



Petroleum Underground Storage Tank Release Compensation Board

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MINUTES OF THE 189th MEETING OF THE PETROLEUM UNDERGROUND STORAGE TANK RELEASE COMPENSATION BOARD June 9, 2021 – 10:00 a.m.

BOARD MEMBERS IN ATTENDANCE

Jim Rocco
John Hull
Steve Bergman
Don Bryant
Larry Burks
Ron Falconi

EX-OFFICIO MEMBERS IN ATTENDANCE

Steven Krichbaum, representing Director Sheryl Creed Maxfield, Ohio Department of Commerce
Donna Waggener, representing Director Laurie Stevenson, Ohio Environmental Protection Agency
Michael Lenzo, representing Robert Sprague, State Treasurer of Ohio

OTHERS IN ATTENDANCE

Starr Richmond	Executive Director, PUSTRCB
Madelin Esquivel	Assistant Director, PUSTRCB
Don Leasor	Chief Fiscal Officer, PUSTRCB
Hannah Brame	Claims Supervisor, PUSTRCB
Jonathan Maneval	Executive Assistant, PUSTRCB
Cindy Knight	Senior Accounts Coordinator, PUSTRCB
John Hickey	Fiscal Specialist, PUSTRCB
Jahan Karamali	Assistant Attorney General
Amy Sullivan	Pinnacle Environmental Management Support, Inc.
Dan Adams	ATC Group Services LLC
Doug Darrah	ECS Midwest, LLC
Michael Baker	BJAAM Environmental, Inc.
Meagan Leaders	BJAAM Environmental, Inc.
Michael Byrne	Speedway LLC

Minutes submitted by:


Jonathan Maneval
Executive Assistant

Call to Order:

Chairman Rocco convened the one hundred eighty-ninth meeting of the Petroleum Underground Storage Tank Release Compensation Board on Wednesday, June 9, 2021. Acting under the authority of Section 12 of Amended Substitute House Bill Number 404, effective November 22, 2020, the public meeting was conducted via a ZOOM audio/visual conference call.

The following members were in attendance: Jim Rocco; Steve Bergman; Don Bryant; Larry Burks; Mayor Ron Falconi; John Hull; Steven Krichbaum, representing Director Sheryl Creed Maxfield, Ohio Department of Commerce; Donna Waggener, representing Director Laurie Stevenson, Ohio Environmental Protection Agency; and Michael Lenzo, representing Robert Sprague, State Treasurer of Ohio.

The following members were not present: Scott Fleming, Dan Ridi, and Tom Stephenson.

Minutes:

Chairman Rocco asked if there were any comments or questions regarding the minutes from the March 10, 2021 Board meeting and there were none. Mayor Falconi moved to approve the minutes and Vice-Chairman Hull seconded. A vote was taken and all were in favor. The minutes were approved as presented.

BUSTR Report:

Chairman Rocco announced that Steven Krichbaum was recently appointed as Bureau Chief of the Bureau of Underground Storage Tank Regulations (BUSTR) and called on him to present the BUSTR report.

Mr. Krichbaum introduced himself explaining that he started working at BUSTR as an Environmental Specialist over 25 years ago and then moved to the inspection side of the program where he served as Release Prevention Supervisor for 20 years. He expressed that he looks forward to the opportunity to work with the Board.

Mr. Krichbaum stated that former Bureau Chief, Verne Ord, retired in March and a Corrective Actions Supervisor, Kelly Gill, recently retired. He explained that the Bureau is on a waiting list with the Office of Human Resources at the Department of Commerce to fill multiple vacancies including an inspector position, Kelly Gill's position, and his own former position. He commented that the waitlist is due to multiple Bureaus needing to fill positions and BUSTR hopes to backfill the positions as soon as human resources works its way through the queue.

Mr. Krichbaum reported that all responsible party searches planned for the fiscal year have been completed. He said the intent is to spend additional money on responsible party searches once the U.S. Environmental Protection Agency (U.S. EPA) Region 5 clarifies the next grant amount which funds the leaking underground storage tank (LUST) side of the program.

Mr. Krichbaum said the BUSTR staff continues to perform duties in the teleworking environment which would normally be performed if working in the office; including reviewing reports and fulfilling

public information requests. He said the field inspection staff are performing inspections at facilities.

Mr. Krichbaum stated that the LUST grant which funds the clean-up side of the program is in its second year and the EPA has indicated the funding amount will remain the same as the previous year but a final number has not been given. He said the UST grant for funding the inspection side of the program came to the end of the two-year cycle and BUSTR applied for a new grant. He said Region 5 gave direction to apply for the same amount as in the previous cycle, which he noted is somewhat concerning because it does not account for an increase to the cost of living.

Mr. Krichbaum said BUSTR's staff completed ethics and OSHA training. He mentioned that BUSTR had planned to provide outreach training to contractors and conduct UST inspector classes but the training was postponed due to COVID-19. He said, depending on when the staff can return to the office, the inspector class and stakeholder outreach would likely move forward at the end of the year or in early 2022.

Mr. Krichbaum said the inspection staff is performing inspections in accordance with the federal rules and grant guidelines, which require all sites to be inspected once every three years. He noted that a scheduling program called click schedule is no longer being used and the sites are selected for inspection using BUSTR's main core database known as OTTER (Ohio Tank Tracking & Environmental Regulations). He noted that, in the state of Ohio, there are approximately 21,000 tanks and 7,000 facilities.

