



Petroleum Underground Storage Tank Release Compensation Board

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**MINUTES OF THE 177th MEETING OF THE
PETROLEUM UNDERGROUND STORAGE TANK
RELEASE COMPENSATION BOARD
November 28, 2018 – 10:00 a.m.**

BOARD MEMBERS IN ATTENDANCE

Jim Rocco
John Hull
Steve Bergman
Don Bryant
Ron Falconi
Scott Fleming
Stephen Hightower II
Tom Stephenson

EX-OFFICIO MEMBERS IN ATTENDANCE

Verne Ord, representing Director Jacqueline Williams, Ohio Department of Commerce
Donna Waggener, representing Director Craig Butler, Ohio Environmental Protection Agency
J.D. Pisula, representing Josh Mandel, State Treasurer of Ohio

OTHERS IN ATTENDANCE

Starr Richmond	Executive Director, PUSTRCB
Madelin Esquivel	Assistant Director, PUSTRCB
Don Leasor	Chief Fiscal Officer, PUSTRCB
Rick Trippel	Claims Supervisor, PUSTRCB
Jonathan Maneval	Executive Assistant, PUSTRCB
Dave Gram	Claims Analyst, PUSTRCB
Leigh Bayer	Assistant Attorney General
Jeff Hussey	State Fire Marshal
Bill Spurgeon	Chief Deputy State Fire Marshal
Doug Darrah	ATC Group Services LLC
Jodi Handlin	BJAAM Environmental, Inc.

Minutes submitted by:


Jonathan Maneval
Executive Assistant

Call to Order:

Chairman Rocco convened the one hundred and seventy-seventh meeting of the Petroleum Underground Storage Tank Release Compensation Board on Wednesday, November 28, 2018.

The following members were in attendance: Jim Rocco; John Hull; Steve Bergman; Don Bryant; Ron Falconi; Scott Fleming; Stephen Hightower II; Tom Stephenson; Verne Ord, representing Director Jacqueline Williams, Ohio Department of Commerce; Donna Waggener, representing Director Craig Butler, Ohio Environmental Protection Agency; and J.D. Pisula, representing Josh Mandel, State Treasurer of Ohio.

Minutes:

Chairman Rocco asked if there were any comments or questions regarding the minutes from the September 12, 2018 Board meeting and there were none. Mayor Falconi moved to approve the minutes. Vice-Chairman Hull seconded. A vote was taken and all were in favor. The minutes were approved as presented.

BUSTR Report:

Chairman Rocco commented that Bill Hills had retired from his position as Bureau Chief at the Bureau of Underground Storage Tank Regulations (BUSTR) and Verne Ord had been assigned as Interim Chief until the position is permanently filled. He noted the State Fire Marshal, Jeff Hussey, and the Chief Deputy State Fire Marshal, Bill Spurgeon, were attending the meeting. He welcomed them and they briefly introduced themselves. The Chairman then called upon Mr. Ord to present the BUSTR report.

Mr. Ord reported that he had been assigned as Interim Bureau Chief effective November 5, 2018. He noted that an intermittent file room position and an enforcement coordinator position are currently vacant.

Mr. Ord said that BUSTR received \$65,000 from the U.S. Environmental Protection Agency (U.S. EPA) to perform responsible party searches to identify the parties responsible for the investigation and cleanup of releases from petroleum underground storage tanks (USTs). He explained that 65 sites are being researched this year with the cost to perform the research being \$1,000 per review. He noted that BUSTR had recently provided the research vendors with the information needed to start their review and the responsible party search for four of the sites had been completed.

Mr. Ord reported that 66 petroleum release sites are involved in the Abandoned Gas Station Cleanup Grant Program which is administered by the Ohio Development Services Agency. He noted that 79 eligible grant applications were approved. He explained that grants are awarded for funding the removal and closure assessment of tanks and grants are also awarded for remediating sites. He said, to date, 12 properties have been cleaned up and are ready for redevelopment. He stated that \$11,237,475 of the \$30 million allocated for the program has been awarded.

Mr. Ord stated that BUSTR has been awarded \$1,983,734 in LUST (leaking underground storage tank) grant monies for fiscal year 2019. He said the UST grant application will be submitted to the U.S. EPA in early 2019 for fiscal year 2020 funding.

