



# Petroleum Underground Storage Tank Release Compensation Board

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## MINUTES OF THE 160th MEETING OF THE PETROLEUM UNDERGROUND STORAGE TANK RELEASE COMPENSATION BOARD September 9, 2015

### BOARD MEMBERS IN ATTENDANCE

Jim Rocco  
John Hull  
Scott Fleming  
Steve Hightower  
Tom Stephenson

### EX-OFFICIO MEMBERS IN ATTENDANCE

Bill Hills, representing Director Jacqueline Williams, Ohio Department of Commerce  
Chris Geyer, representing Director Craig Butler, Ohio Environmental Protection Agency  
Eric Ochmanek, 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
Dave Gram	Environmental Claims Analyst, PUSTRCB
Jennifer Croskey	Assistant Attorney General
Howard Silver	Hearing Officer
Micah Derry	Office of State Treasurer of Ohio
Jodi Handlin	BJAAM Environmental, Inc.
Sean Hetrick	BJAAM Environmental, Inc.
Brent McPherson	Cardno ATC
Carla Dowling-Fitzpatrick	Attorney at Law

Minutes submitted by:

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Jonathan Maneval  
Administrative Coordinator

**Call to Order:**

Chairman Rocco convened the one hundred sixtieth meeting of the Petroleum Underground Storage Tank Release Compensation Board on Wednesday, September 9, 2015.

The following members were in attendance: Jim Rocco; John Hull; Scott Fleming; Steve Hightower; Tom Stephenson; Bill Hills, representing Director Jacqueline Williams, Ohio Department of Commerce; Chris Geyer, representing Director Craig Butler, Ohio Environmental Protection Agency; and Eric Ochmanek, representing Josh Mandel, State Treasurer of Ohio.

The following members were not present: Don Bryant and Cheryl Hilvert.

Chairman Rocco introduced Jennifer Croskey, who has been assigned to work as the Board's Assistant Attorney General, following the retirement of the Board's former Assistant Attorney General, Carla Dowling-Fitzpatrick.

Chairman Rocco announced that Don Bryant, Cheryl Hilvert and Tom Stephenson had been reappointed by Governor Kasich, and pointed out that Mr. Bryant and Ms. Hilvert were unable to attend the meeting.

**Minutes:**

Chairman Rocco asked if there were any comments or questions regarding the minutes from the June 10, 2015 Board meeting, and there were none. Vice-Chairman Hull moved to approve the minutes. Mr. Stephenson seconded. A vote was taken and all members voted in the affirmative. The minutes were approved as presented.

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

Chairman Rocco requested motions from the floor for the nomination of officers for the upcoming year. Mr. Geyer made a motion to re-elect both Chairman Rocco and Vice-Chairman Hull to their respective offices. Mr. Hightower seconded.

Chairman Rocco asked if there was any discussion or any other nominations, and there were none. He stated there is a motion on the floor to re-elect Mr. Rocco as Chairman and Mr. Hull as Vice Chairman. A vote was taken and all members voted in the affirmative. The motion passed.

***Rules and Finance Committee Appointments***

Chairman Rocco stated that the Chairman and Vice Chairman serve on both the Rules and Finance Committees. Chairman Rocco then appointed Mr. Fleming, Ms. Hilvert and the designee from the Ohio EPA to serve on the Rules Committee. He appointed Mr. Stephenson, Mr. Bryant and the designee from the State Treasurer's Office to serve on the Finance Committee.

***2016 Meeting Dates***

Chairman Rocco set the following 2016 meeting dates: January 13, February 10 (tentative), March 16, June 8, September 7 and November 16. All meetings begin at 10:00 a.m.

**BUSTR Report:**

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

Mr. Hills reported the fiscal years 2016/2017 UST (underground storage tank) and LUST (leaking underground storage tank) grant applications had been submitted to the U.S. EPA Region 5 Office in Chicago for their review and approval. He said the grant applications reflected adjustments necessary to accommodate a 20% funding reduction to the UST grant and 10% funding increase to the LUST grant, which were required by the Region 5 Office. He noted that, over the last four years, grant funding has reduced from \$3.1 million to \$2.1 million. He explained that the funding reduction has resulted in four personnel positions being unfunded.

Mr. Hills said annual physicals had been completed for all BUSTR field inspector and environmental specialist personnel.

