



Petroleum Underground Storage Tank Release Compensation Board

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MINUTES OF THE 184th MEETING OF THE PETROLEUM UNDERGROUND STORAGE TANK RELEASE COMPENSATION BOARD

June 10, 2020

BOARD MEMBERS IN ATTENDANCE

Jim Rocco
John Hull
Steve Bergman
Don Bryant
Robert Cantrell
Ron Falconi
Scott Fleming
Tom Stephenson

EX-OFFICIO MEMBERS IN ATTENDANCE

Verne Ord, representing Director Sheryl Creed Maxfield, Ohio Department of Commerce
Donna Waggener, representing Director Laurie Stevenson, Ohio Environmental Protection Agency
Jon Azoff, 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
Rick Trippel	Claims Supervisor, PUSTRCB
Jonathan Maneval	Executive Assistant, PUSTRCB
Hannah Brame	Claims Specialist, PUSTRCB
John Hickey	Fiscal Specialist, PUSTRCB
Cindy Knight	Senior Accounts Coordinator, PUSTRCB
Allyson Nemece	Office Assistant, PUSTRCB
Michael Lenzo	State Treasurer's Office
Jahan Karamali	Assistant Attorney General
Dan Adams	ATC Group Services LLC
Meagan Leeders	BJAAM Environmental, Inc.
Michael Baker	BJAAM Environmental, Inc.
Christopher Smyke	OPMCA

Minutes submitted by:


Jonathan Maneval
Executive Assistant

Call to Order:

Chairman Rocco convened the one hundred eighty-fourth meeting of the Petroleum Underground Storage Tank Release Compensation Board on Wednesday, June 10, 2020. Acting under the authority of Section 12 of Amended Substitute House Bill Number 197, effective March 27, 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; Robert Cantrell; Mayor Ron Falconi; Scott Fleming; John Hull; Tom Stephenson; Verne Ord, representing Director Sheryl Creed Maxfield, Ohio Department of Commerce; Donna Waggener, representing Director Laurie Stevenson, Ohio Environmental Protection Agency; and Jon Azoff, representing Robert Sprague, State Treasurer of Ohio.

Minutes:

Chairman Rocco asked if there were any comments or questions regarding the minutes from the January 8, 2020 Board meeting and there were none. Mr. Fleming moved to approve the minutes. Mr. Ord seconded. A vote was taken and all were in favor. The minutes were approved as presented.

BUSTR Report:

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

Mr. Ord reported that BUSTR has been operating with most of the Bureau's staff working from home. He said, beginning in the previous week, the field staff started performing on-site operational compliance inspections at out-of-service and unattended underground storage tank (UST) facilities where it would be unlikely that they would come into contact with others. He said that in the upcoming few weeks the compliance inspectors would resume inspecting typical gas station facilities. He added that most inspections will be preannounced in the hopes that the tank owner will have their paperwork ready, and the inspector will spend only a minimal amount of time inside the facility looking at the leak detection equipment to ensure it is functioning properly.

Mr. Ord said the environmental specialists have been receiving and reviewing electronically submitted reports. He said the site coordinators are periodically going into the office to pick up reports and related correspondence that were mailed to BUSTR so they can be reviewed at home. He noted that after about 30 days, the reports are returned to the office. Mr. Ord mentioned that, for the foreseeable future, most staff will continue to work from home and will only be going into the office as needed to send mailings and to pick up mail and reports.

Mr. Ord reported that about 95% of public information requests are being fulfilled through the electronic archive system. He noted that in some instances the public records are on a shelf and need to be scanned in order for them to be made available to the requester.

Mr. Ord stated that BUSTR had submitted a LUST (leaking underground storage tank) application seeking two-years of federal grant monies to operate the environmental side of the program. He said they had been awarded \$1,957,491, which represented one year of the grant monies requested. He said

that an additional \$340,000 had been requested but was not received. He noted that if any states in the region have extra LUST grant monies at the end of the year, Ohio is first in line to receive the money, which will be applied to wages and benefit packages if received.

Mr. Ord reported that the number of no further actions (NFAs) issued through the history of the BUSTR program has passed 31,000.

Financial Reports:

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

December, January, February, March, and April Financials

Mr. Leasor said the December, January, February, March, and April financials were emailed to each member. He pointed out that the December and January Financials were included because the March Board meeting had been cancelled. He said since fiscal year 2020 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 but there were none.

Operating Budget

Mr. Leasor said the proposed operating budget represents the approved budget and actual annualized expenditures for fiscal year 2020 and also presents the recommended budget for fiscal year 2021.

