



Petroleum Underground Storage Tank Release Compensation Board

P.O. Box 163188 • Columbus, Ohio 43216-3188
Phone: (614) 752-8963 • Fax: (614) 752-8397
www.petroboard.org

MINUTES OF THE 155th MEETING OF THE PETROLEUM UNDERGROUND STORAGE TANK RELEASE COMPENSATION BOARD November 12, 2014

BOARD MEMBERS IN ATTENDANCE

Jim Rocco
John Hull
Don Bryant
Steve Hightower
Tom Stephenson

EX-OFFICIO MEMBERS IN ATTENDANCE

Bill Hills, representing Director Andre Porter, Ohio Department of Commerce
Chris Geyer, representing Director Craig Butler, Ohio Environmental Protection Agency
Bob Field, representing Josh Mandel, State Treasurer of Ohio

OTHERS IN ATTENDANCE

Starr Richmond	Executive Director, PUSTRCB
Madelin Esquivel	Assistant 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
Krista Nichols	Accounts Receivable Specialist, PUSTRCB
Nicole Waits	Account Examiner, PUSTRCB
Carla Dowling-Fitzpatrick	Assistant Attorney General
Bill Kennedy	Kennedy Cottrell Richards, LLC
Doug Darrah	Cardno ATC
Will Latt	Speedway, LLC
Michelle Murillo	GPI Enterprises Inc.
Chris Murillo	GPI Enterprises Inc.

Minutes submitted by:

Jonathan Maneval
Administrative Coordinator

Call to Order:

Chairman Rocco convened the one hundred fifty-fifth meeting of the Petroleum Underground Storage Tank Release Compensation Board on Wednesday, November 12, 2014.

The following members were in attendance: Jim Rocco; John Hull; Don Bryant; Steve Hightower; Tom Stephenson; Bill Hills, representing Director Andre Porter, Ohio Department of Commerce; Chris Geyer, representing Director Craig Butler, Ohio Environmental Protection Agency; and Bob Field, representing Josh Mandel, State Treasurer of Ohio.

The following members were not in attendance: Scott Fleming and Cheryl Hilvert.

Chairman Rocco announced that John Hull and Steve Hightower had been reappointed by Governor Kasich. He introduced Don Bryant who was appointed by the Governor to serve as a Board member with experience in pollution liability insurance. Chairman Rocco said that Governor Kasich had also appointed Scott Fleming, an employee of Speedway, to serve as a representative of businesses that own petroleum underground storage tanks, and noted that Mr. Fleming was unable to attend the meeting.

Chairman Rocco introduced Hannah Brame who was recently hired to review claims and perform administrative functions in the claims department.

Minutes:

Chairman Rocco asked if there were any comments or questions regarding the minutes from the September 5, 2014 Board meeting, and there were none. Vice-Chairman Hull moved to approve the minutes. Mr. Hills seconded. A vote was taken and all members voted in the affirmative. 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 an attorney position and a clerk position have been funded and posted but are in a holding pattern with the Department of Commerce, Office of Human Resources. He said BUSTR hopes the positions will be released after January 1, 2015.

Mr. Hills said the Revolving Loan Fund Program is in place and the loan application is available on BUSTR's website. This fund provides financing to political subdivisions, such as government entities and community improvement corporations, to address the removal of abandoned underground storage tank (UST) systems and other UST assessment and closure activities. He noted the Ohio EPA had recently distributed information about the program to encourage participation in the fund.

Mr. Hills said the previous year's responsible party search program was completed successfully, and another responsible party search program of 110 sites had begun and would be completed by June 30, 2015. This program is used to identify UST owners and operators that are responsible for the investigation and cleanup of petroleum releases from USTs.

Mr. Hills said the UST grant program, which covers the field inspector and release prevention section of BUSTR, received a 12% cut in funding. He said that this cut prevented BUSTR from filling a vacant field inspector position and purchasing new vehicles.

Mr. Hills reported that BUSTR's release prevention and corrective action staff were presenting at the Ohio Petroleum Contractors Association meeting, and that the release prevention staff would be providing additional outreach with a number of different entities in the upcoming months.

Mr. Hills reported for the week ending November 1, 2014, there were 50 new inspections performed for a total of 4,077 inspections for the three-year inspection cycle ending June 30, 2016. He said that five NFAs (no further actions) were generated during this same time period for a total of 47 for the grant cycle ending September 30, 2015.

