



Petroleum Underground Storage Tank Release Compensation Board

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MINUTES OF THE 159th MEETING OF THE PETROLEUM UNDERGROUND STORAGE TANK RELEASE COMPENSATION BOARD June 10, 2015

BOARD MEMBERS IN ATTENDANCE

Jim Rocco
Don Bryant
Scott Fleming
Cheryl Hilvert
Tom Stephenson

EX-OFFICIO MEMBERS IN ATTENDANCE

Bill Hills, representing Director Jacqueline Williams, Ohio Department of Commerce
Chris Geyer, representing Director Craig Butler, Ohio Environmental Protection Agency
Dana Wasserman, representing Josh Mandel, State Treasurer of Ohio

OTHERS IN ATTENDANCE

Starr Richmond	Executive Director, PUSTRCB
Don Leasor	Chief Fiscal Officer, PUSTRCB
Cindy Duann	Claims Supervisor, PUSTRCB
Jonathan Maneval	Administrative Coordinator, PUSTRCB
Hannah Brame	Environmental Claims Analyst I, PUSTRCB
John Hickey	Fiscal Specialist, PUSTRCB
Carla Dowling-Fitzpatrick	Assistant Attorney General
Jodi Handlin	BJAAM Environmental, Inc.
Brent McPherson	Cardno ATC
Doug Darrah	Cardno ATC
Bill Behrendt	OPMCA
Will Latt	Speedway, LLC
Samantha LaLonde	Speedway, LLC

Minutes submitted by:

Jonathan Maneval
Administrative Coordinator

Call to Order:

Chairman Rocco convened the one hundred fifty-ninth meeting of the Petroleum Underground Storage Tank Release Compensation Board on Wednesday, June 10, 2015.

The following members were in attendance: Jim Rocco; Don Bryant; Scott Fleming; Cheryl Hilvert; Tom Stephenson; Bill Hills, representing Director Jacqueline Williams, Ohio Department of Commerce; Chris Geyer, representing Director Craig Butler, Ohio Environmental Protection Agency; and Dana Wasserman, representing Josh Mandel, State Treasurer of Ohio.

The following members were not present: Steve Hightower and John Hull.

Chairman Rocco introduced Dana Wasserman, who was appointed to serve as designee for Josh Mandel, State Treasurer of Ohio.

Minutes:

Chairman Rocco asked if there were any comments or questions regarding the minutes from the March 11, 2015 Board meeting, and there were none. Mr. Hills moved to approve the minutes. Mr. Fleming seconded. A vote was taken and the following members voted in the affirmative: Ms. Hilvert and Messrs. Bryant, Fleming, Geyer, Hills, Stephenson and Rocco. Ms. Wasserman abstained. The minutes were approved as presented.

BUSTR Report:

Chairman Rocco called upon Bill Hills, Bureau Chief, to present the Bureau of Underground Storage Tank Regulations (BUSTR) report.

Mr. Hills reported that the attorney and clerk positions that were funded through the LUST (leaking underground storage tank) grant allocation for fiscal years 2015/2016 continue to be in a holding pattern with the Office of Human Resources. He said as a result, BUSTR is using two intermittent employees to manage the file room and provide responses to public records requests. He noted that one of the intermittent employees is currently in the process of being hired permanently.

Mr. Hills said BUSTR was awarded LUST grant monies to be used for identifying underground storage tank (UST) owners and operators that are responsible for the investigation and cleanup of petroleum releases from USTs. He said 80% of the research of petroleum release sites being performed by vendors through the grant program has been completed, and research of the remaining sites would be completed by June 30, 2015.

Mr. Hills said the fiscal years 2016/2017 UST grant application has been submitted to the U.S. EPA Region 5 Office in Chicago for their review and approval. He said the grant request reflected adjustments to accommodate a 20% funding reduction, and that BUSTR will have only nine inspectors to meet the mandatory three-year inspection cycle. He said the LUST grant application is still being formulated, but will include a 10% funding increase. He pointed out that the changes in the grant funding structure indicate the U.S. EPA is focusing more on corrective actions versus release prevention.

Mr. Hills reported that the Department of Commerce, Office of Human Resources provided “One Commerce Customer Service Initiative” training to all supervisors in the department. He said the goal of the initiative is to establish and implement customer service standards that are shared throughout the department and result in consistency in the quality of service provided.

Mr. Hills reported that BUSTR’s release prevention supervisor attended the Associated Food & Petroleum Dealers Annual Trade show to provide informational material and respond to questions concerning BUSTR and USTs.

Mr. Hills reported for the week ending May 30, 2015, there were 39 new inspections performed for a total of 5,391 inspections for the three-year inspection cycle ending June 30, 2016. He said that eight NFAs (no further actions) were generated during this same time period for a total of 362 for the grant cycle ending September 30, 2015. He reported that for the week ending June 6, 2015, an additional 14 NFAs were generated.

Mr. Hills stated that, as of May 30, 2015, there were 21,752 registered USTs, and 3,682 owners of 7,389 registered facilities. He noted that the number of registered USTs decreased by about 50 tanks since the March Board meeting.

