



Petroleum Underground Storage Tank Release Compensation Board

P.O. Box 2280 • Westerville, Ohio 43086-2280
Phone: (614) 752-8963 • Fax: (614) 752-8397
www.petroboard.org

MINUTES OF THE 204th MEETING OF THE PETROLEUM UNDERGROUND STORAGE TANK RELEASE COMPENSATION BOARD

June 12, 2024 – 10:00 a.m.

BOARD MEMBERS IN ATTENDANCE

Jim Rocco
Don Bryant
Scott Fleming
Tom Stephenson
Dan Ridi

EX-OFFICIO MEMBERS IN ATTENDANCE

Scott King, representing Director Sheryl Creed Maxfield, Ohio Department of Commerce
Harold Anderson, representing Robert Sprague, State Treasurer of Ohio

OTHERS IN ATTENDANCE

Starr Richmond	Executive Director, PUSTRCB
Jonathan Maneval	Assistant Director, PUSTRCB
Vijetha Deshineni	Chief Fiscal Officer, PUSTRCB
Cindy Stauffer	Compliance Supervisor, PUSTRCB
Hannah Brame	Claims Supervisor, PUSTRCB
Beth Fligner	Assistant Attorney General
Scott Adams	State Treasurer's Office

Minutes submitted by:

Jonathan Maneval
Assistant Director

Call to Order:

Chairman Rocco convened the two hundred-fourth meeting of the Petroleum Underground Storage Tank Release Compensation Board on Wednesday, June 12, 2024.

The following members were in attendance: Jim Rocco; Don Bryant; Scott Fleming; Dan Ridi; Tom Stephenson; Scott King, representing Director Sheryl Creed Maxfield, Ohio Department of Commerce; and Harold Anderson, representing Robert Sprague, State Treasurer of Ohio.

The following members were not in attendance: Steve Bergman; Larry Burks; and Donna Waggener, representing Director Anne Vogel, Ohio Environmental Protection Agency.

Scott King announced that he will be moving to a Deputy Director Superintendent position with the State Fire Academy and will no longer serve as the Department of Commerce designee on the Board. He stated that Jason Anthony will be the interim Bureau of Underground Storage Tank Regulations (BUSTR) Chief and handle all day-to-day operations until the position is filled. Chairman Rocco congratulated Mr. King on his promotion and thanked him for his work with the Board.

Chairman Rocco announced that Don Bryant and Tom Stephenson would not be seeking reappointment to the Board when their terms come to an end in July 2024. He thanked each of them for their many years of service to the Board and presented them with clocks as an appreciation for their service. The Chairman noted that four positions on the Board will be open. He said Mr. Bryant is recommending a replacement to fill the insurance industry position and an individual has expressed interest in the petroleum marketer position. He said the other two positions are the local government representative and the professional engineer representing the interests of the public and not associated with the petroleum industry. He said the representative of local government has typically been a local mayor and the professional engineer has been an environmental consultant who is familiar with underground storage tanks (USTs) and remediation-related issues. He asked members to let him know if they had any recommendations for those positions.

Minutes:

Chairman Rocco asked if there were any comments or questions regarding the minutes from the March 13, 2024 Board meeting and there were none. Mr. Anderson moved to approve the minutes and Vice-Chairman Stephenson seconded. A vote was taken, and all were in favor. The minutes were approved as presented.

BUSTR Report:

Chairman Rocco called upon Scott King, Bureau Chief, to present the Bureau of Underground Storage Tank Regulations' report.

Mr. King stated that money for 60 responsible party searches was provided through grant funding and that 48 searches had been completed. He said the remaining searches will be completed by the end of the fiscal year. He said 60 to 65 responsible party searches will be done in the next grant year.

Mr. King stated that there are 21,135 registered tanks and reported that the number of tanks increased this year. He said there are 3,300 owners of registered facilities and just shy of 7,000 registered facilities. He said BUSTR is managing 2,200 active releases and there are 1,800 active closures. He said [32,566] no further actions (NFAs) have been completed throughout the entire existence of the program. Mr. King said BUSTR is in the second year of the three-year inspection cycle and reported that 4,289 inspections and about 3,000 re-inspections had been completed.