Mr. Hills stated that, as of November 1, 2014, there were 21,868 registered USTs, and roughly 3,700 owners of 7,437 registered facilities.

Financial Report:

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

Audit Report

Mr. Leasor stated that a draft copy of the financial statements and supplementary financial information for the years ending June 30, 2014 and 2013 had been distributed to each member.

Mr. Leasor reported that the team from Kennedy Cottrell Richards had completed the in-house portion of the audit; however, due to timing issues, they were unable to conduct a review of the management's discussion and analysis, draft financial statements and accompanying notes prior to the Board meeting. Therefore, he would be presenting the draft of the fiscal year 2014 financial statements and management's discussion and analysis.

Mr. Leasor briefly discussed the draft management's discussion and analysis; the statements of net position; the statements of revenues, expenses and changes in net position; and the statements of cash flows. He briefly explained the fluctuations from the prior year, including the \$3.7 million increase in unrestricted investments, and the \$4.1 million increase in the Board's net position, which is the difference between assets and liabilities. He further reported that as of June 30, 2014, the total estimated claim liability was just over \$29 million. He pointed out that the reserve for unpaid claims increased from fiscal year 2013 by a little over \$1.3 million as a result of claim reimbursements being paid at a rate less than the increase in the ultimate estimated loss.

Mr. Hightower asked why the Board had invested in US treasuries and US callable bonds when the net position is negative. Chairman Rocco explained that the total liabilities includes the reserve for unpaid claims, which is simply an estimate of the claims that the Board can expect to pay for releases that were discovered prior to June 30, 2014. He said from a cash flow perspective, the Fund is in a positive position, but from a liability perspective, the assets are less than the total liability.

Mr. Leasor introduced Bill Kennedy, a representative from the accounting firm of Kennedy Cottrell Richards, and asked him if he had any additional comments. Mr. Kennedy stated that the

firm had completed the majority of its audit work in September and October but had yet to review the draft financial statements. He said at this point there were no findings or deficiencies to convey, and he anticipates there will not be any problems with submitting the report to the Auditor of State before the deadline.

Mr. Leasor said he expects an updated draft to be distributed to the Board's Finance Committee for their review and comment following edits by the accounting firm and the Board's Executive Director, Starr Richmond. Thereafter he anticipates the financial statements to be submitted to the Auditor of State prior to the December 31, 2014 deadline.

Chairman Rocco requested that each member take time to review the draft financial statements, and if there were questions or comments, to contact Mr. Leasor or Ms. Richmond.

August and September Financials

Mr. Leasor said the August and September financials were emailed to each member. He asked if there were any questions or concerns regarding these reports, and there were none.

Mr. Leasor reported as of November 12, 2014, the unobligated account balance is a little under \$22.3 million. He said this amount includes \$14.3 million in STAR Ohio and the \$8 million invested in US treasuries and US agency callable bonds. He said the obligated account balance for the payment of claims is just over \$6.2 million.

Mr. Leasor said tank revenues would be discussed as part of his fee statement statistics report.

Mr. Leasor said the claims expense for September was approximately \$636,000, and to date, approximately \$2,777,000 had been paid for claims for fiscal year 2015.

Mr. Leasor said the operating expenses for September were approximately \$114,000. He pointed out that as of September 30, 2014, temporary services expenses were 56% of the amount budgeted. He said this was due to the use of a temporary service employee to fill an Environmental Claims Analyst I position. He noted that the position was filled permanently by Ms. Brame in September.

Mr. Leasor said as of September 30, 2014, postage expense was 60% of the amount budgeted. He said this was due to postage fees for the final quarter of fiscal year 2014 being paid in August of fiscal year 2015. He said these charges include fees for the annual fee statement mailing which is sent by certified mail.

Mr. Leasor said all other expenses are where they should be at this time in the fiscal year.

Fee Statement Statistics

Mr. Leasor said as of November 10, 2014, the per-tank fees collected were approximately \$11.4 million, which represents 97% of the billed amount. He said between July 1, 2014 and November 10, 2014, approximately \$109,000 was collected for prior year fees, net of refunds of \$72,150.

Mr. Leasor said for program year 2014, fees for about 15,900 tanks were billed at the standard deductible (\$55,000) per-tank fee and for about 5,500 tanks at the reduced deductible (\$11,000) per-tank fee. Mr. Leasor said as of November 10, 2014, the number of tanks for which fees have been paid at the standard deductible rate is a little over 14,900 and fees for over 5,500 tanks have

been paid at the reduced deductible rate. He said fees for a total of 20,407 tanks were paid by 3,199 owners. He said this compares to fees being paid for 20,476 tanks by 3,279 owners for the same period of time in the previous fiscal year.