Chairman Rocco briefly discussed the recent push for the use of E15 (a blend of gasoline and ethanol) at retail service stations and the potential regulatory changes necessary to address higher alcohol blended fuels. He asked whether the U.S. EPA has provided further guidance regarding the use of E15 and whether there was any indication of when revisions to the UST regulations are expected to be released. Mr. Hills said it is anticipated the new rules will be released in the late summer.

Mr. Hills said that BUSTR recently requested the Environmental Enforcement Unit of the Attorney General’s Office to file a complaint against a tank owner that has refused to perform necessary corrective actions at two facilities with recent petroleum releases. He noted the owner has an additional 17 facilities with outstanding corrective action and release prevention issues. He said BUSTR’s goal is to move more quickly to bring enforcement actions against noncompliant tank owners rather than to allow these types of issues to go unaddressed for many years.

Chairman Rocco said that since the March Board meeting, certain corrective action letters issued by BUSTR now include a paragraph providing the Board’s contact information and notifying tank owners that they may be eligible to receive reimbursement from the Fund for the costs of corrective actions.

Chairman Rocco noted that a copy of BUSTR’s slide presentation concerning the makeup of Ohio’s UST population had been distributed to each of the Board members. He said the information presented provides a good picture of Ohio’s UST population, and pointed out that about 32% of active UST systems are more than 25 years old, suggesting the tank population is aging. He said many of these tanks may be replaced in the near future, and the closure activities could result in the discovery of more petroleum releases. He said the replacement of these tanks may also reveal how well the release detection and release prevention equipment has worked over the years.

Financial Report:

Chairman Rocco called upon Don Leasor, Chief Fiscal Officer, to present the financial reports.

February, March and April Financials

Mr. Leasor said the February, March and April financials were emailed to each member. He asked if there were any questions or concerns regarding these reports, and there were none. He said since the fiscal year 2015 annualized revenues and expenses would be discussed as part of the operating budget, he would not review the monthly financial reports.

Operating Budget

Mr. Leasor said the proposed operating budget behind Tab 4 represents the approved budget and actual annualized expenditures for fiscal year 2015, and also presents the recommended budget for fiscal year 2016.

Mr. Leasor reported tank revenue for fiscal year 2015 was budgeted at \$11.9 million for 20,600 USTs, and actual revenues were \$42,000 below the budgeted amount. He recommended tank revenue for fiscal year 2016 be budgeted at \$9.5 million. He said this estimate was built on the assumption that fees will be received for 20,350 tanks, and 26% of these USTs will be assured at the reduced deductible. He noted the annual fees were reduced by \$100 per tank to \$400 per tank for coverage at the standard \$55,000 deductible and to \$600 per tank for coverage at the reduced \$11,000 deductible.

Mr. Leasor said property transfer fees are projected to be \$80,000 for fiscal year 2016. He said a portion of the transfer fees were assessed during the current fiscal year, but are anticipated to be collected in fiscal year 2016. He stated prior years' fees collected, less refund amounts, are projected to be \$200,000 in fiscal year 2016.

Mr. Leasor stated interest income is about \$6,000 above the budgeted amount for fiscal year 2015 due to the interest rate for STAR Ohio being higher than anticipated. He said the projected interest income for fiscal year 2016 is \$71,500. He said this anticipated interest income is based on a STAR Ohio interest rate of .05% plus anticipated interest of \$61,000 to be earned on the investments in US Treasuries and US Agency Callable Bonds.

Mr. Leasor reported miscellaneous income received from printing and copy requests, and cash rebates for fiscal year 2015 was \$170. He recommended that miscellaneous income be budgeted at \$1,000 for fiscal year 2016.

Mr. Leasor pointed out that actual total operating income was \$36,500 below the \$11.9 million amount budgeted for fiscal year 2015.

Mr. Leasor said the claims expense is anticipated to be \$8.25 million for fiscal year 2015. He stated the proposed budget for the fiscal year 2016 claims expense is \$9 million.

Mr. Leasor said the salary line item expense was \$121,600 below the amount budgeted for fiscal year 2015. He said this was due to two positions being vacant for part of the year and health care expenses being lower than anticipated. He recommended the fiscal year 2016 budget for salaries be set at \$1,348,700. He said this amount reflects the hiring of an additional claims analyst and the expectation

of maintaining parity with recently approved union contracts, which provide for a 2.5% pay increase and a one-time supplemental payment of \$750. He noted the recommended salaries budget amount exceeds the amount approved by the Office of Budget and Management during the biennial budget process, and as a result, the Board's Executive Director will need to appear before the Controlling Board to request additional appropriation.

Mr. Leasor reported that temporary services actual expenses were below the budgeted amount by about \$8,000. He recommended the 2016 budget for temporary services be \$15,000. He said temporary service employees are utilized for special projects and to fill unanticipated staff vacancies when necessary.

Mr. Leasor said the anticipated rent expense for fiscal year 2016 is \$126,800. He noted that the Board is currently in a two-year lease agreement ending June 30, 2017. He said the rent expense includes \$5,000 to build out a new workspace for an additional claims analyst.