Mr. Hills reported that from August 11 through 13, 2015, BUSTR's Assistant Chief, the Release Prevention Supervisor and the Board's Executive Director attended the U.S. EPA Region 5 All-States meeting in Chicago. He said the conference included discussions concerning the new federal UST regulations that were released in June 2015.

Mr. Hills said on September 16 and October 14, 2015, OSHA (Occupational Safety & Health Administration) training sessions will be held for BUSTR employees in order to comply with the annual requirement.

Mr. Hills reported that BUSTR's staff and legal counsel are currently reviewing and evaluating the 2015 U.S. EPA UST Rule Revisions to identify any modifications that may be necessary to BUSTR's rules as a result of the changes to the UST regulations. He said following their initial review, any draft rule amendments will be made available to stakeholders for public comment. He noted that BUSTR's release prevention rules are subject to the five-year rule review in 2016, and the corrective action rules are subject to the five-year rule review in 2017.

Mr. Hills reported for the week ending August 22, 2015, there were 57 new inspections performed for a total of 5,949 inspections for the three-year inspection cycle ending June 30, 2016. He said that 18 NFAs (no further actions) were generated during this same time period for a total of 532 for the grant cycle ending September 30, 2015. He said since the origination of the BUSTR program, the number of NFAs issued is just under 29,000.

Mr. Hills stated that, as of August 22, 2015, there were 21,749 registered USTs and 3,674 owners of 7,389 registered facilities.

Chairman Rocco briefly discussed the revisions to the federal UST regulations and their effect on BUSTR's rules as well as the Board's rules. He pointed out that several deferred tanks, including airport hydrant systems, will become regulated under the new regulations. Vice-Chairman Hull questioned whether any regulations had been identified that have a retroactive component that should be considered by the Board. Chairman Rocco responded stating that there are no provisions in the

federal rule that are effective prior to October 13, 2015. He said most of the federal rule's requirements will be implemented over a three-year time frame.

### **Financial Report:**

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

### ***Audit Update***

Mr. Leasor said the auditors are scheduled to begin their in-house portion of the audit the week of October 5th. He said the audited financial statements are due to the Auditor of State by December 31, 2015, and the goal is to have the audited financial statements presented at the November Board meeting in order to meet the December deadline.

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

Mr. Leasor said the May, June and July 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 that, as of September 8, 2015, the unobligated account balance is a little over \$24.8 million. He said this amount includes \$16.8 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 under \$7.5 million.

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

Mr. Leasor said the claims expense for July was approximately \$597,000, and to date, approximately \$1,512,000 had been paid for claims for fiscal year 2016.

Mr. Leasor said the operating expenses for July were approximately \$131,000. He pointed out that, as of July 31, temporary services expenses were 16.7% of the amount budgeted. He said this was due to the use of a temporary service employee to cover the duties of a full-time staff member who was on short-term disability leave during the month of July.

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 September 8, 2015, the per-tank fees collected were approximately \$9.2 million, which represents 96% of the billed amount. He said between July 1, 2015 and September 8, 2015, approximately \$127,000 was collected for prior years' fees, net of refunds of \$11,850.

Mr. Leasor said for the 2015 program year, 15,700 tanks were billed at the standard deductible (\$55,000) per-tank fee and about 5,500 tanks were billed at the reduced deductible (\$11,000) per-tank fee. Mr. Leasor said, as of September 8, 2015, the fees have been paid at the standard deductible rate for just over 14,600 tanks and at the reduced deductible amount for about 5,600 tanks. He said fees for a total of 20,206 tanks have been paid by 3,152 owners. He said this compares to fees being paid for 20,236 tanks by 3,157 owners for the same period of time in the prior year.

Mr. Leasor said the \$9.3 million collected to date represents 98.6% of the \$9.5 million budgeted for the 2015 program year. He said so far for program year 2015, 99.3% of the fees have been received for the 20,350 tanks budgeted.

**Compliance and Fee Assessment Report:**

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

Ms. Esquivel reported for program year 2014, the amount of refunds paid and the amount of refunds used to offset prior years' outstanding fees totaled \$220,149, which was 98% of the refund goal of \$225,000 that was set for the program year. She said, as of August 31, 2015, the amount of refunds paid plus the amount of refunds used to offset prior years' outstanding fees totaled \$17,500, which represents 8% of the \$225,000 refund goal set for the 2015 program year. She said the amount of refunds pending totals \$1,350,424.