Mr. Leasor said for the 2013 program year, fees have been paid for a total of 20,850 tanks by 3,298 owners.

Mr. Leasor stated the \$11.5 million collected to date represents 97% of the \$11.9 million budgeted for program year 2014. He said the 2014 program year's fees have been paid for 20,407 tanks, which is 99% of the tanks anticipated to be assured.

Compliance and Fee Assessment Report:

Chairman Rocco called on Madelin Esquivel, Assistant Director, to present the compliance and fee assessment report.

Ms. Esquivel said as of October 31, 2014, refunds totaling \$78,224 have been paid to 77 owners for the 2014 program year, which began July 1, 2014. She said a total of \$18,225 was used to offset prior years' outstanding fees. She said the combined amounts represent 43% of the \$225,000 refund goal set for the 2014 program year. She said the amount of refunds pending totals \$1.3 million.

Ms. Esquivel said as of October 31, 2014, a net total of \$32,703 had been collected by the Attorney General's Office and Special Counsel.

Ms. Esquivel said as of October 31, 2014, 115 accounts totaling \$169,540 have been certified to the Attorney General's Office for collection. She said that this amount represents delinquent fees that were identified as a result of reconciling inactive accounts. She said the next certification will occur in January 2015 and will include any unpaid 2014 program year's fees.

Ms. Esquivel said six Orders Pursuant to Law and one Determination to Deny a Certificate of Coverage are under appeal. She said all appeals are currently under review.

Ms. Esquivel said that three Ability to Pay Applications are 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. Esquivel reported that 2014 program year Applications for Certificates of Coverage were mailed to 3,439 owners. She stated as of October 31, 2014, Certificates of Coverage have been issued to 2,968 owners. She said there are 274 Applications for Certificates of Coverage currently in process, 55 unresolved Pending Denials and six unresolved Determinations to Deny a Certificate of Coverage.

Ms. Esquivel stated that there are 56 uncashed refund checks, totaling \$53,846. She said that a new process was instituted to obtain additional information from owners when it is needed to process a refund. She said a request for any necessary information will be sent via certified mail, followed by a second request if no response is received. She said that these notices will set forth deadlines for the owner to respond, and if no response is received, the pending refund will be reversed, and

the monies placed back onto the owner's account. She said that more information has been requested from seven owners for pending refunds totaling \$9,550 using this new procedure.

Claims Report:

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

Ms. Duann said as of November 3, 2014, the current total maximum liability of in-house open claims is \$29.6 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 November 3, 2014, 76% of the Fund eligible sites with claims settled had received no further action status with an average cleanup cost of \$130,300 per site. She said after applying the deductibles and removing the disallowed costs, the average payout per closed site was \$70,100. She pointed out that sites cleaned up exclusively under BUSTR's risk based corrective action rules (RBCA rules) had an average cleanup cost of \$72,000 per site.

Ms. Duann said that within the last 12 months, a total of 108 Fund eligible sites were issued no further action status. She said in comparison, only 70 Fund eligible sites had been issued no further action status in each of the previous two years.

Ms. Duann said as of November 3, 2014, there were 1,694 open claims with total face value above the deductible pending review, and a total of 18 claim settlement determinations were under appeal.

Ms. Duann reported that during the last four months, the Board received an average of 66 claims per month, and an average of 75 claims were settled or closed during these months. She said the claim settlement payment offer for these claims totaled \$2.43 million with an average claim payout of 78% of the net value. She said the number of claims received so far this program year is lower in comparison to previous years.

Ms. Duann said that during the last four months, 28 eligibility applications were received and during that same period 26 eligibility determinations were issued. She said that 25 determinations granted eligibility to claim against the Fund. She said as of November 3, 2014, there were 14 eligibility applications under review and three eligibility applications under appeal.

Ms. Duann said as of November 3, 2014, 50 requests for cost pre-approval had been received in the 2014 program year, and 54 cost pre-approval notifications were issued. There are 34 cost pre-approval requests currently pending review.

Chairman Rocco asked how many sites were still undergoing cleanup under pre-RBCA rules. Ms. Duann said she did not know the exact number, but didn't believe it to be many sites.

