



# Petroleum Underground Storage Tank Release Compensation Board

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## MINUTES OF THE 138th MEETING OF THE PETROLEUM UNDERGROUND STORAGE TANK RELEASE COMPENSATION BOARD October 5, 2011

### BOARD MEMBERS IN ATTENDANCE

Jim Rocco  
John Hull  
Brian Epperson  
Cheryl Hilvert  
Don Kuchta  
Tom Stephenson

### EX-OFFICIO MEMBERS IN ATTENDANCE

William Vedra, representing Director David Goodman, Ohio Department of Commerce  
Chris Geyer, representing Director Scott J. Nally, Ohio Environmental Protection Agency

### OTHERS IN ATTENDANCE

Starr Richmond	Executive Director, PUSTRCB
Don Leasor	Chief Fiscal Officer, PUSTRCB
Madelin Esquivel	Assistant Director, PUSTRCB
Cindy Duann	Environmental Claims Supervisor, PUSTRCB
Ellen Mitton	Administrative Coordinator, PUSTRCB
Nicole Johnson	Assurability Coordinator, PUSTRCB
Cindy Knight	Compliance Analyst, PUSTRCB
Donna Kestler	Claims Administrative Assistant, PUSTRCB
Cheryl Hawkinson	Assistant Attorney General
Howard Silver	Board Hearing Officer
Daniel Griest	Speedway SuperAmerica
Eric Swaisgood	Speedway SuperAmerica
Andy Shrock	Parsons
Mike Byrne	Sunoco, Inc.
Doug Darrah	ATC Associates
Ed Greenlee	ATC Associates
Jodi Handlin	BJAAM Environmental

Minutes submitted by:

Ellen S. Mitton  
Administrative Coordinator

### **Call To Order:**

Chairman Rocco convened the one hundred thirty-eighth meeting of the Petroleum Underground Storage Tank Release Compensation Board on Wednesday, October 5, 2011. The following members were in attendance: Jim Rocco; John Hull; Cheryl Hilvert; Mayor Don Kuchta; Brian Epperson; Tom Stephenson; Bill Vedra representing Director David Goodman, Ohio Department of Commerce; and, Christopher Geyer, representing Director Scott J. Nally, Ohio Environmental Protection Agency.

Chairman Rocco welcomed Bill Vedra, Bureau Chief, Bureau of Underground Storage Tank Regulations (BUSTR).

Chairman Rocco asked if there were any comments, questions, or discussion regarding the minutes from the June board meeting and there were none. Mr. Hull moved to approve the minutes. Mr. Geyer seconded the motion. A vote was taken and all members voted in the affirmative. The motion carried.

### ***Election of Officers and Committee Member Appointments***

Chairman Rocco entertained motions from the floor for nominations of officers for the upcoming year. Mayor Kuchta moved to re-elect both Chairman Rocco and Vice Chairman Hull in their respective offices and to close the nominations. Ms. Hilvert seconded. A vote was taken and all members were in favor.

### ***Rules Committee***

Chairman Rocco asked for Board members to volunteer to participate on the Rules Committee for the next year. Brian Epperson, Mayor Don Kuchta, and Chris Geyer volunteered to remain on the committee. Chairman Rocco and Vice Chairman Hull will work on the committee in an ad hoc capacity.

### ***Finance Committee***

Chairman Rocco stated that the Finance Committee consists of the Chairman, the Vice Chairman and one other Board member. Chairman Rocco asked Tom Stephenson to remain on the Finance Committee and he agreed. The Finance Committee members are Chairman Rocco, Vice Chairman Hull, and Mr. Stephenson.

### ***2012 Meeting Dates***

Chairman Rocco set the following 2012 meeting dates: January 11, February 15 (tentative), March 21, June 13, September 19, and November 28. All meetings begin at 10:00 a.m.

### **BUSTR Report:**

Chairman Rocco called upon Bill Vedra, Bureau Chief, to present the BUSTR report.

Mr. Vedra said rule OAC 1301:7-9-19 regarding UST tank operators training became effective on September 1, 2011. He stated BUSTR continues to move forward with creating a pool of both pre- and post-examination test questions that are required for all training classes. He said BUSTR representatives also met with training providers on August 30, 2011, to review goals, objectives, and course material to be used to train Class A, Class B and Class C operators. He said they also discussed certified UST installer training.