Mr. Ord noted that various training opportunities are being provided to BUSTR employees. He stated that certified installer and certified inspector courses will be offered in February and March of 2019.

Mr. Ord said the Revolving Loan Fund administrative rule is currently being reviewed as part of the five-year review requirement. He said the Joint Committee on Agency Rule Review (JCARR) has asked that the date of the last codified federal rules be incorporated into the rule and this minor change is the only change expected to be made to the rule. He said a six-month extension request will be submitted to JCARR with the intent to have the amended rule become effective on August 1, 2019.

Mr. Ord reported that the Department of Commerce IT group is working on a program to gather statistical information from the OTTER (Ohio Tank Tracking & Environmental Regulations) database in order to meet a new U.S. EPA reporting requirement concerning significant operational compliance.

Mr. Ord stated that, in the previous week, 39 new compliance inspections were performed for a total of 6,824 inspections for the three-year inspection cycle. He commented that the inspectors are ahead of schedule to complete the three-year cycle. He said that 12 NFAs (no further actions) were generated during the previous week, for a total of 67 NFAs issued for the fiscal year.

Mr. Ord stated that, as of November 16, 2018, there were 21,171 registered USTs and 3,543 owners of 7,152 registered facilities. He said there are 2,172 active petroleum releases and 1,349 active UST closures. He said BUSTR had granted no further action status for 30,425 petroleum release incidents.

Mr. Ord reported that \$1.89 million in registration fee payment had been collected this program year. He noted that this amount includes some outstanding prior year registration fees. He said there are currently 120 operating facilities that have unpaid 2018 tank registration fees and the inspectors are starting to visit these facilities to prompt the owners to make payment. He said there are 337 facilities with out-of-service tanks. He explained that while some of the USTs are properly out of service with the required permits, some are improperly abandoned and BUSTR is working to develop a program to manage these out-of-service tanks.

Chairman Rocco asked what the average cleanup cost is for the sites being remediated through the Abandoned Gas Station Cleanup Grant Program. Mr. Ord said he didn't know the exact figure but estimated it to be about 75% to 100% higher than the Fund's average payout. Vice-Chairman Hull said that \$11 million awarded for 66 sites would equal roughly \$200,000 per site and commented that the average cleanup cost claimed under the Fund is about \$130,000 per site. Executive Director Richmond noted that there is a deductible for Fund reimbursement and there is no deductible in the grant program. Chairman Rocco commented that the cleanup may not be as frugal given the free money available.

Financial Reports:

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

Audit Update

Mr. Leasor explained that at the March meeting the Board approved a contract with Milliman, Inc. for actuarial services to assist with the development of the estimated claim liability as of June 30, 2018. He said the work with Milliman is still ongoing and the claim liability study is not yet complete. He noted that the Board had approved a contract with Milliman for an amount not to exceed \$34,000. However, Milliman now estimates the cost to complete the study to be between \$45,000 and \$50,000.

Chairman Rocco asked why the cost is higher than the original contract amount. Mr. Leasor said the two individuals from Milliman are new to working with the Board and there has been a lot of conversations to help them understand the deductibles, disallowed percentages, and differences between small-owner versus large-owner claims. Vice-Chairman Hull commented that he is concerned the Board is paying to teach them about the Fund and for the actuarial staff to learn about the program. He asked if Milliman is using the same actuarial software used by the Board and Mr. Leasor confirmed that they also use the ReservePro software. Vice-Chairman Hull asked if the process has created any major revelations or material discoveries that could affect the estimate and Mr. Leasor said that he anticipates the liability estimate will be higher than previous estimates. Starr Richmond, Executive Director, commented that she has found the work with Milliman to be very eye opening and beneficial.

Chairman Rocco commented that given the corrective action process has changed dramatically and corrective action costs have gone down since the last time that an actuary firm assisted with the development of the liability estimate, it makes sense for the actuary to look at the assumptions being made and to ensure nothing is being overlooked. He explained that the claim liability estimate needs to be completed since it is a critical part of the annual audit and recommended the amount authorized for the contract be increased to \$50,000. Mr. Pisula asked whether contract expenses beyond \$50,000 are subject to approval from the Controlling Board and Chairman Rocco stated that they are not. Executive Director Richmond clarified that only salary costs are subject to the Controlling Board's approval.