Mr. Krichbaum then directed members to a portion of the report which he explained summarizes the compliance status of various measures reported to the U.S. EPA. He said new federal rules became effective several years ago and the EPA realigned the performance measures. He explained that the top three rows listed as UST-4, UST-5, and UST-6 represent the old measures. He said the information of interest is shown in row UST-6, which indicates an overall compliance rate in the upper 60 percent range for operational requirements; including spill, overflow, leak detection, and corrosion protection. He said the new performance measures are reflected further down the page. He said the overall compliance rate of the new federal requirements is presented in row UST-9e. He pointed out that it shows an overall compliance rate in the upper 40 percent range; which he felt was not too surprising given the new requirements for periodic checks of spill and overflow and other components.

Chairman Rocco said the compliance percentages for spill prevention, overflow prevention, and release detection seem pretty significant and asked whether the numbers reflect a record-keeping problem or if the appropriate equipment is not in place. Mr. Krichbaum explained that the information reflects what inspectors' saw and documented when they arrived at the site. He said questions are then asked and additional information or clarification may be received later on. He explained that the requirement to test spill and overflow equipment every three years is a newer requirement, which is not always being done. He said he felt the compliance percentage for leak detection is lower than it should be and is worrisome to him. He explained that some owners procrastinate in performing the annual checks of the tank and piping leak detection equipment until an inspector arrives at the site. He said this has an overall effect of lowering the compliance rate. The Chairman recommended a newsletter be sent highlighting the importance of the three critical issues of spill prevention, overflow prevention, and release detection.

Mr. Krichbaum said, in the next three year inspection cycle, inspectors will be returning to sites that should be aware of the new state and federal rules and hopefully the compliance rate will increase. In response to a question from Mr. Burks, Mr. Krichbaum explained that “N/A” shown in the table meant “not applicable.” He explained that the measures shown at the top as UST-4, UST-5, and UST-6 were required until 2018, and the measures shown in UST-8 through UST-12 reflect the transition to the new federal reporting requirements.

Mr. Krichbaum then directed members to a worksheet prepared by BUSTR’s environmental staff, which he explained provides an overview of the caseload on the environmental side of the program. He said the number of cases open with BUSTR total 3,970. He said, of the open cases, a total of 1,976 incidents have viable responsible parties and 1,650 do not have a viable responsible party identified. He said there are 228 incidents requiring a responsible party search and 116 corrective action cases involving hazardous substances, which does not affect the Board. He pointed out that there are 1,411 incidents for which a responsible party search was completed and there is no viable party to conduct the cleanup or corrective action activities.

Mr. Burks asked if enough responsible party searches are being conducted and Mr. Krichbaum responded saying BUSTR would like to do more but there are limitations due to cost and the staff time needed to coordinate the searches and review the findings. He explained that federal grant money is used to contract with third parties who aid in the responsible party searches. He stated that there are 228 sites identified as needing a responsible party search and BUSTR’s in-house counsel will select sites from that pool that are believed to be good candidates for a search.

Financial Reports:

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

February, March, and April Financials

Mr. Leasor said the February, March, and April financials were emailed to each member. He said since fiscal year 2021 annualized revenues and expenses would be discussed as part of the operating budget, he would not review the monthly financial reports. He offered to answer any questions concerning the reports and Mr. Burks asked what is meant by “Unearned Gain/Loss on Investments” in the monthly income reports. Mr. Leasor explained that interest income is generated from funds in STAR Ohio (State Treasury Asset Reserve of Ohio) and investments in U.S. Treasuries and U.S. Agency Callable Bonds. He said, for accounting purposes, the market value of the investments is recorded each month. He explained that if the market value of the investments increases, it is recorded as an unearned gain and if the market value decreases it is recorded as an unrealized loss. He explained that, if the investments are held until maturity as intended, the full par value of the investments will be received upon maturity.

Operating Budget

Mr. Leasor said the proposed operating budget represents the approved budget and actual annualized expenditures for fiscal year 2021 and also presents the recommended budget for fiscal year 2022.

Mr. Leasor reported that tank revenue for fiscal year 2021 was budgeted at \$8.37 million for 20,220 USTs, and actual revenues were \$460,000 above the budgeted amount. He recommended tank revenue

for fiscal year 2022 be budgeted at \$8.34 million. He said fees for the \$55,000 and \$11,000 deductibles are \$350 and \$550 per tank, respectively. He explained that the tank budget revenue estimate was built on the assumption that fees will be received for 20,160 tanks, and 27% of these USTs will be assured at the reduced deductible. He said tank fee revenue includes property transfer fees, which are projected to be \$100,000 for fiscal year 2022. He said a portion of the transfer fees were assessed during the current fiscal year, but are anticipated to be collected in fiscal year 2022. He stated that collection of prior years' fees, less anticipated fee refunds, are also projected to be \$100,000 in fiscal year 2022.

Mr. Leasor stated that interest income was \$48,000 below the budgeted amount for fiscal year 2021. He explained that the estimate was based upon a STAR Ohio interest rate of 45 basis points but the monthly interest rate had decreased to eight basis points by the end of May. In addition, several U.S. Treasuries matured and one U.S. Agency Callable Bond was called in fiscal year 2021, and the proceeds were invested at a lower rate. He said the projected interest income for fiscal year 2022 is \$90,000. He said this anticipated interest income is based on an estimated interest rate of seven basis points for STAR Ohio.