Adoption of Rules:

Chairman Rocco stated that the Board's proposed amended and new rules were put on JCARR's (Joint Committee on Agency Rule Review) consent agendas and hearings were conducted. No testimony or comments were made at these hearings.

Chairman Rocco requested a motion to adopt amended rules 3737-1-02, 3737-1-03, 3737-1-08, 3737-1-09, 3737-1-09.1, 3737-1-12, 3737-1-12.1, 3737-1-16, 3737-1-17, 3737-1-18, 3737-1-19, 3737-1-20 and 3737-1-21; and to adopt the final form of new rules 3737-1-04, 3737-1-04.2, 3737-1-22, and 3737-1-23 as they were presented at the public hearing of the Board on September 5, 2014, and to set an effective date of January 1, 2015, for these rules. Vice-Chairman Hull so moved. Mr. Geyer seconded.

Chairman Rocco asked if there were any comments or questions regarding the rules and there were none. Chairman Rocco called for a roll call. The following members voted in the affirmative: Messrs. Rocco, Hull, Bryant, Hightower, Stephenson, Hills, Geyer and Field. There were no nays. The motion passed.

Finance Committee Report:

Chairman Rocco said that immediately prior to the Board meeting the Finance Committee met to review the Fund's five-year financial projections and to discuss the annual per-tank fee and deductible amounts for the upcoming program year. He said that as a result of these discussions, the committee had two recommendations for the Board.

Chairman Rocco said the first recommendation of the committee is to reduce the annual fee in the amount of \$100 per tank for the upcoming program year, and the second recommendation is to perform a study evaluating the deductible amounts, and the impact that reducing the deductible amounts would have on the Fund's long-term liability. He said that most of the committee agreed that a reduction of the deductible amounts was appropriate, but further analysis was needed. He said that the committee will meet again prior to the January 14, 2015 Board meeting to review additional statistical data concerning deductible changes, specifically to begin looking at how much the long-term liability would increase if the deductible amounts are lowered. He reminded members that the standard deductible is currently \$55,000, the reduced deductible is \$11,000, and that only owners of six or fewer USTs may elect reduced deductible coverage.

A Pro-Forma Operating Statement was distributed to the Board members, and Chairman Rocco called upon Mr. Leasor to present it to the Board.

Mr. Leasor explained that the statement was prepared using certain assumptions detailed on page one of the statement. These assumptions include a \$100 per-tank fee decrease beginning with fiscal year 2016, current year budget amounts, estimates of future revenues and expenses based on historical revenues and expenses of the Fund, and an estimate of the unpaid reimbursement liability of the Fund.

Mr. Leasor said that the second page of the pro-forma shows projections for fiscal years 2015 through 2019. He said that based on the assumptions, at the end of fiscal year 2019, the Fund will have an unobligated ending balance of \$23.5 million and an estimated claim liability of \$3.7 million. He noted that each year the unobligated ending balance would decrease as a result of the lower fee revenues. He also pointed out that an additional \$500,000 in claims is projected to be processed in the 2017 through 2019 fiscal years due to the proposed hiring of a fifth Environmental Claims Analyst. Funding for this position was requested through the biennial budget process.

Chairman Rocco noted that if the annual fee for the standard deductible was changed to \$400 per tank, the annual fee for the reduced deductible will change to \$600 per tank. Following a short discussion, Chairman Rocco requested a motion to adopt the recommendation of the Finance Committee to amend paragraph (I) of Ohio Administrative Code 3737-1-04 to decrease the annual fee from \$500 per tank to \$400 per tank, and to correct the typographical errors in paragraphs (E) and (F). Vice-Chairman Hull so moved. Mr. Geyer seconded. A vote was taken and all members voted in the affirmative. The motion passed.

Old Business:

Chevron Settlement Agreement and Release

Chairman Rocco called upon Ms. Richmond to present the Chevron Settlement Agreement and Release to the Board.

Ms. Richmond explained that the Board had previously voted to grant Vice-Chairman Hull the authority to execute the Settlement Agreement and Release with Chevron, and that no additional vote was required, but Vice-Chairman Hull requested that the agreement be placed on the agenda so the Board members would have the opportunity to see its terms, discuss it and have any questions answered. Ms. Richmond then asked Carla Dowling-Fitzpatrick, Assistant Attorney General, to briefly summarize the agreement.

