 judgment in a district court -- I think I
21 told ya'll about this in the last meeting
22 that I was here -- where a district ruled
23 that there were two caps on the fund, there
24 was 1 million for remediation and 1 million
25 for third party claims. We wanted to make

1 things. And many bulk dealers don't have
2 this anymore. Bulk dealers are closer to
3 brokers than they are to the old fashioned
4 bulk dealer that used to exist. So we
5 redefined the bulk dealer to make sure that
6 you didn't have to own any infrastructure.
7 You just had to have a certificate and you
8 had -- to be a bulk dealer, you had to meet
9 the definition of a bulk dealer, which
10 include brokers. So now everyone who
11 brokers fuel is going to have to register as
12 a bulk dealer.

13 We have new -- the new definition of
14 the bulk facility, new definition of the
15 date of release, new definition of motor
16 fuels. We also tightened up on the fee
17 structure. We have a lot of sites that
18 transfer. This is a common problem up here.
19 And we send invoices because guess what, the
20 new owner doesn't fill out his new
21 (inaudible) one, so we don't know that it's
22 changed hands, but it's been changing hands
23 all the time. And we send out a bill -- a
24 fee bill to the guy who's listed in our
25 records as the owner. They don't pay it

1 sure that that was not the case, because
2 that would double the possible liability of
3 the fund. So we -- when the amendment was
4 passed, we made it clear that there's 1.5
5 million, because we raised the cap last year
6 -- there's 1.5 million available for third
7 party claims and remediation. We don't want
8 the liability going to 3 million. So that
9 was made clear.

10 We were having trouble -- they are
11 very -- there's quite a lot of number of
12 bulk dealers that we have that hold -- are
13 holders of certificates. We are currently
14 in the process of auditing these bulk
15 dealers to find out who's still in business
16 and who's not, because there was no --
17 there's nothing in the law that -- that
18 discontinues their certificates. So we're
19 looking at those things to find out who's
20 still in business. And they're going to get
21 letters that we're going to be canceling
22 their certificates if they're not in
23 business any longer.

24 Bulk dealers used to be required to
25 have pipelines, tanks and quite a few other

1 because they go, I don't own that anymore.
2 I'm not paying that. That's pretty -- not
3 unusual. Now, those people will be subject
4 to what is basically the red tag. If you
5 don't pay your fees for the tanks, which are
6 very reasonable fees, they're not, you know,
7 it's -- it's -- what's it, \$59, or \$65, now,
8 I think?

9 MS. CHATELAIN:

10 60.

11 MR. THERIOT:

12 Per tank. We're not going to let you
13 receive -- you're going to get put on the
14 red tag list and you will not get any fuel
15 until you pay those fees. Because it's not
16 fair to you guys paying the fees to have
17 guys out there not paying their fees. And
18 anybody who can afford the amount of tanks
19 to drop a load of fuel into these tanks, has
20 bound to be able to afford that price.

21 So this is the new way of -- it's much
22 similar to what we did back in 1998. Those
23 of you who have been here a long time know
24 that when they put the upgrade requirements
25 in the tank world, if you didn't upgrade

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1 your tanks, you couldn't get fuel. So now,
2 this will be, you got to pay your fees or
3 you don't get fuel.
4 We also wanted to establish a loan or
5 grant program. We did not -- we went along,
6 we said we don't really need the grants
7 so we'll go with the loans. The Energy Act
8 currently has a provision in it that allows
9 the state to exempt -- the secretary of the
10 DEQ can exempt any rural station out there
11 if he believes that the station is not
12 necessary to ensure fuel delivery to certain
13 populations. That is in the Energy Act.
14 That is federal law. So what we wanted --
15 it's better to upgrade them than to close
16 them in some cases. So we're not going to
17 give it away, but we're going to take
18 stations that might serve rural areas that,
19 as everyone knows here, the economic
20 viability of rural areas fueling stations
21 is getting on a very close margin, if at
22 all. So this will allow us to only use --
23 not the fund but the recovered money. Only
24 the recovered money, not the fund. In order
25 to set up a loan program to enable these