Mr. Vedra noted that BUSTR continues to meet with a stakeholder group to review its administrative rules as required by the five-year rule review process, while concurrently drafting new rules to conform to the requirements of the Energy Policy Act of 2005. Mr. Vedra said there are eighteen (18) administrative BUSTR rules that are subject to the state's five-year rule review requirements and of

those 18, four rules have been adopted, six rules drafted, and eight rules are in the editing process. Mr. Vedra stated BUSTR plans on all revisions being submitted to the Joint Committee on Agency Rule Review (JCARR) by December 1, 2011. He said the next stakeholder group meeting is October 6, 2011 to discuss rules 1301-7-9-10 (Permits), 1301-7-9-11 (Installer Certification), and 1301-7-9-15 (Delegation of Authority).

Mr. Vedra stated there are now two attorneys working in-house at BUSTR. He said the Attorney 2 position had been filled by Ms. Ellen Miller to focus on the enforcement side of BUSTR, leaving Ms. Lori Stevens to focus on BUSTR policy and rules.

Mr. Vedra said Jason Anthony and Steve Parsons who were field inspectors filled the two field supervisors' positions on the release prevention side. He said BUSTR had filled one of the two vacated field inspector positions with an individual from code enforcement and is currently waiting on approval to post the other position.

Mr. Vedra said BUSTR continues activities under the American Recovery and Reinvestment Act of 2009 (ARRA). He said a no-cost grant extension until December 31, 2011 had been granted and that activity is proposed to continue at six sites to utilize the remaining grant money.

Mr. Vedra said BUSTR also continues working on the OTTER database upgrade project, which began on August 22, 2011, and currently is on target to meet the June 30, 2012 completion date.

Mr. Vedra noted the UST operation compliance site inspections are ongoing and at this time BUSTR is 36.8% ahead of projections. He said the current grant cycle ends August 8, 2013.

Mr. Vedra stated 22,241 USTs are currently registered with BUSTR and noted the number continues to gradually decrease. He said at this time there are 3,899 owners of registered facilities.

Mr. Vedra said there had been 26,375 no further actions (NFAs) related to clean-ups issued within the BUSTR program.

Mr. Vedra said BUSTR is working with the Ohio Environmental Protection Agency (OEPA) to address coordination issues that occur when BUSTR Class C sites are located within an OEPA VAP site. He said proposed changes in the statute would allow BUSTR to accept work conducted under a VAP and issue an NFA thus allowing one agency to handle those Class C sites that are contained within a VAP site.

### **Financial Report:**

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

#### ***May, June, July and August Financials***

Mr. Leasor stated the May, June, July, and August financials were emailed to each member. He asked if there were any questions or concerns regarding these reports. Hearing none, Mr. Leasor began with the August financials.

He said the current unobligated balance is approximately \$6.9 million. Mr. Leasor said there is currently just under \$7.7 million in the obligated account that is set aside for fiscal year 2012 claim settlement payments.

Mr. Leasor said the claims expense for August was approximately \$404,000; and, as of October 5, the claims expense this fiscal year is a little over \$1.3 million.

Mr. Leasor said the operating expense for August totaled just under \$160,000. He said the legal and professional line item is at approximately 21% of the amount budgeted and includes the 2011 fiscal year fourth quarter costs for the services of the Assistant Attorney General, which were paid in July. Mr. Leasor said this also includes fees assessed by the Attorney General's Collections Enforcement section as collection costs and special counsel fees.

Mr. Leasor said the postage line item is at approximately 58% of the amount budgeted and includes postage costs for the annual fee statement mailing and the spring 2011 newsletter. He said as of August 31, the unemployment compensation line item was 26.9% of the amount budgeted due to charges assessed by the Ohio Department of Job & Family Services for May and June of fiscal year 2011 being paid in July.

Mr. Leasor noted all other expenses are on target for this time in the fiscal year.

### ***Fee Statement Statistics***

Mr. Leasor said for the 2011 program year, there had been a little over \$13.7 million collected in current year fees to date, and just under \$251,000 collected in prior year fees, which represents 96.4% of the \$14.25 million budgeted for fee revenue for fiscal year 2012. He said 3,257 owners had paid fees for 20,531 tanks. Mr. Leasor explained that 72% of the fees were paid at the standard deductible and 28% were paid at the reduced deductible.

