



Petroleum Underground Storage Tank Release Compensation Board

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MINUTES OF THE 165th MEETING OF THE PETROLEUM UNDERGROUND STORAGE TANK RELEASE COMPENSATION BOARD September 7, 2016

BOARD MEMBERS IN ATTENDANCE

Jim Rocco
John Hull
Don Bryant
Ron Falconi
Scott Fleming
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
J.D. Pisula, 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
Scott Ruffing	Environmental Claims Analyst, PUSTRCB
Siri Timo	Claims Administrative Assistant, PUSTRCB
Aaren Yandrich	Coverage Analyst, PUSTRCB
Jennifer Croskey	Assistant Attorney General
Chris Nolfi	Robert Half International Inc. on assignment with PUSTRCB
Jennifer Rhoads	OPMCA
Bill Behrendt	OPMCA
Doug Darrah	ATC Group Services LLC
Sean Hetrick	BJAAM Environmental, Inc.

Minutes submitted by:

Jonathan Maneval
Administrative Coordinator

Call to Order:

Chairman Rocco convened the one hundred sixty-fifth meeting of the Petroleum Underground Storage Tank Release Compensation Board on Wednesday, September 7, 2016.

The following members were in attendance: Jim Rocco; John Hull; Don Bryant; Ron Falconi; Scott Fleming; Tom Stephenson; Bill Hills, representing Director Jacqueline Williams, Ohio Department of Commerce; Chris Geyer, representing Director Craig Butler, Ohio Environmental Protection Agency; and J.D. Pisula, representing Josh Mandel, State Treasurer of Ohio.

Chairman Rocco announced that both he and Scott Fleming had been reappointed by Governor Kasich to serve on the Board for another three-year term. He then introduced and welcomed Aaren Yandrich, Siri Timo and Scott Ruffing, who were recently hired to the Board's staff.

Minutes:

Chairman Rocco asked if there were any comments or questions regarding the minutes from the June 8, 2016 Board meeting, and there were none. Mr. Fleming moved to approve the minutes. Vice-Chairman Hull 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. Stephenson made a motion to reelect both Chairman Rocco and Vice-Chairman Hull to their respective offices. Mr. Bryant seconded.

Chairman Rocco asked whether there were any other nominations or any discussion, and there were none. He stated there is a motion on the floor to reelect 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, Mayor Falconi and the designee from the Ohio EPA to serve on the Rules Committee. He appointed Mr. Bryant, Mr. Stephenson and the designee from the State Treasurer's Office to serve on the Finance Committee.

2017 Meeting Dates

Chairman Rocco set the following 2017 meeting dates: January 18, February 8 (tentative), March 15, June 14, September 13 and November 29. 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 that James Feeman has been hired to fill the release prevention field supervisor position that was vacant as a result of the retirement of Steve Parsons. He said an intermittent employee has been hired as a file room clerk, and a paralegal has also been hired.

Mr. Hills said the fourth year of the responsible party search program has begun, and about 184 petroleum underground storage tank (UST) release sites will be researched through the program for this fiscal year. The program is used to identify the owners and operators that are responsible for the investigation and cleanup of petroleum releases from UST systems.

Mr. Hills reported that seven grants totaling a little over \$1 million had been awarded through the Abandoned Gas Station Cleanup Grant Program. The program is administered by the Ohio Development Services Agency, in partnership with the Ohio EPA and BUSTR, and has \$20 million available to local government entities to be used for the cleanup of abandoned gas station sites. He said that an additional three or four grant applications are being reviewed.

Mr. Hills said that an update to improve the OTTER (Ohio Tank Tracking & Environmental Regulations) database went live on August 29, 2016. He said the vendor is working through some minor issues, but it seems to be more productive.

Mr. Hills noted that the State Fire Marshal's website now has a landing page for BUSTR in order for stakeholders to more easily locate relevant information. He said there are a few glitches, but it should be useful for individuals trying to access BUSTR information.

Mr. Hills reported that BUSTR's Assistant Chief and the Release Prevention Supervisor attended the U.S. EPA Region 5 All-States meeting on August 24 and 25, 2016.