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1 people to upgrade their tanks, if they feel
2 so inclined to pay the loan and upgrade
3 their tanks.
4 MR. HILL:
5 Perry, I assume that you'll go through
6 some motion or financial responsibility.
7 How does that work?
8 MR. THERIOT:
9 We are -- we are -- the statute
10 requires us to do regulations, which you
11 guys will get to see before they're ever
12 sent anywhere.
13 MR. HILL:
14 Okay.
15 MR. THERIOT:
16 We're in the preliminary process.
17 That's not going to be easy to write
18 regulations for loan making. We're not a
19 loan making group.
20 We are going to try to borrow and look
21 at some of the loan regulations that are
22 used. Our rural water group over at DHH
23 that loans money to small systems for
24 drinking water, we're going to look at
25 theirs and see if they can be adapted for

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1 the use that we want to. We're not going to
2 loan out any money until we have
3 regulations.
4 Okay. And that is also restricted
5 only to the money we have recovered, not to
6 anything that's currently -- the fees
7 currently going into the fund.
8 MR. MILAZZO:
9 Could I ask a question --
10 MR. THERIOT:
11 Sure.
12 MR. MILAZZO:
13 -- in the middle? So let's just use
14 an example. And, Cy, I'm going to go back
15 to your report for a second.
16 So a three tank location, \$180 a year,
17 if my math is right. But most importantly,
18 at eight tenths of a cent, we're talking --
19 we're knocking on a door of about \$10,000 a
20 year, fee into that fund. So I'm not as
21 concerned about the guy that doesn't pay
22 that \$60. But that's your tracking
23 mechanism. But from an audit trail
24 standpoint, how do you know what that guy
25 that's paid his little \$180 might be doing

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1 the balance of the year? Do you connect the
2 dots with him as a site -- registered site
3 owner. You go back to folks like me who are
4 the collects -- the collection agent,
5 submitting this for you. And if you were to
6 audit me, you took a -- I'm not really sure
7 what you do, but have. I guess you'd look
8 at all these invoices and look at maybe some
9 balance sheet numbers. Do you ever go back
10 to the specific location? Because I'm
11 awfully --
12 MR. THERIOT:
13 I think I can answer and put your mind
14 at ease, because what you're saying is a
15 misconception in the industry. The tank
16 owner does not owe the motor fuel trust fund
17 fee. It has never owed it. It is owed by
18 the bulk dealer, upon withdrawal from bulk.
19 So no, we do not go out and audit the
20 stations because they don't owe the fee.
21 It's owed by the bulk dealer.
22 Now, we're not -- you know, we're not
23 with our head in the sand. Of course,
24 you're going to pass -- bulk dealers are
25 going to pass the costs on. But legally

1 speaking, the only people who owe the fee
2 are the bulk dealers.
3 MR. MILAZZO:
4 Yes. And I -- and I get that. And I
5 guess the point I want to make, Perry, is
6 that, do you have a check and balance to
7 that process? For instance, what are the
8 total gallons, first? I guess for road
9 purpose, you would think by and large it
10 would be UST related. That's one number
11 multiplied would say, are we collecting
12 something close to this number? I just
13 worry about -- and maybe I shouldn't be
14 worried about anything. Right? I mean,
15 it's -- it's what you guys are doing. But I
16 just -- you know, I commend you guys. I
17 mean, you know, you're looking in all the
18 right places, but if you just go to a guy
19 and say, show me what you're doing. He may
20 not be doing anything with five or six guys.
21 MR. THERIOT:
22 Okay. The system is set up. And it
23 is in the regs. There is a system that
24 you're talking about. Sam who's here can
25 tell you that when you pay your tank fee,

1 That's a challenge.
2 So -- so I can see the audit trail
3 there then. So if you go out to do -- and
4 pardon me, because I'm probably -- some
5 folks are ready to go home, but this is a --
6 if you go out and you're doing a three-year
7 inspection and reconciliation is a part of
8 that, right? So I see you do 100,000
9 gallons a month. Who's -- do you guys not
10 even look at that anymore?
11 MR. THERIOT:
12 No. The inspectors do not look at
13 your --
14 MR. MILAZZO:
15 Okay. All right. Maybe I'll take
16 that offline, but it's probably something --
17 the guys that are --
18 MR. THERIOT:
19 I will tell you --
20 MR. MILAZZO:
21 -- doing a great job, that --
22 MR. THERIOT:
23 I will tell you that that is done in
24 many states. But that is -- we're are
25 unique in this state. And I think that it's