Chairman Rocco stated that in next year's collection cycle he would be interested in a comparison of the fees invoiced versus the fees collected.

In response to Mr. Geyer's question, Mr. Leasor confirmed that since the bonds were retired in August 2010, there is no debt service in fiscal year 2012 and currently there is approximately \$6.9 million in the unobligated account.

Mr. Leasor said the auditors are in the office this week to begin their in-house portion of the audit. He stated the final 2011 fiscal year audited financial statements are required to be filed with the Auditor of State by December 31, 2011. He stated requests for extensions of the December 31 deadline had been made over the past few years; however, the goal is to file the audit by the December deadline. In response to Mr. Hull's question, Ms. Richmond stated the staff worked with an actuary in-house last year. She said that as in previous years, to get comfortable with management's estimate, the auditors would independently hire an actuary to review the estimate prior to releasing the audited financial statements.

### **Claims Report:**

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

Ms. Duann said there are a total of 2,796 sites that have submitted claims to the Board. She said BUSTR had issued No Further Action (NFA) letters to approximately 71% or 1,980 of these sites. She said the average payout per closed site is approximately \$68,000. Ms. Duann said the remaining 816 sites continue with corrective actions and claim submissions.

Ms. Duann said the current total maximum liability of in-house open claims is approximately \$27.6 million. Ms. Duann said using the historical claim payout ratio of 70% the actual anticipated claim liability of unpaid in-house claims is about \$19.3 million.

Ms. Duann said there are currently 1,724 open claims pending review in-house. She said excluding the claim packages received from two major oil companies, the average time to settle a claim is approximately 340 days.

Ms. Duann said there are currently 26 claims under appeal. She stated a number of these appealed claims are in settlement negotiations or are scheduled for a hearing.

She said that during the 2010 program year, the Board had received 808 claim packages and 757 claims had been settled or closed. Ms. Duann said the total claim settlement payout for program year 2010 was slightly above \$7 million and the average claim payout was 70% of the net value.

Ms. Duann said that for the first three months of this program year, the Board received 203 claim packages, averaging 68 claim packages a month. She said the staff settled or closed 189 claims, averaging 63 claim packages per month, which is fairly consistent with the claim statistics of the last two years. Ms. Duann said the average payout for the first three months increased to \$12,617 per claim due to settling a few high dollar claims.

Ms. Duann stated that during the 2010 program year only 38 eligibility applications were received, which is an unusually low number. She said that during the 2010 program year there had been a total of 66 determinations made with a 73% approval rate.

Ms. Duann said the Board received 14 eligibility applications for the first three months of this program year and 11 eligibility determinations were issued. She said the number of eligibility applications received thus far in the program year is slightly higher than the last program year, but still lower than the prior years. She said currently there are nine open eligibility applications pending review, and typically these applications are reviewed within 30 days of receipt.

Ms. Duann said cost pre-approvals are being reviewed within 45-60 days of receipt. She said that during program year 2010 a total of 181 requests for cost pre-approval were received and 214 notifications were issued.

She said that during July, August, and September, the Board received 49 requests for cost pre-approval and 54 pre-approval notifications were issued.

Ms. Duann said that during program years 2006 to 2010, the number of new RAPs received each year had remained under 30. She said if the RAP implementation goes beyond one year, annual RAP cost pre-approval is required. She said it is interesting to note, the number of these annual RAP cost pre-approval requests had decreased significantly from the earlier years; i.e., 2003, 2004 and 2005, and have remained at approximately 25 requests each year.

### **Old Business:**

#### ***Office Lease***

Chairman Rocco said that before the expiration of the old lease on June 30, 2011, he and Ms. Richmond looked at available office space in several downtown buildings. He said the cost per square foot at most of these alternative spaces exceeded the rate for the existing office space. He said one building on Gay Street had space available that was slightly less in cost per square foot. Chairman

Rocco said that the space on Gay Street needed build out work and the owner of the Gay Street space would amortize the cost of this build out work. Chairman Rocco said the Gay Street landlord stated that he would not charge the Board for the build out costs up front; but the Board would be required to pay the unamortized costs, which would be a large lump sum, if it did not renew the lease. He stated that based on this and other considerations the finance committee choose to negotiate a new lease for the current office space.