Mr. Leasor reported that miscellaneous income totaled \$8,634. He explained that this income was from payments for printing and copying of public records requests, cash rebates on purchases, and \$8,244 received from the Office of Budget and Management as reimbursement of COVID-19 related expenses. He recommended that miscellaneous income be budgeted at \$1,000 for fiscal year 2022.

Mr. Leasor pointed out that actual total income was \$419,000 above the \$8.6 million budgeted for fiscal year 2021.

Mr. Leasor said the claims expense is anticipated to be \$11.6 million for fiscal year 2021. He said this includes the payment to BP under a December 2019 settlement agreement. He stated that the proposed budget for the fiscal year 2022 claims expense is \$12 million. He noted that this includes \$4 million due to be paid to BP in July as part of the settlement agreement.

Mr. Leasor said the salary line item expense was \$39,300 below the amount budgeted for fiscal year 2021. He recommended the fiscal year 2022 budget for employee salaries be set at \$1.47 million. He said this amount reflects a 3% cost of living adjustment, which was originally included in the approved biennial budget to maintain parity with increases provided for in the union contract, but was postponed due to COVID-19. He mentioned that the pay increase originally planned to be effective July 1, 2020, was implemented in April 2021.

Mr. Leasor reported that temporary services expenses were \$23,800 below the budgeted amount. He noted that a plan to use a temporary employee for a document management project was put on hold due to the pandemic. He noted that a portion of the temporary services budget was expended due to temporary employees being used to fill in for an employee out on leave and to assist with the archiving of claim files. He recommended the 2022 budget for temporary services be \$30,000.

Mr. Leasor said the actual rent expense for fiscal year 2021 was \$4,500 below the budgeted amount. He recommended the fiscal year 2022 budget for rent be set at \$154,000.

Mr. Leasor reported that actual expenses for office supplies were about \$6,200 below the budgeted

amount. He said the amount requested for fiscal year 2022 is \$20,000. He explained that this amount includes funding for standard office supplies, offsite storage, and computing hardware and software with a cost of under \$500. He reported that printing and copying expenses for fiscal year 2021 were \$5,600 below the budgeted amount. He said the recommended budget for fiscal year 2022 remains at \$15,000.

Mr. Leasor said legal and professional actual expenses were below the budgeted amount by \$61,300. He said the amount requested for legal and professional expenses for fiscal year 2022 is \$225,000. He explained that this expense includes the cost for the services of the assistant attorney general; a hearing officer; the annual audit; attorney general and special counsel fees related to the collection of delinquent accounts; database maintenance services; a service contract for the scanners; a SQL database update; other miscellaneous professional services; and actuarial services to assist with the claims study. He explained that, as was done in the previous year, his recommendation is to contract with an actuarial firm to perform an analysis of the held claims and develop the estimate of claim liability for the claims being held from processing. He said the estimated range of fees for the contract is \$25,000 to \$28,500.

Mr. Leasor reported that no travel expenses were incurred during fiscal year 2021. He recommended the budget for travel expenses for fiscal year 2022 be \$6,000, which includes Board member travel expenses.

Mr. Leasor stated that employee expenses were [\$966] below the budgeted amount. He said the recommended budget for employee expenses for fiscal year 2022 is \$1,000. He explained that this cost is primarily for providing refreshments at Board meetings.

Mr. Leasor said telephone expenses were \$126 above the budgeted amount and noted this was due to the staff working from home. He said the anticipated telephone expenses for fiscal year 2022 are \$15,400. He noted that this expense includes web access, spam and virus filtering, VoIP and cell phone services, and an employee messaging software.

Mr. Leasor reported that postage expenses were \$3,200 below the budgeted amount and the recommended budget for postage expenses for fiscal year 2022 is \$30,000.

Mr. Leasor said the depreciation expense was below the budgeted amount by \$1,700 and the anticipated depreciation expense for fiscal year 2022 is \$29,500.

Mr. Leasor pointed out that overall operating expenses were about \$153,000 or 7.7% below the amount budgeted for fiscal year 2021. He stated that the recommended fiscal year 2022 operating expense budget total is \$1,995,900, which is a \$13,900 increase from the 2021 budget.

Chairman Rocco stated that a motion for the operating budget was needed and Mr. Leasor requested a motion to approve the proposed fiscal year 2022 operating budget as proposed. Vice-Chairman Hull so moved and Mr. Bryant seconded. The Chairman asked if there were any questions concerning the proposed operating budget and there were none. A vote was taken and all were in favor. The motion passed.

Obligate Money for the Payment of Claims

Chairman Rocco said the Board would need to obligate money for the payment of claims and Mr. Leasor requested a motion to obligate \$12 million for the payment of claims during fiscal year 2022. Vice-Chairman Hull so moved and Mr. Bryant seconded. A vote was taken and all were in favor. The motion passed.

Mr. Krichbaum asked for clarification whether he should abstain or vote on motions given his recent appointment as designee to the Board. The Chairman responded explaining that if Mr. Krichbaum felt comfortable with the information presented, he should vote as he felt appropriate.

Chairman Rocco called on Mr. Leasor to present the motions needed for contracts.