Mr. Leasor reported that actual expenses for office supplies were \$3,200 below the budgeted amount. He said the amount requested for fiscal year 2016 is \$19,000. He said this amount includes monies for the purchase of new guest chairs for the Board room, other standard supplies and any pre-packaged software with a cost of under \$500.

Mr. Leasor reported that printing and copying expenses for fiscal year 2015 were \$5,500 below the budgeted amount. He said the recommended budget for fiscal year 2016 remains at \$15,000.

Mr. Leasor said the amounts requested for advertising and postage for fiscal year 2016 were carried over from fiscal year 2015 with no changes.

Mr. Leasor said legal and professional actual expenses were below the budgeted amount by \$117,000. He said this was due to costs for the collection of delinquent accounts being lower than anticipated in addition to expenses that were budgeted but not incurred for other professional services in fiscal year 2015. He said the amount requested for legal and professional expenses for fiscal year 2016 is \$250,000. He explained that this expense includes the cost for the services of the Assistant Attorney General, a hearing officer, experts to provide legal testimony as needed, the annual audit, Attorney General and Special Counsel fees related to the collection of delinquent accounts, and other miscellaneous and professional services.

Mr. Leasor reported that traveling expenses were \$6,900 below the budgeted amount due to travel costs anticipated for the ongoing subrogation litigation against major oil companies being unutilized. He said the recommended budget for travel expenses for fiscal year 2016 is being maintained at \$10,000.

Mr. Leasor stated employee expenses were \$2,600 below the budgeted amount due to staff vacancies. He stated the recommended employee expense for fiscal year 2016 is \$25,900. He explained the increase from the prior year is due to an increase in the monthly rate for employee parking.

Mr. Leasor said the staff development and training expenses were about \$1,600 below the budgeted amount, and he recommended that the fiscal year 2016 staff development and training expenses be

budgeted at \$1,000. He explained that most of these costs are covered through the tuition assistance program.

Mr. Leasor said telephone expenses were \$100 below the budgeted amount, and the anticipated telephone expenses for fiscal year 2016 are \$11,000. He explained that this expense includes web access, website hosting, spam/virus filtering, VoIP phone system and off-site hosting of the backup hardware.

Mr. Leasor said the depreciation expense was below the budgeted amount by \$3,200, and the anticipated depreciation expense for fiscal year 2016 is \$14,500.

Mr. Leasor pointed out that overall, operating expenses were about \$276,000 below what was budgeted for fiscal year 2015. He stated the recommended fiscal year 2016 operating expense budget total is \$1,868,900. He noted this is a \$71,800 increase from the 2015 operating expense budget.

Chairman Rocco asked if there were any comments or questions regarding the recommended proposed operating budget, and there were none. He requested a motion to approve the proposed fiscal year 2016 operating budget. Ms. Hilvert so moved. Mr. Geyer seconded. A vote was taken and all members voted in favor. The motion passed.

Capital Budget

Chairman Rocco called upon Mr. Leasor to present the proposed capital budget for fiscal year 2016.

Mr. Leasor said the proposed capital budget behind Tab 5 includes the fiscal year 2014 actual expenditures, the budgeted amounts and annualized expenditures for fiscal year 2015, and the recommended budget for fiscal year 2016.

Mr. Leasor said furniture and equipment was budgeted at \$15,000 for fiscal year 2015, and the actual expenditure for this line item was \$11,800. He noted the costs incurred were for the replacement of furniture in five of the claims staff offices. He said the recommended furniture and equipment budget for fiscal year 2016 is \$5,000, and includes costs for the purchase of furniture for an additional claims analyst.

Mr. Leasor reported that data processing and electronics were budgeted at \$12,000 for fiscal year 2015, and the actual expenditures for this line item were \$3,120. He said these expenditures included the purchase of a backup server. He said \$5,000 is recommended for data processing and electronics for fiscal year 2016. He noted the requested amount includes costs for the purchase of pre-packaged software with a cost above \$500 as well as replacement IT related equipment and computers as needed.

Mr. Leasor said \$10,000 was budgeted for fiscal year 2015 for the migration of the legacy system. However, there were no expenditures for this line item. He explained that registration documents had been scanned and converted into searchable electronic documents at a significantly lower cost than developing a new customized database and migrating the data from the legacy system to the new database. He said the costs had been expensed under the legal and professional line item.

Mr. Leasor reported that the fiscal year 2015 total capital budget was set at \$37,000 and actual expenditures were about \$15,000. Mr. Leasor recommended a total fiscal year 2016 capital budget of \$10,000.

Chairman Rocco asked if all of the furniture approved in the fiscal year 2015 budget had been purchased. Mr. Leasor said all of the furniture had been purchased, but the costs had been lower than anticipated.

Chairman Rocco asked if there were any questions regarding the proposed capital budget, and there were none. Mr. Geyer moved to approve the proposed fiscal year 2016 capital budget. Mr. Hills seconded. A vote was taken and all members voted in favor. The motion passed.