Ms. Esquivel stated for program year 2014, after deducting the collection costs, a total of \$161,625 was collected by the Attorney General's Office and Special Counsel. She said, as of August 31, 2015, a net total of \$37,783 had been collected by the Attorney General's Office and Special Counsel for program year 2015.

Ms. Esquivel reported 340 accounts totaling \$1,086,440 were certified to the Attorney General's Office for collection during program year 2014. She said since July 1, 2015, no accounts had been certified to the Attorney General's Office for collection. She said she anticipates \$145,000 will be certified for collection at the end of the month.

Ms. Esquivel said eight Orders Pursuant to Law and one Determinations to Deny a Certificate of Coverage are under appeal. She said that all appeals are under review.

Ms. Esquivel said that two 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 Applications for Certificates of Coverage were mailed to 3,418 owners for program year 2015. She said 2,847 Certificates of Coverage had been issued thus far for program year 2015. She said there are 306 Applications for Certificates of Coverage currently in process. She said the pending denial process will begin later in the month for the applications for which deficiencies were identified.

Ms. Esquivel stated that there are 63 uncashed refund checks that total \$49,407. She said there is \$11,500 in refunds pending for nine owners from whom more information has been requested.

**Claims Report:**

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

Ms. Duann said, as of September 1, 2015, the total maximum liability of in-house open claims is \$29.7 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 September 1, 2015, a total of 2,318 Fund eligible sites had received no further action status with an average cleanup cost of \$130,500 per site. She pointed out that 19% of these sites were cleaned up exclusively under BUSTR's risk based corrective action rules (RBCA rules) and had an average cleanup cost of just above \$72,000 per site. She noted that all corrective actions being performed at Fund eligible sites are currently undergoing cleanups using these RBCA rules.

Ms. Duann said, as of September 1, 2015, a total of 1,539 claims with a total face value above the deductible amount were pending review. She said in general, the number of claims pending review has been steadily decreasing. She reported that 16 claim settlement determinations were under appeal.

Ms. Duann reported that during the 2014 program year, 764 claim applications were received and 956 claims were either settled or closed. She said the claims staff were able to settle an average of 80 claims per month. She pointed out that this monthly average of claim settlements is likely the highest since the inception of the Fund. She said the total claim settlement offer was slightly above \$8 million with an average claim payout of 76.5% of the net value. She said the average per claim payout is just under \$9,000. Chairman Rocco thanked Ms. Duann and the claims staff for their hard work and congratulated them on being able to offer settlements of nearly \$8 million last year.

Ms. Duann said that in the months of July and August, 155 claims were received, and a total of 203 claims were settled or closed during these months.

Ms. Duann said that on average, claims are being reviewed and settled within 10 months; with the exception of the claims submitted by major oil companies related to subrogation litigation.

Chairman Rocco questioned whether the 1,539 claims pending review included claims submitted by major oil companies that are related to the ongoing subrogation litigation. Ms. Duann confirmed that it did. Chairman Rocco then asked how many claims are being held from processing as a result of the subrogation cases. Ms. Duann said the number of claims being held is significant, but she did not know the exact figure. She said this statistical data would be provided at the next Board meeting.

Ms. Duann said that during the 2014 program year, 80 eligibility applications were received and that 79 eligibility determinations were issued, of which 15 applications were denied for various reasons. She said in the month of July three eligibility applications were received and eight eligibility determinations were issued. She pointed out that in the month of August 2015, 14 eligibility applications were received. She anticipates the determinations for these applications to be issued later in the month. She said, as of September 1, 2015, four eligibility applications were under appeal.

Ms. Duann reported that during the 2014 program year, a total of 155 requests for cost pre-approval had been received, and 155 cost pre-approval notifications were issued. She said generally speaking, fewer requests for cost pre-approval were received in comparison to previous years. She said in July

and August, 25 requests for cost pre-approval had been received, and 24 cost pre-approval notifications were issued. She said, as of September 1, 2015, 39 requests for cost-pre-approval were pending review.