Actuary Contract

Mr. Leasor requested a motion to authorize the Chairman to enter into an agreement with Milliman, Inc. to assist the Fund in developing the potential claim liability as of June 30, 2021, in an amount not to exceed \$28,500 plus travel and related fees, if any. Vice-Chairman so moved and Mr. Burks seconded. The Chairman asked if there were any questions or discussion and there were none. A vote was taken and all were in favor. The motion passed.

Hearing Officer's Contract Renewal

Mr. Leasor requested a motion to authorize the Chairman to enter into an agreement with Howard Silver for the continuation of hearing officer services for the period of July 1, 2021 through June 30, 2022. The Chairman noted that Mr. Silver agreed to continue providing hearing officer services at the same rate with the terms of the agreement being the same as the previous year. Vice-Chairman Hull moved to adopt the requested motion and Mayor Falconi seconded. The Chairman asked if there were any questions and there were none. A vote was taken and all were in favor. The motion passed.

Assistant Attorney General Memorandum of Understanding

Mr. Leasor requested a motion to authorize the Chairman to enter into an agreement with the Attorney General's Office for the continuation of legal services in an amount not to exceed \$81,973 for fiscal year 2022. Vice-Chairman Hull so moved and Mr. Burks seconded. The Chairman asked if there was any discussion and there was none. A vote was taken and all were in favor. The motion passed.

Database Consultant Contract

Mr. Leasor requested a motion to authorize the Chairman to enter into an agreement with Software Engineering LLC for various updates and fixes to the existing STARRS (Statistical Tank and Reimbursement Records System) database in an amount not to exceed \$15,000 for fiscal year 2022. Vice-Chairman Hull so moved and Mr. Burks seconded. The Chairman asked if there was any discussion and there was none. A vote was taken and all were in favor. The motion passed.

Capital Budget

Chairman Rocco called upon Mr. Leasor to present the proposed capital budget for fiscal year 2022.

Mr. Leasor said the proposed capital budget includes the fiscal year 2020 actual expenditures, the budgeted amounts and annualized expenditures for fiscal year 2021, and the recommended budget for fiscal year 2022.

Mr. Leasor said furniture and equipment was budgeted at \$2,500 for fiscal year 2021 and there were no expenditures for this budget line item. He said the recommended furniture and equipment budget for fiscal year 2022 is \$5,000. He said this funding is for any necessary furniture purchases and a build out of a work area for the scanning equipment.

Mr. Leasor reported that data processing and electronics were budgeted at \$20,000 for fiscal year 2021, and the actual expenditures for this line item were \$9,777. He said these expenditures included setup costs for the document management project and the purchase of two laptops needed for employees working remotely. He said \$35,000 is recommended for data processing and electronics for fiscal year 2022. He noted the amount requested is for the replacement of IT equipment, if needed, and for a contract with Software Engineering LLC, in an amount not to exceed \$25,000 for the customization and configuration of the document management software, Paper Vision Enterprise, and to interface the software with the Board's existing database.

Chairman Rocco said the document management project to digitize the Board's information was started in the previous year, but COVID-19 restrictions limited access to the office and caused the project to be set aside. He noted that scanning equipment and other purchases were made and the recommendation is to contract with the Board's database maintenance contractor, Software Engineering LLC, to get the system up and running. He noted the contractor's costs are reasonable and there is a benefit of having the person familiar with the Board's database setting up the new system as well. He pointed out that the cost for the contract is primarily what is represented in the proposed budget for the upcoming year.

Vice-Chairman Hull asked if there are ongoing annual license fees for the system and Mr. Leasor confirmed that there are licensing fees for both the scanning equipment and the software. He noted the licensing fees were included in the budget under the legal and professional expenses line item.

Vice-Chairman Hull questioned if anything was being done concerning cybersecurity and if any funding for purchases or services were needed in that area. Mr. Leasor said there had been discussions concerning cybersecurity and a quote was obtained from a firm, but the cost was astronomical and it was put on hold. Mr. Leasor commented that he could reach out to other companies to test whether the security measures in place are sufficient. Vice-Chairman Hull recommended the Board provide the means for the Chairman to negotiate a contract once a service provider is identified and to add a placeholder number in the budget so the staff could proceed in the endeavor.

Chairman Rocco asked if a two-step verification process is used for accessing the system. Mr. Leasor said a login is used for connecting to the network and a second login is required for accessing the Board's STARRS database. He clarified that a two-step verification process is not used for the login. Chairman Rocco said two-step authentication is something to consider for an added level of protection against hackers. He mentioned that the budget could be increased if it is determined there is a need for it and Vice-Chairman Hull said he would like to give the flexibility for a contract if something arises mid-year or before the next Board meeting.

Mr. Burks said the biggest concern is for information to be seized and held hostage. He said the best way to protect the information is to use a redundant backup system. Vice-Chairman Hull asked who

manages the Board's servers and Mr. Leasor said the servers are managed in house. He commented that the information is backed up nightly when the staff is logged out of the system. Executive Director, Starr Richmond, said the data is stored onsite using RAID drives which duplicates the data at all times and, in addition, the data is backed up to the cloud. She noted that no personal information such as bank account information, social security numbers, or other sensitive data is stored on the Board's servers. She commented that having someone look at the security of the Board's servers was a good idea and noted that when it was brought up a couple years ago, as Don mentioned, the cost estimates provided by companies were astronomical; Mr. Leasor said they were upwards of \$100,000. Ms. Richmond said perhaps something more affordable could be found by reaching out to other companies doing that kind of work. Chairman Rocco said the first step may be to look at the security procedures in place in the information security policy and see if any changes to the existing policy are needed. Vice-Chairman Hull said the cost could probably come down from \$100,000 and recommended the staff proceed with looking into it.