Chairman Rocco then requested a motion to increase the amount approved for the agreement with Milliman, Inc. to assist the Fund in developing the potential claim liability as of June 30, 2018, from \$34,000 to an amount not to exceed \$50,000 plus travel and related fees. Vice-Chairman Hull so moved and Mr. Hightower seconded. Ms. Wasserman asked when Milliman is expected to finish with their work. Mr. Leasor explained that he anticipates the work to be completed within the next week and a half in order to have the data for the audit, which is due to the Auditor of State by December 31, 2018. The Chairman asked if there were any other questions and there were none. A vote was taken and all were in favor. The motion passed.

Mr. Leasor said the goal is to email a draft copy of the audited financial statements to the Board members no later than December 14, 2018. He asked the members to review the report and to reply with any questions or comments by December 21, 2018, so they can be addressed prior to the December 31, 2018 filing deadline. He noted that Kennedy Cottrell Richards would present the final audit report at the January Board meeting.

Mr. Fleming asked whether the Board would need to take some action to respond if the claim liability estimate were to increase significantly. Chairman Rocco explained that it could affect the annual fee

structure set by the Board. He said the liability estimate includes in-house claims that have not been processed as well as claim and eligibility applications that have not yet been submitted. He said that the study estimates the long-term liability and there would be no immediate changes to out-of-pocket expenses affecting the current fiscal year.

August and September Financials

Mr. Leasor said the August and September financials were emailed to each member. He asked if there were any questions or concerns regarding these reports and there were none.

Mr. Leasor reported that as of November 27, 2018, the unobligated account balance is \$26.6 million. He said this amount includes \$10.6 million in STAR Ohio (State Treasury Asset Reserve of Ohio) and \$16 million invested in U.S. treasuries and U.S. agency callable bonds. He said at the June meeting, \$9 million was obligated for the payment of claims and the obligated account balance as of November 27, 2018 is \$6.4 million.

Mr. Leasor said tank revenues would be discussed during his presentation of the fee statement statistics report.

Mr. Leasor reported that as of September 30, 2018, we are one quarter into the fiscal year and expenses should be about 25% of the budgeted amount. He said the claims expense for the month of September was approximately \$358,000 and to date, \$2.7 million has been paid for claims for fiscal year 2019.

Mr. Leasor reported that in the month of September, an unrealized loss of \$38,600 was recorded on the investments. He explained that for accounting purposes, the value of the investments are adjusted to the market value at the end of the month, and any unrealized gains or losses are reported. He explained that if the investments are held until their maturity as intended, the full par value of the investments will be received upon maturity.

Mr. Leasor reported that operating expenses for the month of September were approximately \$136,000. He said postage expenses were 57% of the amount budgeted. He said this was due to postage fees for the final quarter of fiscal year 2018 being paid in August of fiscal year 2019. He said these charges include fees for the annual fee statement mailing, which is sent by certified mail.

Mr. Leasor commented that overall expenses are at or below where they should be at this time in the fiscal year.

Fee Statement Statistics

Mr. Leasor said as of November 27, 2018, the per-tank fees collected for the current 2018 program year were approximately \$8.2 million, which represents 98% of the billed amount. He said that between July 1, 2018, and November 27, 2018, approximately \$166,000 was collected for prior years' fees, net of refunds of \$49,900.

Mr. Leasor said, for the 2018 program year, 15,270 tanks were billed at the standard deductible (\$55,000) per-tank fee and about 5,560 tanks were billed at the reduced deductible (\$11,000) per-tank fee. Mr. Leasor said as of November 27, 2018, the fees had been paid at the standard deductible rate for 14,680 tanks and at the reduced deductible rate for about 5,450 tanks. He said fees for a total of

20,127 tanks had been paid by 3,063 owners. He said this compares to fees being paid for 20,153 tanks by 3,111 owners for the same period of time in the prior year.

Mr. Leasor said, for the program year ending June 30, 2018, fees had been paid to date for a total of 20,535 tanks by 3,177 owners. He said this includes some fee payments received after the program year ended.

Mr. Leasor said the \$8.37 million collected to date represents 99% of the \$8.45 million budgeted for the 2018 program year. He said so far for program year 2018, fees had been received for 20,127 USTs, which is 99% of the 20,320 tanks budgeted.