Mr. Hills said that BUSTR's personnel has nearly completed preparing their responses to comments that were received concerning the draft administrative rule changes. He emphasized that the rule changes are currently in draft form, and they are not the proposed rule amendments. He explained that the responses will be posted on the State Fire Marshal's website when they are completed. Thereafter, BUSTR will arrange to meet with interested parties to address any remaining concerns that may require further discussion. He noted that the rule amendment process was a few months behind schedule, but they are still within the timeframe to meet the five-year rule review filing deadline.

Mr. Hills reported for the week ending August 19, 2016, there were 47 new inspections performed for a total of 1,187 inspections for the new three-year inspection cycle. He said that eight NFAs (no further actions) were generated during the week ending August 19, 2016, for a total of 459 NFAs for the grant cycle ending September 30, 2016.

Mr. Hills stated that, as of August 19, 2016, there were 21,594 registered USTs and 3,638 owners of 7,305 registered facilities. He said that, since the origination of the BUSTR program, the number of NFAs issued is 29,385.

Mr. Stephenson asked whether statistical tank and owner information could be provided for the last few years in order to identify any trends or movement in the numbers. Mr. Hills indicated that the information could likely be obtained from OTTER. Chairman Rocco noted that the Board's staff could

also compile the information, and it may make sense to use the Board's statistics since only petroleum tanks would be included.

Financial Reports:

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

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 6, 2016, the unobligated account balance is \$26.1 million. He said this amount includes \$12 million in STAR Ohio and the custodial account, and the \$14 million invested in U.S. treasuries and U.S. agency callable bonds. He said that, at the June meeting, \$9 million was obligated for the payment of claims, and the obligated account balance is \$7.8 million.

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

Mr. Leasor said that, as of July 31, we are one twelfth of the way into the fiscal year and that expenses should be about 8.3% of the amount budgeted.

Mr. Leasor said the claims expense for July was \$698,000, and, to date, approximately \$1.2 million had been paid for claims for fiscal year 2017.

Mr. Leasor said the operating expenses for July were approximately \$127,000. He pointed out that, as of July 31, temporary services expenses were 10.9% of the amount budgeted. He said this was due to the use of a temporary service employee for a special project. He said postage expenses were 54% of the amount budgeted. He said this was due to postage fees for the final quarter of fiscal year 2016 being paid in July of fiscal year 2017. 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 September 6, 2016, the per-tank fees collected were approximately \$9.2 million, which represents 95% of the billed amount. He said between July 1, 2016 and September 6, 2016, approximately \$129,000 was collected for prior years' fees, net of refunds of \$450.

Mr. Leasor said, for the 2016 program year, 15,500 tanks were billed at the standard deductible (\$55,000) per-tank fee and about 5,600 tanks were billed at the reduced deductible (\$11,000) per-tank fee. Mr. Leasor said, as of September 6, 2016, the fees have been paid at the standard deductible rate for just over 14,500 tanks and at the reduced deductible amount for a little under 5,500 tanks. He said fees for a total of 20,026 tanks have been paid by 3,088 owners. He said this compares to fees being paid for 20,163 tanks by 3,152 owners for the same period of time in the prior year.

Mr. Leasor said, for the program year ended June 30, 2016, fees have been paid for a total of 20,692 tanks by 3,244 owners.

Mr. Leasor said the \$9.2 million collected to date represents 98.2% of the \$9.4 million budgeted for the 2016 program year. He said so far, for program year 2016, 99.1% of the fees have been received for the 20,200 tanks budgeted.

Vice-Chairman Hull asked why only 20,200 tanks were budgeted but 21,100 tanks were billed. Chairman Rocco explained that there is an assumption built into the budget that a number of the tanks billed have been removed and that a small percentage of owners will not pay. Vice-Chairman Hull pointed out that fees were received for 20,700 tanks last year and recommended that this number be considered when building future budgets.

Audit Update

Mr. Leasor said the auditor's report for fiscal year 2015 had been reviewed and was accepted by the Auditor of State in April 2016. He noted that a copy of the audit report had been distributed to each Board member.

Compliance and Fee Assessment Report:

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

Ms. Esquivel reported that, since July 1, 2016, one refund was issued and \$9,400 of refunds was used to offset prior years' outstanding fees. She said the combined amounts are about 4% of the refund goal of \$225,000 that was set for the program year.