Ms. Dowling-Fitzpatrick highlighted the recitals and terms of the agreement, pointing out that the Board's contention is that Chevron falsely claimed it did not have insurance to pay for cleaning up sites contaminated by petroleum UST releases throughout Ohio and that Chevron obtained payments through its insurance carriers for remediation costs at sites for which it had also filed claims and received reimbursement from the Fund. She said that Chevron believes that the claims filed against the Fund were in compliance with the law, and that it was entitled to the payments it received from the Fund regardless of any recoveries or coverage from private insurance.

Ms. Dowling-Fitzpatrick said that in order to settle the dispute without legal action, Chevron agreed to pay the Board \$2.9 million in exchange for a release and covenant not sue. In accordance with the agreement, any in-house claims and future claims submitted by Chevron will be settled through the normal claims process.

Chairman Rocco thanked Vice-Chairman Hull, Ms. Richmond and Ms. Dowling-Fitzpatrick for their work through the difficult negotiation process, and congratulated them on obtaining a favorable settlement on behalf of the Board and Ohio's tank owners.

Suspending Claim Review

Chairman Rocco said that as a result of recent legal proceedings involving the Board and certain responsible persons, a question has been raised as to whether it is appropriate to continue to review and settle claims submitted by a responsible person, when the Board has authorized the filing of a complaint against that responsible party for improperly receiving compensation from the Fund. He suggested that the Board take a position that when a complaint has been filed, that the review of claims related to the litigation be suspended until such time that the litigation is settled or has otherwise ended.

Assistant Attorney General, Ms. Dowling-Fitzpatrick pointed out that when a complaint is filed, the voluntary payment rule may apply and any claim payments paid voluntarily with the full knowledge or belief that the money was undeserved or unlawful may not be recoverable. She said that even if the jury or the court would decide in the Board's favor, there may be no obligation by the responsible person to return monies paid for claims subsequent to the filing of the complaint.

Mr. Geyer questioned whether a party could sign a waiver that would allow the claims to be processed with the understanding that the voluntary payment rule would not apply. Ms. Dowling-Fitzpatrick said that she did not believe it is something that can be waived. Vice-Chairman Hull questioned whether the claims being paid while the parties are in settlement negotiations might also be subject to the voluntary payment rule. Ms. Dowling-Fitzpatrick stated that she believes they are not subject to the rule.

During the Board's discussion, a concern arose regarding petroleum contaminated sites where ongoing remediation is being performed by someone other than the responsible party, such as subsequent owners of the sites, and whether suspending claims review would adversely impact cleanup at these locations. Chairman Rocco pointed out that the suspension of claims review would not suspend the corrective action requirements of the State Fire Marshal, and that cleanup should continue to be performed in accordance with the law.

Mr. Geyer said that if a small tank owner is performing cleanup under assignment, and is reliant upon reimbursement from the Fund, that it is likely the tank owner would stop corrective actions when the money dried up. Vice-Chairman Hull stated that if unlawful claims are paid, even through direct pay to a party performing cleanup under assignment, and the Board has no ability to recover these claim payments, then the financial burden to pay the claims has been unjustly passed on to the tank owner community. He said from a fiduciary standpoint, the Board has an obligation to make claim payments only to those persons that are complying with the rules and regulations.

Mr. Stephenson suggested that the Board decide whether it is appropriate to suspend the review and payment of claims at the time the Board votes to authorize the filing of a complaint. He said this would provide the Board with the opportunity to more fully understand the facts surrounding the case and to assess and evaluate whether the impact of suspending claims review is justified. He said in his opinion this would be a preferential solution than a broad decision to suspend claims review in all cases when the Board files a complaint.

After a lengthy discussion, Chairman Rocco suggested that due to the complexity of contractual arrangements involved with sites where the responsible person has assigned the cleanup to another party as part of a purchase agreement, that the matter be tabled until the Chairman, Vice Chairman, Executive Director and Assistant Attorney General had more time to review the issues involved, to research options surrounding the voluntary payment rule, and to address the concerns raised by the Board members. There were no objections.

New Business:

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 (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.

Claim # 4808-0001/02/02/90, Owner – Harold Saurers d/b/a Rod Kick Marathon

Ms. Richmond said that Mr. Saurers is requesting hardship status for claims associated with a release discovered in February 1990 at 1020 Spruce Street in Wooster. She said this is his fourth request for hardship status, and to date, the Fund has paid over \$72,600 for corrective action costs at the release site. She noted there are currently no unsettled in-house claims associated with this release. She said corrective action costs for the next 12 months are anticipated to be \$50,000.