Chairman Rocco said he had signed the lease on behalf of the Board, but the landlord recently requested to add a relocation clause to the lease giving the landlord the right to relocate the Board's office space to a comparable space within the LeVeque building. He stated that Ms. Hawkinson, Assistant Attorney General, is drafting language to incorporate a 90-day notice requirement in the relocation clause. He asked Ms. Richmond if she had anything to add to the conversation.

Ms. Richmond stated the terms of the new lease include a cost of \$12.17 per square foot, which is \$0.50 per square foot higher than the old lease. She said after some negotiation, the Board was offered a 2-year lease with two 2-year renewal options. She said that at the end of the first 2-year lease, the increase in cost for each renewal option would be negotiated at the time the Board exercised this option. However, the increase was capped at \$1 per square foot for the first two-year renewal period and at \$0.50 per square foot for the second renewal period. She said that negotiating a cap on the rate increases for each renewal period had been a sticking point with the landlord.

### **New Business**

#### ***Appeal Hearing***

Chairman Rocco called upon Mr. Howard Silver, the Board's Hearing Officer, to present the Report and Recommendation regarding the appeal of a settlement determination issued to FirstEnergy Corporation.

#### **Claim #7914-0008/08/07/05-A, W. H. Sammis Generating Station, Stratton, OH 43961**

Mr. Silver said FirstEnergy Generation Corporation is the owner of the property located on Route 7 in Stratton, Ohio, and possessed a valid Certification of Coverage at the time of the release.

He said that on August 8, 2005, an accidental release of petroleum was suspected at the W.H. Sammis Generating Station on State Route 7 in Stratton, Ohio, located in Jefferson County, Ohio.

Mr. Silver said the original deadline for the Tier 1 Investigation Report for the release site was August 8, 2006. He said that on July 12, 2006, a request for an extension of 90 days for the submittal of the Tier 1 Investigation Report was filed with BUSTR. Mr. Silver stated this request was approved by BUSTR on July 14, 2006, which moved the deadline for the Tier 1 Investigation Report to November 8, 2006.

Mr. Silver said that on October 27, 2006, a request for a 120-day extension of the deadline for the submittal of the Tier 1 Investigation Report was submitted to BUSTR. He said this request was approved on November 29, 2006, and the November 8, 2006, deadline was extended to March 8, 2007.

Mr. Silver stated that on March 7, 2007, a Tier 1 Investigation Report was submitted to BUSTR and this Tier 1 Investigation Report was approved by BUSTR on March 14, 2007 and stated that the requirements of O.A.C. section 1301:7-9-13(I) had been completed. He said that two weeks after the March 14, 2007, approval of the Tier 1 Investigation Report, free product was found in monitoring well #15 at the release site and was reported to BUSTR.

Mr. Silver said that on May 30, 2007, BUSTR ordered additional delineation activities at the release site. He said BUSTR required the additional delineation activities to be completed by September 30, 2007.

Mr. Silver said that on September 24, 2007, FirstEnergy Generation Corporation filed with BUSTR a Tier 1 Investigation Report Addendum. He said that on September 26, 2007, BUSTR approved the addendum and the Tier 1 requirements of O.A.C. section 1301:7-9-13(I) had been completed.

Mr. Silver said that on September 26, 2008, the Director of the Petroleum UST Financial Assurance Fund received a claim for reimbursement from FirstEnergy Generation Corporation for Tier 1 delineation activities that occurred prior to March 8, 2007, including activities carried out in the preparation and submittal of the original Tier 1 Investigation Report on March 7, 2007, and costs associated with the addendum.

Mr. Silver said that on November 13, 2009, the Executive Director of the Petroleum UST Release Compensation Board (“PUSTRCB”) issued a claim settlement determination letter to FirstEnergy that disallowed \$44,117.75 of claimed corrective action costs associated with Tier 1 delineation activities that occurred prior to March 8, 2007, and were required to be submitted for reimbursement by March 8, 2008.

He said that on December 1, 2009, FirstEnergy Generation Corporation filed with PUSTRCB an objection to the determination. Mr. Silver said BUSTR’s March 14, 2007, approval of the March 7, 2007, Tier 1 Investigation Report was not retracted. He said additional information provided in response to BUSTR’s May 30, 2007, letter was attached to the Tier 1 Investigation Report as an addendum. He said no request for an extension of the March 8, 2007, deadline was filed on or before March 8, 2007.