Chairman Rocco asked if there were other questions concerning the proposed capital budget and there were none. Mr. Leasor said the recommended capital budget for fiscal year 2022 totaled \$40,000. He then requested a motion to approve the fiscal year 2022 capital budget as proposed. Vice-Chairman so moved and Mr. Bryant seconded. A vote was taken and all were in favor. The motion passed.

Papervision Enterprise Configuration and Interface Contract

Mr. Leasor requested a motion to authorize the Chairman to enter into an agreement with Software Engineering LLC for the customization and configuration of PaperVision Enterprise and to interface the software with the STARRS database in an amount not to exceed \$25,000 for fiscal year 2022. Vice-Chairman so moved and Mayor Falconi seconded. The Chairman asked if there was any discussion and there was none. A vote was taken and all were in favor. The motion passed.

Fee Statement Statistics

Mr. Leasor stated that the 2021 program year fee statements were issued on April 29, 2021, and about \$8.3 million was invoiced to 3,194 owners of 20,635 USTs. He said as of May 31, 2021, the per-tank fees collected were approximately \$2.36 million, which represents about 28% of the amount billed. He pointed out that collections for the same period in the previous year were \$2.31 million. He noted that the 2021 program year fees collected to date are approximately \$50,000 above the payments received during the same period in the prior year.

Mr. Leasor said between the fee statement mailing in April 2020 and May 31, 2021, about \$8.37 million was collected for 2020 program year fees, and \$140,000 was collected for prior years' fees net of any refunds paid.

Mr. Leasor reported for the 2021 program year, a total of 15,250 tanks were billed at the standard deductible (\$55,000) per-tank fee and about 5,390 tanks were billed at the reduced deductible (\$11,000) per-tank fee. He said as of May 31, 2021, fees had been paid at the standard deductible rate for 3,470 tanks and at the reduced deductible amount for 2,100 tanks. He said, in total, fees had been paid for 5,574 tanks by 1,161 owners. He said this compares to fees being paid for 5,490 tanks by 1,125 owners for the same period of time in the prior year. He noted that in comparison to the previous year, the number of tanks paid increased by about 1.5%, and the number of owners that had paid increased by

3.2%. He said this is 84 more tanks paid and 36 more owners paid, in comparison to the previous year.

Mr. Leasor reported, as of May 31, 2021, the 2020 program year fees were paid for a total of [20,126] tanks by 3,086 owners.

Mr. Leasor said the \$2.36 million collected to date is 28.3% of the \$8.34 million budgeted for the 2021 program year. He said the 5,574 tanks with fees paid for the 2021 program year, reflect the 27.6% of the 20,160 tanks budgeted to apply for certificates the year.

Compliance and Fee Assessment Report:

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

Ms. Esquivel reported, as of May 31, 2021, refunds totaling \$157,116 had been paid to 44 owners for the 2020 program year. She said there are 2,625 pending refunds totaling \$1,443,896. She said a total of \$35,325 was used to offset unpaid prior years' fees.

Ms. Esquivel stated that, as of May 31, 2021, the total collected by the Attorney General's Office and Special Counsel less the collection costs was \$106,858. She said 55 accounts totaling \$93,424 were certified to the Attorney General's Office for collection during this program year. She commented that the unpaid 2020 program year's fees totaling around \$400,000 would be certified to the Attorney General's Office for collection in the near future.

Ms. Esquivel reported that eight Orders Pursuant to Law are currently under appeal and information to support the appeals is expected. She said one Determination to Deny a Certificate of Coverage is under appeal. She noted that information to support the objection was received and is under review.

Ms. Esquivel stated that no 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, as of June 1, 2021, a total of 2,933 Certificates of Coverage have been issued for program year 2020. She said there are 86 Applications for Certificates of Coverage currently being processed, 46 unresolved Pending Denials, and 77 unresolved Determinations to Deny a Certificate of Coverage.

Ms. Esquivel stated that there are 26 uncashed refund checks totaling \$25,000. She said there are nine owners with pending refunds totaling \$51,946 to whom letters have been sent notifying them that more information is needed before their refunds may be issued. She said there are 36 owners with pending refunds totaling \$61,345 for which information had been requested, but no responses have been received.

Claims Reports:

Chairman Rocco announced that Hannah Brame was the Board's new Claims Supervisor following the recent retirement of Rick Trippel. He then called on Ms. Brame to introduce herself and present

the claims reports.

Ms. Brame briefly introduced herself stating that she completed undergraduate studies in geology and graduate work in paleontology at Ohio University. She taught introductory geology courses at Columbus State Community College before accepting a position in the Board's claims department where she worked as an Administrative Assistant and then as a Claims Analyst I from 2014 until 2016. She explained that she left the Board to pursue additional studies at the University of Texas, at Austin, but ultimately returned to Ohio in 2017 and worked as an insurance adjuster license coordinator for Safelite Solutions. She said in February of 2018, she was offered the opportunity to return to the Board and held the position of Claims Specialist until March 2021, when she accepted the position of Claims Supervisor.

Ms. Brame reported, as of June 1, 2021, the total maximum liability of in-house open claims is approximately \$9.6 million. She said using the claim payout ratio of 77%, which is the average ratio of the past five years, the actual anticipated claim liability of unpaid in-house claims is about \$7.4 million.