Mr. King reported that the U.S. Environmental Protection Agency (U.S. EPA) has indicated there will be a 6.5% cut in grant funding for petroleum USTs due to federal budget cuts. He said this will affect the LUST (leaking underground storage tanks) grant application, which funds the corrective action side of the program and the release prevention grant, which provides funding for inspections. He said the good news is there are some things the Ohio Department of Commerce can do so BUSTR can maintain its services. Chairman Rocco asked what the cuts amount to, and Mr. King said there will be a \$95,000 cut in the upcoming fiscal year for funding release prevention and close to a \$250,000 cut for the two-year grant for the corrective action side. He explained that the majority of the grant funding goes to payroll for inspectors and the staff working with environmental contractors on cleanups. He said the Ohio Department of Commerce is now working through the budget adjustments. Mr. King noted that prior to the announcement of the funding cuts, the Ohio Department of Commerce approved posting an inspector position for the northwest region of the state. He explained that this inspector position had been lost several years ago and BUSTR has been functioning with only nine inspectors for all 88 counties.

Mr. King reported that four rules concerning permit timeframes, cost of permits, and sponsors of training are going through the rules process and are expected to become effective around April 1, 2025. He said BUSTR is tying them into the rollout of their new database system, which is slotted to go live in March 2025. He said the new database system is taking up a lot of time, but it is moving along well, with the permitting and registration sections being completed right now. The Chairman asked if the rules are new or modifications to existing rules. Mr. King said they are modifications of existing rules. He said BUSTR's rule 1301:7-9-11 concerning sponsors of training is being amended in response to a senate bill passed about two years ago concerning reciprocity, a two-year certification cycle, and continuing education. He said the fee structure for permits is also being changed. He commented that the permit fee has not changed in 30-plus years, which is not sustainable because the permit fees collected do not cover the costs to review and process the permits and perform the inspections. He said the permit fees will match fees charged by other states and that each permit activity such as installation, modification, major repair, and removal will have its own set permit fee.

Mr. Fleming asked if the 6.5% funding cut can be offset with an increase in fees and penalties. Mr. King said penalty fees cannot be counted on. He explained that when a notice of violation is issued and the case is taken to litigation, BUSTR does not know what kind of penalty fee will actually be collected by the Attorney General's Office. He said the only way to offset the gap is through UST registration fees, permit fees, and ultimately, other legislative discussions that will need to occur. He said other states like Minnesota, Illinois, and Wisconsin do a percentage on a gas tax, but legislators will not bring that conversation to the floor. He said down the road they will have to look at registration fees and it is going to be an extremely tough conversation to have. He said any time the fee is changed

it is a huge conversation with JCARR (Joint Committee on Agency Rule Review), the Department of Commerce, and legislators because they are going to look at the cost benefit and business impact. He said there is an older case that is helping BUSTR's funding right now, but that money is going to continue to dwindle and 10 to 15 years down the road they will need to figure out ways to offset the funding loss. He said the hope is the U.S. EPA goes back to the norm after going through the current budget cycle crunch. He said the permit fees were the easiest piece to adjust at this point. He said the states in Region 5 were surveyed, and no state had permit fees as low as Ohio. He also noted that delegated fire departments are charging fees that are two to three times the amount charged by the state.

Financial Reports:

Chairman Rocco called upon Vijetha Deshineni, Chief Fiscal Officer, to present the financial reports.

February, March, and April Financials

Ms. Deshineni said the February, March, and April financials were emailed to each member. She said since fiscal year 2024 annualized revenues and expenses would be discussed as part of the operating budget, she would not review the monthly financial reports. She asked if there were any questions concerning the financials and there were none.

Ms. Deshineni noted that preliminary budgets were emailed to the Board members, however, some modifications were made, and the final recommended budgets were included in the notebooks.

Capital Budget

Ms. Deshineni said the proposed capital budget shows the actual fiscal year 2023 expenditures, the budgeted amounts and annualized expenditures for fiscal year 2024, and the recommended budget amounts for fiscal year 2025.

Ms. Deshineni said furniture and equipment was budgeted at \$5,000 for fiscal year 2024 and there was an expenditure of \$548 for an air conditioning unit for the LAN room. She said the recommended furniture and equipment budget for fiscal year 2025 is \$5,000. She said this is to ensure funding is available for any furniture purchases, if needed.