Chairman Rocco requested a motion to obligate \$9 million for the payment of claims for fiscal year 2016. Mr. Bryant so moved. Ms. Hilvert seconded. A vote was taken and all members voted in favor. The motion passed.

Fee Statement Statistics

Mr. Leasor stated the 2015 program year fee statements were issued on April 28, 2015, and about \$9.6 million was invoiced to 3,418 owners of 21,179 USTs.

Mr. Leasor said, as of June 9, 2015, approximately \$3.7 million, which represents 38% of the amount billed, had been collected in per-tank fees. He said collections for the same period last year were \$3.8 million. He noted the amount of per-tank fees collected in comparison to last year is lower due to the \$100 per-tank fee reduction.

Mr. Leasor said between July 1, 2014, and June 9, 2015, about \$11.6 million was collected for 2014 program year fees and \$234,000, net of any refunds paid, was collected for prior years' fees.

Mr. Leasor said for the 2015 program year, 15,700 tanks were billed at the standard deductible (\$55,000) per-tank fee and about 5,500 tanks were billed at the reduced deductible (\$11,000) per-tank fee. Mr. Leasor said, as of June 9, 2015, the fees have been paid at the standard deductible rate for over 5,400 tanks and at the reduced deductible amount for 2,500 tanks. He said fees for a total of 7,909 tanks have been paid by 1,510 owners. He said this compares to fees being paid for 6,670 tanks by 1,456 owners for the same period of time in the prior year.

Mr. Leasor said for the 2014 program year, 3,253 owners have paid fees for 20,622 tanks. He indicated this amount would increase slightly by the end of the program year, June 30, 2015.

Mr. Leasor said the \$3.7 million collected to date represents 39% of the \$9.5 million budgeted for the 2015 program year. He said so far for program year 2015, 39% of the fees have been received for the 20,350 tanks budgeted.

Compliance and Fee Assessment Report:

Chairman Rocco called upon Don Leasor to present the compliance and fee assessment report.

Mr. Leasor reported that, as of May 31, 2015, about \$133,000 in refunds had been paid to tank owners and \$44,000 had been reapplied to offset outstanding fees. He said the combined amounts totaled \$177,616.

Mr. Leasor said there were about 2,800 refunds pending, which total \$1.3 million.

Mr. Leasor said that after deducting the collection costs, \$141,000 had been collected by the Attorney General's Office and Special Counsel so far in the 2014 program year.

Mr. Leasor stated that, as of May 31, 2015, 340 accounts totaling \$1.1 million had been certified to the Attorney General's Office for collection.

Mr. Leasor said six Orders Pursuant to Law and one Determination to Deny a Certificate of Coverage were under appeal. He said one settlement is pending, and all other appeals are under review.

Mr. Leasor said that five Ability to Pay Applications were pending review. The Ability to Pay program allows former UST owners experiencing financial difficulty to apply for and receive a determination of their ability to pay delinquent fees.

Mr. Leasor reported that as of May 31, 2015, Certificates of Coverage have been issued to 3,158 owners. He said there are 104 Applications for Certificates of Coverage currently in process.

Mr. Leasor stated that there are 60 uncashed refund checks that total \$49,000. He said there is \$11,300 in refunds pending for 11 owners from whom more information has been requested.

Claims Report:

Chairman Rocco called on Cindy Duann, Claims Supervisor, to present the claims report.

Ms. Duann said, as of June 1, 2015, the total maximum liability of in-house open claims is \$29.5 million. She said using the historical claim payout ratio of 75%, the actual anticipated claim liability of unpaid in-house claims is about \$22 million.

Ms. Duann reported that as of June 1, 2015, a total of 2,292 Fund eligible sites had received no further action status with an average cleanup cost of \$130,300 per site. She pointed out that sites cleaned up exclusively under BUSTR's risk based corrective action rules (RBCA rules) had an average cleanup cost of just under \$73,000 per site. She noted that all corrective actions being performed at Fund eligible sites are currently undergoing cleanups using these RBCA rules.

Ms. Duann said, as of June 1, 2015, a total of 1,630 claims with total face value above the deductible amount were pending review, and 18 claim settlement determinations were under appeal.

Ms. Duann said that in the last 11 months, 704 claims were received, and a total of 848 claims were settled or closed during these months. She pointed out that for the last four years in a row, the number of claims settled and closed by the staff has exceeded the number of claims received.

Ms. Duann said the claim settlement offers thus far for the program year totaled \$7.16 million, with an average payment of \$9,070 per claim, and a claim payout ratio of about 76.4% of the net value. She

said she anticipates a total claim settlement offer of about \$7.8 million for the program year. She said this total claim settlement offer will be slightly higher in comparison to the previous years.

Ms. Duann stated that during the last 11 months, 78 eligibility applications were received and during that same period 76 eligibility determinations were issued, of which 14 were denied. She pointed out that of these 14 denials, three eligibility applications were denied for late filing and one was denied for compliance related issues.

Ms. Duann said, as of June 1, 2015, there were 16 eligibility applications under review and five eligibility applications under appeal.