She said, as of August 31, 2016, a net total of \$21,064 had been collected by the Attorney General's Office and Special Counsel. She said no accounts had been certified to the Attorney General's Office for collection since July 1, 2016, and noted that any unpaid 2016 program year's fees will be certified for collection in January 2017.

Ms. Esquivel said four Orders Pursuant to Law and one Determination to Deny a Certificate of Coverage were under appeal. She said all appeals are 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 Applications for Certificates of Coverage were mailed to 3,418 owners for program year 2016. She said 2,715 Certificates of Coverage had been issued thus far for program year 2016. She said there are 358 Applications for Certificates of Coverage currently in process. She noted that Notices of Pending Denial had been issued to 18 owners for the applications with identified deficiencies.

Ms. Esquivel stated that there are 50 uncashed refund checks that total \$39,047. She said there is \$35,165 in refunds pending for 27 owners from whom more information has been requested.

Claims Reports:

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

Ms. Duann said, as of September 2, 2016, a total of about 2,400 Fund eligible sites had received no further action status with an average cleanup cost of \$131,500 per site. She said in comparison, approximately 20% of these sites were cleaned up exclusively under BUSTR's risk based corrective action rules and had an average cleanup cost of about \$72,400 per site.

Ms. Duann reported that, as of September 2, 2016, a total of 1,553 claims with a total face value above the deductible amount were pending review. She noted that, in general, claims are being reviewed within five to six months of receipt.

Ms. Duann stated that, as of September 2, 2016, 16 claim settlement determinations were under appeal. She noted this was up from the 14 appeals that had been open in the month of June.

Ms. Duann reported that, during the 2015 program year, 786 claim applications were received and 859 claims were either settled or closed. She said the total claim settlement offer was slightly above \$7.6 million with an average claim payout of 75.2% of the net value. She said the average per claim payout was about \$9,600.

Ms. Duann said that, in the months of July and August, 134 claims were received, and a total of 112 claims were settled during these months. She said that claim productivity has been affected due to the on-the-job training of two replacement claims staff, and she expects the monthly average of claim settlements to increase soon. She pointed out that the claim payout ratio in the months of July and August was only at 61.8% and explained that this low claim payout ratio was due to the settlement of two high-dollar claims that included large amounts of disallowed costs that were not timely submitted or were deemed to be excessive.

Ms. Duann said that, during the 2015 program year, 77 eligibility applications were received and that 69 eligibility determinations were issued, of which 28 applications were denied. She said a high percentage of the applications were denied due to no release being demonstrated or no corrective action work being required by BUSTR as a result of tank closure or suspected release investigation activity.

Ms. Duann reported that no eligibility applications were received in the month of July and four applications were received in the month of August. She stated that a total of nine eligibility determinations were issued in these months. She noted that four applications were denied due to no release being demonstrated or no corrective action work being required by BUSTR. She said, as of September 2, 2016, 23 applications were pending review and four applications were under appeal.

Ms. Duann reported that during the 2015 program year, a total of 162 requests for cost pre-approval had been received and 169 cost pre-approval notifications were issued. She said 23 notifications of cost exceedance were received from the consultants or tank owners and explained that these notifications are required if, during the implementation of the corrective actions, the actual costs are expected to exceed the pre-approved amount by more than \$6,000 or 20% (whichever is less). She said the additional costs were due to various reasons including equipment failure, underestimated utility costs and increases to hourly rates. She said the rule provides the option to either review the revised

estimated cost and completion schedule in detail and issue another pre-approval notification or to simply notify the owner that the revised costs will be evaluated when the claim reimbursement application is submitted.

Ms. Duann reported that, 25 cost pre-approval requests had been received in the months of July and August, and 20 cost pre-approval notifications were issued. She said, as of September 2, 2016, 40 requests for cost-pre-approval were pending review.

Vice-Chairman Hull asked whether the statistics requested at the previous meeting concerning mobile treatment units had been gathered. Ms. Duann stated that approximately 25 DPE (Dual Phase Extraction) remediation systems had been purchased by the Board. She said that more than half of these units have been kept at sites for much longer than the timeframe proposed in the initial remedial action plans. She said in some instances the systems are being used for years beyond what was originally proposed, and she noted that the average up time for the systems is less than 70%. Vice-Chairman Hull asked whether the Fund pays for the maintenance, media replacement and media disposal costs for the units. Ms. Duann stated that these costs are reimbursed and the operational costs of the units easily exceed \$70,000 per year or \$6,000 per month.