Vice-Chairman Hull asked whether the cost pre-approval process and the review of cost pre-approval requests has become any easier for the claims staff. Ms. Duann explained that the review itself remains much the same. She noted that since the Board amended the cost pre-approval rule to only require pre-approval requests when the costs of certain corrective action program tasks are anticipated to exceed \$6,000, the number of requests has decreased. She said this has allowed for the staff to review more claims. Following a lengthy discussion concerning the pre-approval process, the Chairman and Vice-Chairman recommended an assessment of the cost pre-approval process be performed, in order to determine whether the program is still working effectively, and whether any changes should be made.

### **New Business:**

#### ***Administrative Appeal***

Chairman Rocco called upon Howard Silver, the Board's hearing officer, to present the Report and Recommendation regarding the appeal of the claim settlement determination issued to Prayosha Corp.

#### **Claim # 20588-0001/03/10/10-A, Prayosha Corp. d/b/a Alexis and Bennett Mini Mart 429 West Alexis Road, Toledo, Ohio.**

Hearing Officer Silver said the case being presented to the Board involved an appeal filed by the Prayosha Corporation concerning a release that occurred in March of 2010.

Mr. Silver said that on March 10, 2010, Prayosha Corp. notified the Bureau of Underground Storage Tank Regulations (BUSTR) that gasoline product had been observed in four tank cavity observation wells, and petroleum vapors had also been detected in a nearby sewer system. He said that on March 11, 2010, BUSTR sent a letter explaining that this occurrence met the definition of a "suspected release" and that a Site Check Activity report was required to be prepared and submitted.

Mr. Silver said Prayosha Corp. hired an environmental service firm to perform the corrective action work required by BUSTR, and filed an Application for Financial Assurance Fund Eligibility in order to seek reimbursement for the corrective action costs. He said that on January 20, 2012, the Director of the Financial Assurance Fund issued an eligibility determination granting approval for Prayosha Corp. to file claims against the Fund.

Mr. Silver stated that within the eligibility determination, the Director notified Prayosha Corp. that a claim application must be submitted for the reimbursement of any costs associated with completed program tasks within 90 days of the date of the letter. He noted that 90 days from the date of the Director's letter was April 19, 2012, but the Director had granted Prayosha Corp. until April 20, 2012, to submit costs associated with completed program tasks, as it was likely forgotten that 2012 was a leap year, and February was comprised of 29 days.

Mr. Silver said a claim was received from Prayosha Corp. on July 2, 2012, for the reimbursement of costs totaling \$33,224.23. He stated that the claim included corrective action costs totaling \$29,409.61 associated with completed Immediate Corrective Actions, Tier 1 Source Investigation and Tier 1

Delineation program tasks that were to have been submitted on or before April 20, 2012. He said the claim also included \$3,814.62 for the reimbursement of free product removal activities that occurred at the site between June 2010 and August 2010. However, no report was submitted with the claim to document that free product removal work was conducted during these months.

Mr. Silver stated that the Director of the Financial Assurance Fund issued a claim settlement determination, followed by a revised claim settlement determination dated October 31, 2014, that denied the reimbursement of \$29,409.61 as late filed costs and \$3,814.62 as undocumented costs.

Mr. Silver said following the issuance of the revised settlement determination, Prayosha Corp. filed an objection, and an appeal hearing was scheduled. However, the record hearing was waived by both Prayosha Corp.'s counsel and the Board's counsel, former Assistant Attorney General Carla Dowling-Fitzpatrick. He said the matter was submitted to him through stipulated facts, stipulated exhibits and written arguments.

Mr. Silver said he reviewed the evidence and arguments presented and found that Prayosha Corp. did not meet the claim filing deadline for the \$29,409.61 associated with the program tasks that had been completed, and that the claim lacked the documentation necessary for the reimbursement of the \$3,814.62 of claimed costs for free product removal activity. He recommended that the Director's determination be upheld by the Board as the costs were properly and lawfully denied.

Chairman Rocco requested a motion to adopt the findings of facts, conclusions of law, and recommendation of the hearing officer that the October 31, 2014 revised claim settlement determination issued by the Director of the Financial Assurance Fund to Prayosha Corp. comprises valid state action as a matter of fact and law and that it be upheld. Vice-Chairman Hull so moved. Mr. Hightower seconded.