Mr. Leasor reported that tank revenue for fiscal year 2020 was budgeted at \$8.44 million for 20,300 USTs, and actual revenues were \$49,000 above the budgeted amount. He said fees were billed for 20,795 USTs in program year 2019 (fiscal year 2020). He said that as of June 9, 2020, fees were paid for 20,262 of the USTs. He recommended tank revenue for fiscal year 2021 be budgeted at \$8.37 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 20,220 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 2021. He said a portion of the transfer fees were assessed during the current fiscal year, but are anticipated to be collected in fiscal year 2021. He stated that collection of prior years' fees, less anticipated fee refunds, are also projected to be \$100,000 in fiscal year 2021.

Mr. Leasor stated that interest income was \$155,000 below the budgeted amount for fiscal year 2020. He explained that the estimate was based upon a STAR Ohio (State Treasury Asset Reserve of Ohio) interest rate of 2.5%, but the monthly interest rate had decreased to 0.73% by the end of May. In addition, several of the U.S. Agency Callable Bond investments were called in fiscal year 2020, which significantly impacted the interest income. He said the projected interest income for fiscal year 2021 is \$210,000. He said this anticipated interest income is based on an estimated interest rate of 0.45% for STAR Ohio. He said, of the budgeted amount, \$168,000 is projected to be earned on the \$16 million invested in U.S. Treasuries and U.S. Agency Callable Bonds and the remaining \$42,000 is expected to be generated from funds in STAR Ohio.

Mr. Leasor reported that miscellaneous income totaled \$2,352. He explained that this income was from payments for printing and copying for public records requests along with cash rebates on purchases. He recommended that miscellaneous income be budgeted at \$1,000 for fiscal year 2021.

Mr. Leasor pointed out that actual total income was [\$104,815] below the \$9.16 million budgeted for fiscal year 2020.

Mr. Leasor said the claims expense is anticipated to be \$10.3 million for fiscal year 2020. He said this includes the payment to a major oil company under a settlement agreement. He stated that the proposed budget for the fiscal year 2021 claims expense is \$13 million. He noted that this includes \$4 million due to be paid to the same major oil company as part of the settlement agreement by July 30, 2020.

Mr. Leasor said the salary line item expense was \$14,800 below the amount budgeted for fiscal year 2020. He recommended the fiscal year 2021 budget for employee salaries be set at \$1.43 million. He said this amount reflects cancellation of a 3% pay increase that was originally included in the approved biennial budget to maintain parity with increases provided for in the union contract. He said, additionally, the Office of Budget and Management is developing plans to implement cost savings days for state employees during fiscal year 2021 to reduce personnel costs. He mentioned that this reduction was not factored into the recommended salary budget as the Office of Budget and Management has not finalized the process for cost saving days.

Mr. Leasor reported that temporary services expenses were \$23,700 below the budgeted amount. He noted that it was planned to use a temporary employee for a document management project. He explained that the scanners were installed, and the software was being customized when the project was put on hold following the declaration of the pandemic. He noted that a portion of the temporary services budget was expended due to a temporary employee being brought in house to fill in for an employee out on maternity leave. He recommended the 2021 budget for temporary services be \$30,000.

Mr. Leasor said the actual rent expense for fiscal year 2020 was \$5,700 below the budgeted amount. He recommended the fiscal year 2021 budget for rent be set at \$155,000, which includes funds for a potential increase of up to 4% for operating costs as provided for in the lease agreement.

Mr. Leasor reported that actual expenses for office supplies were about \$2,200 below the budgeted amount. He said the amount requested for fiscal year 2021 is \$20,000. He explained that this amount includes monies 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 2020 were \$4,900 below the budgeted amount. He said the recommended budget for fiscal year 2021 remains at \$15,000.

Mr. Leasor said legal and professional actual expenses were below the budgeted amount by [\$34,607]. He said the amount requested for legal and professional expenses for fiscal year 2021 is \$250,000. 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 database

update to interface it with the scanning equipment; the actuary review for the claims study; and other miscellaneous professional services.

Mr. Leasor reported that traveling expenses were \$2,900 below the budgeted amount. He said the recommended budget for travel expenses for fiscal year [2021] is \$6,000.

Mr. Leasor stated that employee expenses were \$900 below the budgeted amount. He said the recommended budget for employee expenses for fiscal year 2021 is \$1,000. He explained that this cost is for providing refreshments at board meetings.

Mr. Leasor said telephone expenses were \$72 above the budgeted amount. He explained the expenses were slightly over budget because the network bandwidth was expanded and additional phones were acquired in order to provide VoIP phones to the staff at their remote working locations. He said the anticipated telephone expenses for fiscal year 2021 are \$15,200. He noted that this expense includes web access, website hosting, spam/virus filtering, and the VoIP phone and video conference systems.

Mr. Leasor reported that postage expenses were \$2,900 below the budgeted amount and the recommended budget for postage expenses for fiscal year 2021 is \$30,000.