Ms. Richmond said based on the information provided in the application, Mr. Saurers' annual household expenses and debt payments exceed his annual income, which is from a fixed annuity and social security benefits. She said he has limited personal assets, including real estate and automobiles. He is the sole shareholder in a corporation, Wooster Ignition, however, the corporation has broken even or operated at a slight loss in recent years. Ms. Richmond said based on the U.S. EPA financial capacity test, it is highly unlikely that Mr. Saurers has the ability to afford the corrective action costs anticipated to be incurred in the next 12 months.

Ms. Richmond recommended the Board approve the application and grant hardship status to Mr. Saurers. Vice-Chairman Hull so moved and Mr. Hills seconded. A vote was taken and all members voted in the affirmative. The motion passed.

Claim # 19924-0001/05/06/14, Owner – P&W Properties, LLC d/b/a Route 22 Sunoco

Ms. Richmond said that P&W Properties, LLC is the responsible person for a 2013 release that occurred at 521 Lincoln Avenue in Lancaster. She said Donald and Cindy Husband are the only members of P&W Properties, LLC, which owns the property at 521 Lincoln Avenue, and P&W Properties' only income is the rent payments it receives from Route 22 Enterprises, LLC. She noted that Mr. and Mrs. Husband also own Route 22 Enterprises, LLC, which operates the business located on the property.

Ms. Richmond said that, as the owners, Donald and Cindy Husband are requesting the Board grant hardship status, and this is the first request for hardship status. She noted that there are no open claims in house.

Ms. Richmond said the anticipated corrective action costs for the next year are \$30,000. She said that according to a conversation with Mrs. Husband, Route 22 Enterprises is paying for the costs

of remediation. However, this \$30,000 in anticipated corrective action costs exceeds Route 22 Enterprises' reported taxable income for the past four tax years. In addition, the U.S. EPA financial model for corporations, known as ABEL, estimates a less than 50% probability that Route 22 Enterprises can afford \$30,000 in corrective action costs. Based on the results of the ABEL model and given that there is currently insufficient cash flow to self finance the anticipated corrective action costs, Ms. Richmond recommended the Board approve the application and grant hardship status. Mr. Geyer so moved and Vice-Chairman Hull seconded.

Mr. Hightower pointed out that according to their application, it appeared that the Husbands have significant assets, including numerous properties. Mr. Leasor said that although the application included information concerning the Husbands' personal assets, only the assets of the corporation may be used in the analysis to determine whether the responsible person has the ability to self finance the corrective action costs. After a short discussion, a vote was taken and the following members voted in the affirmative: Messrs. Rocco, Hull, Bryant, Stephenson, Hills, Geyer and Field. Mr. Hightower abstained. The motion passed.

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 September Board meeting, the owner 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 Certificates of Coverage for the three facilities included on the list behind Tab 11.

Vice-Chairman Hull moved to ratify the issuance of the 2013 Certificates of Coverage for the facilities listed. Mr. Hills 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 2013 program year Certificate of Coverage for the one facility listed behind the Tab 11 green divider page.

Vice-Chairman Hull moved to ratify the denial of the 2013 Certificate of Coverage that was listed. Mr. Hills 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 issuance of the 2014 program year Certificates of Coverage for the 220 owners of 899 facilities included on the list behind Tab 12.

Vice-Chairman Hull moved to ratify the issuance of the 2014 Certificates of Coverage for the facilities listed. Mr. Geyer 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 five facilities included on the list behind the Tab 12 green divider page.

Vice-Chairman Hull moved to ratify the denial of the 2014 Certificates of Coverage that were listed. Mr. Hills 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. Hightower so moved. Mr. Hills seconded. Chairman Rocco called for a roll call. The following members voted in the affirmative: Messrs. Bryant, Field, Geyer, Hightower, Hills, Hull, Stephenson and Rocco. There were no nays. The motion passed.

Prior to moving into executive session, Chairman Rocco requested to be recused from executive session. Chairman Rocco turned the meeting over to Vice-Chairman Hull.

Reconvene Meeting

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

Confirm Finance Committee Meeting and Next Meeting and Adjourn:

Chairman Rocco said there will be a Finance Committee meeting to discuss the Fund's five-year financial projections and future deductible amounts on Wednesday, January 14, 2015, at 9:00 a.m.

Chairman Rocco stated that the next Board meeting will be held on Wednesday, January 14, 2015, at 10:00 a.m.

Mr. Hightower made a motion to adjourn the meeting and Mr. Hills seconded. All were in favor.