Chairman Rocco discussed that the mobile units were purchased with the intent that they would be used for short periods of time and moved from site to site and there would be substantial cost savings by not having contractors charge rental fees for the equipment. He expressed that, given the systems are being kept at sites for years, with significant costs to maintain and rebuild the equipment and the considerable down time of the units, it may not make sense to purchase additional mobile units.

Mr. Fleming suggested that reimbursement of the units be tied to their performance and the achievement of certain milestones. He noted that, if the units include a telemetry system that allows for remote monitoring, the consultants should be aware of problems when they arise and determine whether the system is operating effectively. Vice-Chairman Hull said, if the systems are well-balanced, running efficiently and getting good capture, then it might be worth it to buy new systems; but if the systems are being damaged by inefficient operations, it is not.

Chairman Rocco said that Executive Director Richmond has pulled some data and they would be meeting to discuss the economics of purchasing the units versus leasing them and whether an alternative, more cost-effective solution should be found.

Unfinished Business:

Suspending Claims Review

Chairman Rocco called upon Jennifer Rhoads, President and CEO of the Ohio Petroleum Marketers & Convenience Store Association (OPMCA), to speak before the Board concerning its decision to suspend the review and settlement of claim reimbursement applications when the Board has filed a complaint in litigation against a responsible party.

Ms. Rhoads thanked the Chairman for the opportunity to speak on behalf of the OPMCA leadership and its members concerning the financial impact the Board's decision has had on some of its members. She explained that OPMCA is a collective of Ohio small business petroleum wholesalers and retailers.

She said, at the June Board meeting, OPMCA submitted a letter respectfully requesting the Board reconsider its 2015 decision relative to the suspension of claims and assess the financial impact the decision was having on Ohio's small business owners.

Ms. Rhoads explained that over the past ten years there has been a transformation in the industry whereby the major oil companies divested themselves of retail assets and many of the retail fueling stations were purchased by small business owners. She noted that many of these locations have ongoing remediation activities associated with petroleum releases and these locations were purchased with agreements that remediation activities would be completed by the purchasers of the locations. She expressed that the Board's decision to place claims related to litigation into a holding pattern has resulted in some of OPMCA's members bearing an unanticipated financial burden since they are no longer being timely reimbursed for the costs they've incurred for the ongoing cleanup activities at their sites.

Chairman Rocco stated that, because the issue being raised by OPMCA concerns certain claims related to pending court action, the discussion of the matter would be held until the Board adjourned into executive session later in the meeting. The Board's Assistant Attorney General Jennifer Croskey noted that, when the letter was circulated at the June meeting, it was discussed that there would be a meeting to examine options that would allow for subsequent owners of sites to continue cleanup and be reimbursed for the work. She said that this meeting had not yet taken place and therefore another meeting following the executive session would be necessary before any resolution would be presented.

Mr. Geyer asked Ms. Rhoads whether the sale agreements included any contractual or legal financial obligation for the responsible party to pay for the cleanup costs regardless of the Board's action. Ms. Rhoads expressed that she did not believe they do and offered to double check. She commented that the contracts between the various parties are not the same, as the circumstances are different.

Chairman Rocco pointed out that the owner of the tank system at the time the release was required to be reported to BUSTR would always be responsible for the cleanup of the release and also noted that only the responsible person has any standing before the Board. He said the contractual relationships between the responsible party and subsequent owners of the sites has created a unique situation and will be a challenge to address. He asked whether there were any further questions for Ms. Rhoads, and there were none.

New Business:

Office Lease

Chairman Rocco called upon Starr Richmond, Executive Director, to discuss the office space lease.