1 you receive a certificate that you're
2 suppose to have posted at your station.
3 When an inspector goes out, which is about
4 once every three years and that -- it's
5 required by the Energy Act, once every three
6 years, that's the first thing they check, to
7 see if you have your certificate, okay, as a
8 -- as a gas. And that -- this -- the way
9 this was rewritten, is if you don't have
10 that certificate, okay, then they're going
11 to look at not delivering fuel to your
12 station. Okay. But that is part of the
13 checks. And we also -- the regulations do
14 require when a station changes hands, they
15 have 90 days, Sam, to do the (inaudible)
16 one? I think it's --
17 MR. BROUSSARD:
18 30.
19 MR. THERIOT:
20 30 days to do a new registration with
21 us. And they're suppose to do it. There
22 are many, many, many of our smaller stations
23 that change hands regularly.
24 MR. MILAZZO:
25 Yes. Well, I heard you mention that.

1 probably -- we're actually I think a little
2 better. But in most of the country, this
3 fee is collected by the Department of
4 Revenue who collects your excise taxes too.
5 I have seen and requested a packet of the
6 forms that you have to fill out in those
7 states and they're about this thick. And
8 the -- only a small, one page of it, is
9 dedicated to the motor fuels underground
10 storage tank trust fund, but you have to
11 fill out the whole thing. And -- and we
12 attempted at one time to get permission from
13 the Department of Revenue here -- we
14 actually prepared a bill to allow them to
15 give us access to their excise tax figures
16 so that we could do a back audit. We -- we
17 really did want to do that. Revenue has
18 been very protective of their information
19 here and will not give it to us and actually
20 opposed us --
21 MR. MILAZZO:
22 Boy, that's a shame because that's a
23 great opportunity for you. It really is.
24 And it's surprising because you're one
25 gigantic agency at the end of the day.

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1 Lending, you know, hands to -- and I'm all
2 for -- for the audit. I mean, I -- I hope
3 you guys gather that. We want
4 accountability. We absolutely support
5 accountability. Pardon me for making a long
6 discussion out of that.
7 MR. THERIOT:
8 No. And we agree with you. And
9 that's one of the reasons for this change in
10 the bill, is to force those who are not
11 paying their fees, we're -- we're going to
12 take part of the action and then we don't
13 have fees, we're not sending out the
14 certificates. Okay. And if they don't have
15 a certificate, we would hope that the driver
16 goes in and checks that certificate before
17 he drops his fuel and makes sure that
18 they're a qualified user of the fuel.
19 But that's part of the system that's
20 set up to try and make sure. We're just
21 tightening up on it a little bit to make
22 sure that we're not bringing fuel to people
23 who are not willing to pay their fees.
24 MR. BROUSSARD:
25 And let me clarify. That's the annual

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1 fee.
2 MR. MILAZZO:
3 No, I understand. Right, right.
4 That's the thing that gives you information
5 about that site. That's what I'm stuck on
6 here is that, you have the evidence in your
7 hand. It's matching up -- that's only \$180.
8 I'm chasing \$10,000. That is -- that's my
9 point. How do we connect those two dots?
10 More to come. Okay? We -- we'll take that
11 offline, talk within our group. And maybe
12 as you talk legislatively, bolting this
13 thing together in future without putting the
14 burden on you.
15 MR. ST. ROMAIN:
16 Are you can get the numbers from --
17 MR. MILAZZO:
18 Are you can get the numbers.
19 MR. ST. ROMAIN:
20 -- the Department of Revenue.
21 MR. THERIOT:
22 Well, that would be nice --
23 MR. MILAZZO:
24 And -- and I think that's where we go
25 hand in hand with you to talk about