Ms. Deshineni reported that data processing and electronics were budgeted at \$115,000 for fiscal year 2024, and the actual expenditures for this line item were [\$37,323]. She said these expenditures included \$17,000 for the replacement of the current in-office workstations and document management development costs of \$20,323. She noted that the current office workstations will be moved to the employees' remote work areas. Chairman Rocco said, due to staffing issues, some projects that were planned for the current year are being carried over to the next year. He said some money the Board already approved for these projects will be moved to fiscal year 2025.

Operating Budget

Ms. Deshineni said the proposed operating budget presents the approved budget and actual annualized expenditures for fiscal year 2024, and the recommended budget for fiscal year 2025.

Ms. Deshineni reported that tank revenue for fiscal year 2024 was budgeted at \$8.345 million for

20,260 USTs, and actual projected revenues net of refunds should be at [\$8.44] million. She recommended tank revenue for fiscal year 2025 be budgeted at \$8.429 million. She said the per-tank fees are \$350 and \$550 for the \$55,000 and \$11,000 deductibles, respectively. She explained that the tank budget revenue estimate was built on the assumption that fees will be received for 20,270 tanks, and 25.5% of these USTs will be assured at the reduced deductible. She stated this is an increase of 10 tanks over last year's assumption. She noted that fees were billed for 20,770 USTs for the annual mailing in April, which includes adjustments for all UST removals and installations provided as of the date of the annual mailing. She said, based on historical payment data, approximately 98% of USTs billed are paid within the program year for which they are billed. She said tank fee revenue includes property transfer fees, which are projected to be \$100,000 for fiscal year 2025. She said a portion of the transfer fees were assessed during the current fiscal year but are anticipated to be collected in fiscal year 2025. She stated that collection of prior years' fees, less anticipated fee refunds, are projected to be \$200,000 in fiscal year 2025.

Ms. Deshineni stated that interest income was \$14,500 below the budgeted amount for fiscal year 2024 due to interest rate fluctuations. She said the projected interest income for fiscal year 2025 is \$654,000. She said this anticipated interest income is based on an estimated interest rate of 4% in STAR Ohio (State Treasury Asset Reserve of Ohio) and a 2.3% yield from investments in U.S. treasuries and U.S. agency callable bonds. She commented that the estimated interest rates were recommended by Scott Adams from the State Treasurer's Office.

Ms. Deshineni reported that miscellaneous income totaled \$182. She explained that miscellaneous income comes from payments for printing and copying of materials for public record requests, and cash rebates on purchases. She recommended that miscellaneous income be budgeted at \$1,000 for fiscal year 2025.

Ms. Deshineni stated the actual total income was \$84,000 above the \$9.08 million budgeted for fiscal year 2024.

Ms. Deshineni said the salary line-item expense was \$177,000 below the amount budgeted for fiscal year 2024. She said this was due to staff vacancies. She recommended the fiscal year 2025 budget for employee salaries be set at [\$1,638,600]. She said this is the amount approved in the biennial budget and assumes a full staff of 16 employees.

Ms. Deshineni reported that temporary services expenses were \$12,000 below the budgeted amount. She said multiple temporary employees were used to fill vacancies during the fiscal year. She said one temporary employee is currently filling in for an employee on medical leave and it is anticipated the employee will return by mid-July. She recommended the 2025 budget for temporary services be \$25,000.

Ms. Deshineni reported the actual office supplies expenses were about \$9,000 less than the budgeted amount. She said the amount budgeted for office supplies for fiscal year 2025 is \$26,000. She explained that this amount includes the Microsoft 365 subscription, standard office supplies, offsite storage, and any information technology (IT) hardware or software with a cost of under \$500.

Ms. Deshineni stated that actual printing and copying expenses for fiscal year 2024 were \$1,500 below the budgeted amount. She said the amount requested for printing and copying expenses for fiscal year 2025 is the same as last year at \$10,000.

Ms. Deshineni said legal and professional actual expenses were \$47,000 below the budgeted amount. She said the amount requested for legal and professional expenses for fiscal year 2025 is \$290,000. She explained that these expenses include the costs for the services of the Assistant Attorney General; a hearing officer; the annual audit; attorney general and special counsel fees related to the collection of delinquent accounts; database maintenance services; a service contract for the scanners; the Information Security Risk Assessment Phase 2; a contract to provide IT monitoring services; an actuarial services contract for the claims study; and other miscellaneous professional services.