Mr. Leasor said the depreciation expense was below the budgeted amount by \$3,900 and the anticipated depreciation expense for fiscal year 2021 is \$29,800.

Mr. Leasor pointed out that overall operating expenses were about \$96,000 below the amount budgeted for fiscal year 2020. He stated that the recommended fiscal year 2021 operating expense budget total is \$1,982,000, which is a \$29,000 increase from the 2020 budget.

Vice-Chairman Hull questioned if there was consideration for other employee expenses related to the staff working from home, and asked if the Board should consider an allowance for real expenses to the employees. Mr. Leasor said the staff should not be incurring any out-of-pocket expenses. He explained that the staff were equipped with computer workstations and a printer if requested, which has enabled them to work from home as if they were working in the office. He said any supplies needed by the staff are available and are included in the budgeted office expenses.

Vice-Chairman Hull asked if the 4% increase in rent for the office space utilities, maintenance, and cleaning would be revisited. He commented that in the private sector, there has been a lot of forbearance, with property owners being proactive in recognizing the impact of the COVID-19 pandemic on how business is done. He said there is a reason to talk with the property owner about foregoing an increase this year or even argue for a reduction. Mr. Leasor said that the 4% increase was put in to the budget because it is part of the contract, but he did not believe any increase has been realized. He noted that one of the monthly bills was reduced because their operational expenditures in calendar year 2019 were lower than expected. Vice-Chairman Hull said it would be worth checking in with them and Mr. Leasor said that he would.

Vice-Chairman Hull commented that his organization has moved to using the Microsoft Teams platform and found it to be a superior experience over Skype or other VoIP services. He asked if any other Board members were using it and Mr. Ord responded stating that BUSTR's staff is also using

Microsoft Teams and it is working out well for them. Chairman Rocco asked if the Board utilizes the subscription service for Microsoft software or owns individual licenses. Mr. Leasor stated that the Board has individual licenses. He commented that Microsoft Teams had been considered, but there was not enough time to move in that direction. Chairman Rocco said Microsoft Teams is a good communication platform allowing for the staff to collaborate through email, chat, and video conference as well as do a variety of other things. He suggested the staff look into using the application moving forward.

Chairman Rocco asked if there were any other questions concerning the proposed operating budget and there were none. He then requested a motion to approve the operating budget as proposed. Vice-Chairman Hull so moved and Mr. Ord seconded. 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 2021.

Mr. Leasor said the proposed capital budget includes the fiscal year 2019 actual expenditures, the budgeted amounts and annualized expenditures for fiscal year 2020, and the recommended budget for fiscal year 2021.

Mr. Leasor said furniture and equipment was budgeted at \$2,500¹ for fiscal year 2020 and there were no expenditures for this budget line. He said the recommended furniture and equipment budget for fiscal year 2021 is \$2,500. He said this would be for any miscellaneous furniture purchases that may be needed.

Mr. Leasor reported that data processing and electronics were budgeted at \$45,000² for fiscal year 2020, and the actual expenditures for this line item were \$35,347. He said these expenditures included the purchase of the scanning equipment, document management software and replacement of three out-of-date computers. He said \$10,000 is recommended for data processing and electronics for fiscal year 2021. He noted that the amount requested is for the purchase of additional scanning-related equipment, a new laptop, and the replacement of other IT equipment, if needed.

Mr. Leasor said the recommended capital budget for fiscal year 2021 totaled \$12,500. Chairman Rocco asked if there was enough funding in the proposed budget to further support the staff working remotely and to make the change to using the Microsoft Teams platform. Mr. Leasor said the cost for Microsoft Teams would fall under legal and professional expenses in the operating budget and that he believed there was enough room in that budget if it is decided to move in that direction. Vice-Chairman Hull said there might be some initial equipment modification costs that would go along with utilizing the application and suggested that the capital budget be increased by \$10,000 to give flexibility for it. He commented that moving forward there will be opportunities to better support remote employees and to significantly upgrade their remote work experience with minimal additional equipment purchases. Mr. Fleming said he thought it was a great idea. He commented that if there is another spike in cases in the fall and winter, there might be a need to adjust quickly. Chairman Rocco asked if there were any other

¹ The approved Fiscal Year 2020 budget for furniture and equipment was \$5,500.

² The approved Fiscal Year 2020 budget for data processing and electronics was \$50,000.

questions, comments, or recommended changes and there were none. He then requested a motion to approve the capital budget as amended to a total of \$22,500. Vice-Chairman Hull so moved and Mr. Fleming seconded. A vote was taken and all members voted in favor. The motion passed.

Obligate Money for the Payment of Claims

Chairman Rocco said, as was discussed in the presentation of the operating budget, \$13 million was budgeted for the payment of claims for the upcoming fiscal year. He then requested a motion to obligate \$13 million for the payment of claims for fiscal year 2021. Mr. Stephenson so moved and Vice-Chairman Hull seconded. A vote was taken and all members voted in favor. The motion passed.