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1 accountability for those who should be
2 paying and make -- gives you a clear path to
3 the information. That -- that's what we
4 want.
5 MR. THERIOT:
6 And our audit department would love to
7 see those figures from revenue to make sure
8 that they agree with the amount of gallons
9 that are being reported to us.
10 MR. MILAZZO:
11 Yes. So let -- let's count on some
12 more dialog and then -- maybe not in this
13 setting, but, you know, where we can really
14 throw some stuff to the board and see if it
15 sticks.
16 MR. THERIOT:
17 The other thing, of course, on
18 legislative developments -- that's probably
19 enough on the bill that we got passed, but
20 ya'll -- there is the resolution that
21 requires us to study AST's at the bulk
22 dealers for conclusion into the fund.
23 In that line, we've actually begun
24 preparing -- we have a draft. We're not
25 finished with it yet -- of a questionnaire,

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1 because we're not even sure of the world
2 that we're dealing with. Because of --
3 that's one of the things we talked about
4 earlier, about the cleaning up of the
5 database for the bulk dealers. We had a ton
6 of bulk dealers who don't even exist
7 anymore. We're working on a questionnaire
8 that we're going to send out for them to
9 fill out, because not everything that goes
10 into a bulk tank pays the fee. That's one
11 of the things we're going to have to know.
12 And so there's going to be a questionnaire
13 on, do you do this, do you do that, how much
14 duty free fuel do you sale through these
15 tanks? You guys are going to be asked to
16 provide us that information so that we can
17 do at least a little bit more research on
18 covering them. And then, you know, I would
19 recommend -- we're going to -- I know some
20 states do -- and so we're going to look to
21 see what other states are also doing on it.
22 But you've asked us to study it, and we're
23 going to study it and get back with you guys
24 at this board before we do anything else.
25 There is one other thing that I --

1 this is in other matters, dealing with --
2 well, it's not on the agenda, so I probably
3 should wait until we put it on the agenda.
4 That'd probably be better. We can talk
5 informally, but -- because it's not -- it's
6 a long range thing that I was exposed to at
7 a conference that I would really like to put
8 on the agenda and discuss at a later time.
9 MR. MARCELLO:
10 Well, Perry, to -- to add to what
11 you're talking about, I had two questions
12 and -- or two concerns and one was that
13 resolution. So a synopsis of what you said
14 was, we will see --
15 MR. THERIOT:
16 You're going to see a questionnaire.
17 MR. MARCELLO:
18 -- a questionnaire.
19 MR. THERIOT:
20 Yes.
21 MR. MARCELLO:
22 Okay.
23 MR. ST. ROMAIN:
24 Related to those above ground storage
25 tanks.

1 MR. ST. ROMAIN:
2 Right. Only in a bulk plan setting.
3 MR. THERIOT:
4 And that's -- that, as I -- I spoke to
5 ya'll personally, but that's one of the
6 challenges of doing this, is because it's
7 going to have to be tightly written. And
8 the reason being is, the RACs, the major
9 fuel supplier, they would love to see their
10 above ground tanks covered.
11 MR. ST. ROMAIN:
12 Right.
13 MR. THERIOT:
14 And so, we're going to have to work on
15 this if we're going to get it done. It's
16 going to have to be done very, very tightly
17 drawn is the way I like to put it.
18 MR. HILL:
19 I think it's fair to say they haven't
20 paid -- those million gallon storage tanks
21 haven't paid into the trust fund --
22 MR. THERIOT:
23 No, they don't.
24 MR. HILL:
25 -- in respect to what you just said.

1 MR. THERIOT:
2 Yes.
3 MR. ST. ROMAIN:
4 I would imagine a good --
5 MR. THERIOT:
6 Related to above ground storage tanks.
7 MR. ST. ROMAIN:
8 A good portion of those, I would bet
9 are no longer being actively used, but could
10 have --
11 MR. THERIOT:
12 That's what we would like to know. We
13 don't know that. We have no idea.
14 MR. ST. ROMAIN:
15 Would it cover contamination that
16 happened here in the past, not just on an
17 active site?
18 MR. THERIOT:
19 We don't know even how many above --
20 because we've never regulated above ground
21 storage tanks, this department doesn't have
22 any idea how many there are. We don't even
23 know.
24 MR. MILAZZO:
25 Only in a bulk plan operation?