Ms. Duann reported that during the last 11 months, 136 requests for cost pre-approval had been received, and 143 cost pre-approval notifications were issued. She said the number of pre-approval requests for annual free product recovery was about half of the number of requests received in previous years, and in general, the number of requests for cost pre-approval has decreased.

Finance Committee Report:

Chairman Rocco said that prior to the Board meeting, the Finance Committee met to discuss a number of issues.

Chairman Rocco said the committee began looking at a fact sheet published on the Board's website that lists costs that are non-reimbursable from the Fund. He said the committee is reviewing this list of non-reimbursable costs to ensure there are no costs currently being excluded from reimbursement that can or should be considered reimbursable. He said the committee will work through the list in the upcoming months and present any recommended changes to the Board in the fall.

Chairman Rocco reminded members that the Board invested \$8 million from the unobligated STAR Ohio account into U.S. treasuries and U.S. agency callable bonds. He said \$2 million recently matured and was reinvested as \$1 million in U.S. treasuries and \$1 million in U.S. agency callable bonds, each with three-year terms. He pointed out that the majority of the interest income is from the investments outside of STAR Ohio. He said about \$20 million remains in the STAR Ohio account, and the committee is considering whether additional unobligated monies should be invested into U.S. treasuries and U.S. agency callable bonds.

Chairman Rocco briefly discussed the collection of unpaid fees through the Attorney General's Office and Special Counsel. He said there are millions of dollars in outstanding fees and penalties that have been certified for collection, and there is a question of whether there should be a formalized process to determine certain fees as uncollectible. He said the majority of the outstanding fees are associated with out-of-service and removed UST systems. However, there is a group of tank owners with unpaid fees that are currently operating tanks. He said it is likely these owners are also out of compliance with BUSTR regulations, and it might be beneficial to meet with Bureau Chief Bill Hills to discuss options available to address them.

Chairman Rocco said one of the committee's focuses has also been whether the coverage deductible amounts can be reduced. He said the committee reviewed historical claims data that suggests that if

the standard deductible were to be cut in half, then corrective action costs for about half of the Fund eligible releases that typically never reach the deductible amount would be above the deductible. He said at its next meeting, the committee will continue to review the numbers and try to gauge what impact changes to the deductible structure will have, and prepare a recommendation for the November Board meeting.

Old Business:

Adoption of Rules

Chairman Rocco called upon Starr Richmond, Executive Director, to discuss the adoption of the Board's proposed rule amendments.

Ms. Richmond explained that the proposed amendments to rules 3737-1-04.1, 3737-1-07 and 3737-1-19 are to correct cross-references to rule 3737-1-04, which had been replaced in January 2015 as part of the Board's five-year rule review. She said that the proposed amendments to the rules were put on JCARR's (Joint Committee on Agency Rule Review) consent agenda and a hearing was conducted on April 6, 2015. No testimony or comments were made at the hearing.

Chairman Rocco asked if there were any comments or questions regarding the proposed rule amendments, and there were none. He then requested a motion to adopt the proposed amendments to rules 3737-1-04.1, 3737-1-07 and 3737-1-19 of the Ohio Administrative Code as presented at the public hearing of the Board on March 11, 2015, with an effective date of July 1, 2015. Mr. Geyer so moved. Mr. Hills seconded. Chairman Rocco called for a roll call. The following members voted in the affirmative: Mses. Hilvert and Wasserman; and Messrs. Bryant, Fleming, Geyer, Hills, Stephenson and Rocco. There were no nays. The motion passed.

Subrogation Discussion

Claim # 18451-0176/04/04/08, Facility – Speedway Store #1190

Chairman Rocco called upon Carla Dowling-Fitzpatrick, Assistant Attorney General, to provide an update concerning a subrogation claim.

Ms. Dowling-Fitzpatrick explained that the subrogation claim arises out of a third-party contractor's improper installation of a functional element on a premium unleaded gasoline submersible turbine pump at Speedway Store #1190. She said when the functional element failed, approximately 1,200 gallons of petroleum product were released into the environment. She noted that Speedway timely notified the Board of its subrogation rights in the matter, and discussions between the parties have been ongoing. She said at this point no complaint has been filed, and she anticipates a settlement may be reached in the upcoming months. She said it is necessary for the Board to grant the Chairman and Executive Director the authority to negotiate and execute a settlement in the matter.

Chairman Rocco noted that Speedway has been filing claims against the Fund for the reimbursement of corrective action costs at the site, and the goal of entering into the settlement discussions is for the Board to recover some or all of its claim reimbursement expenses from the third-party contractor that caused the release. He said because it is expected a settlement may be reached before the September Board meeting, it makes sense for the Board to grant the requested authority. He then requested a motion to authorize the Chairman in consultation with the Executive Director and Assistant Attorney

General to make any and all decisions necessary with respect to the negotiation and development of a settlement agreement among the parties in the subrogation case of Speedway LLC Store #1190, including but not limited to the terms of the agreement and acceptance or rejection of any offers to settle the claim. Mr. Stephenson so moved. Mr. Geyer seconded.