Compliance and Fee Assessment Report:

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

Ms. Esquivel reported, as of November 20, 2018, refunds totaling \$49,902 have been paid to 41 owners for the 2018 program year. She said, as of November 20, 2018, there are 2,632 pending refunds totaling \$1.4 million. She said that \$20,170 in refunds was used to offset prior years' outstanding fees. She said the refunds paid and the credits applied to outstanding fees total \$70,072, which is 31% of the refund goal of \$225,000 that was set for the program year. She pointed out that this is on target as we are about one third through the program year. She commented that there is now a staff member dedicated to managing refunds and preparing refunds for payment.

Ms. Esquivel reported, as of October 31, 2018, the fees collected by the Attorney General's Office and Special Counsel less collection costs totaled \$78,957. She said no accounts have been certified to the Attorney General's Office for collection since July 1, 2018. She said the next certification will occur in the month of December, which will consist of prior program years' fees that are outstanding and have not yet been certified for collection. She said the unpaid 2018 program year's fees will be certified to the Attorney General's Office in February 2019.

Ms. Esquivel said four Orders Pursuant to Law were under appeal and information to support the appeals is expected. She said that one Determination to Deny a Certificate of Coverage is under appeal and a hearing for that appeal was held on August 3, 2017. The Board upheld the determination, and it was then appealed to the Court of Common Pleas.

Ms. Esquivel stated that three Ability to Pay Applications are currently under 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 November 20, 2018, a total of 2,755 Certificates of Coverage have been issued thus far for program year 2018. She said this represents about 90% of the total number of Certificates issued in the previous year. She said there are 289 Applications for Certificates of Coverage currently in process. She said that as of November 20, 2018, a total of 32 notifications of Pending Denial had been issued, and there are no unresolved Determinations to Deny a Certificate of Coverage.

Ms. Esquivel stated that there are 35 uncashed refund checks, totaling \$42,190. She said there are nine owners with pending refunds totaling \$13,135 who have been sent letters notifying them that more information is needed before their refunds may be issued. She said there are 35 owners with pending refunds totaling \$66,780 for which information had been requested, but no responses have been received. She said the pending refunds for which no response has been received are not included in the amount of pending refunds shown in the first section of the report.

Claims Reports:

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

Mr. Trippel said as of October 31, 2018, the total maximum liability of in-house open claims is just over \$30 million. He said that using the historic claim payout ratio of 75%, the actual anticipated claim liability of unpaid in-house claims is about \$22.5 million; or using the more current claim payout ratio of 80%, the actual anticipated claim liability of unpaid in-house claims is about \$24 million.

Mr. Trippel reported that, as of October 31, 2018, a total of 1,510 claims with a total face value above the deductible amount were pending review and a total of 12 claim settlement determinations were under appeal. He noted that since September 1, 2018, one claim settlement determination was resolved and no new claim settlement appeals were received. He reported that the claims staff are currently reviewing claims received in the month of October.

Mr. Trippel said that, in the months of July through October, 187 claims were received and a total of 149 claims were settled or closed. He noted that three of the closed claims were for sites with an NFA and the claims were below the deductible amount. He stated that the average payout per claim application was \$10,584. He pointed out that the average claim payout ratio is 83.2% of the net value (face value - deductible) and on average 14.3% of the claim face value was disallowed. He noted that these percentages were similar to the averages for program year 2017.

Mr. Trippel said that, during the 2018 program year, 13 eligibility applications were received and that 21 eligibility determinations were issued. He said of these eligibility determinations, 17 were approved and four were denied. He said that three applications were denied for no corrective action work being required by BUSTR and one application was denied for out-of-service or out-of-compliance USTs. He said currently, 23 eligibility applications are pending review and four eligibility determinations are under appeal.

Mr. Trippel reported that during the months of July through October, 41 requests for cost pre-approval had been received which included six new remedial action plan cost pre-approval requests, 16 annual cost pre-approval requests, six notifications of cost exceedances, and seven voluntary submittals. He said as of October 31, 2018, a total of 36 cost pre-approval requests are pending review.