Chairman Rocco asked if there were any questions concerning the proposed operating budget and there were none. He pointed out that one of the big differences in the budgeted amount versus the actual amount was the salary line item for payroll, which was down substantially. He said the good news is being under budget, but the bad news is that number does not reflect what is needed for next year as the Board moves toward becoming fully staffed in the next fiscal year.

Approval of the Capital Budget

Chairman Rocco asked if there were any other questions concerning the proposed capital budget and there were none. Ms. Deshineni then requested a motion to approve the fiscal year 2025 capital budget as proposed. Mr. Bryant so moved, and Mr. Fleming seconded. A vote was taken, and all were in favor. The motion passed.

Approval of the Operating Budget

Ms. Deshineni requested a motion to approve the recommended fiscal year 2025 operating budget as proposed. Mr. King so moved, and Mr. Fleming seconded. A vote was taken, and all were in favor. The motion passed.

Obligate Money for the Payment of Claims

Ms. Deshineni requested a motion to obligate \$8 million for the payment of claims during fiscal year 2025. Vice-Chairman Stephenson so moved, and Mr. King seconded. A vote was taken, and all were in favor. The motion passed.

Actuary Contract

Ms. Deshineni said the staff is proposing to use Milliman Inc. to prepare the estimated unpaid claims liability for fiscal year 2024. She explained that, starting with the fiscal year 2018 audit, Milliman has been used to evaluate the claims that were on hold and develop an estimate of the unpaid claims liability for that group, while her predecessor developed the estimate for all other claims. She said the combined totals provided the total estimated unpaid claims liability. She said, as part of the fiscal years' 2023 and 2024 budgets, Milliman was contracted to perform the entire actuarial evaluation. She said the totals were incorporated into the year-end financial statements presented to the auditors. She said using Milliman to perform the actuarial evaluation resulted in a time savings of approximately 120 to 160 hours for the Fund. She said the contract presented for the Board's approval is for Milliman to again perform the entire actuarial evaluation. The range of fees for the contract is between \$29,000 to \$34,500

plus travel and related fees, which is \$2,000 above the range quoted last year. She then requested a motion to authorize the Chairman to enter into an agreement with Milliman, Inc. to assist the Fund in developing the estimated claim liability as of June 30, 2024, in an amount not to exceed \$34,500 plus travel and related fees. Mr. Bryant so moved, and Mr. Anderson seconded. A vote was taken, and all were in favor. The motion passed.

Hearing Officer's Contract Renewal

Ms. Deshineni said Mr. Silver has agreed to continue as the Board's hearing officer for the next fiscal year under the same terms as fiscal year 2024. She said those terms include an hourly rate of \$150 as an independent contract; a minimum of five hours during the term of the agreement, but he is not bound to supply more than 300 hours; and a maximum of \$3,410 per appeal, unless otherwise agreed. She then requested a motion to authorize the Chairman to enter into an agreement with Howard Silver for continued hearing officer services for the period of July 1, 2024 through June 30, 2025. Mr. Anderson so moved and Vice-Chairman Stephenson seconded. A vote was taken, and all were in favor. The motion passed. The Chairman commented that Mr. Silver has continued to provide great service to the Board, that he rarely asks for more money, and it is great that he wants to continue with his contract.

Assistant Attorney General Memorandum of Understanding

Ms. Deshineni stated that the fiscal year 2025 Memorandum of Understanding (MOU) for legal services to be provided by the Attorney General's Office is at a not-to-exceed amount of \$110,104. She explained that this includes salary and fringe benefit costs associated with 35% of the Assistant Attorney General's time, which is the same as the previous fiscal year. It also includes 35% of a paralegal's salary and fringe benefits; and 14.26% for indirect costs related to support services, such as telephone, supplies, and office space, which is a 2.9% decrease from the previous year. She noted the language of the agreement changed in a number of ways this year. She said it does not specify the names of the Assistant Attorney General and paralegal assigned to the board, as it has in the past. She explained that the Attorney General's Office is standardizing their agreements and the names of personnel assigned to an agency are not provided in similar agreements for legal services. She said the MOU now has a requirement for quarterly meetings to discuss personnel and caseloads. She noted that a clause to negotiate and adjust the MOU if the actual direct and indirect costs exceed the stated not-to-exceed amount was removed from the agreement. She said the not-to-exceed amount of the fiscal year 2025 MOU is 11.6% higher than the fiscal year 2024 MOU. She said it includes a 3.6% increase in salaries, a 1.13% decrease in fringe costs, and a 2.5% decrease in indirect costs. She then requested the Board authorize the Chairman to execute the MOU with the Attorney General's Office for the continuation of legal services in an amount not to exceed \$110,104 for the period of July 1, 2024 through June 30, 2025. Mr. Anderson so moved, and Mr. Fleming seconded. A vote was taken, and all were in favor. The motion passed.