Actuary Contract

Chairman Rocco called on Mr. Leasor to discuss the actuary contract.

Mr. Leasor explained that, in the previous two years, Milliman Inc. was used to evaluate the claims that are being held and to develop a liability estimate for that group of claims. He explained that a significant portion of the held claims had been settled under an agreement with a major oil company, and he requested Milliman be used once more to perform the analysis of the held claims. He said Milliman estimated the fees for the contract to be \$24,000 - \$27,500. He said this amount is higher than the previous year because the actuary will need to develop a method to factor in the claims settled under the major oil settlement.

Chairman Rocco asked if the \$27,500 included travel and related fees and Mr. Leasor said that it did not. He noted that Milliman has not historically billed for travel because the data has been shared electronically and there has been no need for them to travel to the Board's office. Chairman Rocco said the need for Milliman's services is primarily driven by the major oil settlement, which significantly affected expenditures and in-house claims. He asked if there were any questions concerning the proposal and there were none. He then 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, 2020, in an amount not to exceed \$27,500 plus travel and related fees. Vice-Chairman Hull so moved and Mr. Fleming seconded. A vote was taken and all were in favor. The motion passed.

Hearing Officer's Contract Renewal

Chairman Rocco said the contract for the Board's hearing officer, Howard Silver, was up for renewal. He explained that Mr. Silver has agreed to extend his contract as the Board's hearing officer at the terms of the existing agreement and the Board would simply be reauthorizing the contract.

Mr. Leasor commented that the terms of the contract provide for an hourly rate of \$150. He added that the contract gives a minimum of five hours for the contract period and the hearing officer is not bound to supply any more than 300 hours for the year. The contract also includes a maximum payment of \$3,410 per appeal, unless approved otherwise. He noted that the rate and maximum amount per appeal were increased in fiscal year 2020.

Chairman Rocco asked if there were any questions concerning the contract and there were none. He then 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, 2020, through June 30, 2021. Vice-

Chairman Hull so moved and Mr. Ord seconded. Chairman Rocco asked if there were any questions or discussion concerning the contract and there were none. A vote was taken and all members were in favor. The motion passed.

Assistant Attorney General Memorandum of Understanding

Chairman Rocco said the renewal of the agreement for the assistant attorney general services for the upcoming year was on the agenda. However, a proposed contract had not yet been provided by the Attorney General's Office. He stated that he did not expect the cost for the attorney general services to exceed the current contract amount of \$92,900. He said his recommendation is for the Board to allow the attorney general services agreement to be approved as long as the amount does not exceed \$92,900. He asked if there were any questions or comments concerning his proposal and there were none. He then 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 \$92,900 for fiscal year 2021. Vice-Chairman Hull so moved and Mr. Bryant seconded. A vote was taken and all members were in favor. The motion passed.

Database Consultant Contract

Chairman Rocco called upon Mr. Leasor, to discuss the database consultant contract.

Mr. Leasor said the Board's database known as STARRS (Statistical Tank and Reimbursement Records System) is used for managing tank owner accounts, and tracking and processing claims. He said historically, the Board has executed a maintenance contract with a monthly retainer so that any glitches, defects, and expansion of the database can be addressed without delay. He said he is recommending the Board authorize the chair to execute a contract with the developer in an amount not to exceed \$15,000 for the continuation of the contract. He said under the agreement the consultant would assist with the annual fee statements, the claim liability study, alteration of existing reports and the creation of new reports, specialized SQL queries to retrieve data, any updates required due to changes in procedures or rules, and the installation and troubleshooting of the database on client workstations.

Chairman Rocco asked if there were any other questions or discussion and there were none. He then 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 database in an amount not to exceed \$15,000 for fiscal year 2021. Vice-Chairman Hull so moved and Mr. Fleming seconded. A vote was taken and all members were in favor. The motion passed.

Fee Statement Statistics

Mr. Leasor stated that the 2020 program year fee statements were issued on April 28, 2020, and about \$8.3 million was invoiced to 3,242 owners of 20,700 USTs. He said that historically the fee statement statistics presented at the Board meeting represented data available the day prior to the meeting. However, in order to provide the information in a timely manner, the data in the report was as of May 31, 2020.

Mr. Leasor said as of May 31, 2020, the per-tank fees collected were approximately \$2.3 million, which represents about 28% of the amount billed. He pointed out that collections for the same period in the

previous year were \$2.7 million. He noted that collections to date for the 2020 program year are 86.7% of the fees collected for the same period of time in the prior year.