Vice-Chairman Hull asked if there had been recent capital purchases of mobile treatment units for corrective action plans. Mr. Trippel said that no purchases of units had been made since he rejoined the staff in July 2018, and Chairman Rocco explained that, following discussions earlier in the year, it was decided that renting dual phase extraction (DPE) systems would be more cost effective than purchasing them. He said the original intent was for the Board to purchase the DPE systems and move

them from site to site. However, the systems were being kept at sites far beyond the timeframe originally proposed, and the failure rates and maintenance costs were very high.

Vice-Chairman Hull asked if the higher claim payout ratio of 83% was due to a better understanding of the claims process and Chairman Rocco explained that historically costs were disallowed because the expenses were not covered or they were not adequately documented to demonstrate that the money was actually spent. He said the larger companies have brought in third-party companies to manage their claim filings and these companies understand the claims process. He said consultants submitting claims on behalf of the smaller companies have also become more experienced and are doing a better job with their claim submissions. Mr. Trippel agreed and said there is a better understanding of the reimbursable versus non-reimbursable costs, and some of the non-reimbursable costs that were historically submitted for reimbursement are not being included in the claims.

Finance Committee Report:

Chairman Rocco said that prior to the Board meeting, the Finance Committee met to review the Fund's five-year financial projections and to discuss the annual per-tank fee and deductible amounts for the upcoming program year. He said that currently, the Fund has a fairly significant unobligated cash balance. He commented that the annual fees have been reduced a number of times, which has brought the annual income to around \$8 million. He said that making an assumption that the payout for claims will be around \$7 million and adding in the administrative operating costs, only a small amount of funds from the unobligated account will need to be spent in order to meet the obligations for the year. He said the committee believes there is a good balance between the estimated liability, income, and the unobligated account balance and is recommending no changes to the fees or deductibles for the upcoming year. He then requested a motion to adopt the recommendation of the Finance Committee to make no changes to the per-tank fees or the deductibles amounts for program year 2019. Vice-Chairman Hull so moved 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.

Chairman Rocco stated that the committee also discussed the Fund's investments. He said that currently half of the Fund's monies are invested in STAR Ohio and half are invested in bonds and securities. He commented that the committee is looking at whether this balance makes sense and whether there are additional investment options available. He said the intent is to present any recommendation to the Board at the January meeting.

Chairman Rocco then called on Madelin Esquivel to discuss proposed changes to the Board's Collections Policy. Ms. Esquivel distributed a copy of the draft policy and said that only two minor changes were being proposed. She said the first change is a correction to indicate the Board has authorized the Attorney General's Office to waive interest when it results in the collection of the per-tank, transfer, and/or late-payment fees. She pointed out that, in the existing policy, "late-payment" fees had been listed twice and transfer fees had been omitted.

Ms. Esquivel said the second change concerns the Ability to Pay program, which currently allows a former owner, through either the sale or removal of their tanks, to submit an application requesting their fees to be reduced or waived. She said the policy is being changed to allow former owners to

apply only if the tanks have been removed. Chairman Rocco said the reason the change is being made is because when ownership of a tank transfers, all outstanding fees for the tank must be paid in order for the new owner to be issued a Certificate of Coverage. Mr. Ord questioned whether the policy is intended to include permanently closed tanks and the Chairman confirmed that the policy is intended to apply to both removed tanks and tanks that are closed in place. He said changing the policy to replace “removal” with “permanent closure” would be appropriate. He then requested a motion to adopt the recommended changes to the Board’s Collection Policy. Vice-Chairman Hull so moved and Mr. Hightower seconded. Mr. Hightower asked if the revised policy would then indicate the permanent closure of USTs instead of the removal of USTs and the Chairman stated that it would. Chairman Rocco asked if there were any other questions and there were none. A vote was taken and all were in favor. The motion passed.

Unfinished Business:

Adoption of Rules

Chairman Rocco called upon the Board’s Assistant Attorney General, Leigh Bayer, to present the proposed rule amendments.