Ms. Brame reported, as of June 1, 2021, a total of 556 claims with a total face value above the deductible amount were pending review. She stated that 32 claim settlement determinations were under appeal, as of June 1, 2021. She explained that these appeals pertain to only 11 release sites, as multiple appeals pertain to just three release sites. She noted that the staff is waiting for information to support the appeals for 26 of the appealed determinations and additional information provided is under review for six appeals. She commented that since the previous meeting, one claim settlement appeal was closed and one new claim settlement appeal was received. She reported that the staff is currently reviewing claims received prior to March 2021. The Chairman said the high number of appeals exist because hearings could not be held in the previous year and there were continuances for many of them. He said there will likely be an uptick in the number of appeals being addressed this year.

Ms. Brame stated that, as of June 1, 2021, a total of 514 claims were received and a total of 563 claims were settled or closed this program year. She noted that 55 of the closed claims were for releases with an NFA and the total face value was below the deductible amount and therefore, no payment could be issued. She stated that the average payout per claim application was \$14,415 and the average claim payout was 79.5% of the net claim value (face value – deductible). She said on average 17% of the claim face value was disallowed. She said as of June 1, 2021, the total settlement amount for the program year totaled \$7.3 million. She pointed out that this total exceeded the total settlement amount of \$4.7 for program year 2018 and total settlement amount of \$6.3 million for program year 2019. She noted this was after accounting for the major oil settlement agreement in 2019.

Ms. Brame reported for the 2020 program year, a total of 68 eligibility applications were received and 53 eligibility determinations were issued. She said of these eligibility determinations, 38 were approved and 15 were denied. She said, of the denied applications, two were denied for no release being demonstrated, one was denied for late filing of the application, one was denied for out-of-compliance USTs, one was denied for no valid Certificate of Coverage, and the other 10 were denied for no corrective action being required by BUSTR. She said as of June 1, 2021, a total of 114 eligibility applications were open. She noted that 14 applications were unreviewable until the necessary reports

are received and more information has been requested for four of the applications. She noted that, as of June 1, 2021, six eligibility determinations are under appeal. She said additional information is expected for three appeals and information for three appeals has been received and is under review. She noted that an additional five eligibility determinations were issued since June 1, 2021.

Ms. Brame reported, as of June 1, 2021, a total of 127 cost pre-approval requests were received. She said the cost pre-approval requests included 26 requests for new remedial action plans; 57 requests for annual costs for remedial action plans or free product recovery; one request for an interim response action requiring BUSTR approval; 17 requests for either tier 3, monitoring or calibration plans; 16 cost exceedance notifications; and 10 voluntary requests for cost pre-approval. She said as of June 1, 2021, a total of 135 cost pre-approval notifications had been issued and 39 cost pre-approval requests are pending review.

New Business:

Personnel Compensation

Chairman Rocco stated that as was discussed during the presentation of the financial reports, the Board's employees were given a 3% salary increase. He explained that the salary of the Board's Executive Director, Starr Richmond, requires Board approval and he requested a motion to ratify the Chairman's approval of a 3% salary increase for Starr Richmond, which became effective April 11, 2021. Vice-Chairman Hull so moved and Mayor Falconi seconded. A vote was taken and all members were in favor. The motion passed.

Hardship Applications

Chairman Rocco called upon Don Leasor, Chief Fiscal Officer, to present the hardship applications.

Mr. Leasor stated that the Board's rule 3737-1-08 provides for an owner experiencing financial hardship to apply for hardship status with the Fund. He said granting hardship status allows for the acceleration of the review of the claims submitted by the owner. He noted that granting hardship status does not increase the amount of reimbursement to the tank owner. He 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. He said, once granted, the hardship status remains in effect for a two-year period and, at that time, the owner may reapply for hardship status.

Mr. Leasor stated that, in determining hardship status, the application and a minimum of two years of income tax records are reviewed. He said, in addition, a U.S. EPA financial capacity test is used to evaluate the owner's cash flow and determine whether the owner is able to carry debt, in which case, the owner could finance the costs of corrective actions over time.

Claim # 11387-0001/05/16/91, Owner – Washington & Lee Service Inc.

Mr. Leasor said Washington & Lee Service Inc. is the responsible party for a 1991 release discovered at 2080 Lee Road in Cleveland Heights, Ohio. He noted that Washington & Lee Service Inc. was dissolved in 2007, but David Saginor, the owner and operator of the release site, is a responsible person and is completing corrective actions at the site. He said Mr. Saginor is requesting the Board grant hardship status to him.

Mr. Leasor said this is Mr. Saginor's seventh request for hardship status, and to date, the Fund has reimbursed \$817,300. He noted there are currently no unsettled claims in house and the cost of corrective actions for the next year is estimated to be \$126,000.

Mr. Leasor said all underground storage tanks were removed in June 1991 and the property was sold in October 2006. He said Mr. Saginor provided the financing for the new owner and Mr. Saginor will receive the owner's final monthly payment in August 2021. He said the payments he will receive this year total \$14,800. He noted that Mr. Saginor is to continue corrective actions until an NFA is obtained.