Mr. Leasor said between the fee statement mailing in April 2019 and May 31, 2020, about \$8.3 million was collected for 2019 program year fees, and \$188,000 was collected for prior years' fees net of \$57,235 in refunds paid.

Mr. Leasor reported for the 2020 program year, a total of 15,400 tanks were billed at the standard deductible (\$55,000) per-tank fee and about 5,300 tanks were billed at the reduced deductible (\$11,000) per-tank fee.

Mr. Leasor said as of May 31, 2020, fees had been paid at the standard deductible rate for 3,600 tanks and at the reduced deductible amount for 1,900 tanks. He said, in total, fees had been paid for 5,515 tanks by 1,125 owners. He said this compares to fees being paid for 6,462 tanks by 1,187 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 decreased by about 15%, and the number of owners that had paid decreased by 5%. He said this is 947 fewer tanks paid and 62 fewer owners paid, in comparison to the previous year. He said that as of June 9, 2020, fees for about 806 fewer tanks and 116 fewer owners were paid in comparison to the same period in the previous year.

Vice-Chairman Hull asked if anything was done to give extensions or waive late payment fees in light of the COVID-19 pandemic. Mr. Leasor said that late fees would not be assessed until the issuance of the Director's Orders in August and commented that the Fund's Director has the discretion to waive late payment fees. Chairman Rocco asked if BUSTR was seeing a similar decrease in payment of tank registration fees and Mr. Ord said they are noticing the same reduction primarily from smaller tank owners. Chairman Rocco asked if anything was done by BUSTR to extend the timeframe for the payment of fees and Mr. Ord said that they did not want to set a precedent but are remaining silent and forgetting late fees. Chairman Rocco stated that unfortunately, the fee assessment statements were sent out in the middle of the health emergency and he suspects that business dropped by around 40 to 50 percent at the time when owners would typically be making payment. He suggested that the determinations, which assess the late payment fees, not be sent until after the September Board meeting. He explained that this would give the Board the opportunity to see where things stand and provide an additional 30 days from when the notices would normally have been sent out.

Mr. Stephenson commented that, in his business, he found sales at some convenience stores in urban centers were off by 40 to 50 percent. However, sales volumes increased at smaller stores in rural areas as people avoided grocery stores and went to convenience stores. Mr. Cantrell said that in his experience, the volume of fuel gallons sold was down, but the profit on gallons doubled. He explained that the increased profit margins offset the lower fuel volumes, and the cash going to the bank never changed. After some further discussion, Chairman Rocco said the sentiment seemed to be for the Board to take no action with respect to the fees until the September meeting and the Board could evaluate where things stand at that time.

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, 2020, refunds totaling \$57,235 had been paid to 68 owners for the 2019 program year. She said there are 2,649 pending refunds, totaling \$1.4 million. She commented that number has remained fairly consistent, with new refunds being entered as refunds are paid. She said a total of \$20,412 was used to offset unpaid prior years' fees.

Ms. Esquivel stated that as of May 31, 2020, the total collected by the Attorney General's Office and Special Counsel less the collection costs was \$72,238. She said that 189 accounts totaling \$553,379 had been certified to the Attorney General's Office for collection for the 2019 program year. She pointed out that these numbers were incorrect in the report.

Ms. Esquivel said there are ten Orders Pursuant to Law currently under appeal and information to support the objection is expected for eight appeals. She said information has been received and is under review for the two other appeals. She said there are currently no Determinations to Deny a Certificate of Coverage under appeal.

Ms. Esquivel stated that all Ability to Pay Applications had been reviewed and closed. 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, 2020, a total of 2,993 Certificates of Coverage have been issued for program year 2019. She said there are 45 Applications for Certificates of Coverage currently being processed, 14 unresolved Pending Denials, and 95 unresolved Determinations to Deny a Certificate of Coverage.

Ms. Esquivel stated that there are 31 uncashed refund checks totaling \$22,558. She said there are seven owners with pending refunds totaling \$30,235 to whom letters have been sent notifying them that more information is needed before their refunds may be issued. She said there are 34 owners with pending refunds totaling \$60,745 for which information had been requested, but no responses have been received.

Claims Reports:

Chairman Rocco called on Rick Trippel, Claims Supervisor, to present the claims reports.

Mr. Trippel reported that the claims staff transitioned to working from home as a result of COVID-19, which affected productivity. He said as the staff becomes better situated in their work-from-home environment, the hope is that things will pick back up. He noted that the staff were recently given printers, which seemed to have helped.

Mr. Trippel said that since the January Board meeting, many of the claims statistics have dramatically changed. He explained that this was due to the December 5, 2019 settlement agreement with a major oil company and the 1,093 claims associated with it. He said the face value of those claims was just under \$26 million, and per the agreement, a total of \$12.6 million is to be paid in four installments.