Fee Statement Statistics

Ms. Deshineni stated that the Fee Statement Statistics report provided in the members' notebooks had data as of June 4, 2024, rather than May 31, 2024 as it should. A new Fee Statement Statistics report was then distributed to the members.

Ms. Deshineni said program year 2024 fee statements were issued on April 29, 2024, and \$8.3 million was invoiced to 3,103 owners of 20,758 USTs. She said this compares to 3,122 owners and 20,721

tanks billed in program year 2023. She said as of May 31, 2024, the per-tank fees collected were approximately \$2.89 million, which represents 35% of the amount billed. She said the program year 2024 fees collected to date are approximately \$328,200 below the payments received during the same period of the prior year. She explained that this is primarily due to a mid-sized owner that remitted the program year 2023 fees prior to May 31st last year but did not remit payment by May 31st this year. In addition, 30 fewer small owners remitted payment before May 31st compared to last year.

Ms. Deshineni said between the fee statement mailing in April 2023 and May 31, 2024, \$8.27 million was collected for program year 2023 fees, and \$150,000 was collected for prior years' fees net of refunds paid of \$96,486.

Ms. Deshineni reported for program year 2024, a total of 15,592 tanks were billed at the standard deductible (\$55,000) per-tank fee and 5,166 tanks were billed at the reduced deductible (\$11,000) per-tank fee. She said as of May 31, 2024, fees had been paid at the standard deductible rate for 4,612 tanks and at the reduced deductible amount for 2,301 tanks. She said, in total, fees had been paid for 6,913 tanks by 1,303 owners. She said this compares to fees being paid for 7,846 tanks by 1,333 owners for the same period of time in the prior year. She noted that in comparison to the previous year, the number of tanks paid decreased by 5% and the number of owners that have paid increased by 0.98%. She said this is 933 fewer USTs paid, and 30 fewer owners paid this year as compared to the same period last year.

Ms. Deshineni reported, as of May 31, 2024, the program year 2023 fees were paid for a total of 20,461 tanks by 2,940 owners.

Ms. Deshineni said the \$2.89 million collected to date is [34%] of the [\$8.429] million budgeted for program year 2024. She said the 6,913 tanks with fees paid for program year 2024, reflects 34% of the 20,270 tanks budgeted to apply for certificates this year.

Compliance and Fee Assessment Report:

Chairman Rocco called on Cindy Stauffer, Compliance Supervisor, to present the compliance and fee assessment report.

Ms. Stauffer stated that the information being reported reflects numbers as of May 31, 2024, unless otherwise noted. She reported that refunds totaling \$96,486 had been paid since July 1, 2023. She said there are currently 2,448 pending refunds, which total \$1,365,782. She said \$10,400 of pending refunds had been used to offset outstanding fees during this program year. She said since July 1, 2023, the fees collected by the Attorney General's Office and Special Counsel less collection costs totaled \$67,413. She said the next certification is being finalized and the intention is to have it sent to the Attorney General's Office prior to the September 2024 meeting.

Ms. Stauffer said three Orders Pursuant to Law are currently under appeal and information to support those appeals is expected. She said five Determinations to Deny a Certificate of Coverage are under appeal and information to support those appeals is expected.

Ms. Stauffer stated that one Ability to Pay Application is 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.

Ms. Stauffer reported that, as of June 3, 2024, Certificates of Coverage had been issued to 2,810 owners for program year 2023. She said there are 41 Applications for Certificates of Coverage currently being processed. She said for program year 2023, there are 87 owners with unresolved Pending Denials and 54 owners with unresolved Determinations to Deny a Certificate of Coverage.

Ms. Stauffer stated that there are 50 uncashed refund checks totaling \$63,883. She said there are 15 owners with potential refunds totaling \$80,901 to whom more information request letters had been sent notifying them that additional information is needed before the refund may be issued. She said a second more information request letter will be issued to these owners. She said 39 owners with possible refunds totaling \$63,815 have not responded to the final more information request letters. She said, because these refunds cannot be issued without the additional information, a final review will be conducted and, if possible, a partial refund will be issued to the payer and the remaining amounts will be reapplied to the owner's account.