Ms. Richmond explained that the Board's current lease agreement expires on June 30, 2017, and there are no renewal options for the lease. She pointed out that much of the LeVeque Tower is being converted to a hotel and residential living space and the floors that are to be used for offices are also undergoing renovation. She stated that she met with LeVeque's owners to discuss the terms of a new lease and the rental rate for the office space in its current condition will increase to \$17.50 a square foot. She said this is a 28% increase from the current rate and amounts to about \$34,000 a year. She

said, if the Board decides to stay, some buildout work will be necessary due to the closure of one of the elevator banks and the landlord would bear those buildout costs.

Chairman Rocco said the options are to either keep the office in the LeVeque and pay the \$17.50 rate or to work with an agent or broker to find other space in the downtown area. Vice-Chairman Hull said that options outside of the downtown area also need to be given serious consideration. He said, when the Board decided to stay downtown and move its office into the LeVeque, cheap office space was readily available and there has been a dramatic change in the market since that time. Chairman Rocco agreed and said the conversion of the downtown office buildings to residential use will likely continue to drive the rates for office space even higher. He also noted the renewal terms of a new lease with the LeVeque are unknown and the owners may intend to eventually increase the rate to \$22 a square foot, which is the rate being charged to new tenants leasing space within the building.

Mr. Pisula and Mr. Hills recommended the Real Estate Services section of the Department of Administrative Services (DAS) be utilized to determine current market rates and to provide options of suitable spaces that the Board can consider for relocation. After some further discussion, it was agreed by the Board that Chairman Rocco and Director Richmond would consult with DAS Real Estate Services and the Board would decide how to move forward after the options are presented at the November meeting.

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 that accelerating the review of the claim reduces the financial burden the owner would experience if the claims were reviewed and settled in the normal course of business. She said, once granted, the hardship status remains in effect for a 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 whether the owner is able to carry debt, in which case, the owner could finance the costs of corrective actions over time.

Claim # 11924-0001/10/26/95, Owner – Herbert Adams

Ms. Richmond said that Herbert Adams is the responsible person for a 1995 release at 409 Church Street in Bradner, Ohio. She said this is his third request for hardship status and, to date, the Fund has reimbursed \$451,000 for corrective actions for this release.

Ms. Richmond said there is currently one unsettled claim in house totaling \$23,300 and the estimated corrective action costs for the next year are \$114,600. She said Mr. Adams indicated on his application that the arrangement with his consultant requires him to pay any costs the Fund does not reimburse

plus 4% interest for the period of time between the date a claim is submitted to the Board and the date the consultant receives payment from the Fund.

Ms. Richmond said the underground tanks were removed in 1995 and the property was rented to a third party as an auto repair business. However, it is currently vacant and not generating income. She said Mr. Adams is a millwright and his wife is a postal carrier and their combined adjusted gross income is \$80,000 a year. She said, although assets exist in the form of property, annuities and life insurance, his liquid assets are less than \$30,000.

Ms. Richmond explained that the U.S. EPA financial capacity test was used to evaluate his cash flow and determine whether he has the ability to carry additional debt to finance the costs of corrective actions. She said this financial capacity test estimates that he has the ability to finance up to 70% of the anticipated corrective action costs over a period of three years. She said that this would result in over 45% of his annual adjusted gross income being committed to repayment of the loan and he could experience additional corrective action costs during that time.

Ms. Richmond said that, because taking on this amount of debt would be a financial burden to Mr. Adams, she recommended the Board approve the application and grant hardship status to him. Vice-Chairman Hull so moved, and Mr. Geyer seconded. A vote was taken and all members voted in the affirmative. The motion passed.

Claim # 14094-0001/09/07/11, Owner – Gas Station Enterprise, LLC

Ms. Richmond said 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 that as a member of the LLC, Gregory Miller submitted the application requesting the Board grant hardship status to Gas Station Enterprise LLC. She noted this was the third request for hardship status.

Ms. Richmond stated that, to date, the Fund has reimbursed \$25,600 for corrective action costs for this release. She said, although no claims are currently pending review, a cost pre-approval request for the first year of costs to implement a RAP (remedial action plan) has been granted. She said, based on the application, the remaining costs to be incurred under this pre-approval are estimated to be \$98,000.

Ms. Richmond explained that Mr. Miller no longer owns the property and the LLC no longer generates revenue but he is continuing the corrective actions for the release. She said Mr. Miller is retired and his only sources of income are from an IRA, social security and seven rental properties which provide income of about \$3,000 per year.