Mr. Silver stated the date upon which the Tier 1 Investigation Report was required to be submitted, March 8, 2007, is the program task completion date from which a claim for reimbursement of corrective action costs must be filed. He said the claim for reimbursement was required to be submitted to PUSTRCB by March 8, 2008.

Mr. Silver said the claim for reimbursement filed by FirstEnergy Generation Corporation for reimbursement of corrective action costs was received by the Fund on September 26, 2008, after the March 8, 2008, deadline imposed by O.A.C. sections 3737-1-12(A) and 3737-1-12(D)(4).

Mr. Silver stated based on the findings of fact and conclusions of law presented in this report, he recommended that the disallowance issued by the Director of \$44,117.75 in corrective actions costs issued on November 13, 2009, for a late filing of the claim for those costs, be affirmed as the actions present valid state action as a matter of fact and law. Mr. Hull moved to accept the hearing officer’s recommendation; Mr. Stephenson seconded. A vote was taken and all members voted in the affirmative. The motion carried.

### ***Hardship Applications***

Chairman Rocco called upon Ms. Richmond to present the hardship applications. Ms. Richmond stated when hardship status is granted to an owner the review of that owner’s claims is accelerated, thereby reducing the owner’s financial burden. Hardship status is granted for one year and can be renewed annually by submitting another application accompanied with updated financial information, including a minimum of two years of federal income tax returns. Ms. Richmond said there is not a limitation on the number of times hardship status can be granted.

Ms. Richmond stated that in addition to reviewing the hardship application, a US Environmental Protection Agency (EPA) financial capacity test is used to evaluate the owner's cash flow and determine if the owner has the ability to carry debt, in which case the owner could finance the costs of corrective actions over time.

**Claim #10650-0001/07/09/96, Owner – Robert Tishue, dba Former Tishue's Carryout**

Ms. Richmond said Mr. Tishue submitted this application for a 1996 petroleum release that occurred at a facility he previously owned on West Pike Street in Morrow, Ohio. Mr. Tishue has continued to clean up the site. She said this is Mr. Tishue's eighth request for hardship status; one of the seven previous requests had been denied in November 2006 because no claims were pending review at that time. Ms. Richmond said the last request for hardship status was submitted in September 2010 and expired in September 2011. She said to date the Fund had reimbursed Mr. Tishue just over \$83,000. She said there currently are no claims submitted; but a request for cost pre-approval was received on July 13, 2011, for a little over \$21,500.

Ms. Richmond said Mr. Tishue is retired and that he sold the property in April 1999. She said Tishue's Carryout and Oil Company had been dissolved. She stated that based on the financial information submitted with the application, his reported annual expenses exceed his reported income and he is drawing from his savings to make up the difference.

Ms. Richmond stated that based on the U.S. Environmental Protection Agency (EPA) financial capacity test, Mr. Tishue lacked the resources to cover future living expenses and it is highly unlikely he could afford corrective action costs.

Ms. Richmond recommended that the Board approve this application and grant hardship status to Robert Tishue. Mayor Kuchta moved to approve the application. Mr. Epperson seconded and a vote was taken. All members voted in the affirmative. The motion carried.

**Claim #13755-0001/05/24/91, Owner – Raymond Cooper, dba Cooper Marathon**

Ms. Richmond said Mr. Cooper submitted this application for a release that was discovered in 1990 when the underground storage tanks were removed from 111 East Main Street in Lucas, Ohio. She said this is Mr. Cooper's eighth request for hardship status; he was last granted hardship status in 2010, which expired in September 2011. Ms. Richmond said to date the Fund has reimbursed Mr. Cooper slightly over \$268,000. She said there currently are no claims submitted; but cost pre-approval to implement a monitoring plan was granted in September 2010 for \$8,300.

Ms. Richmond said Mr. Cooper is retired and no longer owns the property. She said the review of the hardship application and the results of the U. S. Environmental Protection Agency (EPA) financial capacity test indicate Mr. Cooper should have the ability to finance corrective action costs of \$8,300.