Claims Reports:

Chairman Rocco called on Hannah Brame, Claims Supervisor, to present the claims reports.

Ms. Brame reported, as of June 3, 2024, the total maximum liability of in-house open claims is approximately \$8.54 million. She said using the claim payout ratio of 78%, which is the average ratio over the past five years, the anticipated payout of unpaid in-house claims is about \$6.66 million.

Ms. Brame reported, as of June 3, 2024, a total of 495 claims with face values above the deductible amount were pending review and noted that review of three claims is being held pending receipt of requested information. She reported that the claims staff are currently reviewing claims received prior to November 2023. She stated that, as of June 3, 2024, a total of six claim determinations were under appeal. She explained that these appeals pertain to only four release sites, as there are multiple appeals for two of those sites. She noted additional information provided is under review for five appeals and a hearing had been scheduled for one appeal. She commented that the number of open appeals has changed significantly since the last meeting. She explained that since March, two appeals were received, and 25 appeals were closed.

Ms. Brame stated that, as of June 3, 2024, a total of 410 claims were received and a total of 533 claim determinations were issued this program year. She noted that no payment could be issued for 27 of these claims as the total face values were below the deductible amount and the releases had received NFA status, meaning no additional corrective actions were required. She said the average payout per claim application this program year is \$13,542 and the average claim payout is 72.1% of the net claim value (face value - deductible). She noted that on average 22.9% of the claim face value was disallowed as non-reimbursable. She said so far this program year, the claim determinations issued (533), the face value of the claims determined (\$11.6 million), and the amount of claims paid (\$6.8 million) already exceed the numbers shown for program year 2022, which were 518 claim determinations issued with a face value of \$9.6 million and a total amount paid of \$5.8 million. Chairman Rocco said the percent

disallowed has gone up this year and asked if anything unusual is being seen to cause the increase. Ms. Brame said she believed the percentage of disallowed costs is mostly related to a couple of claims that had substantial disallowed costs either for non-reimbursable activities, an ineligible release at the site, or for a late filing issue. The Chairman said it is strange to start seeing increases since most consultants have a pretty good idea of what the Board can and will accept. Ms. Brame commented that there are some newer consultants working on sites that have not done too much work previously and it might take some time for them to figure out what the Fund will reimburse.

Ms. Brame reported so far for program year 2023, a total of 92 eligibility applications were received and 67 eligibility determinations were issued. She said of these eligibility determinations, 47 were approved and 20 were denied. She said the reasons for denial included three for no release demonstrated, two for late filing of the application, two for lack of a valid Certificate of Coverage, five for out of compliance USTs, and eight for no corrective actions being required by BUSTR. She reported that, as of June 3, 2024, a total of 120 eligibility applications were open. She noted that 23 applications were unreviewable until the necessary reports are received, and more information has been requested for seven applications. She noted that, as of June 3, 2024, nine eligibility determinations were under appeal. She said additional information is expected for two appeals, information for five appeals has been received and is under review, a hearing is scheduled for one appeal, and a hearing was held for one appeal. She said since the last meeting, one appeal was received and one appeal was closed.

Chairman Rocco pointed out that the number of eligibility applications increased significantly this year and asked if BUSTR is seeing more tank work this year. Mr. King said there has been a significant increase in the number of releases, with some of them being bigger releases. In addition, there has been a huge increase in the number of permits for work being done on tanks. Mr. Bryant asked if the majority of releases are discovered during removal activities. Chairman Rocco said most tank removals will have a release number associated with it, which may or may not end up in corrective action or exceed the deductible. Mr. Bryant said in commercial insurance almost all releases are discovered during removals. He commented that the deductible goes up once the age of the tank reaches 25 years, it goes up again at 30 years, and after 40 years the tank can barely be insured. Chairman Rocco said the original upgrade requirements went through in 1998 and there are a lot of old tanks that are getting to end-of-life from a warranty perspective. Mr. King said there were discussions at the all-states meeting about looking to start sunsetting tanks and to get people to start looking at replacing their tanks before they reach 25 years old. He commented that some other Boards are providing funding for operators to move into a newer system. He said in his personal opinion the tanks are not the problem and that the majority of releases are from piping and ancillary equipment attached to the tanks.