1 MR. THERIOT:
2 That's right. They don't.
3 MR. MILAZZO:
4 Perry, let me -- first of all, thank
5 you guys for any consideration in that.
6 But given the choice and, you know, when I
7 hear the word, you know, loan program,
8 making funding available for some when
9 others, you know, provide their own path
10 forward, just something to think about --
11 and I want to be careful because I'm not
12 sure of the position of -- of our own
13 organization. But the thought of building a
14 program that takes on environmental
15 responsibility to clean up something that's
16 different than what we have built this
17 program to do, simply because there may be
18 surplus, I think is the right environmental
19 responsibility, even with the risks of some
20 unknowns versus creating attractive funding
21 for those who might need financial support.
22 I -- I struggle with that. I don't think we
23 ever intended in meeting our financial
24 responsibility and the purpose of the UST
25 Trust Fund was to develop loan programs.

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1 That's just Johnny Milazzo speaking. I want
2 to be careful, because I don't know if we've
3 got any consensus there yet, when we hear
4 loans. But I think of your world and your
5 department. I think what we're trying to do
6 in our responsibility to the environment. I
7 think it's a much better tone when you start
8 taking on true environmental responsibility
9 and less financial -- making funding
10 available to those who may destruct them.
11 MR. THERIOT:
12 Well, it -- it may be -- and ya'll
13 will have to discuss this. We don't -- we
14 don't have a consensus either. Okay. This
15 is --
16 MR. MILAZZO:
17 Yes. And thank you for including us
18 in this kinda discussion.
19 MR. THERIOT:
20 But as to those tanks you're talking
21 about, we can -- as to the loans, okay,
22 those will not be available to closed
23 stations which --
24 MR. MILAZZO:
25 Right.

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1 MR. THERIOT:
2 These would only -- I imagine there's
3 not going to be a big world of these. So I
4 -- I think the money we have recovered will
5 be more than enough to cover the ones that
6 we're thinking of. Okay. I -- I'm not sure
7 of that, because it's -- who knows? But I
8 think that the money we've recovered is
9 going to be a lot more than the amount it
10 would take to do the loan program.
11 MR. MILAZZO:
12 My vote would be to think financial --
13 I mean, environmental responsibility. And,
14 you know, put yourself in the position of a
15 millennial, a whole new world of
16 responsibility.
17 MR. THERIOT:
18 Well, I think it's easy if you think
19 about it. When you think about it, it is
20 environmental because the whole basis for --
21 MR. MILAZZO:
22 Well, I guess it is. I don't --
23 MR. THERIOT:
24 -- it is, so that the fund won't have
25 to spend money in the future.

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1 MR. MILAZZO:
2 Yes. I -- I'm just saying, those guys
3 have a responsibility. We all share the
4 same responsibly. It's a small percentage
5 that are asking for that. I don't know how
6 big it is, but --
7 MR. THERIOT:
8 It -- it --
9 MR. MILAZZO:
10 You know, to be in the business,
11 you've got to show up and -- and be
12 prepared. That's all I'm saying.
13 MR. THERIOT:
14 There's two -- there's two states
15 doing it, so if anybody wants to check into
16 it, I always like to tell them there's two
17 states that are already doing it. Colorado
18 is doing it. And I believe it is North
19 Dakota that is doing it. Two western
20 states. Colorado also recovered the money
21 from the major oil dealers and they're using
22 it to upgrade rural stations.
23 (An off-the-record discussion followed.)
24 MR. FULTON:
25 Well, they've got a long way to travel

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1 between gas stations.
2 MR. THERIOT:
3 But that -- that's -- our program is
4 not going to be a new program. We're going
5 to take a look at Colorado's program and I
6 think North Dakota. There are a couple of
7 other states that are getting ready to do it
8 as well. The idea being, it's better to
9 upgrade them than to have them continue
10 operating where they don't have to
11 spend the money that everybody else is going
12 to spend. Okay. I think that's kinda
13 what's behind it.
14 MR. FULTON:
15 It's kinda of a prevention.
16 MR. THERIOT:
17 Yes. And -- and they -- it's not a
18 good idea to having people driving 30 or 40
19 miles to go get their gas, if you can avoid
20 it. And so nationwide, that would become
21 quite a drain on our existing gasoline
22 supplies that wouldn't ordinarily be there
23 because before, they use to just go about
24 five miles and get their gas. So that's the
25 theory behind it.