In response to questions posed by Mr. Hightower, Mr. Silver clarified that the majority of the claimed costs were denied solely because they were late filed and not because they lacked proper documentation. He then explained that the Board has used its statutory authority to adopt rules necessary to administer the Fund, including rules that impose claim filing deadlines. He explained that the Board's rule 3737-1-12 sets forth filing deadlines for submitting an application for the reimbursement of corrective action costs, and that rule 3737-1-09(A)(11) prohibits the reimbursement of corrective action costs, when those costs have not been submitted in accordance with rule 3737-1-12. He noted that Prayosha Corp. did not dispute that the claim filing deadline was not met, but argued that the claim had not been filed too far after the deadline.

Mr. Hightower questioned whether there has been any precedent of the Board allowing for the reimbursement of late filed costs. Chairman Rocco stated that he was not aware of any exceptions to the claim filing deadlines set forth in the Board's rules. Mr. Hightower asked if Prayosha Corp. would have the ability to bring the claim back before the Board if they demonstrated financial hardship. Executive Director Richmond responded stating that Prayosha Corp. could only appeal the Board's decision through the courts. Vice-Chairman Hull noted that the Board's filing deadlines had been challenged in court, and the deadlines had been upheld.



Mr. Fleming asked whether Prayosha Corp. could be reimbursed for corrective action costs for any ongoing cleanup at the site. Chairman Rocco confirmed that Prayosha Corp. remains eligible for reimbursement from the Fund, and claims will be reimbursed provided the costs are timely filed and properly documented.

Chairman Rocco asked if there were any additional questions, and there were none. He then called for a roll call. The following members voted in the affirmative: Messrs. Fleming, Geyer, Hightower, Hills, Hull, Ochmanek, Stephenson and Rocco. There were no nays. The motion passed.

### ***Hardship Applications***

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

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

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

### **Claim # 14094-0001/09/07/11, Owner – The Gas Station Enterprise, LLC d/b/a The Gas Station**

Ms. Richmond said The Gas Station Enterprise, LLC is the responsible party for a 2011 release that occurred at 207 South High Street in Columbus Grove, Ohio. She said as a member of the LLC, Gregory Miller is requesting the Board grant hardship status to the LLC. She noted that this is the second request, with the previously awarded hardship status having expired on September 4, 2015.

Ms. Richmond said to date, the Fund has reimbursed less than \$1,000 for corrective action costs for this release, and one claim with a face value of \$4,600 is currently under appeal. She noted that based on the information provided in the hardship application, the corrective action work expected to be conducted over the next year is estimated to cost \$25,000.

Ms. Richmond said The Gas Station Enterprise, LLC sold the facility in August 2012 and Mr. Miller has continued the corrective actions at the site. Ms. Richmond explained that the LLC no longer generates any revenue, and Mr. Miller is retired; his only sources of income are from social security and six rental properties for which the income slightly exceeds expenses.

Ms. Richmond said based on the hardship application and the U.S. EPA financial capacity test for retirees, the LLC and Mr. Miller do not have adequate cash flow or the ability to carry additional debt in order to pay for corrective action costs.

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

**Claim # 16065-0001/03/25/96, Owner – Estate of Bob Jeffers**

Ms. Richmond said that Lois Jeffers and her deceased husband are the responsible persons for a release that was discovered in 1996 at 89 South Main Street in Fredericktown, Ohio. She said although the site was sold in March 2007, Mrs. Jeffers has continued the corrective actions. This is the fifth request for hardship status with the last one having expired on June 15, 2015.

Ms. Richmond said to date, the Fund has reimbursed \$220,000 for this release, and the cost of corrective action work to be conducted over the next 12 months is estimated to be \$55,000.

Ms. Richmond said that Mr. Jeffers passed away in June 2011. She said Mrs. Jeffers is retired and based upon the application, her only source of income is her pension and social security, which is approximately \$23,000 annually. She said, this slightly exceeds her reported household living expenses. She noted that subsequent to her husband's death in June 2011, her home was foreclosed upon and she is currently renting an apartment. She said Mrs. Jeffers' only assets are her individual retirement accounts with a combined value of approximately \$13,800.

Ms. Richmond stated that based upon the U.S. EPA financial capacity test, Mrs. Jeffers is unable to self-finance any amount of corrective action costs either by existing assets or a loan.