Ms. Richmond stated, however, in spite of these results, she recommends that the Board approve this application and grant hardship status to Raymond Cooper because Mr. Cooper's only income is from pensions and social security; and, both Mr. Cooper and his wife have significant health-related issues. Mayor Kuchta moved to approve the hardship application. Mr. Hull seconded and a vote was taken. All members voted in the affirmative. The motion carried.

**Claim #13177-0001/10/29/98, Owner –Kwan Kim , dba Kim's Marathon**

Ms. Richmond said Mr. Kim is the responsible person for a 1998 release that was discovered when the tanks were removed from 875 Summit Street in Columbus. Ms. Richmond said this is the first request for hardship status submitted by Mr. Kim. She said to date the Fund has reimbursed Mr. Kim slightly over \$33,300.



Ms. Richmond said Mr. Kim no longer owns the property. She said based on information provided by Mr. Kim in the hardship application, his household gross income slightly exceeds his reported annual household living expenses, debt payments, and existing medical expenses.

Ms. Richmond said the U.S. Environmental Protection Agency (EPA) financial capacity test indicated that Mr. Kim does not have adequate cash flow to self finance corrective action costs and any additional debt would result in his annual expenses exceeding his annual income. She said for these reasons, she is recommending the Board approve the application and grant hardship status to Mr. Kim. Mayor Kuchta moved to approve the hardship application. Mr. Hull seconded and a vote was taken. All members voted in the affirmative. The motion carried.

**Claim #4808-0001/02/02/90, Owner – Harold Saurers, dba Wooster Ignition Inc.**

Ms. Richmond said Mr. Saurers, the responsible person for a release discovered in February 1990 when an underground storage tank was removed at 1020 ½ Spruce Street in Wooster, is requesting the Board grant hardship status to Wooster Ignition Inc. She said this is the first request for hardship status submitted by Wooster Ignition Inc. To date, two claim packages totaling just over \$39,000 have been received and are pending review.

Ms. Richmond said based on the information provided in the hardship application, the U.S. Environmental Protection Agency (EPA) financial capacity test estimates there is a 70% probability that Wooster Ignition Inc. could afford \$2,800 in corrective action costs over the next five years. Ms. Richmond said that given the costs of corrective action are expected to far exceed this \$2,800 over the next five years and the limited income generated by Wooster Ignition on an annual basis, she is recommending the Board approve the application and grant hardship status to Wooster Ignition Inc. Mayor Kuchta moved to approve the hardship application. Mr. Epperson seconded and a vote was taken. All members voted in the affirmative. The motion carried.

**Claim #7769-0001/07/23/92, Owner – North Ridgeville City Schools**

Ms. Richmond stated that North Ridgeville City Schools, the responsible person for a 1992 release that occurred at 7012 Pitts Boulevard in North Ridgeville, is requesting the Board grant hardship status to the district. She said this is the first request for hardship status submitted by North Ridgeville City Schools. Ms. Richmond said to date the Fund has reimbursed North Ridgeville City Schools just under \$602,000. She said North Ridgeville City Schools currently has two claims in-house pending review with a total face value of just under \$128,000. Ms. Richmond stated these two claims are scheduled for review in December 2011 and with the exception of \$1,000, the reimbursement is to be paid directly to the schools' consultant.

Ms. Richmond said North Ridgeville City Schools stated in its hardship application that the school system is experiencing a severe financial crisis and submitted a five-year forecast for the school district. She said the forecast projected an unreserved cash balance of slightly under \$966,000 as of June 30, 2011 and this balance is forecasted to increase to \$1.2 million by June 30, 2012. Ms. Richmond said the district has the ability to issue Current Tax Revenue Notes to assist in meeting short term financial obligations, and the district intends to put a levy on the ballot in November 2011.

Ms. Richmond said that the U.S. Environmental Protection Agency (EPA) financial capacity tests do not provide for a test of public entities. She said that based solely on the review of the five-year forecast, she recommends the Board deny this application for hardship status as it appears the district does have adequate cash flow to self finance and on a short-term basis, finance the costs of corrective actions anticipated in the next year. Mr. Stephenson moved to deny the hardship application. Ms. Hilvert seconded and a vote was taken. All members voted to deny hardship status.