Ms. Brame reported, as of June 3, 2024, a total of 127 cost pre-approval requests were received. She said the cost pre-approval requests include 22 requests for new remedial action plans (RAPs); 50 requests for annual costs for remedial action plans or free product recovery; two requests for an interim response action requiring BUSTR approval; 35 requests for either Tier 3, monitoring or calibration plans; 11 cost exceedance notifications; and seven voluntary requests for cost pre-approval. She said as of June 3, 2024, a total of 119 cost pre-approval notifications had been issued and 49 cost pre-approval requests were pending review.

Chairman Rocco asked if the progress of sites in long-term monitoring is being tracked. Ms. Brame said when cost pre-approval requests are reviewed, the claims analysts note what the initial duration was in the first RAP proposal, and how many years that technology has been implemented. They then decide whether it makes sense to continue with that technology or not. She said there have been a few sites where the staff reached out to BUSTR or the consultant to evaluate some alternative technology or modifications to the extraction well networks for the remediation systems. She said she has seen some changes from the remediation system technologies into proposing alternative technologies like in-situ chemical injections, whose effectiveness are still being evaluated. She said there are very few sites that seem to be using the same technology for more than three or four years without reevaluation.

New Business:

Personnel Compensation

Chairman Rocco said the Board's staff generally automatically receive a pay increase driven by the union contracts. However, the pay of the Board's Executive Director is not subject to the automatic increase, and it is up to the Board to make the decision. He said he is proposing a pay increase for Starr Richmond for this coming year and commented that around 2008 there were pay freezes for two governor terms and the Executive Director went without an increase. He said Director Richmond has continued to perform on an extremely high level, regardless of where her salary may happen to be. He then recommended a 5% increase. He asked if there was any discussion. Hearing none, he requested a motion to approve a 5% salary increase for Starr Richmond, with an effective date of June 30, 2024. Mr. Ridi so moved, and Vice-Chairman Stephenson seconded. A vote was taken, and all members were in favor. The motion passed.

Hardship Application

Chairman Rocco called upon Vijetha Deshineni, Chief Fiscal Officer, to present the hardship application.

Ms. Deshineni 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. She noted that granting hardship status does not increase the amount of reimbursement to the tank owner. She stated that accelerating the review of the claim 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 two-year period and, at that time, the owner may reapply for hardship status.

Ms. Deshineni 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. EPA financial capacity test is used to evaluate the owner's cash flow and determine whether the owner is able to carry debt, in which case, the owner could finance the costs of corrective actions over time.

Claim # 18344-0001/10/26/98, Owner – Red Stripe Associates LLC

Ms. Deshineni said Red Stripe Associates, LLC is the responsible party for a release discovered in 1998 at 50708 National Road in Saint Clairsville, Ohio. She said, as a member of the LLC, Gary Glessner submitted the application requesting the Board grant hardship status to Red Stripe Associates.

She noted this was Red Stripe Associates' 20th request for hardship status.

Ms. Deshineni stated that to date, the Fund has reimbursed \$402,089.46 for corrective action costs for this release. She said although there are no claims in house pending review, a cost pre-approval request was received for a revised RAP for which the costs are estimated to be \$75,000.

Ms. Deshineni said the property and business were sold in November 2008 and Red Stripe Associates provided financing to the new owner. She said Red Stripe Associates received the final payment in November 2013, which was used to pay the remaining mortgage on the property. She said no additional funds are being generated by Red Stripe Associates, who is still responsible for the corrective actions.

Ms. Deshineni said the U.S. EPA financial model estimates a less than a 50% probability that Red Stripe Associates can afford the \$75,000 in corrective action costs estimated to be incurred within the next two years. In addition, Red Stripe Associates is not in a position where it can acquire financing or manage its cash flow to self-finance ongoing corrective actions. Therefore, the Director is recommending the Board approve the application and grant hardship status to Red Stripe Associates, LLC. Chairman Rocco asked if the release occurred in 1998 and Director Richmond confirmed that it did. The Chairman asked if the release has been in some sort of assessment or remediation since then and if claims had been paid. Ms. Deshineni said about \$402,000 in claims had been paid. Ms. Brame said she believed mobile vacuum extraction and groundwater monitoring was being done for several years and it was one of the sites identified as needing to reevaluate its technology. She said Page 4 of the Application indicates they are working on a revised RAP. The Chairman said that is a long time to be working on a remediation plan and he wanted to make sure there is not something the Board needs to be saying about the site. The Chairman then requested a motion to approve the application for hardship status. Mr. Ridi so moved, and Mr. Fleming seconded. A vote was taken, and all members voted in the affirmative. The motion passed.