Ms. Bayer explained that the definition for the term “confirmed release” is being added to the Board’s definition rule 3737-1-03 and noted that it has the same meaning as the Fire Marshal’s rule. She said a new term “release incident” is being added to the definitions section and means a “release,” “suspected release,” or “confirmed release” whichever is first discovered. She said, as a result of these changes, rules 3737-1-04, 3737-1-07, 3737-1-09, 3737-1-15, and 3737-1-19 were being amended to incorporate the new term “release incident”. She said that rule 3737-1-04.1 is being amended to clarify the language and rule 3737-1-08 is being changed to increase the hardship status approval period from one year to two years. She explained that the change to rule 3737-1-12 is to set the claim filing deadlines for the corrective action program tasks being performed under the Fire Marshal’s rules that became effective on September 1, 2017. She said the change in rule 3737-1-12.1 adds a requirement for the annual submission of an estimated cost and completion schedule for the corrective action costs associated with free product monitoring activities required by BUSTR’s 2017 Technical Guidance Manual.

Chairman Rocco said the Fire Marshal defines the terms “release”, “suspected release”, and “confirmed release” and explained that the purpose of adding the term “release incident” is to set a date for calculating eligibility and claim filing deadlines. He said the other change was to require the preapproval of costs related to ongoing free product recovery that is now required by BUSTR’s corrective action program. He said the proposed rule amendments had gone through the JCARR review process and the Board needed to adopt the rules and set their effective date. He then requested a motion to adopt the proposed amendments to rules 3737-1-03, 3737-1-04, 3737-1-04.1, 3737-1-07, 3737-1-08, 3737-1-09, 3737-1-12, 3737-1-12.1, 3737-1-15, and 3737-1-19 of the Ohio Administrative Code as presented at the public hearing of the Board on September 12, 2018, with an effective date of January 1, 2019. Vice-Chairman Hull so moved. Mr. Fleming seconded. Chairman Rocco called for a roll call. The following members voted in the affirmative: Ms. Waggener and Messrs. Bergman, Bryant, Falconi, Fleming, Hightower, Hull, Ord, Pisula, Stephenson, and Rocco. There were no nays. The motion passed.

New Business:

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. Mr. Leasor 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 one-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 # 4808-0001/02/02/90, Owner – Harold Saurers

Mr. Leasor stated that Harold Saurers is the responsible person for a 1990 release at 1020 ½ Spruce Street in Wooster, Ohio. He said this is his seventh request for hardship status and, to date, the Fund has reimbursed \$338,000 for corrective actions for this release.

Mr. Leasor said there are currently no claims in-house pending review and the corrective action costs for the next year are estimated to be \$99,000.

Mr. Leasor said that per a telephone conversation with Mr. Saurers, he moved in with his daughter in April of 2018. He said, based on the information provided in the application, Mr. Saurers' annual household expenses exceed his annual income of \$24,000, which is from a fixed annuity and social security benefits. He explained that after the removal of the USTs, Mr. Saurers continued to operate an auto repair shop on the premises until October of 2016. He said, in March 2017, the property was sold for \$35,000 and the proceeds were used to pay outstanding loans related to the business.

Mr. Leasor said that based on the U.S. EPA financial capacity test, it is highly unlikely that Mr. Saurers has the ability to afford the corrective action costs anticipated to be incurred in the next 12 months.

Mr. Leasor recommended the Board approve the application and grant hardship status to Mr. Saurers. Vice-Chairman Hull so moved and Mr. Fleming seconded. A vote was taken and all members voted in the affirmative. The motion passed.

Claim # 20308-0001/11/30/17, Owner – Kiran S. Atwal LLC

Mr. Leasor said that Kiran S. Atwal LLC is the responsible party for a 2017 release that was discovered at 200 North Sunset Drive in Piqua, Ohio. He said, as the owner of the LLC, Mr. Kanwaljit Atwal is requesting the Board grant hardship status to the LLC. He noted this is the first request for hardship status.

Mr. Leasor said that eligibility for this release was granted in October 2018 and no claim reimbursement applications have been submitted for the release. He said the cost of corrective action work expected to be conducted over the next 12 months is estimated to be \$30,000.

Mr. Leasor stated that the tax forms submitted with the application indicate the LLC operated at a loss for the 2015 through 2017 calendar years. He said, in 2017, the reported gross income was only \$40,000, with a net loss of \$8,300. He said the U.S. EPA model estimates a less than 50% probability the LLC can afford the \$30,000 in corrective action costs anticipated to be incurred within the next year.

Mr. Leasor recommended the Board approve the application and grant hardship status to Kiran S. Atwal LLC. Vice-Chairman Hull so moved and Mr. Fleming seconded. A vote was taken and all members voted in the affirmative. The motion passed.