He said the first installment payment of \$4.1 million was mailed on January 28, 2020. He said that after the first installment was paid, the status of the 1,093 claims was changed from open to payment pending or settled. He said that due to the magnitude of the changes to the report, he would separate the 1,093 claims included in the settlement agreement from the claims settled by a detailed review to allow a better comparison with historical statistics.

Mr. Trippel reported that as of June 1, 2020, the total maximum liability of in-house open claims is just under \$9.4 million. He said this is a significant decrease from the \$32 million that was reported at the January Board meeting; primarily as a result of the claims settled in the December settlement agreement. He said using the fiscal year 2020 average claim payout ratio of 81.5%, the anticipated liability of unpaid in-house claims is just under \$7.7 million. He said as of June 1, 2020, a total of 564 claims with a total face value above the deductible amount were pending review. He noted that this was a significant decrease from the 1,628 claims with a face value above the deductible reported at the January meeting. He commented that this was again primarily a result of claims included in the December 5, 2020 settlement agreement. He said as of June 1, 2020, a total of 28 claim settlement determinations were under appeal. He said that 22 of the claim appeals pertain to two release sites and said that information to support the appeals is expected for 17 of the appealed claims.

Mr. Trippel explained that two Claim Settlement Summary reports were provided; one without the major oil settlement claims shown as Page 2 and one with the major oil settlement claims on Page 2A. He said the information was presented in this way to help show the impact of the December 5, 2019 settlement agreement claims.

Mr. Trippel reported that as of June 1, 2020, a total of 477 claims were received and 451 claims were settled or closed this program year. He noted that 20 of the closed claims were for sites with NFAs and the claim values were below the deductible amount. He stated that the average payout per claim application was \$13,911, which calculates to an average payout ratio of 81.5% of the net value (face value – deductible). He said that about 40% of the 197 claims settled in January through May were jobber claims that had been held pending the resolution of the issues with the major oil company. He explained that jobber claims are claims filed by current owners of release sites who are completing corrective actions on behalf of the responsible parties. He noted that the costs for these claims are being reimbursed after a detailed review of the submitted costs. He said that when the major oil settlement claims are included, the average payout per claim application was \$12,202, which calculates to an average payout ratio of 61.6% of the net value.

Mr. Trippel said for program year 2019, a total of 109 eligibility applications were received and 77 eligibility determinations were issued. He noted that 51 were approved and 26 were denied. He said five were denied because it was determined there was no release, four were for late-filed applications, one was denied for no valid Certificate of Coverage, five were because the UST system was abandoned or out of compliance, and the remaining 11 were denied due to no corrective actions being required. He said as of June 1, 2020, a total of 94 eligibility applications are pending review and more information has been requested for nine of those applications. He commented that 21 of the applications were unreviewable due to lacking the necessary reports. He stated that five eligibility determinations are under appeal.

Mr. Trippel reported that as of June 1, 2020, a total of 50 cost pre-approval requests were pending review. He said, of the pre-approval requests pending review, 37 were mandatory, six were voluntary, and seven were notifications of cost exceedance. He said that as of June 1, 2020, a total of 112 cost pre-approval requests were received and 104 cost pre-approval notifications were issued.

Finance Committee Report:

Chairman Rocco stated that the Board's Finance Committee had met prior to the Board meeting to review a few of the Board's policies. He noted that the policy revisions had not been provided to the Board members prior to the meeting, and then called on Mr. Leasor to briefly discuss the recommended changes to the Board's investment policy.

Mr. Leasor explained that the proposed changes to the investment policy were the result of discussions at Finance Committee meetings along with input from the Treasurer's Office. He said the recommended changes were primarily minor editorial modifications. He said that under the "Purpose" section of the policy the committee recommended changing "...provide a competitive investment return" with "provide a market rate of risk-adjusted-return through economic and budgetary cycles." He pointed out that under the "Safety of principal" paragraph the language was being changed from "This primary objective is to mitigate credit risk" to the "The Board will seek to ensure the safety of the Fund's capital by managing credit risk." He explained that other updates included replacing "minimize credit risk" with "manage credit risk" and "minimize interest rate risk" with "manage exposure to interest rate risk." After pointing out the other changes, the Chairman asked if members had any questions concerning the proposed changes and there were none. He then requested a motion to accept the recommended changes to the Board's Investment Policy as presented. Mr. Fleming so moved and Vice-Chairman Hull seconded. A vote was taken and all members were in favor. The motion passed. Vice-Chairman Hull asked if the footer of the policy would be changed and Mr. Leasor stated that the footer would indicate the new adopted date of June 2020.