Mr. Stephenson questioned what happens in instances where the Board receives no notification that a release has been caused by a third party such as a contractor making repairs on a tank system. Chairman Rocco said when a tank owner believes a release was caused by a third party, the Board's subrogation rule requires the tank owner to notify the Board, and provides for a reduction in the reimbursement of corrective action costs when an owner fails to notify the Board.

Director Richmond noted that even when a tank owner does not provide notice that the release may have been caused by a third party, oftentimes the site assessment reports and BUSTR incident notes will include a discussion of how the release occurred and will specifically mention the release may have been caused by another party. She said in these cases, the Board's staff will follow up with the tank owner, the third party and the Board's Assistant Attorney General to begin discussions concerning the Board's subrogation rights.

Mr. Hills asked whether the Board intervenes in these situations even when the tank owner does not seek reimbursement from the Fund. Chairman Rocco responded stating that the Board only becomes involved if an eligibility application is filed and the tank owner files claims for reimbursement from the Fund.

Chairman Rocco asked if there were any further questions, and there were none. A vote was taken, and all were in favor. The motion passed.

New Business:

Hearing Officer's Contract Renewal

Chairman Rocco called upon Ms. Richmond to discuss the contract for the Board's hearing officer, Howard Silver.

Ms. Richmond said the contract with Mr. Silver will expire on June 30, 2015, and Mr. Silver has agreed to extend his contract at the same hourly rate of \$110, which has not changed since 2002. She said the terms of the existing contract include a minimum of five hours for the contract period, and also includes a maximum payment of \$2,500 per appeal, unless approved otherwise.

Director Richmond requested a motion to authorize the Chairman to negotiate and enter into an agreement with Howard Silver for the continuation of hearing officer services for the period of July 1, 2015 through June 30, 2016. Mr. Bryant so moved. Ms. Hilvert seconded.

Chairman Rocco noted that there would be no negotiation, and he would simply be executing a new contract with the same pay rate and terms as the previous year. He asked if there was any other discussion concerning the contract, and there was none. A vote was taken and all members were in favor. The motion passed.

Assistant Attorney General Contract Renewal

Chairman Rocco called upon Ms. Richmond to discuss the contract for the Board's Assistant Attorney General, Carla Dowling-Fitzpatrick.

Ms. Richmond said that the proposed contract with the Attorney General's Office for legal services for the upcoming fiscal year has some significant changes. She said that historically the Board has paid 50% of the salary, fringe benefits and indirect costs of an Assistant Attorney General. She said this year the Attorney General's Office is proposing the Board pay 75% of these costs, in large part due to the work necessary for the ongoing subrogation litigation against major oil companies. She said there is also a proposed 3% salary increase, an increase of 17% for fringe costs, and a 1.7% increase in the indirect costs. She explained that she had a number of conversations with the Chief Fiscal Officer at the Attorney General's Office to gain a better understanding of the proposed increases, and she felt satisfied with the explanations and believes the increases are justified. She then requested a motion for the Board to enter into an agreement with the Attorney General's Office for the continuation of legal services in an amount not to exceed \$102,666 for the period of July 1, 2015 through June 30, 2016. Mr. Geyer so moved. Mr. Fleming seconded.

Chairman Rocco said the increases in fringe costs are directly related to increased health care costs. He said the primary issue is the proposed increase from 50% of the Assistant Attorney General's salary to 75% of the salary. He said it seems reasonable to request additional money, given the time required for the ongoing subrogation cases.

Ms. Hilvert asked whether the proposed increase was accounted for in the operating budget that had been passed earlier in the meeting. Ms. Richmond confirmed that it was. Ms. Hilvert then asked if there was the ability to reduce the percentage of the Assistant Attorney General's salary that is paid by the Board to the 50% level at a later date once the litigation against the major oil companies has come to an end. Chairman Rocco said the contract is renegotiated every year, and each year the Board will have the opportunity to reevaluate whether the percentage of the salary proposed in any new contract is justified.

Following a short discussion, Chairman Rocco asked if there were any other questions concerning the contract, and there were none. A vote was taken and all members were in favor. The motion passed.

Hardship Applications

Chairman Rocco called upon Ms. Richmond to present the hardship applications.

Ms. Richmond stated that the Board's rule 3737-1-08 provides for an owner experiencing financial hardship to apply for hardship status with the Fund. She said granting hardship status allows for the acceleration of the review of the claims submitted by the owner. Ms. Richmond noted that granting hardship status does not increase the amount of reimbursement to the tank owner. She stated by accelerating the review of the claim, it reduces the financial burden the owner would experience if the claims were reviewed and settled in the normal course of business. She said, once granted, the hardship status remains in effect for a one-year period and at that time, the owner may reapply for hardship status.

Ms. Richmond stated that in determining hardship status, the application and a minimum of two years of income tax records are reviewed. She said, in addition, a U.S. Environmental Protection Agency (U.S. EPA) financial capacity test is used to evaluate the owner's cash flow and determine if the owner is able to carry debt, in which case, the owner could finance the costs of corrective actions over time.