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

Mr. Leasor said Route 53 Service, LLC is the responsible party for a release in program year 2013 at 8910 South State Route 53 in McCutchenville, Ohio. This is the fifth 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 no claims are currently pending review and the cost of corrective action work expected to be conducted over the next 12 months is estimated to be \$110,000.

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 in December of 2015. He said the application submitted 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 hardship application and the 2017 tax forms, which report a net income of \$23,800, the U.S. EPA ABEL model estimates a less than 50% probability that Route 53 Service, LLC can afford \$110,000 in corrective actions costs.

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

Chairman Rocco commented that hardship status for the applicants would be for a one-year period since the rule amendment to increase the hardship status to two years would not become effective until January 1, 2019.

Certificates of Coverage – Ratifications:

Vice-Chairman Hull 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 lists behind Tabs 11, 12, and 13 are listings of facilities that, since the September Board meeting, had been issued or denied a program year 2016, 2017, or 2018 Certificate of Coverage.

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.

Ms. Esquivel explained that if deficiencies or compliance issues are identified, notice is provided to the owner in accordance with the Board's rules. The owner is provided 30 days to respond to the notice with information to correct the deficiency or compliance issue. If correcting information is not received within this time, a determination denying the Certificate of Coverage is issued to the owner.

Ms. Esquivel said the Board's rules and the Revised Code make provisions for an appeal of the determination. She said that, throughout this process, the Board's staff works with the owner to correct the fee statement record and, if necessary, refers the owner to BUSTR to correct the registration record.

Ms. Esquivel requested the Board ratify the issuance of the 2016 program year Certificates of Coverage for the three facilities included on the list behind Tab 11.

Vice-Chairman Hull moved to ratify the issuance of the 2016 Certificates of Coverage for the facilities listed. Mr. Bryant seconded. A vote was taken and all members were in favor. The motion passed.

Ms. Esquivel requested the Board ratify the denial of the 2016 program year Certificates of Coverage for the 39 tanks located at the 15 facilities included on the list behind the Tab 11 green divider page.

Mr. Hightower moved to ratify the denial of the 2016 Certificates of Coverage that were listed. Mr. Bergman seconded. A vote was taken and all members were in favor. The motion passed.

Ms. Esquivel requested the Board ratify the issuance of the 2017 program year Certificates of Coverage for the 12 owners included on the list behind Tab 12.

Vice-Chairman Hull moved to ratify the issuance of the 2017 Certificates of Coverage that were listed. Mayor Falconi seconded. A vote was taken and all members were in favor. The motion passed.

Ms. Esquivel requested the Board ratify the denial of the 2017 program year Certificates of Coverage for the 84 tanks located at the 31 facilities included on the list behind the Tab 12 green divider page.

Vice-Chairman Hull moved to ratify the denial of the 2017 Certificates of Coverage that were listed. Mr. Bryant seconded. A vote was taken and all members were in favor. The motion passed.

Ms. Esquivel requested the Board ratify the issuance of the 2018 program year Certificates of Coverage for the 217 owners of the 542 facilities included on the list behind Tab 13.

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

Ms. Esquivel stated that no 2018 program year Certificates of Coverage had been denied since the September meeting.

Executive Session:

Chairman Rocco requested a motion to enter into executive session with counsel pursuant to Ohio Revised Code 121.22(G)(3) to discuss matters of pending or imminent court action. Vice-Chairman Hull so moved. Mr. Fleming seconded. Chairman Rocco called for a roll call. The following members voted in the affirmative: Ms. Waggener and Messrs. Bergman, Bryant, Falconi, Fleming, Hightower, Hull, Ord, Pisula, Stephenson, and Rocco. There were no nays. The motion passed. Chairman Rocco stated that he would recuse himself from any discussion involving the major oil litigation. Mr. Fleming stated that he would also recuse himself from those discussions.

Reconvene Meeting

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

Confirm Next Meeting and Adjourn:

Chairman Rocco said that the next Board meeting will be held on Wednesday, January 9, 2019, at 10:00 a.m. The Finance Committee will be meeting at 9:00 a.m. prior to the Board meeting to discuss the Board's investments. The Rules Committee will be meeting immediately following the Board meeting.

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