Chairman Rocco then asked Mr. Leasor to provide a summary of the proposed changes to the Board's asset policy. Mr. Leasor stated that the asset policy referenced items that are being attached to the policy as appendices. He said these materials include Section 125.16 of the Ohio Revised Code, the Department of Administrative Services' directives on state property inventory policies and procedures, the State of Ohio's Financial Reporting and Accounting Policies for Capital Assets, and the Asset Management Handbook. He said that under the "Reporting" section "Net Assets" is being changed to "Net Position" to be consistent with the term as it is used in the audited financial statements. He noted that smartphones are being included on the list of tangible personal property. He said the physical verification of the location and condition of assets is being added to the internal control of capital assets to be consistent with the state policy. The Safe Guarding of Assets is being changed to the Safeguarding and Maintenance of Assets. He said the procedure to protect assets now includes cyber-security threats and a procedure to maintain and upgrade assets as part of the preparation of the annual capital and operating budgets was also added.

Chairman Rocco asked if there were any comments or questions concerning the proposed policy changes and there were none. He then requested a motion to accept the recommended changes to the

Board's Asset Management Policy as presented. Vice-Chairman Hull so moved and Mr. Fleming seconded. A vote was taken and all members were in favor. The motion passed.

Chairman Rocco stated that the Finance Committee also looked at the Board's Collections Policy but there were no recommended changes to that policy.

New Business and Unfinished Business:

Adoption of Rules

Chairman Rocco stated that copies of the rule amendments were emailed to the Board members and had been presented at previous meetings. He said that unless there were any comments or questions concerning the rules he would like to move forward with the adoption of the rules. None of the members voiced comments or questions. He then requested a motion to rescind rule 3737-1-04.2 of the Ohio Administrative Code and to amend rules 3737-1-01, 3737-1-02, 3737-1-03, 3737-1-04, 3737-1-07, 3737-1-08, 3737-1-09, 3737-1-09.1, 3737-1-12, 3737-1-12.1, 3737-1-15, 3737-1-16, 3737-1-18, and 3737-1-19 as presented at the public hearing of the Board on January 8, 2020, and to set an effective date of July 1, 2020. Vice-Chairman Hull so moved and Mr. Ord seconded. The Chairman called for a roll call. The following members voted in the affirmative: Ms. Waggener and Messrs. Bergman, Bryant, Cantrell, Fleming, Falconi, Hull, Stephenson, Ord, and Rocco. Mr. Azoff was no longer present and did not vote. There were no nays. The motion passed.

Extended Filing Deadlines

Chairman Rocco said that at the beginning of the COVID-19 emergency, he and Executive Director, Starr Richmond, had discussions concerning the submission of claims and filing deadlines. He said that because Ohio was in a state of emergency and given the severity of the circumstances, they felt it was appropriate to provide a limited extension for the deadlines for the submission of eligibility applications, claim applications, cost pre-approval requests, and related requests for additional information. He explained that as a result of their discussions, a decision was made that any submissions that were due between March 14 and June 20, 2020, could be filed up until September 10, 2020. He said that the Board would need to ratify their decision but he first wanted the Board members to voice concerns and address questions before taking action on the decision to extend the filing deadlines.

Mr. Ord asked if a submission after the September 10, 2020 deadline would still be entertained if a legitimate reason is given for why the extended deadline could not be met. Chairman Rocco asked Director Richmond whether an extension beyond the due date is given when, under normal conditions, someone submits a request stating additional time is needed. Director Richmond stated that requests for extensions are not granted and this would be the first time deadlines were extended. The Chairman said that if the extended September deadline were to be missed, then it would be treated in the same manner as missing a normal deadline for submission. Mr. Ord expressed concerns that contractors and consultants may not be available to perform the work required and meet the extended deadline. He stated that based on conversations with various consultants, they have sheltered their personnel at home, drilling is not being done, and sampling and laboratory work has been limited. Vice-Chairman Hull stated that he felt it was prudent and appropriate to provide the filing deadline extension and that the 90-day extension should be sufficient. He said that after a short time his company was able to make

provisions to move forward and have been able to meet scheduling deadlines; including field sampling. He commented that the delays they are experiencing are primarily owner generated. Mr. Fleming said that he knew of consultants furloughing personnel and pulling back on certain hourly staff but in many cases, the work is being maintained.

Chairman Rocco explained that 90 days was chosen as the basis for the extension because much of the state was shut down for the 90-day period from March through June. He commented that an unlimited timeframe cannot be provided and the Board is not in a position to make individual exceptions to the filing deadlines. He said that the Board could revisit the situation at the September Board meeting and extend the deadlines broadly once again if needed. He asked if there was any other discussion concerning the deadline extension and there was none. He then requested a motion to ratify the decision of the Executive Director made in consultation with the Board Chair to extend to September 10, 2020, the filing deadline for the submission of any Applications for Financial Assurance Fund Eligibility, Claim Reimbursement Applications, requests for cost pre-approval, and all related requests for additional information which had an original filing deadline between March 14, 2020 and June 12, 2020. Mr. Ord so moved and Mr. Fleming seconded. A vote was taken and all members were in favor. The motion passed.