Certificates of Coverage – Ratifications:

Chairman Rocco called on Cindy Stauffer, Compliance Supervisor, to present the lists of owners who have been issued or denied a Certificate of Coverage for ratification by the Board.

Ms. Stauffer 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; 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. She said if a Certificate has not been issued in one of the prior two years and the tanks existed during those years, the owner must comply with rule 3737-1-04.1 by demonstrating the tanks are in compliance with the Fire Marshal's rules for the operation and maintenance of USTs.

Ms. Stauffer stated that, if the requirements are met, a Certificate is issued. She said if the requirements are not met, the Certificate is denied. She explained that if the Certificate is denied, the owner is provided with an opportunity to appeal the denial. She said that, throughout the denial process, the

Board's staff works closely with the owner to resolve any deficiencies. She stated that all processes within the Board's rules and Revised Code were followed to make a determination to issue or deny the Certificates of Coverage.

Ms. Stauffer requested the Board ratify the Director's actions with respect to the issuance of the program year 2022 Certificates of Coverage for the three owners of the three facilities included on the program year 2022 Certificates issued list.

Mr. Fleming moved to ratify the issuance of the 2022 Certificates of Coverage for the facilities listed. Mr. Bryant seconded. A vote was taken, and all members were in favor. The motion passed.

Ms. Stauffer stated that no determinations denying a program year 2022 Certificate of Coverage had been issued since the last Board meeting.

Ms. Stauffer requested the Board ratify the Director's actions with respect to the issuance of the program year 2023 Certificates of Coverage for the 65 owners of the 271 facilities included on the program year 2023 Certificates issued list.

Vice-Chairman Stephenson moved to ratify the issuance of the 2023 Certificates of Coverage for the facilities listed. Mr. King seconded. A vote was taken, and all members were in favor. The motion passed.

Ms. Stauffer requested the Board ratify the Director's actions with respect to the denial of the program year 2023 Certificates of Coverage for the 171 USTs located at the 65 facilities included on the program year 2023 Certificates denied list.

Mr. Bryant moved to ratify the denial of the 2023 Certificates of Coverage that were listed. Mr. Fleming seconded. A vote was taken, and all members were in favor. The motion passed.

Executive Session:

Chairman Rocco stated that an executive session was needed and requested a motion to enter executive session with counsel pursuant to Ohio Revised Code 121.22(G)(3) to discuss matters of pending or imminent court action. Mr. Anderson so moved, and Mr. Ridi seconded. The Chairman called for a roll call. The following members voted in the affirmative: Messrs. Bryant, Fleming, Ridi, Stephenson, Anderson, King, and Rocco. There were no nays. The motion passed.

Reconvene Meeting

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

Announcement:

Mr. King announced that he had some information to share concerning the proposed 2024 Ohio Fire Code (OFC) update. He said the draft update to the OFC was released and is going through a multiple step comment period. He said there are some changes affecting the Board and BUSTR that he wanted to highlight. He said the OFC is being updated to address an issue where people were saying they were not responsible for following the fire code or BUSTR's rules and regulations. He explained that

language is being added to clarify that USTs and related UST systems are subject to regulation by BUSTR and the fire code. He said another change concerns manifolding product piping underneath the dispensers. He said under the new OFC, the manifolding will have to occur within containments. He said another piece of the OFC update is to protect USTs by ensuring there are proper setbacks from electric vehicle charging stations. Chairman Rocco asked if the classified areas is being used or if it is an alternative set and Mr. King said the classified areas is being used.

Confirm Next Meeting and Adjourn:

Chairman Rocco said the next Board meeting will be held on Wednesday, September 11, 2024, at 10:00 a.m. and noted there will likely be a public hearing at that meeting.

Vice-Chairman Stephenson made a motion to adjourn the meeting and Mr. Bryant seconded. All members were in favor.

Note: Numbers in brackets [] were incorrectly stated at the meeting. The numbers as written reflect the correct numbers from the report materials provided at the meeting.