Mr. Leasor reiterated that the estimated cost of corrective actions for the next year is \$126,000 and explained that the U.S. EPA financial capacity test estimates that Mr. Saginor could only afford corrective action costs of just over \$42,400 based on his cash flow and debt capacity. He said the Director is recommending the Board approve the application and grant hardship status to Mr. Saginor. Mr. Burks moved to approve the application and Vice-Chairman Hull seconded. A vote was taken and all members voted in the affirmative. The motion passed.

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

Mr. Leasor said Raymond Cooper is the responsible person for a release discovered in 1991 at 111 East Main Street in Lucas, Ohio, and this is his 16th request for hardship status. He said to date, the Fund has reimbursed about \$700,000 for corrective action costs for the release, and the anticipated costs for corrective action activities for the next 24 months are estimated to be \$130,000.

Mr. Leasor explained that Mr. Cooper is retired and no longer owns the property, but he is still responsible for and is continuing the corrective actions. He said based on the information he provided in the hardship application, his household income is from pension and social security benefits and exceeds his household living expense by approximately \$30,400 annually.

Mr. Leasor said the U.S. EPA financial capacity test, which is based on cash flows anticipated over a three-year period, estimates Mr. Cooper could afford corrective action costs of \$62,900 based on his annual retirement income less living expenses. He said, given the anticipated costs of \$130,000 over the next two years, the Director is recommending the Board approve the application and grant hardship status to Mr. Cooper. Mr. Bergman moved to approve the application and Vice-Chairman Hull seconded. The Chairman asked if there was any discussion and Mr. Burks pointed out that Mr. Cooper's application indicates he has access to nearly \$200,000 in cash assets, with about \$40,000 in a CD and over \$146,000 in a checking account. He also noted that Mr. Cooper listed his annual household expenses at \$15,500. He said it appears Mr. Cooper is living very well with very little debt and was not sure if he met the qualifications for hardship status.

Chairman Rocco asked Mr. Leasor to explain how the EPA model is used for determining financial hardship. Mr. Leasor said when a hardship application is submitted, the information from the application is plugged into the EPA model, and the model provides a range of the amount the applicant can pay. He said, in this case, the model estimated Mr. Cooper has the ability to pay \$62,900 over a three-year period and the costs for corrective actions are expected to be \$130,000 over a two-year period. He commented that model tends to hinder an applicant from qualifying for hardship, if the applicant's debt is paid off. He noted that during phone conversations, Mr. Cooper reported that he and

his wife both have serious medical conditions, which are not presented in the application. Mr. Leasor said the goal is for Mr. Cooper's release to be cleaned up while he is still a viable responsible party. He noted that granting hardship status does not give him any additional benefits; it only shortens the review period of his claims. Mr. Burks said he wanted to mention there were some anomalies with the application including the yearly household expenses of \$15,500, which he felt was questionable. Mr. Burks expressed that he would yield to the recommendation of the Director. The Chairman asked if there was any other discussion and there was none. A vote was taken and all members voted to approve the application. The motion passed.

Claim # 18752-0001/06/11/08, Owner – Charles Hanrahan

Mr. Leasor said Charles Hanrahan is the responsible person for a release discovered in 2008 when tanks were removed at 3718 Lawrenceville Drive in Springfield, Ohio. He said this is his tenth request for hardship status.

Mr. Leasor said to date, the Fund has reimbursed about \$831,000 for corrective action costs for the release. He noted there are currently no unsettled claims in house and the cost of corrective actions for the next 24 months is estimated to be \$120,000.

Mr. Leasor said Mr. Hanrahan and his wife's combined annual income is \$66,000, which slightly exceeds their annual living expenses by \$11,000 per year. He noted that Mr. Hanrahan has about \$9,400 of cash on-hand and IRA investments totaling \$131,600. He said he currently has outstanding debt of \$62,400.

Mr. Leasor said the U.S. EPA financial capacity test, which is based on cash flows anticipated over a three-year period, estimates that he can afford additional cleanup costs of \$11,200. He said given the anticipated corrective action costs of \$120,000 for the next two years, it is unlikely he could afford it. He said the Director is recommending the Board approve the application and grant hardship status to Mr. Hanrahan. Vice-Chairman Hull moved to approve the application and Mayor Falconi seconded. The Chairman asked if there was discussion and there was none. A vote was taken and the motion passed. Mr. Lenzo was not present for the vote.

Claim # 19104-0001/10/30/14, Owner – American United Oil Inc.

Mr. Leasor said American United Oil Inc. is the responsible party for a 2014 release discovered at 342 East Main Street in Ashland, Ohio. He said, as a 50% owner of American United Oil Inc., Salih Najar is requesting the Board grant hardship status to American United Oil Inc. He said this is the fifth request for hardship status, and, to date, the Fund has reimbursed \$680,000 for corrective actions for this release.

Mr. Leasor said American United Oil Inc. currently has no claims pending review and the estimated corrective action costs for the next 24 months are \$129,000. He said the tanks were removed and replaced in the summer of 2015. He said American United Oil reports having \$7,900 in its checking account and credit card debt of just over \$27,000. He said the corporation's annual net income is \$53,000, which is approximately 41% of the total corrective action costs expected to be incurred in the next two years.

Mr. Leasor said based on the information provided in the hardship application and IRS tax forms, the U.S. EPA financial model for corporations estimates a less than 50% probability the corporation can afford \$129,000 in corrective action costs. He said the Director is recommending the Board approve the application and grant hardship status to American United Oil Inc. Vice-Chairman Hull moved to approve the application and Mr. Burks seconded. The Chairman asked if there were any questions or discussion and there were none. A vote was taken and the motion passed. Mr. Lenzo was not present for the vote.