Suspended Claim Review – Premcor Refining Group Inc.

Chairman Rocco directed members' attention to a letter that was received from Valero concerning claims that are being held from processing as a result of double dipping. He noted that Valero's original letter and the Executive Director's response to it were also provided with the meeting materials. He reminded members that the Board had suspended the processing of claims related to the double dipping and Valero and its related companies were affected by that decision. He said that the held claims will need to be resolved but it did not need to be addressed at the present meeting.

Hardship Application

Chairman Rocco called upon Mr. Leasor to present the hardship application.

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. Mr. Leasor noted that granting hardship status does not increase the amount of reimbursement to the tank owner. He 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. 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. 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 # 22741-0001/02/05/14, Owner – Route 53 Service, LLC

Mr. Leasor said Route 53 Service, LLC is the responsible party for a release discovered in program year 2013 at 8910 South State Route 53 in McCutchenville, Ohio. This is the sixth request for hardship status.

Mr. Leasor stated that, to date, the Fund has reimbursed \$335,000 for corrective action costs for this release. He said that one claim in the amount of \$1,222 is pending review and the cost of corrective action work expected to be conducted over the next 24 months is estimated to be \$165,000.

Mr. Leasor said that Route 53 Service, LLC purchased the facility in October of 2012 and the release was discovered in February of 2014. He said that following the release, the facility was closed until it reopened two years later. He said the 2018 tax forms submitted with the application reported a net income of \$25,000. He said the financial information provided with the application included the IRS tax forms for Route 53 Service, LLC along with personal financial information for Mr. Khaira. He explained that the U.S. EPA ABEL model used for the review of corporations does not take into account any personal financial information. He said that based on the information provided in the application and the 2018 tax forms, the ABEL model estimates a less than 50% probability that Route 53 Service, LLC can afford \$165,000 in corrective actions costs.

Mr. Leasor said the Director is recommending the Board approve the application and grant hardship status to Route 53 Service, LLC. Vice-Chairman Hull so moved and Mr. Ord seconded. A vote was taken and all members voted in the affirmative. The motion passed.

Certificates of Coverage – Ratifications:

Chairman Rocco called upon Ms. Esquivel 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 opportunity to appeal the denial. She said that, throughout the denial process, the Board's staff works directly 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 said the Director is requesting the Board ratify the issuance of the 2018 program year Certificates of Coverage for the three facilities included on the program year 2018 list.

Vice-Chairman Hull moved to ratify the issuance of the 2018 Certificates of Coverage for the facilities listed. Mr. Fleming seconded. A vote was taken and all members were in favor. The motion passed.

Ms. Esquivel stated that no determinations denying a 2018 program year Certificate of Coverage had been issued since the January meeting.

Ms. Esquivel said the Director is requesting the Board ratify the issuance of the 2019 program year Certificates of Coverage for the 138 owners of the 203 facilities included on the program year 2019 list.

Mr. Ord moved to ratify the issuance of the 2019 Certificates of Coverage for the facilities listed. Vice-Chairman Hull seconded. A vote was taken and all members were in favor. The motion passed.

Ms. Esquivel said the Director is requesting the Board ratify the denial of the 2019 program year Certificates of Coverage for the 243 tanks located at the 91 facilities on the 2019 program year determination list.

Vice-Chairman Hull moved to ratify the denial of the 2019 Certificates of Coverage that were listed. Mr. Fleming seconded. A vote was taken and all members were in favor. The motion passed.

Executive Session:

Chairman Rocco stated that an executive session was needed and briefly explained the process for the Board to privately participate in the executive session using ZOOM. Vice-Chairman Hull stated that the topics to be discussed in executive session would be covered in about 30 minutes and the Chairman stated that the public meeting would reconvene at around 12:30 p.m.

The Chairman then 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. Ord so moved and Vice-Chairman Hull seconded. The Chairman called for a roll call. The following members voted in the affirmative: Ms. Waggener and Messrs. Bergman, Bryant, Cantrell, Fleming, Falconi, Hull, Stephenson, Ord, and Rocco. Mr. Azoff was no longer present and did not vote. There were no nays. The motion passed. Mr. Fleming recused himself from the executive session.

Reconvene Meeting

The Board adjourned from executive session and reconvened the public meeting. Messrs. Azoff, Cantrell, and Fleming were no longer in attendance.

Confirm Next Meeting and Adjourn:

Chairman Rocco stated that the next Board meeting will be held on Wednesday, September 9, 2020, at 10:00 a.m.

Mayor Falconi made a motion to adjourn the meeting and Mr. Ord seconded. All members present 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.