Ms. Richmond noted that since the Board's March meeting a number of hardship applications were received from owners that did not have any unsettled claims in house. She explained that at one time the Board would deny hardship status if there were no claims in house, and would require the owner to submit a new application once a claim had been submitted. She said that given the large number of applications already on the agenda, a decision was made to move these applications to the September Board meeting. She said by that time, claims may be submitted.

Claim # 11387-0001/05/16/91, Owner – Washington & Lee Service Inc.

Ms. Richmond said Washington & Lee Service Inc. is the responsible party for a release that occurred in 1991 at 2080 Lee Road in Cleveland Heights, Ohio. She noted that Washington & Lee Service Inc. was dissolved in 2007. However, since that time David Saginor, one of the original incorporators, has continued the corrective actions at the site and is requesting the Board grant hardship status to him. She said this is his second request for hardship status, and to date, the Fund has reimbursed \$486,700 for corrective action costs for this release and one claim with a face value of \$4,930 is pending payment.

Ms. Richmond said all underground tanks were removed in June 1991 and the property was sold in October 2006. Mr. Saginor provided the financing for the new owner and the new owner makes a monthly payment to Mr. Saginor, which totals \$24,000 annually. She said the estimated cost of corrective actions for the next year is \$35,000.

Ms. Richmond said Mr. Saginor's adjusted gross income for the past two years has been about \$55,000, and based on the U.S. EPA financial capacity test, Mr. Saginor does not have adequate cash flow to pay for the corrective action costs. She noted that he can afford additional debt payments of about \$20,000 over a five-year period, but pointed out this is insufficient to pay for even the next year's corrective action costs.

Ms. Richmond recommended the Board approve the application and grant hardship status to Mr. Saginor. Mr. Geyer so moved and Ms. Hilvert seconded. A vote was taken and all members voted in the affirmative. The motion carried.

Claim # 11924-0001/10/26/95, Owner – Herbert Adams d/b/a Adams Marathon

Ms. Richmond said that Herbert Adams is the responsible person for a 1995 release at 409 Church Street in Bradner, Ohio. She said this is his second request for hardship status, and to date, the Fund has reimbursed \$320,800 for corrective actions for this release. She noted that there are two claims in house that are pending payment in the amount of \$32,600.

Ms. Richmond said that based on the information provided in the hardship application, \$135,000 is expected to be needed for the next 12 months of corrective actions. She also noted that Mr. Adams' consultant is charging 4% interest on claims submitted to the Board.

Ms. Richmond noted that all underground tanks have been removed, and the property is rented to another party for use as an auto repair business. She said Mr. Adams works as a millwright and his wife is a postal carrier.

Ms. Richmond said that based on the U.S. EPA financial capacity test, Mr. Adams does not have adequate cash flow or the ability to carry additional debt in order to pay the anticipated corrective action costs.

Ms. Richmond recommended the Board approve the application and grant hardship status to Mr. Adams. Mr. Fleming so moved and Ms. Hilvert seconded. A vote was taken and all members voted in the affirmative. The motion carried.

Claim # 13755-0001/05/24/91, Owner – Raymond Cooper d/b/a Cooper’s Marathon

Ms. Richmond said that Raymond Cooper is the responsible person for a release that occurred in 1991 at 111 East Main Street in Lucas, Ohio, and this is his 11th request for hardship status. She said to date, the Fund has reimbursed just under \$320,000 for corrective action costs for this release. She said there is one claim totaling \$14,700 in house that is pending payment. She said an additional \$55,000 is expected be needed for the next 12 months of corrective actions.

Ms. Richmond explained that Mr. Cooper is retired and no longer owns the property. She said based on the information he provided in the hardship application, his household income is from pension and social security benefits. She noted that both he and his wife retired early due to serious health issues.

Ms. Richmond said that based on the U.S. EPA financial capacity test for retirees, Mr. Cooper lacks the resources to cover future living expenses and his ability to afford the anticipated \$55,000 in corrective action costs over the next 12 months is highly unlikely.

Ms. Richmond recommended the Board approve the application and grant hardship status to Mr. Cooper. Mr. Hills so moved and Mr. Fleming seconded. A vote was taken and all members voted in the affirmative. The motion carried.

Claim # 15303-0001/06/24/14, Owner – Rohr’s Auto Service

Ms. Richmond said that Robert Rohr is the responsible person for a release at 112 First Street in Massillon, Ohio that was discovered when the underground storage tanks were removed in June 2014. She said this is his first request for hardship status.

Ms. Richmond stated that Mr. Rohr currently has two unsettled claims in house, totaling \$41,100, and the cost of corrective action work expected to take place over the next 12 months is estimated to be \$35,000.

Ms. Richmond said that Mr. Rohr is a 78 year old retiree, and his only source of income is his social security benefits. She said that after taking operating losses for several years, he closed his business in 2013, and sold a portion of the assets to pay his outstanding bills. She said that per a conversation with Mr. Rohr, he is unable to sell the property until a determination of no further action is issued by the State Fire Marshal.

Ms. Richmond said that based on the U.S. EPA financial capacity test, Mr. Rohr does not have adequate cash flow or the ability to carry additional debt in order to pay corrective action costs.