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

**Claim # 16697-0001/05/28/93, Owner – Estate of Shirley Cira**

Ms. Richmond said Shirley Cira is the responsible party for a 1993 release at 5018 County Road 313 in Rawson, Ohio. She said that Mrs. Cira is deceased and the corrective action work is being continued by her estate. Ms. Richmond said James Cira is a trustee for Ms. Cira's estate, and he submitted the hardship application on behalf of the estate. She said it is the second request submitted for the estate, with the first awarded hardship status having expired on June 15, 2015.

Ms. Richmond said to date, the Fund has reimbursed over \$91,000 for the corrective action work completed for this release. She said there is one unsettled claim in house with a face value of \$1,250, and the corrective action work to be conducted over the next 12 months is estimated to cost \$22,000.

Ms. Richmond said the estate's only asset is \$44,000 in a checking account. She noted the property with the release was sold in December 1993.

Ms. Richmond said based on the U.S. EPA financial capacity test, the estate can afford less than \$2,600 over the next year and only \$800 in additional debt payments over a three-year period. She pointed out that the estate does not have adequate cash flow or the ability to carry additional debt sufficient to cover the anticipated corrective action costs in the next year.

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

**Claim # 22741-0001/02/05/14, Owner – Route 53 Service, LLC**

Ms. Richmond said Route 53 Service, LLC is the responsible person for a release that occurred in 2014 at 8910 South State Route 53 in McCutchenville, Ohio. She said a member of the corporation, Ramandeep Khaira, is requesting the Board grant hardship status to the LLC. She said this is the second request for hardship status, with the first request having expired on September 4, 2015.

Ms. Richmond said to date, the Fund has reimbursed \$266,000 for the costs of corrective action for this release. She said there is currently one unsettled claim with a face value of \$17,500 in house, and the cost of corrective action work expected to be conducted over the next 12 months is estimated to be \$30,000.

Ms. Richmond stated that Route 53 Service, LLC purchased the facility in October 2012 and the IRS tax forms submitted with the application reports gross income totaling \$26,000 over its first two years of operation.

Ms. Richmond said that based on the information provided in the hardship application, the ABEL model estimates a less than 50% probability that Route 53 Service, LLC can afford \$30,000 in corrective actions costs.

Ms. Richmond recommended the Board approve the application and grant hardship status to Route 53 Service, LLC. Vice-Chairman Hull so moved, and Mr. Stephenson seconded. A vote was taken and all members voted in the affirmative. The motion passed.

***Personnel Compensation***

Chairman Rocco stated that prior to the beginning of the 2016 fiscal year, the Kasich administration reached an agreement with state employees that provided for a one-time supplemental payment of \$750 in addition to pay increases in the amount of 2.5% for certain employees. He explained that the supplemental payment of \$750 had been paid out to all of the Board's staff in August of 2015, and the staff also received the 2.5% salary increase with the exception of the Board's Executive Director, Starr Richmond, which requires Board approval.

Chairman Rocco then requested a motion to approve a 2.5% salary increase for Starr Richmond, with an effective date of June 28, 2015. Vice-Chairman Hull so moved and Mr. Stephenson seconded. Chairman Rocco explained that the retroactive effective date was selected as this was the beginning of the first pay period for fiscal year 2016, and is the date the salary increases for the other Board staff became effective. After a brief discussion, a vote was taken and all were in favor. 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 9 and 10 are listings of facilities that, since the June Board meeting, had been issued or denied a program year 2014 or 2015 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 2014 program year Certificates of Coverage for the 56 facilities included on the list behind Tab 9.

Vice-Chairman Hull moved to ratify the issuance of the 2014 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 2014 program year Certificates of Coverage for the 22 owners included on the list behind the Tab 9 green divider page.

Vice-Chairman Hull moved to ratify the denial of the 2014 Certificates of Coverage that were listed. Mr. Fleming seconded. A vote was taken and all of the members were in favor. The motion passed.

Ms. Richmond requested the Board ratify her actions with respect to the issuance of the 2015 program year Certificates of Coverage for the 2,846 owners of 5,752 facilities included on the list behind Tab 10.

Vice-Chairman Hull moved to ratify the issuance of the 2015 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.

### **Executive Session:**

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

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

***Reconvene Meeting***

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

**Confirm Next Meeting and Adjourn:**

Chairman Rocco stated that the next Board meeting will be held on Wednesday, November 16, 2015, at 10:00 a.m.

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