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

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

Claim # 16065-0001/03/25/96, Owner – Lois 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 of 2007, Mrs. Jeffers has continued the corrective actions at the site. This is her sixth request for hardship status.

Ms. Richmond said that, to date, the Fund has reimbursed \$257,000 for corrective actions for this release. She said, although there are no claims currently pending review, the cost of corrective action work expected to be conducted over the next 12 months is estimated to be \$75,000.

Ms. Richmond said that Mr. Jeffers passed away in June 2011. She said Mrs. Jeffers is retired and based on her application, her only source of income is her pension and social security, which is approximately \$22,800 annually. She said this slightly exceeds her reported household living expenses. She said her only assets are individual retirement accounts with a combined value of approximately \$13,500 and a vehicle.

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 using existing assets or obtaining a loan.

Ms. Richmond recommended the Board approve the application and grant hardship status to Mrs. Jeffers. Vice-Chairman Hull so moved and Mr. Hills 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 third request submitted on behalf of the estate.

Ms. Richmond stated that, to date, the Fund has reimbursed about \$118,000 for corrective action costs for this release. She said, although there are no claims currently pending review, a cost pre-approval request in the amount of \$126,800 has been granted for a soil removal RAP.

Ms. Richmond said, based on the application, the estate's only asset is \$44,000 in a checking account and, based on the U.S. EPA financial capacity test, the estate does not have adequate cash flow or the ability to carry additional debt sufficient to cover the anticipated costs of corrective action over the next 12 months.

Ms. Richmond recommended the Board approve the application and grant hardship status to the estate. Vice-Chairman Hull so moved and Mr. Bryant 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 party for a release that occurred in 2014 at 8910 South State Route 53 in McCutchenville, Ohio. This is the third request for hardship status.

Ms. Richmond stated that, to date, the Fund has reimbursed \$321,600 for corrective action costs for this release. She said, although no claims are currently pending review, the cost of corrective action work expected to be conducted over the next 12 months is estimated to be \$80,000.

Ms. Richmond said that Route 53 Service, LLC purchased the facility in October of 2012 and the IRS tax forms submitted with the application report gross income totaling \$27,500 over its first three years of operation.

Ms. Richmond said that, based on the information provided in the hardship application, the U.S. EPA Financial Capacity test estimates a less than 50% probability that Route 53 Service, LLC can afford \$80,000 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. Hills seconded. A vote was taken and all members voted in the affirmative. 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 2015 or 2016 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 2015 program year Certificates of Coverage for the 101 facilities included on the list behind Tab 9.

Vice-Chairman Hull moved to ratify the issuance of the 2015 Certificates of Coverage for the facilities listed. Mr. Bryant seconded. A vote was taken and all members were in favor. The motion passed.

Ms. Richmond requested the Board ratify her actions with respect to the denial of the 2015 program year Certificates of Coverage for the 38 owners of 45 facilities included on the list behind the Tab 9 green divider page.

Vice-Chairman Hull moved to ratify the denial of the 2015 Certificates of Coverage that were listed. Mr. Geyer seconded. A vote was taken and all members were in favor. The motion passed.

Ms. Richmond requested the Board ratify her actions with respect to the issuance of the 2016 program year Certificates of Coverage for the 2,723 owners of 5,069 facilities included on the list behind Tab 10.

Vice-Chairman Hull moved to ratify the issuance of the 2016 Certificates of Coverage for the facilities listed. Mr. Fleming seconded. A vote was taken and all 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. Mayor Falconi seconded. Chairman Rocco called for a roll call. The following members voted in the affirmative: Messrs. Bryant, Falconi, Fleming, Geyer, Hills, Hull, Pisula, Stephenson and Rocco. There were no nays. The motion passed.

Reconvene Meeting

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

Chairman Rocco stated that, during the executive session, he and Mr. Fleming requested to be recused from the executive session and the meeting was turned over to Vice-Chairman Hull.

Confirm Next Meeting and Adjourn:

Chairman Rocco said that the next Board meeting will be held on Wednesday, November 16, 2016, at 10:00 a.m. The Finance Committee will be meeting at 9:00 a.m. prior to the Board meeting.

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