### ***Linked Deposit Program***

Ms. Richmond stated the Board received one renewal application for a Linked Deposit. She said the Linked Deposit Program was established to assist petroleum UST owners with financing the replacement or upgrading of their tanks and provides members of the Fund with a lower cost mechanism. She stated the program works by the Board depositing funds into the owner's financial institution for a period of two years and in exchange, the owner receives a reduced interest rate. After the lapse of the first two-year period, the owner may re-apply to continue the linked deposit for an additional two years. Ms. Richmond said the maximum period of time for any one linked deposit is four years.

### **Owner # 21612, MIRI, Inc., dba Stake's Shortstop, Loudonville, OH**

Ms. Richmond presented the linked deposit renewal application for \$100,000 submitted by the Farmers and Savings Bank in Loudonville on behalf of MIRI, Inc. She said the first Linked Deposit was approved by the Board in June 2009 and was active until June 2011. Ms. Richmond stated the owner is in good standing with the Fund. She indicated the application shows there would be three full-time and four part-time jobs saved, and a fifth part-time job created with this investment. She recommended the Board approve the Linked Deposit Renewal Application.

Mayor Kuchta moved to approve the application; Mr. Hull seconded. A vote was taken and all were in favor. The motion carried.

### ***Certificates of Coverage Ratification***

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

Ms. Richmond said that behind Tabs 9 and 10 are listings of facilities that, since the June Board meeting, were issued or denied a program year 2010 or 2011 Certificate of Coverage.

Ms. Richmond explained that the process used to review the fee applications and issue or deny a Certificate of Coverage include a review for completeness to determine full payment has been received; financial responsibility for the deductible is demonstrated; and, the owner has certified with his signature that he is in compliance with the State Fire Marshal's rules. She said if these requirements have been met and if the tanks existed in previous years, a Certificate for the subject tanks was 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 discovered, notice is provided to the owner in accordance with the Board's rules. The owner is provided with 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. The Board's rules and the Revised Code make provisions for an appeal of the determination. Throughout this process the Board's staff works with the owner to correct the fee statement record and/or refers the owner to BUSTR to correct the registration record.

Ms. Richmond asked the Board to ratify her actions with respect to the issuance of the 2010 Certificates of Coverage for the 158 facilities included on the first list behind Tab 9.

Mr. Hull moved to ratify the list of 2010 Certificates of Coverage that were granted. Mr. Geyer seconded. A vote was taken and all of the members were in favor. The motion passed.

Ms. Richmond asked the Board to ratify her actions with respect to the denial of the 2010 Certificates of Coverage for the 68 facilities included on the list behind the Tab 9 blue divider page.

Mr. Hull moved to ratify the list of 2010 Certificates of Coverage that were denied. Mr. Epperson seconded. A vote was taken and all of the members were in favor. The motion passed.

Ms. Richmond asked the Board to ratify her actions with respect to the issuance of the 2011 program year Certificates of Coverage for the 2,860 owners of 4,997 facilities included on the first list behind Tab 10.

Mr. Hull moved to ratify the list of 2011 Certificates of Coverage that were granted. Mr. Geyer seconded. A vote was taken and all of the members were in favor. The motion passed.

Ms. Richmond asked the Board to ratify her actions with respect to the denial of the 2011 program year Certificates of Coverage for the two owners of the two facilities included on the list behind the Tab 10 blue divider page.

Mr. Hull moved to ratify the list of 2011 Certificates of Coverage that were denied. Mr. Geyer seconded. A vote was taken and all of the members were in favor. The motion passed.

#### ***Executive Session***

Chairman Rocco requested a motion to go into executive session pursuant to O.R.C. 121.22(G)(3) to discuss matters of pending or imminent court action. Mayor Kuchta so moved. Mr. Hull seconded and a roll call vote followed. The following members voted in the affirmative: Messrs. Hull, Kuchta, Vedra, Stephenson, Geyer, and Ms. Hilvert. There were no nays and the motion passed.

Prior to moving into executive session, Chairman Rocco and Mr. Epperson asked to recuse themselves from this portion of the meeting. Chairman Rocco turned the meeting over to Vice Chairman Hull.

#### ***Reconvene Meeting***

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

#### ***Confirm Next Meeting***

Mayor Kuchta made a motion to adjourn the meeting. Mr. Hull seconded. All were in favor. The next board meeting will be Wednesday, November 9, 2011, beginning at 10:00 a.m.