Claim # 22329-0001/11/17/20, Owner – Fares, Inc.

Mr. Leasor said Fares Inc. is the responsible party for a 2020 release discovered at 4953 Springboro Pike in West Carrollton, Ohio. He said as the owner of Fares Inc., Jamal Saleh is requesting the Board grant hardship status to Fares Inc. Mr. Leasor noted this is the corporation's first request for hardship status.

Mr. Leasor said, to date, no claims have been submitted for the release. He said, the cost of corrective action work expected to be conducted over the next 24 months is estimated to be \$45,000. He explained that according to the application and tax records, Fares Inc. has \$78,500 in its bank accounts and annual net income of \$82,400. He said, based on this information, the U.S. EPA financial model for corporations known as ABEL estimates a 97% probability the corporation can afford the \$45,000 in corrective action costs. He explained that a claim for which hardship status has been granted is settled on average within 30 days, however, up to 90 days is a reasonable time period. He said claims without hardship status are currently being processed within six months. He said given the corporation's current liquid assets, net business income, and current claims processing time, Fares Inc. is in a financial position to where it can afford the \$45,000 in corrective action costs over the next 24 months. He said the Director is recommending the Board deny Fares Inc.'s application for hardship status. Vice-Chairman Hull moved to deny the application and Mr. Burks seconded.

Vice-Chairman Hull said his understanding is that the owner can reapply for hardship status if the amounts change and Mr. Leasor confirmed that he may reapply at any point in the future by providing more current financial information and updated estimates of corrective action costs. The Chairman asked if there was any other discussion and there was none. A vote was taken and the motion passed. Mr. Lenzo was not present for the vote.

Certificates of Coverage – Ratifications:

Chairman Rocco called on Madelin Esquivel, Assistant Director, to present the lists of owners who have either been issued or denied a Certificate of Coverage for ratification by the Board.

Ms. Esquivel 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. She said if a Certificate has not been issued

in one of the prior two years and the tanks existed during those years, the owner must comply with rule 3737-1-04.1 by demonstrating the tanks are in compliance with the Fire Marshal's rules for the operation and maintenance of USTs.

Ms. Esquivel stated that, if the requirements are met, a Certificate is issued. She said if the requirements are not met, the Certificate is denied. She explained that if the Certificate is denied, the owner is provided with an opportunity to appeal the denial. She said, throughout the denial process, the Board's staff works closely with the owner to resolve any deficiencies. She stated that all processes within the Board's rules and Revised Code were followed to make a determination to issue or deny the Certificates of Coverage.

Ms. Esquivel requested the Board ratify the Director's actions with respect to the issuance of the 2019 program year Certificate of Coverage for the facility included on the program year 2019 Certificate issued list.

Vice-Chairman Hull moved to ratify the issuance of the 2019 Certificate of Coverage for the facility listed. Mayor Falconi seconded. A vote was taken and the motion passed. Mr. Lenzo was not present for the vote.

Ms. Esquivel requested the Board ratify the Director's actions with respect to the issuance of the 2020 program year Certificates of Coverage for the 131 owners of the 922 facilities included on the program year 2020 Certificates issued list.

Vice-Chairman Hull moved to ratify the issuance of the 2020 Certificates of Coverage for the facilities listed. Mr. Bryant seconded. A vote was taken and the motion passed. Mr. Lenzo was not present for the vote.

Ms. Esquivel requested the Board ratify the Director's actions with respect to the denial of the 2019 program year Certificates of Coverage for the eight tanks located at the two facilities included on the program year 2019 Certificates denied list.

Vice-Chairman Hull moved to ratify the denial of the 2019 Certificates of Coverage that were listed. Mr. Bergman seconded. A vote was taken and the motion passed. Mr. Lenzo was not present for the vote.

Ms. Esquivel requested the Board ratify the Director's actions with respect to the denial of the 2020 program year Certificates of Coverage for the 208 tanks located at the 67 facilities included on the program year 2020 Certificates denied list.

Vice-Chairman Hull moved to ratify the denial of the 2020 Certificates of Coverage that were listed. Mayor Falconi seconded. A vote was taken and the motion passed. Mr. Lenzo was not present for the vote.

Executive Session:

Chairman Rocco stated that an executive session was needed and 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. Vice-Chairman Hull so moved and Mayor Falconi seconded. The Chairman called for a roll call. The following members voted in the affirmative: Ms. Waggener and Messrs. Bergman, Bryant, Burks, Falconi, Hull, Lenzo, Krichbaum, and Rocco. There were no nays. The motion passed.

The Chairman then briefly explained the process for the Board to privately participate in the executive session using ZOOM. The Chairman stated that the public meeting would reconvene following the executive session. Mr. Lenzo did not participate in the executive session.

Reconvene Meeting

The Board adjourned from the executive session and reconvened the public meeting. Mr. Lenzo was no longer present at the meeting.

Confirm Next Meeting and Adjourn:

Chairman Rocco said the next Board meeting scheduled for September 8, 2021, might be an issue due to members attending the M-Pact Tradeshow being held September 8-10, 2021. There was a brief discussion of whether the meeting date should be changed, but ultimately it was decided to keep the September 8, 2021 meeting date unless a poll of the membership found there would not be a quorum. The Chairman said the Board would be notified of the finalized meeting date.

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

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