1 MR. MILAZZO:
2 No. I understand.
3 MR. THERIOT:
4 We will see how it works out, but that
5 -- that's all open and that's all conjecture
6 because we're not going to -- we don't have
7 regulations yet. And the regulations, we're
8 going to bring to you guys before they go
9 anywhere.
10 MR. MILAZZO:
11 Right. And we share your concern as
12 well. You're not -- you're not stepping on
13 any --
14 MR. HILL:
15 Did you have one last question?
16 MR. MARCELLO:
17 Well, the second -- the second part of
18 my question to you, Perry, was you -- you
19 alluded to deductibles. And for the sake of
20 conversation for the group, deductibles, as
21 we speak right now, are?
22 MR. THERIOT:
23 They're five for compliant stations
24 and ten for non-compliant.
25 MR. MARCELLO:

1 Right.
2 MR. THERIOT:
3 So I think it does need to be on the
4 agenda and that's why I said, well, we --
5 you know, we'll put it on the next agenda
6 for discussion.
7 MR. HILL:
8 That'd be great.
9 MR. THERIOT:
10 And that way, you know --
11 MR. MARCELLO:
12 Great.
13 MR. THERIOT:
14 -- we will be able to --
15 MR. HILL:
16 That'd be good.
17 It think Todd Perry has a question.
18 MR. PERRY:
19 Thank you, Kerry. Perry, since you
20 were talking about Senate Resolution 02,
21 before the department sends the
22 questionnaire out, I would encourage the
23 department to take a timeout, bring the oil
24 marketers in, because they've got a lot of
25 institutional knowledge that can be answered

1 Right. And are we considering or can
2 we consider changing those deductibles?
3 MR. THERIOT:
4 Ya'll will be required to make
5 recommendations. That's one of the things
6 the board has to do. And that's one of the
7 reasons my discussion that I -- it's not on
8 there, but that's one of the discussions we
9 need to have.
10 MR. MARCELLO:
11 In concurrence with this resolution --
12 MR. THERIOT:
13 It's not on this -- it's not on this -
14 -
15 MR. MARCELLO:
16 -- as well? I mean, can we do this at
17 the same time, in concurrence with this
18 resolution that we're talking about, or it's
19 got to be a separate piece of legislation?
20 MR. THERIOT:
21 I think if we're going to discuss
22 deductibles, it needs to be on the agenda,
23 because it is one of the powers that you
24 guys -- that you guys do.
25 MR. MARCELLO:

1 and help shape the questionnaire. So I
2 would highly recommend posthaste that you
3 guys get together and share some language
4 that will really help you fine tune that
5 questionnaire.
6 MR. THERIOT:
7 I was going to put it up on the
8 screen. We have a draft. Okay. And --
9 MR. PERRY:
10 I think oil marketers can help you.
11 MR. THERIOT:
12 But we couldn't get it to work, so we
13 didn't get to put it up there. But we do
14 have -- Jeff has prepared a questionnaire on
15 a draft. We haven't had -- circulated it
16 around, because not even us have circulated
17 it around.
18 MR. PERRY:
19 Right.
20 MR. THERIOT:
21 And we would certainly send it to
22 ya'll before we send it out.
23 MR. PERRY:
24 Right. I -- even before -- I think it
25 can be tweaked with oil marketer's