Ms. Richmond recommended the Board approve the application and grant hardship status to Mr. Rohr. Mr. Hills so moved and Mr. Bryant seconded. A vote was taken and all members voted in the affirmative. The motion carried.

Claim # 17992-0001/06/30/06, Owner – Glouster Car Care

Ms. Richmond said that Glouster Car Care is the responsible person for a release at 43 South High Street in Glouster, Ohio that was discovered when the underground storage tanks were removed in June 2006. She said although the property was sold in February 2011, Patsy Brownell, the owner of Glouster Car Care, has continued the corrective actions at the site. She said this is her second request for hardship status.

Ms. Richmond said that to date, the Fund has reimbursed \$78,000 for corrective actions at this release site, and one unsettled claim totaling \$13,800 is in house. She said that based on the information provided in the application, the anticipated corrective action costs for the next 12 months are \$15,000.

Ms. Richmond said that Mrs. Brownell is retired and receives about \$45,000 annually through social security and a pension. She said this amount slightly exceeds her reported household living expenses.

Ms. Richmond said that based on the U.S. EPA financial capacity test, Mrs. Brownell does not have adequate cash flow or the ability to carry additional debt in order to pay corrective action costs.

Ms. Richmond recommended the Board approve the application and grant hardship status to Mrs. Brownell. Mr. Geyer so moved and Mr. Bryant seconded. A vote was taken and all members voted in the affirmative. The motion carried.

Certificates of Coverage – Ratifications:

Chairman Rocco called upon Ms. Richmond to present the lists of owners who have either been issued or denied a Certificate of Coverage for ratification by the Board.

Ms. Richmond said the lists behind Tabs 11 and 12 are listings of facilities that, since the March Board meeting, had been issued or denied a program year 2013 or 2014 Certificate of Coverage.

Ms. Richmond said the process used to review the fee applications and issue or deny a Certificate of Coverage includes a review for completeness to determine full payment was received; financial responsibility for the deductible has been demonstrated; and the owner has certified with his signature that he is in compliance with the State Fire Marshal's rules for the operation and maintenance of petroleum underground storage tanks. She said if these requirements are met and if the tanks existed in previous years, a certificate for the subject tanks has been issued to the owner in at least one of the prior two years, then a Certificate of Coverage is issued.

Ms. Richmond explained that if deficiencies or compliance issues are identified, notice is provided to the owner in accordance with the Board's rules. The owner is provided 30 days to respond to the notice with information to correct the deficiency or compliance issue. If correcting information is not received within this time, a determination denying the Certificate of Coverage is issued to the owner.

She said the Board's rules and the Revised Code make provisions for an appeal of the determination. Ms. Richmond said that throughout this process, the Board's staff works with the owner to correct the fee statement record and if necessary, refers the owner to BUSTR to correct the registration record.

Ms. Richmond requested the Board ratify her actions with respect to the issuance of the 2013 program year Certificate of Coverage for the one facility included on the list behind Tab 11.

Mr. Geyer moved to ratify the issuance of the 2013 Certificate of Coverage for the facility listed. Mr. Bryant seconded. A vote was taken and all of the members were in favor. The motion passed.

Ms. Richmond stated no 2013 program year Certificates of Coverage had been denied since the last meeting.

Ms. Richmond requested the Board ratify her actions with respect to the issuance of the 2014 program year Certificates of Coverage for the 39 owners of 47 facilities included on the list behind Tab 12.

Mr. Geyer moved to ratify the issuance of the 2014 Certificates of Coverage for the facilities listed. Mr. Fleming seconded. A vote was taken and all of the members were in favor. The motion passed.

Ms. Richmond requested the Board ratify her actions with respect to the denial of the 2014 program year Certificates of Coverage for the eight owners of eight facilities included on the list behind the Tab 12 green divider page.

Mr. Geyer moved to ratify the denial of the 2014 Certificates of Coverage that were listed. Mr. Bryant seconded. A vote was taken and all of the members were in favor. The motion passed.

Executive Session:

Chairman Rocco requested a motion to enter into executive session with counsel pursuant to Ohio Revised Code 121.22(G)(3) to discuss matters of pending or imminent court action. Mr. Hills so moved. Mr. Fleming seconded. Chairman Rocco called for a roll call. The following members voted in the affirmative: Mses. Hilvert and Wasserman; and Messrs. Bryant, Fleming, Geyer, Hills, Stephenson and Rocco. There were no nays. The motion passed.

Prior to moving into executive session, Chairman Rocco and Mr. Fleming requested to be recused from the executive session. Chairman Rocco turned the meeting over to the Board's Executive Director, Starr Richmond.

Reconvene Meeting

The Board adjourned from executive session and reconvened the public meeting.

Confirm Next Meeting and Adjourn:

Chairman Rocco stated that the next Board meeting will be held on Wednesday, September 9, 2015, at 10:00 a.m. The Finance Committee will be meeting at 12:00 p.m. following the Board meeting.

Mr. Stephenson made a motion to adjourn the meeting and Ms. Hilvert seconded. All were in favor.