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1 assistance to be even better as it's sent
2 out.
3 MR. THERIOT:
4 I don't have any -- it's a
5 questionnaire to gather information. If you
6 have information, we'd be happy to take it.
7 MR. PERRY:
8 I think they have a lot of information
9 they could share.
10 MR. MILAZZO:
11 I have one last question for --
12 MR. BAKER:
13 Can I ask one quick question?
14 MR. MILAZZO:
15 Oh, I'm sorry.
16 MR. BAKER:
17 Todd, who is our contact?
18 MR. PERRY:
19 Natalie.
20 MS. ISAACKS:
21 Me. I was going to ask to send it,
22 but when you said it hadn't been circulated
23 internally, I didn't want to cross --
24 MR. BAKER:
25 We will be in contact with you in the

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1 near future.
2 MS. ISAACKS:
3 Okay.
4 MR. MILAZZO:
5 Perry, you had mentioned the success
6 of the lawsuit. I'm not looking at the
7 exact numbers, but let's assume, you know
8 two and a half million dollars in the first
9 two years of this. That -- that's what the
10 trust fund has paid out to the AG's office.
11 First half of the year, you know,
12 approaching a million dollars. I would
13 think we're getting close to complete
14 settlement with the players that are left.
15 MR. THERIOT:
16 No. We still have one major that's --
17 that we haven't gotten to it yet. At least
18 one, one major. And that -- they're working
19 on that now.
20 MR. MILAZZO:
21 So could you -- is it fair to say that
22 this could be over maybe sometime in the
23 summer?
24 MR. THERIOT:
25 That would be impossible to tell,

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1 because they're taking them in sequence in
2 order to not -- you know, it would cost a
3 lot more to hire a lot more attorneys to do
4 them all at the same time. So they're --
5 they're currently in a hold where they're
6 working through discovery on one. The other
7 one has come to the table and is -- it is at
8 the table, but it -- I don't know where it
9 will go from there. But there's -- there's
10 still more to come. And we have more than
11 recovered enough money to make it worth the
12 while. And that's not in question.
13 MR. MILAZZO:
14 Okay. That's all I have.
15 MR. HILL:
16 Okay. Does anybody have anymore
17 questions or discussions?
18 MR. BAKER:
19 Under other business, we need to
20 consider the tentative dates for next year's
21 board meetings. If you will look at your
22 agenda, you'll see we've got February 23rd,
23 May 18th, August 17th and November 16th.
24 We'd like to present those potential meeting
25 times.

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1 MR. HILL:
2 Okay. So these are already scheduled
3 dates and -- or --
4 MR. BAKER:
5 This is up to ya'll.
6 MR. HILL:
7 This is up for discussion.
8 MR. MARCELLO:
9 And I think he's conversed with
10 Louisiana Oil Marketers to make sure we're
11 not in any discrepancy with our board
12 meetings.
13 MR. HILL:
14 Yes.
15 MR. MARCELLO:
16 Or in any conflict, if you will.
17 MS. ISAACKS:
18 I'm sorry. I already reviewed --
19 MR. MARCELLO:
20 Right.
21 MR. HILL:
22 Oh, so you're fine with it, Natalie?
23 MS. ISAACKS:
24 Yes. I reviewed our calendar and
25 we're good to go.

1 MR. HILL:
 2 Okay. Well, do we need to vote on
 3 that, or we're okay with it?
 4 MR. BAKER:
 5 We're probably good.
 6 MR. HILL:
 7 Is there any other business that
 8 anybody would like to discuss at this time,
 9 before we close? The table is open.
 10 (No response.)
 11 MR. HILL:
 12 Well, I would say, I need a motion to
 13 adjourn.
 14 MR. MARCELLO:
 15 So moved, Mr. Chairman.
 16 MR. HILL:
 17 Do I hear a second?
 18 MR. MILAZZO:
 19 Second.
 20 MR. HILL:
 21 All in favor?
 22 (All indicated "aye".)
 23 MR. HILL:
 24 Thank ya'll.
 25 THE MEETING ADJOURNED AT 2:19 P.M.

1 REPORTER'S PAGE
 2 I, Lori B. Overland, Certified Court
 3 Reporter, in and for the State of Louisiana, the
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 21 herein, nor am I otherwise interested in the outcome
 22 of this matter.

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